

MINUTES

The Kent County Planning Commission met in regular session on Thursday, September 6, 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, 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 August 2, 2018, meeting, were approved as presented.
Mr. Hickman and Mr. Sutton abstained.

APPLICATIONS FOR REVIEW:

18-23 Cliff Road Properties, LLC – Zoning Text Amendment – Special Exception Use in the Agricultural Zoning (AZD), Resource Conservation (RCD), Rural Character (RC), Rural Residential (RR), Critical Area Residential (CAR), Community Residential (CR) and Marine (M) Districts – Country Inn Provisions.

Present and duly sworn in were: Daniel Saunders, Counsel representing the applicant; Harry Reed, applicant; and Stephanie Jones, Environmental Planner.

Ms. Jones gave a thorough overview of the proposed amendment to the *Ordinance* Country Inn Special Exception Use Provisions in AZD, RCD, RC, RR, CAR, CR, and M Districts. She further cited all applicable laws of the *Kent County Land Use Ordinance* to include Article XII, Section 6 establishes the standards for the review and approval of a zoning text amendment.

Specifically, the applicants propose to delete the limitation of extension or enlargement of structures found in Article VII, Section 7.16.f and to replace that standard with a requirement which addresses consistency of feature and character of any extension or enlargement of principle and accessory structures that existed prior to August 1, 1989.

Ms. Jones stated, in addition to the correspondence received and distributed to the members in their packets, letters of support were submitted to the Planning Commission members after the packets were delivered.

Ms. Jones gave a brief overview of the permitting history of County Inns in the County which may be impacted by the proposed amendment, adding that, if approved, the provisions would apply to all applicants moving forward.

Mr. Saunders stated there was a comprehensive memorandum that was written and included in the packets that addressed the *Ordinance* compliance and consistency with the Comprehensive Plan. Mr. Saunders talked about the issue of need, citing a national economy boom that is not impacting Kent County. He said that the country is realizing almost full employment but that Kent County is not. The tax base and revenue are not what it should be. Mr. Saunders cited the closing of two significant restaurants in Kent County and others that are struggling. There are several marinas struggling in the County. He said that the Comprehensive Plan speaks to this request and appreciates the uniqueness of the economy. Comprehensive Plan goals and strategies address attracting new businesses and recognizing there are good businesses here that are invested heavily in

the community. The Plan outlines strategies that support seeing those businesses succeed and grow. The Kent County tourism business is competitive, not only within the County but more particularly with other counties on the Shore. Taking away an obstacle that we think is arbitrary to growth for Country Inns is extremely important to maintaining that continuity. The event business is truly one that that effects many businesses at one time (caterers, florists, rentals, musicians, etc.).

Mr. Birkmire asked how much of an economic increase would the text amendment make. Mr. Saunders stated there has not been a projection or economic impact study conducted, but the text amendment will offer survivability.

Mr. Crowding asked why the applicant could not add two more rooms without going over the fifty-percent threshold. Mr. Saunders stated over the years, the property has been built out to the fifty-percent limit. Ms. Moredock stated the fifty-percent threshold has been met with the additions permitted to date.

Mr. Hickman asked what the change to the occupancy numbers would be by adding two additional rooms and what would the tangible income be by adding an outdoor area? Mr. Reed stated there is approximately thirty-eight percent average annual occupancy rate with the numbers higher in May through September. He said the numbers dramatically decrease in the colder months. Mr. Saunders stated that the patio would allow all weather services and allow the business to be more competitive because that is today's standard. People expect an all-weather service and not to have to walk around in mud.

Mr. Hickman stated that other Country Inns have not shown support for the proposed text amendment, and the text amendment would affect all zoning districts that apply.

Ms. Kohl stated the letter from the Critical Area Commission recommends that the County not intensify the Resource Conservation District. Ms. Kohl asked the applicants why their proposal was not amended to remove RCD in keeping with the Critical Area Commission's recommendation. Mr. Saunders stated the applicant is not in the RCD, and he therefore did not feel inclined to address the CAC staff's comment.

Testimony was offered by David Blitzer, Attorney; and Janet Christian Lewis, a resident of Millington.

Mr. Blitzer of HoonBlitzer & Associates, LLC stated he represents a group known as the Cliff Road Concerned Citizens to protest and object to the proposed zoning text amendment. Mr. Blitzer stated it was his understanding at the close of the public hearing on August 2, 2018 that the public comment period was closed. Since then, he understands that correspondence has been submitted to the Planning Department, including letters from Kent County Office of Tourism, Kent County Economic Development, and other businesses. Mr. Blitzer and his client's object and feel that those letters submitted after the hearing should not be on record or considered. Mr. Mowell stated that the objection will be noted, but it should also be noted that the Commission anticipated that the application review would have to be continued after the public hearing last month. This is an unusual situation, and the Planning Commission normally accepts comments up to the time the members make recommendation on an application.

Mr. Blitzer addressed the Critical Area Commission letter dated June 21, 2018. The Critical Area Commission expressed concern that the proposed text amendment significantly expands the potential for commercial uses in RCD, especially those with special events. The proposed text amendment would remove the limitation of expansion and would not comply with the Critical Area Commission requirements. The use of the of the applicant's property is residential. The proposed text amendment to remove the 50-percent limit while retaining the use is not logical. He added that there is a lack of data to represent a need and that by amending the text as proposed, applicants would be less likely to look at other land use controls, including other hospitality special exception uses.

Ms. Lewis emphasized neither the Departments of Tourism and Economic Development, nor the applicant had cited any numbers or any sort of relationship to how this new text amendment is going to impact Kent County. Ms. Lewis asked if the Commission had ever reviewed a text amendment that changed provisions so dramatically within the *Ordinance* without having documentation as to what the impact would be? Most of the text amendments that have been put forward, more recently a text amendment for liquor licenses that was taken to the State, had a huge impact on Kent County and the citizens and Commissioners had information regarding impacts. Ms. Lewis further stated this text amendment seems to be impacting one specific property owner, and, until today, there has been no information provided from the Planning Department that can tell the residents what other Country Inns this text amendment would impact. She also noted that there were no other Country Inn owners present in the meeting to give any testimony. Ms. Lewis questioned why impacts to water quality have not been addressed in accordance with Comprehensive Plan goals and strategies, citing the applicant's stated desire to construct a large pad. While Mr. Reed has articulated his own business' statistics, Ms. Lewis notes that there is no one else here at the meeting trying to make the same argument. She questioned whether it would be best to table the application until appropriate data has been submitted.

After much discussion and consideration of the testimony and all applicable laws, Mr. Hickman made a motion to send an unfavorable recommendation to the Kent County Commissioners based on the following findings of fact:

- Although, this text amendment would support many Economic Development strategies of the Comprehensive Plan, the documentation and testimony provided by the applicant does not appear to address that a public need currently exist to amend the Country Inn Special Exception Use standard to allow for extension or enlargement of principal and accessory structures to exceed 50% of the gross floor area in existence as of August 1, 1989.
- There has been a lack of support from the general lodging industry and specifically from other Country Inns.
- The impact of the proposed amendment on all zoning districts in which a Country Inn is permitted has not been addressed.
- As noted in the letter received by Critical Area Commission staff on June 22, 2018, the proposal to provide for extension or enlargement beyond 50% of the gross floor area is not consistent with the intent of the Critical Area Program which is meant to minimize impact. The proposed amendment does not address minimizing impact which is an overall purpose and intent of the Critical Area Program, specifically the more-restrictive commercial provisions articulated in the Resource Conservation District.

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

18-41 Brickyard Land Holding, LLC (Gillespie Precast, LLC) is requesting a preliminary site plan approval to construct a new 16,000 square-foot production building near an existing concrete production building and storage yard. The property, located at 523 Morgnec Road just outside of the Town of Chestertown, consists of Parcels 26 (tracts 1, 2, and 3), 161, and 490. The combined site area totals 68.849 acres and is located on the First Election District. The proposed construction will occur on Parcel 161 which is the subject of a lot line adjustment application to acquire acreage from Parcel 490 in order for the proposed construction to meet side yard setback requirements.

Present and duly sworn in were: Tom Davis of DMS & Associates representing the applicant; James Gillespie, applicant; and Ms. Moredock, 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 15.2 which establishes a site plan requirement for all permitted principal uses and structures; Article V, Section 15.5 establishes the Density, Height, Width, Bulk, and Fence Requirements; Article V, Section 15.6 establishes the Industrial Performance Standards; Article V, Section 15.7 establishes the Industrial General Standards; Article V, Section 15.8 which establishes the Industrial Environmental Standards to include the Forest Conservation and Stormwater Management standards; Article VI, Section 8 which sets forth the provisions for Forest Conservation; Article V, Section 15.9 which establishes the Industrial District General Design Standards; Article VI, Section 1.3 which establishes the parking standards for industrial uses; and Article VI, Section 5 establishes the procedures and requirements for site plan review.

Ms. Moredock further noted there are three zoning districts on this property that include Industrial, Industrial Critical Area, and Commercial. The proposed production building is positioned at the front of the property and located entirely within the Industrial District. The site is improved by an existing concrete precast plant, associated outside storage, raw material storage bins, and office space which are all located within the Industrial District. She also outlined the history of project approvals onsite to date.

Mr. Davis gave a brief overview of the proposed project and stated that the 16,000 new building was positioned on the property for easy accessibility, close to the existing building, and not visible from the road. The roof will be the only part of the building that will be visible from Route 291, Morgnec Road, since it will sit 600-feet from the road. The building is going to be constructed on existing impervious area; the stormwater and sediment erosion plans are under review with the District and looking forward to moving toward the next step.

Mr. Gillespie stated business has been growing, and he is hoping for a favorable review.

Ms. Morris asked if there were any correspondences from the Citizen Participation letters. Mr. Davis reported that 25 letters were sent to the surrounding property owners, and there has been no reference to any correspondence received as a result of that outreach effort in the file. Mr. Gillespie confirmed that no responses were received.

Mr. Crowding asked how many employees work onsite. In the product yard, there are approximately 35-40 employees, and there are 9 staff members in the office now; however, when the new office is constructed, there will probably be two more employees hired.

After much discussion and consideration of the testimony and all applicable laws, Mr. Hickman made a motion to grant preliminary approval of the site plan based on the following findings of fact:

- The proposal is consistent with many Comprehensive Plan goals and strategies relative to retention and promotion of existing businesses and the implementation of best redevelopment practices.
- Following the completion of the lot line adjustment between Parcels 161 and 490, the proposed production building will meet the minimum standard yard requirements.
- The building will be located more than 600 feet from the closest residential district boundary.
- The applicant has adequately addressed the performance standards and has submitted a certified engineer's report.
- The performance standards narrative addresses raw materials, waste products, and other by-products. The narrative also notes that the production (including all welding) will continue to be done inside an insulated building.
- With respect to traffic, the applicant has noted that traffic patterns will not be altered by the construction of this building.
- Hours of operation remain unchanged and are generally between 7am and 5 pm.
- No additional signage is proposed.

- Lighting detail has not been provided.
- The finished product storage yard will continue to serve as the loading/unloading area.
- Ten parking spaces have been provided adjacent to the existing concrete production building.
- A Forest Conservation Plan has been submitted and the provision will be met onsite by providing 0.17-acres of afforestation to meet the 0.168-acres required (based on the 1.12-acre net tract area affiliated with the project).
- Sediment and erosion control and stormwater management plans have been submitted to the Soil and Water Conservation District for review.
- Site access will be unaltered by this construction.
- The applicant has noted that this area is removed from any interaction with the public; as such, all vehicular and pedestrian movements will be governed by the Company in strict compliance with workplace safety.
- The Health Department has approved this application.
- Public water and sewer are provided by the Town of Chestertown. The Town will review this project upon submittal of a building permit application.
- The applicant's Citizen Participation Plan consists of over 25 letters being mailed to surrounding property owners.
- The 2017 landscape plan will provide adequate screening from offsite views; therefore, the Commission supports the applicant's request to relieve additional landscaping and screening requirements onsite. The Commission further noted that there is a sufficient slope and elevation onsite to support relief of additional screening from offsite views.

In addition, the Commission noted that the following must be addressed in order to receive final site plan approval:

- Update on the Citizen Participation Plan.
- The lot line adjustment plat and mylar copies must be submitted.
- Architectural renderings must be provided.
- Forest Conservation Declaration (Deed Restrictions) must be submitted and approved prior to final site plan approval.
- Sediment and erosion control and stormwater management plans must be approved by the District.
- Lighting detail must be provided and, if proposed, must consist of dark-sky compatible fixtures.
- Sureties for stormwater management, sediment and erosion control, and forest conservation must be posted prior to final approval.

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

2017 Annual Report

Ms. Jones gave an overview of the 2017 Annual Report. Discussion ensued regarding the number of site visits and inspections conducted by staff. The members also discussed the status data added to the violation cases and questioned the nature of unsafe property cases.

After commending Ms. Jones on the comprehensive nature of the Report which she compiled, Ms. Kohl made a motion to approve the 2017 Annual Report as presented with cited corrections to typos and to file the Report with the County Commissioners with a copy submitted to the Maryland Department of Planning.

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

Staff Reports

Mitch Mowell:

- There is a zoning enforcement case tomorrow morning, September 7, 2018 in Circuit Court regarding illegal structures in Still Pond.
- The hearing in Circuit Court for the Bayshore Campground case is scheduled for October 2, 2018.

Amy Moredock:

- The Board of Appeals met August 20 and approved two cases: the Krastel-Pettitt application for the poultry houses on a parcel that cannot handle the waste generated by the operation; and the Board of Education application for a bus parking lot. The Board Attorney expedited the drafting of the decisions so that the Board of Appeals was able to sign both in a timely fashion. Mr. Pettitt was able to close on the Krastell property, and the Board of Education was able to install the fencing before the start of the new school year.
- The Maryland Department of Transportation held their staff-level pre-tour meeting on September 4 to share their funding initiatives for both Kent and Queen Anne's Counties. They will present their initiatives and priorities to the Kent County Commissioners on October 2. Ms. Moredock reiterated the County's priorities as expressed in its Annual Priorities letter. The County's 2017 letter articulated its very strong and long-standing opposition to a Bay Bridge span with a terminus in Kent County. She encouraged MDOT staff to make sure Bay Crossing Study staff is in attendance at the meeting on October 2 in order to address Bay Crossing Study questions.

Ms. Moredock reemphasized to MDOT staff the importance of the Chestertown Bypass/Boulevard as another reoccurring priority. In addition to identification in the priorities list, the project was entered into the new MDOT portal because of its projected cost in excess of over the \$640million. With the annexation of the Dixon Valve property and the construction which has begun onsite, the realization of development potential for this site might make the need for the Boulevard a more realistic request.

- The Bay Bridge Monitoring Committee met on the August 27; the members were addressed Steve Cahoon of Queen Anne's County Public Works. He shared some of the studies and priorities of the Department and the Commissioners. All Eastern Shore Counties subject to Transportation Article 404 have been assigned a participating agent; Mr. Cahoon and Ms. Moredock discussed the value of all participating agents on the Eastern Shore getting together to review the Purpose and Need statement individually and comprehensively. The release of that statement has been delayed.
- One Energy Blue Star has rescinded their CPCN.

Stephanie Jones:

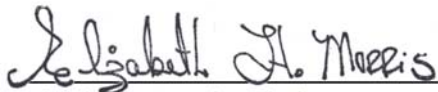
- A public meeting was held in the Commissioners Hearing Room on August 29 for the remapping of the Critical Area Line. Affected properties with a gain of 1% or more of Critical Area received a notification from the Critical Area Commission prior to the meeting. Property owners with a loss in Critical Area that was greater than 0.10 of an acre received notification from the County. Property owners were able to review their property and receive guidance as to how their property would be affected with the Critical Area Commission staff and local staff members.
- Ms. Moredock and I met with Greg Sandi from Maryland Department of the Environment regarding the next steps for Kent County in the Phase III WIP. The process is still being developed with input from the Counties based on needs and interests.
- Ms. Jones attended the Kent County Agricultural WIP III meeting held on August 22. The Maryland Department of the Agriculture along with the Kent Soil and Water Conservation District reviewed where the Kent agriculture sector has accomplished WIP II goals and set Phase III goals.


- Ms. Jones will be attending a full-day retreat for the Eastern Shore Climate Adaptation Partnership (ESCAP) on September 18.

General Discussion:

Mr. Crowding stated that the State Highway Administration has monies available for sidewalk construction in some of the villages. He asked how Kent County can get on the list to have sidewalks installed. Ms. Moredock stated Kent County has historically expressed the desire in its annual priorities letter to MDOT. At the MDOT staff-level pre-tour meeting on September 4, she addressed specifically the need for sidewalks in the Worton and Butlertown.

There being no further business for the good of the organization, the meeting was adjourned at 3:52 p.m.


Elizabeth Morris, Chairman


Tonya L. Thomas, Clerk