



COUNTY COUNCIL OF BEAUFORT COUNTY

Beaufort County Planning & Zoning

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The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, September 24, 2020, at the Burton Wells Recreation Complex, 1 Middleton Recreation Drive, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Kevin Mack, Vice Chairman
Mr. John Chemsak
Ms. Lynne Hoos
Mr. Mark McGinnis
Mr. Cecil Mitchell
Mr. Chester Williams

MEMBERS ABSENT

Mr. Bernard Rivers

VACANCY

None

STAFF PRESENT

Mr. Eric Greenway, Planning & Zoning Director
Ms. Hillary Austin, Zoning Administrator
Mrs. Lisa Anderson, Zoning Analyst III
Mrs. Caitlyn Starnes, Zoning Analyst II

ATTORNEYS PRESENT

Mr. Tom Keaveny, Attorney for Staff
Mr. Brad Mitchell, Attorney for Board

CALL TO ORDER: Mr. Mack called the meeting to order at 5:03 p.m.

PLEDGE OR ALLEGIANCE: Mr. Mack led those assembled with the Pledge of Allegiance.

REVIEW OF MINUTES: January 23, 2020 & June 25, 2020

MOTION: Mr. Williams made a motion to adopt the January 23, 2020, minutes as written. Mr. McGinnis seconded the motion. The motion passed (FOR: Williams, McGinnis, Mack, Chemsak; ABSTAIN: Mitchell, Hoos; ABSENT: Rivers; VACANCY: None).

MOTION: Mr. Chemsak made a motion to adopt the June 25, 2020, minutes as written. Mr. McGinnis seconded the motion. The motion passed (FOR: Chemsak, McGinnis, Mack, Mitchell; ABSTAIN: Williams, Hoos; ABSENT: Rivers; VACANCY: None).

REVIEW OF AGENDA:

Item # 6 – Dean’s River Buffer Setback Variance asked to have the project continued.

Item # 12 – Walter Rogers’ River Buffer Setback Variance asked to have the project continued.

Board moved Item #18 to #6 DSMS Special Use Permit for Mining so that the citizens on Daufuskie Island would have a chance to voice their concerns.

Board moved Item #21, Bay Point Island Special Use Permit for Ecotourism, because of the length of time anticipated for the project.

Mr. Thomas Taylor, Attorney for Item #20 Lupton Appeal, requested to have the appeal continued. Staff Attorney Tom Keaveny objected to the request. Mr. Kevin Mack stated the Board would address the request later during the meeting.

MOTION: Mr. McGinnis made a motion to adopt the agenda with the requested changes, Mr. Chemsak seconded the motion. The motion passed unanimously.

DSMS SPECIAL USE PERMIT FOR MINING

Mr. Chester Williams stated that he had previously represented Mr. Bill Scott, owner of the project. He has not had any dealings with the present item before the Board, and therefore, felt that he did not need to recuse himself.

Mr. Karlyk stated the project went before the Staff Review Team and received Conceptual/Special Use Recommendation. The Community Development Code requires all mining operations to be approved through the Special Use provision of the Code. The mine will be approximately 4.5 acres and will be approximately 12 feet deep. The project received its mining permit from DHEC and will meet all of the conditions stated by the Staff Review Team.

Mr. Williams wanted to know what the end use would be once the mining is completed.

Mr. Karlyk stated the end use would be recreational.

Mr. McGinnis wanted to know if the 100-foot buffers would be maintained.

Mr. Karlyk stated yes, and he also stated that the only equipment that would be on site would be one (1) excavator and one (1) dump truck.

Mr. Casey Scott stated that he, as the mine owner, would be willing to limit the mining operation to three (3) days per week and change the hours to 9:00 a.m. – 5:00 p.m. on the days the mine is in operation. He also stated that the duration of the mining operation would be three (3) years. In addition, the end use would be a public park.

Mr. Eric Greenway – Staff stated that the Staff Review reviewed the project and per the Community Development Code, the project met the requirements. He also stated that it was brought to his attention that the entire Daufuskie Island is on the National Historic Preservation List, and he would recommend that the project be submitted to the Historical Preservation Board for review prior to the applicant submitting for final review from the SRT.

Mr. Williams wanted to know why the County did not require an End Use Plan.

Ms. Austin stated since the proposed pond was less than five (5) acres, the Code did not require one, but the SRT requested one anyway.

Mr. Mack called for **Public Comment**.

Seven (7) citizens, who were present stated their opposition for the mine. Three (3) citizens via WebEx on Daufuskie Island stated their opposition for the mine.

Public Comment Session closed.

Mr. McGinnis made a motion that based on the application, he moved to deny the request. Mr. Chemsak Seconded the motion.

Mr. Mack called for discussion on the motion.

Mr. Brad Mitchell, Attorney for the ZBOA Board, explained to Mr. McGinnis that he had to state why he was denying the request.

AMENDED MOTION: Mr. McGinnis amended his motion to deny the request for a Mining Special Use Permit because the request is not compatible with the surrounding residential neighborhood. Mr. Chemsak seconded the amended motion. The motion passed (FOR: McGinnis, Chemsak, Mack, Hoos, Mitchell; AGAINST: Williams).

The Board voted to go into Executive Session to confer with their attorney.

BAY POINT ECOTOURISM SPECIAL USE PERMIT

Mr. Mack called the meeting back to order.

Mr. Mack stated that Mr. Williams should recuse himself.

Mr. Williams delivered his Letter of Recusal to Staff and left the Board.

Mr. Josh Tiller stated the request is for a Special Use Permit for an EcoTourism use on the island of Bay Point. He explained that the project has been to the Staff Review Team and received Conceptual/Special Use Recommendation approval with Conditions.

Mr. Thomas Taylor, attorney for Bay Point, stated that the applicant has tried to reach out the St. Helena Island Community but has not had an opportunity due to COVID-19. He also stated that the project would be self-contained and would hire people from the surrounding areas. Those individuals would be ferried from Hilton Head Island or Port Royal to Bay Point.

Mr. Tom Harris stated that the project has been put off for five (5) months.

Mr. Mack called for **Public Comments**.

Thirteen (13) residents spoke and voiced their disapproval for the request.

Public Comment Session Closed.

Mr. Chemsak wanted to know the type of power systems that would be on the island for this level of construction. He stated that the solar panel locations shown would not be adequate to power the buildings, etc.

Mr. Art Krebbs stated that there would be enough power from solar, batteries, generators, etc.

Mr. McGinnis wanted to know the type of Sewer Systems and if there would be package plants.

Mr. Mack wanted to know if the project would use a reverse osmosis system for water supply.

Mr. McGinnis wanted to know about the use of wells.

The Board had questions about the fire safety, emergency management, the location of the helicopter pad, and the damage the noise would do to the wildlife population. The Board also wanted to know how the project would be built without the removal of any trees as stated by the developers. The Board also wanted to know if the developer would be willing to accept the County's proposal to place the rest of the island into some form of conservation easement, creating an agreement with the County.

Mr. Tom Taylor stated that the developer was not willing to agree with the County's request but instead wanted to give up fifteen (15) lots and keep twenty-five (25) lots for sale. He also stated that the developer would be willing to place the Ecotourism standards on the twenty-five (25) lots.

Mr. Mack called for a Motion to go into Executive Session to confer with their Attorney. Mr. McGinnis made the motion, and Mr. Chemsak seconded the motion. The motion passed unanimously.

Mr. Mack called the meeting back to order.

Mr. Mack, Mr. McGinnis, and Mr. Chemsak shared their concerns about the request.

MOTION: Mr. McGinnis made the motion to deny the application, based on the following:

- 1) The request is inconsistent with the Comp Plan.**
- 2) The project is incompatible with the land in the local vicinity.**
- 3) The project is not designed to minimize the impact on the wildlife on the island.**
- 4) The project is not designed to minimize the impact on the local services.**
- 5) The term does not meet the Comprehensive Plan and definition of Special Uses.**

Mr. Mitchell seconded the motion to deny. Mr. Mack stated that this appears to be a great idea but is not compatible and will cause more harm to the environment. The motion passed unanimously.

WHITTLE/LEISURE'S MINIMUM LOT DEPTH VARIANCE

Mr. Whittle stated he wants to separate his property to get three (3) lots so they can replace their home. The proposed lot is 113-feet deep and 331-feet long. The County wants the lot to be 150-feet deep.

Mr. Mack gave Mr. Whittle the option to defer and go back to the County.

Mr. Whittle agreed.

There were no Public Comments.

MOTION: Mr. McGinnis made the motion to defer the request and have the applicant go back to the County to work out a solution. Mr. Chemsak seconded the motion. The motion passed unanimously.

CIRCLE OF HOPE INN SPECIAL USE

Mr. Dortch stated he was requesting a special use permit in order to construct an inn with twenty-four (24) rooms to house veteran/military personnel. He stated he is a vet and has a passion for helping veterans and military personnel.

Mr. Mack asked Mr. Dortch if he read the County's conditions.

Mr. Dortch stated he did not read them, but he would comply with them.

Mr. Mack called for **Public Comment**.

There were no Public comments.

MOTION: Mr. Chemsak made the motion to approve the Special Use Permit with the Conditions set forth by the Staff's Recommendation. Mr. McGinnis seconded the motion. The motion passed unanimously.

ROBERT SAMPLE – TABBY WALK DUPLEXES ESSENTIAL ACCESS SPECIAL USE

Mr. Williams stated that he has represented Mr. Sample before, but has not had any dealings with him pertaining to this request, and therefore, he will not recuse himself from the hearing.

Mr. Sample stated that he is requesting a Special Use Permit for his project so that he can build a road through the non-tidal wetland. The Code requires that all essential accesses through non-tidal wetlands receive a special use permit.

Mr. Greenway stated that the SRT reviewed the project and recommended approval for this request.

Mr. Mack called for **Public Comment**.

Mr. Scott Robinett stated that his mother lives adjacent to this property and has a pond on her property and would like Mr. Sample build a fence on his property to prevent the occupants from the duplexes from encroaching.

Mr. Neil Pasternak stated he opposed because he was worried that there would be flooding on his property when the duplexes are built.

Mr. Greenway stated that it would appear that the design for the duplexes would alleviate any drainage issues.

Mr. Mack asked Mr. Sample if he would be willing to build a fence, Mr. Sample stated, "no."

MOTION: Mr. Chemsak made a motion to approve the Special Use Permit. Mr. McGinnis seconded the motion. The motion passed unanimously.

JEFFREY BRUMLEY’S REAR YARD SETBACK VARIANCE

Mr. Brumley stated he was before the Board to request forgiveness for constructing a shed without a zoning or building permit.

Mr. Williams wanted to know if Mr. Brumley knew he had to get a permit before starting construction.

Mr. Brumley stated yes he knew he needed a permit.

Mr. Chemsak wanted to know if Mr. Brumley was a Contractor.

Mr. Brumley stated yes he was.

Mr. Mack stated he was not inclined to grant the variance.

Mr. Mack called for **Public Comment**.

Staff stated there was one (1) email for the variance and two (2) emails against the variance.

MOTION: Mr. Williams made a motion to deny the variance because the applicant did not prove a hardship. Ms. Hoos seconded the motion. The motion passed unanimously.

MR. & MRS. JOHN LUPTON APPEAL

Mr. Williams delivered his Letter of Recusal to Staff, and left the Board.

Mr. Taylor stated to the Board that he would like to have the case continued.

Mr. Keaveny stated that the County objected to the continuance.

Mrs. Jennifer Kosky stated that she was the current property owner of the Campground that is being appealed. She also stated that she has been waiting for over six (6) months and has spent over Thirty Thousand Dollars (\$30,000) because of this appeal. She also stated that she has not been able to move forward with the project and did not agree to the continuance. She requested the case to be heard. She also stated that she had been sitting in the audience waiting for the case to be called, and she felt it only fair that the Board hear the case.

Mr. Taylor stated that Mr. Greenway did not have the authority not to process and send his appeal to the Beaufort County Planning Commission.

Mr. Keaveny stated that Mr. Greenway has the authority to accept and refuse any submittal if the submittals are not timely. He explained that the Appellant was submitting for an appeal to a project that had not received conceptual approval. The Staff Review Team’s Action Form stated that the project had received Conditional Approval, and the applicant would need to submit the new information before the project could move forward.

Mr. Brad Mitchell (Attorney for the Board) stated to the Board that one of the decisions they could make was to remand the action back to the SRT to make a decision on the Conceptual Plan.

MOTION: Mr. Mitchell made a motion to deny the appeal and send the project back to the SRT for Review. Ms. Hoos seconded the motion. The motion passed unanimously.

NEW BUSINESS:

Election of Chairman and Vice Chairman.

MOTION: Mr. Williams made a motion to nominate Mr. Mack for Chairman. Mr. McGinnis seconded the motion. The motion passed unanimously.

MOTION: Mr. McGinnis made a motion to nominate Mr. William for Vice Chairman. Mr. Chemsak seconded the motion. The motion passed unanimously.

MOTION: Mr. Williams made a motion to nominate Ms. Austin as the Board's Secretary. Mr. McGinnis seconded the motion. The motion passed unanimously.

ADJOURNMENT

MOTION: Mr. Williams made a motion to adjourn the meeting, Mr. McGinnis seconded the motion. The motion passed unanimously.

Mr. Mack adjourned the meeting at approximately 11:58 p.m.