

**MINUTES OF THE ST. MARY'S COUNTY BOARD OF APPEALS MEETING  
ROOM 14 \* GOVERNMENTAL CENTER \* LEONARDTOWN, MARYLAND  
Thursday, September 13, 2007**

Members present were Greg Callaway, Vice-Chairman; Wayne Miedzinski, Ronald Delahay, George Edmonds and Veronica Scriber. Chairman George Hayden was excused. Department of Land Use & Growth Management (LUGM) staff present were Denis Canavan, Director; Yvonne Chaillet, Zoning Administrator; and Jada Stuckert, Recording Secretary. Christy Holt Chesser, County Attorney was also present.

A sign-in sheet is on file at LUGM. All participants in all cases were sworn in. The Chair called the meeting to order at 6:30 p.m.

**PUBLIC HEARINGS**

**CUAP #06-135-001 – Long-Valley Lee Tower Site**

Ms. Chaillet gave an overview of the project and the original hearing held July 12, 2007. Jackie Meiser gave an overview stating at the request of the board a second balloon test was completed as well as an alternate location for the tower. Ms. Meiser showed the board a sketch that showed site A being the original requested site and site B which is the alternate location. Ms. Meiser stated site B has a lower elevation therefore if this site is chosen the applicant would be requesting a five foot height increase for the tower. Ms. Meiser submitted Exhibit A1-10 which contains 10 photographs as listed below.

- Photograph 1 Taken in front yard of the Evans house.
- Photograph 2 Taken at the edge of the Evans carport located in the Evans front yard.
- Photograph 3 Taken in the Evans backyard.
- Photograph 4 Taken in the parking lot of St. George's Church on St. Georges Church Rd.
- Photograph 5 Taken South of Long Property, Piney Point Rd. (Rt. 249) before Andover Estates.
- Photograph 6 Taken approximately one-fourth of a mile down Andover Estates Road.
- Photograph 7 Taken at the intersection of Drayden Rd. and Piney Point Rd.
- Photograph 8 Taken at the intersection of Mt. Olive Way and Drayden Road
- Photograph 9 Taken in Peter Antonovich's front yard.
- Photograph 10 Taken in Michael and Kathleen Long's front yard.

Ms. Noni Evans testified by thanking the applicant for moving the site. Ms. Evans stated she can still see the tower down the length of the field. Ms. Evans submitted Exhibit B – Photograph taken from the Evans driveway looking at the tower site. Ms. Evans stated the new tower site B will not remove the tower from her view. Ms. Evans further stated on the day of the second balloon test she noticed a strange car parked on her property. Ms. Evans submitted Exhibit C – Photograph taken from the Evans property identifying a maroon vehicle. Ms. Evans stated she asked the driver why he was parked on her property and he indicated he was part of the balloon test. Ms. Evans stated she is concerned about how long this will go on especially during construction of the tower. Callaway closed the hearing to public comment.

Ms. Meiser apologized for the car and explained the man had driven from Pennsylvania and simply misunderstood the location of the balloon test. Ms. Meiser stated the applicant chose site B to remove most of the tower from the Evans view. Ms. Meiser explained site B is 210 feet southeast of the original site A. Ms. Meiser stated in moving the tower southeast in many cases the tower will not be visible. Ms. Meiser submitted Exhibit D - Site plan comparing site A and site B. Ms. Meiser submitted Exhibit E – Site plan showing site B.

After further discussion, ***Mr. Miedzinski made a motion in the matter of CUAP #06-135-001, having made a finding that the Standards for a Conditional Use pursuant to Section 25.6 of the Comprehensive Zoning Ordinance have been met, I move to approve the conditional use to construct a 145-foot commercial communication tower at site "B", subject to the***

**conditions stated in the staff report and Mr. Edmonds seconded. The motion passed by a 5-0 vote.**

*(The following conditions are listed in the staff report)*

1. *The property owner shall provide a protective easement around the existing tree buffer for the duration of the tower; and*
2. *The Applicant shall plant at least two rows of fast growing evergreens such as red cedar or Leyland cypress around the tower enclosure to buffer it from adjoining properties; and*
3. *The Applicant shall provide to the County a bond, letter of credit, or other appropriate surety at the time the building permit is issued to cover the cost of demolition of the facility and restoration of the site in accordance with the Zoning Ordinance; and*
4. *The conditions of this approval shall be listed on the final site plan.*

#### **CUAP #07-131-015 – McIntosh Pit**

It was the decision of the board to hear both CUAP #07-131-015 and VAAP #07-131-015 – McIntosh Surface Mine at the same time and hearing the Conditional Use request first. The applicant is requesting a conditional use approval to extract natural resources beyond five (5) acres, specifically to mine an additional 22.65 acres. The property contains 80 acres; is zoned Rural Preservation District (RPD); and is located at Burnt Mill Drive, approximately two miles north of its intersection with McIntosh Road, Maryland; Tax Map 25, Block 16, Parcel 249.

Owner: Bay Ridge Development, Inc.  
Present: Bob Troutman

The property was advertised in The Enterprise on August 26, 2007 and September 5, 2007 for both the Conditional Use Approval and the Variance request.

Ms. Chaillet read the staff report which recommended approval. Mr. Troutman gave an overview of the mining operation. Mr. Miedzinski complimented the applicant for the road and the speed limit signs. After discussion, ***Ms. Scriber made a motion to accept the staff report and adopt the findings of fact contained therein as the Board's findings in this matter and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

Mr. Callaway opened the hearing to public comment, hearing none, closed the hearing to public comment.

After further discussion, ***Ms. Scriber made a motion in the matter of CUAP #07-131-015, having made a finding that the Conditional Use Standards of Section 25.6 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to expand the existing mining operation to mine an additional 22.65 acres, subject to the conditions previously imposed by the Board of Appeals and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

#### **VAAP #07-131-015 – McIntosh Pit**

Ms. Chaillet explained the applicant is requesting a variance to reduce the required 200-foot setback from an external property line. Mr. Troutman gave a short overview of the reduction and submitted Exhibit A – Mining Agreement dated August 3, 2007.

Ms. Chaillet read the staff report which recommended approval. After discussion, ***Mr. Miedzinski made a motion to accept the staff report and adopt the findings of fact contained therein as the Board's findings in this matter and Ms. Scriber seconded. The motion passed by a 5-0 vote.***

Mr. Callaway opened the hearing to public comment, hearing none, closed the hearing to public comment. Mr. Miedzinski stated he is concerned with there being no buffer between the properties. Mr. Eugene St. Clair stated there is a Blue Line Stream on the property and the state requires the applicant maintain a 200 foot buffer. Mr. St. Clair stated they are only requesting to reduce a portion of the buffer which would still be 150 feet.

After further discussion, ***Ms. Scriber made a motion in the matter of VAAP #07-131-015, having found that the Standards for Variance and the objectives of Section 51.3.80 of the St. Mary's County Comprehensive Zoning Ordinance have been met, I move to approve the request to reduce the required setback from an external property line from 200 feet to zero along the common boundary with the Michael A. Simmons property and Mr. Miedzinski seconded. The motion passed by a 5-0 vote.***

#### **MINUTES AND ORDERS APPROVED**

The minutes of August 23, 2007 were approved as recorded.

**The Board authorized the Chair to review and sign the following orders:**

**VAAP #05-3786 – Spore  
ZAAP #06-110-152 – Matthews/Shetland Acres  
CUAP #07-2446 – Chopticon High School Batting Cage  
CUAP #06-131-009 – Verizon Wireless – Wildewood Water Tower Site**

#### **ADJOURNMENT**

The meeting was adjourned at 7:30 p.m.

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Jada Stuckert, Recording Secretary

Approved in open session: September 27, 2007

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George Allan Hayden  
Chairman