

MINUTES

The Kent County Planning Commission met in regular session on Thursday, March 6, 2014, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; William Sutton, Vice Chairman; Ed Birkmire; Bill Crowding; Kim Kohl, Randy Bellows 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.

Ms. Morris called the meeting to order at 1:30pm.

Ms. Morris opened the annual meeting with the first order of business being the election of officers. Mr. Mowell opened the election asking for a nomination for Chairman. Ms. Morris was nominated as Chairman by Mr. Hickman and Mr. Crowding seconded the nomination. Ms. Morris was elected Chairman unanimously. Ms. Morris opened up the floor for nominations for Vice Chairman. Mr. Sutton was nominated by Mr. Hickman and seconded by Mr. Crowding. Mr. Sutton was elected Vice Chairman unanimously.

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The minutes were approved from the February 6, 2014, meeting with one correction; Mr. Randy Bellows needed to be added to list of members in attendance.

APPLICATIONS FOR REVIEW:

Albert Bennetta – Ag Preservation District – Mr. Albert Bennetta wishes to establish an Agricultural Land Preservation District on his 183.44-acre farm located at 29134 River Road in the Second Election District. The farm consists of 103.6 acres of crop land and 41.7 acres of woodland and is zoned Agricultural Zoning District (AZD).

Present and duly sworn in was Carla Gerber, Planner.

Ms. Gerber gave an overview of the application and cited the applicable laws from the code of Public Laws of Kent County which establishes a program of Agricultural Land Preservation. Mr. Bennetta's farm exceeds the criteria.

Mr. Sutton made a motion to forward a favorable recommendation to the County Commissioners. Ms. Kohl seconded the motion, and it was approved unanimously.

Kent Land and Cattle, LLC. – Ag Preservation District – Mr. David Leager wishes to establish an Agricultural Land Preservation District on his 247 acre farm located on Galena Road in the First Election District. The farm consists of 232 acres of crop land and is zoned Agricultural Zoning District (AZD).

Present and duly sworn in was Carla Gerber, Planner.

Ms. Gerber gave an overview of the application and cited the applicable laws from the code of Public Laws of Kent County which establishes a program of Agricultural Land Preservation.

Mr. Leager's farm exceeds the criteria.

Mr. Sutton made a motion to forward a favorable recommendation to the County Commissioners. Ms. Kohl seconded the motion, and it was approved unanimously.

#14-05 Tolchester Marina – Concept Site Plan Review – D. Aaron Bramble, on behalf of Tolchester Marina, is requesting comments regarding the proposed construction of a 3,200 square foot special events pole building over an existing tennis court. The project is proposed at their property located on 21085 Tolchester Beach Road, in the Sixth Election District. The 80.10 acre parcel is zoned Marine (M), Resource Conservation District (RCD) and Agricultural Zoning District (AZD). The proposed facility is located within the Marine district.

Joe Hickman explained that, as the manager of an adjacent landowner, he has a conflict of interest with this application and recused himself.

Present and duly sworn in was Robert “Buck” Nickerson, surveyor, and Bill Kerbin, Planner.

Mr. Kerbin gave an overview of the application and reviewed the Applicable Laws of the Kent County Land Use Ordinance to include Article V, Section 13.5; Article V, Section 13.6, Section 13.6.B.4; Article V, Section 13.7.B; and Article VI, Section 5.2 and 5.3. Correspondence was received from the Critical Area Commission and it does not have any issues with the application. Mr. Nickerson addressed a few questions from the Planning Commission in regard to the hours, lighting and parking details.

The conceptual site plan was reviewed in great detail by the Planning Commission. The Commission made the following comments relative to the site plan requirements:

- The proposal is consistent with the Comprehensive Plan strategies to expand and provide more diversity in the size, number and type of businesses in the County.
- The applicant noted that lighting would be placed beneath the pavilion and would be dark-sky compatible. Additional details on lighting at the vehicle entrance needs to be provided.
- The Citizen Participation Plan should include a meeting with adjoining property owners.
- Additional buffering needs to be provided to further screen the pavilion from the parking area and viewshed from Tolchester Beach Road.
- The applicant must provide additional details regarding refuse and sewerage disposal, and protection from pollution of surface waters and groundwater.
- The applicant must address impact from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare or stormwater runoff on adjoining property owners.

#14-11 Lonnie and Robert Gilley – Setback Variance – Mr. and Mrs. Gilley are requesting a 9.7 foot side yard setback variance and a 15.9 foot rear yard setback variance in order to construct an approximately 1,395 square foot addition, brick patio, rear yard porch and front yard porch to the existing dwelling on Wymont Park Road. This project is a result of a proposed demolition and replacement of a portion of the existing dwelling. The proposed addition will decrease the degree of setback nonconformity. The 0.579-acre property is located on Wymont Park Road in the 3rd Election District and is zoned “CAR” Critical Area Residential. This lot is a waterfront lot and is located in a Modified Buffer Area.

Present and duly sworn in was Robert Gilley, owner of the property, and Bill Kerbin, Planner.

Mr. Kerbin gave an overview of the application and reviewed the Applicable Laws of the Kent County Land Use Ordinance to include Article V, Section 5.5; Article V, Section 5.7.B.3.d; and Article IX, Section 2.2. Mr. Kerbin also stated no correspondence has been received on the application.

Mr. Gilley gave an overview of the construction details and the need for the renovations due to structural damage and instability on the foundation of the house. Discussion ensued amongst the Planning Commission regarding what is the practical difficulty of the application. Mr. Kerbin provided an updated site plan from the Health Department showing where the septic reserve is located, which will limit the area available for renovations.

Mr. Hickman made a motion to forward a favorable recommendation to the Board of Appeals for approval of the setback variance with the following findings relative to the setback variance standards:

- The variance will not change the character of the neighborhood.
- The addition will reduce the degree of nonconformity on the existing dwelling.
- The variance will not cause a substantial detriment to neighboring properties.
- The Comprehensive Plan encourages future development, redevelopment, and infill to be completed in an environmentally and context-sensitive manner.
- The area in which the addition is proposed is the only area on the property available for development due to steep slopes and Critical Area Buffer present in the front yard and the septic drain field and reserve area located on the south side yard of the property.
- According to testimony, structurally, the addition could not be constructed without variance.
- The granting of the variance will not confer upon the applicant privileges uncommon to the area.
- The proposal represents reasonable use of the property as similarly-sized dwellings with similar setbacks from area roads are common to the neighborhood.
- The proposal is consistent with the intent of the Land Use Ordinance and the Critical Area Law.
- The practical difficulty was not caused by the applicant's own actions.

Mr. Sutton seconded the motion, and it was approved unanimously.

Draft Floodplain Ordinance Update – Ms. Moredock gave an overview for the Floodplain Ordinance Update. The update to the Kent County Ordinance is mandated in accordance with the requirements of the Code of Maryland Regulations (COMAR) 26.17.04; Environment Article, §§1-404, 5-501—514, Annotated Code of Maryland; and the community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations (CFR) at 44 CFR Section 59.22.

Ms. Moredock explained that these revisions address the code requirements and may be edited in accordance with technical comments received by staff of the Wetlands and Waterways Program of Maryland Department of the Environment (MDE) and the Federal Emergency Management Agency (FEMA). Members suggested, in addition to the changes outlined in the draft update, that staff consider the following: 1) in addition to the final construction version of the elevation

certificate, staff add a requirement that a version of the elevation certificate be submitted prior to the installation of the first floor; and 2) staff investigate the possibility of the removal of the LiMWA line from the maps.

The next step will be for the Planning Commission to hold a public hearing on the proposed changes to the Land Use Ordinance sections noted in the draft update. The Planning Commission will then make recommendation to the County Commissioners who will hold another public hearing relative to Ordinance and map amendments. The final Floodplain Ordinance and Maps must be adopted before June 9, 2014.

STAFF REPORTS:

Ms. Moredock gave an update on the status of the Village of Kennedyville Phase One letters of credit which have been recalled. Ms. Moredock stated Phase One improvements will be finalized soon in order for Phase Two letters of credit to be submitted.

Ms. Moredock also gave an update on the Kent County TMDL Committee which continues to meet. The Center for the Watershed Protection has approached the Committee about implementing a pilot project and the County Commissioners supported a grant on their behalf to implement this project. There are four counties included in this CWP project which will review best management practices and conduct a cost analysis of the implementation of those practices.

Lastly, Ms. Moredock informed the Planning Commission of a Mid Atlantic Energy Seminar to be held in Annapolis on March 18, 2014. The seminar will focus on renewable energy within the State of Maryland. She asked members to notify the Department if anyone is interested in attending and she will coordinate registration.

GENERAL DISCUSSION:

Mr. Birkmire entered into discussion regarding the letter to the editor from Sabine Harvey regarding the enforcement of the chickens on her property. Ms. Moredock stated that in 2010 staff and the Planning Commission discussed backyard farming provisions; however, a text amendment was not supported or pursued at that time. Historic and recent actions have been complaint-driven regarding chickens, the most recent in Crestview belonging to Ms. Harvey. Ms. Moredock stated once a complaint is received, enforcement action must be taken. The Planning Department started to work with Ms. Harvey in December. Ms. Harvey is interested in pursuing a text amendment. Ms. Moredock informed the Planning Commission that enforcement of the chickens and backyard farming provisions has been stayed pending the submittal and outcome of the text amendment.

There being no further business for the good of the organization, the meeting was adjourned at 3:13 p.m.

Elizabeth Morris, Chairperson

Jennifer M. Butz, Clerk