

# DORCHESTER COUNTY PLANNING COMMISSION

MINUTES – September 6, 2017

The Dorchester County Planning Commission held their regular meeting on September 6, 2017 at 12:00 pm in the County Office Building, Room 110 in Cambridge MD. Members present were: Robert Hanson, Chair, Laura Layton, Bill Giese, Ralph Lewis, Mary Losty and Jerry Burroughs. Also present were Rodney Banks, Deputy Director, Brian Soper, Critical Area Planner and Christopher Drummond, Attorney. Absent: Jeffrey King and Steve Dodd, Director.

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

Mr. Hanson asked for a motion to approve the minutes of July 5, 2017. Mrs. Layton made a motion to approve the minutes and Mr. Burroughs seconded. The motion unanimously carried.

## **OLD BUSINESS**

A. None

## **NEW BUSINESS**

A. **P & Z #1325 – Marshyhope Operations, LLC, owner – Site Plan Approval.** The applicant is requesting site plan approval to construct a sand and gravel mining operation. The site is located on North Tara Road, north of Johnson Road, and south of Federalsburg, Maryland and is zoned AC, Agricultural Conservation and AC-RCA, Agricultural Conservation - Resource Conservation Area (Tax Map 7, Grid 10, Parcel 5).

Mr. Soper reviewed the site plan. He advised that the Board of Appeals granted a special exception for site plan approval, Case #2570, at their January, 2015 meeting. The site plan today is for approval of Phase 1 of the mining area. Mr. Soper spoke about the requirements set forth in a letter from Julie Roberts, Critical Area Commission, dated June 23, 2017 concerning the area used for timber harvest before Mr. Ward purchased the property, specifically stump removal and forest interior dwelling (FID) bird habitat loss. Pending item based on approval of this portion of the site plan is a proposed SRA that has not been approved by the Health Department. The fencing and bonding has been preempted by the State so this will not be a requirement. Mr. Soper also reviewed a letter dated July 26, 2017 from Gregory LeBlanc, Department of Public Works concerning maintenance/improvements of North Tara Road should the mining operation begin using trucks to transport the product. Currently the sand and gravel is being pumped across the river to another site.

Sean Callahan, Lane Engineering, Ryan Showalter, McAllister, DeTar, Showalter & Walker, Steve Ward, owner, and any other person who would be testifying in this case, were sworn in.

Mr. Callahan gave a brief history of the property. He reviewed the site plan noting the placement of the existing dredge, active mining area, location of the proposed office, scale and wash plant. He advised that if a wash plant was installed in the future, the sand and gravel would be hauled by truck from Johnson Road down North Tara Road. Mr. Ward explained how the pumping process works now.

Mr. Drummond asked how the project was started without site plan approval from the Planning Commission. Mr. Callahan explained that the Board of Appeals approved the initial site plan with the condition that construction must occur within two years of their approval and site plan approval would be required by the Planning Commission before any construction began. Through a discussion concerning a building permit for the wash plant, the need for approval of the site plan was discovered.

Mr. Drummond referenced a memo from Gregory LeBlanc, Department of Public Works dated July 26, 2017, item 3, concerning expansion of the facility and the need for analysis of North Tara Road for increased traffic. Mr. Callahan advised that a geotechnical firm was hired to do a report on the condition of North Tara Road. Their suggestions are part of a memo dated September 5, 2017 from Gregory LeBlanc. Mr. Showalter pointed out that it is suggested in this memo that the County enter into an agreement with Marshyhope Mining Operations for improvements/maintenance of North Tara Road. Mr. Showalter advised they would be agreeable to site plan approval conditioned on a roads maintenance agreement, approved by the County Manager and the Department of Public Works should expansion occur where trucks would be utilized to haul material.

There was a discussion on the conditions that should be placed in the motion. Mr. Hanson pointed out that these conditions would apply should there be expansion of the site in the future or into the critical area.

Mr. Hanson asked for a motion. Mr. Giese made a motion to approve the site plan with the condition that if/when expansion of the project occurs, an approved road maintenance agreement must be executed in accordance with the memo dated September 5, 2017 from Gregory LeBlanc, Department of Public Works and, the conditions outlined in the letter dated June 23, 2017 from Julie Roberts, Critical Area Commission must also be met. Mr. Giese made the motion and Mr. Burroughs seconded. The motion unanimously carried.

**B. Critical Area Administrative Variance Case #AV-34, Kyle and Lynn Tanger, owners, Steve Whitten, applicant, for property located at 5144 David Greene Road, Cambridge, Maryland. Requesting an administrative variance to allow the revised construction plans for a sun room, deck and steps within the Chesapeake Bay Critical Area 100' Buffer and Expanded Buffer.**

Steve Whitten, applicant, 108 Dorchester Avenue, Cambridge, MD and any other person who would be testifying in this case, were sworn in.

Mr. Soper reviewed the case. Property is zoned RR, Rural Residential, Critical Area Overlay is LDA, containing 21.29 acres. Mr. Soper noted that this is a revision to AV-17, granted in 2015, the building plans having changed since the original request was granted. Mr. Soper reviewed the Staff Report dated September 6, 2017. He also reviewed a letter from Charlotte Shearin of the Critical Area Commission dated July 14, 2017, advising the Commission has no objection to the request. Mitigation will be at a 3:1 ratio and a buffer management plan will be required at the time of permit application. Steve Whitten also gave a brief overview of the case. He noted that all the improvements will be in the 100 ft. buffer or expanded buffer.

Mrs. Layton made a motion to send a favorable recommendation to the Director. Ms. Losty seconded and the motion unanimously carried.

**C. Critical Area Administrative Variance – Case #AV-35, Patrick and Kyle Raffaniello, owners, Steve Whitten, applicant, for property located at 4920 Gregory Road, Cambridge, Maryland. Requesting an administrative variance to allow the construction of an accessory structure (gazebo) within the Chesapeake Bay Critical Area 100' Buffer.**

Mr. Soper reviewed the case. Property is zoned RC, Resource Conservation, Critical Area Overlay is RCA, containing 46.302 acres. Mr. Soper reviewed the Staff Report dated September 6, 2017. He also reviewed a letter from Nick Kelly of the Critical Area Commission dated August 29, 2017. Mr. Soper noted that in this letter Mr. Kelly points out that the applicant will need to demonstrate and the Planning Director needs to find that all of the County's variance standards have been met, including the standard of unwarranted hardship. Mr. Kelly also stated that if approved, mitigation will be at a 3:1 ratio. A buffer management plan will be required at the time of permit application.

Mr. Whitten also reviewed the request noting that the request meets the Administrative Variance criteria but there are questions as to whether hardship criteria has been met. Mr. Whitten addressed the hardship criteria. He pointed to an area south of the walkway not within the 100 ft. buffer where the existing electrical utilities and septic is located. The area to the north of the sidewalk most suitable for the proposed accessory structure, the owners would like to keep available for an addition or a guest house. Mr. Whitten noted that this property is eligible for a guest house. Mr. Soper advised that the gazebo will count against future expansion of the house.

Mr. Lewis made a motion to send a favorable recommendation to the Director. Mr. Soper requested that the motion justify the hardship as, future additions to the existing house or a guest house on the portion of property most suitable for the gazebo. Ms. Losty seconded and the motion unanimously carried.

**D. Critical Area Administrative Variance – Case #AV-36, Aaron G. Ruark, owner, Steve Whitten, applicant, for property located at 5075 Plantation Road, Cambridge, Maryland. Requesting an administrative variance to allow expansion of the existing dwelling within the Chesapeake Bay Critical Area 100’ Buffer.**

Mr. Soper reviewed the Staff Report. Property is zoned RC, Resource Conservation, Critical Area Overlay is RCA, property is 2.502 acres. The applicant is requesting an administrative variance to expand an existing non-conforming dwelling and garage, construction of two decks and construction of a driveway. Mr. Soper noted that this is the first case that takes into account the new Critical Area Ordinance, expanding the administrative variance to include construction of decks and driveways in the buffer.

Mr. Soper reviewed a letter from the Critical Area Commission dated August 23, 2017. The Critical Area Commission is not opposed to the administrative variance. Mitigation will be at a 3:1 ratio. A buffer management plan will be required at the time of permit application.

Mr. Whitten reviewed the request. He advised that there is an attached garage that will be razed and replaced. He also noted that they do not know where the septic is on the property so a new system will probably need to be installed.

Mr. Burroughs made a motion to send a favorable recommendation to the Director. Mr. Lewis seconded and the motion unanimously carried.

**E. Comprehensive Plan – Request for Proposals (RFP) Review**

Mr. Banks advised that the County Council has looked at the RFP and approved it pending any additions/corrections the Planning Commission may have. Mr. Hanson stated that the Planning Commission would like to reiterate in the RFP introduction the importance of agriculture in the County. Mr. Banks suggested it be put in the project background. Mr. Lewis suggested more language be placed in the RFP concerning commercial watermen. The Planning Commission was agreeable to these suggestions. Mr. Banks stated that there are a few items he needs to complete such as the date the RFP will be sent out to the consultants and how long they have to submit a proposal.

The Board unanimously agreed to send the RFP to County Council with the suggested changes.

**F. Election of Officers**

Mr. Hanson advised that his term on the Planning Commission is expiring and this is the reason for the early election of officers. Mr. Hanson advised that since a replacement has not been found for him he would agree to continue on the Planning Commission for another term. Election of officers was tabled until the December meeting.

**G. Board of Appeals Cases – Review and recommendation.**

**Case # 2618- Donald N. Peters- Owner  
Steve Whitten- Applicant**

To request a variance to allow an accessory structure within the required front yard setback. Property is located at 99 Sandy Hill Road Cambridge, MD 21613. Containing .341 acres. Zoned SR- Suburban Residential.

**Based on the information provided, the Planning Commission had no objection to this request.**

**Case # 2616 - Todd Solar LLC  
W & J McWilliams Farms, LLC- Owner  
Ryan Showalter - Applicant**

To request the following Board of Appeals approvals: (1) extension of the utility scale solar energy system project approved by special exception with Dorchester County Board of Appeals Case # 2588 on January 21, 2016 and (2) Variance from the Dorchester County maximum fence height of six (6') to permit seven- foot (7') fencing around the perimeter of the solar energy project. Property located on Harper Road, containing 143 acres, zoned AC- Agricultural Conservation.

**Based on the information provided, the Planning Commission chose to remain silent on the special exception and variance.**

**Case # 2617 - D. Lee Hagadorn, LLC - Owner  
Richfield Farms, LLC - Owner  
Invenergy, LLC, One South Wacker - Applicant  
Ryan Showalter - Applicant**

To request the following Board of Appeals approvals: (1) special exception approval for the establishment of a utility scale solar energy system on lands leased by applicant along Osborne Road and Shiloh Camp Road ("Project"), (2) special exception approval for the installation of a substation on one of two proposed sites to deliver the renewable energy to the electrical grid, and (3) a variance to permit construction of 8' tall security fencing around the project and the substation. Property is located at 4320 Osborne Road Hurlock, MD 21643, Map 22 Parcel 19 Containing 76.09 acres, Shiloh Camp Road Map 22 Parcel 23 Lot 2. Containing 111.91 acres, and Shiloh Camp Road Map 22 Parcel 24 containing 102.31. 4279 Osborne Road Hurlock, MD 21643 Map 22 Parcel 23 lot 1, Containing 88.42 acres, all properties zoned AC- Agricultural Conservation.

**Based on the information provided, the Planning Commission chose to remain silent on the special exception and variance.**

**INFORMATION**

Mr. Hanson gave a brief overview of the process for the Comprehensive Plan update.

Mrs. Layton spoke about the Open Meetings Act, noting that she will be representing the Board of Education at a training session this month. She agreed to represent and report back to the Planning Commission. Mr. Hanson advised that he has also had training on open meetings.

Mr. Hanson advised that there was a need to close the meeting to discuss some personnel matters. He asked for a motion to close the meeting. Mrs. Layton made the motion and Mr. Giese seconded. The motion unanimously carried and the meeting was closed at 1:58 pm.

The meeting was reopened at 2:15 pm and with no further business, Mr. Giese made a motion to adjourn and Ms. Losty seconded. The motion unanimously carried. The meeting was adjourned at 2:15 pm.

Respectfully submitted,

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