

MINUTES

The Kent County Planning Commission met in regular session on Thursday, March 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; James Saunders; 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 February 1, 2018, meeting, were approved as presented.

WORKSESSION WITH AGRICULTURAL PRESERVATION ADVISORY BOARD

Code Amendments – County Code of Public Local Laws of Kent County

- Establishment of Agricultural Preservation Districts: Chapter 171-5. B, D, and G – To remove certain district criteria references; and
- Sale of Easement Provisions: Chapter 171-7. – To amend the provisions to allow for, under specified conditions, the exclusion of land from easement applications

This amendment to the *Code of Public Laws of Kent County* was initiated by the Planning Commission at their meeting on May 4, 2017. Staff was directed to prepare and present amendments to the *Code of Public Laws of Kent County, Chapter 171: Agricultural Preservation Districts* 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 (MALPF).

Members of the Agricultural Preservation Advisory Board, George “Butch” Weidenmeyer, Davidson Coleman, David Hill, and Ernest “Tot” Strong joined the work session.

Ms. Tucker gave a brief overview and background of the proposed amendment. Ms. Tucker stated the Kent County Planning Commission at its meeting May 4, 2017, reviewed multiple applications to establish Kent County Agricultural Preservation Districts that had been reviewed and forwarded from the Agricultural Preservation Advisory Board (APAB). An unfavorable recommendation from the APAB had been forwarded on an application citing that the application did not meet the provisions of *Chapter 171* of the *County Code*, which requires that the application 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*.

The Agricultural Preservation Advisory Board reviewed the amendments to the *County Code* as proposed by the Planning Commission at their meeting on November 13, 2017, and unanimously forwarded its unfavorable recommendation. The Agricultural Preservation Advisory Board advised that in *Chapter 171-2*, the Agricultural Preservation Advisory Board is established pursuant to the *Agriculture Article, Title 2, Subtitle 5, of the Annotated Code of Maryland*, and, accordingly its function is to advise the County whether or not land proposed for districts and subsequently the purchase of an easement by MALPF meets the qualifications established by MALPF and the *Annotated Code of Maryland*. Therefore, the Board found that the criteria by which they are to review an application to establish an Agricultural Land Preservation District must remain

consistent with the requirements of the *Annotated Code of Maryland* and the County Code needs to retain those references.

The members of the Agricultural Preservation Advisory Board conveyed that their interpretation as to the purpose of Chapter 171 is to set forth a process for creating Districts that meet the criteria of the *Annotated Code* in order to be eligible to submit an application to sell an easement to MALPF. The proposed amendment would make it difficult for them, staff, and property owners since the District Agreement is recorded in the County Land Records to keep straight as to which Districts are eligible to be submitted to MALPF. Since the establishment of an agricultural preservation district that would not qualify for a MALPF easement is not within their purview, the members suggested that if the county felt inclined to allow property owners to place their property in a type of district that does not fit the MALPF criteria for easement acquisition then a different type of land preservation designation and a separate commission should be created to establish and monitor those properties that are not MALPF eligible.

On the other matter related to the County's Agricultural Land Preservation Program, in §171-7, Sale of easements, the *County Code* requires that the easement, and hence the District, shall be on the entire farm. There are certain instances where this has not been feasible and has affected the ability for a landowner to establish a district and submit an application to sell an easement to MALPF. Since MALPF has a policy that addresses "withheld" acreage, staff proposed, and the Agricultural Preservation Advisory Board concurred that the County Code be amended to be consistent with MALPF's policy.

After much discussion, the Planning Commission took in consideration the Agricultural Preservation Advisory Board's recommendations on both amendments and will have an open meeting discussion and decision at the next meeting scheduled for 5 April 2018.

Staff Reports

Mitch Mowell:

- Mr. Mowell filed a legal brief on behalf of the County for the Bayshore Land Holdings Case. A Motion for Summary Judgement will be heard by Judge Jensen in Circuit Court on 21 March.
- The defendant filed motion for a summary judgement which basically is saying that there is no dispute in material fact. However, the plaintiff's position is that there are certainly facts in dispute as to what the use of the property is.

Amy Moredock:

- Ms. Moredock granted an administrative special exception to construct an accessory structure in excess of 1,200 square feet on parcels less than 5 acres located in the Rudnick Subdivision. There have been 3 previous such cases approved in this subdivision. She will conduct a hearing for another large accessory structure on 19 March.
- 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.
- The following public hearings have been scheduled for 27 March 2018 at 6pm in the Commissioners Hearing Room:
 - The Draft Comprehensive Plan
 - Zoning text amendment to address school bus parking in certain districts
 - Zoning text amendment to allow food processing facilities in the Crossroads Commercial Zoning District
- Chesapeake Bay Crossing Study (Tier 1 NEPA) Updates:

- Delegate Jay Jacobs put forward HB1199 – Repealing the authority of the State Roads Commission concerning the construction and financing of a northern crossing of the Chesapeake Bay with a terminus in Kent County; prohibiting the Maryland Department of Transportation (MDOT) and other certain units from including in certain plans and other documents any reference or statement with respect to a crossing of the Chesapeake Bay with a terminus that lies in whole or in part in Kent County. This bill will be heard on 8 March at 1pm. [This bill was introduced in 2007 (then-HB981) by Delegate Mary Roe Walkup and received an unfavorable report by the Environmental Matters Committee.]
- Kent County Bay Bridge Monitoring Committee – As the designated “Kent County Participating Agent,” Ms. Moredock, along with County Engineer Jim Wright and Clerk Sandy Adams, held the Committee’s kick off meeting on 26 February. Heather Lowe, Bay Crossing Study Project Manager, and Melissa Williams, Director of the Division of Project Planning and Program Development, outlined the MDTA study (process, procedures, timelines, so on) for the members and the approximately 15 residents in attendance. The Committee agreed to meet on the fourth Wednesday of each month at 10:00 a.m. in the Commissioners Hearing Room. The meetings will be livestreamed and all Committee materials will be posted on the County’s website. The next meeting is scheduled for Wednesday, March 28 at 10:00 a.m. in the County Commissioners’ Hearing Room. The Committee’s initial area of concentration will be the National Environmental Policy Act (NEPA).
- In a collaborative effort with Mr. Wright, Ms. Moredock submitted the Chestertown Boulevard concept in this first round of MDOT Chapter 30 Projects. The estimated cost established in 2010 for this project totals \$640million. The MDOT Chapter 30 Project portal is meant to process local jurisdiction project requests which exceed \$5million.
- Ms. Moredock attended the Governor’s Intergovernmental Committee on Agricultural meeting on 14 February. This meeting was held jointly with the Maryland Agricultural Commission. Both Pat Langenfelder and Marian Fry sit on the MD Ag Commission and were also in attendance.
- On 21 April from 9am until 1pm, Eastern Shore Land Conservancy will host a workshop titled “Climate, Culture, and Change: How social factors influence the Eastern Shore's climate dialogue” at Washington College. There is a \$20 registration fee, so Ms. Moredock encouraged the members to contact the office should they wish to attend.

Stephanie Jones:

- The Board of Appeals granted an after-the-fact buffer variance for Travis Biggs to retain his 325 square foot deck that is 55 feet from mean high tide with a mitigation plan totaling 7:1, 4:1 for the buffer violation and 3:1 for the granting of the variance.
- Ms. Jones will be attending the March Eastern Shore Climate Adaptation Partnership meeting on March 20th.
- The number of property inquiry reviews have increased in the last month.

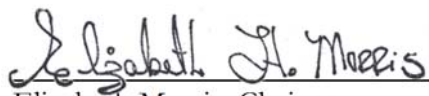
Katrina Tucker:


- The Planning Commission’s recommended update to the County Comprehensive Plan was submitted to the County Commissioners, and the County Commissioner’s public hearing is scheduled for Tuesday, March 27 at 6:00 p.m. Copies of the draft Plan may be reviewed at the County Commissioner’s Office, the Department of Planning, Housing, and Zoning, as well as the Chestertown Public Library, the Kent County Community Center, and the Town Offices or on the county’s webpage.
- There have been 15 applications submitted thus far for this year’s Maryland Agricultural Land Preservation Foundation (MALPF) easement cycle.

- The Round 2 offers from the 2016 cycle are settling and baseline inspections of the farms and the accompanying reports are being completed. Kent County had a total of 6 applications receive either Round 1 or Round 2 offers from the 8 submitted in the 2016 easement cycle.
- The Kent Conservation and Preservation Alliance has commenced with the Cultural Landscape Assessment of the Chesterville/Morgan Creek District in Kent County. Ms. Tucker participated in one of their bus tours through this section of the County.
- 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, 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"). The Evidentiary Hearing is scheduled for May 2 in Baltimore.

General Discussion:

There being no further business for the good of the organization, the meeting was adjourned at 2:27 p.m.


Elizabeth Morris, Chairman


Tonya L. Thomas, Clerk