

MINUTES

The Kent County Planning Commission met in regular session on Thursday, October 1, 2015, 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; Bill Crowding; James Saunders; and Joe Hickman. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; Katrina Tucker, Community Planner; G. Mitchell Mowell, Planning Commission Attorney; and Tonya Thomas, Secretary.

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

MINUTES

The minutes of September 3, 2015, meeting, were approved as presented.

APPLICATIONS FOR REVIEW:

Oddmund & Hedvig Angell are requesting preliminary site plan approval for a retail business that will consist of an initial 3,200-square foot building which will house a garden center offering retail sales of landscape supplies and an antique store in the first phase. The first phase includes the associated parking lot, as well as bulk storage yard, exterior landscape material storage bins, and an outdoor display area. The second phase will include a 450 square foot office space as well as 2,100 square feet of covered retail and storage area.

The property is located on Maryland Route 20 at the northeastern edge of the Town of Rock Hall adjacent to the Rock Hall Volunteer Fire Company, Inc. The site is in the Fifth Election District and is zoned "V" Village. The area is characterized by other retail and residential uses.

The property is currently improved with a single-family dwelling accessed by a driveway on Route 20. Prior to final site plan approval, a companion application for a minor subdivision will divide a 0.900 acre lot for the existing dwelling located on the 14.339 acre property, resulting in a 13.439 acre parcel that is the subject of this site plan. The concept plan for this property was reviewed by the Planning Commission in June of 2013.

Present and duly sworn in were, Oddmund Angell, applicant; Kevin Shearon of DMS & Associates, and Katrina Tucker, Community Planner of Planning, Housing, and Zoning.

Ms. Tucker gave an overview of the application and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 7.1 that is the Statement of Intent for the Village District; Article V, Section 7.2 which lists the permitted uses including neighborhood retail businesses, and the provision that all retail sales shall be conducted entirely within a building, except where otherwise approved by the Planning Commission; Article V, Section 7.5 of the Village District that provides the yard and height restrictions; Article V, Section 7.6 establishes the General Standards for the Village District; Article V, Section 7.6.4 that states when deemed necessary by the Planning Commission, unobstructed easements at least 10 feet wide are to be provided in order to facilitate walkways to commercial facilities, community areas, and other public areas; Article V, Section 7.7.A & B which establish the environmental standards for the Village District; Article VI, Section 7.3 and 7.5.6.a.b.c. that govern development in the floodplain; Article VI, Section 10 which sets forth the stormwater management and water quality criteria; Article V, Section 7.8.A, B, & C that establish the General Design Standards, Elements, and Specific Design Standards for the Village District; and Article VI, Section 5 which outlines the procedures and requirements for site plan review.

Ms. Tucker stated that no correspondence had been received regarding this application.

The applicant responded to inquiries from members of the Planning Commission with respect to the proposed project.

After much discussion Mr. Hickman made a motion to approve the preliminary site plan based on the following facts:

- The applicant conducted a Citizen Participation meeting at the Rock Hall Volunteer Fire Company on May 29, 2013.
- The proposal is consistent with many strategies and goals of the Comprehensive Plan.
- The property is mostly wooded and the woodlands on this parcel are part of a larger forest that is likely to contain habitat for birds identified as Forest Interior Dwelling Species (FIDS) and other wildlife habitat. Forest Conservation is being addressed with the subdivision plat. However, this site plan presents that 0.50 acres of forested area will be cleared for the retail establishment.
- The retail building will be set back more than 40 feet from the front property line and about 140 feet from the pavement for Route 20. It will be 20 feet from the north side property line and more than ample distance from all other property lines.
- The screening fence enclosing the trash corral will be within the 8 foot side yard setback.
- Bins for storage of landscaping material will be more than 15 feet from any property line.
- The dedicated right-of way for Maryland Route 20 is variable along the frontage of this property, as described in the staff report. Therefore, the Planning Commission determined provision of an unobstructed 10 foot wide easement to facilitate future walkways was not necessary in this location.
- A submerged gravel wetland with a forebay is proposed for addressing stormwater management. The limit of disturbance is the edge of the 100 foot stream protection corridor and the stormwater management features will not encroach into this buffer. However, the submerged gravel wetland and forebay will be located in the floodplain, as will some portions of the onsite travelway for the parking lot. All work in the floodplain will comply with all requirements of Article VI. Section 7.3 and Section 7.5.6.a, b and c., of the Land Use Ordinance.
- Crossing of the stream to access the rear of the property is not proposed on the Preliminary Plan as it was on the Concept Plan. Any stream crossing will be addressed with plans for future development. The applicant will have to obtain approval from FEMA and MDE to cross the stream and wetlands.
- An access permit will need to be obtained from the Maryland State Highway Administration (SHA) for the new commercial entrance on Maryland Route 20. A road side tree permit will be required to clear any trees within the right-of-way.
- In accordance with the SHA comments of 25 September 2015, change in the use or expansion of the proposed development to the remainder of the parcel may constitute a reconstruction of the entrance to include closed section road design with curb and gutter, construction of acceleration and deceleration lanes along MD Route 20, possible turn lanes, and other safety improvements.
- Off-street parking and loading spaces provided appear to meet the requirements. Twenty-nine parking spaces are required and provided.
- A loading area is shown at the rear of the building. A dumpster enclosure is located at the rear of the site in the vicinity of the landscaping material storage bins. The plan detail on Sheet C-6 reflects that the screening enclosure for the trash corral will be a four (4) foot high board on board fence on a concrete pad.
- As assessed through the Technical Advisory Committee it appears that demands placed on

public services and infrastructure have been deemed reasonable by affiliated agencies.

- Of the total 13.439 acre site only 2.164 acres are being developed at this time. The required percentage of the developed acreage for landscaping equates to 14,138 square feet (15%). The plan proposes that 27,355 square feet of the developed area of the site will be landscaped.
- The area of the parking lot is 8,577 square feet, and the plan reflects that 2,052 square feet of the parking lot area will be landscaped, which exceeds the minimum required 858 square feet (10%).
- The site will be served by public water and sewer.
- Lighting has been noted that it will not exceed 18 feet in height and will be dark sky compatible.
- The outdoor display areas are expressly approved by the Planning Commission as part of this site plan. The site plan reflects 7,100 square feet of outdoor display area for lawn and garden related materials. Topsoil, mulch, landscaping stone, whether loose in bulk or sold in bags, as well as similar types of materials must be stored in the landscaping material storage bins rather than within the 7,100 square foot outdoor display area. Items allowed in the display area are outdoor furniture and similar lawn and garden articles, including plants.
- In addition, another outdoor display area, which is not reflected on the plan, may be located between the building and the property line adjoining the Martinage parcel. This outdoor display area may not exceed 4,000 square feet for items such as outdoor furniture and similar lawn and garden articles, including plants.
- Architectural building elevations submitted at the Planning Commission meeting were found to comply with Article V, Section 7.8.C.11 and to be compatible with the Chesapeake Country National Scenic Byway designation.

The following must be addressed in order to receive final site plan approval:

- The hours of operation must be clearly stated.
- Additional perimeter screening including a fence and evergreen trees are to be added along the north side property line behind the landscaping storage bins, the trash corral, and between the loading area directly behind the building and the adjoining residential property.
- A fence is to be provided adjacent to the Martinage property.
- In accordance with the SHA comments dated 25 September 2015, the existing driveway for access to the proposed Lot 2 will be maintained rather than having the existing residential lot share the commercial entrance. Maintaining the existing entrance secures the residential lot from traffic associated with the commercial business.
- Signage details, including location must be provided.
- An access permit will need to be obtained from the Maryland State Highway Administration for the new commercial entrance on Maryland Route 20.
- The applicant must demonstrate that the work in the floodplain complies with all requirements of Article VI, Section 7.3 and Section 7.5.6.a, b and c., of the Land Use ordinance.
- The minor subdivision plat and the associated Forest Conservation Plan must be approved and the plat recorded.
- Stormwater management, Sediment and Erosion Control, and Landscape Plans must be approved.
- Sureties for stormwater management, sediment and erosion control, and landscape plans must be submitted.
- Identify all designated areas for outdoor storage.

Pharm Kent, LLC, / Morgan Creek Land Holdings, LLC, the contract purchaser of property at 27030 Morgnec Road, is requesting conceptual site plan review for construction of a 45,287 square foot facility consisting of six conjoined greenhouses with office and processing areas for the cultivation of crops. The agricultural crop is medical marijuana. The entire developed area will be located within a secure, fenced-in area of approximately 3.5 acres on a 16.324-acre lot that is concurrently being subdivided from a 190.633 acre parcel owned by Morgan Creek Land Holdings, LLC. Once this minor subdivision is recorded, Lot 1 will be 170.633 acres, which will be retained by the current owners, and the 16.324 acres that is Lot 2 will be conveyed to Pharm Kent, LLC.

Lot 2, the Pharm Kent, LLC, property, is zoned "I", Industrial. It adjoins Agricultural (AZD) zoned land along the eastern boundary, as well as to the south on the other side of Morgnec Road. Along the north and west boundaries of Lot 2 are the lands of Morgan Creek Land Holdings, which is Lot 1, and is zoned Industrial, Industrial Critical Area, and Resource Conservation District.

Present and duly sworn in were, Brad Johnson, Founder and Managing Member; Michael Lang, Founder and Chief Executive, applicants; Kevin Shearon of DMS & Associates, and Katrina Tucker, Community Planner of Planning, Housing, and Zoning.

Ms. Tucker gave an overview of the application and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 15.2 which establishes a site plan review requirement for all permitted industrial uses in the Industrial District; Article V, Section 15.5 which establishes the density, height, width, bulk, and fence requirements for the Industrial District; Article V, Section 15.6 which establishes the Industrial performance standards to address noise, vibration, glare, air pollution, water pollution, radioactivity, electrical interference, smoke and particulate matter, toxic matter, and odor with compliance certified in an engineer's report; Article V, Section 15.7 that establishes the industrial general standards; Article V, Section 15.8 that establishes the industrial environmental standards which include the forest conservation and stormwater management standards; Article V, Section 15.9 which establishes the industrial design standards which address site access, landscaping, screening, and lighting; Article VI, Section 1.3 and 1.4 which establishes the parking, loading, and bicycle parking standards; and Article VI, Section 5 which establishes the procedures and standards for site plan review.

The conceptual site plan was reviewed in great detail by the Planning Commission who made the following comments:

- The proposal to cultivate a crop/raise and process a crop (medical marijuana under the provisions of license issued by the Natalie M. LaPrade Medical Cannabis Commission) is a permitted agricultural use in the district. The affiliated structures are typical of similar agricultural operations.
- The proposal is consistent with strategies and goals of the Comprehensive Plan.
- The applicant has addressed the performance standards in the narrative submitted with the application, as well as the certified engineer's report.
- The applicant addressed the explanation of materials, chemicals/solids to be discharged, traffic expected, and proposed hours of operation in the narrative submitted with the application. The narrative states that there is no industrial processing that might involve raw materials, waste products or other by-products. Additionally, the narrative further explains that no chemicals will be used aside from typical fertilizers associated with agricultural operations on a farm.
- In accordance with Article V, Section 15.7.2, the Planning Commission requested further explanation of the processes, disposal of the by-product including submission of a complete plan for waste disposal; as well addressing the noise impact of the greenhouse exhaust fans on the adjacent horse farm.

- No products are planned to be manufactured on the premises.
- Architectural renderings with elevations from three different angles have been submitted, for which the height of various features needs to be indicated.
- With respect to traffic the narrative states that approximately 27 peak hour trips are anticipated. The narrative further elaborates on truck deliveries, which are anticipated at one to two per day.
- This will be a 24-hour and 7-days a week operation.
- The site is outside the public water and sewerage service area so it is not served by these public utilities. The project will be served by a private well and septic system.
- Note #10 on Sheet C-1 specifies that no new signage is proposed.
- No outdoor storage is proposed.
- Though exterior trash receptacles are not proposed, the application must address waste management of the by-product resulting from the crop processing, as well as plans for disposal of general office refuse. The areas waste management need to be identified within the floor plan of the building.
- Forest Conservation is being addressed with the concurrent minor subdivision approval process.
- As an Environment Site Design (ESD) technique for stormwater management, a submerged gravel wetland is proposed.
- Access will be through a new entrance from Morgnec Road that is located close to the eastern boundary of the site. A stone lane into the site will lead through a gate to a secure, fenced area. The applicant must address the security plan affiliated with this operation and identify all security measures on the site plan and floor plan of the building.
- Lighting will be wall-mounted and directed downward to be dark sky compatible. According to the Project Narrative, grow lamps will be utilized in the greenhouses during nighttime hours, and the inside pane of the greenhouse ceiling windows are to be equipped with “retractable black-out panels that will block the light from emanating from the facility, thus adhering to the dark sky compatibility requirements.”
- The landscaping plan proposes planting Eastern White Pine and Loblolly Pine along both side property lines and around the front of the site as screening. Additional landscaping and screening should extend along the entire eastern property line to screen the site from the adjoining Agricultural zoned land.
- Parking and loading have been identified and meet or exceed the minimum standards. The plans present that there will be 25 employees during the largest shift, so 13 parking spaces are required, and 29 spaces are proposed.
- The application needs to address parking of unmarked vehicles.
- Both vehicular and pedestrian movement is adequately addressed onsite. The parking lot is located at the front of the building near the entrance. Two loading areas have been proposed. Loading docks are at the sides of the building and separated from pedestrian movements, which serves to ensure safety of both vehicular and pedestrian traffic onsite.
- With respect to the bicycle parking, the provisions of the land Use Ordinance are based on the number required spaces, rather than the number provided, so a bike rack is not necessary based on the current use and configuration. The issue of a bike rack may need to be re-evaluated in the event of any future expansion.

In order to receive preliminary site plan approval, the applicant must address and/or submit the following outstanding items:

- The applicant must be in receipt of both grower and processor licenses issued by the Natalie M. LaPrade Maryland Medical Cannabis Commission.

- The applicant must provide details outlining the processing of materials and the waste disposal plan for the affiliated byproduct.
- The applicant must also provide security details as required by the state licensing committee.
- All dimensions of the loading spaces need to be reflected on the preliminary and final plans. The preliminary and final plans will also need to demonstrate that there is adequate turning radius for the rear loading dock as well as the loop road around the building.
- As an Environment Site Design (ESD) technique for stormwater management, a submerged gravel wetland is proposed. The Health Department has advised that this created wetland must be at least 25 feet from the septic reserve area and any outfall or discharge must be directed away from septic reserve area.
- Entrance design and approval from the State Highway Administration.
- Additional landscaping and screening should be provided along the entire eastern property line to screen the site from adjoining Agricultural zoned land.
- The architectural building elevations must identify the height of various features.
- The applicant should clarify whether there will be some sort of business identification sign at the street entrance for deliveries. Signage will be limited to the Industrial sign standards.
- Plans for stormwater management, sediment and erosion control, and landscaping must be provided.
- Address the noise impact on the adjacent lands from the greenhouse exhaust fans, to include providing the exact decibel levels for the exhaust fans.

The following must be addressed in order to receive final site plan approval:

- The preliminary and final plans will need to indicate that adequate turning radius' have been provided for the loop road around the building.
- All dimensions of the loading spaces need to be reflected on the preliminary and final plans. The preliminary and final plans will also need to demonstrate that there is adequate turning radius for the rear loading dock.
- Additional landscaping and screening should be provided along the entire eastern property line to screen the site from the adjoining Agricultural zoned land.
- Entrance design and approval from the State Highway Administration.
- Stormwater management and sediment control plans must be approved prior to final site plan approval.
- Sureties for stormwater management, sediment and erosion control, and landscaping must be submitted prior to final approval.
- Signage must be clarified and will be limited to the Industrial sign standards.

Staff Reports

Mitch Mowell: Pursuing backyard chicken violations in Betterton and Tolchester.

Amy Moredock:

- The 11th Annual Maryland Association Floodplain and Stormwater Managers conference will be held October 15, 2015.
- Met with a representative subcontracted by Maryland Energy Administration and Jamie Williams with the Economic Development department. The Maryland Energy Administration is working to develop an online tool available to assist renewable energy developers to find out where the zoning and conditions are appropriate for siting utility scale renewable energy projects in the State of Maryland.
- Healthy Waters Roundtable, organized by the Chesapeake Bay Foundation, Eastern Shore Land Conservancy, Harry R. Hughes Center for Agro-Ecology and, and the University of Maryland Cooperative Extension Agency, will hold another meeting in September. The group is working together to implement more regional approaches to meet our Watershed Improvement Plan goals.
- Participating with Joe Hickman in the Eastern Shore Land Conservancy Conference Planning Committee. The annual conference will be held on November 19 and the theme this year is “Renewable Energy Powering Our Future in Maryland.”
- Will be attending the Regional Eastern Shore Land Conservancy Planners meeting with Katrina.
- Approved an Administration Special Exception for an in-ground pool and a little cabana in the front yard of a waterfront property just outside of the 100 foot buffer.
- There has been a lot of information in the newspaper recently regarding “the last mile” and providing Wi-Fi and internet accessibility to more rural areas. More requests have been made to the Department for individual service for Wi-Fi and internet requiring landowners to erect private personal towers. The Department will view these applications as personal wireless facilities and process permits as satellite dishes. There will be a condition on the permit that if in the future an individual property owner tries to sell space on the tower for colocation, it becomes a public facility and will require Planning Commission and Board of Appeals special exception approval.
- Staff continues to work on the CoastSmart Community Grant and to plan local training on the VCAPS model (coastal resource vulnerability analysis).
- I continue to work with the Economic Development Advisory Board and Jamie Williams who have been very involved in a lot of commercial development projects. EDAB has sent a letter of support to the State Cannabis Commission regarding the Pharm Kent application for state licenses. The Kent County Commissioners sent a letter of support, as well.
- Eastern Shore Heritage Inc. will hold a grants work shop in October.
- The County TMDL Committee will meet this month.
- The Renewable Energy Task Force reconvened at the request of the Commissioners and have been assigned an updated charge focusing on the study of utility scale renewable energy. Kim Kohl has been appointed to represent the Planning Commission. The RETF will meet every other Friday morning at 9am beginning on October 16, 2015.
- Planning Commission members received correspondence from Maryland Department of Planning relative to the 10 year Comprehensive Plan review cycle.

Katrina Tucker:

- Proposals submitted in response to the Request for Proposals for the update to the Kent County Comprehensive Plan will be publicly opened at 10:00 a.m., October 2, 2015, in the County Commissioner’s Hearing Room.
- The Maryland Planning Commission Association will hold their annual meeting on October 29 and 30th and it will be held in Linthicum, Maryland.

- Attended the Eastern Shore Local Government Exchange. Presentations included an overview of the foundation of comprehensive plans and advised of the revision in the Maryland Land Use Article that Comprehensive Plan can now be updated every 10 years instead of six..

General Discussion:

Elizabeth Morris and Edward Birkmire have been re-appointed to the Planning Commission by the County Commissioners for another 5 years.

There being no further business for the good of the organization, the meeting was adjourned at 3:54 p.m.

Elizabeth Morris, Chairman

Tonya L. Thomas, Clerk