

MINUTES

The Kent County Planning Commission met in regular session on Thursday, February 1, 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; Kim Kohl; William Crowding; 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 December 7, 2017, meeting, were approved electronically as presented.

PUBLIC HEARINGS

County Commissioners of Kent County – Zoning Text Amendment

Special Exception Use in Crossroads Commercial (CC) – Manufacturing, processing, and assembling of products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or companies of a similar nature.

Ms. Moredock provided a brief overview of the request advising that on behalf of the County Commissioners of Kent County, staff put forward a proposed amendment to the *Kent County Land Use Ordinance* District Regulations, Crossroads Commercial: Article V. Section 10.3 and Special Exceptions: Article VII, Sections 6 (20.5) and 7 (28.5) to include provisions for the manufacturing, processing, fruit and vegetable processing, canning and storage, or businesses of similar nature as a special exception use in the CC District. The purpose of the proposed amendment is to permit the manufacturing, processing, and assembling of food products to include baked and confectioner's goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature as a special exception use in CC.

County Commissioners of Kent County – Zoning Text Amendment

School Bus Parking Special Exception and Accessory Uses in Village, (V), Intense Village (IV), Commercial (C) and Crossroads Commercial (CC)

Ms. Moredock provided a more thorough overview of the request advising that on behalf of the Kent County Board of Education, the County Commissioners of Kent County directed staff to put forward a proposed amendments to the *Kent County Land Use Ordinance* District Regulations, Village, Intense Village, and Commercial: Article V, Sections 7.3, 8.3, and 11.3 and Special Exceptions: Article VII, Sections 6 (38.5) and 7 (53.5) to include provisions to a permit school bus parking lot as a special exception use. In addition, amendments to District Regulations, Commercial and Crossroads Commercial Districts: Article V, Sections 10 and 11 include provisions to permit the parking of school buses as an accessory use.

County Commissioners of Kent County- Code Amendment- County *Code of Public Local Laws*

To change the criteria for the establishment of County Agricultural Preservation Districts such that the criteria would be consistent with the land acreage.

Ms. Tucker provided a brief overview of the request advising that this amendment was initiated by the Planning Commission at their meeting on May 4, 2017, to change the criteria for the establishment of County Agricultural Preservation Districts such that the criteria would be consistent with land acreage, current use of the property, the purpose of *Chapter 171*, and to essentially remove references to the

Annotated Code of Maryland that sets forth the criteria for eligibility to sell an easement to the Maryland Agricultural Land Preservation Foundation.

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

AGRICULTURAL PRESEVATION DISTRICTS

ALP-18-01 Jones Farming LLC. Seeks to establish an Agricultural Preservation District on a farm located at 30394 Duck Puddle Road in the Second Election District. The farm consists of 84.008-acres that is comprised of 73% qualifying soils and is in the Agricultural Zoning District. There are two dwellings on the farm, a principle dwelling and an accessory dwelling.

Present and duly sworn in were; William C. Jones, III., Applicant; and Ms. Tucker, Community Planner.

Mr. Hickman stated for the record that he has a business relationship with Mr. Jones however, he did not feel that would affect his ability to make a fair and just decision based on the facts presented.

Ms. Tucker cited the applicable law found in the *Code of Public Laws of Kent County in Chapter 171-5: Agricultural Preservation Districts*, which sets forth the process and criteria for the establishment of districts; *Chapter 171-7*, provides that the sale of an easement shall be on the entire farm; *Chapter 171*, which 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 Maryland Regulations 15.15.01; and is compatible with existing County plans and overall County policy.

Ms. Tucker further noted that the Jones Farming, LLC, farm is located within the Priority Preservation Area (PPA) and other protected lands are in the vicinity. The farm is located outside the 10-year water and sewer planning service area.

Ms. Tucker stated that no correspondences have been received regarding this application.

Mr. Jones stated for the record he resides on the property and has established a farm business and an approved cottage industry including an excavating business on the parcel. The property is adjacent to other properties that are also in the Agricultural Zoning Districts.

Following discussion by the members of the Planning Commission, Mr. Sutton 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 on November 13, 2017, and unanimously submitted a favorable recommendation.
- The property meets or exceeds the criteria or creating ab Agricultural Land Preservation District, complied 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 the motion passed unanimously.

APPLICATIONS FOR REVIEW:

County Commissioners of Kent County – Zoning Text Amendment

Special Exception Use in Crossroads Commercial (CC) – Manufacturing, processing, and assembling of products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or companies of a similar nature as a special exception use in the CC District.

Present and duly sworn in were Ms. Moredock, Director.

Ms. Moredock gave a more thorough overview and stated the proposed amendment to *Ordinance* District Regulations, Crossroads Commercial: Article V, Section 10.3 and Special Exceptions: Article VII, Sections 6 (20.5) and 7 (28.5) are to permit the manufacturing, processing, and assembling of food products to include baked and confectioners' goods, frozen food processing, fruit and vegetable processing, canning and storage, or businesses of a similar nature as a special exception use in CC.

Planning Attorney Mitchell Mowell suggested that the use as proposed include an exclusion of animal and seafood processing, citing that that type of processing is far more intense than general processing of food products as citing in the proposed list. Staff and Planning Commission concurred.

Specifically, staff proposes to **ADD** the following:

District Regulations, Crossroads Commercial, Special Exceptions: Article V, Section 10.3

3.5 THE MANUFACTURE, PROCESSING, AND ASSEMBLING OF FOOD PRODUCTS TO INCLUDE BAKED AND CONFECTIONERS' GOODS, FROZEN FOOD PROCESSING, FRUIT AND VEGETABLE PROCESSING, CANNING AND STORAGE, OR BUSINESSES OF A SIMILAR NATURE, EXCLUDING ANIMAL AND SEAFOOD PROCESSING

Special Exceptions, Procedures: Article VII, Section 6

20.5 THE MANUFACTURE, PROCESSING, AND ASSEMBLING OF FOOD PRODUCTS TO INCLUDE BAKED AND CONFECTIONERS' GOODS, FROZEN FOOD PROCESSING, FRUIT AND VEGETABLE PROCESSING, CANNING AND STORAGE, OR BUSINESSES OF A SIMILAR NATURE, EXCLUDING ANIMAL AND SEAFOOD PROCESSING

Special Exceptions: Article VII, Section 7

28.5 THE MANUFACTURE, PROCESSING, AND ASSEMBLING OF FOOD PRODUCTS TO INCLUDE BAKED AND CONFECTIONERS' GOODS, FROZEN FOOD PROCESSING, FRUIT AND VEGETABLE PROCESSING, CANNING AND STORAGE, OR BUSINESSES OF A SIMILAR NATURE, EXCLUDING ANIMAL AND SEAFOOD PROCESSING, PROVIDED:

- A. THAT IN REVIEWING THE SITE PLAN AND DETERMINING THE SUITABILITY OF THE PROPOSED LOCATION, THE PLANNING COMMISSION MUST FIND ALL OF THE FOLLOWING:**
- I. EXISTING OR PLANNED PUBLIC FACILITIES ARE ADEQUATE TO HANDLE THE USAGE GENERATED BY THE BUSINESS. THE USE DOES NOT REQUIRE IMPROVEMENTS TO PUBLIC FACILITIES DETRIMENTAL TO THE CHARACTER OF THE AREA.**
 - II. THE PROPOSED USE DOES NOT CREATE AN UNACCEPTABLE IMPACT ON THE SURROUNDING AREA BY WAY OF NOISE, ODOR, NOXIOUS MATERIALS, OR OTHER NUISANCES. THE *PLANNING COMMISSION* MAY REQUIRE A CERTIFIED ENGINEER'S REPORT DESCRIBING THE PROPOSED OPERATION, ALL MACHINES, PROCESSES, PRODUCTS AND BY-PRODUCTS, STATING THE NATURE AND EXPECTED LEVELS OF EMISSIONS OR DISCHARGE TO LAND, AIR, WATER OR LIQUID, SOLID, OR GASEOUS EFFLUENT AND ELECTRICAL IMPULSES, VIBRATIONS AND NOISE UNDER NORMAL BUSINESS AND THE SPECIFICATIONS OR TREATMENT METHODS AND MECHANISMS TO BE USED TO CONTROL SUCH EMISSIONS OR DISCHARGE.**
 - III. THE HEALTH, SAFETY, AND WELFARE OR EMPLOYEES AND RESIDENTS OF THE NEIGHBORHOOD WILL BE PROTECTED.**
- B. ALL USES SHALL BE CONDUCTED WITHIN A COMPLETELY ENCLOSED STRUCTURE. OUTDOOR STORAGE OF MATERIALS AND UNFINISHED PRODUCTS IS PROHIBITED.**
- C. THE BUSINESS DOES NOT EXCEED 10,000 SQUARE FEET OF GROSS FLOOR AREA.**

Mr. Crowding stated that we always use a “business of a similar nature” language. He asked who makes that determination. Ms. Moredock stated that would be determined by the Planning Commission during their review and the Board of Appeals Application in their review and decision.

Mr. Crowding also asked about the validity of a public need for the proposed amendment. Ms. Moredock responded that, due to the limited number of properties that are zoned Commercial in general, but Crossroads Commercial specifically, and the limited number of permitted uses, there is a valid argument for flexibility to allow for more responsible expansion within those districts. She added framing this use as a special exception does carry the additional provisions specific to special exception use review. These provisions require that the boards look at the impacts on neighborhoods, historic structures, places of worship, and public gathering, in addition to the site plan review standards which include environmental and design review.

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:

- As the number of parcels zoned Crossroads Commercial is quite limited (totaling 111 acres overall), it may be argued that a public need exists for flexibility in the regulations to allow reasonable and compatible economic development initiatives within this commercial district. Further, the Commission finds that County Commissioners of Kent have identified a need for

the proposed amendment to the *Ordinance*.

- The proposal to provide additional food processing provisions as presented is consistent with the intent of the Ordinance and with the following Comprehensive Plan goals and strategies:
 - Retain and promote existing businesses.
 - Assist in the growth of small business.
 - Expand and provide more diversity in the size, number, and type of businesses in the County.
- The Critical Area Law is not applicable to the Crossroads Commercial District.

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

County Commissioners of Kent County – Zoning Text Amendment

Special Exception and Accessory Use in Village, (V), Intense Village (IV), Commercial (C), and Crossroads Commercial (CC) – School bus parking.

Present and duly sworn in were Ms. Moredock, Director.

Ms. Moredock gave a brief overview and stated the proposed amendments to *Ordinance* District Regulations, Village, Intense Village, and Commercial: Article V, Sections 7.3, 8.3, and 11.3 and Special Exceptions: Article VII, Sections 6 (38.5) and 7 (53.5) are to permit a school bus parking lot as a special exception use. In addition, the proposal contains amendments to District Regulations, Commercial and Crossroads Commercial Districts: Article V, Sections 10 and 11 to include provisions to permit the parking of school buses as an accessory use.

The purpose of the proposed amendments is to permit a school bus parking lot as a special exception use in Village, Intense Village, and Commercial Districts. Currently, such school bus parking lots are not permitted in any zoning district. In addition, the proposed amendments would permit expanded accessory school bus parking in the Commercial and Crossroads Commercial Districts.

Specifically, staff proposes to **ADD** the following:

District Regulations, Special Exceptions
Village, Intense Village, and Commercial: Article V, Sections 7.3, 8.3, and 11.3 respectively

- 12.75 SCHOOL BUS PARKING LOT**
- 16.5 SCHOOL BUS PARKING LOT**
- 6.5 SCHOOL BUS PARKING LOT**

Accessory Uses and Structures
Commercial and Crossroads Commercial Districts, Article V, Sections 10 and 11 respectively

10.4 SCHOOL BUSES, LIMITED TO THREE, PARKED IN THE REAR OR SIDE YARD PROVIDED THE BUSES ARE OWNED OR OPERATED BY THE PROPERTY OWNER, HAVE CURRENT LICENSES, AND ARE OPERABLE

11.4 SCHOOL BUSES, LIMITED TO THREE, PARKED IN THE REAR OR SIDE YARD PROVIDED THE BUSES ARE OWNED OR OPERATED BY THE PROPERTY OWNER, HAVE CURRENT LICENSES, AND ARE OPERABLE

Special Exceptions, Procedures: Article VII, Section 6

38.5 SCHOOL BUS PARKING LOT

38.6 Special Exceptions: Article VII, Section 7

53.5 SCHOOL BUS PARKING LOT IN V, IV, AND C PROVIDED:

- A. NO PART OF THE SCHOOL BUS PARKING FACILITY SHALL BE IN THE 100-YEAR FLOODPLAIN.**
- B. AREAS FOR SCHOOL BUS PARKING, FUELING, OR REPAIR ARE A MINIMUM OF 100 FEET FROM ANY RESIDENCE.**
- C. AREAS FOR SCHOOL BUS PARKING ARE 100 FEET FROM WETLANDS.**
- D. AREAS FOR SCHOOL BUS REPAIR ARE ENCLOSED IN A BUILDING. OUTDOOR REPAIR OR STORAGE OF MATERIALS OR PRODUCTS IS PROHIBITED.**
- E. ALL BUSES MUST HAVE CURRENT LICENSES AND BE OPERABLE.**
- F. THE BOARD DETERMINES THAT ALL ACCESS ROADS ARE CAPABLE OF HANDLING THE TRAFFIC GENERATED AND THAT A SAFE ROUTE FOR SCHOOL BUSES TRAVELING TO AND FROM THE FACILITY IS PROVIDED.**
- G. AREAS FOR PARKING AND CARTWAYS ARE PAVED.**
- H. THE SITE IS SCREENED FROM ADJACENT PROPERTIES AND PUBLIC ROADS.**
- I. ADEQUATE REST ROOM FACILITIES SHALL BE PROVIDED.**

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:

- In reviewing documentation and testimony provided by Board of Education staff, it would appear that a need exists to amend the Village, Intense Village, and Commercial District to allow a school bus parking lot as a special exception use and to further amend the Special Exceptions section to include standards for this use. In addition, and in accordance with Board of Education staff, there appears to be a need to expand the accessory bus parking provisions to include the Crossroads Commercial and Commercial Zoning Districts.
- The proposal to provide additional school bus parking provisions as presented is consistent with the intent of the Ordinance and with the following Comprehensive Plan goals and strategies:
 - Provide public amenities to encourage development within the designated communities.
 - Maintain existing and promote new educational services and programs within the County.
 - Maintain and upgrade existing educational facilities and programs.
 - Encourage public and private transportation efforts.
- The Critical Area Law is not applicable to the Village, Intense Village, Crossroads Commercial, and Commercial Zoning Districts.

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

County Commissioners of Kent County- Code Amendment- County Code of Public Local Laws

To change the criteria for the establishment of County Agricultural Preservation Districts such that the criteria would be consistent with the land acreage.

Present and duly sworn in was Ms. Tucker, Community Planner.

Ms. Tucker provided a more thorough overview of the request advising that this amendment was initiated by the Planning Commission at their meeting on May 4, 2017, to change the criteria for the establishment of County Agricultural Preservation Districts such that the criteria would be consistent with land acreage, current use of the property, the purpose of *Chapter 171*, and to essentially remove references to the *Annotated Code of Maryland* that sets forth the criteria for eligibility to sell an easement to the Maryland Agricultural Land Preservation Foundation.

The Agricultural Preservation Advisory Board interprets the purpose of *Chapter 171* is to set forth a process for creating Districts that meet the criteria in order to be eligible to submit an application to sell an easement to MALPF.

Proposed Amendments to the County Code

Accordingly, staff proposes to ~~delete~~ and **ADD** the following:

§ 171-5 Establishment of districts.

- A. Any landowner whose land is actively devoted to agricultural use may voluntarily file an application on forms provided by the Department of Planning, Housing and Zoning requesting the establishment of an agricultural preservation district.
- B. The application shall include a general description of each land parcel, including acreage and the current use of the land, ~~and shall be consistent with the criteria to sell an easement established in the Agriculture Article, Title 2, Subtitle 5, of the Annotated Code of Maryland and Maryland Regulations 15.15.01.~~
- C. Upon receipt of an application to establish an agricultural preservation district, the Department of Planning, Housing and Zoning shall refer the application to the Kent County Agricultural Preservation Advisory Board and the Kent County Planning Commission.
- D. Within 60 days of the referral of the application, the Agricultural Preservation Advisory Board and the Planning Commission shall advise the County Commissioners as to whether or not establishment of the district ~~meets the criteria established pursuant to the Agriculture Article, Title 2, Subtitle 5, of the Annotated Code of Maryland and~~ is compatible with existing County plans and overall County policy.
- E. If either the Agricultural Preservation Advisory Board or the Planning Commission recommends approval, the County Commissioners shall hold a public hearing on the application. Adequate notice of the hearing shall be given to all landowners of the proposed district.
- F. Within 60 days of referral of the application, the County Commissioners shall render a decision as to whether or not the application is approved.
- G. The establishment of the district shall not take effect until all landowners of the proposed district have executed and recorded among the land records an agreement with the County stipulating that for a minimum period of three years from the establishment of the district, the landowner agrees to keep his land in agricultural use. ~~and has the right to offer to sell an easement for development rights on his land to~~

~~the Foundation under the provisions of the Agriculture Article, Title 2, Subtitle 5, of the Annotated Code of Maryland.~~

- H. All such district agreements, together with property descriptions, shall be maintained in an official file and be available at the Kent County Department of Planning, Housing and Zoning, Chestertown, Maryland.

While the purpose and applicability of *Chapter 171* is to establish Districts in the County that meet the criteria for selling an easement to MALPF, it was recommended from the Agricultural Preservation Board that there be two different types of County Districts. One type of District would be for farms that are MALPF-eligible, and another for Districts that are not eligible to submit an application to sell an easement to MALPF so that the County's MALPF certification with the State is not questioned or potentially jeopardized due to any inconsistency with between the County's Program and the *Annotated Code of Maryland*.

Therefore, the following proposed amendments to §171-5 are offered for the Planning Commission's consideration:

- G. The establishment of the district shall not take effect until all landowners of the proposed district have executed and recorded among the land records an agreement with the County stipulating that for a minimum period of three years from the establishment of the district, the landowner agrees to keep his land in agricultural use.
 - (i) **THE LANDOWNER OF SUCH DISTRICT THAT MEETS THE CRITERIA ESTABLISHED PURSUANT TO THE AGRICULTURAL ARTICLE, TITLE 2, SUBTITLE 5, OF THE ANNOTATED CODE OF MARYLAND AND MARYLAND REGULATIONS 15.1501** and has the right to offer to sell an easement for development rights on his land to the Foundation under the provisions of the Agriculture Article, Title 2, Subtitle 5, of the Annotated Code of Maryland.
 - (ii) **DISTRICTS THAT ARE NOT CONSISTENT WITH THE AGRICULTURE ARTICLE, TITLE 2, SUBTITLE 5, OF THE ANNOTATED CODE OF MARYLAND AND MARYLAND REGULATIONS 15.15.01 ARE NOT ELIGIBLE TO SUBMIT AN APPLICATION TO THE FOUNDATION. CONSISTENCY WILL BE DETERMINED AT THE TIME THE DISTRICT IS ESTABLISHED.**

The creation of two distinct Agricultural Preservation District Agreements for recordation in the Land Records is proposed and ; one would specify "Not Eligible for the Maryland Agricultural Land Preservation Foundation Program" and the other would indicate its eligibility. both Districts could be terminated after three years, or in accordance with the provisions of *Chapter 171*.

Since MALPF has a policy that addresses "withheld" acreage, staff proposes that the *County Code* be amended to be consistent with MALPF's policy.

Therefore, the following proposed amendments to §171-7 are offered:

§ 171-7 Sale of easements.

- A. Pursuant to Agriculture Article, Title 2, Subtitle 5, the County Commissioners shall approve or disapprove applications to sell easements in agricultural lands. In considering the approval or disapproval of applications to sell, the following shall apply:

- (1) The easement shall be on the entire farm unless:
 - A. Other easements compatible with the objectives of the county's Agricultural Preservation Program are combined with an agricultural easement so that the entire farm is under easement agreement. The other easements, if any, shall be recorded prior to approval of the agricultural easement;
 - B. **EXCLUDED LAND IS PLANNED FOR A NON-AGRICULTURAL PUBLIC PURPOSE AND THE REMAINDER LAND AREA OF THE FARM IS AT LEAST 50 ACRES;**
 - C. **EXCLUDED LAND CONTAINS EXISTING COMMERCIAL OR BUSINESS USE PERMITTED IN ACCORDANCE WITH THE PROVISIONS OF THE KENT COUNTY LAND USE ORDINANCE, AND THE REMAINDER LAND AREA OF THE FARM IS AT LEAST 50 ACRES; AND**
 - D. **EXCLUDED LAND IS LEASED FOR PERSONAL WIRELESS FACILITIES, OR PUBLIC UTILITIES AND STRUCTURES, AND THE REMAINDER LAND AREA OF THE FARM IS AT LEAST 50 ACRES.**
- (2) More than fifty percent (50%) of the farm's tillable acreage shall be in the production of food or fiber

Following a lengthy discussion, and in consideration of the Agricultural Preservation Board's recommendations, and the Planning Commission, Mr. Sutton made a motion to table the discussion and request a work session with the Agricultural Preservation Board to discuss the code amendments.

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

17-61 Travis Biggs- After- the -fact Buffer Variance Mr. Biggs requests an after-the -fact Buffer Variance to retain an approximately 325 square-foot waterfront deck that in the 100-foot Critical Area Buffer. The deck is located 55.09 feet from the mean high tide and attached to the front of the dwelling. The 1.693-acre property is located on Stirrup Lane, in Foxhole Estates, along the Sassafra River in the First Election District. The parcel is zoned Critical Area Residential (CAR) and the neighborhood consists of multiple single-family dwellings on waterfront and non-waterfront lots.

Present and duly sworn in were; Lance Young, Counsel for the applicant; Travis Biggs, Applicant; and Ms. Jones, Environmental Planner.

Ms. Jones gave an overview of the application and cited all applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 2.5 which establishes the minimum yard requirements; Article XI.35 which defines the buffer; Article V, Section 2.7.B.3 addresses development in the buffer; and Article IX, Section 2.2 authorizes the Board of Appeals to grant variances from buffer requirements.

Ms. Jones read for the record a letter from the Critical Area Commission.

Mr. Young stated for the record that the deck was built prior to Mr. Biggs purchasing the property and that when the house was inspected the deck was a safety hazard.

After much discussion and consideration of the testimony and all applicable laws, Mr. Crowding made a motion to forward a favorable recommendation of an after-the-fact buffer variance to retain an approximately 325

square-foot waterfront deck within the 100-foot Critical Area Buffer. Their decision was based on the following findings of fact:

- Granting a variance will neither cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The variance is consistent with the Comprehensive Plan and intent of the Ordinance.
- The dwelling including the waterfront deck was constructed within 100 feet of the water in 1983, prior to the adoption of the Critical Area program.
- The applicant was advised by the home inspector, when purchasing the property, that the deck was in poor condition and was a safety hazard.
- This subdivision consists of waterfront and non-waterfront properties on one- to three-acre lots. Within Foxhole Estates, the dwelling on Lot 17 (built in 1987) is also located predominantly within the 100' buffer. This dwelling has a fairly large waterfront deck located within the buffer.
- The granting of a variance will not adversely impact fish, wildlife, or plant habitat.
- The deck was constructed to allow water to pass through freely, not creating lot coverage within the buffer and minimizing the adverse effects on water quality.
- The strict application of the Ordinance would produce an unwarranted hardship.
- The house would have an existing set of sliding doors without an adequate secondary form of ingress and egress.
- The literal interpretation of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area.
- Without the variance, the applicant would be deprived of a use of land or a structure permitted to others in accordance with the provisions of the critical area program.

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

Staff Reports

Amy Moredock:

- Ms. Moredock granted 2 administrative special exceptions for proposals to construct accessory structures in excess of 1,200 square feet on parcels less than 5 acres. Two more such hearings are pending.
- The Board of Appeals will hear and render a decision regarding an appeal of the zoning administrator's decision to deny a building permit for a cargo storage container on 19 March.
- Chesapeake Bay Crossing Study (Tier 1 NEPA) Updates:
 - Kent Conservation and Preservation Alliance held a community meeting to discuss the Chesapeake Bay Crossing Study (Tier 1 NEPA) and to gain support for their campaign to oppose a potential bridge span with a terminus in Kent County. Approximately 200-225 people attended the meeting on 25 January at the Chestertown Fire Hall. Commissioners Fithian and Short addressed the crowd and expressed their shared opposition and their testimony against SB34.
 - I was interviewed on 29 January on behalf of the County Government by WBOC's Mid-Shore Bureau Chief Amy Lu regarding the Bay Crossing Study and the County's position in that regard. I spoke a great deal about our Comprehensive Plan and the Land Use Ordinance; the County spot is brief. The story appeared on the evening news and then again at 11pm.
 - The County Commissioners voted unanimously on Tuesday to request that Delegate Jay Jacobs put forward a bill which opposes a span of the Bay Bridge with a terminus in Kent.
 - Kent County Bay Bridge Monitoring Committee – As the designated “Kent County Participating Agent,” I will assist the members to organize a kick off meeting within the first 2

weeks of February. Heather Lowe, Bay Crossing Study Project Manager, has agreed to attend the first meeting of the local Committee. At that meeting, we will learn about the MDTA study (process, procedures, timelines, so on) and will clearly establish the County's charge for the committee.

- Bayshore Campground Update:
 - A scheduling conference with Judge Karen Jensen (retired Caroline County Judge), Planning Attorney Mitch Mowell, and the applicant's attorney Dan Saunders (represented by Lance Young) was held on 7 December 2017; Elise Davis filed to intervene in the case on behalf of several neighbors.
 - A hearing was held on 22 December for the judge to consider Ms. Davis' request. The County is not opposing the intervention; Mr. Saunders is. The Court denied the petition to intervene.
 - As required by Judge Jensen, Mitch filed a Pretrial Statement on 11 January specifying the issues to be addressed in the declaratory judgment. Having met with John Beskid, Stephanie, and me on 10 January, Mitch filed the statement without information from the Health Department. John did not have substantive documentation to add to the County's case.
 - No hearing schedule has been established, as of yet.
- Maryland Department of Planning held listening sessions with local planners and public officials, as well as a public hearing on 30 January 2018. MDP is visiting all Maryland counties to seek input from local officials and residents regarding its State Development Plan: A Better Maryland.

Stephanie Jones:

- Ms. Jones attended ESLC's Shore Planner & Economic Development Professionals Lunch. Discussion included job creation and incentives that are available, Federal Tax Reform, and the Bay Bridge Crossing Study along with an update from all attendees as to what is happening on the Shore.
- The County Commissioners signed a letter of support, along with other members of the Eastern Shore Climate Adaptation Partnership (ESCAP), to accompany ESLC's proposal to the Climate Resilience Fund 2017 Capacity Building Grant. ESLC received this grant and will be able to provide support for ESCAP providing workshops, simulations, and trainings for ESCAP throughout the next year. Also, it will help further implement the County's Climate Change and Sea Level Rise Vulnerability Adaptation Report that was finalized in 2016.
- WIP updates for the 2016-2017 Two-Year Milestone and 2018-2019 programmatic milestone were submitted to Maryland Department of Environment.
- Inn at Huntingfield received a minor site plan approval for a 600-square foot open car port addition to the existing events building.
- The second quarter report was submitted to the Critical Area Commission.
- Ms. Jones attended the Maryland Department of Planning listening session to discuss *A Better Maryland* development plan and the planning process.

Katrina Tucker:

- MALPF will be accepting applications this Spring. In December, Ms. Tucker sent a letter to everyone who has a farm enrolled in a Kent County Agricultural Land Preservation District, as well as those whose applications are pending, advising them to schedule a meeting with her in order to complete the application if they're interested in applying to sell an easement to MALPF in this upcoming cycle.
- The draft Land Preservation, Parks and Recreation Plan (LPPRP) was submitted to the State for review. Staff is awaiting comments on the draft.

- The Public Utility Law Judge for the Massey Solar, LLC, project (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”) issued a “Notice of Intent to Dismiss the Application and Close the Docket” on November 21, 2011, and gave the applicant 30 days to file a request that case not be dismissed and to also present a proposed procedural schedule. In response the application filed a response requesting that the application not be dismissed and presented a proposed procedural schedule. A public comment hearing has been scheduled for Tuesday, March 6th at 6:30 p.m. at St. Clement’s Episcopal Church at 32940 Maryland Line Road in Massey, and the Evidentiary Hearing is scheduled for May 2 in Baltimore.
- Ms. Tucker also attended the Eastern Shore Land Conservancy’s (ESLC) Shore Planner & Economic Development Professionals quarterly gathering
- Ms. Tucker also participated in the Maryland Department of Planning listening session to discuss “*A Better Maryland*” State development plan and the State planning process.
- The ESLC is preparing the Agricultural Security Corridor application for Rural Legacy funding, which is due in February. The Agricultural Security Corridor Rural Legacy Area (RLA) is a regional effort comprised of five Eastern Shore Counties (Kent, Cecil, Talbot, Caroline, and Dorchester) that encompasses three focus areas: the Tuckahoe, the Marshyhope, and the Sassafras. Since the inception of the Rural Legacy Area, the applications for the Agricultural Security Corridor were cycled among each of the five counties, such that each year one county was the subject of the application for funding. This year it was decided to submit three separate applications, one for each of the focus areas. For next year’s application, the ESLC has proposed, and the Counties staff concurred, that the geographic boundaries of each focus area be expanded. Therefore, Kent County staff will be coordinating with the ESLC to prepare a draft of the expanded area for the portion of the Sassafras RLA within Kent County. This proposed expansion will be brought to the Planning Commission at a future meeting for review and recommendations.

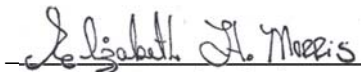
General Discussion:

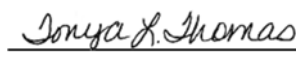
Ms. Moredock read a letter addressed to the Planning Commission members written by Mr. Michael Vargo regarding the rezoning of their three (3) parcels located in Worton. Mr. Vargo and Mr. Glazer have filed and want to be considered for their Parcels 103,160, and 161 and that they are interested in the Comprehensive Plan rezoning and would like to have their parcels rezoned to Industrial.

Mr. Crowding stated Ms. Moredock does a good job regarding accessory structure approvals.

Mr. Hickman advised the Planning Commission members that Kent Conservation and Preservation Alliance, in partnership with the Center for Environment and Society at Washington College, invites you to an evening lecture entitled “Delmarva Oasis” by internationally renowned author and lecturer Tony Hiss. The lecture will be held in the Hynson Lounge on February 20th at 7:00 p.m. This is a free event but ask that you make reservations to attend.

There being no further business for the good of the organization, the meeting was adjourned at 4:27 p.m.


Elizabeth Morris, Chairman


Tonya L. Thomas, Clerk