

MINUTES

The Kent County Planning Commission met in regular session on Thursday, April 6, 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; Kim Kohl; James Saunders; and Joe Hickman. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; 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.

It was the consensus to accept the meeting summary of the February 1, 2017, Comprehensive Plan Update work-session as presented.

MINUTES

The minutes of March 2, 2017, meeting, were approved as presented.

PUBLIC HEARING:

#17-10 Zoning Text Amendment – Sultana Education Foundation requests amendments to Article V, Section 5.4(8) to include extended private pier length standards in the Resource Conservation District and Critical Area Residential Districts in order to accommodate safe harbor for tall ships owned by non-profit organizations. The proposed amendment would allow private piers to accommodate such ships at an increased pier length from 150 feet to 180 feet channelward.

Ms. Moredock provided a brief overview of the request.

Mr. Birkmire asked if the request of a waiver of the application fee was approved, and Ms. Moredock noted that the County Commissioners granted the waiver.

There being no audience questions or testimony, the Chair closed the public hearing.

APPLICATIONS FOR REVIEW:

#17-10 Zoning Text Amendment – Sultana Education Foundation requests amendments to Article V, Section 5.4(8) to include extended private pier length standards in the Resource Conservation District and Critical Area Residential Districts in order to accommodate safe harbor for tall ships owned by non-profit organizations. The proposed amendment would allow private piers to accommodate such ships at an increased pier length from 150 feet to 180 feet channelward.

Present and duly sworn in were; Andrew Meehan, Counsel for the applicant; Dan "Drew" McMullen, President of the Sultana Education Foundation; and Amy Moredock, Director.

Ms. Moredock gave an overview of the application and cited *Kent County Use Ordinance* Article XII, Section 6 which establishes the standards for the review and approval of a zoning text amendment. The applicant proposes to amend Article V, Section 2.4(B) (7) and Article V, Section 5.4(8) to include extended private pier length standards in the Resource Conservation and Critical Area Residential Districts in order to accommodate safe harbor for tall ships owned by non-profit organizations. The proposed amendment would

allow private piers to accommodate such ships at an increased pier length from 150 feet to 180 feet channelward. She noted that the applicants propose to add provisions which would permit tall ships owned by non-profit organizations to emplace tie out pilings at a length not to exceed 180 feet. The proposed provisions are exclusive to the installation of tie out pilings to be used for safe harbor in the event of a hurricane or other severe weather-related threat. Ms. Moredock added that the Technical Advisory Committee meeting minutes outlined implementation and enforcement concerns which Mr. Meehan has addressed by submitting Exhibits 1 and 2.

Mr. Meehan gave an overview of the contents of Exhibits 1 and 2 (second draft amendment) which were distributed to the members at the meeting. This draft responded to TAC comments by clarifying the definitions of “Tall Ships” and addressing the issue of what defines a severe weather event. Mr. Meehan also altered the proposed amendment application to reflect the addition of the safe harbor standards to the RCD and CAR Special Exception provisions rather than the Accessory Uses and Structures provisions. He further stated that because tie-out pilings are not listed in the district special exception lists or Article VII (Special Exceptions), they must be added.

Mr. McMullen gave testimony on what the Sultana Education Foundation does for the community and the students in Kent County, as well as the neighboring counties. Currently, there is not a good anchor system in place during severe weather event. Should the Sultana be lost or destroyed in a hurricane, Mr. McMullen noted that the loss of the vessel would have a significant impact on the types of programs that are available to student groups and to the Heritage Tourism Industry. The Sultana Educational Foundation is a vital part to the Downtown Chestertown area economy, more specifically through the annual Downrigging Festival.

Mr. Meehan stated that it is in the best interest of the Town and County to accommodate safe harbor for tall ships due to the danger to public safety should such a ship careen down the river during a severe storm event. He reiterated Mr. McMullen’s point salient to the Sultana’s value to the County as it is an economic driver.

Following a lengthy discussion, the Planning Commission voted unanimously to send an unfavorable recommendation for the proposed amendments as presented based on the following findings:

- The Commission does find that a public need exists to provide safe harbor for tall ships such as the Sultana during severe weather events for reasons which are connected to the economic benefits of heritage tourism and the natural resource-based educational benefits to area schools, students, and residents.
- Further, the Commission finds that the proposal to provide safe harbor for tall ships such as the Sultana during severe weather events is consistent with the intent of the Ordinance and the Critical Area program and is consistent with many Comprehensive Plan goals and strategies relative to stewardship of the Chesapeake Bay, and promotion of Heritage Tourism, promotion of historic restoration and environmental education.
- The Commission expressed concern with the potential conflict between the enforcement of the Ordinance private pier requirements in conjunction with the proposed text amendment to add the safe harbor provisions to the permitted accessory use and structure section of the RCD and CAR zoning districts. The enforcement of nonprofit status of an organization owning a tall ship, the determination of what type of vessel constitutes a tall ship, and the determination of what constitutes a severe weather event and its subsequent duration were among the areas of concern.
- The Commission finds that the public need is better-addressed and more clearly avoids the potential for precedent-setting circumstances if the safe harbor for tall ships during severe weather-related threats provisions were added to the special exception sections of the RCD and CAR zoning districts as presented by the applicant in its 6 April 2017 submittal (Applicant’s Exhibits 1 and 2).

In its understanding of the specific need to provide safe harbor for a tall ship such as the Sultana, the Planning

Commission further acknowledged the limited number of locations available to accommodate such protection. In addition, the Commission further recognized the urgency of providing such protection in light of the imminent hurricane season. Therefore, the Planning Commission would be inclined to support amendments to Article V, Section 2.3.19.5, Article V, Section 5.3.22.5, Article VII, Section 6 (adding 42.5), and Article VII, Section 7.59.5 to include special exception provisions in the Resource Conservation and Critical Area Residential Districts in order to extend private pier length standards exclusively to moor tall ships. Specifically, the Planning Commission would support the following as indicated by ~~deletion~~ and **ADDITION**:

Article VI, Section 2.3 and Section 5.3 (Special Exceptions in RCD and CAR)

19.5 and 22.5 TIE-OUT PILINGS OF PRIVATE PIERS, *COMMUNITY PIERS*, AND PRIVATE SHARED PIERS, INSTALLED AT A DISTANCE NOT TO EXCEED 25% OF THE WIDTH OF THE WATERWAY, THE EDGE OF THE CHANNEL, OR 180 FEET FROM THE MEAN HIGH WATER MARK, WHICHEVER IS LESS, FOR THE EXCLUSIVE MOORING USE BY TALL SHIPS AS SAFE-HARBORS FROM HURRICANES AND OTHER SEVERE WEATHER-RELATED THREATS.

Article VII, Section 6 (Special Exception Procedures)

42.5 TIE-OUT PILINGS OF PRIVATE PIERS, *COMMUNITY PIERS*, AND PRIVATE SHARED PIERS, INSTALLED AT A DISTANCE NOT TO EXCEED 25% OF THE WIDTH OF THE WATERWAY, THE EDGE OF THE CHANNEL, OR 180 FEET FROM THE MEAN HIGH WATER MARK, WHICHEVER IS LESS, FOR THE EXCLUSIVE MOORING USE BY TALL SHIPS AS SAFE-HARBORS FROM HURRICANES AND OTHER SEVERE WEATHER-RELATED THREATS.

Article VII, Section 7 (Special Exceptions, additional standards)

59.5. TIE-OUT PILINGS OF PRIVATE PIERS, *COMMUNITY PIERS*, AND PRIVATE SHARED PIERS, INSTALLED AT A DISTANCE NOT TO EXCEED 25% OF THE WIDTH OF THE WATERWAY, THE EDGE OF THE CHANNEL, OR 180 FEET FROM THE MEAN HIGH WATER MARK, WHICHEVER IS LESS, FOR THE EXCLUSIVE MOORING USE BY TALL SHIPS AS SAFE-HARBORS FROM HURRICANES AND OTHER SEVERE WEATHER-RELATED THREATS IN RCD AND CAR PROVIDED:

- A. PRIVATE PIERS, *COMMUNITY PIERS*, AND PRIVATE SHARED PIERS IN RCD AND CAR ARE SUBJECT TO THE STIPULATIONS AND *REGULATIONS* OF ARTICLE VI, SECTION 3.7 OF THIS ORDINANCE.**
- B. NO PORTION OF A PIER CONSISTING OF ANY COMBINATION OF NONFLOATING FIXED PLATFORMS, AND/OR FLOATING STRUCTURES, WITH DECKING EXTENDING OUT OVER THE WATER TO PROVIDE PEDESTRIAN ACCESS, MAY EXCEED 25% OF THE WIDTH OF THE WATERWAY, THE EDGE OF THE CHANNEL, OR 150 FEET IN LENGTH, WHICHEVER IS LESS.**
- C. ANY TIE-OUT PILINGS INSTALLED MORE THAN 150 FEET FROM THE MEAN HIGH WATER MARK SHALL BE FOR THE EXCLUSIVE MOORING USE BY TALL SHIPS AND FOR NO OTHER USE.**
- D. THE TERM "TALL SHIPS" MEANS ANY LARGE TRADITIONALLY-RIGGED SAILING VESSELS, INCLUDING**

SCHOONERS, WHICH ARE FEDERALLY DOCUMENTED WITH HOME PORTS LOCATED IN KENT COUNTY, MARYLAND.

- E. THE TERM “HURRICANES AND OTHER SEVERE WEATHER-RELATED THREATS” MEANS WEATHER EVENTS WHICH ARE THE SUBJECTS OF A TROPICAL STORM WATCH, TROPICAL STORM WARNING, HURRICANE WATCH, OR HURRICANE WARNING ISSUED BY THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.**

Mr. Sutton seconded the motion, and it was approved unanimously.

Staff Reports

Amy Moredock:

- On March 13, 2017, representatives of the County and the Town of Millington, as well as member of the Board of Education and residents were invited to hear a presentation by the Russ Richardson Group who has recently purchased land in the MD Route 301 Corridor. While the land is not directly adjacent to the Town of Millington, the Group addressed interest annexation potential for their parcel and the lands leading into the Town of Millington. Ms. Moredock emphasized that this was a very preliminary conversation, and there are no annexation plans on the table. There are no current property owners discussing annexation. This dialogue represents a preliminary planning exercise that the Russ Richardson Group is investigating because they have purchased commercial land in the County surrounding MD Route 301 and are discerning the viability of potential long-term annexation plans. She noted that the area in question is identified in the Town of Millington’s Comprehensive Plan as its long term designated growth area.
- Ms. Moredock approved two administrative hearings on March 20th regarding accessory structures in excess of 1,200 square-feet on parcels less than five-acres.
- Ms. Moredock approved an administrative hearing regarding an in-ground pool and patio in the front yard of a waterfront property.
- Ms. Moredock will conduct two administrative hearings on April 10th relating to a large accessory structure in excess of 1,200 square-feet on a parcel less than five acres and an administrative variance from the buffer requirements in order to upgrade an existing septic system to a nitrogen-removal BAT system within the 100-foot Critical Area Buffer. Another administrative variance from the buffer requirements in order to upgrade an existing septic system will be held on the 24th of April.
- The Board of Appeals met on the 20th of March and approved with conditions the Chester River 2, LLC request for a setback variance to move a non-conforming primary structure to a greater degree of nonconformity with the accessory structure provisions of the RCD.
- Ms. Moredock shared an update on the Watershed Improvement Plan. The Phase III WIP is being developed, and she has been participated in that dialogue. There will be a meeting on April 25th to talk about Plan components and the timeline for implementing the Phase III WIPs.
- Staff continues to work very closely with the Healthy Waters Roundtable that started meeting approximately two years ago. The Roundtable convened with neighboring Eastern Shore counties to look at viable options to implement our WIPs on a regional basis which could be more cost effective. Ms. Moredock will attend a meeting on April 7th to discuss a potential grant application to start implementing some of these provisions identified by the Roundtable. The grant proposal will seek funding to staff a circuit rider for a three-year period to become a coordinator to the various municipalities and counties to assess what strategies are in place where the overlap is happening. This person would also start accessing viable tracking and reporting mechanisms that will meet the model.

What is great about this grant application happening right now is, if this does get funded, we can gather information that will better-inform our Phase III WIPs.

- Ms. Moredock will be sitting on an Earth Day Panel at Gunston School April 21st to discuss the County's coastal resiliency initiatives. Ms. Moredock will be representing how local governments are addressing coastal resiliency and folding those initiatives into plans and ordinances.

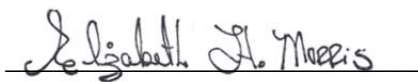
Katrina Tucker:


- Ms. Tucker was pleased to report there has been a significant amount of interest in the Maryland Agricultural Land Preservation Foundation (MALPF) and Agricultural Land Preservation in Kent County. There were 12 new applications submitted in March to establish a Kent County Agricultural District. The applications will be reviewed by the Agricultural Preservation Advisory Board in April and will be presented to the Planning Commission on May 4th.
- MALPF settlement on the Angelica Nurseries properties from the 2014 Easement cycle is still pending while resolving MALPF's concerns with the existing sand and gravel pit for the on-site use. Ms. Tucker toured the property with MALPF staff and a member of the MALPF Board of Trustees. This application will be presented to the MALPF Board of Trustees at their meeting on April 24th at which it is hoped that all concerns with the gravel pit will be resolved allowing settlement on the easement to occur.
- The third and final Community Forum for the Comprehensive Plan update was held at the Kent County High School on March 15th. Attendance at the forum was the lowest of the three, which may have been due to the other events that were also held within the County that evening.
- Ms. Tucker is currently finalizing details in completing the draft Comprehensive Plan which will be presented at the May 4th Planning Commission meeting. Should the Planning Commission members accept the draft Comprehensive Plan at that time, then it can be issued for the mandated 60-day review. During this time frame it is reviewed by state agencies, adjoining jurisdictions, and the public. It will be posted on the webpage and printed copies will be available at the County Office Building, County Libraries, Town Offices, and the Community Center. Written comments are due at the end of the 60-day review period, after which the Planning Commission will hold a public hearing during which comments are also expected to be submitted.
- The Annual Report for compliance with the Forest Conservation Act was filed for both the County and the Town of Rock Hall.
- Ms. Tucker has coordinated with members of the Kent Conservation and Preservation Alliance (KCPA) in the submission of letters of support from both the County Commissions and the Historic Preservation Commission to accompany their applications for two different grants; one to Preservation Maryland and the other for a non-capital grant from the Maryland Heritage Areas Authority to conduct a Cultural Assessment of the Chesterville/Morgan Creek Landscape District.

General Discussion:

Ms. Moredock inquired if members of the Planning Commission were amenable to receiving the draft update of the Comprehensive Plan in electronic format rather than a paper copy. Ms. Morris and Mr. Sutton preferred receipt of paper copies, with Mr. Hickman, Ms. Kohl, and Mr. Birkmire indicating their preference for electronic copy.

There being no further business for the good of the organization, the meeting was adjourned at 3:14 p.m.


Elizabeth Morris, Chairman


Tonya L. Thomas, Clerk