

MINUTES

The Kent County Planning Commission met in regular session on Thursday, July 5, 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; William Crowding; and Joe Hickman. 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 June 7, 2018, meeting, were approved as presented.

PUBLIC HEARING

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.

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.

17-55 Creafill Fibers Corporation – The review of this final site plan application to construct shipping and receiving additions to three of their existing buildings was postponed.

18-39 John H. and Sandra D. Krastel/Jeffrey S. Pettitt – The review of this special exception and site plan review for poultry houses on a parcel where the owner cannot handle the waste generated by the poultry houses was postponed.

Staff Reports

Mitch Mowell:

- Mr. Mowell stated an enforcement action involving a zoning violation in the County was filed in the District Court; however, we are having difficulty serving notice (the court papers) to the property owner. The property owner does not live on the premises, and there is no alternative address listed in the tax records or through online searches.

Amy Moredock:

- Maryland Historical Trust hosted a Statewide Preservation Plan Public Meeting on 12 June at Washington College, Litrenta Lecture Hall (Toll Science Center). Ms. Moredock attended the meeting which was informative in nature. MHT is in the process of updating the statewide preservation plan – a five-year guidance document for government agencies, non-profit advocates and others involved in historic preservation, archeology and cultural heritage. Members may participate in the Statewide Preservation Plan Survey at <https://mht.maryland.gov/plan.shtml>.

- Administrative hearings were held on 18 and 26 June (2 setback variance cases and 1 special exception for a large accessory structure were approved by Stephanie Jones and Ms. Moredock). She will hold another hearing on 16 July regarding special exception for a large accessory structure.
- The Bay Bridge Monitoring Committee met on 27 June and will be presenting an update and a request for action to the Commissioners at an upcoming County Commissioners meeting.
- Staff has completed the applications to sell easements through the 2018 MALPF cycle. In addition, staff completed the required farm inspections required for compliance with previous MALPF easement cycles. All documentation was delivered to the MALPF Board on 29 June.
- Maryland Department of the Environment, stormwater management staff, will conduct compliance inspections in Kent on 6 July. This is the first time in about 20 years that they have evaluated the local implementation of SWM provisions in Kent. Kent Soil and Water Conservation District manages the implementation of SWM provisions in the County. The Commissioners contribute to the KSWCD budget annually for this service (as well as sediment control review).
- She continues to meet with Joe Wheeler 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. She anticipates that the site plan and special exception will be ready for Planning Commission review at their August meeting.
- Ms. Moredock last updated the Planning Commission at its June meeting regarding a May meeting 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.

Since that time, Ms. Moredock has consulted with Planning Attorney Mitch Mowell regarding the Land Use Ordinance's lack of specificity as it relates to an animal shelter use. The Ordinance is not clear as it might be on this point. Ms. Moredock sought dialogue the Planning Commission regarding the Ordinance intent as it relates to an animal shelter use and the potential for a text amendment specific to animal shelters as defined by the County Code of Public Laws.

Mr. Birkmire recused himself from the discussion of this matter, citing that he would likewise recuse himself should a site plan application by the Humane Society come before the Planning Commission for review and approval.

Ms. Moredock outlined the following provisions relative to veterinary hospitals and clinics, advising that this use might offer the most consistent language relative to the clarification of the animal shelter use as defined by the Code:

- AZD Uses and Structures: Veterinary hospitals or clinics provided that all open kennels shall be at least 200 feet from all property lines.
- CC Permitted Uses and Structures subject to Site Plan review: Veterinary hospitals and offices

The Planning Commission concurred that the Ordinance is unclear in this regard and that is not the intent of the Ordinance to prohibit an animal shelter use in the County. Therefore, the Commission voted unanimously to pursue a zoning text amendment to add "animal shelters as defined by the County Code of Public Laws" to the uses already listed in AZD and CC for veterinary hospitals or clinics. Staff will process accordingly.

Stephanie Jones:

- On June 15th Ms. Jones attended the Spring 2108 Upper Eastern Shore WIP Workshop. The workshop addressed Phase III WIP development including the process, funding, stormwater and wastewater and agricultural sectors
- On June 25th Ms. Jones granted an 18' administrative front yard setback variance for a 442 square foot addition 32 feet from the front property line. The existing structure is nonconforming to the front yard setback requirement of 50', but the addition will be less nonconforming than the existing structure.
- Ms. Jones is continuously working on the 2017 Annual Report and it will be on the August Planning Commission Agenda.
- The final Quarterly Critical Area report for FY 2018 was completed and submitted to the Critical Area Commission.
- Ms. Jones will be attending the Critical Area Commission Quarterly meeting on July 19th.
- A public hearing for the remapping of the Critical Area Line has been scheduled for August 29th in the Commissioners Hearing Room. Affected properties will receive notification from the Critical Area Commission prior to the meeting.

General Discussion:

The Planning Commission members asked staff to explain why the projects were postponed. Ms. Jones stated Cliff Road Properties, LLC had planned to schedule a mediation meeting with Cliff Road property owners. That meeting did not occur. At the discretion of the property owner and applicant's counsel, the hearing was postponed. Ms. Moredock stated Creafill Fibers Corporation did not have their required Letters of Credit and that the John Krastel and Jeffrey Pettitt project needed to document compliance with their stormwater management plan, as that compliance is a finding of fact in the special exception standards.

Discussion regarding the process of project review and the purpose of hearings ensued. Mr. Birkmire stated he has trouble reviewing an application in which an applicant requests a zoning text amendment with a specific project in mind. Mr. Mowell stated the applicant for a text amendment can have a specific need in mind, but both the applicant and the Planning Commission must understand that any specific project is not the subject of what is before the Planning Commission. A problem arises if a proposal for amendment is so specific that it applies only one property. That is called spot zoning, and it cannot be done. If the request is for the benefit of the County, then the text amendment standards may be met. Ms. Moredock stated that the finding of a public need comes into play when assessing the amendment's applicability and consistency with the intent of the zoning districts in which they are proposed and the goals and strategies of the Comprehensive Plan. If the Comprehensive Plan and the intent of the Land Use Ordinance are consistent with what is being proposed and there is some sort of documented need that would be of benefit to the community, then that public need test is really at the discretion of the County Commissioners. Mr. Mowell stated the Planning Commission can make a recommendation that is based on good planning. The County Commissioners' decision is based on the public safety, public health, morality, peace and quiet, and law and order.

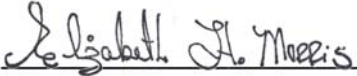
The discussion then turned to the completeness of application submittals when it comes to setting a Planning Commission agenda. Ms. Moredock stated that it has been her position with applicants that they not come before this board knowing they are going to ask for a conditional approval. There are applicants with expectations that they will put incomplete projects for review on the agenda, and they will obtain the required

documents in time for the public meeting. The staff likes to write reports that gives the board the information needed to render a decision; when the submittals are incomplete, then the members and staff are in a position of reviewing documents without notice or preparation. This long-standing policy can cause frustration on the end of the applicant, and she wants to confirm that the board is comfortable with maintaining the position.


Ms. Morris asked if the applicant is given a check list; she added that it seems as if the applicant knows what is required they should have a complete submittal. Ms. Morris stated she felt uncomfortable giving a final approval on a site plan when the applicant still has two or three items to complete because it is unknown at the time if those items will be completed. She stated that she wants the submittals to be complete before the project is added to the agenda.

Mr. Hickman stated that is not all black and white and should depend on the project. Mr. Birkmire stated he thinks there should be some flexibility and would like the Planning Department to be as compromising as needed, and staff will have his support. Mr. Hickman stated that the Department should offer the applicant scenarios of what may or may not happen in the meeting, and it will be up to the board to approve or deny the project. In other words, the applicant will get a hearing, and it will be at the Commission's discretion to decide if there is adequate documentation to render a decision to approve or not approve. Mr. Saunders stated he also agrees with Ms. Morris: the applicant should have a complete submittal. Mr. Sutton stated the board has been trying to get away from walking the applicant through the process.

There being no further business for the good of the organization, the meeting was adjourned at 2:50 p.m.



Elizabeth Morris, Chairman



Tonya L. Thomas, Clerk