

**ST. MARY'S COUNTY BOARD OF APPEALS**

In the Matter of Randal Sloan

28451, 28455, 28465 Point Lookout Road, Leonardtown MD

Case No. CUAP #15-131-050

**DECISION AND ORDER****Introduction**

Randal Sloan (hereinafter "Applicant"), filed an application for a Conditional Use Permit pursuant to Chapter 25 of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property located at 28451, 28455, 28465 Point Lookout Road, Leonardtown, Maryland (hereinafter the "Property"). The application seeks a permit for an extractive industry involving the mining of more than five acres.

After due notice, a public hearing was conducted at 6:30 p.m. on November 10, 2016, at the St. Mary's County Governmental Center at 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, documentary evidence was received, and the proceedings were recorded electronically.

**Legal Standard**

The Board shall not vary the regulations of the Ordinance unless it finds, based on the evidence, that:

- a. The conditional use complies with the standards of the district in which it is to be located and standards applicable to that use.
- b. The establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, convenience, morals, order, or general welfare.
- c. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood.
- d. The proposed use at the proposed location will not have adverse effects above and beyond those inherently associated with the proposed use irrespective of its location within the zoning district.
- e. Adequate utilities, access roads, drainage, and necessary facilities have been or are being provided.
- f. Adequate measures have been or will be taken to provide ingress and egress following a design that minimizes traffic congestion in the public streets.

- g. The proposed conditional use is not contrary to the goals, objectives, and policies of the Comprehensive Plan.
- h. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located or to the special requirements established for the specific conditional use in Chapter 51.

### **Findings of Fact**

The Property consists of three agricultural parcels which contain single-family dwellings and numerous outbuildings. Other large, primarily agricultural parcels surround the Property.

The existing entrance on Maryland Route 5 is currently used for access to parcel 169, which is currently under a mining permit from the Maryland Department of the Environment (MDE) to mine less than five (5) acres. The existing gravel haul road on parcel 169 will be extended to parcels 10, 107, and 168. Parcel 169 is situated east of parcel 107 and north of parcels 10 and 168.

The Applicant proposes to mine the Property Monday through Friday from 6:30 a.m. to 5:00 p.m. and Saturday from 5:30 a.m. to 12:00 p.m. Sixteen truck trips per day are anticipated.

### **Conclusions of Law**

The Maryland Department of the Environment has jurisdiction over the surface mine site, including the internal haul road, utilities, drainage, other facilities associated with the mining operation, and reclamation of the land once mining has ceased. The erosion and sediment control plan approved by the Soil Conservation District is submitted to the Maryland Department of the Environment as part of the permit application. The Maryland Department of the Environment reviews stormwater management in accordance with the State's requirements.

The Property is located in the Rural Preservation District. In accordance with Section 5.12 of the Comprehensive Plan, mineral resource extraction, principally the mining of sand and gravel, is recognized as an important economic activity and regulations shall encourage utilization of these resources. An extractive industry has inherent adverse effects and, therefore, this land use is permitted, not by right, but with conditions.

The proposed use at the proposed location will not have adverse effects above and beyond those inherently associated with the proposed use irrespective of its location within the zoning district.

**ORDER**

**NOW, THEREFORE, BE IT ORDERED**, that, having made a finding that the standards for a conditional use pursuant to Chapter 25 of the St. Mary's County Comprehensive Zoning Ordinance have been met, a Conditional Use Permit for an extractive industry involving the mining of more than five acres is *granted*, upon the following conditions:

1. Burning on site is limited to the area designated on page 13 of 23 of the Site Plan.
2. Hours of operation from Monday to Friday, 7:00 a.m. to 5:00 p.m., and from 7:00 a.m. to 12:00 p.m. on Saturday for site maintenance only.
3. Compliance with the State Highway Administration entrance permit.
4. Documentation that the activity will not interfere with transmission lines of the Southern Maryland Electric Cooperative Inc.

Date: December 15, 2016

  
George A. Hayden, Chairman

Those voting to approve the conditional use:

Mr. Hayden, Mr. Brown, Mr. Greene, Mr. Payne and Mr. Miedzinski

Those voting to deny the conditional use:

Approved as to form and legal sufficiency:

  
George R. Sparling, County Attorney