

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, June 7, 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; and Tonya Thomas, Secretary.

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

## MINUTES

The minutes of May 3, 2018, meeting, were approved as presented.

## HEARINGS

The public hearing regarding #18-23 Cliff Road Properties, LLC's application to amend Article VII, Section 7.16.f of the *Kent County Land Use Ordinance* (Country Inn Special Exception Use) was postponed.

**Erosion and Sediment Control Regulation Update** – The Maryland Department of the Environment (MDE) finalized revisions to COMAR 26.17.01 Erosion and Sediment Control and to Maryland's Erosion and Sediment Control Handbook on April 28, 2017. Kent County has been delegated enforcement authority for erosion and sediment control by the MDE; therefore, the Land Use Ordinance must be updated to reflect regulatory changes.

Ms. Moredock gave an overview of the sections of the *Kent County Land Use Ordinance* impacted by the proposed amendments and cited the applicable law of the *Ordinance* (Article XII, Section 6) which establishes the standards for the review and approval of a zoning text amendment.

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

## APPLICATIONS FOR REVIEW

**#18-23 Cliff Road Properties, LLC** – The review of this application to amend Article VII, Section 7.16.f of the *Kent County Land Use Ordinance* (Country Inn Special Exception Use) was postponed.

**Erosion and Sediment Control Regulation Update** – The Maryland Department of the Environment (MDE) finalized revisions to COMAR 26.17.01 Erosion and Sediment Control and to Maryland's Erosion and Sediment Control Handbook on April 28, 2017. Kent County has been delegated enforcement authority for erosion and sediment control by the MDE; therefore, the Land Use Ordinance must be updated to reflect regulatory changes.

Present and duly sworn in were; Amy Moredock, Planning Director. Ms. Moredock gave an overview of the sections of the *Kent County Land Use Ordinance* impacted by the proposed amendments and cited the applicable law of the *Ordinance* (Article XII, Section 6) which establishes the standards for the review and approval of a zoning text amendment.

Specifically, the provisions which apply to the *Ordinance*, rather than the Maryland Handbook, are proposed to be amended through ~~deletion~~ and **ADDITION** as follows:

Amend Article XI, Section 2 (Definitions) as follows:

147.5 Grading Unit - The maximum contiguous area allowed to be graded at a given time. For the purposes of *erosion and sediment control*, a grading unit is ~~20 acres or less.\*\*~~ THE MAXIMUM CONTIGUOUS AREA ALLOWED TO BE GRADED AT A GIVEN TIME AND CAN BE ESTABLISHED ON A SITE SPECIFIC BASIS.

Amend Article VI, Section 9.8 (Review and Approval of Erosion and Sediment Control Plans)

7. Approved plans remain valid for ~~two (2)~~ THREE (3) years from the date of approval unless extended or renewed by the *approving agency*.

Mr. Crowding stated the proposal made it sound like there would not be inspections required. Ms. Moredock stated inspections are required. Inspections were established every two (2) weeks for compliance and the proposal will allow for inspections to be conducted as needed.

Ms. Morris asked who is responsible for inspections. Ms. Moredock explained that inspections are conducted by MDE staff in many jurisdictions; however, Kent County has been delegated authority to enforce sediment and erosion control standards and, therefore, conduct inspections.

Ms. Morris asked who will determine the grading unit area. Ms. Moredock noted that the formal sediment and erosion control plan review is conducted by the Soil and Water Conservation District staff dedicated to sediment control and stormwater plan review. Generally, that plan reviewer coordinates directly with the engineer and designer.

Ms. Moredock further stated that County plans and inspection notes are reviewed by MDE and pass inspection in order for the County to maintain delegation authority. She added that, if documentation relative to plan approval and site inspection had not met the standards outlined in COMAR 26.17.01 Erosion and Sediment Control and in Maryland's Erosion and Sediment Control Handbook, then such deficiencies would be noted by MDE inspectors. It would have been a documented criticism of the enforcement of the program and could have jeopardized the County's delegation authority. Such criticism has never been raised or documented. The County does not have inspection provision codes in the Land Use Ordinance; therefore, the State provisions are followed.

Mr. Birkmire stated he was having a problem determining the public need for the proposed amendments and opined that the proposal represented a downgrade to state provisions.

Ms. Moredock stated the State must follow the same public need rule when they promulgate and adopt regulations. The need that was expressed for flexibility was a need originally brought to light through inconsistent levels of review through different types of plan reviews to include stormwater. There are time frames for renewals for stormwater management plans and other grading plans that were not in sync with one another. The need to bring the re-stamping of sediment and erosion control plans to a 3-year cycle creates consistency with the 3-year expiration cycle of stormwater management plans. The flexibility of grading units lends consistency with gravel excavation pit operations.

After much discussion and consideration of all applicable laws, Mr. Hickman made a motion to send a favorable recommendation to the Kent County Commissioners to amend the Sediment Control provisions as presented based on the following findings of fact:

- The County *Land Use Ordinance* must be consistent with COMAR 26.17.01 Erosion and Sediment Control unless it chooses to be more restrictive.

- By the nature of MDE's mandate to update the Erosion and Sediment Control measures, a public need has been documented.
- The proposed amendments are not only consistent with but also supportive of many Comprehensive Plan goals and strategies, as well as the intent of the Critical Area Program.

Ms. Kohl seconded the motion, and the motion passed 5:1 with Mr. Crowding voting against the motion.

## Staff Reports

Amy Moredock:

- Ms. Moredock attended a planning meeting on 8 May hosted by the consultant tasked with the Kent County Humane Society's relocation plans/design (Animal Arts – it is an architectural firm which specializes in humane society projects/design). The Board has purchased a vacant lot located at the crossroads of MD213 and Still Pond Road (between Images Salon and Greenscapes Landscaping). It is zoned Crossroads Commercial.
- Ms. Moredock met with Joe Wheeler several times in May to discuss the school bus parking lot site plan requirements and submittal. The parking is being proposed adjacent to the former Worton Elementary School building. It is staff's hope that the site plan will be ready for Planning Commission review this summer.
- Ms. Moredock granted an administrative special exception to construct an accessory structure in excess of 1,200 square feet on a parcel less than 5 acres on 14 May. She will hold administrative hearings on 18 and 26 June (2 setback variance cases and 1 special exception for a large accessory structure).
- Staff met with Critical Area Commission staff on 16 May to discuss the adoption schedule of the new Critical Area line and subsequent mapping update.
- MDOT staff conducted a well-attended public meeting on Thursday, 10 May 2018 from 6-8 p.m. at the Kent County Middle School to share the status of the Bay Crossing Study (Tier 1 NEPA). Kent Conservation and Preservation Alliance played an active role in this meeting.
- Ms. Moredock attend a Lion's Club meeting on 21 May to brief the members on the Bay Crossing Study and the activities of the County Bay Bridge Monitoring Committee.
- The BBMC met on 23 May and the next meeting will be held on 27 June at 10 am in the Commissioners Hearing Room. The meeting is livestreamed.
- Ms. Moredock met with property owners who manage a poultry operation and intend to subdivide their farm and the purchasers of the subdivided poultry operation on 23 May to assist them with their application to apply for a special exception to operate a poultry operation on a parcel on which the operator/property owner cannot handle the waste generated. It is anticipated that this application will be heard by the Planning Commission and Board of Appeals in July. Representatives from MD Department of Agriculture (nutrient management plan technician) and the Delmarva Poultry Industry will be assisting and advocating on behalf of the applicants.
- As the Eastern Shore Representative of MAFSM (Maryland Association of Floodplain and Stormwater Managers), Ms. Moredock co-hosted the organizations first Eastern Shore Conference: People, Data, and Tools to Minimize Flood Risk on the Eastern Shore. The conference was held on 6 June at Chesapeake College and was well-attended and -received.
- The County Agricultural Preservation Program Recertification application was submitted last week and will be considered for approval at the 23 May Maryland Agricultural Land Preservation Foundation (MALPF) board meeting. The Kent Agricultural Preservation Advisory Board approved

the Recertification report on 26 April and the County Commissioners approved and submitted the application on 27 April.

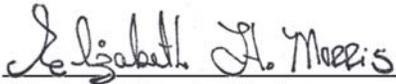
- Staff is processing applications to sell an easement to 2018 MALPF cycle. The Agricultural Preservation Advisory Board will rank the applications which will be forwarded to the MALPF Board prior to 2 July 2018.
- Maryland Historical Trust will host a Statewide Preservation Plan Public Meeting on 12 June at Washington College, Litrenta Lecture Hall (Toll Science Center) from 4:00pm-6:00pm. Staff will email meeting details to the members.

Stephanie Jones:

- Ms. Jones attended a pre-bid meeting on May 7 and reviewed the bids for the second phase of a stream restoration project at St. Paul's Church, Sandy Bottom Road, Chestertown. A recommendation will be sent to the County Commissioners.
- Ms. Jones attended the Maryland State of the Coast Conference May 22nd and May 23<sup>rd</sup>. Topics addressed included shoreline and stream restoration, stormwater, climate change, and green infrastructure.
- On May 24<sup>th</sup> Ms. Jones granted an administrative special exception for a structure (pool) in the front yard of a waterfront.
- Ms. Jones is continuously working on the 2017 Annual Report and it will be forthcoming.

#### **General Discussion:**

There being no further business for the good of the organization, the meeting was adjourned at 2:23 p.m.

  
Elizabeth Morris, Chairman

  
Tonya L. Thomas, Clerk