

MINUTES

The Kent County Planning Commission met in regular session on Thursday, February 6, 2020, 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; James Saunders; Joe Hickman; Kim Kohl; William Crowding; and Commissioner, P. Thomas Mason. Staff in attendance were Stephanie Jones, Environmental Planner; Robert Tracey, Community Planner; G. Mitchell Mowell, Planning Commission Attorney; and Sandy Adams, Clerk.

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

MINUTES – January 2, 2020, minutes were approved as written, with one additional statement added to the minutes.

PUBLIC HEARING

Ms. Morris closed the Planning Commission meeting and opened the public hearings.

19-73 Zoning Text Amendment - Agricultural Building Size Addendum

Mr. Tracey described the proposal: On September 3, 2019, the Board of County Commissioners adopted Code Home Rule Bill 5-2019 which increased the maximum allowable size of structures for the buying, processing, and sale of farm products related to agriculture from 25,000 to 50,000 square feet in AZD, subject to special exception approval. There were multiple locations within the Land Use Ordinance where the size limit needed to be increased from 25,000 to 50,000 square feet, and inadvertently, Code Home Rule Bill 5-2019 did not amend the size limit in Article VII. Special Exceptions, Section 6. Procedures of the Land Use Ordinance. Mr. Tracey said the sole purpose of the text amendment is to correct this omission. He said the Agricultural Advisory Commission met on January 22, 2020 and voted unanimously to send a favorable recommendation to the Planning Commission.

Ms. Morris asked for public comments and there were none.

Ms. Morris asked for additional staff comments. Mr. Tracey said this will not change the substance of the Bill, it is just a correction of the omission to the Land Use Ordinance.

With no further testimony being offered, Ms. Morris moved to the next public hearing.

20-02 Zoning Text Amendment – Data Processing Centers

Mr. Tracey described the proposal: The Maryland General Assembly is currently considering legislation that would change State tax law to make data processing centers eligible for tax advantages in all Maryland counties. Data processing centers have the potential to bring additional employment opportunities and economic development to the County. The County Commissioners of Kent County, introduced a proposed amendment to the Kent County Land Use Ordinance adding the use of data processing centers as a special exception in the Agricultural Zoning District and as a permitted principal use and structure in the following districts: Village, Intense Village, Commercial, Employment Center, and Industrial.

Ms. Morris asked for public comments and there were none.

Ms. Morris asked for additional staff comments and there were none.

Ms. Morris closed the public hearings and re-opened the Planning Commission meeting at 1:34 p.m.

APPLICATIONS FOR REVIEW:

19-73 Zoning Text Amendment - Agricultural Building Size Addendum – an addendum to a previous amendment.

Mr. Tracey gave an overview of the proposal, cited the applicable laws, the Comprehensive Plan, and staff comments.

Mr. Tracey said on September 3, 2019, the Board of County Commissioners adopted Code Home Rule Bill 5-2019 which increased the maximum allowable size of structures for the buying, processing, and sale of farm products related to agriculture from 25,000 to 50,000 square feet in AZD, subject to special exception approval. He said there were multiple locations within the Land Use Ordinance where the size limit needed to be increased from 25,000 to 50,000 square feet, and inadvertently, Code Home Rule Bill 5-2019 did not amend the size limit in Article VII. Special Exceptions, Section 6. Procedures of the Land Use Ordinance. He said the sole purpose of this text amendment is to correct the omission. He informed the Commission that the Agricultural Advisory Commission met on January 22, 2020, and voted unanimously to send a favorable recommendation to the Planning Commission. Mr. Tracey said staff recommends approval.

Ms. Morris asked the Commission if they have any questions or comments and there were none.

Ms. Morris asked for public comments and/or questions and there were none.

Ms. Morris asked for a motion.

Mr. Hickman made a motion to send a favorable recommendation based on the following findings:

- The public need is to support our Comprehensive Plan and agriculture as a key economic driver within the County.
- The proposed changes are technical in nature and do not change the substance of adopted Code Home Rule Bill 5-2019.
- The amendment was recommended by Staff and the Agricultural Advisory Commission.
- The amendment will maintain conformity between the Comprehensive Plan and the Land Use Ordinance.

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

20-02 Zoning Text Amendment – Data Processing Centers

Mr. Tracey gave an overview of the proposal, cited the applicable laws, the Comprehensive Plan, and staff comments.

Mr. Tracey said the Maryland General Assembly is currently considering legislation, Senate Bill 397 sponsored by Senators Hershey and Peters, that would change State tax law to make data processing centers eligible for tax advantages in all Maryland Counties. Data processing centers have the potential to bring additional employment opportunities and economic development to the County. He said the County Commissioners of Kent County, introduced a proposed amendment (Resolution 2020-01) to the Kent

County Land Use Ordinance adding the use of data processing centers as a special exception in the Agricultural Zoning District and as a permitted Principal use and structure in the following districts: Village, Intense Village, Commercial, Employment Center, and Industrial. Mr. Tracey informed the Commission that the Agricultural Advisory Commission met January 22, 2020, (a letter to this body was included in the packet) and voted unanimously to recommend that the Commissioners include a provision in the special exception section of the Zoning Text Amendment that would require the Board of Appeals to “consider the proximity and effect on current and anticipated preserved land” in the review of applications. Mr. Tracey said staff recommends approval.

Present and duly sworn in were Emily McCoy, 8223 Tolchester Road, #4, Chestertown, Maryland, and Bill Mackey, Director of Planning, Housing, and Zoning.

Ms. McCoy spoke on behalf of the proposed zoning text amendment and on behalf of the Department of Economic Development. She said the reason for proposing that data centers be added in regard to where they can be located throughout the County, is because they have been identified as an environmentally friendly use of our fiber optic technology in which the County has invested \$7M. Ms. McCoy said by allowing Data Centers in various geographical locations within the County, it will provide tax advantages and allow the opportunity for bringing high paying jobs to the community.

Mr. Mackey explained the proposed zoning text amendment and discussed the research material he provided to the Commission. Mr. Mackey talked about, if approved, the data centers would have to comply with all design guidelines, including alternate design provisions. He said the Board of Appeals will be charged with a list of conditions for approving these types of facilities within the AZD. He said allowing Data Centers would help “pay the bills” and he talked about it being an economic development opportunity for farmers. He said it is a clean and growing industry and one that is sustainable.

Following staff’s report, testimony from Ms. McCoy and Mr. Mackey, and a lengthy discussion among the Commission members, Ms. Morris asked for a motion.

Mr. Hickman made a motion to send an unfavorable recommendation to the County Commissioners based on the following findings:

- The Commission understands the potential economic benefit of data processing centers and appreciates the Economic Development Commission’s work to encourage good business.
- The Commission understands the concerns of the Agricultural Advisory Commission to protect land in agricultural preservation.
- The use of data processing centers is not compatible and not clearly defined in the Village, Intense Village, and Agricultural Zoning Districts.
- No public need has been identified.
- The Commission felt that current zoning districts: Employment Center, Industrial, and Commercial are adequate to support this industry.
- The proposal is inconsistent with the Comprehensive Plan.
- If the County Commissioners were to include a future amendment, the Planning Commission would appreciate data on currently available land, a more stringent definition of data processing centers, and avoid residential districts where data processing centers could be a problem.

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

19-30 The Animal Care Shelter of Kent County (The Humane Society and Kennedyville Properties, LLC) Concept Site Plan Review

Mr. Tracey, in describing the proposal, said The Humane Society and Kennedyville Properties, LLC, is requesting conceptual comments for constructing a 10,648 square-foot facility for the care and boarding of domestic animals. He said a minor subdivision was submitted and approved to create a second lot, of five acres, which is the proposed location for the new animal shelter. He said the facility will include an animal enrichment training center as well as a veterinary office. The property is located between Worton and Chestertown at 25546 Mary Morris Road, Chestertown, Maryland, in the Third Election District and is zoned Industrial (I). He said the parcel is comprised of an open field with trees along the edge of Route 297. He said the surrounding area is comprised of agricultural land and housing.

Ms. Morris wanted to know if any correspondence has been received.

Mr. Tracey said no correspondence has been received. Mr. Tracey said a citizen participation plan was held as part of the review and was well attended.

Present and speaking on behalf of the proposal were: Kevin Shearon, DMS and Associates, P.O. Box 80, Centreville, Maryland; and Richard Keaveney, Executive Director of the Kent County Animal Care Shelter, 102 S. Water Street, Chestertown.

Mr. Shearon said the current Kent County Humane Society is looking to relocate and rebrand. He said a new lot will be created off an industrial farm, and the access to the new 5-acre lot will come off Worton Road. He said they are working with an architect who specializes in animal care shelters and have designed the building, which is already ahead of the site plan process. Mr. Shearon said they will be catching up and coming back to the Planning Commission seeking preliminary and eventually final site plan approvals. Mr. Shearon said at present, they will be moving forward with the minor subdivision, already approved at the staff level, which will include the required 0.75 acres of afforestation. He said the new facility will provide a dog walk and a variety of dog runs and covered areas so that the dogs can go outside. In closing, he said it is a great location and positive feedback has been received.

Mr. Keaveney talked about the facility now being a no kill shelter and how they only euthanize animals who are severely ill or whose temperament is really bad. Mr. Keaveney said they have a very active farm cat adoption process, and the plan is to have a cat silo for housing farm cats, a space for veterinary services, and an enrichment building which will have a private area for when they do have to do euthanasia for providing a more humanistic approach. He said the building will also contain an indoor playground area for bad weather days when the animals cannot go outdoors. Mr. Keaveney said the cost of the overall project is approximately \$5M, and \$3.2M has been raised thus far. Mr. Keaveney said they are currently spending money to repair the current building which will eventually be sold. Mr. Keaveney said their hope is to break ground by the end of the summer, and the overall project will take approximately 13 months to complete.

Staff Reports

Rob Tracey:

- Mr. Tracey staffed the January Board of Appeals for the Fry variance for a waste management structure.
- Mr. Tracey conducted various site visits pertaining to demolition applications.

- The Ag Advisory Commission met to discuss the two zoning text amendments that were before the Commission today.
- Mr. Tracey attended the Maryland Stories of the Chesapeake annual meeting.
- Mr. Tracey informed the Commission of the Starkey Administrative Special Exception.
- The Historic Preservation Commission met approximately two weeks ago to discuss and review the demolition permit process and procedures.

Stephanie Jones:

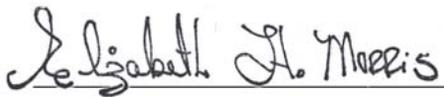
- The County Commissioners will hold a public hearing on February 18th for the Campground Zoning Text Amendment, Growth Allocation Policy Amendment, and the Growth Allocation application. All three applications received favorable recommendation at the January Planning Commission meeting.
- Multiple administrative hearings have been heard and will be heard in the next month for accessory structures in the front yard of waterfront parcels and accessory structures over 1,200 square feet and 17 ft in height.
- The Critical Area Commission (CAC) is working with other counties and municipalities to discover how fees-in-lieu are being utilized and how they can be better utilized. Ms. Jones said the hurdles which we all experience were discussed. She said in Kent County, we very rarely collect fee-in-lieu and have minimal planting area. Ms. Jones said the CAC is looking into other ways of utilizing this money that is collected, besides planting.
- On February 5th, Ms. Jones updated the Economic Development Commission with regards to the Planning Commission and Board of Appeals agendas from January and today's meeting.
- While Ms. Jones is out on maternity leave, project review will be split between Rob Tracey and Carla Gerber.

William Mackey:

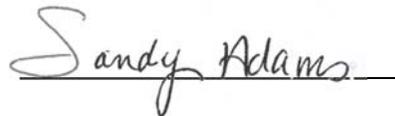
- Mr. Mackey asked Ms. Morris to consider allowing the meeting minutes to be less lengthy and more in summary in nature due to the Planning Office's administrative team being short staffed.

General Discussion:

There being no further business for the good of the organization, the meeting was adjourned at 3:30 p.m.



Elizabeth Morris, Chairman



Sandy Adams, Clerk