

MINUTES

The Kent County Planning Commission met in regular session on Thursday, June 5, 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; Randy Bellows and Joe Hickman. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; Carla Gerber, 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 May 1, 2014, meeting, were approved as presented.

APPLICATIONS FOR REVIEW:

KELN Holdings, LLC – Agricultural Preservation District – Ms. Nickerson wishes to create an Agricultural Land Preservation District on her 172-acre farm located on Browntown Road in the 2nd Election District. The farm consists of 171 acres of crop land. Over 98% of the soils are considered Class I, II or III. There are no dwellings on the property. The farm is zoned “AZD”, Agricultural Zoning District and is outside the 10-year water and sewer plan.

Present and duly sworn in was Carla Gerber, Planner.

Ms. Gerber gave an overview of the application and cited the applicable laws from the code of Public Laws of Kent County which establishes a program of Agricultural Land Preservation. Ms. Nickerson's farm exceeds the criteria.

Mr. Sutton mentioned that this property was part of a land swap within the family and asked if the farm was previously a preservation district that transferred with the property. Ms. Gerber stated the property was not a district prior to the transfer.

Ms. Kohl asked if a property had to be a district before it goes into an easement and is that county specific. Ms. Gerber stated yes, in 2012 all State districts were terminated. However, Kent County decided to keep districts and made it a prerequisite for applying to sell an easement.

Mr. Sutton made a motion to forward a favorable recommendation to the County Commissioners. Ms. Kohl seconded the motion, and it was approved unanimously.

Lewis, Bryan and Christopher McDonald – Agricultural Preservation District – Mr. McDonald wishes to create an Agricultural Land Preservation District on his 220.761-acre farm located on Chesterville Road in the 2nd Election District. The farm consists of 218 acres of crop land. 100% of the soils are considered Class I or II. There are no dwellings on the property. The

farm is zoned “AZD”, Agricultural Zoning District and is outside the 10-year water and sewer plan.

Present and duly sworn in was Lewis McDonald, applicant, and Carla Gerber, Planner.

Ms. Gerber gave an overview of the application and cited the applicable laws from the code of Public Laws of Kent County which establishes a program of Agricultural Land Preservation. This farm exceeds the criteria.

Ms. Morris asked the applicant if he had anything to say about this parcel. Mr. Lewis stated this parcel joins another parcel already in preservation and he wishes to create a larger block and eventually sell an easement.

Mr. Hickman made a motion to forward a favorable recommendation to the County Commissioners. Ms. Kohl seconded the motion, and it was approved unanimously.

Lewis, Bryan and Christopher McDonald – Agricultural Preservation District – Mr. McDonald wishes to create an Agricultural Land Preservation District on his 309.49 acre farm located at 12334 Kennedyville Road in the 2nd Election District. The farm consists of 241 acres of crop land and 56.6 acres of woodland. Over 88% of the soils are considered Class I, II or III or Woodland Group 2. There is one dwelling on the property. The farm is zoned “AZD”, Agricultural Zoning District and is outside the 10-year water and sewer plan.

Present and duly sworn in was Lewis McDonald, applicant, and Carla Gerber, Planner.

Ms. Gerber gave an overview of the application and cited the applicable laws from the code of Public Laws of Kent County which establishes a program of Agricultural Land Preservation. This farm exceeds the criteria.

Ms. Morris asked if the applicant wished to state anything about this parcel. Mr. Lewis stated he recently purchased this farm and that it adjoins other preserved lands. Eventually, he would like to sell an easement.

Mr. Hickman made a motion to forward a favorable recommendation to the County Commissioners. Ms. Kohl seconded the motion, and it was approved unanimously.

Lewis, Bryan and Christopher McDonald – Agricultural Preservation District – Mr. McDonald wishes to create an Agricultural Land Preservation District on his 228.68 acre farm located at 13219 Bloomfield Road in the 2nd Election District. The farm consists of 188 acres of crop land and 32.6 acres of woodland. Over 90% of the soils are considered Class I, II or III or Woodland Group 2. There is one dwelling on the property. The farm is zoned “AZD”, Agricultural Zoning District and is outside the 10-year water and sewer plan.

Present and duly sworn in was Lewis McDonald, applicant, and Carla Gerber, Planner.

Ms. Gerber gave an overview of the application and cited the applicable laws from the code of Public Laws of Kent County which establishes a program of Agricultural Land Preservation. This farm exceeds the criteria.

Ms. Morris asked if the applicant wished to state anything about this parcel. Mr. Lewis stated this is the farm on which he lives and it adjoins other farms under easements. Eventually, he would like to sell an easement.

Mr. Hickman made a motion to forward a favorable recommendation to the County Commissioners. Ms. Kohl seconded the motion, and it was approved unanimously.

14-31 John and Ellyn Vail and Sabine Harvey- Zoning Text Amendment – The applicants are proposing a zoning text amendment which would allow backyard chickens in residential districts under specific conditions.

Present and duly sworn were Sabine Harvey and John and Ellyn Vail, the applicants, and Carla Gerber, Planner.

Ms. Gerber gave an overview of the proposed text amendment and reviewed the staff report noting the Applicable Laws of the Kent County Land Use Ordinance to include Article XII, Section 6 which establishes the standards for the review and approval of a zoning text amendment.

Ms. Harvey handed out a folder with information to all the members for their review. Ms. Vail and Ms. Harvey spoke of their personal backgrounds and their wishes to keep chickens on their properties. Ms. Vail summarized research she conducted of surrounding State and County laws and concluded that Anne Arundel and Baltimore Counties allowed the keeping of backyard chickens. She stated it was difficult to read the Kent County Ordinance.

Discussion with members and the applicants continued with concerning subdivision covenants and the Kent County Ordinance. Members addressed concerns regarding residents going out and buying chickens to later find they no longer want to care for them. Will this become an animal control issue in the future? Additional discussion ensued on composting, rodent control, waste management and what happens with the chickens that become nonproducing.

Mr. Vail talked about the public needs, the Ordinance, and the number of residents that have illegal chickens.

Discussion continued about visibility issues and the reasoning for requiring chickens to be kept in the rear yard, especially for waterfront properties which would result in chicken coops being located on the road side of waterfront properties.

Mr. Sutton asked Mr. Mowell for his comments.

Mr. Mowell stated that zoning and subdivision covenants were put in place to protect property owners.

After much discussion, Mr. Hickman made a motion to forward a favorable recommendation for the keeping of backyard chickens under the following conditions:

- Backyard chickens are defined as females of the species *Gallus gallus domesticus* kept for non-commercial purposes. The keeping of males of the species is not permitted.
- The maximum number of chickens, 4 months or older, permitted on any lot is determined by lot size.
- No more than 5 chickens are permitted on a lot of ¼ acre to 1 acre.
- No more than 8 chickens are permitted on lots over 1 acre.
- The area for keeping backyard chickens must be enclosed in such a fashion that the chickens are confined and not able to leave the owner's property. Backyard chickens will be provided with a covered, predator-proof coop or cage that is well ventilated. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property.
- Structures (coops) for the housing of backyard chickens must meet the permitted requirements of this Ordinance. For movable coops, the permit application will show the area in which the coop will be moved. A copy of the Maryland Poultry Registration Form must accompany the building permit application.
- Coops must be set back a minimum of 15 feet from any property line.
- Coops may be placed in rear yards only.
- Each coop must be kept clean and free of odors and materials that can attract vermin.
- Waste must be composted or removed from the property
- The outdoor slaughtering of chickens is not permitted.

- There is a public need to allow all residents in a rural farm community who would like to grow and produce their own food for health and esthetic reasons.
- The amendment is consistent with the Comprehensive Plan "Vision for Kent County" to promote: a diverse, stable economy; stewardship of our lands and waters; agriculture and working landscapes; preservation of our cultural, historical and archeological resources; and elements necessary to enrich the lives of our citizens and sustain a healthy community

Ms. Kohl seconded the motion, and it was approved unanimously.

14-33 William and Tina Landon - Zoning Text Amendment – The applicants are proposing a text amendment to allow new and used boat sales, boat and motor repairs, convenience stores, marine supply stores and self-storage facilities to the list of permitted uses in the Village District.

Present and duly sworn were William and Tina Landon, the applicants, and Amy Moredock, Director.

Mr. Hickman stated he manages the property adjacent to the Landon's parcel, which is zoned Village, but could act fairly on the issue.

William and Tina Landon have submitted an application to amend Article V, Section 7.2, Village District Permitted Uses and Structures, of the Kent County Land Use Ordinance by adding the following new Permitted uses of new & used boat sales, boat and motor repairs, convenience store, marine supply store and self-storage units.

Ms. Moredock gave an overview of the proposed text amendment and reviewed the staff report noting the Applicable Laws of the Kent County Land Use Ordinance to include Article XII, Section 6 which establishes the standards for the review and approval of a zoning text amendment.

Ms. Moredock stated that she received a letter from James Gillespie, President of Gillespie & Sons Inc., supporting William and Tina Landon's application. As a fellow businessman, he sees it as being good for the County's economy. The Department received no further correspondence or phone calls regarding the application.

Pat Heinfeld, representative for Peoples Bank of Kent County, spoke in support of the proposed text amendment.

Dan Saunders, representing the Landons, spoke in regard to the Comprehensive Plan showing the need for the text amendment to allow economic growth in the County and create more jobs for Kent County residents. Mr. Saunders continued by addressing marine uses and the fact that such uses, as proposed in the text amendment, do not need to be located within the Marine District and the Critical Area. He further noted that establishing standards which mirror Crossroads Commercial standards is consistent with the intent of the Ordinance.

Discussion continued about the overall look of the storage units, fencing, and size of boats that will be stored on applicable properties. Mr. Crowding mentioned the possibility that the Landon parcel may have been zoned incorrectly.

Ms. Kohl excused herself from the meeting at 4:10 pm.

After much discussion, Mr. Hickman made a motion to send a favorable recommendation for the amendments with the following conditions and findings of fact:

- Item #23 should be removed from the proposed amendment language. The convenience store as proposed is already listed as a permitted use under "Neighborhood retail businesses," and the fuel sales option is listed as a special exception under "Automobile service stations, but not including repair". There would be no public need to add this language to the Ordinance and adding such language would create inconsistencies within the listed Permitted Uses and Special Exceptions in the Village District.
- Item #24 should be reworded as follows in order to remain consistent with exiting Ordinance language: "This use shall require a site plan" should be replaced with "subject to site plan review".
- Item #25.6 should likewise be reworded: "This use shall require a site plan" should be replaced with "subject to site plan review".
- Item #26 should be amended to reflect consistency with Village Design Elements and Standards as follows: "Up to 30 self-storage units in 1 building not to exceed 100 square

feet of floor space per unit, subject to site plan review. The property shall front on 2 public roads.”

- The proposed text amendment is consistent with the Comprehensive Plan goals and strategies to insure that towns and villages are attractive places to live and work and that future growth complements and enhances the character of the existing towns, villages, and hamlets; to expand and provide more diversity in the size and number and type of businesses in the County; to promote development of small, locally owned businesses, to encourage more young people to live and work in Kent County; and to promote Kent County as a boating center.
- The proposed text amendment addresses a public need which exists to support the Marine Industry in accordance with the Comprehensive Plan.

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

2013 Annual Report – As required by the Land Use Article, staff has prepared an Annual Report which includes information on a number of growth and development related indicators. In summary, development activity remained sluggish in 2013 but showed improvement from 2012. In 2013, 40 more permits were applied for than in 2012, and the number of new dwellings permitted increased from 20 to 33. More new dwellings continue to be located in county-designated growth areas than in agricultural or resource areas.

Accessory buildings and residential additions/alterations account for the greatest number of permits, followed by demolition. Although it should be noted that many accessory buildings and residential additions/alterations also have an associated demolition permit.

Subdivision and site plan activity increased from 2012. Although the number of new lots approved is substantially greater than in the last few years, 47 of the 54 lots approved are in Phase II of the Village at Kennedyville. Staff also reviewed 12 site plans, 4 of which were major site plans; ten received final approval and represented commercial development.

Ms. Morris said she thought it was well done and very inclusive. Ms. Morris asked Ms. Gerber if she was able to use last year’s model. Ms. Gerber stated yes, which makes it much easier to prepare the report. It was noted that the Appendix D worksheet is required by the Maryland Department of Planning.

Mr. Sutton made a motion to approve the Annual Report and to forward a copy to the County Commissioners. Mr. Crowding seconded the motion and it was unanimously approved.

STAFF REPORTS

Carla Gerber: Nothing to report.

Bill Kerbin: Nothing to report.

Mitch Mowell: Nothing to report

Amy Moredock:

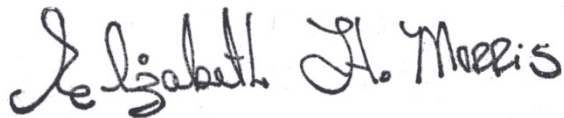
- Worked with Joe Blizzard to give a presentation to 9th grade students at Kent County High School in May.
- Gave a presentation to the Lions Club of Rock Hall regarding the floodplain map and ordinance updates and the Critical Area programs. Mr. Bellows attended.
- Participated in the Eastern Shore Local Government Exchange, a group that discusses state-mandated programs that local governments must implement.
- Staff has been processing a lot of administrative hearings. Three administrative special exceptions have been granted for large accessory structures in the community on properties less than five acres.
- Ms. Morris asked the members if they thought quarterly reports would be helpful for administrative hearings instead of annual reports. Members agreed quarterly reports would be helpful. Staff will provide such a report in future.
- The MACO summer conference has been announced.

GENERAL DISCUSSION

Mr. Hickman asked for an update about Apex Wind Energy. Ms. Moredock stated that Dan Saunders and the Apex representative have been going around to different boards and committees making presentations on what is planned.

Mr. Crowding asked about the status of the Village at Kennedyville. Ms. Moredock stated the County Commissioners agreed to accept Letters of Credit for Phase II in stages. Letters of Credit have been called in for many line items in Phase I. Discussion regarding the project and the public's concerns continued. Ms. Moredock ended the discussion stating the provisions for amenities outlined in approvals and the Public Works Agreement are still in place and on track.

There being no further business for the good of the organization, the meeting was adjourned at 4:50 p.m.



Elizabeth Morris, Chairperson

Tonya L. Thomas, Clerk