

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, May 1, 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.

## MINUTES

The minutes were reviewed and Ms. Morris noted a correction to the Alexander Haunted House application: the Haunted House will be in operation only until the first Sunday in November not until the last Sunday. Otherwise, the minutes are approved as presented.

## APPLICATIONS FOR REVIEW:

### 14-05 Tolchester Marina – Final Site Plan Review

As he is the property manager of an adjacent parcel, Mr. Hickman recused himself from hearing the application. Present and duly sworn in were Aaron Bramble, applicant, Katherine Bramble, applicant, Robert "Buck" Nickerson, surveyor, and Bill Kerbin, Housing Planner.

Mr. Kerbin gave an overview of the application for final site plan review for the construction of a 3,200 square foot pole building over an existing tennis court on Tolchester Marina's property located at 21085 Tolchester Beach Road in the Sixth Election District. This building will not have walls and will only have supports with no permanent fixtures beneath. Tolchester Marina has used this area for weddings and special events, and this structure will provide protection from inclement weather. The tennis court has historically existed in this location.

Mr. Kerbin noted the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 13.5 which establishes the height, area, and yard requirements in the Marine District; Section 13.6.B.4 which establishes the Modified Buffer provisions; Section 13.4 which establishes the permitted accessory uses in the Marine District; Section 13.6 which establishes the environmental standards in the Marine District; Section 13.7.B which establishes the design standards; and Article VI Sections 5.2 and 5.3 which establish the site plan review standards regarding this application.

Mr. Nickerson stated he did not have any other information to provide beside the staff report and he feels everything has been addressed. Mr. Birkmire asked if the trumpet vine was considered an invasive species and Mr. Nickerson responded it is listed on the Chesapeake native list of plants.

Mr. Crowding made a motion for final site plan approval for Tolchester Marina based on the following findings:

- The proposed use is consistent with the Comprehensive Plan
- The proposed construction (accessory structure, pavilion) is located inside of the 100 foot Critical Area Buffer, but is located outside of the 25 foot modified buffer. No vegetation removal is noted.
- To address concerns raised at the Citizen Participation meeting held on March 26, 2014, the applicant proposes to provide further screening and security.
- The applicant has provided an area on the site plan for off-street loading and unloading of vehicles incidental to the normal operation of the uses associated with this pavilion.
- The applicant noted that lighting would be placed beneath the pavilion and would be dark-sky compatible. Two parking lot lights are located in the traffic zone that leads to and away from the site.
- No signage is proposed.
- The applicant has provided details on the site plan regarding internal traffic control relative to both vehicular and pedestrian movement as they relate to the pavilion. Attendees of events will enter through the existing marina gate and park in 40 designated spaces located on the east side of the pavilion.
- The applicant has also provided details regarding pedestrian movement. Pedestrians will be directed to the pavilion from parked cars. Adequate space has been provided for normal marina traffic to flow without interference from vehicular and pedestrian traffic during an event.
- This structure will not place any additional demands on public services and infrastructure. Tolchester Marina will not be adding any new services as a result of this proposed pavilion.
- Temporary sewage disposal facilities, in the form of “comfort trailers,” will be used for special events at the site. These trailers will be removed within one (1) day of the conclusion of the event.
- The Kent County Health Department has approved the application with the following conditions:
  - “Comfort trailers” cannot be permanent and must come and go with each event.
  - “Comfort trailers” waste must be emptied at an approved facility.
  - The applicant must document compliance with these measures.
  - Once the structure becomes permanent, the use exceeds the approval of this site plan review and/or installation of plumbing, “comfort trailers” are no longer acceptable means of waste disposal. Public sewer must be provided.
- A water quality improvement plan will not be required since the accessory structure will be constructed over existing lot coverage.
- The hours of operation will be 9:00 am to 12:00 am. Security personnel will be available at the conclusion of events to guarantee that the premises are vacated in an orderly and timely manner.
- Musical entertainment will be located onsite in a manner to direct sound away from adjoining property owners.
- The proposed structure appears to meet all building setback and height requirements.

- The proposed structure includes 40 parking spaces to meet the requirements of an assembly hall as set forth in the Kent County Land Use Ordinance parking provisions.
- A landscaping plan has been submitted with a mixture of shrubs, trees, and vines to be planted to complement the existing landscaping at the site, provide screening from offsite, and enhance the Critical Area Buffer.
- Additional landscaping was added to include 20 trumpet vines to be planted under the existing chain link fence from the marina entrance to the corner of the parking area nearest the pavilion. This landscaping will provide additional screening for Tolchester Beach Road and adjoining property owners.
- The County has accepted the surety provided by the applicant for landscaping.

Ms. Kohl seconded the motion and the application was approved unanimously.

### **13-83 Town of Chestertown (Gateway Park) – Preliminary Site Plan Review**

The Town of Chestertown is requesting preliminary site plan approval and a stream protection corridor waiver for Gateway Park. The 11-acre parcel is located on the south side of Route 20, near the intersection with Flatland Road, adjacent to the town limits in the Seventh Election District. The parcel is zoned “AZD” Agricultural Zoning District. The area is characterized by a mix of commercial/industrial, residential and agricultural uses.

Present and duly sworn in were Perry Otwell, McCrone, Inc., Kees de Mooy, Town of Chestertown, and Carla Gerber, Community Planner.

Ms. Gerber gave an overview of the application stating the Town is proposing a basketball court, walking path to a 10 x 12 observation deck, picnic tables, a bike rack and a 10 space parking lot. Nearly all of the proposed development will occur within the stream protection corridor which comprises much of the upland site area.

Ms. Gerber also noted the following applicable laws of the *Kent County Land Use Ordinance*: Article V, 1.5 which establishes area, height, width and yard requirements, Section 1.7.B.2 which establishes the forest conservation requirements, Section 1.7.B.6 which establishes non-tidal wetland review requirements, Section 1.7.B.7 which establishes stream protection corridor waiver standards, Section 1.7.B.8 which establishes the storm water management review standards, Section 1.8 which establishes the general design standards, Section 1.8.B.2 which establishes the floodplain review standards; and Article VI, Section 5.3.B which establishes the site plan review standards.

Mr. de Mooy began by giving an overview of the project and the reasoning behind the purchase of the land for Gateway Park. Mr. de Mooy stated one of the main reasons for the purchase of the land is to improve the scenic byway into the county and to increase the recreational activities in the County.

Samuel Shoge, representative for Chestertown Ward 3, spoke in support of the application stating Gateway Park would be the only recreational facility in Ward 3 and it would be very beneficial to the community.

Ron Athey, Stepne LLC., spoke next stating Gateway Park is posing a paramount concern for safety issues with Route 20 and the farm adjacent to the property. Mr. Athey stated Route 20 is not safe for kids and is an accident waiting to happen. Mr. Athey also voiced concern with the adjacent property being in a conservation easement which restricts the use of the farm. There is hunting on the farm which will pose a liability problem and the spraying of the fields also causes concern. Mr. Athey also mentioned discrepancies in the deed plats and the concern of the location of the property owners.

Michael A. Scott, surveyor and Trey Hill, Stepne, LLC., were also sworn in. Mr. Scott stated he recently began reviewing the neighboring property owners concerns with the property lines. Mr. Athey stated a survey should be requested before the application goes any further. Mr. Hill stated the property lines are an issue and he doesn't feel anyone should feel comfortable approving this site plan without a survey being completed.

Mr. Mowell was asked how to proceed regarding the property line discrepancy. Mr. Mowell stated the Planning Commission can only rely on and make decisions based on the information presented by the applicant. The applicant cannot be held up due to property line discrepancies and the court is the only body which can settle property line issues.

Chris Cerino, Mayor of Chestertown, was sworn in and stated he is in support of Gateway Park and he sees Gateway Park as being the entrance to the community.

Discussion ensued amongst the Planning Commission and Mr. Cerino regarding the safety issue at Route 20 and Flatland Road. Mr. Crowding stated that it is a very dangerous intersection and his biggest concern with the application is the safety of crossing the road. Mr. Bellows also added his concern for the road crossing safety.

Mr. Athey asked the question as to why the Town of Chestertown hasn't annexed this property. Mr. Bill Ingersoll was present and sworn in. Mr. Ingersoll stated the Town of Chestertown hasn't annexed the land due to the deeds being very old.

Ms. Kohl made a motion to grant the Stream Corridor Protection Corridor Waiver based on the following: much of the existing stream protection corridor is already disturbed and a reduced corridor will achieve significant water quality and habitat improvements based on the proposed site plan.

Mr. Crowding seconded the motion and the waiver was approved unanimously.

Ms. Kohl made a motion for preliminary site plan review approval based on the following findings:

- The application is consistent with the Comprehensive Plan.
- Vehicle and pedestrian flow within the site has been addressed.
- Chestertown is working with the State Highway Administration (SHA) on the site distance necessary for the proposed entrance.

- SHA has indicated that they will be striping the bike path that leads to the park, constructing the sidewalk from the roundabout to the head of the Rails-to-Trails project, and installing the ramp to the bike path at the trail entrance.
- The park will place reasonable demands on public services and infrastructure. The parcel has access to public water and sewer, although no facilities are planned at this time.
- Chestertown will be reducing the amount of impervious area and making other habitat improvements which will enhance the site.
- There will not be a negative effect on the surrounding properties.
- Chestertown has made an effort to integrate the park into the surroundings and improve the condition of this site.

Ms. Kohl also made final approval contingent upon the following:

- Submission of an approved entrance permit from SHA
- Approval of storm water management plan and sediment and erosion control plan
- Submission of landscape plan
- Submission of lighting and sign details
- Approval of sureties for landscaping, storm water management and sediment control

Mr. Birkmire seconded the motion to approve the preliminary site plan. The motion passed with a 4 to 3 vote. Mr. Hickman, Mr. Sutton and Ms. Morris opposed the preliminary site plan approval.

#### **14-24 Roland-Clayton Co, LLC. (Gravel Pit) – Site Plan Review**

Roland-Clayton Co., LLC requests approval of a site plan for a sand and gravel pit on its 220.44 acre farm located off of Walnut Tree Road near Massey. The operation will include a washing operation and the sale of washed sand and common borrow. There is a small work trailer and scale on site. A permanent wash plant will be located near the scale. A portable wash plant is located at the southern end of the area of active mining. The pit will be reclaimed as an aquaculture pond. A haul road leads from the site to Walnut Tree Road.

The parcel is zoned “AZD”, Agricultural Zoning District, and is generally surrounded by farmland and woodland. A single family dwelling is located to the west of the site. Nontidal wetlands are located on the farm but will not be disturbed by the creation of the pit or the haul road.

The preliminary and final site plan review is based upon the granting of the special exception by the Board of Appeals in November 2013.

Present and duly sworn in were Robert “Buck” Nickerson, Extreme Measures Surveying, and Alan Scott, foreman of Roland Clayton Co, LLC gravel pit, applicant.

Ms. Gerber gave an overview of the application and noted the following applicable laws from the *Kent County Land Use Ordinance*: Article VI, Section 5 outlining the procedures and requirements for site plan review.

Mr. Nickerson noted the “permanent” sand washing plant is actually a portable plant which will be kept in a permanent location. The applicant has no plans to move the plant but they are aware if they do have to move it, the acoustical berm must be changed as well.

Mr. Nickerson stated that he wanted to give some more information regarding the supplemental site plan which was just handed out. He and Mr. Scott met with Mr. Wallace, a neighbor to the gravel pit, to discuss the berm. Mr. Wallace isn’t in favor of a tall berm and he signed an affidavit that he was satisfied with the proposed berm. Mr. Nickerson and Mr. Scott also spoke with Mr. and Mrs. Brice, daughter and son-in-law to Mr. Wallace. Mrs. Brice stated she would like to have more screening next to her property and requested that additional trees to be planted along the property line. The additional trees are shown on the new site plan and Mr. and Mrs. Brice signed an affidavit that they are satisfied with the proposed berm and landscaping.

Mr. Nickerson also stated the reason for the upgrade from 10 acres to 20 acres is due the inconsistency of the sand. They are aware that they cannot go above 20 acres and the area is within the permitted area that MDE has licensed.

Mr. Hickman made a motion to grant preliminary and final site plan review contingent upon submission of a satisfactory surety for the landscaped berm. The approval is based on the following findings:

- The project is consistent with the Comprehensive Plan and conforms with applicable rules and regulations.
- Traffic has been addressed within the site. Traffic is based on 20-30 trucks per day, to a maximum of 50-60 trucks per day.
- Reasonable demands will be placed on public infrastructure.
- Adequate sewage and refuse disposal is provided.
- Abutting properties will be protected by a berm and screening of white pine seedlings as shown on the site plan.
- The project complies with setback requirements and is reasonably integrated into the surrounding area.
- The operation is subject to a Special Exception granted by the Board of Appeals in November 2013.

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

## **STAFF REPORTS**

Ms. Moredock reported that the draft Floodplain Ordinance has been accepted by FEMA and will be introduced by the County Commissioners at the meeting on May 6, 2014. Ms. Moredock updated the Planning Commission on how the County is handling letters of credit. She stated there will be more flexibility with the acceptance of the sureties, and the County will hold fees in escrow for applicants. Ms. Moredock also stated the County will be setting a limit on the amount of money that the County will hold in escrow.

Lastly, Ms. Moredock informed the Planning Commission this would be the last meeting Jennifer Butz would be serving as the clerk. Ms. Butz is moving back to Pennsylvania, and the

planning staff is very sorry to see her go but wish her the best. Interviews have been held to fill the vacancy and an applicant selected, so there should be a new face at the next Planning Commission meeting.

## **GENERAL DISCUSSION**

Ms. Kohl asked Ms. Moredock to explain the Apex project. Apex is the wind farm project and they informed Ms. Kohl they would not be going in front of the planning commission with their project. Ms. Moredock stated Apex did not want to proceed with a text amendment relative to the County's wind energy standards. They decided to explore another avenue to get their project up and running.

Ms. Morris started a discussion on the bylaws and whether or not the meeting information should be posted on the web. Ms. Gerber stated agendas are posted online but the cancellations are not posted. Ms. Kohl mentioned an attendance policy and whether or not it should be enforced. Attendance was an issue in the past but hasn't been since. Ms. Moredock stated the bylaws can be reviewed and the attendance could be addressed at another time. Ms. Morris also stated the minutes should reflect if any of the planning commission members leave the meeting early due to any questions in the voting of the projects. Ms. Gerber and Ms. Moredock stated they would draft some possible changes for the bylaws for discussion at the next meeting.

Ms. Morris adjourned the meeting at 3:55pm.

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Elizabeth Morris, Chairperson

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Jennifer M. Butz, Clerk