

**MINUTES**

January 5, 2023

1:30 p.m.

The Kent County Planning Commission met in regular session on Thursday, January 5, 2023, at 1:30 p.m. in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. It was a hybrid meeting, and the following members were in attendance: Chair F. Joseph Hickman, Vice Chair Paul Ruge, William Sutton, James Saunders, and William Crowding. Cynthia L. McCann, Esquire, Planning Commission Attorney, was in attendance. Staff in attendance were Carla Gerber, AICP, Deputy Director; Mark Carper, LEED Green Associate, Associate Planner; and Campbell Safian, Planning Specialist.

Members of the public in attendance included Harry Smith Jr., LS, Delmarva Survey; Steven Green, property owner; Bruce M. Wilson, Project Developer of Pivot Energy; Seth Shafer, PE, Project Manager of Pivot Energy; Edward Hastings, PMP, Associate of Becker Morgan Group, Inc.; and Ben Hunter, CPA, Vice President of Madison Energy Investments.

Chair Hickman called the meeting to order at 1:30 p.m.

**MINUTES**

Mr. Ruge moved to accept the minutes of December 1, 2022, without correction. Mr. Saunders seconded the motion. The motion passed with all in favor.

**APPLICATIONS FOR REVIEW**

*22-08 25809a Still Pond Neck, LLC – Major Site Plan (Final)*  
*26001 Still Pond Neck Road – Third Election District – Agricultural Zoning District (AZD)*

25809a Still Pond Neck, LLC, is requesting final site plan approval to construct and operate a utility-scale solar energy system in the Agricultural Zoning District (AZD) on an 85-acre farm owned by Raymond and Joyce Stoltzfus. Preliminary site plan approval was granted at the September 1, 2022, meeting, and a revised landscape plan has been submitted to appropriately address glare issues. On September 19, 2022, the Board of Appeals approved the application for a special exception conditioned on obtaining all state and federal permits, obtaining final site plan approval from the Planning Commission, and compliance with all bond-related requirements as listed in Article VI, Section 11 of the Land Use Ordinance.

The proposed 1 MW array of solar panels will be enclosed within a perimeter fence with an area of 5 acres. All setback, landscaping, stormwater management, glare, visibility, and structural requirements have been addressed in the site plan. The proposal is not inconsistent with the Comprehensive Plan, and there will be no adverse impacts to adjacent properties or the surrounding area. The property is located on the southwest corner of the intersection of Still Pond Neck Road and Still Pond Road in the Third Election District, and it has been assigned the street address of 26001 Still Pond Neck Road. The area is predominantly farmland with scattered residential properties.

Mr. Carper presented the staff report, recommending approval with conditions. The Chair swore in Edward Hastings, PMP, Becker Morgan Group, Inc, and Ben Hunter, CPA, Madison Energy Investments.

Chair Hickman asked the applicant what steps have been taken following the Preliminary Site Plan approval to address the solar panel's emittance of glare to adjacent properties.

Mr. Hastings stated that a row of 14-foot Arborvitae trees will be planted by the entrance road to eliminate the solar panel's glare to adjacent properties.

Ms. McCann asked if the conditions have been met in order to waive the berm requirement.

Mr. Hastings stated that larger trees will be planted in lieu of the berm to protect the natural drainage areas of the site.

Mr. Ruge asked who is responsible for maintaining the landscaping around the solar energy system.

Mr. Hunter reported that Madison Energy Investments is responsible for maintaining the landscaping surrounding the solar energy system. Madison Energy Investments will fulfill the vegetation maintenance plan, in part, by contracting with a local, professional landscaping company to mow the grass and water the trees. A sign will also be placed at the gate which lists Madison Energy Investment's contact information.

Mr. Ruge moved to grant final site plan approval, finding that the application is consistent with the Comprehensive Plan, there will be no adverse effect to traffic patterns, and there are no historic structures on site or within view of the site. The applicants propose to maintain the site to meet certain standards. The application is approved with the requirements that the applicant obtain all state and federal permits. The permits should be completed before any building has started. The applicant must complete and record the Deed of Forest Conservation Easement and Agreement and submit the appropriate sureties for landscaping maintenance and bond-related requirements for decommissioning as listed in Article VI, Section 11 of the Land Use Ordinance.

The motion was seconded by Mr. Saunders, and the motion passed unanimously, 5-0.

*22-79 Green's Septic and Excavation, LLC - Major Site Plan (Preliminary & Final)  
10252 Fairlee Road – Sixth Election District – Village (V)*

Steven Green is requesting final site plan approval to construct a pole building for the storage of equipment used for his septic maintenance and excavation business on a parcel zoned Village. The business office will continue to be located at Mr. Green's home in Chesapeake Landing. The property for the storage of equipment is located at 10252 Fairlee Road in Melitota in the Sixth Election District. The surrounding area is a mix of residential and agricultural uses.

Ms. Gerber presented the staff report, recommending approval with conditions. The Chair swore in Harry Smith Jr., LS, Delmarva Survey, and Steven Green, owner of the property.

Mr. Smith noted that the site plan was approved for Stormwater Management.

Mr. Sutton inquired about the details of the Stormwater Management Plan.

Mr. Smith stated that a wet swale is included in the Stormwater Management Plan. Drainage from the building's rooftop and the proposed gravel area will collect in a swale. The drainage system has three check dams to pond the water, and then it will ultimately dissipate into the wooded area.

Mr. Saunders made a motion to grant approval of the final site plan. The applicant followed all the requirements in order to construct this building. The approval is contingent upon the recordation of the Forest Conservation Easement and Agreement.

The motion was seconded by Mr. Sutton, and the motion passed unanimously, 5-0.

*23-01 Toal Park – Comprehensive Water and Sewer Plan Amendment  
13753 Augustine Herman Hwy, Galena – First Election District – Resource Conservation District (RCD) and  
Agricultural Zoning District (AZD)*

The County Commissioners are requesting an amendment to the Comprehensive Water and Sewerage Plan to allow a connection to a Denied Access Line in order to construct restrooms at Toal Park. The County has applied for Program Open Space funding to design and construct the public restroom facilities. The project proposes installation of a well and grinder pump connection to the sewer line running along MD Route 213. Toal Park was not included in the existing service area of the 2018 Comprehensive Water and Sewerage Plan, and, therefore, an amendment to the plan is necessary.

Ms. Gerber presented the staff report, recommending that the Planning Commission send a favorable recommendation to the County Commissioners for approval of the amendment.

Chair Hickman and Mr. Crowding spoke in support of the amendment to the Comprehensive Water and Sewerage Plan.

Chair Hickman reiterated the public need for restrooms at Toal Park, the environmental concerns of installing a septic system near tidal waters, and the adequate capacity of the treatment and conveyance system to serve the park.

Chair Hickman made a motion to forward a favorable recommendation to the County Commissioners for approval of the Toal Park Water and Sewer Plan amendment finding that the amendment is not detrimental to the agricultural use or the rural character of the Agricultural Zoning District, and it is a community amenity. The addition of public restrooms will not intensify the use, it has been a park for over 20 years, and the property is contiguous to the right-of-way containing the service main. There is adequate capacity in the Galena system and there will be only one allocation. Due to the proximity of tidal waters, the most environmentally friendly way to provide restrooms is for the park to be connected to the sewer plant. Although, the County has not done a percolation test, there is a public need for the service at Toal Park. Waiving the requirement to complete a perc test is respectful of County funds.

Mr. Crowding asked that the Director of Public Works, Mike Moulds', comments be added to the motion which state his preference of the park using the available public sewer service rather than building a septic system due to the proximity to tidal waters.

The motion was seconded by Mr. Sutton, and the motion passed unanimously, 5-0.

23-02 *Town of Millington – Annexation*  
*172 Sassafras Street, Millington – First Election District – Village (V)*

The Town of Millington is requesting that the Millington Elementary School property be annexed into the Town of Millington. The Millington Elementary School, identified as Tax Map 32, Parcel 49, is located primarily outside of the Town's boundaries. A small area of the parcel is already located inside the Town. Kent County's Designated Growth Areas and the municipal proposed annexation area found in Millington's 2018 Comprehensive Plan both indicate that the subject property is anticipated for annexation into the Town of Millington. The Town is requesting a waiver of the five-year zoning rule, since the Town plans to build the "Millington Senior Village" project on the property and desires the flexibility to rezone the property for that purpose. Since the allowable density under the County's Village zoning district would permit the project, there is no reason to withhold a waiver.

Ms. Gerber presented the staff report, recommending the Planning Commission forward a favorable recommendation to the County Commissioners.

Mr. Ruge asked if the proposed annexation of the Millington Elementary School property will include the baseball field.

Ms. Gerber confirmed that the baseball field is included in the proposed annexation. The Annexation Agreement states that the Millington Lions Club will continue to maintain a portion of the property for youth sports activities.

Mr. Crowding made a motion to send a favorable recommendation to the County Commissioners for the Town of Millington to annex 24.455 acres of land into the Town, as it is consistent with the Kent County Comprehensive Plan. The Comprehensive Plan states that the County will work with interested incorporated towns to identify and map County designated growth areas for the towns consistent with municipal growth areas. Given this goal of focusing growth in existing population centers, the County will coordinate and support town efforts to manage growth. For these reasons and the others listed, Mr. Crowding recommends that the Planning Commission send a favorable recommendation to the County Commissioners with the five-year waiver. It has been determined that the proposed use that the Town has planned is consistent with the County's Village zoning district. What the Town would like to develop on the Millington Elementary School property would be allowed under the existing County Ordinance.

The motion was seconded by Mr. Ruge, and the motion passed unanimously, 5-0.

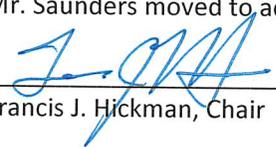
## GENERAL DISCUSSION

## STAFF REPORTS

Ms. Gerber noted the upcoming workshop with the County Commissioners to discuss the Comprehensive Rezoning process.

## ADJOURN

Mr. Saunders moved to adjourn. Mr. Sutton seconded. The meeting adjourned at approximately 2:24 pm.

  
Francis J. Hickman, Chair

/s/ Campbell Safian  
Campbell Safian, Planning Specialist

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