

MINUTES

The Kent County Planning Commission met in regular session on Thursday, May 2, 2013, in the County Commissioners Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; Bill Sutton, Vice Chairman; Bill Crowding; Joe Hickman; Jay Lancaster. Staff in attendance was: Amy Moredock, Director of Planning, Housing, and Zoning; Bill Kerbin, Housing Planner; G. Mitchell Mowell, Planning Commission Attorney; and Kim Dixon, Secretary.

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

MINUTES

The minutes of the April 4, 2013, meeting were approved as presented.

GB Kennedyville, LLC – Phase II – Final Major Subdivision - Jason Smucker, representing GB Kennedyville, LLC, has submitted Phase II of the Village at Kennedyville, a two-phase, 67-lot subdivision located on Kennedyville Road and MD Route 213 in Kennedyville in the Second Election District. The subdivision is located on a 25-acre parcel zoned Village. The property is adjacent to Kennedyville and abuts single family dwellings on the south, commercial properties to the east, the railroad track to the north, and agricultural land that is also zoned Village to the west. The property is served by public water and sewer.

Phase II consists of the following:

- 47 lots (lots 21-67) ranging in size from 0.25 acres to 0.315 acres,
- 47 dwelling units (duplex lots have been eliminated from Phase II),
- 4 public roads (Flour Mill Street extended, Redmill Street extended, Parkside Lane and Schaefer Street)
- 4 alleys,
- 1 pocket park, and
- A walking path around the pond which was constructed during Phase I.

At its December 2004 meeting, the Planning commission reviewed and approved the preliminary subdivision plan and road waiver request. After a lengthy discussion, the Planning Commission voted unanimously to grant road waivers. The Planning Commission also voted unanimously to grant preliminary subdivision approval for the 67 lots.

Present and duly sworn were Jason Smucker, JLS Design; Cal Grey, applicant; Cynthia McCann, attorney representing the applicant; and Amy Moredock, Director of Planning, Housing, and Zoning.

Ms. Moredock reviewed the staff report noting the Applicable Laws of the Kent County Land Use Ordinance to include Article V, Section 7.5 which establishes the density, height, area, and yard requirements; Article V, Section 7.5 which establishes open space requirements; Article V, Section 7.7 which establishes the environmental standards; Article V, Section 7.8 which sets forth the design standards; Article VI, Section 9 and 10 which require approval of stormwater management and sediment control plans that manage runoff and water quality from and on the site; Article VI, Section 6.3B.15 which directs the Planning Commission to review major subdivisions and to prepare finds of fact.

Staff recommends approval of Phase II Final Subdivision with the condition that the Commissioners of Kent County accept the associated sureties.

Ms. McCann testified Phase II is the same as was approved for Preliminary, with the exception of the duplex units. She stated the Public Works Agreement states the well will be installed before the treatment system is constructed. This will be done after the third building permit. This project is located within a growth area and they have met all the standards, therefore Ms. McCann requested they be allowed to move forward to complete this community.

Mr. Smucker stated there will be no duplex units in Phase II because people do not want to share ownership of the lot. They had trouble marketing the duplex units in Phase I.

Ms. Morris asked for comments from the audience.

Tim Redman, being duly sworn, is concerned about the roads and alleys. He believes the County should call upon the bonds for the landscaping and roads. He would like for the Homeowners Association for Phase I to have a say before the Phase II Homeowners Association takes affect.

Gary McCulloch, being duly sworn, stated there are no parks, no trails, and no café, all of which were promised them when they purchased their homes. They are asking for management to give the homeowners what they bought into.

Dawn McCulloch, being duly sworn, testified that they are concerned about the sediment pond in front of their home. She said it is unsafe for her children to play outside.

In summary, Ms. McCann said she sympathizes with everyone. She stated GB Kennedyville, JLS Design, and the County need to partner to complete Phase II of the community. The developer is willing to work with the Homeowners Association.

Mr. Gray stated step one should be to urge the County Commissioners to call due the letters of credit to complete Phase I.

After a discussion, Mr. Hickman made a motion to grant final subdivision approval with the following conditions:

- A sidewalk easement must be shown on the plat and reflected in the deed restrictions.
- The walking trail must be constructed around the sediment control/stormwater management pond prior to the issuance of the fifth single family dwelling permit in Phase II.
- Any damage incurred during construction must be repaired by GB Kennedyville, LLC and must be returned to county road standards prior to the release of the Phase II surety.
- The general notes set forth in the Phase I Final Plat must be added to the Phase II Final Plat. These notes must be reflected in the deed restrictions. All Sheets referenced on Phase I and II Final Plats must be recorded.
- GB Kennedyville, LLC will consult with members of the Village at Kennedyville Homeowner's Association to amend the Covenants and Restrictions. The amended restrictions must be submitted to the Planning Commission attorney for approval.
- The Commissioners of Kent County must approve and accept all associated sureties.

The Planning Commission based its decision on the following findings:

- The proposal with a maximum density of 3.15 dwelling units per acre in Phase II is less than the permitted maximum density of 4 dwelling units per acre.
- The lots conform to the minimum lot size and lot frontage requirements.

- Only single family dwellings are being proposed which represents a change from the 2005 approval.
- Details regarding the walking trail around the stormwater management plan have been provided.
- The applicants have attempted to incorporate the subdivision into the community through building design, lot design, landscaping, and provisions for small pocket parks and other open space.
- Village Design Standards including open space, forest conservation, stormwater management, sediment control, site access, interior circulation, landscaping, and street trees were reviewed and approved for the entire subdivision during the Final Approval of Phase I in 2005.
- Stormwater management and sediment control plans have been updated, re-stamped, and approved for Phase II. The sediment control pond will be converted to a stormwater management pond once Phase II construction has been completed.
- The amended Public Works Agreement has been approved and signed by the County Commissioners.
- Sureties for Phase II must be deemed acceptable by the County Attorney.
- Impact studies completed during Phase I review have been updated and include an affirmation of the 2005 Historic Impact Study and a 2013 Traffic Impact Study.
- Analysis of the cost of providing local government services to the proposed subdivision has been conducted and letters have been received from Kent County Public Schools, Sheriff's Office, Office of Emergency Services, and the Kennedyville Fire Company. All agencies documented that they were currently able to provide services without suffering undue financial impacts to their staffs or their budgets.
- The Comprehensive Plan encourages development in and around existing towns and villages. The Plan identifies Kennedyville as a village with public water and sewer and thus a growth area.

The motion was seconded and approved unanimously.

Mr. Hickman made a motion to have staff send a letter to the County Commissioners asking them to act with urgency to call in the bonds for Phase I.

The motion was seconded and approved unanimously.

ISE America, Inc./Sun Wire Energy, LLC – Special Exception – Small Solar Energy System - SunWire Energy, LLC, on behalf of ISE America, Inc., is requesting a special exception to install a small solar energy system on one of its farms southwest of Massey. The proposed system has been designed to generate a percentage of, but not all of the electricity needed by the farm. The solar panels will cover no more than five acres and will be enclosed by a security fence. The panels will be approximately 12 feet in height. The proposed system has been located toward the rear of the property behind the poultry houses. A 10' x 15' concrete pad near the electrical shed may be necessary for a new transformer. The type of inverter will either be a 7' tall x 2.5' wide x 9' long cabinet style inverter or small units attached directly to the posts supporting the modules. The location of the transformer and type of inverter will be determined by the utility study and final engineering as required by Choptank. The property is located at 33179 Walnut Tree Road in the First Election District and is zoned Agricultural Zoning District. The neighborhood is characterized by farmland and forest. The closest dwelling is located approximately 1,800 feet from the proposed solar energy system.

Present and duly sworn were Sarah Anderson, SunWire; Scott Johnson, Advanced Solar Technology; and Bill Kerbin, Housing Planner.

Mr. Kerbin reviewed the staff report noting Applicable Laws of the Kent County Land Use Ordinance to include Article VII, Section 57.25 which permits solar systems, small on farms in AZD and Article VII,

Section 2 which states that no special exception shall be authorized unless the Board finds that the establishment, maintenance or operation of the special exception meets the standards set forth in the Article.

Staff recommends approval.

There was no correspondence in this matter.

Ms. Anderson testified that they will not require a stormwater management plan per Maryland Law dated May 2013 stating the solar panel surface does not count as impervious surface. There is an existing stormwater drain around the top and side of the site. She stated the concrete pad could be larger or smaller, depending on the equipment Choptank decides to use. She stated they were waiting to do the engineering until they received site plan approval because the engineering is very expensive.

Ms. Morris asked for comments from the audience. There was no one to testify on behalf of or in opposition to this application.

After a brief discussion, Mr. Hickman made a motion to send a favorable recommendation to the Board of Appeals finding:

- The proposed system will neither interfere with traffic nor create a safety hazard.
- The surrounding area is a combination of wooded lots and agricultural fields surrounding the owner's poultry farm and will be visible only from the adjacent gravel pit.
- There are no dwellings, houses of worship, schools, or other public structures nearby.
- There will be no impact on community facilities.
- The proposed solar array is not located near any historic sites or along a scenic byway. This project will not impact historic sites or properties.
- The proposed system will not create glare that would affect nearby properties, and it will not create noise, vibration, smoke, or other toxic matter.
- The Comprehensive Plan identifies the promotion of sustainable energy as one of its goals and cites solar energy as one of these encouraged uses.
- The system will not add to the financial burden of the community.
- The proposed system will enhance the employment base in the area.
- This project will preserve the financial viability of Kent County's agricultural industry.
- The project will neither have a negative impact on water quality nor on fish, wildlife or plant habitat.

The motion was seconded and approved unanimously.

Lester C. Jones & Sons, Inc./Energy Systems & Installation, Inc. – Special Exception – Energy Systems & Installation, Inc., on behalf of Lester C. Jones & Sons, Inc., is requesting a special exception to install a small solar energy system on one of its farms north of Massey. The proposed system has been designed to generate 85-90% of the electricity needed by the farm. The solar panels will cover almost 5 acres and will be enclosed by an 8' fence that will be landscaped on all sides. The panels will be almost 8' tall and the power station, housing 2 inverters and a transformer, will be enclosed in a metal "skid" unit that sits on a concrete pad. The unit will be 9'11" tall x 11'4" wide x 36'3" long and will be located at the northern end of the fenced area. The proposed system has been located in a northern corner of the farm which has low productivity because of the irrigation system does not reach it. It is also a location that is convenient for connecting to the Choptank grid. The property is located at 12511 Massey Road in the First Election District and is zoned Agricultural Zoning District. The neighborhood is characterized

by open farmland and the closest dwelling is located across the road approximately 1,800 feet from the proposed solar energy system.

Present and duly sworn were Buck Nickerson, Extreme Measures; Steve Fortuna, Energy Systems and Installation, Inc.; Sean Jones; and Bill Kerbin, Housing Planner.

Mr. Kerbin reviewed the staff report noting Applicable Laws of the Kent County Land Use Ordinance to include Article VII, Section 57.25 which permits solar systems, small on farms in AZD and Article VII, Section 2 which states that no special exception shall be authorized unless the Board finds that the establishment, maintenance or operation of the special exception meets the standards set forth in the Article.

Staff recommends approval.

There was no correspondence in this matter.

Mr. Fortuna, being duly sworn, testified the panels will be seven feet nine inches in height with an eight foot fence surrounding them. The panels will be black, therefore causing no glare. Choptank determined the location of the panels.

Mr. Jones, being duly sworn, stated they are willing to do landscaping to include red cedar, china girl hollies and switch grass. This is an un-irrigated piece of ground.

Mr. Nickerson, being duly sworn, testified he is working with Joe Blizzard of the Kent Soil and Water Conservation District regarding the stormwater management for the site.

Ms. Morris asked for comments from the audience. There was no one present to testify on behalf of or in opposition to the application.

After a brief discussion, Mr. Hickman made a motion to send a favorable recommendation to the Board of Appeals finding:

- The proposed system will pose no negative effect to traffic patterns.
- The surrounding area is a combination of wooded lots and agricultural fields.
- There are no dwellings, houses of worship, schools, or other public structures nearby.
- There will be no undue impact on community facilities.
- The Historic Preservation Commission reviewed the application at its January meeting and found that the solar array will not negatively affect any historic sites.
- A landscape plan was submitted which adequately addresses screening of viewsheds from the site and creates a more natural edge that blends into the historic landscape.
- The proposed system will not create glare that would affect nearby properties, and it will not create noise, vibration, smoke, or other toxic matter.
- The Comprehensive Plan identifies the promotion of sustainable energy as one of its goals and cites solar energy as one of these encouraged uses.
- The system will not add to the financial burden of the community.
- The proposed system will enhance the employment base in the area.
- The project will preserve the financial viability of Kent County's agricultural industry.
- The project will neither have a negative impact on water quality nor on fish, wildlife, or plant habitat.

The motion was seconded and approved unanimously.

STAFF REPORTS

Bill Kerbin – nothing to report.

Mitch Mowell – nothing to report

Amy Moredock – Ms. Moredock informed the members that she continues to attend regional and local Watershed Implementation Plan meetings. As a result of required standards, Kent County may need to increase its stormwater management fees. She also informed the members that Rick Myers held a contractors training session regarding the 2012 International Building Code, to include the new energy efficiency requirements. Staff met with the Critical Area Commission staff that contracted with Salisbury University GIS staff regarding the update to the Kent County Critical Area maps. We will have new maps in the near future.

GENERAL DISCUSSION

There was no general discussion.

There being no further business for the good of the organization, the meeting was adjourned at 4:43 p.m.

Elizabeth Morris, Chairman

Kim Dixon, Clerk