

Chester County Planning Commission September 21, 2021

The September 21, 2021 meeting of the Chester County Planning Commission was held at 6:30 pm at The Government Complex Center located at 1476 JA Cochran Bypass, Chester, SC

Notice of Meeting: Public Notices providing time, date, and place for this meeting were posted in the Chester County Government Complex, Chester County Court House, and published in the September 1, 2021, September 5, 2021, and September 9, 2021 Chester News & Reporter. All properties were also posted.

Quorum Established: Chairman Raines, Vice Chairman Smith, Commissioners Hill, Howell, Grant and Williams were present.

Absent: Commissioner Walley was absent with prior notification.

Staff: Mike Levister, Nicole Hutchins and Morgan Carelock were present. County Attorney, Joanie Winters, was also present.

Call to Order: Chairman Raines called the meeting to order.

Approval of Agenda: Chairman Raines asked if there were any additions or amendments to the agenda presented by staff. There were none. Vice Chairman Smith made a motion to approve the agenda as presented; seconded by Commissioner Grant. Vote 6-0 to approve.

Approval of Minutes: Chairman Raines asked if there were any additions or amendments to the August 17, 2021 minutes as presented by staff. There were none. Chairman Grant made a motion to approve the minutes as presented; seconded by Commissioner Howell. Vote 6-0 to approve.

New Business:

CCMA21-28: Mattie Howze request Tax Map # 160-00-00-025-000 located at Georgetown Rd, Great Falls SC to be rezoned from R1 (Rural 1) to RG-2 (General Residential)

Applicant Mattie Howze was not in attendance, with prior notification to staff. Ms. Howze gave permission for Director Levister to speak on her behalf, in reference to this case.

Chairman Raines asked Director Levister to step to the podium. Director Levister opened by stating Ms. Howze wants to rezone the property from R1 to RG-2, so she can put a mobile home on the property. Chairman Raines asked if that would be permitted under the current zoning. Director Levister said no. Chairman Raines stated that the Commission had previously heard her case before and that there was a difference in opinion regarding the stipulations of her deed. Director Levister confirmed that was correct. Director Levister stated that Ms. Howze owns lot number three, but lot three is not described in the deed restrictions. Chairman Raines asked if the restrictions, as mentioned before, were not mentioned in relation to her property. Director Levister confirmed that was correct.

Chairman Raines asked if anyone on the Commission had any questions. Attorney Winters asked Director Levister back to the podium. Attorney Winters asked if the request to rezone is approved, Ms. Howze will have to get a new survey. Director Levister stated that was correct. Attorney Winters mentioned that there was previous discussion with County Council regarding another continuous property that has a prescriptive easement. Attorney Winters asked if that would have to be reflected on Ms. Howze's new survey. Director Levister confirmed, that is correct so she can meet the setbacks. Attorney Winters then asked if the continuous properties would see the prescriptive easement. Director Levister confirmed, that is correct.

Chairman Raines asked if any members of the public would like to speak in opposition to this request. No response from public. Chairman Raines then asked if any members of the public would like to speak in favor of this request.

Russ Trotter stepped to the podium and said he was not in favor nor against Ms. Howze's case. Mr. Trotter stated that he had spoken to County Council and Attorney Winters two weeks prior, with the recognition of the prescriptive easement, that Attorney Winters mentioned earlier. Mr. Trotter stated he had a few questions but was unsure if this meeting was the appropriate place to ask or if he needed to speak with Building and Zoning. He asked the dimensions of the prescriptive easement, if the easement would be treated (by Chester County) as a road, and if it will have to be resurveyed each time someone else wants to build.

Attorney Winters asked Director Levister if the easement would be dictated by ordinance. Director Levister stepped to the podium and stated that the setbacks would be determined by that, but the centerline for the right-a-way would be a decision of County Council and the Road Department. Attorney Winters stated that there is a specific criteria that would be used, not just pulling a number out of the air.

Attorney Winters told Mr. Trotter they could have a conversation before anything is solidified. Trotter asked if the easement would have the same setbacks as a road. Director Levister stated the County would make that decision with the road department. Director Levister also stated that the county would maintain the easement, so they would maintain what the right-a-way is going to be. Mr. Trotter stated he understood.

Chairman Raines asked if once the easement is made would it be apart of the property. Attorney Winters stated it would run with the property. Mr. Trotter said when the county makes a determination, anytime someone wants to build on the lots, the surveyor will have to know dimensions of easement and what applicable setbacks the county decides. Attorney Winters stated that is correct, but it will already be standing so it will not have to be revisited. Mr. Trotter had no further questions nor statements.

Chairman Raines asked the Commission if they had any further thoughts. None were mentioned. Chairman Raines made a motion to approve the rezoning, as the easement legalities have been cleared up; seconded by Vice Chairman Smith. Vote 6-0, approved to rezone from R1 to RG-2.

CCMA21-29: Leonard Stevens Bishop request Tax Map # 079-00-00-032-000 located on Village Dr, Chester SC to be rezoned from RG-1 (Multi-family Residential) to LC (Limited Commercial)

Chairman Raines opened this case by stating the entire property is not up for rezoning. As indicated on the Rezoning Application, it is just 5.882 acres.

Leonard Stevens Bishop, of 531 Sherwood Circle Chester, SC, stepped to the podium and stated he was here to represent the Herbert and Anna Lutz foundation. The foundation was established in 1996 to help and support the Community of Chester; in areas such as Health, Education, Religious Groups, Organizations, and various projects. All grantees must be 501C status. Since inception, the foundation has given the community and surrounding areas 8 million dollars - through 750 applicant grants.

Mr. Bishop continued to explain; Mr. Lutz appointed his niece Joanna Guyton and husband Dewey Guyton as directors of the foundation. They are responsible of day-to-day operations, along with three board members. The current primary office space for the foundation is in their family home. They plan to build a 1200 sq. ft. permanent office space on the property, to house the Lutz Foundation, if rezoned. Their future plans are to sell their personal property, that money will go to the foundation, and they will need a space for the foundation to continue to exist. Mr. Bishop stated the request is to rezone from RG1 to LC to provide a house/house-office for the Lutz foundation.

Chairman Raines asked the Commission if they had any questions for Mr. Bishop. There was none. Chairman Raines asked if any member of the public would like to speak in opposition of this request. No member of the public spoke up. Chairman Raines then asked if there was any member of the public that would like to speak in favor of the request. Again, no member of the public spoke up.

Commissioner Grant made a motion to approve the rezoning request as requested; seconded by Commissioner Howell. Vote 6-0 to approve.

CCMA21-30: Nate McDaniel request Tax Map # 060-00-02-010-000 located at 1047 Pinckney Rd, Chester SC to be rezoned from R2 (Rural 2) to ID-3 (General Industrial)

Nate McDaniel, of 4307 Cahnnas Way Waxhaw, NC, stepped to the podium. Mr. McDaniel explained he and his partner own this property on Pinckney Road and that it has a large hill. His partner is in the retaining wall business and believed that the hill is made of good structural fill. Mr. McDaniel said he had the hill bored and compaction test results confirmed the dirt is good structural fill. He has gone through DHEC and they had a public hearing in Chester. Mr. McDaniel stated DHEC said due to the volume of dirt, even though he is not going sub-grade, nor mining, nor blasting that they needed a mining permit for their intent. The mining NAICS code does not work for the current zoning. He needs to rezone to be able to grade the hill down, make it flat, and hopefully provide structural fill to many projects in and around Chester.

Chairman Raines asked how much in excess they were, under what they could have mined under R2 (current zoning). Mr. McDaniel said that he does not have a straight answer on that. In addition to volume,

there is also reclaiming. Due to the fact that the dirt will be leaving site, volume, and unknown duration they (DHEC) felt this should be coded a mining permit. Chairman Raines asked if the intent is to mine this and not to level the property for any other purpose. Mr. McDaniel said the goal is to sell the structural fill and make it flat. What started this endeavor is a group out of Mooresville, approached his partner, looking to purchase a million yards of dirt. If someone was looking for 10 truckloads, a couple times a week, that would take a lot longer. There are some unknowns here and with the growth coming to Chester. I don't have a good answer, as to what the County will want because it could be two years from now. Depending on how the growth goes, without knowing how long it will take, we didn't think it was smart to make a plan just to anticipate changing it.

Chairman Raines said he read in the permit that it mentioned a million cubic feet. He asked if that was the volume Mr. McDaniel was talking about. Mr. McDaniel said the estimate is a million and a half cubic yards and they cannot disturb more than twenty-five acres at one time. They cannot disturb the entire 44 acres at once, cannot go sub-grade, and cannot dig a mine or hole.

Chairman Raines asked if they must complete the reclamation on the 25 acres, before they can move on. Mr. McDaniel stated that was correct. Chairman Raines asked if they planned on a standard dump truck. Mr. McDaniel said they estimate between 11 and 17 ton trucks. Chairman Raines asked what their process would be to keep dirt out of the road, as he was familiar with another gravel business that had truck washing stations to wash the tires. Mr. McDaniel said he could do that if need be. DHEC suggested 100 feet of riprap and gravel, we did 400 feet. If that isn't enough, we could do truck washing stations or whatever it takes. Chairman Raines asked if those are functions of DHEC and their permitting of trucking and operating a mine. Mr. McDaniel responded that they (DHEC) do not give you a plan. He hired a civil engineer and he put in specs and DHEC either allows it or makes changes. That is where the terranean, or below sub-grade, came from.

Commissioner Grant asked what he means by grade level, does that mean level with the road that is going in there. Mr. McDaniel said yes, that is correct. It will be level with Hwy 9 or Pinckney Road. Commissioner Grant asked what kind of dirt is being claimed or mined. Mr. McDaniel said pit gravel is most of what they have seen, some orange. He has borium and compaction results and can provide those. Commissioner Grant asked what will be done with the grading and stumps taken out. McDaniel said in the front (of the property) by Hwy 9 is flat and has discussed putting them there. To burn, Mr. McDaniel mentioned, he would have to apply for a burn permit.

Mr. McDaniel also explained that there is a lot of property there. He could work 25 acres and shove stumps to the other side of the property. Commissioner Grant asked if that would be taken out and then put back. Also, would that be a part of the reclamation. Chairman Raines stated the permit reads the topsoil will be redistributed as a part of the reclamation. Mr. McDaniel said that is correct, but thought they were talking about stumps. Commissioner Raines clarified that they were not talking about debris, rather the surface removed before mining. He asked if that would be pushed over to the side and then placed back on top of the final grade. Mr. McDaniel said that is right. He will have to plant trees and grass. Chairman Raines asked if the stumps would be burned or hauled off. Mr. McDaniel said he would do what the County allowed; burn permits, mulching, whatever makes most sense.

Commissioner Grant asked if the property was logged not too long ago. Mr. McDaniel said correct, it was timbered. Commissioner Grant clarified that those were the stumps he was referring to. He asked Mr. McDaniel what he was going to do with those stumps to get to the pit gravel to be mined. Mr. McDaniel said it would be moved over to the acreage not being mined at the time. Commissioner Grant asked if there was going to be any buffers around the mining operation. Mr. McDaniel said yes that DHEC had them written in the permit.

Vice Chairman Smith asked if there was a plan for stormwater runoff. Mr. McDaniel stated yes. DHEC has approved and it is in place. Mr. McDaniel explained they put in additional riprap and a culvert, near the farm pond and adjacent property so water will continue to pass over and through. He paid an engineer to put those in place.

Commissioner Howell asked if the loads are going to be scaled. Mr. McDaniel said if he could, he would like to wait. He has already invested a lot of money into this project and would be nice to capture some back before purchasing scales. If it's a requirement of the County to have them scaled, that's fine. He said he heard if not dealing with rock gravel, you generally do not approach over weights. Commissioner Howell stated that he wanted to be sure Mr. McDaniel realized he would be passing Highway Patrol's main office.

Chairman Raines, in reference to Commissioner Grants previous question, stated that the setbacks are 30 feet, according to the sketch plat. Director Levister stepped to the podium to say that the permit reads 50 feet, a total of 10.06 acres involved in the buffer.

Chairman Raines asked the Commission if they had any additional questions. They did not. Chairman Raines asked if any member of the public wished to speak in opposition of the request.

Blake Woods, of 2038 Price Rd Carlisle, SC, stepped to the podium and said he was not for or against. He owns property that joins Mr. McDaniel's. He asked for clarity on how it would affect his property. He said he received a letter from the County that mentioned General Industrial, so he was thinking an industrial plant.

Mr. McDaniel stepped back to the podium and said the hill goes up and slopes off and he can not do a solid wall, but buffers are in place. Mr. McDaniel said he can take additional precautions, if needed. Mr. Woods asked Mr. McDaniel if there is a fence on the property that connects to his. Mr. McDaniel said he believed there was, but right now is the watershed runoff with rebar. Mr. Woods asked if what Mr. McDaniel is doing would affect property in the area. Mr. McDaniel stated he does not see how it could, that he has to stay 50 ft off and there are grade requirements. Mr. McDaniel offered to have Mr. Woods schedule an appointment to go out and look. Mr. Woods said he would do that at some point. Commissioner Grant asked Mr. Woods what house he lived in. He stated he owns 12.5 adjoining wooded acres.

Chairman Raines asked if there were any additional members of the public that wanted to speak in opposition or favor of the request. Attorney Winters asked that the Commission reiterate the process of rezoning. Chairman Raines said that no matter how the Planning Commission votes, it is only advisory.

County Council has three readings that will either approve or deny in an official capacity. Attorney Winters stated this is the only Public Hearing. There is not a public hearing with Council, comments are allowed but it is not an exchange.

Chairman Raines asked if any Commissioners had a recommendation or motion.

Commissioner Howell asked that the motion is approved with a reverter clause; once the business is no longer in existence (leveling the lot and removing gravel) that it reverts back to the current zoning classification. Chairman Raines seconded the motion.

Chairman Raines asked if there was any further discussion. Vice Chairman Smith asked staff if the County has an SR4 for stormwater runoff. Director Levister stated the stormwater is regulated by DHEC.

Vote 5-1 to approve. Commissioner Grant was opposed.

Comments & Discussion:

Nicole Hutchins, from Staff, stepped to the podium and informed the Commission that the new Chester County Comprehensive Plan was placed on their petitions for review. Mrs. Hutchins asked the Commission to email Director Levister with any comments and corrections by October 12, 2021. She advised the Comprehensive Plan will be on the agenda for the October meeting.

Attorney Winters explained to Commission that comments from them and County Council will produce the final Comprehensive Plan.

Director Levister restated the approval will be on the Planning Commission October Agenda to be sent to Council, who will have two public meetings to discuss.

Chairman Raines made a motion to adjourn; seconded by Commissioner Williams. Vote was 6-0 to adjourn

This is a summary of proceedings at the September 21, 2021 meeting of the Planning Commission: and not a verbatim transcript of the meeting. This summary, and an audio recording of the meeting is retained by the Chester County Building & Zoning department, and available if requested. This summary represents the facts of this meeting, not the opinion or interpretation of the Secretary.