

January 21, 2009

4:00 p.m. - Special Public Working Session

Present:

Commissioners Joanne Clark, Michael Brady, Robert Snyder and, Donna Hunt; Codes Enforcement Officer Deborah Renshaw; Town Manager Cheril Thomas; Administrative Clerk Sabrenia Yohn; Town Attorney Karen Ruff; and approximately 10 members of the public.

Call to Order:

President Clark called to order the Special Public Working Session of the Commissioners of St. Michaels at 4:05 p.m. in the meeting room of the Edgar M. Bosley, Jr. Municipal Building, 300 Mill Street, St. Michaels, Maryland. The Pledge of Allegiance was recited.

President Clark announced that the Commissioners had held a closed session at 2:00 p.m. pursuant to Maryland Code, State Government Article § 10-508, (a)(1)(ii) - Personnel Matters - to discuss the appointment of a successor Commissioner for the seat vacated by George M. Walish, Jr. President Clark said there would be another closed session discussion of this matter on Friday, January 23, 2009 at 3:00 p.m.

Discussion Items:

- **Request to rename or dedicate State Route 33 as "The Frederick Douglass Memorial Highway"** - President Clark introduced Harold Britt and George Ludington, who made a presentation on the life of Frederick Douglass in Talbot County, and requested a letter of support from the Commissioners to rename or dedicate Route 33 as "The Frederick Douglass Memorial Highway." Following the presentation, the Commissioners received comments from the public. Barney Kastel expressed concerns about re-naming the road as it could potentially present a hardship to businesses if they had to change their addresses and requested that the Commissioners consider a dedication of the road rather than re-naming. The Commissioners all agreed to a dedication of the road and instructed Town staff to draft a letter of support accordingly. President Clark said that the Commissioners would review and vote on the draft letter at the next Commissioners' meeting on January 28, 2009.
- **Discussion and review of Hatton's Garden Stormwater Management Plan Application** - President Clark acknowledged Mike Burlbaugh representing Elm Street Development, who then introduced Rick VanEmberg of Lane Engineering and Steve Layden of McCrone, Inc. President Clark then introduced Deborah Renshaw, who provided an overview on the status of the Hatton's Garden project with respect to permits and approvals. She noted that the Critical Area Commission had approved the project, pending submission of all permits and a stormwater management plan, which was before the Commissioners today for review. Attorney Ruff outlined the elements that the Commissioners should consider with regard to the plan, and that the next step following today's review would be for them to direct the preparation of the Findings of Fact. Mike Burlbaugh, Rick VanEmberg and Ben Taylor of

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Davis, Bowen & Friedel presented highlights of the Hatton's Garden application and answered questions from the Commissioners. Following more commentary and additional questions from the Commissioners and the public, President Clark said the next step would be another discussion of the plan at the February 11, 2009 meeting and preparation of the Findings of Fact.

- **Request by Elm Street Development to extend the time to complete the conditions of the award of Growth Allocation on the project known as Hatton's Garden** - Attorney Ruff referenced Section 340-28 (e) which notes limitations on projects to be completed within two years of approval unless the applicant requests an extension and said that the Commissioners must take a public vote on Elm Street's request for the extension of time in the form of a resolution. President Clark noted that the Resolution was being drafted and that the Commissioners would vote on the Resolution at their January 28, 2009 meeting.

Comments from the Commissioners - There were none.

Adjournment - President Clark adjourned the meeting at 5:40 p.m.

6:30 p.m. - Special Public Session

Present:

Commissioners Joanne Clark, Michael Brady, Robert Snyder and, Donna Hunt; Codes Enforcement Officer Deborah Renshaw; Town Manager Cheril Thomas; Administrative Clerk Sabrenia Yohn; Town Attorney Karen Ruff and approximately 30 members of the public.

Call To Order:

President Clark called to order the Special Public Working Session of the Commissioners of St. Michaels at 6:35 p.m. in the meeting room of the Edgar M. Bosley, Jr. Municipal Building, 300 Mill Street, St. Michaels, Maryland. The Pledge of Allegiance was recited.

President Clark announced that the Commissioners had held a closed session at 2:00 p.m. pursuant to Maryland Code, State Government Article § 10-508, (a)(1)(ii) - Personnel Matters - to discuss the appointment of a successor Commissioner for the seat vacated by George M. Walish, Jr. President Clark said there would be another closed session discussion of this matter on Friday, January 23, 2009 at 3:00 p.m.

Public Hearing:

President Clark announced that this evening's public hearing was for the consideration of a request from Windward Investment, LLC for growth allocation for 130,154 sq. feet (2.99 acres) changing the Critical Area land use classification from Limited Developed Areas (LDA) to Intensely Developed Areas (IDA), pursuant to the St. Michaels Code, Section 340-28 (Growth Allocation). The property is identified on Talbot County Tax Map 200 as Parcels 1785 and 1783 fronting on Chesapeake Avenue and generally known as Chesapeake Reach. President Clark said that no interveners had filed in this proceeding. She then administered the Oath to all applicants, Town staff and potential witnesses who may give testimony. The proceeding was then turned over to Attorney Ruff. Attorney Ruff read Section 340-28 of the Town's Code which governs this proceeding and noted that the Planning Commission had reviewed the application, found it to be compatible with the Town's Comprehensive Plan, and had issued a favorable recommendation.

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President Clark asked if there were any exhibits in the proceeding and Mrs. Renshaw read the following exhibits into the record:

1. Application of Windward Investment LLC for growth allocation.
2. Concept Plan and Tentative Sketch Plan
3. Letter from Debbie Renshaw
4. Existing Habitat Protection Area Impact and Proposed Habitat Protection Area Impact.
5. Chesapeake Reach Stormwater Management Report and Drainage Area Map
6. Existing Lot Coverage Exhibit and Proposed Lot Coverage Exhibit
7. Tree Plan for Chesapeake Reach
8. Critical Area Forest Worksheet
9. Chesapeake Area Critical Area Environmental Assessment
10. Letter from Maryland Department of Natural Resources, Wildlife Heritage Service, dated May 25, 2007.
11. Mitigation Plan and Buffer Management Plan
12. Soils Study for Chesapeake Avenue Site
13. Exhibit for Density
14. Existing Conditions Aerial Exhibit and Proposed Conditions Aerial Exhibit for Chesapeake Reach
15. Schedule of completion
16. Letter from Town Engineer referencing stormwater management criteria, dated November 18, 2008
17. Planning Commission Recommendation to the Commissioners dated December 15, 2008
18. Notice of the Commissioners of St. Michaels Public Hearing on January 21, 2009 and list of adjacent property owners who received a copy of the notice.
19. Notices of public hearing as published in the *Star Democrat* on January 5, 2009 and January 12, 2009.
20. Letter from Michael and Ellen Datena dated January 17, 2009.

Mrs. Renshaw also noted an additional exhibit to be added to the record - Exhibit Number 21, Phase II approval of Mitigation Plan from the Maryland Department of the Environment's Non-Tidal Wetlands and Waterways Division.

President Clark introduced Attorney Sarah Everhart, representing the applicants, Windward Investments LLC and Carolina Barksdale. Attorney Everhart went through each step of the application for the Chesapeake Bay Critical Area growth allocation request on behalf of Windward Investments, LLC for Chesapeake Reach as outlined in her letter to the Planning Commission dated November 10, 2008. As part of the presentation, Attorney Everhart also noted that the application had been reviewed by the St. Michaels Planning Commission and was given a favorable recommendation in that the project had exceeded stormwater management, forestation, and mitigation requirements, had met all criteria for the Town's R-1 Zoning, the Code for the State of Maryland, and Critical Area Commission regulations, including the required 100-foot buffer. Attorney Everhart said the project had reduced the original number of units from 16 to 9. Following the presentation, there were no questions from the Commissioners. President Clark collected the sign-in sheet for those members of the public who had indicated a wish to comment. She noted that each person would have three minutes for comments and should state their name and address for the record. Comments were taken from the public as follows:

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- Maria Kendro of 8363 Lennep Lane said she needed to be assured that the project would not impact her property and submitted a map of the location of her property and an article published in the Baltimore Sun dated February 11, 2005 entitled “A little development can cause big harm”. The map and the article were added to the exhibit list as Exhibits 22 and 23 respectively.
- Deborah Kuba of 8361 Lennep Lane expressed her concerns for the stream that emptied into Back Creek and the potential harm to oysters, fin fish, deer, raccoons, turtles, terrapins as a result of potential run-off. She also provided a map of the area and an article entitled “St. Michael’s Parkway MD 33 Relocated North of Lincoln Avenue to North of Yacht Club Road, Section Via, Environmental Assessment. The map and the article were added to the exhibit list as Exhibits 24 and 25 respectively.
- Michael Vlahovich of 129 Miles Avenue expressed concerns about his property value and the disturbance to wildlife during construction. He also noted that parcels G, H, and I of the plan could potentially flood in a storm event such as Hurricane Isabelle.
- Steve Florkewicz of 205 E. Marengo Street expressed concern about tidal action in the area and possible disturbance of the burial ground.
- Marie Martin of 104 Cherry Street questioned whether or not any of the houses to be built there would sell in this economic climate and could remain undesirably vacant.
- Langley Shook of 8226 Tricefield Road expressed serious concerns about environmental impacts and urged keeping the record open for those citizens who wished to participate in this process.
- Phillip Jones of 9005 N. St. Michaels Road expressed concern about the run-off of erodible soils, and Beth Jones, also of 9005 N. St. Michaels Road, speaking on behalf of the Bay Hundred Foundation, questioned water quality improvement under the stormwater management plan.
- Roy Myers of 110 E. Chestnut Street asked about the types of houses that would be built on the site and expressed flooding issue concerns for the three lots closest to the creek.
- Tim Junkin of 206 Locust Avenue and representing the Choptank River Eastern Bay Conservancy said his concerns relate to fertilizer and other chemical run-off, and, given the economic climate, that there should not be a to rush to build.

At the conclusion of public comments, the Commissioners agreed to keep the record open. Attorney Everhart indicated that the applicant had presented a complete application that met and/or exceeded all legal requirements and therefore felt no need for the record to remain open. Lee Mayer of Lane Engineering responded to residents concerns about soils and erosion, the 100- foot buffer, road widths and the questions raised regarding potential flooding of some of the parcels. Ben Taylor of Davis, Bowen & Friedel was administered the oath by President Clark, and also responded to issues expressed by the public.

At the conclusion of the testimony, the Commissioners agreed to continue the public hearing. Attorney Ruff advised that within 90 days of the conclusion of the public hearings, the

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Commissioners must make a final decision with respect to the application. Commissioner Brady made the motion to continue the public hearing on the application of Windward Investments Inc. for growth allocation to the Commissioners' February 25, 2009 meeting. Commissioner Snyder seconded the motion and it passed on a voice vote of 4-0 in favor.

Announcement of Next Meetings:

President Clark said the next meetings of the Commissioners would be Wednesday, February 11, 2009 at 3:00 p.m. and 6:30 p.m. at the Town Offices and Wednesday, February 25, 2009 at 6:30 p.m. at the St. Michaels Free Library.

Comments from the Public:

There were no additional public comments.

Comments from the Commissioners:

There were no additional comments from the Commissioners.

Adjournment:

President Clark adjourned the meeting at 8:40 p.m.

Respectfully submitted,

Dorothy C. Olley
Assistant Town Clerk