

MINUTES

The Kent County Planning Commission met in regular session on Thursday, December 4, 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; and Joe Hickman. Staff in attendance was: Amy G. Moredock, Director of Planning, Housing, and Zoning; Katrina Tucker, Community Planner; Bill Kerbin, Housing Planner; G. Mitchell Mowell, Planning Commission Attorney; and Tonya Thomas, Secretary.

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

MINUTES

The minutes of November 6, 2014, meeting, were approved by the Planning Commission Members.

The following projects were postponed:

- **14-80 Oddmund & Hedvig Angell – Preliminary Site Plan Review**
- **14-70 Town of Galena (Upgrade to Wastewater Treatment Plant) – Final Site Plan**

The following project was canceled:

- **14-60 Emily Massey & Community Energy Solar, LLC – Zoning Text Amendment AZD and RCD Districts**

APPLICATIONS FOR REVIEW:

Town of Chestertown (Gateway Park) – Final Site Plan Review- Agricultural Zoning District. The Town of Chestertown is requesting final site plan approval for Mabel Mumford-Pautz Gateway Park. The Town is proposing a basketball court, walking path to a 10x12 observation deck, picnic tables, a bike rack, and a 10-space parking lot. 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 was Perry Otwell, applicant; Kees de Mooy and Bill Ingersoll, co-applicants representing Town of Chestertown and Amy G. Moredock, Director.

Mr. Hickman recused himself from the discussion and vote on this application, noting that he manages an adjacent property.

Ms. Moredock gave an overview of the application and cited the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 1.7.B.2 that establishes the forest conservation standards for the Agricultural Zoning District; Article V, Section 1.7.B.6 which establishes the standards for protection of non-tidal wetlands; Article V, Section 1.7.B.8 and Article VI, Section 10 which establish stormwater management standards; Article VI, Section 9 that establishes erosion and sediment control standards; Article V, Section 1.8 that establishes the General AZD Design Standards which address site access, parking, lighting, and landscaping; and Article VI, Section 5.3.B which outlines the objectives for the Planning Commission to consider when reviewing site plans.

Mr. Ingersoll stated that he hoped that this project would be something that everyone would be proud of and that adjacent property owners' issues have been resolved.

Ms. Morris expressed her concern with the pedestrian walkway and what, if anything was going to be done to correct the issue.

Mr. de Mooy stated that the State Highway Administration is aware and familiar with the pedestrian movement concerns and that SHA has long-range plans to address both vehicular and pedestrian movement in this vicinity. The round-about construction was the first phase in addressing SHA's long-range plans.

After much discussion, Mr. Crowding made a motion to approve the final site plan for the development of Mabel Mumford-Pautz Gateway Park which includes a basketball court, walking path to a 10x12 observation deck, picnic tables, a bike rack, and a 10-space parking lot. He based his motion on the following findings:

- The application is consistent with the Comprehensive Plan.
- All applicable standards outlined in the *Kent County Land Use Ordinance* have been addressed and met.

The Commission conditioned its approval on the correction of minor plat details [correction of the spelling of Kees de Mooy (owner/developer) and addition of a signature block for the Planning Commission Chair] and the submittal of the approved stormwater management and sediment and erosion control plans.

Ms. Kohl seconded the motion, and the motion passed unanimously.

Stephen Stoltzfus – Final Site Plan Review – 29231 Morgnec Road – Second Election District- Agricultural Zoning District. The applicant is requesting approval to construct a 4,680 square foot addition for feed and seed storage onto his existing business, Delmarva Feed and Farm Services. The site is located on a 198 acre farm located at 29231 Morgnec Road in the Second Election District and is zoned Agricultural Zoning District, AZD. The surrounding area is characterized by scattered houses and farmland. The existing building was constructed in 2001. This new 60-foot by 78-foot addition with a height of 32-feet from grade will be constructed over the existing stone parking area to provide an increase in the enclosed storage and warehouse space, with no expansion of the retail area. The resulting structure will total 15,528 square feet. Access to the building for loading and off-loading will be through a series of garage style doors on the front of the building addition, facing the street.

Present and duly sworn in was Michael A. Scott of Michael A. Scott, Inc.; and Ms. Tucker, Community Planner.

Ms. Tucker gave an overview of the application and cited the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 1.5 which establishes the density, area, height, width, and yard requirements in the Agricultural Zoning District; Article V, Section 1.7.B.6 that establishes the standards for non-tidal wetlands; Article VI, Section 10.6 that establishes stormwater management exemptions for certain limited development activities; Article V, Section 1.8 that establishes the

General AZD Design Standards which address site access, parking, lighting, and landscaping; and Article VI, Section 5 which outlines the procedures and requirements for site plan review.

Ms. Tucker advised that the Board of Appeals approved the application for Special Exception at their meeting of August 25, 2014. The approval did not include any conditions.

Additionally, Preliminary Plan approval was granted by the Planning Commission at the meeting of September 4, 2014, and in so doing noted that prior to final approval certain items were required to be addressed including reflecting on the site plan where signs will be installed indicating the directional flow for loading and unloading of tractor-trailers; mitigation of the disturbance in the 100-foot stream protection corridor unless the applicant can obtain a jurisdictional determination from the U.S. Army Corps of Engineers; addressing storm water management as well as sediment and erosion control since the area recently graded exceeds 5,000 square feet; reflect the location the propane tanks that were relocating for the grading that occurred, and, the Solar Array that was approved by Building Permit 13-114 issued on April 18, 2013; and approval of sureties for storm water management and sediment control.

Ms. Tucker informed the Planning Commission that the preliminary plan reflected a 100-foot stream protection corridor based on the presence of a mapped blue line stream. Due to the applicant extending the stone surface area into the stream protection corridor prior to plan approval, the applicant's agent sought and obtained a jurisdictional determination from the U.S. Army Corps of Engineers that redefines this not as a stream but as a palustrine emergent wetland. The buffer for a non-tidal wetland is 25-feet rather than the 100-foot stream protection corridor. A revised plan reflecting this change to a wetland buffer instead of the stream protection corridor was submitted for final approval.

In response to an inquiry concerning stormwater management plans, Mr. Scott stated the bio-retention for water quality and the over flow pipe permit has been submitted. Additionally, the final plan also reflects the placement of the relocated propane tanks as well as the solar panels.

Following much consideration of the testimony presented and in consideration of the applicant meeting the conditions placed on preliminary site plan approval, Mr. Hickman made a motion to approve the final site plan based on the following:

- The Board of Appeals has approved the Special Exception Use.
- The application is consistent with the Comprehensive Plan.
- The final site plan meets the requirements of the applicable provisions of the Kent County Land Use Ordinance.
- Space is available onsite to provide parking for the employees of the warehouse and for customers of the retail component of this existing building and its proposed expansion.
- The proposed development is related harmoniously within the existing terrain which is open farm land.
- No new exterior lighting is proposed.
- This proposal should not result in undue disturbance of abutting properties.
- No grading or disturbance except that which is required by stormwater management shall be permitted within the 25-foot wetland buffer.

Prior to obtaining signatures on the final site plan, the following items must be addressed:

- Approval of the stormwater management plan, as well as sediment and control plans.
- Approval of sureties for storm water management and sediment control.

Mr. Sutton seconded the motion, and the motion passed unanimously.

Staff Reports

Amy Moredock:

- Rick Myers and she staffed the FEMA Coastal Resiliency meeting which was hosted by Kent County. Information was well-planned and very well-presented, but the attendance was low.
- The Annual Eastern Shore Land Conservancy conference was held on November 20, 2014. Planning, Housing and Zoning staff attended. It was an impressive conference that culminated in a panel comprised of the Secretaries of Agriculture from Maryland, Delaware, and Virginia and hosted by NPR's Mark Steiner. Joe Hickman, ESLC Board Member, also hosted an earlier panel discussion.
- The Agricultural Advisory Board was reconvened for the purpose of rendering a recommendation to the Planning Commission on the Zoning Text Amendment submitted by Emily Massey & Community Energy Solar, LLC. The amendment proposes to increase the area in the AZD and RCD that can be occupied by a solar array from five acres to sixty acres. The members stated with very little hesitation that they had serious reservations about the increase in acreage from five acres to sixty acres. The Advisory Board made an unfavorable recommendation since solar arrays are not an agricultural use of land and the proposed intensity of the use is not consistent with intent of the AZD to protect contiguous acreage of land dedicated to agricultural use.
- As a result of the 2015 International Building Code becoming effective on 1 January 2015 (technically 2 January 2015 due to the holiday), the opportunity to opt out of the installation of a sprinkler system in new single family dwelling under certain conditions will no longer be permitted. All new single family dwellings will be required to have sprinkler systems installed as of 2 January 2015.
- The re-elected County Commissioners were sworn in on Monday, December 1st. Also, the County Commissioners voted to elect William Pickrum to the position of Commission President.
- Two administrative hearings have been scheduled: a setback variance for the construction of a manure storage facility and a setback variance for a residential addition. Ms. Moredock asked the Planning Commission if it were their preference to see all poultry composter and manure storage facility setback variance regardless of whether they technically qualified for an administrative hearing. She noted that these types of variance may be considered a bit more sensitive in nature and sought Planning Commission guidance. Members felt that if the cases qualified for administrative hearings, then they should be handled accordingly.

GENERAL DISCUSSION

There being no further business for the good of the organization, the meeting was adjourned at 2:35 p.m.

Elizabeth Morris, Chairman

Tonya L. Thomas, Clerk