

MINUTES

The Kent County Planning Commission met in regular session on Thursday, December 7, 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, James Saunders, and Joe Hickman. Staff in attendance were: 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 November 2, 2017 were approved as presented.

AGRICULTURAL PRESERVATION DISTRICT APPLICATIONS

ALP 16-5 Richardson Clover Leaf Farms, LLC, seek to establish an Agricultural Preservation District on their farm located at 10946 Kennedyville Road, in the Second Election District. This farm is comprised of 224.667-acres containing 92% qualifying soils and is in the Agricultural Zoning District (AZD). There are no dwellings on the farm.

Present and duly sworn in was Ms. Jennifer Richardson, Applicant; and Ms. Tucker, Community Planner.

Ms. Tucker cited the applicable law found in the *Code of Public Laws of Kent County in Chapter 171: Agricultural Preservation Districts*, which establishes a program of Agricultural Land Preservation; sets forth the process and criteria for the establishment of districts; provides that the sale of an easement shall be on the entire farm; provides that the Agricultural Preservation Advisory Board and the Planning Commission shall advise the County Commissioners as to whether or not the establishment of the district meets the criteria of the Agricultural Article, Title 2, Subtitle 5, of the Annotated Code of Maryland and Maryland Regulations 15.15.01; and is compatible with existing County plans and overall County policy.

Ms. Tucker provided background information as outlined in her staff report. She further noted that this farm is located within the Priority Preservation Area (PPA). Ms. Tucker also advised that although this farm does not directly adjoin any lands under an easement, within a two-mile radius in all directions are significant blocks of preserved lands encompassed by easements held by the Maryland Agricultural Land Preservation Foundation (MALPF) as well as other farms in a Kent County Agricultural Preservation District. The farm is located outside the 10-year water and sewer planning service area. Ms. Tucker advised that the Agricultural Preservation Advisory Board reviewed this application at their meeting on November 13, 2017 and unanimously submits its favorable recommendation

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

Following discussion by the members of the Planning Commission, Mr. Sutton made a motion to forward a favorable recommendation to the County Commissioners based on the following findings:

- Meets the minimum size requirement of 50 acres.
- At least 50% of the land consists of Soil Capability Classes I, II, III or Woodland Groups 1 or 2.
- The land lies outside of the 10-year water and sewer service area.
- The property consists of land which is either used primarily for production of food or fiber or is of such open space character and productive capability that continued agricultural production feasible.

- The Agricultural Preservation Advisory Board reviewed this application at their meeting on November 13, 2017, and unanimously submitted a favorable recommendation.
- The property meets or exceeds the criteria or creating an Agricultural Land Preservation District, complies with the goal of the Comprehensive Plan to preserve large blocks of contiguous prime agricultural land, and is located with the County's PPA. The Nutrient Management Plan as well as the Soil Conservation Plan are current.

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

ALP 17-07 JAD Properties, LLC, seeks to establish an Agricultural Preservation District on their farm located at 12371 Augustine Herman Highway (MD Route 213) in the Second Election District. The farm contains 93.2% qualifying soils based on the 210.77-acres per the State Department of Assessments and Taxation (SDAT) acreage, and is in the Agricultural Zoning District (AZD). There is one dwelling on the farm.

Present and duly sworn in was Ms. Jennifer Debnam, Applicant; and Ms. Tucker, Community Planner.

Ms. Tucker cited the applicable law found in the *Code of Public Laws of Kent County in Chapter 171: Agricultural Preservation Districts*, which establishes a program of Agricultural Land Preservation; sets forth the process and criteria for the establishment of districts; provides that that the sale of an easement shall be on the entire farm; provides that the Agricultural Preservation Advisory Board and the Planning Commission shall advise the County Commissioners as to whether or not the establishment of the district meets the criteria of the Agricultural Article, Title 2, Subtitle 5, of the Annotated Code of Maryland and Maryland Regulations 15.15.01; and is compatible with existing County plans and overall County policy.

Ms. Tucker provided background information as outlined in her staff report. She further noted that this farm is located within the Priority Preservation Area (PPA) and other protected lands are in the vicinity. The farm adjoining the southern boundary is also in a Kent County Agricultural Preservation District, and that farm adjoins significant blocks of preserved lands encompassed by easements held by the Maryland Agricultural Land Preservation Foundation (MALPF). The farm is located outside the 10-year water and sewer planning service area. Ms. Tucker advised that the Agricultural Preservation Advisory Board reviewed this application at their meeting on April 18, 2017, and again on November 13, 2017, and unanimously submits its favorable recommendation

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

Following discussion by the members of the Planning Commission, Mr. Sutton made a motion to forward a favorable recommendation to the County Commissioners based on the following findings:

- Meets the minimum size requirement of 50 acres.
- At least 50% of the land consists of Soil Capability Classes I, II, III or Woodland Groups 1 or 2.
- The land lies outside of the 10-year water and sewer service area.
- The property consists of land which is either used primarily for production of food or fiber or is of such open space character and productive capability that continued agricultural production feasible.
- The Agricultural Preservation Advisory Board reviewed this application at their meeting on April 18, 2017, and again on November 13, 2017, and unanimously submitted a favorable recommendation.
- The property meets or exceeds the criteria or creating an Agricultural Land Preservation District, complies with the goal of the Comprehensive Plan to preserve large blocks of contiguous prime agricultural land, and is located with the County's PPA. The Nutrient Management Plan as well as the Soil Conservation Plan is current.

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

ALP 17-09 Langenfelder Family, LLLP, seeks to establish an Agricultural Preservation District on the farm located at 11491 Still Pond Road in the Second Election District. This farm is comprised of 491-acres containing 88% qualifying soils and is in the Agricultural Zoning District (AZD). There one dwelling on the farm.

Present and duly sworn in was Ms. Jennifer Debnam, Applicant; and Ms. Tucker, Community Planner.

Ms. Tucker cited the applicable law found in the *Code of Public Laws of Kent County in Chapter 171: Agricultural Preservation Districts*, which establishes a program of Agricultural Land Preservation ; sets forth the process and criteria for the establishment of districts; provides that that the sale of an easement shall be on the entire farm; provides that the Agricultural Preservation Advisory Board and the Planning Commission shall advise the County Commissioners as to whether or not the establishment of the district meets the criteria of the Agricultural Article, Title 2, Subtitle 5, of the Annotated Code of Maryland and Maryland Regulations 15.15.01; and is compatible with existing County plans and overall County policy.

Ms. Tucker provided background information as outlined in her staff report. She further noted that this farm is located within the Priority Preservation Area (PPA) and other protected lands are in the vicinity. The farm adjoins lands that are also in a Kent County Agricultural Preservation District, and is part of a block with over 3,770-acres of District properties. Though not directly adjacent, farms in an easement held by the Maryland Agricultural Land Preservation Foundation (MALPF) are nearby. The farm is located outside the 10-year water and sewer planning service area. Ms. Tucker advised that the Agricultural Preservation Advisory Board reviewed this application at their meeting on April 18, 2017, and again on November 13, 2017, and unanimously submits its favorable recommendation

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

Following discussion by the members of the Planning Commission, Mr. Sutton made a motion to forward a favorable recommendation to the County Commissioners based on the following findings:

- Meets the minimum size requirement of 50 acres.
- At least 50% of the land consists of Soil Capability Classes I, II, III or Woodland Groups 1 or 2.
- The land lies outside of the 10-year water and sewer service area.
- The property consists of land which is either used primarily for production of food or fiber or is of such open space character and productive capability that continued agricultural production feasible.
- The Agricultural Preservation Advisory Board reviewed this application at their meeting on April 18, 2017, and again on November 13, 2017, and unanimously submitted a favorable recommendation.
- The property meets or exceeds the criteria or creating an Agricultural Land Preservation District, complies with the goal of the Comprehensive Plan to preserve large blocks of contiguous prime agricultural land, and is located with the County's PPA. The Nutrient Management Plan as well as the Soil Conservation Plan is current.

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

APPLICATIONS FOR REVIEW

17-55 Creafill Fibers Corporation, is requesting combined concept review and preliminary site plan approval to construct shipping and receiving additions to three of their four existing buildings at

their facility located at 10200 Worton Road in the Third Election District. The property is currently occupied by several buildings that include a maintenance building, a shipping building, and two processing buildings, as well as an existing office building. These proposed additions, with a combined total of 23,264-square feet, will be to the two processing buildings and the shipping building. The property is zoned Industrial, and the current use of the property is an industrial manufacturing facility.

Ms. Morris recused herself from deliberations on this application due to owning property adjacent to the applicant. Ms. Morris left the dais.

Mr. Hickman stated he manages a corporation that owns land adjacent to the property; however, he did not feel that would affect his ability to make a fair and just decision based on the facts presented.

Present and duly sworn in were: Kevin Shearon, DMS & Associates, Paleo Frantz, 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 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 that establishes the parking standards; and Article VI, Section 5 which establishes the procedures and requirements for site plan review.

Ms. Tucker read into the record correspondence received from Mr. Bradley Norris, an adjacent property owner.

Mr. Shearon gave an overview of the project and history that started in 1994. Mr. Shearon stated the applicants are requesting the request for screening the loading area with the provision of landscaping along the northern property line be eliminated from the requirements of approval citing it is not mandatory if the business is compatible with the nature of the business on the adjacent property owner, and in this case there are similar loading and unloading docks at the facility on the adjacent property.

Mr. Frantz stated that even though Creafill Fibers Corporation continues to expand he had no plans to construct as many new buildings as was approved with the 1994 site plan. However, a solar farm may be constructed on the rest of the property if it becomes viable.

After much discussion and consideration of the applicant's testimony and noting that additional use of the railroad will be a very positive economic development tool and efficient means of transportation, Mr. Hickman made a motion to grant combined concept review and preliminary site plan approval, based on the following findings of facts:

- The proposal is consistent with strategies and goals of the Comprehensive Plan, including the retention and expansion of existing businesses.
- The proposed additions comply with setback and height requirements of the Land Use Ordinance.
- The performance standards have been adequately addressed in the narrative submitted with the application.

- The certified engineer's report notes that the use will not produce undue emissions of pollutants to the waters or air of the County. The expansions will not generate glare, radioactivity, electrical interference, smoke, particulate, toxic, or odorous matter. Noise and vibrations associated with the expansions are those typically associated with industrial facilities and will be related to tractor trailers and forklifts involved in the deliveries and shipments.
- The applicant has adequately addressed the explanation of materials, chemicals/solids to be discharged, traffic expected, and proposed hours of operation in the narrative submitted with the application.
- The narrative states truck trips to the site for shipping and receiving are anticipated to decrease by three to four trips per week.
- Vehicular and pedestrian movement is adequately -addressed onsite.
- The off-street parking provided exceeds the requirements. Since only 15 spaces are required, the threshold for providing a bicycle rack has not been met.
- Public water and sewer to the site is provided through the Worton/Butlertown Facilities.
- Lights mounted on the buildings will be dark sky compatible.
- Stormwater management is being re-evaluated to verify capacity and water quality treatment for the entire site, and sediment control plans are under review.
- The Forest Conservation Plan needs to be updated to supersede the 1994 plan, and the Forest Declaration or Agreement must be submitted to the Planning Commission for review and be recorded with a copy of the Forest Conservation Plan. The applicant should consider enhancing the screening along the front of the property by adding to the existing afforestation in this area.
- The Planning Commission determined no additional screening is necessary along the northern property line to effectively screen the expanded loading and unloading areas from the adjacent Kent County Business Park.
- The architectural building elevations have been submitted and reflect the additions will be compatible with the existing buildings.
- No new or additional signage is proposed at this time.
- The landscape planter and six evergreen boxwoods planted around the base of the sign that was approved by the Planning Commission under the bonus sign area criteria in July of 2016 must be maintained for as long as the sign remains, and the annual flowers must be planted every year as seasonally appropriate.
- The applicant's Citizen Participation Plan consisted of letters being mailed to surrounding property owners on October 31, 2017. The applicant's report advises that they have not received any responses or questions concerning this project. The single piece of correspondence received by the County was in support of the project.

In order to receive final site plan approval, Mr. Hickman added that the following outstanding items must be addressed:

- The Forest Conservation Plan must be updated and will supersede the 1994 plan, and the Forest Declaration or Agreement must be submitted to the Planning Commission Attorney for review and be recorded with a copy of the Forest Conservation Plan prior to final site plan approval.
- As a consideration for final approval, the applicant is encouraged to add to the existing afforestation area along the front of the property which would extend the screening along MD Route 297.
- Sediment and erosion control plans as well as stormwater management computations must be reviewed and approved by the Soil and Water Conservation District prior to final site plan approval.
- Sureties for stormwater management if required, sediment and erosion control, and forest conservation must be posted prior to final approval.

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

Draft – 2017 Kent County Land Preservation, Parks and Recreation Plan (LPPRP)

Ms. Myra Butler and Ms. Tucker gave a brief overview of the LPPRP and advised that this draft will be submitted to the Maryland Department of Natural Resources (DNR) and the Maryland Department of Planning (MDP) for review and comment. Comments from these State agencies will be addressed, and a revised draft will be presented in 2018 for the Planning Commission's action and recommendation to the County Commissioners. The Agricultural Preservation Advisory Board as well as the Parks and Recreation Advisory Board were presented with the chapters of the draft that are relevant to their responsibilities and function. Both Boards forwarded favorable recommendations to submit this draft to MDP and DNR for review.

The Planning Commission reviewed the draft Plan as presented and Ms. Butler and Ms. Tucker responded to their inquiries. After much discussion the consensus of the Planning Commission was to submit the draft LPPRP to the appropriate State agencies for review.

Staff Reports

Mitch Mowell:

- Mr. Mowell attended a scheduling conference regarding the lawsuit the County filed against Bayshore Campground. There has been a motion to intervene by adjacent property owners and that hearing is scheduled for December 22nd. The case is for the court to determine what rights the campground may have regarding potential expansion. It is difficult to make that determination based on the County files.

Katrina Tucker:

- Of the 8 applications submitted to the Maryland Agricultural Land Preservation Foundation (MALPF) during the 2016 Easement Application cycle, 6 offers have been accepted and one was rejected since it was an "available funds" offer and significantly below the asking price.
- 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 to complete the application if they're interested in applying to sell an easement to MALPF in this upcoming cycle.
- Ms. Tucker has been assisting a property owner whose farm is already in a MALPF easement who is seeking to exchange land which is not encumbered by an easement that adjoins the farm and under the same ownership in order to subdivide from the farm a parcel surrounding two dwellings that were present when the easement was acquired in 2001. This process requires coordination and meetings with MALPF staff and approval by the MALPF Board of Trustees.
- Ms. Tucker advised that staff is finalizing the maps with our consultant for the Comprehensive Plan update and will forward the Planning Commission's recommended Plan to the County Commissioners before the end of December.
- A table of all comments submitted during the 60-day review and the public hearing on the draft Comprehensive Plan has been posted on the webpage accompanied by a note advising that all comments in the table were considered by the Planning Commission in deliberations on revisions to the draft Plan, and that the public will be notified when the Planning Commission's final version is posted for the County Commissioner's to proceed with their review and public hearing.

- In November the Maryland Agricultural & Resource Based Industry Development Corporation (MARBIDCO) held a mini-round for applications for the Next Generation Farmland Acquisition Program. While no applications were sought from Kent County, there is hope for interest in this program the Summer 2018 Round.
- Ms. Tucker advised that during the 2018 Legislative Session of the Maryland General assembly a bill to amend the Maryland Forest Conservation Act is expected to be introduced. Amendments being considered include altering the statutory no net loss of forest policy; the required rates of afforestation and reforestation; the exemptions permitted under the Act; the process for collecting and using fee-in-lieu funds; and reporting requirements.
- All Planners attended the Eastern Shore Land Conservancy's Annual Conference held on November 9, the theme of which was "Conservation Saves the World."
- The Public Utility Law Judge for 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") issued a "Notice of Intent to Dismiss the Application and Close the Docket" on November 21, 2011, and gave the applicant 30 days to file a request that case not be dismissed and to also present a proposed procedural schedule. Therefore, the Power Plant Research Program staff are negotiating a schedule with the applicant, and an Evidentiary Hearing is being pursued for the Spring.

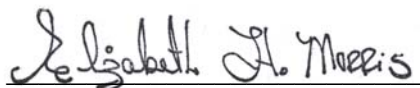
Stephanie Jones:

- Ms. Jones attended the ESLC's Annual Conference on November 9th, "Conservation Saves the World".
- Ms. Jones attended a leadership training, "Building Community Resiliency" provided by Sustainable Maryland and Environmental Finance Center at the University of Maryland on November 13th. Topics included stories and tools to help build community resilience.
- The Board of Appeals granted Judith and John Casey a 12' front yard variance from the required 50-foot front yard setback to construct a 10' deck and to rectify the discrepancy between the 2006 building permit approval and current survey.
- Ms. Jones will be attending the quarterly Eastern Shore Planning and Economic Development Professionals Lunch on December 15th, organized by ESLC, that will be hosted by Kent County Planning, Housing, and Zoning.
- The County Commissioners signed a letter of support, along with other members of the ESCAP, to accompany ESLC's proposal to the Climate Resilience Fund 2017 Capacity Building Grant.
- WIP updates for the 2016-2017 Two-Year Milestone and 2018-2019 programmatic milestone are due to MDE next month. The TMDL Committee will be meeting to discuss and move forward.

General Discussion:

Mr. Crowding stated he attended the Maryland Planning Commissioners Association (MPCA) conference. He noted that Ms. Moredock also attended and gave a very impressive presentation.

There being no further business for the good of the organization, the meeting was adjourned at 3:07 p.m.



Elizabeth Morris, Chairman



Tonya L. Thomas, Clerk