

DORCHESTER COUNTY PLANNING COMMISSION

MINUTES – July 6, 2016

The Dorchester County Planning Commission held their regular meeting on July 6, 2016, at 12:00 pm in the County Office Building, Room 110 in Cambridge MD. Members present were: Robert Hanson, Chair, Laura Layton, Vice Chair, Bill Giese, Ralph Lewis, Jeffrey King and Mary Losty. Also present were Steve Dodd, Director, Rodney Banks, Deputy Director, Brian Soper Critical Area Planner and Christopher Drummond, Attorney.

Mr. Hanson called the meeting to order at 12:00 p.m.

Mr. Hanson asked for a motion to approve the minutes of June 1, 2016. Mr. Giese made a motion to approve the minutes and Ms. Losty seconded. The motion unanimously carried.

OLD BUSINESS

A. Patuxent River Naval Air Station Joint Land Use Study – Discussion.

Mr. Hanson advised that when the first presentation was made, the Planning Commission was in agreement to send a letter of support to the County Council. The City of Cambridge researched the project further and have issues with sending a letter of support. Mr. Hanson is asking the Planning Commission to revisit this issue.

George Clark, Tri-County Council of Southern Maryland and Chris Jarboe, Navy came forward and were sworn in.

Mr. Hanson asked if the County or the Navy would develop the real estate disclosure statement Mr. Clark had spoken about at the first meeting. Mr. Jarboe advised that the State of Maryland has a noise disclosure which is very broad. It is left to the individual county to decide if they want to modify the disclosure to fit their needs. Mr. Clark advised that the disclosure is not intended to take away rights but to inform.

Mr. Clark advised that he was to attend the City of Cambridge meeting on June 13th but was removed from the agenda. Mr. Frank Cooke, Commissioner, Ward 3, had circulated a letter advising against sending a letter of support. Pat Escher, City Planner contacted Mr. Clark after the meeting and told him they had decided not to send the letter of support.

Mr. Jarboe spoke about the Navy's role in this study and its purpose. He passed out brochures that pertain to the Navy's activities around the Eastern Shore and the Chesapeake Bay. Mr. Clark reviewed the process involved to get the Study to this point. He also noted that participating counties put in many hours to assist in producing the Study.

Mr. Lewis asked if the Navy had purchased easements in Dorchester County. Mr. Jarboe stated they had and explained that they are cost shares with Maryland, mainly in the rural legacy areas. Mr. Banks stated that they have been working with the Navy since 2009. Each year the Navy matches whatever rural legacy funds the County obtains so easements on the farms in the Nanticoke watershed can be purchased.

Mr. Drummond advised the Commission that if they are uncomfortable with a letter of endorsement, it can be modified to include conditions.

Mr. Hanson asked for a motion. Mrs. Layton made a motion to retract their letter and refer the entire issue to the County Council. Ms. Losty seconded and the motion unanimously carried.

Mr. Giese made a motion to give a positive recommendation to the County Council for their support. Mr. King seconded and the motion passed. Mr. Hanson and Ms. Losty were in opposition.

NEW BUSINESS

A. Comprehensive Water and Sewer Plan Amendment application, Dorchester County Environmental Health – Groundwater Management Area Boundary Map revision.

Mr. Forlifer with Environmental Health came forward to present the request. Mr. Banks gave an overview of the maps that were attached.

Mr. Forlifer spoke about the Groundwater Management Plan that was developed in the 1980's. The Plan allowed the county to map areas where less than 4 ft. treatment zones for septic systems would be allowed. Four different management areas were defined through this Plan. He also discussed in length the geology and aquifers of the four areas.

“Area C” on the map was intended to be modified as new information became available. “Area C”, is bounded by Bucktown Rd. on the west, Rt. 50 on the north and the Nanticoke River on the east. Bucktown Rd. is the dividing line between Area C and Area B2. Mr. Forlifer proposes sliding the boundary from Bucktown Rd. to the Transquaking River creating Areas B1 and B2. The difference between B1 and B2 is that B2 can use the berm infiltration system for septic.

Mrs. Layton asked about the practical implications of this change. Mr. Forlifer stated that more areas will be approved for septic systems.

Mr. Hanson asked for a motion. Mr. Giese made a motion to send a favorable recommendation to the County Council and Ms. Losty seconded. The motion unanimously carried.

B. Critical Area Administrative Variance Case #AV-23, Donald T. Kemp, owner – Lakesville Crapo Rd, Crapo, Maryland. Requesting a variance to construct a driveway, parking pad and primary dwelling within the Chesapeake Bay Critical Area Expanded Buffer.

Mr. Soper reviewed the staff report. He also advised that Nick Kelly, Critical Area Commission commented in a letter dated June 17, 2016, that the applicant will need to demonstrate that the standard of unwarranted hardship has been met, and if approved, the applicant must provide mitigation.

Steve Whitten, Fink, Whitten and Associates and agent for the Kemps was sworn in. Mr. Whitten reviewed the request. Mr. Kemp would like to build a 1,600 sq. ft. dwelling and a 900 sq. ft. parking pad within the expanded buffer on a 27.30 acre parcel. Property is currently used for hunting purposes. Mr. Whitten noted that the existing accessory structure is outside of the expanded buffer. Mr. Whitten reviewed the site plan. He explained that the proposed dwelling would go on the highest portion of the land with the least amount of disturbance when placing the fill. Mr. Whitten stated that the fill needed for the house will amount to 1/2 to 1 foot in the proposed area.

Mr. Soper reviewed the definition of an unwarranted hardship. Applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested. Mr. Soper also advised that if the Planning Commission gives the Director a favorable recommendation and the Director also approves the request, the Critical Area Commission has 30 days to appeal the decision if they are in disagreement.

Mr. Giese made a motion to send a favorable recommendation to the Director based on the fact that the disturbance is not to the buffer, but to the expanded buffer because of the presence of hydric soils. The Planning Commission finds this to be a reasonable trade-off, as the only other alternative would be increased fill in the floodplain adjacent to the expanded buffer. The increased fill may very well have the effect of increased stormwater run-off to the nearby tidal and non-tidal wetlands to the south. Any proposed residential improvements located outside the expanded buffer are not a feasible alternative given the floodplain restrictions created by the Floodplain Management Ordinance. Ms. Losty seconded and the motion was unanimously carried.

C. Critical Area Administrative Variance Case #AV-24, Thomas & Joan Taylor, owners – 3110 Bay View Drive, Church Creek, Maryland. Requesting a variance to construct an addition to the existing dwelling within the Chesapeake Bay Critical Area Expanded Buffer.

Steve Whitten, Fink, Whitten and Associates and agent for the Taylors was sworn in.

Mr. Soper reviewed the staff report. Mr. Soper read a letter dated June 17, 2016 from Nick Kelly, Critical Area Commission stating that the Critical Area

Commission has no objection to the request. A Buffer Management Plan will be required.

Mr. Whitten reviewed the request. The applicant proposes to add onto both sides of his house. The house is elevated on pilings and has a wraparound deck around the entire house. The front and back portions of the deck will remain. The additions will not expand further than the existing deck. There will be no further coverage into the expanded buffer. Because there is no increase in lot coverage, mitigation is not required.

Mr. Giese made a motion to send a favorable recommendation to the Director and Ms. Losty seconded. The motion unanimously carried.

D. Critical Area Administrative Variance Case #AV-25, Jacqueline Francesca Riddy-O’Dowd, owner – 5021 Rippling Rd., Cambridge, Maryland. Requesting a variance to replace the existing dwelling footprint with a new dwelling within the Chesapeake Bay Critical Area 100’ Buffer.

Jeff Hubbard, Lane Engineering, 15 Washington St., Cambridge, MD, agent for the applicant was sworn in.

Mr. Soper reviewed the staff report. He also reviewed a letter dated June 17, 2016 from Nick Kelly, Critical Area Commission stating that they were not opposed to this request. Initially they opposed the request because of a pool in the 100’ buffer. After the plan was revised, Mr. Kelly sent an email dated June 28, 2016 stating they had no objection. A buffer management plan will be required at the time of permit application.

Mr. Hubbard also gave an overview of the request.

Mr. Giese made a motion to make a favorable recommendation to the Director and Mr. King seconded. The motion carried unanimously.

Critical Area Administrative Variance Case #AV-26, Robert Kramer, owner – 1019 Hudson Rd., Cambridge, Maryland. Requesting a variance to build an addition to the existing detached garage and redesign the driveway within the Chesapeake Bay Critical Area 100’ Buffer.

Robert Hughes, Robert M. Hughes & Associates, agent for the applicant and Robert Kramer, Jr., applicant, were sworn in.

Mr. Soper reviewed the staff report. He also reviewed a letter dated June 17, 2016 from Nick Kelly, Critical Area Commission stating they have no objection to the request. A Buffer Management Plan will need to be submitted at the time of permit application. Mr. Soper advised that since there is no net increase in lot coverage, mitigation will not be required. Mr. Soper also advised that

replacement of the frame garage is an in kind replacement, and because the footprint of the structure is not changing, it does not require a variance.

Mr. Hughes reviewed the existing and proposed site plans. The applicant would like to put a lean-to on an existing garage. The addition will be 14' x 24'.

Mr. Hughes stated that they are working on a Buffer Management Plan now.

Mr. Soper advised that Mr. Kramer will need to remove the existing greenhouse and a portion of the driveway as shown on the site plan. Mr. Hughes also advised Mr. Kramer that he will need a demolition permit to remove the greenhouse.

Mr. King made a motion to send a favorable recommendation to the Director with the following conditions, the existing greenhouse and the section of driveway be removed and all the necessary permits be obtained. Ms. Losty seconded and the motion unanimously carried.

Board of Appeals Cases – Review and recommendation.

No cases were scheduled for the month of July.

INFORMATION

Mr. Lewis spoke about a variance for a manure shed that the Planning Commission had given a favorable recommendation on last month. He would like all manure sheds to meet the 200 ft. setback from now on. He would also like to see some type of natural screening for the sheds. He advised that the sheds are creating a buzzard problem. Mr. King stated that as a chicken farmer himself, he believes that if the farmer does the composting in the proper manner, it should not draw buzzards.

Mr. Lewis also has concerns about screening for the solar panel farms. He used the Adams property as an example. The shrubs are sparse, small and do not screen the entire project. Mr. Dodd advised that this was the first of this type of project in the County and it was a learning experience for everyone involved. The property was sold before a landscape plan was done. From this and several other projects, it has been learned that all solar panel projects get developed by one party and built by another. Mr. Dodd further advised that no permits will be issued for this type of project until the landscape plan is done and a bond posted. Mr. Dodd also noted that Kent County has a size limit for these projects but Dorchester County does not. He noted that the solar panel projects are increasing in size.

Mr. Drummond advised that at a recent Public Service Commission hearing he questioned who will be responsible, when the land lease is over, for taking the solar panels down since these projects seem to be flipped numerous times before completed. He also pointed out that this will probably be the case with the cell towers once they become obsolete, since there is no bond in place with the counties.

Mr. Drummond advised that MaCo sent a letter of opposition to the Kent County public hearing on a proposed solar project. He believes MaCo is going to step up and take a more pro-active role in defending the counties with respect to the large scale solar projects.

Mr. Giese advised that he attended the Planning Commission training class recently for update. He stated that the training was very good.

With no further business, Mr. Giese made a motion to adjourn and Ms. Losty seconded. The motion was unanimously carried. The meeting was adjourned at 1:55 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "John Giese", written in a cursive style.