

MINUTES

The Kent County Planning Commission met in regular session on Thursday, November 2, 2017, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; William Sutton; Ed Birkmire; William Crowding, Kim Kohl, James Saunders, and Joe Hickman. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; Stephanie Jones, Environmental Planner; Katrina Tucker, Community Planner; G. Mitchell Mowell, Planning Commission Attorney; and Tonya Thomas, Secretary.

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

MINUTES

The minutes of October 5, 2017 were approved as presented.

APPLICATIONS FOR REVIEW

16-42 Brickyard Land Holding, LLC, requesting final site plan approval for the addition of a 2.49-acre finished product storage yard and construction of a 5,926-square foot office building, after demolition of the existing 1,874 square foot office building, at the existing manufacturing facility located at 523 Morgnec Road, just outside of the municipal limits of the Town of Chestertown.

Present and duly sworn in were: Kevin Shearon, DMS & Associates, Jim Gillespie, Applicant; and Katrina L. Tucker, Community Planner.

Ms. Tucker gave an overview of the application, the history of prior site plan approvals, and cited the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 15.2 that establishes site plan review for all permitted uses and structures in the Industrial District; Article V, Section 15.5 which establishes the density, height, width, bulk, and fence requirements; Article V, Section 15.6 which establishes the Industrial Performance Standards; Article V, Section 15.7 that establishes the Industrial General Standards; Article V, Section 15.8 which establishes the Industrial Environmental Standards that include the forest conservation and stormwater management standards; Article VI, Section 8 that sets forth the provisions for Forest Conservation and specifically in Section 8.4.H.3 it states that "non-tidal wetlands shall be considered priority areas for retention and replacement; Article V, Section 15.9, in which the Industrial District General Design Standards are established that address site access, landscaping, screening, and lighting; Article VI, Section 1.3 establishes the parking standards; and Article VI, Section 5 which establishes the procedures and requirements for site plan review.

Ms. Tucker stated that no correspondence had been received regarding this application.

Mr. Shearon stated the Lot Line Adjustment had been recorded and the Citizen Participation Plan was conducted through letters to the adjacent property owners with no correspondences received. The applicant requested permission to remove the bike rack from the final site plan noting that it is not a requirement of the *Ordinance* since bicycle parking is only necessary where the required parking is 20 spaces; therefore, the threshold for bicycle parking was not met since the parking spaces provided are greater than the minimum required for this project.

After much discussion and consideration of the applicant's testimony, Mr. Hickman made a motion to approve the final site plan, provided that the Forest Conservation Declaration is recorded prior to signatures, based on the following findings of fact:

- The proposal is consistent with strategies and goals of the Comprehensive Plan, including the goal to retain and promote existing businesses in the County.
- The manufacture of concrete and ceramic products is a principle permitted use and the finished product storage yard is accessory to that permitted use.
- All setback and height requirements are met.
- A lot line adjustment plat has been approved and recorded to relocate a property line that had bisected the corner of the existing concrete production building such that the new side yard setback will be in excess of 100 feet.
- The Industrial Performance Standards and General Standards of Article V, Sections 15.6 and 15.7 of the *Land Use Ordinance* were addressed with the preliminary site plan approval.
- Forest Conservation will be addressed on-site by deed restricting 0.49-acres of existing forest in a Forest Conservation Agreement and providing 0.14-acres of afforestation to meet the 0.63-acres required.
- Vehicular and pedestrian movement is adequately addressed onsite.
- The off-street parking provided exceeds the requirements. A bicycle rack does not need to be provided since the threshold for bicycle parking was not met.
- Stormwater management and sediment control plans for the new 2.49-acre finished product storage and office building have been approved by Kent County Soil Conservation.
- Screening in the front of the new 2.49-acre finished product storage yard along Morgnec Road is shown on the landscape plan which has been approved.
- The applicants Citizen Participation Plan consisted of letters being mailed to surrounding property owners. Through testimony the applicant advised Planning Commission that they have not received any correspondence or contact in this regard.
- Sureties for stormwater management, sediment and erosion control, and landscaping have been posted.

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

#17-45 Judith and John Casey, requesting an 12-foot front yard variance from the required 50-foot front yard setback requirement in order to construct a 70-foot by 10-foot wooden deck at the front of the existing dwelling located on a 0.44-acre parcel at 5020 Hillmont Drive in the Fifth Election District and zoned Critical Area Residential.

Present and duly sworn in were Daniel C. Saunders, Attorney, John and Judith. Casey, Applicants, and Stephanie Jones, Environmental Planner.

Ms. Jones gave an overview of the application and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 5.5 which sets the minimum yard requirements and Article IX, Section 2.2 which authorizes the Board of Appeals to grant variances from the yard requirements.

Ms. Jones stated that letters from adjacent property owners were in the Planning Commission packets along with the 2 letters distributed to the members prior to the meeting. No other correspondence had been received regarding this application.

Mr. Saunders gave an overview of the proposed project. The unusual shape of the property and the location of the dwelling create a practical difficulty which is not unusual to the neighborhood. The Casey's are requesting this variance to enable the full use of the doors located along the front of the house and to enjoy the water view from the proposed porch.

Ms. Jones explained the history of this property to include a discrepancy between the 2006 single family dwelling building permit approval and the current survey which documents a front yard setback of 48.98 feet. Ms. Kohl questioned the construction plans submitted with the 2006 application and inquired as to the building code requirements relative to the safety of the doors which front the road.

After much discussion, Mr. Hickman made a motion to send a favorable recommendation to the Kent County Board of Appeals based on the following:

- Granting a variance will neither cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district. Surrounding neighbors support the granting of the variance.
- The Comprehensive Plan is neutral on this application, and the proposal is consistent with the Critical Area Law.
- The practical difficulty was caused by the size of the property and the unsafe nature of the doors fronting the road. Constructing a deck in compliance with the building code will address this safety concern. The proposed deck meets side and rear lot line setback requirements.

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

RESOLUTION TO ADOPT THE UPDATED COMPREHENSIVE PLAN

The meeting summary from the September 7, 2017 Draft Kent County Comprehensive Plan work-session was approved as presented.

Testimony was offered by Attorney Charles MacLeod, representing his client, Richardson Property Corporation, who owns land located at the US 301 interchange near Millington. Mr. MacLeod encouraged the County's continued coordination with the Town of Millington regarding the Route 301 Corridor. He further encouraged the Planning Commission to consider revising the draft strategy regarding the expansion of regulatory flexibility for the creation of location of employment centers and industrial uses. He specifically noted that this strategy should widen its focus to include the entire Route 301 Corridor and not just the east side.

The Planning Commission reviewed the proposed edits and revisions to the draft Plan as presented by staff in response to the recommendations made at the September 7th work-session. After discussion and changes made by concurrence of the Commission, Mr. Birkmire made a motion to approve the updated Comprehensive Plan and forward the Planning Commission's recommended Comprehensive Plan to the County Commissioners for adoption. Mr. Saunders seconded the motion, and it was approved unanimously.

Staff Reports

Amy Moredock:

- Ms. Moredock granted an administrative special exception for a proposal to construct an accessory structure at a height of 22.33 feet on a parcel less than 5 acres located at the end of Shallcross wharf Road.
- The 13th Annual Maryland Association of Stormwater and Floodplain Managers was held on 12 October 2017 in Linthicum. Ms. Moredock has been the Eastern Regional Representative for many years and assists with conference preparation annually. A record number of attendees participated in

the conference. The MASF board noticed that its Eastern Shore membership is low and is working to plan an upcoming conference of the Shore to ensure ease of participation. Most MASF activities, in the past, have had a strong Western Shore focus.

- Ms. Moredock will participate in a panel discussion at a Solar and Wind Energy Session at this year's Maryland Planning Commissioners Association's annual conference on 3 November 2017. Commission member Bill Crowding will also attend.
- All planners will attend the 18th Annual ESLC Planning Conference on 9 November. This year's theme is "Conservation Save the World: Using Land to Unit."
- On 15 November, Ms. Moredock will participate in an online meeting sponsored by the Maryland Transportation Authority regarding the Chesapeake Bay Crossing Study: Tier 1 NEPA (Bay Crossing Study). The purpose of the Study is to identify the location of a new crossing and to explore potential financial options. The Study is expected to be completed in late 2020. The online meeting will include a presentation with an overview of the project, study area and schedule. MDOT is seeking public input on the project scope and purpose and need.
- Within the past few years, enforcement staff has seen an increase in the appearance of tractor trailers and cargo trailers being used on properties as storage sheds. We actively pursue these cases as enforcement actions. It is possible that a recent case will result in an after-the-fact building permit application which Ms. Moredock will deny under the "uses not listed in the Ordinance are not permitted" (citing that all trailers are licensed under the Motor Vehicles Administration and must be licensed to the property owner; they are not "structures" as defined by the Ordinance). The property owner has been advised by her attorney to file an appeal of the Zoning Administrator's decision t the Board of Appeals.
- Ms. Moredock will not be in attendance at the 7 December Planning Commission meeting as she will be attending the MACo (Maryland Association of Counties) Winter Conference from 6-8 December. This year's theme is "The Power of Partnership."

Katrina Tucker:

- Ms. Tucker continues to collaborate with the Director of the County's Department of Parks and Recreation to draft the update of the Land Preservation, Parks, and Recreation Plan (LPPRP) . The draft will be presented to the Agricultural Preservation Advisory Board and the Parks and Recreation Advisory Board in November and then to the Planning Commission at the December 2017 meeting.
- Ms. Tucker conducted the baseline inspection and submitted the report to the Maryland Agricultural Land Preservation Foundation (MALPF) for the first farm that received and accepted an offer to sell and Agricultural Preservation Easement from the 2016 easement application cycle. Kent County received one other Round 1 offer; four Round 2 offers have just recently been made.
- MALPF will be accepting applications in 2018. Ms. Tucker will send a letter to everyone who has a farm enrolled in a Kent County Agricultural Land Preservation District advising them to contact her to schedule a meeting starting in February in order to complete the application if they're interested in applying to sell an easement to MALPF in this upcoming cycle.
- The Maryland Agricultural & Resource Based Industry Development Corporation (MARBIDCO) approved six applications for the Next Generation Farmland Acquisition Program. There are one each from Frederick County, Prince George's County, and Talbot County, and three from Washington County. MARBIDCO is now offering a second mini-round for the Next Generation Farmland Acquisition Program. Interested applicants need to contact their local program administrator, Ms. Tucker, by Monday, November 20 and applications are due to MARBIDCO on December 20th with a goal of settlements occurring in Spring 2018 for the selected properties. There are some changes to the application, which was released on November 1st, and modifications to the definition of "Beginner Farmer."

- The *Land Use Ordinance* has been updated to include the text amendment for waste management structures and the “Industrial” and “Employment Center” errata. Ms. Tucker provided the updated pages for the members in their meeting packets.
- The Board of Appeals granted the changes to the conditions of the Special Exception for Massey Aero, LLC.
- There are no current updates on the Massey Solar, LLC, project (for which the concept plan was presented as Community Energy Solar, LLC, to the Planning Commission in December of 2015, and is proposed on the lands of Benjamin Stafford, that are zoned “Employment Center”).

Stephanie Jones:

- The Critical Area First Quarter Report for 2018 was submitted to the Critical Area Commission in October. During that quarter (July 1st to September 30th) 27 Buffer Enhancement/Management Plans and 36 Critical Area Forest Clearing Plans were approved.
- Ms. Jones attended the 2017 Maryland Association of Floodplain and Stormwater Managers Conference on October 12th.
- Ms. Jones attended the “Keeping History Above Water” Conference from October 30th to November 1st. The conference focused on historical structures being inundated by sea level rise, floodplains, and how to resolve these problems. Ms. Jones presented with Brian Ambrette, from ESLC, about the Climate Change and Sea Level Rise Adaptation Report and the Eastern Shore Climate Adaptation Partnership.
- The Board of Appeals granted Christian Havemeyer a special exception to construct 11 tie-out pilings 176 feet channelward for the exclusive mooring of a tall ship to provide safe harbor during extreme weather events.
- Ms. Jones will be attending a leadership training, “Building Community Resiliency” provided by Sustainable Maryland and Environmental Finance Center at the University of Maryland on November 13th. Topics include stories and tools to help build community resilience.

General Discussion:

There being no further business for the good of the organization, the meeting was adjourned at 3:51 p.m.

Elizabeth Morris, Chairman

Tonya L. Thomas, Clerk