

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, August 3, 2017, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; William Sutton; William Crowding; James Saunders; Ed Birkmire; Kim Kohl; and Joe Hickman. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; Stephanie Jones, Environmental Planner; Katrina Tucker, Community Planner; and Mr. Sandy Coyman, Consultant on the Comprehensive Plan update.

Ms. Morris called the meeting to order at 6:00 pm.

## MINUTES

The minutes of July 6, 2017, meeting, were unanimously approved as presented.

## APPLICATIONS FOR REVIEW

There were no applications for review for the meeting in August of 2017.

## Staff Reports

Amy Moredock:

- Morgnec Road Solar, LLC (Clark Farm) submitted the required status update of the Morgnec Solar project to the Public Utility Law Judge on 24 July 2017 and has requested a 90-day schedule suspension. Both the County and the Kent Conservation and Preservation Alliance, as interveners in the case, sent correspondence opposing the schedule suspension; however, the PULJ granted the request expeditiously, noting that further suspension may not be considered favorably. The Town of Chestertown will also submit a letter of opposition for the record.
- On behalf of St. Paul's Church, Kent County has received a 2017 Trust Fund Grant to implement Phase I of a two phase Restoration Project to address a serious erosion problem which may impact the cemetery onsite if action is not taken. The County will act a passthrough agency for this project and has agreed to the Scope of Work and has signed Grant Agreement The grant should be executed soon by DNR, so that the Church may begin construction as early as 15 August.
- Ms. Moredock updated the Commission members regarding a problem with the signage location affiliated with the approved site plan for CHC-1, LLC. The Planning Commission approved a site plan affiliated an Auto Repair Shop Special Exception Application. The State Highway Administration has advised that that overall sign location including a brick landscape area is located within the right of way and is working with the property to find an alternate location. Ms. Moredock shared a proposed location within the approved landscape area and requested that the members advise as to their consent to allow her to alter that location administratively based on SHA input. The members agreed to allow Ms. Moredock that flexibility.
- Enforcement update:
  - The zoning violation case which Mitch Mowell filed in the District Court regarding property located on Sunnyside Avenue, Rock Hall has resulted in the Judge issuing a consent order which placed an injunction on the property. The property must be maintained in accordance with the photo entered into the record.
  - Mr. Mowell filed a second case involving a property on located on Chesterville/Millington Road. Ms. Moredock has met with the property owner's agent/brother and has proposed an agreement to allow the property owner additional time to comply with Ordinance

requirements. The property owner must sign the agreement and acknowledge that the action filed in District Court will be processed in the event the extension is ineffective.

- Ms. Moredock is reviewing a complaint for declaratory judgement to be filed in order to determine what the property owners rights are regarding the extent of the nature of the campground use on 2 contiguous parcels. This request for judgment also includes a determination of Critical Area violations both parcels.

Katrina Tucker:

- All 19 written reports for the required inspections of farms in easements held by the Maryland Agricultural Land Preservation Foundation (MALPF) were finalized and submitted to MALPF prior to the July 31<sup>st</sup> deadline.
- Met with MALPF and Maryland Department of Planning staff concerning the process, requirements, and application for the County's recertification of its Agricultural Land Preservation Program.
- Town of Rock Hall Planning Commission approved the 2016 Annual Report for the Town of Rock Hall as well as their 5-year Mid-Cycle Report on the implementation of the Comprehensive Plan as required by the Maryland *Land Use Article*. These reports were filed with the Mayor and Council and submitted to the Maryland Department of Planning.
- There is one person who made contact expressing interest in MARBIDCO's (Maryland Agricultural & Resource Based Industry Development Corporation) Next Generation Farmland Acquisition Program (NGFAP). Ms. Tucker has a meeting with them scheduled for August 8, 2017.
- Reviewed the draft Bike Spine Network interactive map being developed by the Maryland Department of Transportation's (MDOT) State Highway Administration (SHA) with the Director of Tourism and her staff and prepared and submitted comments from both the Department of Tourism and the Department of Planning, Housing, and Zoning.
- Conducted an Administrative Hearing for an accessory structure in excess of 1,200 square feet and 17 feet in height on a lot that is less than five acres in size for a parcel located on Swamp Road in Worton; this Administrative Special Exception was approved.
  - Massey Solar, LLC (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") has requested a suspension of their review schedule with the Public Service Commission. As a result of the applicant's continued opposition to the implementation of the Forest Conservation Ordinance requirement, the Public Utility Law Judge (PULJ) has agreed to cancel the public hearing which has been slated for 24 August 2017 and to suspend the proceeding pending notification from Massey Solar, LLC.
  - Met with the staff in the Power Plant Research Program (PPRP) of the Maryland Department of Natural Resources concerning the Massey Solar, LLC, project.
- Ms. Tucker discussed with the members of the Planning Commission calculation of density for an application by JAD Properties (ALP 17-07) to establish a Kent County Agricultural Preservation District, which was presented and tabled at their meeting of May 4, 2017, since this application did not meet all the criteria in Chapter 171 of the County Code and had received an unfavorable recommendation from the Agricultural Preservation Advisory Board. Further research in this regard reflected that with the density determination provisions of Article IV, Section 8 of the Land Use Ordinance that the application by JAD Properties would meet the current criteria of Chapter 171 of the County Code to establish a District since density is based on lots recorded after August 1, 1989.

At the May 4, 2017 meeting the Planning Commission had voted 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 essentially remove the reference to the Annotated Code of Maryland. In response to inquiries, Ms. Tucker informed the Commission that the establishment of a District as a prerequisite to submitting an application to the Maryland Agricultural Land Preservation Foundation (MALPF) initially was a requirement by MALPF; and when this was a MALPF requirement the proximity of a farm to MALPF Districts increased the scoring for that application. When MALPF ceased the District requirement, Kent County decided to continue with the establishment of a District as a prerequisite for the application. However, the proximity to other farms in a District cannot be used in the scoring and ranking of applications for MALPF; it no longer counts. It only serves to prequalify a farm for submitting an application to MALPF. Following discussion, Mr. Hickman made a motion to continue with the Planning Commission's direction to staff to send a letter to the County Commissioners suggesting an amendment to Chapter 171 of the County Code to allow Kent County Agricultural Preservation Districts to be created on any agricultural parcel of 50-acres or more. Mr. Crowding seconded the motion, and the motion passed unanimously. This proposed amendment to the County Code will also be forwarded to the Agricultural Preservation Advisory Board and the Agricultural Advisory Commission to seek their recommendations in this regard.

Stephanie Jones:

- Ms. Jones attended the Critical Area Commission Quarterly Planners Meeting on July 20<sup>th</sup>.
  - Fee in lieu for the Buffer and Critical Area were discussed. Kent County rate is along the lines of other counties. Towns/cities seem to have higher rates.  
What other jurisdictions do with their fee in lieu fund was also discussed during the meeting. Calvert County puts their fee in lieu money into their Reforestation Program. Private property owners apply for the program to receive a grant to plant trees on their property. Baltimore City has created a grant for non-profit organizations to apply for that will go towards water quality improvement, monitoring, and impervious surface removal.
- The white paper for the ESCAP (Eastern Shore Climate Adaptation Partnership) has been completed by Brian Ambrette of the Eastern Shore Land Conservancy and will be presented to the County Commissioners in the next month. To inform them of the importance of working collaboratively with other counties and towns regarding sea level rise and climate change.
- The favorable recommendation of the campground zoning text amendment from a year ago, to allow expansion of campgrounds in existence before August 1, 1989 within the Resource Conservation District, will proceed to the County Commissioners.

### **General Discussion:**

Mr. Crowding informed the Planning Commission members that the Maryland Board of Planning Commissioners, in conjunction with Maryland Department of Planning, is having an informational meeting on August 8<sup>th</sup> from 5:00p.m. to 7:00 p.m. at Centreville Planning and Zoning. The invitation has been extended to all County and Town Planning Commission and Board of Appeals members. The agenda pertains to the ex-parte communications, conflict of interests, and motion-making.

The meeting was closed at 6:30 p.m. to convene the public hearing on the update to the County's Comprehensive Plan.

## **PUBLIC HEARING**

### **Comprehensive Plan Update**

**The Kent County Planning Commission held a public hearing to review the Draft Comprehensive Plan dated May 19, 2017.**

Ms. Morris opened the public hearing at 6:31 p.m. and welcomed those in attendance.

Mr. Coyman, Consultant with Earth Data, Inc., for the Comprehensive Plan update, introduced the comprehensive plan and reviewed the activity to date.

The following testimony was offered:

- Joyce Morales, Chairwoman, Town of Millington Planning Commission—Ms. Morales noted that the Town had submitted written comments and summarized that the Town seeks the County's designated growth areas be consistent with the Town's Municipal growth areas and that the appropriate County plans and policies including Critical Area growth allocation be amended to facilitate this consistency. The Town requests that the County not rezone the Richardson's property as the Town intends to annex it and set appropriate zoning at that time.
- Mike Waal—Mr. Waal supported the County's strong opposition to a new Bay crossing bridge located in Kent County. However, he encouraged the County to include the strongest opposition language possible in the Plan as a bridge terminus in the County would have severe impacts on the County's quality of life and damage the County's character. Mr. Waal suggested that additional justification for the County's position be added to the Plan to strengthened the case against the bridge locating in Kent County.
- Jamie Williams, Kent County Economic Development Coordinator—Ms. Williams thanked the County for the inclusive process permitting many opportunities for public input to the Plan. She also associated herself with the recent letter to the editor from David Foster which encourage greater economic diversity to strengthen the County's economic opportunities.
- Roy Crow, Farmer—Mr. Crow stated as a winery owner the County should include and note the importance of wineries to the County's agricultural sector. He also noted the correct spelling of "agri-tourism". Further he asked that agri-tourism be mentioned in Economy Element's tourism section. Viticulture should be added to the discussion of agriculture.
- Pat Langenfelder, Farmer—Ms. Langfelder associated herself with Mr. Crow's comments noting that she moved here in large measure due to the County's agricultural protection policies. She stated that it is important to continue the Plan's agricultural protection theme and enhance agriculture. Open space is a key for the County's tourism. Ag supports many businesses in the County.
- Janet Lewis, Kent Conservation and Preservation Alliance—Ms. Lewis thanked the Commission for the opportunities for public participation and the large amount of work the Planning Commission has done. She noted that the Plan is excellent and it is important to continue the County's work on

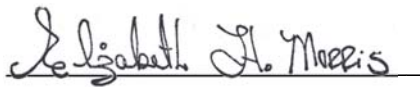
preserving agriculture. She suggested that verbiage be added to develop methods to encourage current commuters to the County to live in the Kent County. To accomplish this, the County should work with large employers to have their employees live in County.

- William Graham, Kent County Resident—Mr. Graham noted that in Galena on MD 213 truck and other traffic is excessive and becoming worse. He noted several potential causes and sought policies in the Plan to address this issue.
- Russ Richardson, Kent County Property Owner—Mr. Richardson discussed the development prospects for his property and sought County recognition in the Plan for developing and rezoning his property for mixed uses.

Mr. Coyman gave a brief overview of the next steps in the review process to include evaluation of all comments received, edits to the draft dated May 19, 2017 in accordance with the input received, final review by the Planning Commission at its next work-session, and forwarding of the Plan to the County Commissioners for public hearing and adoption.

Ms. Morris stated that the record would remain open until the close of business on August 10, 2017 for submission of written comments for the Planning Commission consideration. n.

There being no additional questions or testimony from the audience, the Chair closed the public hearing. There being no further business for the good of the organization, the Planning Commission adjourned at 7:35 p.m.



Elizabeth Morris, Chairman



Amy Moredock, Acting Clerk