

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, August 1, 2013, in the County Commissioners Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chair; Bill Sutton, Vice Chairman; Randy Bellows; Ed Birkmire; Bill Crowding; Jay Lancaster; and Joe Hickman. Staff in attendance was: Amy Moredock, Director of Planning, Housing, and Zoning; Carla Gerber, Community Planning; Bill Kerbin, Housing Planner; G. Mitchell Mowell, Planning Commission Attorney; and Jennifer Butz, Secretary.

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

## MINUTES

The minutes of the July 11, 2013, meeting were approved as presented.

### **Application for Review:**

Kent Sand and Gravel, LLC is requesting renewal of its special exception for its gravel pit and also the extension of its operating hours during the “peak” season of March 15<sup>th</sup> through December 15<sup>th</sup> from 6:00 a.m. to 4:00 p.m. to 6:00 a.m. to 6:00 p.m.

Present and duly sworn was Joe Taylor, Salisbury, Maryland, and Scott Drumbore, Skippack, Pennsylvania, the applicants, and Carla Gerber, Community 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 7.52 which permits as special exceptions sand and gravel pits, excavation, or extraction in AZD and Article VII, Section 2 which establishes that shall be authorized unless the Board finds that the establishment, maintenance or operation of the special exception meets the standards set forth in this Article.

Ms. Gerber stated that she has received one resident complaint, via email from Heather Dann, dated July 5, 2013, concerning the dust from the operation and the height of the sand stockpile. Ms. Dann states in her email she and other property owners are concerned with Kent Sand and Gravel not complying with the special exception for the following reasons: stockpile needs to be maintained to a 10 day supply, sediment control needs to be in place for dust, and current bond is not high enough to cover reclamation if Kent Sand and Gravel stops operating. A second email was received from Heather Dann stating she is not in favor of the extended hours. The email also included two letters stating concerns with the conditions of the special exceptions not being met.

Scott Drumbore, from H&K Group on behalf of Kent Sand and Gravel and manager of the engineering division, states they are requesting a five year renewal at this meeting. Mr. Drumbore addressed the issue of road maintenance, stating historically they have patched the road but no issues about the road were brought to their attention until last year at the Board of Appeals meeting where they stated they would meet the conditions for the maintenance of the road and were willing to meet with the county regarding road maintenance. Mr. Drumbore and

Dan Voshell met last Thursday to address the issues with the roads and discuss how to make repairs. It was agreed that road maintenance would start within four weeks.

The main topic of discussion was the height of the sand stockpile on the premises. Mr. Taylor stated they have been trying to take the pile down, but he advised that a 10 day supply is a small amount of material and it would be very challenging for them to keep such a small amount. Mr. Taylor stated this small amount of stockpile would be even more difficult in the winter months due to the need for material and the difficulty to produce it. The material is used for concrete sand and fill. It is a salable material for the right project which would not be moved every day, but for these said projects, thousands of tons can be moved over short amount of time. Business would be lost without a reserve. It was stated that changes would need to be made to the footprint of the operation in order to spread it out. Mr. Crowding stated stockpile shouldn't be higher than the berm.

Kent Sand and Gravel representatives stated they were not aware of complaints and it would be appreciated if concerns/complaints could be brought to their attention so they can address the concerns and educate the community on the changes and/or processes.

The applicant was also requesting an additional 2 hours of operation during the peak construction season (March 15 – December 15) making the hours of operation 6 am – 6 pm and keeping the hours of 6 am – 4 pm from December 15 – March 15. The additional 2 hours would be helpful for the truckers, as a new law is in effect requiring drivers to take an additional 30 minute break throughout the day, and for production to meet demands. Currently, in order to be out of the gates at 4 pm, they are essentially shutting down production at 3 pm.

John Massey asked about the hours of operation on Saturdays. Mr. Taylor stated that Kent Sand and Gravel is not open every Saturday, but the hours are 6 am – 4 pm when they are open. Most Saturdays are used for the gravel pit employees to complete work they are unable to complete during Monday through Friday business hours. Unless there is a special project, they are not open for operation.

Mr. Henri Pechin addressed the Planning Commission, requesting no change to the working hours of the gravel pit. Mr. Pechin stated his extracurricular activities must be postponed until gravel pit closes due to safety issues on MD Route 299 with trucks driving up and down the road. Mr. Pechin also stated MD Route 299 is not maintained and it is not in good shape.

Ms. Heather Dann spoke stating she does not have a complaint, but her concern is with the need to comply with the agreement and currently she is not seeing any compliance with the permit. Ms. Dann stated the stockpile of sand is not being moved and the only "moving sand she sees is sand that collects on her porch." Ms. Dann stated there is no quality of life due to the gravel pit and this is not what they signed up for. It was stated the resident's quality of life is affected due to truck traffic and noise, and with 2 more hours of operation it would be much worse. Mr. Bellows asked if Ms. Dann spoke directly to the applicant to voice concerns and issues; Ms. Dann stated she got a business card but misplaced it.

Mr. Henry Pechin, Sr also spoke regarding extended hours of operation stating he is awakened at 5:20 a.m. with trucks going by constantly, turning down Alexander Road, and parking on the side waiting for the gravel pit to open. Mr. Pechin does not support the extended hours. Noise is an issue between truck traffic and elevator noise, and Mr. Pechin feels the extra hours will impact his life.

Mr. Taylor noted that trucks on Massey Road are not Kent Sand and Gravel trucks but other trucks such as grain trucks, feed trucks, and trucks coming from Millington and Massey.

Concerns were raised regarding trucks parking on Alexander Road before 6 a.m. It was noted that Alexander Road is a county road which prohibits parking. Mitch Mowell suggested not serving anyone who parks on the road before 6 a.m., stating it is the responsibility of Kent Sand and Gravel to eliminate inappropriate parking. Mr. Mowell stated the applicant needs to adhere to the hours of operation.

A motion was made by Mr. Hickman to send a favorable recommendation to the Board of Appeals for the renewal of the special exception with the following findings and conditions:

- Approval is not to exceed one year.
- Material is not to be brought from offsite for processing or mixing.
- Excavation is to be controlled by reasonable methods to protect neighborhood.
- The stockpile of all materials is not to exceed 30 feet.
- Substantial mature landscaping, planted with native plantings, is to be planted within 1 year to mitigate the impact of 30 foot stockpile.
- There are no endangered species in the area.
- The gravel pit currently does not degrade water quality.
- The gravel pit does not disturb the 100 foot buffer.
- The applicant must take steps to minimize dust by sweeping and wetting as necessary.
- The applicant shall notify vendors and drivers to not drive through Massey and take control of trucks parking on Alexander Road prior to business hours.
- Kent Sand and Gravel business hours are to remain Monday through Saturday, 6 a.m. to 4 p.m.
- The applicant is to repair and maintain Alexander Road to the standards required by Kent County Roads Department in the time specified.
- The application is Consistent with the Comprehensive Plan.

Mr. Birkmire stated that the only significant change is the increase of hours which is not supported by the Planning Commission.

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

## **GENERAL DISCUSSION**

Mr. Birkmire opened the general discussion stating he reports to the County Commissioners on previous meetings and the microbrewery topic was addressed by Mr. Pickrum. Mr. Pickrum asked if the Planning Commission does research on other counties and areas as to how well microbreweries perform. Ms. Moredock responded by saying staff conducts research relevant to

each application and that Ms. Gerber reviewed microbrewery amendments in several jurisdictions.

Mr. Crowding addressed the gravel pit saying he feels it is staff's responsibility to make sure that applicants are compliant with conditions of permits.

Mr. Sutton asked about a tower located on the Stoltzfus Farm. Ms. Moredock explained that it is an MET tower which was installed in order to measure wind speeds for wind energy. A building permit was issued for the tower, and it will only be in place for 12 months in accordance with the Ordinance requirements.

### **STAFF REPORTS**

Carla Gerber: Nothing to report.

Bill Kerbin: Nothing to report.

Mitch Mowell: There are two pending enforcement cases he is working on. One case is located in Still Pond and involves the storage of junk and untagged vehicles. He suspects that the property owner will bring the site into compliance by the deadline (August 2).

The second case involves the construction of a stair tower in the Critical Area Buffer without obtaining a building permit. Ms. Moredock explained that an application was received for a joint pier permit on the property in Kentmore Park. This permit was approved. There also was an application for a stair tower received for the property to provide access to the pier. The contractor for the stair tower opted not to have an engineer's stamp on the construction plans as required by the building code, and the permit was not approved. The stair tower was built anyway and is not in compliance with building code requirements as outlined in an after-the-fact engineering report. There is a \$10,000 fine due to the nature of violation. Mr. Mowell noted that the case will probably go to court; however, Critical Area Commission support will be necessary in order to collect such a large fine.

Amy Moredock: She attended the Governor's Climate Change Summit last week where she attended a session regarding mitigating for natural disasters which relayed information pertinent to the County's Hazard Mitigation Plan update. It was noted that excessive heat index is going to be considered a major disaster in Maryland. In addition, Ms. Moredock reported that the Maryland Association of Counties Watershed Implementation Plan workgroup is finalizing its review and comments regarding the Draft Accounting for Growth Guidelines. Ms. Moredock reminded members of the Planning Commission, the MACO conference is scheduled for next week and that the Maryland Department of Planning training for Planning Commission members will be offered.

There being no further business for the good of the organization, the meeting was adjourned at 3:35 p.m.

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Elizabeth H. Morris, Chairman

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Jennifer M. Butz, Clerk