

**CECIL COUNTY TECHNICAL ADVISORY COMMITTEE**  
**Wednesday April 7, 2010, 9:00 a.m.**  
**County Administration Building**  
**200 Chesapeake Blvd., Elkton, Maryland**

Present: Black, David (CCP&Z), Woodhull, Mark (CCDPW), von Staden, Fred (DEH), Graham, Daniel (Citizen's Rep.) and Bakeoven, Jennifer (CCP&Z).

Absent: Cwiek, Philip (USCoE), Ouano, Jun (Delmarva Power), Latham, Cindy (MDE), Davis, Gary (SHA), Brown, Chris (CCSCS), West, Janel (CCPS), Meaders, David (FA) and Di Giacomo, Tony (CCP&Z).

**1. Lands of Helena duPont Wright, 1 Lot, Middle Neck Road, Preliminary Plat, Michael A. Scott, Inc., Second Election District.**

Michael Scott, Surveyor, appeared and presented an overview of the project.

Mr. Black stated that SHA had no comments as this project is not located on a state highway. Soil maps and reports were provided to the applicant. Mr. Black also read the comments of MDE.

Mr. von Staden, DEH, read the comments of the department:

A Groundwater Appropriation Permit Exemption must be requested from Maryland Department of the Environment prior to final plat approval.

Additionally, Mr. von Staden asked the applicant if the buffer issue had been resolved. Mr. Scott said that the Critical Area Buffer for this project is 110'.

Mr. Graham, Citizen's Representative, had no comment.

Mr. Woodhull, DPW, read the comments of the department:

1. A SWM plan must be approved by the Department prior to the final plat being recorded.
2. Sight distance submittals must be approved by the Department of Public Works prior to presenting the preliminary plat for review by the Technical Advisory Committee. We have not yet received the required sight distance measurements for the proposed access point onto Middle Neck Road. The Department will recommend disapproval of this plat to the Planning Commission until such time as we have received the sight distance submittal.
3. The standard "Lot Grading" note must be included on the final plat.

Discussion ensued regarding the proposed driveway.

Mr. Black, P&Z, read the comments of the department:

This proposal is in compliance with §3.8 & §3.9.1 regarding public notification.

With regard to the posting of plats on the County's website, notice is hereby given the jpg file submissions can be only 11 inches, maximum, in any direction. Adherence to that requirement will enable the County to better serve the public.

Zoning: SAR

Density: The SAR zone permits a maximum base density of 1 du/ 20 ac. This Concept Plat proposes 1 lot on 103.079 acres, for a proposed density of 1/103.79. No actual subdivision is proposed; rather, the parcel is being activated as a building lot through the subdivision process. All minor subdivision potential has been exhausted.

The RCA zone also permits a density of 1/20 (90.320 acres are cited). The proposed Critical Area density is 1/90.32. The RCA's 15% lot coverage threshold applies.

The Concept Plat was approved on 11/16/09, conditioned on:

- 1) Health Dept. requirements being met;
- 2) DPW requirements being met;
- 3) The FFCP/Landscape Plan/Environmental Assessment must being approved prior to Planning Commission's review of the Preliminary-Final Plat;
- 4) Either the 110' Critical Area Buffer being expanded to 200', or the Critical Area Commission's recognizing this as a lot of record and allowing the 110' buffer;
- 5) The metes and bounds description of all Forest Retention/ Afforestation Areas being shown on the Preliminary-Final and record Plats; and
- 6) Any request for relief from the Bufferyard Standard C requirement along Middle Neck Road being granted, so as to better preserve the rural character.

The 4<sup>th</sup> condition of approval was satisfied when The Critical Area Commission staff agreed that, because COMAR 15.15.01.02-2(7) defines 'Subdivision' as follows: "means the division of land into 2 or more parts or parcels," the 200' Buffer implementation did not apply. Therefore, the 110' Buffer, with necessary expansions thereof, suffices.

Has the boundary line survey been completed? Mr. Scott said yes.

§4.0.1 of the Subdivision Regulations allows for the elimination of a Concept Plat only for projects with fewer than 10 lots and 25 acres. §2.0 of the Subdivision Regulations allows for a combined Preliminary-Final Plat if there are from 1 to 5 lots.

An environmental assessment is required to be approved prior to the Planning Commission's review of the Preliminary Plat. FIDS habitat must be avoided in the Critical Area.

Note # 18 indicates that 12.759 acres are forested, though the "edge of woods" graphic suggests a higher forested acreage.

No development is permitted in the tidal wetlands and tidal waters buffers, including septic systems, impervious surfaces, parking areas, roads, or structures, as noted in Note # 13.

A Critical Area Buffer, and expansions thereof, have been shown.

CBCAC comments relating to this project were received on 10/2/09, 11/10/09, and 3/30/10. Copies have been provided to the applicant.

Per §200.6.b (2), no more than 20% of the forest or developed woodland may be removed. When less than 15% of the site is in forest cover, at least 15% of the gross site area shall be afforested (§200.6.a).

In the critical area, no structure shall exceed 35' in height.

OPZ GIS FEMA-based maps show the dwelling location to be located at least partially within the 100-year floodplain. The 100-year floodplain boundary must be shown on the plat submitted for review and possible approval by the Planning Commission.

The septic reserve area also appears to be located in the 100-year floodplain.

Unless it can be empirically demonstrated that the FEMA-delineated floodplain is erroneous, then, per §241.2.d (1), this building site can be approved only after a Variance has been granted. What steps have been taken in that regard?

If the §241.2.d (1) variance application is successful, then the requirements of §243 must be strictly adhered to.<sup>1</sup>

On sheet 3 of 5, in the lower right hand quadrant, the depicted expanded Buffer appears to be clipping the existing "woods lane." If the drawing's details are accurate, then it appears that there may be enough room to adjust the road alignment without disturbing the forest.

Also on sheet 3 of 5, that it appears that the existing road alignment already goes through the woodlands in the Buffer, which does not seem possible. Nevertheless, if one carefully follows the labeled lines, then that's exactly what the drawing on sheet 3 of 5 purports.

Thus, we have three issues possibly requiring a Variance:

- 1) The existing road's clipping of the expanded Buffer;
- 2) Just to the north, the existing road's being in the Buffer in the area of the proposed dwelling;  
and
- 3) The dwelling site in the 100-year floodplain.

These issues should be resolved, by Variance to design change, prior to Preliminary Plat submission to the Planning Commission.

Again, no development is permitted in the Buffer, including impervious surfaces, parking areas, or roads.

The section of the access road to the proposed dwelling is shown as "existing," while that part leading out to Middle Neck Road is shown as "proposed." Have the labels been reversed, or is there an existing road without any connectivity?

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<sup>1</sup> §241.2.f (2) states that, "High priority should be given to clustering development **out of the floodplain** while preserving the low lying land and forested areas in natural vegetation."

Dwellings or impervious surfaces shall not occur on slopes with a grade of 25% or more covering a contiguous area of 10,000 ft<sup>2</sup> or more. On slopes between 15 and 25%, good engineering practices shall be used to ensure sediment and erosion control and slope stabilization before, during and after disturbance activities.<sup>2</sup>

Steep slopes have been shown.

A 110' perennial stream buffer is required from all perennial streams present. This buffer shall be expanded to include contiguous areas of hydric soils, highly erodible soils, and soils on slopes greater than 15% -- to a maximum distance of 160'.<sup>3</sup>

A 25' buffer is required around all non-tidal wetlands and intermittent streams present.<sup>4</sup> Permits are required from the (US Army) Corps of Engineers and MDE for all non-tidal wetland and stream impacts prior to recordation. JD's are required in conjunction with permitting. If no permits are required, and if the proposed project meets the policy standards established on 3/20/95 and revised on 1/16/96, or if the FSD/Conceptual Environmental Assessment finds that there are to be no impacts to field-delineated wetlands or stream impacts, or if the FSD/Conceptual Environmental Assessment finds that there are no wetlands or streams and that finding is consistent with the details of County wetlands maps and USGS quad maps, then no JD is required. If required, then a JD is recommended to be done prior to Final Plat review by the Planning Commission, but required to be completed prior to recordation.

No common open space is required for fewer than 10 lots, and no landscaping of the development envelope is required in the SAR zone.

The habitats of rare, threatened, and endangered species must be avoided.

The Environmental Assessment must be approved prior to Planning Commission's review of the Final Plat (§6.3.B(1)(a), Forest Conservation Regulations).

Any Landscape Agreement must be executed prior to recordation.

Deed restrictions for the long-term protection of the Forest Retention/ Afforestation Areas (FRAs) must be recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Final and Record Plats.

A MALPF easement exists on this property. On 11/25/08, the MALPF Board of Trustees granted an exclusion for an owner's lot, with the agreement that "it would not be subdivided from the surrounding land."

The contiguous operating farm notice has been provided on the plat as Note # 12.

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<sup>2</sup> The Cecil County Subdivision Regulations define steep slopes as "15 percent or greater incline." The Cecil County Zoning Ordinance defines steep slopes as consisting of a grade of 25% or more covering a contiguous area of 10,000 ft<sup>2</sup> or more. The Cecil County Forest Conservation Regulations define steep slopes as "areas with slopes greater than 25 percent slope."

<sup>3</sup> In the Critical Area, the 160' maximum distance does not apply.

<sup>4</sup> In the critical Area, intermittent tributary streams require a 110' buffer.

School information:	Elementary	Middle	High School
	Ches. City	Bo Manor	Bo Manor
FTE	315	479	740
Capacity	353	601	643
% Utilization	89%	80%	115%

**2. Lands of Robert J. Turner, Courtesy Review for the Town of Chesapeake City, 11 Units, Boatyard Road, Canaltowne Consulting, Second Election District.**

Gerry Robertson, Canaltowne Consulting and Sharon Weygand, Chesapeake City Town Administrator, appeared and presented an overview of the project.

Mr. Black stated that SHA had no comment as the project is not located on a state highway. Soil maps and reports were provided to the applicant. Also, Mr. Black read the comments of MDE.

Mr. von Staden, DEH, read the comments of the department:  
COMAR 26.04.03 requires submission of a preliminary plat showing:

1. Topography at 2 foot intervals.
2. Identify methods proposed for water supply and sewage disposal.
3. Identify if any nonresidential usage is proposed.
4. If public water and sewerage are proposed, the parcel must be included in the County Master Water and Sewer Plan.

If public water and sewerage are proposed, record plat must contain the following statements:

- Public water and sewerage will be available to all lots offered for sale (by owner’s signature block).
- Use of public water and sewerage is in conformance with the Cecil County Master Water and Sewer Plan (by Health Department’s signature block).

Mr. Graham, Citizen’s Representative, had no comment.

Mr. Woodhull, DPW, read the comments of the department:

This submittal does not comply with the standards set for concept plat review by the TAC irregardless of whether or not this property is annexed into the Town of Chesapeake City.

1. The Department understands that with annexation the Town of Chesapeake City will provide both water & sewer for this site.
2. It is the Department’s position that Boat Yard Road along the subdivision’s frontage also be included in the annexation thus extending the Towns ownership & maintenance responsibility from the current line of incorporation to that here proposed.
3. The Applicant is made aware that if the SWM and E&S plans for this project are not approved (i.e. signed) by May 4<sup>th</sup> 2010 the new Ordinance will apply and the SWM plan must be designed

to meet its requirements. The SWM plan must be approved by the Department prior to the final plat being recorded.

4. If this property is not annexed by the Town of Chesapeake City and Boat Yard Road remains a county road the Applicant will be responsible for the fee simple dedication of a strip of land measured 30' from the center line of the road along the property's road frontage. A road improvements plan submittal for Boat Yard Road would also be required. All private and/or Town owned utilities run within County ROW would require easements between the County and the utility owner.
5. The following standard notes and requirements apply to this plat and project: The details of these notes and requirements will be identified in the record but will not be read at this time:
  - 4.1 The Final Plat Lot Grading Note and the Lot Grading Plan Construction Limits Note.
  - 4.2 Compliance with Sections 251-9.A (5), 251-13, and 251-15.D. of the Cecil County Stormwater Management Ordinance.
  - 4.3 Requirements for Utility relocations.
  - 4.4 Requirements for Public Works Agreements.
  - 4.5 Requirements for Stormwater Inspection and Maintenance Agreements
  - 4.6 Requirements for Driveways.

**Notes and requirements identified for record:**

1. The Final Plat must include the Lot Grading Plan standard note and the Lot Grading Plan must include the standard construction limits note.
  - a. *Final Plat:* "A lot grading plan has been approved by the CCDPW for the construction shown hereon. A site construction as built shall be submitted to the CCDPW prior to use and/or occupancy of any of the sites shown hereon. Any change to the Forest Retention, Forestation, and/or Reforestation will require a consistency review, of the SWM approval, with CCDPW."
  - b. *Grading Plan:* "No clearing or grading is permitted beyond the limits of disturbance shown hereon. Any expanded clearing and/or grading in the absence of an approved revised lot grading plan may be considered non-compliance with Chapter 251 of the Cecil County Code and either or both the developer and/or Builder may be subject to the enforcement of the penalty provisions therein."
2. The downstream conveyance of storm water must be analyzed in accordance with Section 251-9 A. (5) of the County's SWM Ordinance. If stormwater discharge is directed off of the site on to adjacent property it is the responsibility of the Developer to obtain appropriate easements from the affected property owners per Sections 251-13 and 251-15.D of the Cecil County SWM Ordinance.
3. Where determined necessary by the utility companies, the owner, the designer, or DPW, utility poles must be relocated at the Developer's expense.
4. A Public Works Agreement is required for the sanitary sewer construction and driveway construction within the County ROW if Boat Yard Road remains a county road.
5. An Inspection & Maintenance Agreement is required for the private SWM facilities.
6. If Boat Yard Road remains a county road, all driveways must be paved at least to the right of way. The driveway paving must be complete for all lots at the time when the surface course for the internal roads is installed. This requirement includes any vacant but platted lots. Any driveway exceeding 5% up-gradient-slope from the roadway must be paved to the crest. If the development is phased these requirements will apply to each phase when 80% of the lots are built-out. All of these requirements must be reflected on the Lot Grading Plan.

Mr. Black, P&Z, read the comments of the department:

The site of this proposed subdivision is proposed to be annexed into the Town of Chesapeake City. The Cecil County TAC, as a courtesy to the towns in the County, from time to time reviews site plans and subdivisions proposed within the towns' corporate limits.

Proposed Zoning: TND, LDA

- All comments are based upon the assumption that the property will be annexed into the Town of Chesapeake City.
- The materials submitted to not comply with the required information for Concept Plats, per §4.0.13 of the Cecil County Subdivision Regulations.

- If this project does not proceed through the Town’s review and approval process, then the required information for Concept Plats, per §4.0.13, must be followed.
- If this submission does not now meet the requirements of the Town’s Zoning Ordinance and/or Subdivision Regulations, then its details should be made consistent with those requirements prior to any submission to the Town.
- It is recommended that a plat be submitted that includes a vicinity map indicating the location of the property with reference to surrounding property, streets, landmarks, streams, north arrow, etc.
- It is recommended that a plat be submitted that shows all property owned according to the tax maps if only a part of the property is to be developed, as the tax map, block (grid), and parcel number(s).
- It is recommended that a plat be submitted that includes a Title Block, including the proposed name of the project, the scale of plat, and the date.
- It is recommended that a plat be submitted that includes the name and address of owner or person representing owner who is responsible for preparation of the plat.
- It is recommended that a plat be submitted that includes the layout of all proposed and existing lots with appropriate dimensions and minimum area.
- It is recommended that a plat be submitted that includes the existing and proposed Zoning Classification of tract, as well as those of adjoining properties.
- It is recommended that a plat be submitted that includes the existing and any proposed Critical Area designation of the tract.
- It is recommended that a plat be submitted that includes the general location and areal extent of the following items when the subdivision is proposed in the Critical Area:
  1. Tidal and non-tidal wetlands;
  2. Streams (perennial and intermittent);
  3. Areas of steep slopes, highly erodible and other soils with development constraints;
  4. Shore and stream Buffer (200-foot minimum);
  5. Natural resource protection areas, Habitat Protection Areas, forests and developed woodlands on or in the vicinity of the proposed subdivision;
  6. The Critical Area Boundary and the applicable land management classification(s), i.e. Intensely Developed Area (IDA), Limited Developed Area (LDA), or Resource Conservation Area (RCA);
  7. Computation of the amount of acres in the Critical Area District; and
  8. The location and extent of existing and/or proposed shore erosion abatement approaches.
- It is recommended that a plat be submitted that includes a listing of any re-zonings, Variances, Special Exceptions, or Growth Allocations necessary to achieve the proposed design.

- It is recommended that it be verified that the Town's submission requirements for Growth Allocation have been met. If not, then a Growth Allocation submission should be filed, consistent with state requirements contained in SB 280.
- It is recommended that Final Plat approval not be granted until after Growth Allocation has been awarded.
- It is recommended that the proposed density be checked for consistency with that allowed in the Town's TND zone.
- It is recommended that the proposed Critical Area density be stated on the plat. Further, it should be confirmed that the proposed density does not exceed that allowed in the proposed IDA zone under the Town's Critical Area Program.
- It should be confirmed that the setbacks are consistent with the Town's Zoning Ordinance for the proposed IDA and TND zones.
- It should be confirmed that all proposed building heights do not exceed the maximum height established in the Town's Zoning Ordinance and Subdivision Regulations.
- Consideration should be given to soliciting review and comment on the subdivision layout and access by the Chesapeake City Volunteer Fire Co.
- Any fire hydrant locations should be consistent with the Town's Zoning Ordinance and Subdivision Regulations, as well as suggestions from the Chesapeake City Volunteer Fire Co.
- Consideration should be given to the possible installation of dry hydrants, where practicable, in consultation with the Chesapeake City Volunteer Fire Co.
- Water allocation should be confirmed prior to final approval.
- Sewer allocation should be confirmed prior to final approval.
- Consistency with the Master Water and Sewer Plan should be confirmed prior to final approval.
- It should be confirmed that the number of proposed parking spaces proposed falls within the minimum and maximum number required or permitted by the Town's Zoning Ordinance and Subdivision Regulations.
- Sidewalks are recommended.
- It should be confirmed that all aspects of the proposed layout are consistent with the Town's Subdivision Regulations, Public Works street code, and TND zone regulations.

- It is recommended that the locations of all dwellings or impervious surfaces be consistent with the requirements of the Town's Zoning Ordinance and Subdivision Regulations with respect to any steep slopes.
- It is recommended that any steep slopes be depicted.
- It is recommended that it be verified that pertinent any stream buffer distances are consistent with the requirements of the Town's Zoning Ordinance and Subdivision Regulations.
- It is recommended that it be verified that non-tidal buffer distances are consistent with the requirements of the Town's Zoning Ordinance and Subdivision Regulations.
- It is recommended that it be verified that the Critical Area buffer distances are consistent with the requirements of the Town's Zoning Ordinance, Subdivision Regulations, and Critical Area Program, especially since the passage of HB 1253.
- Additionally, it is recommended that it be verified that any storm water management areas are allowed in Critical Area Buffers.
- It is recommended that a stream buffer, pursuant to Town's Zoning Ordinance and Subdivision Regulations, be depicted outside of the Critical Area where appropriate (southwestern portion of Back Creek).
- It is recommended that the Critical Area buffer be expanded to include any hydric soils, where applicable.
- It is recommended that protective fencing be considered around any stormwater management areas, as they may be attractive hazards.
- There is no (common) open space identified on the plat. If common open space is required, then a Homeowners' Association must be established to maintain the common open space. It is recommended that the Town not sign any recordation plats until after the Homeowners' Association has been established and funded to the level required by Town regulations (\$50 per recorded lot is currently the funding level set by the County).
- It should be confirmed that the sensitive areas thresholds, specified in the Town's Zoning Ordinance and Subdivision Regulations, for open space acreages in perennial or intermittent stream buffers, non-tidal wetlands or buffers, steep slopes, or habitats of rare, threatened and endangered species have not been exceeded.
- It is recommended that any access to common open space between lots be marked with concrete monuments.
- It should be confirmed that any landscaping proposed is consistent with the landscaping requirements of the Town's Zoning Ordinance and Subdivision Regulations, especially with respect to street trees and any required bufferyards.
- It is recommended that no street trees be planted within 20 feet of sewer laterals and cleanouts.

- It is recommended that the Landscape Plan be approved prior to final subdivision approval. Consideration should be given to the vegetative screening of the C& P Telephone property.
- It is recommended that a Landscape Agreement be executed prior to recordation.
- An Environmental Assessment must be done. It is recommended that Final approval not be granted until after the final Environmental Assessment has been approved.
- The Town of Chesapeake City has not signed an “Assigning Obligations Under the Forest Conservation Act” agreement with the County. However, OPZ will continue to review and comment on an FSD and FCP as a courtesy to the Town.
- It is recommended that the final Forest Conservation Plan (FCP) be approved prior final subdivision approval.
- Deed restrictions for the long-term protection of any street trees and Forest Retention/Afforestation Areas (FRAs) should be recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Final and Record Plats.

The April TAC meeting adjourned at 9:43 a.m.

Respectfully submitted,

*Jennifer Bakeoven*