

MINUTES

The Kent County Planning Commission met in regular session on Thursday, October 4, 2018, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; William Sutton, Vice Chairman; Ed Birkmire; James Saunders; and William Crowding. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; 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 September 6, 2018, meeting, were approved as presented.

APPLICATIONS FOR REVIEW:

18-51 Oddmund and Hedvig Angell requesting amendments to their final site plan approved by the Planning Commission in February 2016 to include a reduction in the building size from 5,750 square feet to 4,955 square feet and an additional 3,075 square foot outdoor display area. The property is located at 5868 Rock Hall Road in the Fifth Election District and is zoned Village.

Present and duly sworn in were; Kevin Shearon of DMS & Associates, representing the applicant; Oddmund Angell, applicant; and Ms. Moredock, Planning Director.

Ms. Moredock gave an overview of the application and cited all applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 7.5 which establishes Area, Height, Width, and Yard Requirements in the Village District; Article V, Section 7.6 which establishes the General Standards; Article V, Section 7.7.A and B which establish the Environmental Standards; Article V, Section 7.8.A, B, and C which establish the General Design Standards, Elements, and Specific Design Standards; Article VI, Section 10 which sets forth the stormwater management and water quality criteria; and Article VI, Section 5 outlines the procedures and requirements for site plan review.

Mr. Shearon stated the applicant made a slight reduction to the size of the building and has incorporated an additional outdoor display area. The stormwater management and right-of-way design have been roughed in. The proposed outdoor display would be set back from Route 20 and along the south of the site entrance. Mr. Angell stated it would be nice for the display areas to frame the entrance for optimum visual impacts.

Mr. Sutton asked if the proposed outdoor display area would pose a problem for the trucks making deliveries. Mr. Angell stated the traffic pattern will remain the same, and the additional display area would not interfere with traffic.

Mr. Birkmire stated the permitted use approved during preliminary review in October 2016 was to have an antique store and landscaping business. He asked if the plan changed? Mr. Angell stated the use will remain the same and that he is desirous of adding the outdoor display area typical of a lawn and garden center. He added that the outdoor areas will display furniture, decoration, and planting materials arranged in ways to inspire customers with their own home landscaping ideas.

Mr. Crowding questioned the colocation of the additional outdoor storage area within the previously-approved landscape area which provided screening along the existing residential dwelling on the south side of the property. Mr. Shearon noted that the landscape plan has been altered to accommodate the third outdoor

display area and to screen this area from offsite views, especially the adjacent parcel to the south. He also clarified that the affiliated surety need not be altered as the landscape plan has not been altered in terms of the planting detail.

After much discussion and consideration of the testimony and all applicable laws, Mr. Birkmire made a motion to grant approval of the proposed building reduction and the 3,075 square-foot expansion to the previously-approved outdoor display areas on the amended final site plan citing that the amendment is consistent with the approved site plan dated March 15, 2016. He added that the previous conditions and findings from the February 2016 final site plan approval be adhered to.

Mr. Sutton seconded the motion, and the motion passed 3:1 with Mr. Crowding opposing.

Staff Reports

Amy Moredock:

- The zoning violation case regarding a Still Pond property containing unlicensed tractor trailers and a car, as well as illegal construction and storage of junk was placed under a Consent Order by the judge. The property owner was given 30 days from that Order to come into compliance onsite. That order is set to expire on Monday and no action to come into compliance has occurred onsite.
- Dan Saunders filed a motion to postpone the County Commissioners v Bayshore Land Holdings, LLC, et al case (C14-CV-17-61) which was scheduled to be heard in Circuit Court on 2 October at 9am. He requested mediation prior to going to Court. While Mitch advised against this action, the Commissioners supported mediation. The Commissioners feel that mediation will provide Bayshore Land Holdings an opportunity to communicate directly with Critical Area Commission and MDE/Health Department staff relative to the facts in the case prior to the declaratory action. Aggrieved neighbors will also participate in the mediation process. The Commissioners will participate in and cover half of the cost of mediation.
- Ms. Moredock briefed the members regarding the status of County solar projects:
 - Urban Grid/Morgnec Solar: Attorney Joe Stephens has submitted a zoning text amendment to bring their project in line with the Ordinance.
 - Massey Solar/Community Solar: The company has appealed the Public Utility Law Judge's decision to uphold the Forest Conservation Act requirements in their Kent County application.
 - OneEnergy/Sol Systems: In light of the company rescinding its CPCN, she informed staff that their approval is specific to the site plan presented to and approved by the Planning Commission. Sol Systems intends to implement the project as approved. The CPCN was rescinded as they intend to pursue a net metering contract with Washington College.
- The Maryland Department of Transportation Annual Consolidated Transportation Plan Tour was held at the County Commissioners' 2 October meeting. Members of the District 36 Delegation were also in attendance. Topics covered included repaving projects, the Chestertown Boulevard, impacts of the Delaware Route 301 bypass, truck traffic through Galena and the virtual weigh station to be installed north of Galena on Route 301, and the anticipated change from cash toll stations to electronic tolls at the Bay Bridge. Much attention was given to the Bay Crossing Study/Tier 1 NEPA with the Commissioners and residents expressing the County's emphatic, historic opposition to the construction of a span with a terminus in Kent.
- Ms. Moredock participated in Maryland Association of Stormwater and Floodplain Managers conference planning meeting. The committee is organizing the 14th Annual Conference to be held at the Maritime Institute on 8 November.

- Ms. Moredock has been asked by MACo staff to sit on a panel at the “Let the Sunshine In: Solar Siting in Maryland” Conference to be held in Laurel on 11 October. She will discuss the County regulations and experience with utility scale solar project review.
- She has also been asked to present at the Chesapeake Bay Foundation’s Volunteers as Chesapeake Stewards (VoiCeS) class on 6 November. This six-week course is CBF's most comprehensive adult education program available to its members and the public. She has been asked to address the implementation local watershed implementation plans.

Stephanie Jones:

- Ms. Jones, along with Ginger Gregg from Emergency Services and members of Eastern Shore Land Conservancy, met with multiple state agencies and environmental nonprofit organizations regarding the MD Senate Bill 1006 that is requiring the County to produce a Nuisance Flooding Plan. A workgroup has been formed to help understand the State’s perspective due to the vagueness of the bill. The workgroup is scheduled to meet monthly.
- The Critical Area Commission staff, Carla Gerber, and Ms. Jones are working on the follow up questions and confirmation for the remapping of the Critical Area line.
- Ms. Jones held an administrative hearing on October 1st for a variance to the buffer requirements for the upgrade of an existing failing septic system to Best Available Technology nitrogen removal system within the 100-foot buffer.
- Ms. Jones will be attending a full-day retreat for the Eastern Shore Climate Adaptation Partnership (ESCAP) on October 9th. It was rescheduled from September 18th.
- Ms. Jones will be attending the last Critical Area Planners meeting on October 18th.

General Discussion:

Ms. Morris asked if the Planning office was any closer to getting a new community planner. Ms. Moredock stated she received a phone call from the Human Resources Director noting that there are several candidates to be interviewed.

Ms. Morris gave an overview of letters received from Casey Hurd and Denny C. Chatel regarding their opposition to the Kent County Humane Society Project. Ms. Morris stated the letters expressed their concern about the Humane Society’s purchase of land near them which is zoned Crossroads Commercial; she added that their position is that the Humane Society facility should be located in a zoning district which permits commercial dog kennels. Both residents are concerned about the County’s decision to process a zoning text amendment to allow for animal shelters in this zoning district. Both Mr. Hurd and Mr. Chatel oppose the project and stated the proposed location is not zoned for a commercial dog kennel.

Ms. Moredock explained that the correspondence was shared with Ms. Morris as the Chair of the Commission because the project which is the subject of this letter will be reviewed by the Commission at a time when the case will be advertised on an agenda. The Commission may not hear evidence in a pending case which is not before it, as their review must not be prejudiced.


Ms. Moredock added that Mr. Hurd feels aggrieved that as staff, she presented an interpretation of the *Ordinance* to the Planning Commission without community input. She explained that Mr. Hurd believes her request for Planning Commission’s guidance regarding the intention of the *Ordinance* regarding animal shelters was coercive in nature. Ms. Moredock explained to Mr. Hurd that neither he nor representatives from Kent County Humane Society nor the general public should offer input to the Planning Commission when staff is

putting forward a query to the Commission regarding interpretation. She explained that such input would be appropriate at the public hearing level and all comments should be put forward at that time. She also advised the Planning Commissions members that they should not now be discussing speculative details of a text amendment for an animal shelter, as it is only appropriate to do when a case is advertised.

Ms. Moredock explained there are different avenues in which a text amendment can be introduced: 1) by a member of the public, 2) by the County Commissioners, or 3) by the Planning Commission. She recollected the Planning Commission's discussion of the Humane Society issue to include a discussion of whether it was the intent of the *Ordinance* to prohibit such a use in light of the *Code of Public Laws*, Animal Control Chapter 64. During that discussion, the Commission and staff opined that a presumption of public need was addressed by the enactment of animal control authority onto the Humane Society by the County Commissioners. This discussion led to the Commission's formal recommendation to pursue the zoning text amendment.

There being no further business for the good of the organization, the meeting was adjourned at 2:41p.m.

William Sutton, Vice-Chairman


Tonya L. Thomas, Clerk