

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, November 7, 2013, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Bill Sutton Vice-Chairman; Ed Birkmire; Bill Crowding; and Joe Hickman. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; Carla Gerber, Community Planner; Bill Kerbin, Housing Planner; G. Mitchell Mowell, Planning Commission Attorney; and Jennifer Butz, Secretary.

Mr. Sutton called the public hearing to order at 1:30 pm.

### PUBLIC HEARING

The Kent County Planning Commission held a public hearing to review the Kent County Hazard Mitigation Plan Update.

Ms. Gerber outlined the Hazard Mitigation Plan as essentially unchanged from the time it was adopted in 2004. The purpose of the Hazard Mitigation Plan is to eliminate or reduce human, environmental, social and economic loss associated with natural hazards. Ms. Gerber stated that adoption of this plan allows the county to be eligible for pre-disaster mitigation grants through FEMA. The purpose of the public hearing is to make a recommendation to the County Commissioners to adopt the Hazard Mitigation Plan.

Planning Commission members discussed a few details of the Hazard Mitigation Plan such as the Local Emergency Planning Committee is a committee not a commission and a question arose asking why the Health Department was not mentioned in the Plan. Ms. Moredock stated the agencies listed in the Hazard Mitigation Plan are agencies who participated in the update. Mr. Crowding asked for clarification of the Plan as a guideline, not a "must do" and that was confirmed.

Mr. Hickman made a motion to send a favorable recommendation to the County Commissioners for the current Hazard Mitigation Plan with edits. The motion was approved unanimously.

Mr. Sutton closed the public hearing at 1:37pm and opened the Planning Commission meeting.

### MINUTES

The minutes of the October 3, 2013, meeting were approved as presented.

### APPLICATIONS FOR REVIEW:

**#13-52 – Steven D. Green – Site Plan Review** – Steven D. Green is requesting preliminary and final site plan review in order to operate his septic business as a cottage industry, Green's Septic and Excavation, LLC, on his property located on Hyala Road in the Third Election District. Special exceptions to operate the cottage industry and to construct a structure which exceeds the 1,200 square foot accessory building limit for a parcel less than 5 acres have been granted. Site plan review of the proposed cottage industry and accessory structure are required.

Present and duly sworn were Steven D. Green, Robert “Buck” Nickerson, Surveyor, and Bill Kerbin, Planner.

Mr. Kerbin gave an overview of the application and reviewed the staff report noting the Applicable Laws of the Kent County Land Use Ordinance to include Article VII, Section 7.15 which authorizes the Kent County Board of Appeals to grant a special exception for cottage industry in the Critical Area Residential District and Article VI, Section 5 which outlines the procedures and requirements for site plan review.

Mr. Kerbin stated one piece of correspondence was received from Michael Johnson, Chesapeake Landing Homeowner’s Association, in opposition to this application.

Mr. Nickerson stated he would like to elaborate on the 560 square feet of outdoor storage. Mr. Nickerson said he revised the site plan by reducing the 560 square feet of outdoor storage to 60 square feet because he didn’t initially realize the limit included indoor and outdoor storage. Mr. Nickerson also stated the 60 square feet of outdoor storage will be delineated by a 4 foot fence.

Discussion ensued in regard to landscaping, parking, and fencing. Questions were asked of the applicant in regard to the number of vehicles on the property affiliated with the cottage industry and the number of trailers located on the property, as well as the location of the parking, which is located over the septic reserve area.

There were several members in the audience from Chesapeake Landing who came to oppose the application. First to speak against the application was William Robert Green, Jr., the applicant’s brother and adjacent property owner. Mr. Green is opposed to this application for the following reasons: the septic/excavating business affects the property value of surrounding homes; the property of Steve Green does not look like the other residential properties in the surrounding area; and it is not environmentally safe. Four exhibits were submitted by Mr. Green (Exhibit 1: petition from adjacent property owners and Clarissa Road residents, Exhibit 2: Letter from former Environmental Health Director Mr. Birkmire, Exhibit 3: case file with violations, and Exhibit 4: photos).

Mr. John Bedell, serving on the Board of Directors for Chesapeake Landing Homeowner’s Association and an adjacent property owner, spoke to oppose the application. Mr. Bedell expressed Mr. Green’s septic business is not welcome in the neighborhood for numerous reasons, one of which involves the environmental impact of raw sewage. Mr. Green’s property is located 760 feet from the Chesapeake Bay.

Michael Johnson of Chesapeake Landing spoke next in opposition to the application. Mr. Johnson stated in the previous meeting erroneous testimony was given and, in consideration of testimony given at today’s meeting, there appears to be conflicts with the facts. Mr. Johnson also expressed the outside storage needs to be delineated so it stays in one specific area.

Mr. Green was asked by Mr. Mowell if the adjustment of lot lines has been recorded in the Land Records. Mr. Green replied that it has not yet been recorded due to the pending approval of the

site plan. It was stated the preliminary and final site plan cannot be approved without the adjustment of lot lines being recorded.

Mr. Green gave a closing summary to his case stating his pump truck is emptied every night before it is brought back to the shop, and there is not raw sewage leaking on the ground. Mr. Green also stated he is not in violation with his mortgage company, as indicated by Mr. Bedell, because he has refinanced and is not with the company referenced by Mr. Bedell.

Due to the wide array of questions raised by the Planning Commission and the testimony presented by those in attendance, Mr. Green asked that his site plan review application be tabled, and he will come back with the adjustment of lot lines recorded and a revised site plan.

### **#13-61 – Roland-Clayton Co, LLC – Sand and Gravel Pit Special Exception**

Roland-Clayton Co., LLC requests a special exception to continue operation of an existing sand and gravel pit on its 220.44 acre farm located off of Walnut Tree-#10 School Road near Massey. The parcel is zoned “AZD”, Agricultural Zoning District.

Present and duly sworn were Jim Gawthrop and Carla Gerber, Planner.

Ms. Gerber gave an overview of the application and reviewed the staff report noting the Applicable Laws of the Kent County Land Use Ordinance to include Article VII, Section 2 which sets forth the standards applicable to all special exceptions, Article VII, Section 7.52 which grants the Board of Appeals the authority to grant a special exception for gravel pits, excavation or extraction, and Article VI, Section 5 outlining the procedures and requirements for site plan review.

Ms. Gerber stated no correspondence was received regarding this application.

Mr. Nickerson also gave an overview of the application and explained the protective berm.

Following consideration of the facts as presented, Mr. Hickman made motion to send a favorable recommendation to the Board of Appeals with the following conditions:

- Traffic into and out of the operation will be routed to minimize impact on residential neighborhoods.
- A bonded reclamation plan shall be implemented after each five acre section is completed.
- No overnight parking is permitted on site.
- No materials will be brought to the site for processing.
- Approved sediment control plans shall be in place and shall be renewed every two years or as required by the Ordinance.
- An acoustic berm to protect and screen the adjacent residential neighbor shall be completed.
- The hours of operation shall be from 7AM to 5PM, Monday-Friday, and 8AM to 12PM on Saturday.
- All state and federal permits will be obtained by the applicant.

- The special exception is granted for a period of five years from the date of the decision.
- The applicant is responsible for repairing any damage to county roads that results from truck traffic related to the sand and gravel operation.

The motion was seconded by Mr. Crowding and approved unanimously.

Mr. Hickman made a motion to approve the preliminary site plan for the same applicant submitted by Extreme Measures with the condition of a berm plan to be submitted for final approval that satisfies Kent County and the neighbor, Mr. Wallace. The application is consistent with the Comprehensive Plan, it does not impact the neighborhood and is subject to the rules of the Kent County Land Use Ordinance and state and federal regulations.

The motion was seconded by Mr. Crowding and approved unanimously.

### **GENERAL DISCUSSION**

Ms. Moredock noted in regard to the application of Steve Green, , the property was posted for all hearings, ads were placed in the newspaper, and letters were sent to adjacent property owners. Planning, Housing and Zoning has a policy to notify homeowners' associations where applicable but the applicant neglected to list the homeowner's association on the application, so notification was not initially sent to them. Ms. Moredock clarified that once this oversight was realized, the Chesapeake Landing Homeowner's Association was called and a meeting was set up explaining the process and the applications.

Mr. Crowding noted that he thinks the departments involved with the applications need to be more specific with their approvals and comments regarding each application instead of just saying their department has no objections to the application.

### **STAFF REPORTS**

Carla Gerber: Ms. Gerber attended a week-long training on a software program FEMA uses for natural hazards. It is a risk assessment program and the training session was a very informative.

Bill Kerbin: Nothing to report.

Mitch Mowell: Nothing to report.

Amy Moredock: Ms. Moredock attended a 3 day Maryland Association of Floodplain and Stormwater Managers conference. She noted the conference was very productive and well-attended.

Ms. Moredock reported that at the last Kent County TMDL Committee meeting, the Center of Watershed Protection staff gave a presentation about a pilot project for which they are seeking funding from Town Creek Foundation. Four Eastern Shore counties have been identified to participate. Kent County was chosen as one of the counties in which the Center would like to

implement this pilot project which would study local strategies identified in the Watershed Implementation Plan and to generate a cost estimation to help the County to prioritize implementation of the WIP.

Ms. Moredock updated the commission on the proposed MDA changes to the Phosphorous Management Tool. The changes do not necessarily impact the load requirements of phosphorous but the categorization threshold for who is required to come into compliance. This change will impact the direct application of manure on fields that are tested. This will mostly impact the lower shore farms but will also affect some Kent County dairy, hog, and poultry farms.

Mr. Sutton expressed his thanks for the support and donations of the Planning Commission and staff following the loss of his wife.

There being no further business for the good of the organization, the meeting was adjourned at 3:46 p.m.

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William Sutton, Vice Chairman

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Jennifer M. Butz, Clerk