

MINUTES

The Kent County Planning Commission met in regular session on Thursday, May 4, 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; James Saunders; Kim Kohl; William Crowding; and Joe Hickman. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; Katrina Tucker, Community Planner; Stephanie Jones, Environmental 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 April 6, 2017, meeting, were approved as presented with the removal of William Crowding as an attendee.

AGRICULTURAL PRESERVATION DISTRICT APPLICATIONS FOR REVIEW:

Mr. Sutton noted he was an applicant for two of the Agricultural Preservation District applications; therefore, he recused himself from deliberations on all applications. Mr. Sutton left the dais.

ALP-17-03 Lewis and Bryan McDonald seek to establish an Agricultural Preservation District on their farm located at 26359 Lambs Meadow Road, in the Second Election District. This farm is comprised of 253.582 acres containing 98.6% qualifying soils and is in the Agricultural Zoning District (AZD). There are no dwellings on the farm.

Present and duly sworn in was 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 and 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 is compatible with existing County plans and overall County policy.

Ms. Tucker further noted that this farm is located within the Priority Preservation Area and other protected lands are in the vicinity. Significant blocks of preserved lands encompassed by easements held by the Maryland Agricultural Land Preservation Foundation (MALPF) and Rural Legacy are to the east across Still Pond Road and to the north across Lambs Meadow Road. 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 unanimously submits its favorable recommendation.

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

Following discussion by the members of the Planning Commission, Mr. Hickman 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 April 18th 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.

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

ALP-17-04 Lewis and Bryan McDonald seek to establish an Agricultural Preservation District on this farm located at 26359 Lambs Meadow Road, in the Second Election District. This farm is comprised of 100.426 acres containing 100% qualifying soils and is in the Agricultural Zoning District (AZD). There are no dwellings on this farm.

Present and duly sworn in were Donald Stokes, an adjacent property owner, and resides at 11589 St. James Road; 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 and 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 is compatible with existing County plans and overall County.

Ms. Tucker further noted that this farm is located within the Priority Preservation Area and other protected lands are in the vicinity. Significant blocks of preserved lands encompassed by easements held by the Maryland Agricultural Land Preservation Foundation (MALPF) and Rural Legacy are to the east across Still Pond Road and to the north across Lambs Meadow Road. 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 unanimously submits its favorable recommendation.

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

Mr. Stokes asked what would happen to the fence and building that is currently on the parcel. Ms. Tucker stated the survey plat did not show buildings on the property. Mr. Stokes stated the building is owned by Mr. Blyman and is on the McDonald property. He advised that there is runoff from the property that has been an issue with Mr. Stokes property and the adjoining property owners. Ms. Morris asked Mr. Stokes if he had addressed the run-off issue with the McDonald's, and, if not, then Mr. Stokes and the other adjoining property owners should have a discussion with the property owners.

Following discussion by the members of the Planning Commission, Mr. Hickman 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 is feasible.
- The Agricultural Preservation Advisory Board reviewed this application at their meeting April 18th and unanimously submitted a favorable recommendation.
- The property meets or exceeds the criteria for 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 within the County's PPA. The Nutrient Management Plan as well as the Soil Conservation Plan is current.

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

ALP-17-07 JAD Properties, LLC, seeks to establish an Agricultural Preservation District on their farm located at 12371 Augustine Herman Highway, in the Second Election District. This farm is comprised of 210.77-acres containing 93.2% qualifying soils and is in the Agricultural Zoning District (AZD). There is one dwelling on this farm.

Present and duly sworn in were Jennifer Debnam and Patricia Langenfelder, the applicants; 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 and 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 is compatible with existing County plans and overall County policy.

Ms. Tucker further noted that this farm is located within the Priority Preservation Area and other protected lands are in the vicinity. The farm adjoining the southern boundary is also in a Kent County Agricultural Preservation District, and the 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 acreage, soils capability, location within the PPA and outside the 10-year water and sewer service area, as well as the farm operation on this property comply with the criteria for creating an Agricultural Land Preservation District. However, several lots have been subdivided from the original parcel, such as the adjoining Harmony Ridge subdivision as well as two lots at the front of the farm on Augustine Herman Highway; one of which is zoned Crossroads Commercial. As a result of these prior subdivisions and the construction of the existing farm dwelling, as well as the ability for other permitted accessory structures on the farm, all density and development rights that were associated with the original tract have been utilized. Therefore, this land has no remaining development potential that would allow the farm to meet the criteria to sell an easement to MALPF. Specifically, as provided in COMAR 15.15.02.03., the land must have development potential and MALPF cannot "purchase an easement from a landowner whose land is already restricted to agricultural use." If there are no development rights on a farm, then the farm is "already restricted to agricultural use."

Ms. Tucker informed the Commission that the Agricultural Preservation Advisory Board reviewed this application at their meeting on April 18, 2017 and found that this application does not meet all of the criteria in Chapter 171 of the County Code and unanimously decided on an unfavorable recommendation for the establishment of an Agricultural Preservation District for this property.

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

Discussion ensued amongst the members of the Commission regarding the purpose and intent of the County's Agricultural Preservation District, the distinction between "criteria" and "ability" to sell an easement, and the criteria for determining remaining development potential.

Ms. Debnam gave an overview of the property and stated that this farm was in a District in 2002 when the program changed from State to County and the family did not immediately re-apply. The Langenfelder's were in the midst of family estate planning and in the process of changing ownership. Mr. and Mrs. Langenfelder were the prior owners. As a 10-year Agricultural Advisory Committee member and past Chairman, Ms. Debnam, could not remember a farm applying for a District that did not have development potential and thus being denied. She distributed copies of the "purpose" section of Chapter 171 from the County Code.

Ms. Langenfelder stated that she and her husband owned the property when it was in a MALPF District, at which time it must have met the criteria to be in a MALPF District; though they did not apply to sell an easement. Ms. Langenfelder stated that it seemed to her, by putting this land in the Agricultural Preservation District now it would give an additional layer of protection for land preservation reflecting that this farm owner wants to remain in agricultural whether it is the intent to sell an easement or not. Ms. Langenfelder stated there are a lot of land owners that put their land in a District that have submitted an application to sell an easement that were unsuccessful and their land is still in a District. In accordance with Code the Districts are indefinite until you withdraw or until you sell your easement. By putting this farm in a District it will add to the critical mass that is needed to keep agriculture viable in this county. There are other easement purchases done by other programs that this property may be eligible for such as Eastern Shore Land Conservancy. Putting this land into the District would be notification to other agencies that the property owner wishes to preserve this farm.

After much discussion by the members of the Planning Commission, Mr. Hickman, made a motion to send a letter to the County Commissioners suggesting an amendment to Chapter 171 of the County Code to change the criteria for creating Agricultural Preservation Districts to provide that the criteria should be consistent with land acreage, current use of the parcel, the purpose statement of this Chapter, and to essentially remove the reference to the Annotated Code of Maryland. The members of the Planning Commission directed that this be forwarded to the Agricultural Preservation Advisory Board and to seek their recommendation for clarification and interpretation of the provisions of Chapter 171-5-B.

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

The applicant requested that review and action on the Agricultural Preservation District application be tabled to allow opportunity for the processing of the above noted motion to amend Chapter 171 of the County Code.

ALP-17-08 Kristen L. Nickerson, et al., seeks to establish an Agricultural Preservation District on the farm located on the south side of Lambs Meadow Road near the intersection with Lynch Road (identified by the State of Department of Assessments and Taxation with a premise address of Lynch-Catts Corner Road) in the Third Election District. This farm is comprised of 81-acres containing 97.2% qualifying soils and is in the Agricultural Zoning District (AZD). There are no dwellings on this farm.

Present and duly sworn in were Ms. Debnam, the applicant and part of the et al.; 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 and 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 is compatible with existing County plans and overall County policy.

Ms. Tucker further noted that this farm does not adjoin any other preserved lands and other protected lands are not in the immediate vicinity. 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 unanimously submits its favorable recommendation.

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

Following discussion by the members of the Planning Commission, Mr. Hickman, 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 April 18th 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.

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

ALP-17-10 New Grand View Holdings, LLC, seeks to establish an Agricultural Preservation District on their farm located between Browntown Harmony Woods Road and Blacks Station Road, east of Kennedyville, in the Second Election District. This farm is comprised of 56.023-acres containing 100% qualifying soils and is in the Agricultural Zoning District (AZD). There are no dwellings on this farm.

Present and duly sworn in were Ms. Langenfelder, the 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 and 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 is compatible with existing County plans and overall County policy.

Ms. Tucker further noted that this farm is located within the Priority Preservation Area and other protected lands are in the vicinity. The farm adjoins significant blocks of preserved lands encompassed by easements held by the Maryland Agricultural Land Preservation Foundation (MALPF) along its northern and portion of the western boundaries. 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 unanimously submits its favorable recommendation.

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

Following discussion by the members of the Planning Commission, Mr. Hickman 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 April 18th 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.

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

ALP-17-11 New Grand View Holdings, LLC, seeks to establish an Agricultural Preservation District on their farm located on the north side of Blacks Station Road and the railroad tracks, and west of Locust Grove Road, in the Second Election District. This farm is comprised of 91.77-acres containing 92.3% qualifying soils and is in the Agricultural Zoning District (AZD). There is one dwelling on this farm.

Present and duly sworn in were Ms. Langenfelder, the 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 and 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 is compatible with existing County plans and overall County policy.

Ms. Tucker further noted that this farm is located within the Priority Preservation Area and other protected lands are in the vicinity. The farm adjoins significant blocks of preserved lands encompassed by easements held by the Maryland Agricultural Land Preservation Foundation (MALPF) and the Maryland Environmental Trust (MET) on the east and west boundaries, as well as south of the railroad tracks and to the east across Locust Grove Road. 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 unanimously submits its favorable recommendation.

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

Following discussion by the members of the Planning Commission, Mr. Hickman 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 April 18th 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 it was approved unanimously.

ALP-17-12 Locust Grove Farm, LLC, seeks to establish an Agricultural Preservation District on their farm located at 10751 Augustine Herman Highway (MD Route 213), in the Second Election District. This farm is comprised of 284.39-acres per the State Department of Assessments and Taxation; however, the applicant believes the farm to be 297 acres. This discrepancy is not easily clarified in the deed because it simply contains a "Saving and Excepting" clause for the land conveyed to the State of Maryland for Route 213 without stating the exact acreage. The area of the farm would need to be confirmed by a survey.

The farm is divided by Route 213 and is within three different zoning districts. Approximately a third of the farm is north of Route 213 and east of Big Woods Road. This section of the farm adjoins Urieville Lake. It is zoned Rural Character (RC) and is not within the County's Priority Preservation Area.

The remaining two-thirds of the farm are on the south side of Route 213 and along Morgan Creek, which forms the southern boundary. This area of the farm is located in the Priority Preservation Area (PPA). The portion adjoining Morgan Creek is within the Critical Area (approximately a third of the farm) and, as such, is zoned Resource Conservation District (RCD). The remaining third is in the Agricultural Zoning District (AZD). There is one dwelling on this farm. This section of the farm that is in the PPA contains 91.8% qualifying soils.

Present and duly sworn in were Ms. Langenfelder, the 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 and 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 is compatible with existing County plans and overall County policy.

Ms. Tucker further noted that other protected lands are in the vicinity. Significant blocks of preserved lands encompassed by easements held by the Maryland Agricultural Land Preservation Foundation (MALPF) are across Morgan Creek. The farm is located outside the 10-year water and sewer planning service area. Ms. Tucker advised that the portion of the property that is between Route 213 and Morgan Creek that is within the Priority Preservation Area (PPA) meets or exceeds the criteria for creating an Agricultural Land Preservation District and complies with the goal of the Comprehensive Plan to preserve large blocks of contiguous prime agricultural land. The section of the farm that is not located within the County's PPA is inconsistent with intent of the County's Agricultural Preservation Program, the PPA, the Land Use Ordinance, and the Comprehensive Plan. The Nutrient Management Plan as well as the Soil and Water Conservation Plan are current for the entire farm.

Ms. Tucker informed the Commission that to ensure compliance with the provision of Chapter 171-7 of the County Code which requires that the sale of an easement be on the entire farm, the County's practice has been to only establish a District on the entire farm. In the deed for this property the portion of the farm within the PPA is identified and described as "Part No. 1" and the area of the farm that is not in the PPA is identified and described as "Part No. II." While the entire farm is described in the same deed, it is two separate parcels. If the District is only established on the portion in the PPA, then the recorded District Agreement will need to specify that it only pertains to "Part No. I" of the two parcels described in the deed.

Ms. Tucker advised that the Agricultural Preservation Advisory Board reviewed this application at their meeting on April 18, 2017 and unanimously submits its favorable recommendation to establish a Kent County Agricultural Preservation District only on that portion of the farm that is within the PPA.

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

Following discussion by the members of the Planning Commission and the applicant, Ms. Tucker advised that inclusion in the District of the portion of the farm which is not in the PPA would result in lower MALPF scores and ranking of the entire farm if the applicant were to seek to sell an easement to MALPF than if the application to sell an easement only included the portion within the PPA; which would have a higher score. The applicant verbally amended the application to only include the portion of the farm that is in PPA.

Mr. Hickman made a motion to forward a favorable recommendation to the County Commissioners with the amend made to the application to reflect that only the acreage in Part 1 as described in the deed which is in the Priority Preservation Area be considered a District 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 April 18th and unanimously submitted a favorable recommendation on that portion of the farm that is within the PPA.
- 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 it was approved unanimously.

ALP-17-13 William S. Sutton, seeks to establish an Agricultural Preservation District on his farm located at 10881 Lynch Road, Worton, in the Second and Third Election Districts. This farm is comprised of 211-acres containing 74.6% qualifying soils and is in the Agricultural Zoning District (AZD). There is one dwelling on this farm and the property is split by Lynch Road.

Present and duly sworn in were Mr. Sutton the 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 and 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 is compatible with existing County plans and overall County policy.

Ms. Tucker further noted that this farm is located within the Priority Preservation Area and other protected lands are in the vicinity. The portion of the farm on the west side of Lynch Road abuts significant blocks of preserved lands encompassed by easements held by the Maryland Agricultural Land Preservation Foundation (MALPF) and the Maryland Environmental Trust (MET). 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 unanimously submits its favorable recommendation.

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

Following discussion by the members of the Planning Commission, Mr. Hickman, 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 April 18th 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.

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

ALP-17-14 William S. Sutton, seeks to establish an Agricultural Preservation District on his farm located at 10612 Augustine Herman Highway, Chestertown, in the Second Election District. This farm is comprised of 126.9-acres containing 71.3% qualifying soils and is in the Agricultural Zoning District (AZD). There is one dwelling on this farm.

Present and duly sworn in were Mr. Sutton the 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 and 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 is compatible with existing County plans and overall County policy.

Ms. Tucker further noted that this farm is located within the Priority Preservation Area and other protected lands are in the vicinity. Significant blocks of preserved lands encompassed by easements held by the Maryland Agricultural Land Preservation Foundation (MALPF) and the Maryland Environmental Trust (MET) are within a quarter-mile radius to the west across Lynch Road. 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 unanimously submits its favorable recommendation.

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

Following discussion by the members of the Planning Commission, Mr. Hickman, 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 April 18th 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 it was approved unanimously.

APPLICATIONS FOR REVIEW:

#15-40 David A. Bramble, Inc./OneEnergy Blue Star Solar, LLC (Sol Systems, LLC) requests a secondary preliminary site approval on lands that are owned by David A. Bramble, Inc., for a proposed utility scale solar energy system. Effective 21 April 2017, OneEnergy Blue Star Solar, LLC was purchased by Sol Systems, LLC. The system would be sited on 35.33 acres of the 225-acre parcel and consists of 3 separate areas of ground-mounted solar panels with 5 inverter stations to be accessed by 25-foot wide gravel lanes. The solar panels are 12 feet in width and placed in rows approximately 265 feet in length. The overall height is 8 feet. The entire 35.33-acre will be enclosed by an 8-foot high chain-link fence. Landscaping is proposed to screen portions of the system which are directly visible from Galena Road/Maryland Route 313.

Mr. Hickman stated since the last meeting he testified on behalf of the Forest Conservation Act but he did not believe that would affect his ability to make a decision based on the facts presented.

Present and duly sworn in were Gia Clark, Representing OneEnergy Renewables; Mark Cooper, Representing Sol Systems; Kevin Shearon of DMS & Associates; and Amy G. Moredock, Director of Planning, Housing, and Zoning.

Ms. Moredock gave an overview of the application and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Sections 14.2 and 15.2 that establish site plan review requirements for all permitted industrial uses in the Employment Center and Industrial Districts; Article V, Sections 14.5 and 15.5 establish the density, height, width, bulk, and fence requirements for the EC and I Districts; Article V, Section 14.6 and 15.6 which establish the EC and I performance standards; Article V, Section 14.7 and 15.7 which establish the EC and I general standards; Article V, Section 14.8 and 15.8 that establish the EC and I environmental standards; Article V, Section 15.8.B.7 which establishes the standards for stream protection corridors; Article V, Section 14.9 and 15.9 which establish the EC and I design standards; Article VI, Section 1.3 and 1.4 which establish the parking, loading, and bicycle parking standards; and Article VI, Section 5 which establishes the procedures and standards for site plan review.

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

Mr. Shearon gave an overview of the differences from the preliminary site plan which was approved at the 5 November 2015 Planning Commission meeting and the preliminary site plan being presented at today's meeting. More specifically, he cited that the Forest Conservation Ordinance provisions have been met onsite and the Landscape Screening Plan has been enhanced. Significant milestones have occurred since the last meeting such as the Certificate of Public Convenience Necessity (CPCN) has been received and OneEnergy Blue Star has sold the project to Sol Systems, LLC who will follow through with project construction and maintenance.

Mr. Shearon introduced Ms. Clark as the representative of OneEnergy. Mr. Shearon stated that OneEnergy is a development company that takes the project through the CPCN process and originally procures the land lease. He also introduced Mark Cooper who represents Sol Systems and works out of their Philadelphia

office. Mr. Cooper added that Sol Systems will ultimately be the lease holder and sell the power from the array. Energy that is produced by the panels will be sold to Washington College.

Mr. Cooper gave a brief overview of Sol Systems. The company is approximately a ten-year old company. Sol Systems' early specialty was in trading Renewable Energy Credits for solar generation. More recently the company moved into tax equity structured finance and financing and owning projects developed by other entities.

Mr. Shearon gave a complete overview of the project via PowerPoint presentation.

Mr. Crowding asked what a Pollinator Corridor entailed.

Ms. Clark stated the pollinator habitat is a proposal that is being worked out with the Soil Conservation District that will consist of seed mix, higher diversity than that of typical turf grass mix, and a series of flowering species throughout spring, summer, and fall seasons to attract a variety of pollinators species. The Maryland Legislation, in its most recent session, adopted unanimously in both the Senate and the House a measure to put into place a voluntary standard for pollinator habitat around solar facilities which OneEnergy is hoping to meet. There will be specifications, environmental benefits, and thresholds to be met in order to be able to call it a pollinator habitat that will be essentially a series of lower growing plant material that grow to three-feet in height and specific vegetation maintenance and plans to ensure the plant material out-competes invasive species. This plan is to promote pollination and support local bee supplies. There is great support from the Farm Bureau and various agricultural organizations for this sort of movement, specifically with solar facilities.

Detailed discussion ensued regarding requirements specific to enhancing the proposed landscape screening area to include more complete screening along the side of the panels which do not provide solar collection and located closest to MD Route 313 and the MDOT Railroad right of way.

Following review of all applicable laws and the Comprehensive Plan, Mr. Birkmire made a motion to approve the preliminary site plan citing that the findings made during the November 2015 review remained relevant and updated as follows:

- A utility scale solar energy system is proposed consisting of 3 separate areas of ground-mounted solar panels constructed at an overall height of 8 feet to include an 8-foot tall chain-link fence which will enclose the 35.33-acre site.
- The applicant has addressed the performance standards and submitted a Sealed Engineer's Report.
- The proposal is consistent with many strategies and goals of the Comprehensive Plan.
- The proposed structures meet the minimum setback requirements.
- There will be no full-time staff onsite; the site will be monitored from a remote operations center.
- During the peak of construction of the solar system, there will be between 50-75 construction workers accessing the site for approximately 3 to 5 months. Construction is anticipated to begin in Spring 2016.
- The property is served by onsite water and septic systems. Public systems are not available in this area.
- Adequacy of methods for sewerage and refuse disposal have been reviewed and approved by the Kent County Environmental Health Department.
- No signage is proposed.
- No new lighting is proposed.

- There are 2 points of access: 1 approximately 200 feet east of Galena Road which currently serves as the access point for the asphalt plant and 1 indirectly off of Galena Road which currently serves as the access point for the residence.
- SHA has reviewed the proposal for impacts on local roadways and has determined that there will not be a significant increase in traffic as a result of this proposal. SHA staff has deemed that both existing access points are sufficient for the proposed use.
- Several 15-foot wide gravel roads are proposed to provide 3 access points off of the 2 existing lanes within the site for maintenance vehicles. These areas will be accessed by 3 lockable, gated entrances.
- Onsite vehicular circulation appears to promote clearly-defined access to panels and inverter stations while also limiting access by unauthorized vehicles by gating the entrances to the site.
- The applicant conducted a Citizen Participation meeting in Massey on 12 August 2015.
- Landscape screening has been enhanced and is proposed in two areas. One landscape screening buffer is proposed along the west side of the property and adjacent to Galena Road/MD Route 313. A second landscape screening buffer is proposed to screen Development Area "C" from adjacent residential properties as requested by an adjacent property owner during Conceptual Site Plan review. The overall landscape screening plan is comprised of a 25-foot screening buffer consisting of mixture of coniferous and deciduous varieties and a mix of native and nonnative species. The marked updates to the landscape screening plan include an increase from 2 to 3 rows of plantings in all screening areas, the addition of pollinator habitat to the switch grass corridor, and a relocation of the screening area in front of Development Areas "A" and "B" in closer proximity with Galena Road.
- The applicant agreed to further enhance the proposed landscape screening area to include more complete screening along the side of the panels closest to MD Route 313 and the MDOT Railroad right of way which no not provide solar collection. This area was identified on the Overall Site Plan with a highlighter by the applicant.
- The applicant has submitted a Forest Conservation Plan which complies with the requirement for the entire parcel, and not just the net tract area to be leased by OneEnergy Blue Star. This Plan would supersede the Forest Conservation Plan approved in 1998 in affiliation with the David A. Bramble, Inc. Asphalt Plant and Contractor's Yard final site plan approval. This Plan brings the entire parcel into compliance with a combination of retention and reforestation which totals 34.19 acres (15% of the total site is required under this Plan; therefore 33.71 acres of the overall 224.7-acre parcel is subject to the FCA). This Plan exceeds the requirement by 0.48 acres.

He added that the approval be conditioned upon the amendment to the landscape screening plan to include more complete screening along the side of the panels closest to MD Route 313 which no not provide solar collection. In addition, the he noted that the following must be addressed in order to receive final site plan approval:

- Protective easement agreement with a metes and bounds description of the protected area must be submitted for Planning Attorney review. Once approved by the attorney, the agreement must be recorded in the Kent County Land Records along with the Forest Conservation Plan.
- Forest Conservation, Landscape, Stormwater Management, Sediment and Erosion Control Plans must be approved and affiliated sureties submitted.

Ms. Kohl seconded the motion, and the motion passed unanimously.

Comprehensive Plan Work session:

Mr. Coyman gave a brief overview of the Comprehensive Plan draft. There were discussions regarding the photographs and typos throughout the draft. Mr. Coyman explained the process and during this time frame it is reviewed by state agencies, adjoining jurisdictions, and the public. Mr. Coyman advised that he will summarize all comments received during this review period and draft a response to each comment for the Planning Commission's consideration.

Following discussion by the members of the Planning Commission, Mr. Crowding made a motion to issue the Draft Comprehensive Plan for a 60 day review and that it would be sent to all state and appropriate agencies and surrounding jurisdictions on or before 19 May 2017.

Ms. Kohl seconded the motion, and the motion passed unanimously.

The members of the Planning Commission reached consensus to schedule the Public Hearing for the evening of 3 August 2017.

Staff Reports

Amy Moredock:

- She continues to coordinate closely with the Healthy Waters Roundtable. There is a National Fish and Wildlife Federation (NFWF) grant application drafted Chesapeake Bay Foundation staff through collaboration with multiple counties which addresses the implementation of one of the Healthy Waters Roundtable strategies. The NFWF application proposal, if funded, will provide technical assistance through a circuit rider to cross pollinate what is working in different areas and to help generate a tracking and reporting mechanism. The grant application involved requests to partner boards of County Commissioners to contribute financially to the program \$10,000.00 a year for a three year period. The Kent County Commissioners, citing a preference to allocate funds to local watershed organizations, opted out of the proposal.
- On behalf of the Kent County Total Maximum Daily Load Committee, Ms. Moredock sits on the committee that is working on the development of the Phase III Watershed Implementation Plan. Ms. Moredock is working with other state agencies and local jurisdictions on the approach and timeline for this next phase of the WIPs.
- Ms. Moredock is working with the Maryland Association on Floodplain and Stormwater Managers to organize the 13th Annual Conference which will be held in Linthicum on 12 October 2017.
- Ms. Moredock has held four administrative hearings and approved each of the projects: two for septic system upgrades within the buffer; one for a large structure on a parcel under 5 acres (screening was required in this case); and one for a pool that will be constructed within the front yard of a waterfront property.
- As a result of the legislation passed this session regarding the siting of solar energy facilities, Power Plant and Research Program will convene an Advisory Committee to look at the siting requirements for solar projects in conjunction with initiatives that are connected to infrastructure. Ms. Moredock will sit on this committee.
- As the Maryland Association of Counties (MACo) representative on the Governors Inter-Governmental Commission on Agriculture, Ms. Moredock will be participating in the MACo June Agri-Tourism Conference. She sat on the GICA Agri-tourism subcommittee which drafted initiatives and guidelines which were largely based on Kent County Zoning Ordinance and Comprehensive Plan provisions and strategies and will be sitting on a panel to discuss the County's history with Agri-tourism.

- Ms. Moredock stated that in the Land Use Ordinance Agricultural Zoning District standards relative to poultry operations specify that manure storage facilities must be located at least 600-feet from all property lines. While that requirement is found under our poultry requirements, it historically has been interpreted to apply to any manure storage (from any animal) on a farm. The interpretation is being challenged and legally the statute does outline that the requirement is specific to poultry manure storage facilities.

Ms. Moredock asked the Planning Commission members if they would prefer that staff interpret the Ordinance as written (to apply solely to manure storage facilities associated with poultry operations) or that the Commission propose a Zoning Text Amendment to clarify that point with the intent that all manure storage facilities be located 600-feet from property lines. Planning Commission advised unanimously that staff initiate a Zoning Text Amendment to clarify this provision.

- The Planning Commission Chairman received a letter from Departmental Planning outlining requirements for the Annual Report. Staff is currently working on the report which is due to the State on 1 July 2017.

Katrina Tucker:

- The Agricultural Preservation Advisory Board reviewed multiple applications to create local Kent County Agricultural Preservation Districts. One was tabled for further research and will be presented next month.
- The Agricultural Preservation Advisory Board's (APAB) proposed changes to the County's Easement Prioritization Formula was presented to, and approved by, the MALPF Board of Trustees at their meeting on April 25th. The Easement Prioritization Formula (EPF) is used to score and rank applications submitted during a MALPF easement cycle. The APAB found that there are property owners committed to agricultural land preservation so they have had their property in a District for several years and have applied multiple times to sell an easement to MALPF; but are outranked by applicants who established a District just prior to the easement cycle. Thus the APAB wanted to recognize the commitment of those who have had their farm in a District for the long-term and have re-applied to sell an easement. The APAB decided to redistribute points in order to affect the rankings. Along with other edits, the points for "Date of Application" were doubled, and a new category for "Re-application" was added.
- The MALPF Board of Trustees at their meeting on April 25th approved the Angelica Nurseries existing sand and gravel pit for the on-site use allowing settlement from the 2014 easement cycle to proceed.
- Have been coordinating with MARBIDCO, MALPF staff, and other County MALPF Program Administrators on the application for the Next Generation Farmland Acquisition Program (NGFAP). MARBIDCO, which is the Maryland Agricultural & Resource Based Industry Development Corporation, will receive \$2.5 million in State funding in Fiscal Year 2017 to launch this program to help qualified young and beginner farmers enter the agricultural profession. The NGFAP is essentially a rapid response farmland conservation easement option purchase program that is designed to help facilitate the transfer of farmland to a new generation of farmers, while also effectively helping to preserve the farm from future development. The key tool is an "easement purchase option contract" which will ultimately result in a permanent easement sale in the future with the Maryland Agricultural Land Preservation Foundation (MALPF), the Rural Legacy Program, or a local land trust, or other such easement. The program makes money available for a down-payment so that the next generation farm is able to meet the equity requirement for a commercial loan. The application for this program will be released soon, possibly by the end of next week, and will be due to MARBIDCO by

July 13, 2017. Applicants need to contact their local County MALPF Program Administrators no later than June 15th. The program intends to have settlements occur this calendar year.

- Met with staff at the ESLC and the five other counties that are part of the Agricultural Security Corridor Rural Legacy Area. In addition to Kent, the other counties are Cecil, Caroline, Dorchester, and Talbot. This Rural Legacy Area (RLA) combines three focus areas, the Marshyhope, Sassafras, and Tuckahoe areas, into one large RLA. In 1994 the corridor concept was developed to focus local, regional, and national efforts on one of the largest, contiguous blocks of highly productive farmland. Through the years the ESLC has submitted the annual application for funding, and any awarded funds are cycled among the five counties on a rotating basis for easement acquisition. At this time the ESLC has proposed dividing the Agricultural Security Corridor RLA into separate RLAs while simultaneously increasing the size of each of the areas with the intention of both increasing the amount of funding for the mid-shore region and the number of successful applications. There will be more to come in this regard.
- The Historic Preservation Commission is pursuing the Certified Local Government designation, as provided for in the National Historic Preservation Act. Staff from the Maryland Historical Trust attended the HPC's meeting on April 24th to present the program and application process. Participation in the CLG will require that the HPC review all proposed National Register nominations within the county, submit an Annual Report, and be subject to periodic evaluations. As a CLG, the county would be eligible for grant funding opportunities to conduct surveys and feasibility studies, prepare National Register nominations, obtain training and do outreach with educational and informational programs. The HPC would also be eligible for technical assistance.
- The HPC also approved a Certificate of Appropriateness for work at Radcliffe Cross, which was just added in December to the Kent County Register of Historic Places as HPC 16-001.
- The HPC will also be forwarding a nomination to the County Commissioners to fill the vacancy created by the expiration of the term of one of the members who is not seeking re-appointment.
- In coordination with our consultant we finalized the draft Comprehensive Plan presented today to the Planning Commission for 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 print copies will be available at the County Office Building, County Libraries, Town Offices, and the Community Center.

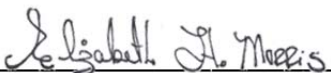
Stephanie Jones:


- Ms. Jones attended the Critical Area quarterly meeting on April 20th. The Critical Area Commission is looking at revising their guidance for forest interior dwelling birds. It is a time of year restriction regarding exterior construction within large tracts of forested areas.
- Ms. Jones will attend a Workshop titled "Weather It Together" on May 25th. The Maryland Historical Trust will be hosting the workshop and will be discussing protecting structures within floodplain areas pertaining to sea level rise and flash floods.

General Discussion:

Mr. Crowding attended the Maryland Planning Commissioners Association (MPCA) conference. He stated that MPCA members are very concerned with ex-parte communications within Historic Preservation and Agricultural Preservation Boards mostly on the Western Shore. He added that the MPCA is looking to host meetings with all boards throughout the State to discuss ex-parte communication requirements.

There being no further business for the good of the organization, the meeting was adjourned at 5:24 p.m.


Elizabeth Morris, Chairman


Tonya L. Thomas, Clerk