

MINUTES

The Kent County Planning Commission met in regular session on Thursday, September 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: Amy Moredock, Director of Planning, Housing, and Zoning; Stephanie Jones, Environmental Planner; Katrina Tucker, Community Planner; G. Mitchell Mowell, Planning Commission Attorney; and Tonya Thomas, Secretary.

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

MINUTES

The minutes of August 3, 2017, meeting, were approved with the following clarification: Since there were no applications for review on the August agenda, the regular meeting was scheduled for 6:00 p.m. and was followed by the Public Hearing on the Draft Comprehensive Plan.

APPLICATIONS FOR REVIEW

#16-42 Brickyard Land Holding, LLC, is requesting combined concept review and preliminary site plan approval for the addition of a 2.49-acre finished product storage yard and construction of a 5,926-square foot office building, after demolition of the existing 1,874 square foot office building, at the existing manufacturing facility located at 523 Morgnec Road, just outside of the municipal limits of the Town of Chestertown. The property consists of five parcels, all of which are owned by the applicant, comprised of parcel 26 (tracts 1, 2 and 3), parcel 161 and parcel 490. The combined site area is 68.849 acres and is located in the Fifth Election District. The business entity on the property is Gillespie Precast, LLC, and the property is currently occupied an existing concrete precast plant, associated outside storage, raw materials storage bins, and office space.

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

Ms. Tucker gave an overview of the application and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 15.2 that establishes a site plan review requirement for all permitted principal uses and structures in the Industrial District; Article V, Section 15.5 which establishes the density, height, width, bulk, and fence requirements in the Industrial District; Article V, Section 15.6 that establishes the Industrial Performance Standards; Article V, Section 15.7 which establishes the Industrial General Standards Article V, Section 15.8 that establishes the Industrial Environmental Standards; Article VI, Section 8, that sets forth the provisions for Forest Conservation and specifically in Section 8.4.H.3 states that “non-tidal wetlands shall be considered priority areas for retention and replacement; Article V, Section 15.9 which establishes the Industrial District General Design Standards which 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.

Staff noted that the provision of the *Ordinance* in Article V, Section 15.5 which establishes a “minimum” office building footprint of 10,000 square feet in the Industrial District appears to be a typographical error and that this provision should reflect a “maximum” footprint limit rather than an a “minimum.” The members concurred with this interpretation. Therefore, staff noted that an errata to the provision will be presented to the members in the near future to correct this error. For this application, the members must contemplate the existing and proposed offices as nonconforming structures and make findings accordingly.

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

Mr. Shearon gave an overview of the site and the scope of work proposed. Stormwater management will be predominately by installation of submerged gravel wetlands between the Rhodes property and Gillespie's property. Other stormwater management features around the building will consist of a permeable pavement system that offers the necessary air and water exchange allowing tree roots to grow. The Forest Conservation Plan has been submitted and will be finalized before final site plan review. Mr. Shearon stated the Citizen Participation Plan consisted of letters that were mailed in 2016, after which the applicant put the project on hold in order to design the new office building. The applicant added the new office building to the site plan and the letters from 2016 were sent again. The applicant did not receive correspondence in regard to the letters. The sediment control and stormwater management have been submitted to Kent County Soil Conservation District and are under review.

Testimony from the general public was offered by Mr. Frank Rhodes, an adjacent property owner. Mr. Rhodes stated the Gillespie's have been wonderful neighbors and always keep the property clean. He asked if additional screening was proposed along the roadside and adjacent to his property.

Mr. Shearon stated that screening shown on the landscape plan in front of the finished product storage yard includes evergreen trees which are extended around the corner adjacent to Mr. Rhodes property.

After much discussion, Mr. Hickman made a motion to grant combined concept review and preliminary site plan approval based on the following findings:

- The existing 1,874 square foot office building is a non-conforming use that will be removed and replaced with 5,926 square foot office building. As a result, the existing non-conformity with respect to the footprint square footage of the office building, based on the current text of the *Ordinance*, will become less non-conforming, and, thus, is in compliance with the *Ordinance* nonconformity provisions.
- The proposal is consistent with strategies and goals of the Comprehensive Plan.
- The State Highway Administration has no comments regarding approval of this preliminary plan. The existing entrance was improved in connection with the previous site plan review.
- Town of Chestertown staff reviewed the application and have no issues with the project. Since the office building will be connected to Town water and sewer, the building permit when submitted, will be reviewed by the Town for water and sewer requirements.
- Vehicular and pedestrian movement is adequately addressed onsite.
- The off-street parking provided exceeds the requirements. A bicycle rack will be provided.
- Two site lights will be installed along the front of the new building and will be dark sky compatible.
- Stormwater management and sediment control plans must be reviewed and approved prior to final site plan approval.
- Forest Conservation is proposed to be addressed on-site. The Planning Commission appreciates that applicant supports the Forest Conservation Act requirements in the Industrial District.
- The landscape plan reflects screening at the front along Morgnec Road and at the corner of the common property line with adjoining Commercial zoned property to effectively screen the finished product storage yard.
- The architectural building elevations have been submitted and reflect that the building will be compatible with the surrounding area.
- No new or additional signage is proposed at this time.
- The performance standards have been adequately addressed in the narrative submitted with the application.

- The certified engineer's report has been submitted.
- 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 applicant's Citizen Participation Plan consisted of letters mailed to surrounding property owners in August 2017. Through testimony the applicant advised that they have not received any correspondence or contact in this regard.

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

- Approval and recordation of a lot line adjustment plat will be necessary to relocate this property line.
- Forest Stand Delineation summary sheets and a written summary of the forest stand conditions for the 0.49-acre of existing forested area being deed restricted to address Forest Conservation must be finalized.
- Sediment and erosion control and stormwater management plans must be approved by the Kent Soil and Water Conservation District.
- Sureties for stormwater management, sediment and erosion control, and landscaping must be posted prior to final approval.

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

#17-36 Cliff Road Properties, LLC, known as Great Oak Manor, is requesting an amendment to the conditions of approval noted in Country Inn Special Exception Case No. 394 dated July 2, 1984. The applicants propose to amend the restrictions of the 1984 decision by deleting conditions a-e and replacing those conditions in accordance with current County Inn Special Exception standards. In 1984, the property was zoned Rural Residential, and the Country Inn was granted as a Conditional Use, with conditions. Since 1984, the property has been rezoned to Critical Area Residential following the adoption of the Chesapeake Bay Critical Area regulations.

Present and duly sworn in were: C. Daniel Saunders, Counsel for the applicant; Harry Reed, Applicant, and Stephanie Jones Environmental Planner.

Ms. Jones gave an overview of the application and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 5.3 that establishes permitted special exception uses in the Critical Area Residential Districts, and Article VII, Section 7.16 that establishes the requirements for a Country Inn as a Special Exception. She added that prior to and since the rezoning of that property, conditional use/special exception conditions and all Critical Area regulations have been followed. There have been no reported zoning violations onsite. There is no impact on Critical Area regulations as a result of the proposed amendment to the special exception conditions

Ms. Jones read correspondences received in the form of letters in support of the business expansion from adjacent property owners.

Mr. Saunders gave an overview of the application and stated that the applicant would like to be consistent with the other Country Inns in the County. Mr. Saunders stated that the property owner has plans to apply for a liquor license allowing the applicant to offer alcohol at special events. There are no plans to increase the number of rooms. The applicant would like to have dining events open to the public on occasion pursuant to the *Land Use Ordinance*.

Testimony from the general public was offered by Ms. Susan Debman, a resident on Great Oak (Fairlee) Road, and Ms. Mildred Sutton, president of the Great Oak Civic Association. Ms. Debman stated that she supported the business; however, the previous owner of the Inn and property owners along Great Oak (Fairlee) Road had an agreement to share the expense of maintaining the private road and asked that Mr. Reed acknowledge the agreement. Ms. Sutton stated she also supported the application and that she was in attendance to keep the neighbors abreast of the project. Ms. Sutton asked if there were any changes to extend the seasons of the Bed and Breakfast and if there were plans of a public dining room other than when events are held on the premises.

Mr. Reed stated he was unaware of the agreement regarding maintaining Great Oak Road; however, Great Oak Manor contributed approximately \$3,000 to \$4,000 last spring for road maintenance on Cliff Road. He added that he is willing to discuss the private road agreement for Great Oak Road with Ms. Debnam. Mr. Reed stated there will not be any changes to the current venues. He added that there are between 8-10 wedding events during a season and these events generally occur on the weekend. His only plan to offer occasional monthly specials in the dining hall that allows up to 40 persons.

After much discussion, Mr. Hickman made a motion to send a favorable recommendation to the Board of Appeals for the amendment to the conditions of the 1984 Board of Appeals Conditional Use Decision Case No. 394 dated July 2, 1984 by deleting conditions a-e and replacing those conditions in accordance with current Country Inn Special Exception standards a-g based on the following findings:

- The proposal is consistent with the Comprehensive Plan strategies which promote heritage tourism and expand locally based tourism in the County.
- Country Inns are permitted as Special Exception uses in the Critical Area Residential District.
- Prior to and since the rezoning of that property, conditional use/special exception conditions and all Critical Area regulations have been followed.
- There is no impact on the Critical Area regulations as a result of the proposed amendment to the special exception conditions.
- By amending the 1984 Board of Appeals decision to impose the Ordinance provisions in effect at that time, the applicant's business will be relieved of provisions which do not impact similar operations in the County. In addition, this updating of conditions to current Country Inn provisions will provide consistency in review standards with other Country Inns.

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

Eastern Shore Mushroom Farm, Inc./ Arthur B. Needham requests a three-year extension of the final site plan approval for Eastern Shore Mushroom Farm, Inc. which would otherwise expire on October 2, 2017. The proposed mushroom farm facility is on an approximately 314.08-acre farm on 1226 Galena Road in the First Election District near Massey. Mr. Needham requests a three-year extension of the final site plan approval for Eastern Shore Mushroom Farm, Inc. which would otherwise expire on 2 October 2017. The proposed mushroom farm production facility is on approximately 314.08-acres farm on 12206 Galena Road in the First Election district near Massey. The farm is zoned "AZD" Agricultural Zoning District and "I" Industrial.

Present and duly sworn in were: Steve Layden, Engineer for McCrone; Arthur Needham, Applicant, and Amy Moredock, Director.

Ms. Moredock gave an overview of the application and cited the applicable laws of the *Kent County Land Use Ordinance* to include Article VI, Section 5.2.6 that states that both major and minor site plans shall expire after 12 months unless otherwise extended. She added that the Kent County Planning Commission granted final

site plan approval at its September 6, 2007 and that 3-year extensions have been granted by the Planning Commission in September 2008, October 2011, and October 2014.

Mr. Layden gave an overview of the project plans. Mr. Layden stated the applicant has completed construction of the entrance in accordance with State Highway Administration requirements. Mr. Needham has completed the structural components of the stormwater management infrastructure in accordance with the waiver granted in 2011 and all grading affiliated with the applicant's nontidal wetland license from MDE. Mr. Layden added that he has prepared groundwater appropriation permit applications and acknowledge that they must be obtained prior to construction of the facility.

Mr. Needham gave an overview of the current state of the mushroom industry citing challenges in the labor force and changes in growing side of production. He also noted that the Needham Mushroom Partnership was dissolved in 2016 forcing him to have to buy out his brother's share. Mr. Needham added that he is committed to relocating his business to Kent County.

After some discussion, Mr. Hickman made a motion to grant a three-year extension which will expire on 7 September 2020 based on the following:

- The proposal is consistent with the Comprehensive Plan strategies to promote agriculture as a viable industry and secure its future in the County.
- Eastern Shore Mushroom Farm completed substantial construction on the required site improvements indicating a continued desire to move forward with the project.
- The applicant has maintained sediment and erosion control plan approval and all affiliated letters of credit.
- The applicant has completed the structural components of the stormwater management infrastructure in accordance with the waiver granted in 2011.
- The applicant has completed construction of the entrance in accordance with State Highway Administration requirements.
- All grading affiliated with the applicant's nontidal wetland license from MDE has been completed.
- The applicant has prepared groundwater appropriation permit applications and acknowledge that they must be obtained prior to construction of the facility.

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

Staff Reports

Mitch Mowell:

- Mr. Mowell has filed a complaint for declaratory judgement in order to determine what the Bayshore Land Holdings' 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. He added that intervention in this case by the property owner and the neighbors who oppose the project is expected.

Amy Moredock:

- Ms. Moredock will attend the MACo Planners Affiliate meeting on Friday. There will be a detailed discussion about the two recently-proposed "Aligning for Growth" (AFG) options the State is considering. These options will determine how the State requires offsets for water pollution generated by new growth and could have a significant effect on county planning efforts. The State has asked for Affiliate feedback.

- Ms. Moredock will also attend the MDOT Pre-Tour meeting on Monday, 11 September in order to represent County priorities.
- Ms. Moredock will conduct an administrative special exception hearing on Monday, 11 September regarding a proposal to construct a large accessory structure on parcel less than 5 acres located in the Gentle Winds subdivision.
- There is a new bay bridge study committee; Ms. Moredock will communicate with the County Commissioners to ensure that there is Kent County staff representation on that committee.

Katrina Tucker:

- The Planning Commission conducted a public hearing on the draft update to the Kent County Comprehensive Plan that was issued on May 19th for the required 60-day review. Comments have been summarized in a table accompanied by responses from the consultant and staff for the Planning Commission's review at the work-session that follows this meeting.
- The Planning Commission's recommendation on the Zoning Text Amendment addressing waste management facilities (or manure storage) in the Agricultural Zoning District (AZD) and Resource Conservation District (RCD) was transmitted to the County Commissioners. The County Commissioner's public hearing on Code Home Rule Bill No. 5-2017 has been scheduled for Tuesday, September 19 at 6:00 p.m. The notice of this public hearing has been shared with the members of the Agricultural Advisory Commission.
- Ms. Tucker met with the sole person who made contact expressing interest in MARBIDCO's (Maryland Agricultural & Resource Based Industry Development Corporation) Next Generation Farmland Acquisition Program (NGFAP); however, this individual did not pursue submitting an application this year.
- Ms. Tucker commenced drafting the County's recertification application of its Agricultural Land Preservation Program which is due to the Maryland Department of Planning and the Maryland Agricultural Land Preservation Foundation by October 1st.
- Ms. Tucker participated in the Maryland Citizen Planner Association's Outreach Focus Group Meeting for the mid-shore region that was held in Centreville and completed their on-line survey.
- The Historic Preservation Commission and County Commissioners sent letters of support for the Kent Conservation and Preservation Alliance's (KCPA) application to the Maryland Historical Trust requesting grant funding through the Fiscal Year 2018 Non-Capital Historic Preservation program. The project proposed by KCPA is to study the outstanding historic landscape that encompasses 184.5 square miles of the Chesterville/Morgnec Creek, Sassafras, and Upper Chester River Districts within Kent County outlined by the Stories of the Chesapeake Heritage Area Potential Target Investment Zones. This study will provide detailed information on historic properties that have not been documented, as well as much-needed updates of older Maryland Inventory of Historic Properties (MIHP) forms.
- There were no updates from 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"). In July the applicant requested a suspension of the procedural schedule with the Public Service Commission and the evening hearing that had been scheduled on August 24, 2017 was postponed.

Stephanie Jones:

- Ms. Jones along with Ms. Moredock met with the Nancy Nunn from the Center for Agro-Ecology regarding a BMP clearinghouse that is being produced in conjunction with the Healthy Waters Round Table. Ms. Jones was able to review and comment on the progress along with other jurisdictions. A clearinghouse is a priority action that was addressed in the 2016 Healthy Waters Round Table plan.

This clearinghouse will be an online collection of BMP's located on the shore. It will address cost, funding, examples, implementation and other aspects.

- Ms. Jones met with the members of St. Paul's Church and DNR regarding a grant to complete the design for the second part of a stream restoration project. This project is to help with sediment and nutrient loadings and the overall floodplain of the system.
- Sassafra River Association presented a request to the County Commissioners to waive building permit fees for a stream/ravine restoration project along Swantown Creek. The County will be receiving the WIP credits for this project. The intent is to decrease the amount of sediment that is being emptied into Swantown Creek. Sediment from the ravine has been an ongoing problem for years.
- Ms. Jones will be attending an Eastern Shore Climate Adaptation Partnership meeting this month in which the discussion will include solar.
- The Eastern Shore Climate Adaptation Partnership white paper was presented to the County Commissioners by Brian Ambrette from ESLC. The presentation informed them of the white paper that was completed and of the collaboration work of the shore focusing on climate change and resiliency with a regional approach.

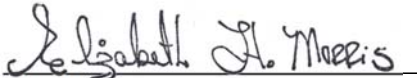
General Discussion:


Ms. Moredock updated the Planning Commission members regarding a problem with the signage detail and location affiliated with the approved site plan for the Dollar General Retail Store located in Worton, MD. The Commission approved a detached sign to be constructed on a brick pedestal base in a specific location. During final inspection of the site as precursor to the issuance of a Certificate of Occupancy, the County Chief Enforcement Officer found that the brick detail on the pedestal of the detached sign was not installed. Mr. Crowding added that the sign was also installed in the incorrect location, closer to Porter's Grove Road than the location indicated on the approved site plan.

The developer requested that the Planning Commission either allow for the modification to the detached sign to be retained without the brick pedestal base or that he be issued a Temporary Certificate of Occupancy while the crew corrects the detail. Ms. Moredock also asked, in light of the location discrepancy that Mr. Crowding brought to bear, that this modification of location also be considered by the Commission.

The Planning Commission members agreed that the integrity of their decision should be upheld and that a negative precedent would be set by allowing for such modifications without good cause. The members directed Ms. Moredock to pursue compliance with the signage detail and location as outlined in the Dollar General Site Plan approval. Further, Ms. Moredock was directed achieve compliance prior to the issuance of a Certificate of Occupancy.

There being no further business for the good of the organization, the meeting was adjourned at 5:01 p.m.


Elizabeth Morris, Chairman


Tonya L. Thomas, Clerk