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Kent County Agriculture Advisory Commission Meeting Summary

The Kent County Agriculture Advisory Commission met on Wednesday, May 11, 2022, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Jennifer Debnam, Chair; Catherine Abramavage, Valerie Mason, John Henry Myers, and Jeff Pettitt. Also present were Carla Gerber, Deputy Director, and Mark Carper, Associate Planner.

The meeting was called to order at 6:00 p.m.

MINUTES

The minutes of the meeting on January 25, 2022, were approved as submitted.

APPLICATIONS

Zoning Text Amendment to amend Article VII, *Special Exceptions*, Section 7, *Special Exceptions*, §57.25, *Solar energy systems, utility scale*, on farms in AZD and RCD, sub-section j., in order to clarify language that relates to the area of permitted solar arrays and referred to as "area of use" and to clarify the limitations set forth for adjacent properties.

Ms. Gerber summarized the staff report with staff's suggestion to clarify the "area of use" language. Ms. Gerber also mentioned the letter submitted by Anthony Kupersmith, attorney for SGC, and the Board of Appeals decision.

Ms. Gerber opened the floor for questions and discussion with SGC representatives.

Ms. Debnam inquired as to the 60-foot buffer requirement. Ms. Gerber responded that the landscape buffer requirement was a separate text amendment that was adopted after the current solar energy system language was adopted. Ms. Gerber noted that solar energy-related text amendments have evolved over the years.

Mr. Anthony Kupersmith, stated that he and SGC are supportive of staff's efforts. He noted that staff and the applicant have interpreted "area of use" to be the solar panels and equipment, but the Board of Appeals interpreted "area of use" to include landscaping and access roads. He would encourage the County to consider adding language to exclude the elements outside of the defined area for energy production.

Ms. Cory McCandless, Project Manager for SGC, offered a brief summary of SGC and the proposed project. She noted that the project has been revised to reduce the fenced area to five acres. Mr. Bruce Wilson, Developer with SGC, provided some additional detail on SGC and the proposed project.

Ms. Debnam reviewed the options available to the Commission for making a recommendation: staff's version, Mr. Kupersmith's version, or something different.

There was additional discussion about the timing of the landscaping text amendment and how it might or might not affect the special exception.

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There was discussion of text amendments from the Renewable Energy Task Force that would have limited solar systems on ag land and the effect of the 10% rule. The Chair pointed out sub-section k and noted that the 10% rule does apply.

Mr. Myers asked about variances to the landscape buffer requirement so that less land would be removed from production. Ms. Gerber indicated that there wasn't a variance or waiver process.

Ms. Debnam asked again about language to suggest for the text amendment. There was additional discussion about access roads and landscaping and whether to include these elements as part of the "area of use."

Mr. Myers was of the opinion that everything should be included, but he would allow this project to move forward, and the language should be changed for the future. Ms. Debnam felt that the decision should be made now.

Mr. Myers expressed issues with taking land out of production for commercial energy production. He thought commercial energy production had been moved to only commercial land. Mr. Kupersmith pointed out that the solar energy system had to be incidental to the principal use as a farm. Mr. Myers pointed out this property has no buildings and is owned by someone who is primarily interested in hunting.

Ms. Debnam again asked for opinions on the definition. She asked staff about the specificity of Mr. Kupersmith's suggestion and whether some room for interpretation was necessary. Mr. Carper asked to come forward and spoke about the Board of Appeals meeting. He pointed out the sparser language suggested by staff made reference to the definition of "solar energy system, utility scale" to add clarity.

Several members expressed strong opinions that you can't mistake where the fence is and the text should be made as clear as possible.

Mr. Myers made a motion to forward a favorable recommendation and that the "area of use" includes everything except any buffer and landscaping. There was additional discussion about specific language. Ms. Gerber clarified that the motion's intent was to limit the "area of use" to the fenced area and to not list specific exclusions. Upon request, Ms. Gerber read the motion:

"The area of use may not exceed 5 acres onsite. **Area of use means the area within the solar array's security fence or approved barrier.** Adjacent properties shall not aggregate solar collection panels to achieve an area exceeding 5 acres."

The motion was seconded by Ms. Mason. The motion passed unanimously.

GENERAL DISCUSSION

Kent County Comprehensive Rezoning Process

Ms. Gerber discussed the anticipated timeline for the Comprehensive Rezoning process. The Task Force will be meeting every other month. The Task Force met on March 30th and will meet again on May 25th to go over the last of the citizen-initiated text requests. It is hoped that the text will be ready for review and adoption at the end of the year.

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Utility-scale solar

Mr. Myers reiterated his opposition to commercial solar projects on ag land and asked if other members wanted to suggest additional text changes. Mr. Pettitt stated there are two ways to look at the issue: 1) commercial projects may limit the capacity available to farmers who want to install solar systems to cover their operating needs and 2) landowners have a right to profit from the ownership of their land. Mr. Myers and Mr. Pettitt expressed concerns about the capacity of the utility grid for additional solar systems. There was no consensus to request any other changes to the Land Use Ordinance.

ADJOURN

There being no further business, the meeting adjourned at 7:05 p.m.

Jennifer Debnam, Chair

/S/ Carla Gerber

Carla Gerber