

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, October 7, 2021, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. It was a hybrid meeting, and the following members were in attendance: Chair Kim Kohl, Vice Chair F. Joseph Hickman, County Commissioner P. Thomas Mason; Paul J. Ruge, Jr.; James Saunders; William Sutton; Tyler Brown (remote); and Cynthia L. McCann, Esq., Planning Commission Attorney. Staff in attendance were William Mackey, Director; Carla Gerber, Deputy Director; Mark Carper, Associate Planner; and Michael Pelletier, Clerk.

Ms. Kohl called the meeting to order at 1:30 p.m.

## MINUTES

Mr. Sutton made a motion to accept the minutes for the September 2, 2021, meeting, as distributed.

Mr. Saunders seconded the motion; the motion passed with all in favor.

## APPLICATIONS FOR REVIEW:

### 21-34 Atlantic Tractor – Site Plan Review (Final)

Mr. Carper stated that Atlantic Tractor/Cooper Enterprises, LLC is requesting final site plan approval to construct a 6,000 square foot maintenance building to accommodate repairs of combine harvesters. The property is located at 621 Morgnec Road.

Mr. Carper informed the Commission that the proposed structure meets the minimum setback requirements and height limitations as well as any applicable industrial performance or environmental standards.

Mr. Carper noted that Staff recommends granting final site plan approval conditioned up the following:

- Approval of the sediment and erosion control and stormwater management plans;
- Submission and approval of sureties for landscaping, sediment and erosion control, and stormwater management; and
- That the final site plan approval hereby granted would lapse after one year if no substantial construction were to occur.
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Kevin Shearon with DMS Associates appeared on behalf of the applicant. He informed the Commission that no comments were received from the Citizen Participation letter. He also noted that the applicant has been working with the Town of Chestertown in regard to the sewer/water plans and the final site plans indicate that the buried propane tank is to be moved.

Mr. Sutton expressed support for the final site plan.

Vice-Chair Hickman made a motion to approve the final site plan with the conditions recommended by Staff and based upon the following:

- The proposed project promotes existing business and assists in its growth.

- Citizen participation was solicited through an informational letter notifying surrounding landowners of the proposed construction and inviting them to provide comment or ask questions. There were no comments received.
- On-site circulation appears to provide clearly defined lanes of travel and space for parking.
- The applicant has addressed the performance standards.
- The applicant has submitted a Certified Engineer's Report.
- Plans for the proposed structure that include front, side, and rear elevations of all exterior walls have been submitted and all dimensional specifications meet Ordinance requirements.
- The proposed structure meets the minimum setback requirements, outside illumination with dark sky compatibility has been included, and the buried propane tank is to be relocated prior to construction of the building.
- Sediment and erosion control and stormwater management plans have been submitted for review.
- A landscape plan has been submitted for review and adequate screening is provided.
- A notification from the town of Chestertown has been provided stating that Atlantic Tractor is working through the Chestertown Utilities Commission process for connection to the town's water and sewer system.

The motion to grant final major site plan approval was seconded by Mr. Sutton and was approved by the Commission.

#### **21-36 Mervin Lapp – Major Subdivision (Preliminary)**

Ms. Gerber informed the Commission that Mervin Lapp requests preliminary approval for a major subdivision of his 45.724-acre parcel into two lots. The lot with the existing farmstead will be 17.559 acres; the remainder will be 28.165 acres. The property is located on Coopers Lane, near the intersection with Still Pond Creek Road.

Ms. Gerber noted that

- the proposed lot meets the minimum area, density, and width requirements.
- The applicants will need to submit the open space fee of \$250 before final approval.
- Forest conservation will need to be addressed.
- Mr. Lapp has already planted street trees along the property line and at each driveway.
- The application is consistent with the Comprehensive Plan. The property is located within a Tier III area of the adopted Growth Tier Map. Final review will require a public hearing.

Staff recommends granting preliminary approval contingent upon paying the open space fee, addressing forest conservation, and providing additional letters as to demands on public services.

Mervin Lapp and Michael Scott, surveyor, were sworn in.

Mr. Scott informed the Commission that he has had discussions with two adjacent property owners. Based on those discussions, it was discovered that the wrong plats were at the assessor's office, and he indicated that he has corrected the subdivision plat.

Leona Van Dyke and Ralph Van Dyke of Worton, Maryland, were sworn in. Mrs. Van Dyke informed the Commission that there are computer tax map errors that should be corrected. She also notified the Commission of her efforts to correct the records and recommended the Commission not hear the application until updated

tax maps are submitted. Mrs. Van Dyke entered a letter to the Planning Commission outlining her efforts and recommendations and provided a survey and plot map for the Commission's reference.

Mr. Van Dyke inquired as to how the Commission can move forward with the application until the tax maps are corrected.

A discussion ensued amongst members, and it was determined that the matter can go forward at this time since the applicant is seeking preliminary site plan approval. Ms. McCann indicated she would like to review the accepted exhibits to determine whether the information provided would impact a final site plan application.

Mr. Hickman moved to grant preliminary site plan approval contingent on Staff's recommendations based upon the following:

- Consistent with the *Comprehensive Plan*. Property is near a growth area that allows subdivisions like this proposal.
- The applicant has provided a letter from the Sheriff's Office stating no impacts to providing services. Letters from the Board of Education and Emergency Services are required.
- No change to existing roads or traffic.
- The Health Department has approved the application.
- Existing landscaping is adequate.

Mr. Ruge seconded the motion to grant the preliminary subdivision approval, which was approved by the members.

#### **20-41 Cliff Road Properties (Great Oak Manor) – Site Plan Review (Preliminary – Cottages)**

Ms. Gerber informed the Commission that the applicant is proposing improvements to expand and enhance their existing county inn use to construct two, free-standing cottages, which will have two guest rooms per cottage, associated pedestrian walkways, and expansion of the guest parking lot.

Ms. Gerber added that the 8.515-acre property is located at 10568 Cliff Road and is zoned Critical Area Residential. The proposal complies with the lot coverage limits and a Major Buffer Enhancement Plan has been submitted. A citizen participation meeting was held on December 10, 2020.

Background pertaining to the property's prior development and Special Exception status dating back to 1984 were also relayed to the Commission. Ms. Gerber also noted that two rooms will be taken out of service in the Manor House and the total number of rooms will total 15, consistent with the current Special Exception limitations.

Ms. Gerber indicated the property meets density, area, height, width, and yard requirements as well as District Environmental Standards, Parking and Loading Requirements, however, a correction to the Buffer Enhancement Plan is required .

Ms. Gerber added that Staff recommends granting preliminary approval of the cottages with the following conditions:

- The final Landscape/Buffer Enhancement Plan be updated to reflect the increase in lot coverage for this phase of the project and adjusted so that not more than 10% of the plantings are grasses.

- Final approval of the sediment control and stormwater management plans for this phase of the project.
- Submission of all required Letters of Credit or proof of other surety for this phase of the project; and
- Incorporation of any alterations to the building designs, as necessary, following discussion of the proposal.

Harry Reed, applicant, and Tom Davis with DMS and Associates were sworn in. Lance Young, Esquire, with the McCleod Law Group appeared on behalf of the applicant.

Mr. Davis noted the accuracy and detail in the Staff Report as well as restated the purpose of the application is as described by Staff. Mr. Davis discussed the applicant's efforts to comply with State and Local ordinances and regulations as well as the applicant's engagement of architecture services by Hillcrest Architects, a firm that specializes in designing structures with a historic appearance.

### **Closed Session**

At 2:25 p.m., a motion was made by Vice-Chair Hickman, seconded by Mr. Sutton, and carried unanimously to go into closed session. The meeting was closed under the Annotated Code of Maryland, General Provisions Article § 3-305 (b) (7) to consult with counsel to obtain legal advice on Cliff Road Properties' application. The closed session was held in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. Those in attendance with the Planning Commission were Cynthia McCann, Planning Commission Attorney; William Mackey, Director; Carla Gerber, Deputy Director; Mark Carper, Associate Planner; and Michael Pelletier, Clerk. No action was taken during the closed session. At 3:13 p.m., Mr. Saunders moved to end the closed session, seconded by Mr. Ruge. The motion passed unanimously.

### **The Commission's open session reconvened at 3:15 p.m.**

A letter from Richard M. Longo with Hillcrest Architects was introduced as Applicant's Exhibit 1.

Vice-Chair Hickman asked a question concerning the removal of the two rooms in the Manor House.

Mr. Reed testified that the rooms are not being removed but will not be rented or marketed. One of them may be combined with another room. The intent is fifteen guest rooms/suites with two guests per room, and the maximum number of bathrooms will be fifteen.

Chair Kohl asked the members about discussing the design standards and elevations. Vice-Chair Hickman opined that he had read the architect's letter and felt that the design was consistent with the structures and "tone" of the property.

Bruce Galton, an adjacent property owner, inquired as to the applicability of Article VII, Section 7.16(f). Mr. Young indicated he would be happy to answer in regard to that paragraph insofar as his firm assisted in drafting the zoning text amendment back in 2018. The firm and the Planning office agreed, and a compromise was reached so that the size requirement would not be unduly restrictive and any changes to the property would be harmonious with what was already there in 1989. For the record, Ms. Gerber reiterated the text of the applicable section in regard to the size requirement as well as the harmonious requirement as to how the principal structure existed in 1989.

Ms. Gerber added that it is Staff's position that a Country Inn pertains to the property, not a single structure on the property and that the cottages fit in with the provision. Mr. Galton noted that several property owners have concerns about continued expansion of the applicant's property.

In regard to an inquiry by Vice-Chair Hickman, Ms. Gerber noted that the County does not have a definition of what constitutes a campus. Ms. Gerber opined that a campus is any property that has an integrated set of buildings that function as one use.

Mr. Young added that the Land Use Ordinance pertains to the number of rooms and not the number of structures and the text amendment allows the applicants to expand on the number of structures. A member had raised concerns about adding a large number of structures. Mr. Mackey added that in principle its possible, but with this application it is only a minor addition to the property, and had it been a larger project, there might be a different recommendation.

Mr. Reed testified that it was never his intention to be in conflict with adjacent property owners. He added that since the bus incident, of which everyone is aware, he agreed to put a provision in his wedding contracts that no coach-style buses will come on to the property. A second document by the applicant outlining their policy regarding parking and concerning the use of Shuttles and Buses was introduced as Applicant's Exhibit 2.

A discussion ensued amongst the members over concerns that if the application were to be granted, the property will continue to expand in the future.

A motion to grant the application was made by Vice-Chair Hickman with the following votes:

- Mr. Hickman – No
- Mr. Saunders – No
- Mr. Ruge – Yes
- Mr. Brown – Yes
- Mr. Sutton – No
- Chair Kohl – No

The motion failed.

Ms. McCann indicated a Motion to Deny was required to be voted on.

Vice-Chair Hickman made a motion to deny the application as the definition of the extension and enlargement of structures as stated would allow more than what is presented here based on that flawed definition. Mr. Saunders seconded the motion. The following votes were recorded:

- Vice-Chair Hickman – Yes
- Mr. Saunders – Yes
- Mr. Ruge – No
- Mr. Sutton – Yes
- Mr. Brown – Yes
- Chair Kohl – Yes

The motion to deny was approved. Ms. McCann noted that the motion to deny must include reasons for the denial. Mr. Young added that they could add conditions that would allow for no additional dwellings on the property if approval of the application was granted.

Mr. Reed indicated he was willing to restrict any expansion to the two subject cottages and not pursue the previous pavilion application.

Vice-Chair Hickman made a motion to withdraw the denial and it was seconded by Mr. Saunders. All members were in favor and the application was granted based on this restriction.

**The Commission recessed for a 5-minute break at 4:10 pm.**

Vice-Chair Hickman moved to annul the vote on the motion to deny, seconded by Mr. Ruge. All members were in favor. Vice-Chair Hickman moved that the application be approved with conditions limiting the extension and enlargement to the two proposed cottages and no permanent roof over the approved tent area, approval of stormwater management and sediment control plans, and submission of required letters of credit. The decision was based on the following findings as set forth below:

- The application is consistent with the Comprehensive Plan.
- The property is supported by private well and septic.
- A Buffer Enhancement Plan has been submitted, but a condition is to provide a 9.863 square feet of mitigation with no more than 10% in grasses.
- Lot coverage and parking are sufficient.
- The design of the cottages is consistent with the Manor House.

The motion was seconded by Mr. Saunders. All were in favor and preliminary approval of the application with the above-referenced conditions was granted.

**21-37 Bonnie Plants, LLC Site Plan Review (Concept)**

**21-38 Bonnie Plants (D. Drury) – Special Exception – Migrant Worker Housing**

Chair Kohl indicated that she had a prior engagement and turned the Chair over to Vice-Chair Hickman.

Ms. Gerber noted that the applicant is proposing to construct a 30-foot by 84-foot one-story structure to house up to twenty-four H2A guest workers from February through July. The dormitory is proposed to have 2 independent units that will house up to twelve workers in each unit. Each unit will have three bedrooms, a common area with kitchen, and a large bathroom. A mechanical room accessed only from outside will be attached to the front of the building. Guest workers are currently housed in rental hotel rooms that are over 45 minutes from the site.

The property is located at 12515 Augustine Herman Highway and is zoned Agricultural Zoning District (AZD) and Crossroads Commercial (CC). The dormitory will be located on the rear of the property within the AZD portion. The surrounding area is a mix of commercial uses and farmland. The property is currently improved with many greenhouses and associated structures which are used to grow herbs and vegetables.

The proposed dormitory should not be visible from Augustine Herman Highway. There should be no change to the traffic patterns. The nature of the surrounding area is agricultural in character. The property is adjacent to Molly's and Binkley & Hurst equipment dealer. The closest house of worship is Shrewsbury Parish Episcopal Church. There will be minimal grading and no clearing of trees. The proposal is consistent with the Comprehensive Plan.

Ms. Gerber added the following Staff and TAC comments:

- The proposal is consistent with strategies and goals of the Comprehensive Plan.

- The property is served by private well and septic. The Health Department is currently reviewing the project to determine necessary improvements to the septic system.
- Stormwater management and sediment control plans will need to be submitted and approved prior to final approval.
- The proposed building will be located approximately 70 feet from the closest property line.
- The proposed building will meet all Federal Department of Labor standards for H2A workers.
- There are no proposed changes to site access.
- "Agricultural activities, not resulting in a change in land use category, including agricultural support buildings" are exempt from Forest Conservation if a Declaration of Intent is filed with the Planning Department.
- The applicant has two vans and provides transportation for guest workers. Individual cars for workers will not be parked onsite.
- A Citizen Participation letter was sent to neighboring properties.

The applicant David Drury, owner of Bonnie Plants, LLC, was sworn in.

Mr. Ruge asked whether any of the migrant workers bring their families to the property, and Mr. Drury confirmed that they do not.

Taylor Watson, Union Springs, Alabama, Engineer with Bonnie Plants, was sworn in and testified that there were no comments except one concern from a neighbor concerning the setbacks which were mistakenly thought to be 25 feet. The structure is 60 feet from the property line at one corner and over 70 feet from the other. He also noted that the structure meets Department of Labor Standards.

Mr. Sutton complemented Mr. Watson on the details in the narrative attached with the application. Mr. Sutton raised a concern about parking, and Mr. Drury indicated they have two passenger vans which, if the application is approved, will actually reduce traffic flow since they won't need to travel to the Courtyard Inn each day.

Mr. Ruge inquired as to whether there were any rental implications, and Mr. Drury said this is a housing situation, not a rental one. There are Maryland agencies as well as Federal agencies that play a role in approving housing for migrant workers.

Mr. Drury indicated it is mostly the same workers they bring back each year.

Kevin Miller, adjacent property owner, was sworn in and inquired as to what could the property be used for 5 years from now in the event the applicant sells. Mr. Drury indicated it is only for the workers. Ms. Gerber added that if the use changes, the applicant would have to come to the Department and inform them that they were no longer a migrant labor camp and it would not be a permitted use. Ms. McCann indicated that if the structure were used as anything other than a migrant labor camp, it would probably be a violation.

Acting Chair Hickman added that if Mr. Miller ever noticed a situation which appears to be a violation, than Mr. Miller should call the Department and report it.

Acting Chair Hickman moved that the Commission make a favorable recommendation to the Board of Appeals to approve the special exception on the following grounds:

- It retains and promotes existing businesses and assists in growth;

- It promotes and supports the agricultural industry and secures its future in the County;
- The land use ordinance allows migrant labor camps in AZD as a special exception;
- The proposed dormitory will be located on the rear of the irregularly shaped parcel and should not be visible from Augustine Herman Highway;
- There should be no change to the traffic patterns;
- The nature of the surrounding area is agricultural in character;
- The property is adjacent to Molly's and Binkley & Hurst equipment dealer;
- The closest house of worship is Shrewsbury Parish Episcopal Church;
- There will be minimal grading and no clearing of trees; and
- The proposal is consistent with the Comprehensive Plan.

The Motion was seconded, and all members were in favor and the motion was granted.

#### **STAFF REPORTS**

Carla Gerber: August was busy with normal routine business and hearings.

Mark Carper: Mr. Carper attended an Eastern Shore Climate Adaptation Partnership (ESCAP) meeting recently.

Ms. McCann: The Maryland Planning Commissioners Association Conference will be available online and Mr. Mackey had forwarded an email to the members if they were interested in reviewing the seminar which is virtual.

#### **ADJOURN**

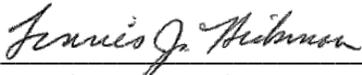
Mr. Sutton made a Motion to Adjourn which was seconded by Mr. Saunders. The meeting adjourned at 4:58 p.m.



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Kim Kohl, Chair



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Michael Pelletier, Clerk



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Joe Hickman, Vice-Chair