

MINUTES

The Kent County Planning Commission met in regular session on Thursday, September 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 were: Amy 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 August 7, 2014, meeting, were approved as presented via today's meeting.

APPLICATIONS FOR REVIEW:

Stephen Stoltzfus- Site Plan Review- Agricultural District- Stephen Stoltzfus is requesting 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 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.

While structures for the sale of farm products related to agriculture, including seed and fertilizer sales, is a permitted use, when the total square footage of the on-site buildings exceed 10,000 square feet then a Special Exception must first be granted by the Board of Appeals. The AZD regulations in Article V, Section 1.3.28, as well as the Special Exception provisions in Article VII, Section 7.59 of the Land Use Ordinance, allows as special exceptions structures for the buying, processing, or sale of farm products related to agriculture, including the sale of fertilizer and seed but not including animal products, in structures that exceed 10,000 square feet but are less than 25,000 square feet in the AZD.

This is an application that is sent directly to the Board of Appeals. The Board of Appeals approved the application for Special Exception at their meeting of August 25, 2014. The approval did not include any conditions.

Present and duly sworn in was Michael A. Scott of Michael A. Scott, Inc., representing Stephen Stoltzfus and Katrina 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 1.3.28 and Article VII, Section 7.59 which establish Special Exception provisions; Article V. Section 1.5 which establishes the area, height, width and

yard requirements; Article V, Section 1.8 which establishes the general Design Standards; Article V, Section 1.7 which establishes the environmental standards; and Article VI, Section 5 which outlines the procedures and requirements for site plan review.

Ms. Tucker reported that following the Technical Advisory Committee (TAC) meeting staff had discussions with the applicant in the Department's office in regard to the vehicular clearance around the rear corner of the building addition, from which there was clearly a misunderstanding. The applicant proceeded to grade the site to expand the stone surfaced area. This grading included area within the stream protection corridor. The area recently graded is 11,983 square feet, of which 5,069 square feet is within the stream protection corridor. The expanded area is shown on the updated site plan.

Ms. Tucker also advised propane tanks that were reflected on the initial site plan submittal have been disconnected and moved for the grading that has occurred and the new location has not been shown on the updated site plan. Additionally, a solar array approved by Building Permit #13-114 is also not shown on the site plan.

Mr. Scott gave a brief overview of the scope of the proposed business.

Mr. Scott stated that he was not advised that the applicant had graded to accommodate additional tractor trailer passage within the stream protection corridor. The solar array was not shown on the site plan due to the fact that it was not within the current building area.

Mr. Scott also advised that he disagrees with the designation of the blue line stream. Ms. Moredock stated that project review is beholden to the U.S. Geological Survey maps. Mr. Scott advised that he intends to have the U.S. Army Corps of Engineers re-evaluate the stream by requesting a jurisdictional determination.

Ms. Morris asked if they are able to approve the final site plan contingent on the findings of the Army Corps of Engineers. Ms. Moredock stated the Planning Commission would not be approving any changes or alterations, only approving what is before them.

Mr. Scott suggested delaying the approval process due to the lack of communication directly with the applicant, who was not present.

Ms. Moredock noted that the Planning Commission could proceed with the site plan review based on the information provided. If the Army Corps Engineers decision should alter the site configuration as planned, then the applicant could proceed with a minor amendment review which could be processed administratively.

Mr. Hickman made a motion to approve preliminary based on the following findings:

- ◆ The Board of Appeals has approved the Special Exception Use.
- ◆ The application is consistent with the Comprehensive Plan.
- ◆ The existing building and proposed addition complies with the minimum area, height, width and yard Requirements of Article V, Section 1.5 of the Agricultural Zoning District (AZD).

- ◆ The proposed building addition will not encroach into the 100-foot stream protection corridor. The existing parking area, scale house, decking and scale that are located within the stream buffer were constructed prior to the adoption of the current Land Use Ordinance.
- ◆ In general, the AZD Design Standards in Article V, Section 1.8 of the Land Use Ordinance addressing site access, parking, lighting, and landscaping have been met.
- ◆ 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.

Prior to final approval the following items must be addressed:

- ◆ The directional flow for loading and unloading of tractor-trailers being reflected on the site plan and a directional sign for “all deliveries” will be installed.
- ◆ Since grading has recently occurred in the stream protection corridor, mitigation is required which involves returning the area within this buffer to grass, unless the applicant can obtain a jurisdictional determination from the U.S. Army Corps of Engineers.
- ◆ Since the area recently graded exceeds 5,000 square feet the applicant will be required to address storm water management, as well as sediment and erosion control.
- ◆ The site plan must reflect all structures on-site. This includes the location of the:
 - Propane tanks which were reflected on the initial site plan submittal but have been disconnected and moved for the grading that occurred and were not shown on the updated site plan submitted on August 29, 2014; and,
 - Solar Array that was approved by Building Permit 13-114 issued on April 18, 2013.
- ◆ Approval of sureties for storm water management and sediment control.

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

Mr. Hickman made a motion, which was seconded by Mr. Sutton, to approve the final site plan based on the findings noted above; however the motion did not pass due to a tie vote (3 nay votes cast by Mr. Birkmire, Ms. Kohl, and Ms. Morris and 3 yeah votes cast by Mr. Crowding, Mr. Hickman, and Mr. Sutton).

Hazard Mitigation Update

Ms. Moredock noted that the plan is mandated for local jurisdictions through Disaster Mitigation Act of 2000 which established a national Pre- Disaster Mitigation Grant Program for the completion of local mitigation projects. Local Plans must be current in order to be eligible for certain mitigation grant funding. The Plan was initially adopted by resolution in November 2004 and should be updated every five years.

Following the Planning Commission's review of the Plan last November, staff received comments from FEMA to be addressed before the Plan could be adopted. Some changes, such as clarifying definitions, were minor; other changes were more significant and include the following additions to the Plan:

- A background section to provide more information about Kent County;
- An earthquake section;
- A completed mitigation projects section; and
- List of Planning Team Members.

Ms. Moredock stated Ms. Gerber finalized the Hazard Mitigation Plan. The County and all 5 incorporated towns will adopt the updated plan by resolution.

Ms. Kohl made recommendation that the Planning Commission send a favorable recommendation to the County Commissioners to approve the updated plan as revised.

Mr. Birkmire seconded the motion; and the motion passed unanimously.

Staff Reports

Amy Moredock

- Ms. Moredock stated the Inn at Huntingfield Creek application to expand from an Inn to a Retreat was delayed after the project was sent as required to Critical Area Commission staff for review. The Critical Area Commission staff interpreted the Land Use Ordinance to have meant growth allocation should have been of issue in the application to expand to a retreat. Mr. Kerbin and Ms. Moredock had numerous discussions/conference calls regarding the proposal and came to a compromise in their interpretation. As a result the Inn at Huntingfield Creek is revising its submittal and should be placed on the October agenda.
- There has been a minor change to the Camp Fairlee Manor site plan which was approved in 1987. Numerous buildings on the original site plan have been condensed into one building and the locations of several other buildings have shifted; however, the site plan is basically the same in terms of the "campus area" of the Camp, and the overall area of disturbance has been reduced. Therefore, it has been determined that additional site plan review will not be required.
- Eastern Shore Land Conservancy will be holding their 15th Annual Planning conference on November 20, 2014 at the Tidewater Inn in Easton.
- Maryland Planning Commissioners Association will be conducting their 31st Annual conference October 16th & 17th in Solomon's, Calvert County.

Katrina Tucker:

- Ms. Tucker and Ms. Gerber met with Myra Butler, Director of Parks and Recreation, and Staff from Department of Natural Resources regarding the next Land Preservation, Parks and Recreation Plan (LPPRP).

Bill Kerbin:

- Mr. Kerbin and Mr. Foreman have conducted multiple site visits at Mr. Steve Green's property which have revealed noncompliance with several items of his special exception and site plan approval. A letter sent to Mr. Green states that legal action will be taken if compliance is not achieved expeditiously, as this is not the first correspondence sent regarding this matter.

GENERAL DISCUSSION

Mr. Crowding suggests projects be postponed until the applicant has everything addressed and all documents are complete. Ms. Morris agreed that all information needs to be present in order for an application to be heard.

Staff noted that the October Planning Commission agenda currently contains approximately 7 items, so it may be a long meeting.

There being no further business for the good of the organization, the meeting was adjourned at 3:57 p.m.

Elizabeth Morris, Chairman

Tonya L. Thomas, Clerk