

Caroline County Planning Commission



John Schmidt, Chairman
Keith Neal, Vice Chairman
Wilbur Levensgood, Jr., Commissioner Member
Nancy Minahan, Member
Charles Mosca, Member
Jeffrey Powell, Member
Dr. Derek Simmons, Member

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March 14, 2018

CAROLINE COUNTY PLANNING COMMISSION MINUTES

The Caroline County Planning Commission held its regularly scheduled meeting on Wednesday, March 14, 2018 in Room 110 of the Health and Public Services Building, 403 South 7th Street, Denton, Maryland.

Present were: John Schmidt, Chairman; Keith Neal, Vice-Chairman; and members, Wilbur Levensgood, Charles Mosca, Nancy Minahan, Jeffrey Powell and Dr. Derek Simmons. Also present were Katherine Freeman, Director of Planning & Codes; and Melanie Smith, Administrative Assistant to the Boards.

AGENDA:

- Approval of the February 24, 2018 Meeting Minutes
- Request for TDR Transfer – Jim Lewis
- Recommendation to the County Commissioners regarding Ordinance 2018-1, Mineral Extraction Facilities
- Zoning Text Amendments to include Breweries and Distilleries as uses in the County Zoning Chapter
- Department Update – Katherine Freeman

Chairman Schmidt called the meeting to order at 7:32 PM.

APPROVAL OF MINUTES

Chairman Schmidt asked for comments on or corrections to the minutes from the February 14, 2018 meeting. Mr. Neal suggested a correction on page 3 last line of third paragraph should read life expectancy rather than lifetime expectancy.

Motion: Chairman Schmidt made a motion to approve the minutes as presented with the correction noted.

Second: Mr. Mosca seconded the motion.

In Favor: All Commission members voted in favor of the motion (6-0). (Mr. Levengood was not present for this section of the meeting)

REQUEST FOR A TRANSFER OF DEVELOPMENT RIGHTS (TDR)

Ms. Freeman explained that this would be the first TDR transfer process that the Board has done since 2010, prior to all current members appointments and current administration, other than Chairman Schmidt's. Before she read the staff report she explained what transfer development rights are and what Mr. Lewis was requesting to do.

A TDR map was distributed outlining Caroline County's TDR receiving area as a portion of land zoned R (Rural) between the towns of Denton, Ridgely and Greensboro. The remaining R (Rural) area in the County was outlined as the TDR Sending Area. During comprehensive rezoning much of the County was downzoned to no longer allow major subdivisions. To provide some equity to those property owners the TDR Program was developed. This allowed those property owners that could not have major subdivisions on their property, to lift development rights, based on certain density criteria, and sell those rights to property owners in the TDR receiving area. The owners in the receiving area could then use those development rights to build a major subdivision in the two targeted development areas in the County.

The program was created just before the housing market tanked and therefore inactive since approximately 2006. Chairman Schmidt asked how this information is recorded. Ms. Freeman explained that the information is recorded with a new deed and the County Planning Department also keeps a record of all transactions.

Chairman Schmidt also had questions pertaining to MALPF easements on TDR's that would need further research to answer.

Mr. Lewis explained that his intent is to remove the ability for his heirs to develop or divide the land, although they will still retain the value with the TDR certificates. Ms. Freeman then read the staff report,

The Planning Department received an application for Transferable Development Rights from Jim Lewis, Jr. on February 27, 2018. Mr. Lewis would like to lift his development rights, and hold them until a later date. The following TDR applications have been reviewed and staff has completed a subdivision review of the sending parcels started in 2010 and determined the following:

Map 1 Parcel 27, there is 1 remaining TDR Subdivision right that Mr. Lewis wishes to lift;
Map 1 Parcel 31, there are 3 remaining TDR Subdivision rights that Mr. Lewis wishes to lift;

Map 2 Parcel 49, there are 4 remaining TDR Subdivision rights that Mr. Lewis wishes to lift.

As required by County Code §175-44.E. Mr. Lewis has included his application, tax map, zoning map, aerial photo of the sending parcel, and soils maps. Staff has reviewed these documents and has printed an improved zoning map as supplement to the application.

Ms. Freeman proposed that the Planning Commission review the TDR application and recommend that staff draft a certificate of findings and prepare an instrument of transfer for the April Planning Commission meeting. The Deed of Transfer will be recorded in the land records until Mr. Lewis chooses to use or extinguish the development rights. Mr. Lewis' TDRs will be added to the TDR Registry maintained by the Planning & Codes Department.

Motion: Mr. Schmidt made a motion to recommend that staff draft a certificate of findings and prepare an instrument of transfer for the April Planning Commission meeting

Second: Mr. Mosca seconded the motion.

In Favor: All Commission members voted in favor of the motion (7-0).

RECOMMENDATION TO THE COUNTY COMMISSIONERS REGARDING ORDINANCE 2018-1, MINERAL EXTRACTION FACILITIES

On January 11, 2018 the Planning Commission forwarded a recommendation to the County Commissioners regarding Ordinance #2018-1, Mineral Extraction Facilities. At the February 14th Planning Commission meeting, Ms. Anne Ogletree expressed concern that two of the Planning Commission recommendations were not reflected in the ordinance presented to the County Commissioners; the Mineral Extraction Ordinance was introduced on February 13th. Ms. Ogletree raised two concerns on February 14th.

1. **Request for clarification on the lot consolidation requirement for a mineral extraction facility.** On page 4 of the ordinance, §175-27.1.B states: "The Preliminary site plan shall include the information required by §175-123 and: any parcels that the applicant needs to consolidate so that the mining facility and all mining operations will be conducted on one parcel." On page 11 the ordinance states, §175-27.4.B. "No land disturbance, except for the purpose of constructing buffer yard that has been approved by the Zoning Administrator or the Planning Commission, shall occur within 200 feet of a property line regardless of the ownership of the parcels. As drafted, the ordinance would require a recorded lot consolidation should the applicant want to mine multiple parcels as one project.
2. **Request for an amendment on page 14, §175-27.9.B,** "the crushing, treating, washing, mixing or processing of materials extracted on premises." To include materials brought from off site.

Because the ordinance has already been introduced to the County Commissioners, the Planning Commission can submit comment to clarify or request amendment to these two points.

1. Staff recommends no change to the language regarding point #1, requiring lot consolidation in the land records to mine multiple parcels as one project.
2. Staff recommends requesting an amendment to the language regarding point #2 as follows: “the crushing, treating, washing, mixing or processing of materials. ~~extracted on premises~~” This would permit bringing offsite materials to the sand and gravel extraction facility, and is currently already permitted in existing facilities.

Ms. Ogletree requested that language be added to exclude the interior lot line of consolidated parcels from the 200-foot property line mentioned in §175-27.4.B. The members could not understand Ms. Ogletree’s point as a property line dividing two parcels would no longer exist when a parcel is consolidated. The consolidated lot would be legally recorded as one lot with one exterior property line.

Ms. Ogletree insisted that this was not true if left as is. The Board explained that the recorded deed is a legal document that is final until changed otherwise by legal means. Ms. Ogletree responded that if the wording were left as is, it created an “opportunity for mischief” during site plan review and she foresees an issue in future applications.

The members added that the line she wants amended pertained to all scenarios...not only consolidated lots. Members and staff were opposed to adding redundant language and in as much as they tried but could not understand what Ms. Ogletree was suggesting was wrong with the existing language.

The Board asked for Ms. Price’s legal opinion. Ms. Price responded that she was just as confused as the members were and asked Ms. Ogletree to maybe provide an example of an issue she foresees running amok to clarify her request for the Board.

Ms. Ogletree stated she did not want to see a runway going down the middle of a lot dividing a pond. Mr. Neal assured her that the Planning Commission agrees with her statement but does not see how the existing language would create such a situation. He asked if she had ever seen an issue like the one she mentioned. She said she has not but there was never language to address this in the past.

At this point the audience tried to explain to Ms. Ogletree why such a thing would not occur. There is a precedence in the County where a landowner would purchase acreage from a neighbor to allow him to build a larger garage (for example) and maintain the required 200 ft. setback. The new lot line is recorded and the old line no longer exists.

Ms. Ogletree replied that the sentence states “any lot line”. Ms. Minahan read it out loud and it stated, “a property line”. Ms. Ogletree asked that they add the “exterior” property

line. The members responded that the problem would then be reversed implying there was an “interior” property line. Ms. Ogletree disagreed and explained that what she had in mind was a joint venture. Chairman Schmidt stated that if it were a joint venture then they must consolidate the lots to accomplish their goal. Ms. Ogletree responded that someone must own the property when all is said and done

Ms. Ogletree responded that she just wasn’t happy with the language. Ms. Price reiterated that she has not made her position clear to anyone in the room. Ms. Price’s legal opinion is not to add on language to satisfy a problem only Ms. Ogletree can see. Ms. Ogletree was determined to have the sentence amended and threatened to initiate a lawsuit against the County that would, as she put it, not sit well with the County Administrator.

Motion: Mr. Mosca made a motion to not make a recommendation to the Commissioners to change the wording of Ordinance 2018-1, Mineral Extraction Facilities.

Mr. Neal stated he also was not convinced a change was needed.

The motion died on the table.

Motion: Ms. Minahan made a motion to make a recommendation to the County Commissioners that after §175-27.5.B (Incorrectly referenced, should be §175-27.4.B) of Ordinance 2018-1 they add “Property lines shall be determined in accordance with the subdivision regulations”. And recommend they remove “extracted on premises” on page 14, §175-27.9.B from the end of the phrase, “the crushing, treating, washing, mixing or processing of materials.”

Second: Mr. Mosca seconded the motion.

In Favor: All Commission members voted in favor of the motion (7-0).

The recommendation will be presented to the County Commissioners at the hearing on Tuesday March 27 at 6 p.m.

ZONING TEXT AMENDMENTS TO INCLUDE BREWERIES AND DISTILLERIES AS USES IN THE COUNTY ZONING CHAPTER

Ms. Freeman reminded the members that several business owners came before them to request a text amendment to add breweries and distilleries to the table of uses. Staff was directed to research such ordinances in surrounding counties. Ms. Freeman learned that Dorchester, Talbot, Kent and Queen Anne Counties include wineries, breweries and distilleries in the same category of their code. Although not all the jurisdictions allow for distilleries and not all allow breweries. Ms. Freeman would suggest they amend the definition for wineries to include breweries and distilleries. They would be subject to site plan approval in the same districts that wineries are permitted and they would amend the

table of uses to extend the definition. She would also like to take it to the Liquor Board for their input.

Mr. Neal suggested staff know in advance what such a business is required to have before they come to Planning and Codes to seek any permissions. Ms. Freeman is aware that wineries must first have their zoning certificate in hand prior to applying for a State winery license.

DEPARTMENT UPDATE

The Public Hearing for the Mineral Resources Element Amendment to the Comprehensive Plan has been rescheduled to the April 9, 2018 agenda. The Comprehensive Plan Amendments will then go before the County Commissioners in May.

The ad for a grant funded Circuit Rider will be in the paper next week. There are ten more months of funding and the County intends to seek funding again for next year. The towns have recommended we continue the program.

Ms. Freeman explained that she has sought improved permitting software for the Planning Department for several years. This fiscal year the County Commissioners gave the department funding to release a request for proposal (RFP). The RFP is scheduled to be advertised next week for new software. This process will occur in two parts. The first request is for qualifications and the second will be a proposal for the contract.

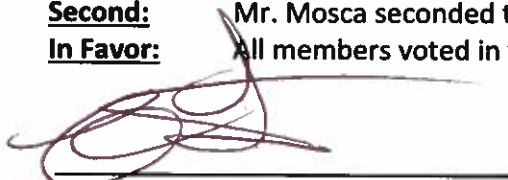
Ms. Freeman reminded members that the Alpaca Farm Wedding Venue request will be added to the agenda of an upcoming meeting.

ADJOURNMENT

Motion: Mr. Levengood made a motion to adjourn the meeting at 8:40 p.m.

Second: Mr. Mosca seconded the motion.

In Favor: All members voted in favor of the motion (7-0).



Katheleen Freeman
Director, Planning & Codes



John Schmidt, Commission Chairman



Prepared by: Melanie L. Smith