

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, December 3, 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; James Saunders; Kim Kohl; 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 November 5, 2015, meeting, were approved as presented.

## APPLICATIONS FOR REVIEW:

**Zebulon E. Blyman** is requesting combined preliminary and final site plan approval for an adaptive reuse of historic structures on this property located at 10700 Worton Road. Mr. Blyman proposes to operate a land maintenance business out of 2 existing historic structures and a newly constructed 1,200 square foot pole building onsite. The applicant also proposes to construct a gravel driveway to access the pole building located to the rear of the parcel. Site plan review of the use and all affiliated structures and improvements is also required.

The 2.6-acre property is zoned Village and located in the Third Election District in the Village of Worton. The property is currently improved with a metal garage and a block garage. The surrounding area is characterized by residential development. This property is located within 0.5 miles of the Industrial Zoning District to the south and 0.25 miles from the crossroad in Worton which characterized by commercial development. Worton Manor Mobile Home Park is located across the street from the property.

Present and duly sworn in were, Zebulon E. Blyman, Applicant, Robert Nickerson of Extreme Measures Surveyors, and Amy G. Moredock, Director of Planning, Housing, and Zoning.

Ms. Moredock gave an overview of the application, its review history, and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article VI, Section 5 that establishes the procedures and requirements for site plan review.

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

Mr. Nickerson stated that all equipment has been adequately accounted for in the areas identified on the site plan and as documented in the 2 exhibits submitted along with the updated site plan. He further noted that the proposed buildings are sufficient for storing all equipment on site. Additional parking has been added for a temporary employee should there be a need. The buildings will be white painted metal.

Mr. Birkmire asked Mr. Blyman if he fully understood the ramifications to labeling the exact number of each piece of equipment and what would happen if he were to store more than what is on the exhibit.

Mr. Blyman addressed questions from the members inquiring about the inventory that will be stored relative to the possible expansion of business and the need for more equipment. Mr. Blyman stated he completely understood the conditions and the restrictions of the amount of equipment he is allowed to store on the parcel. Mr. Blyman stated he understood he will be held to the number of each piece of equipment that was

represented and that if his business is successful and expands and he will not be able to expand his business on that parcel and he will be required to relocate or purchase commercial property.

Mr. Thomas Unruh of Unruh's Excavation and Mr. Joseph Unruh of Sharps Tree Service were sworn in.

Mr. Thomas Unruh and Mr. Joseph Unruh stated that they are not opposing the application because of the type of work Mr. Blyman is doing but simply because the Land Use Ordinance does not allow a commercial business to be conducted in districts that are not zoned commercial. Over the past decade there have been special exceptions to allow small business owners to operate from their residences. Those businesses have outgrown the definition of homeowner occupation and are now illegal. The County has not enforced these issues, and it is costing the business owners who are legal and have purchased commercial properties money and loss of work to the business owners who do not have the cost of being in a commercial property.

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

- Combination of preliminary and final site plan reviews has been deemed appropriate in this case;
- The proposal is consistent with the Comprehensive Plan strategies.
- The Kent Soil and Water Conservation District has approved the stormwater management and sediment and erosion control plans affiliated with this project. The sureties have been submitted to the County.
- The landscape plan consisting of a mixture of native deciduous and coniferous trees and shrubs has been submitted and appears to adequately screen and enhance views offsite. The sureties have been submitted to the County.
- The applicant has submitted details which clearly labels items which will be parked and stored in the existing metal building.
- Areas of vehicular flow are clearly identified; loading and unloading areas and employee parking areas have been clearly delineated.
- The Kent County Health Department has approved this application.
- Hours of operation are 7am to 5pm Monday through Friday and 7am until noon on Saturday (no business operations on Sunday). This use should not result in undue disturbance to the neighborhood. The applicant has addressed the level of engine noise onsite in the attached narrative.
- No tree or vegetation removal is proposed and adequate screening has been provided both in front of the metal garage and along the rear side property lines.
- A proposed sign location is identified; Mr. Blyman will relocate his 8.75 square foot detached sign issued in 2012 and affiliated with his home occupation use permit from that location to this property.
- The site has historically been used as a commercial property and will be enhanced by the proposed improvements onsite.

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

**Community Energy Solar, LLC. (Revocable Trust of Benjamin Stafford)** is requesting conceptual site plan review on lands that are owned by The Revocable Trust of Benjamin C. Stafford for a proposed utility scale solar energy system. The system is proposed to occupy 42.50 acres of the 95.541-acre parcel and consists of three (3) separate areas of ground mounted solar panels with five (5) inverter stations to be accessed by a 20-foot wide stone road located along the southern and western edge of the project area. The ground mounted solar panels are 12 feet in width and placed in rows approximately 260 feet in length.

The overall height is approximately eight (8) feet to the top of the panels, which will be supported by I-beams driven into the ground. The panels rotate throughout the day to maximize sunlight exposure.

The entire 42.5-acre project will be enclosed by an 8-foot high chain-linked fence. Landscaping is proposed to screen portions of the system which are directly visible from Maryland Route 299 (Massey-Sassafras Road) and adjoining agriculturally zoned properties.

The property is located on the west side of Massey-Sassafras Road, just north of the intersection with Galena Road. The site is in the First Election District and is zoned Employment Center (EC). The current use of the property is tilled agricultural land, and the remainder 53.041 acres of the 95.541 acres of the total property that is not part of the project area is intended to continue as farmland. Two areas of non-tidal wetlands and affiliated 25-foot buffers are also located on the property. This site adjoins the eastern boundary of the property owned by David A. Bramble, Inc., on which another utility scale solar energy system project submitted by OneEnergy Blue Star Solar, LLC, is pending.

Present and duly sworn in were, Daniel Saunders, Counsel for Applicant; Sam Zantzinger, Solar Development Analyst for Community Energy, Inc.; Kevin Shearon, 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 14.2 which establishes site plan review requirements for all permitted industrial uses in the Employment Center District; Article V, Section 14.5 which establishes the density, height, width, bulk, and fence requirements for the Employment Center District; Article V, Section 14.6 which establishes the Employment Center 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 14.7 that establishes the Employment Center general standards; Article V, Section 14.8 that establishes the Employment Center environmental standards which include the forest conservation, non-tidal wetland, stormwater management standards, and water quality standards; Article V, Section 14.8.B.6 addressing protection of non-tidal wetlands; Article VI, Section 3.8 which provides that non-tidal wetlands are designated Habitat Protections Areas; Article V, Section 14.9 that establishes the Employment Center 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.

Mr. Shearon gave a brief overview of the application and the number of citizens that attended the Citizen Participation meeting. At the Citizen Participation meeting adjacent residents were concerned about maintaining their view of the pond and also suggested a more natural looking buffer surrounding the project. Another issue was a drainage concern on an adjacent property that the applicant will research in order to determine if there is a reasonable solution to the problem. Mr. Zantzinger advised that Community Energy Solar, LLC, is seeking a Certificate of Public Convenience and Necessity (CPCN) from the Maryland Public Service Commission (PSC) for this project.

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

- The applicant conducted a Citizen Participation meeting in Massey on 17 November 2015 and the summary has been provided.
- The proposal is consistent with many strategies and goals of the Comprehensive Plan.
- The Kent County Health Department has approved this application.

- The applicant has addressed the performance standards (noise, vibration, glare, air pollution, water pollution, radioactivity, electrical interference, smoke and particulate matter, toxic matter, and odor) in the sealed Certified Engineer's Report.
- Forest Conservation provisions must be addressed in accordance with Article VI, Sections 14.8.B.3. A Simplified Forest Stand Delineation worksheet and plan must be submitted.
- A landscape plan has been submitted.
- No new lighting has been proposed.
- No signage has been proposed.
- The adjacent property owners wish to preserve the view of the pond.
- . The project area is being leased from the property owner, and a copy of the Lease Agreement must be submitted along with a written determination concerning the use of the remainder of the property that documents the tillable acreage.
- Submit the findings of geotechnical analysis .
- Community Energy Solar, LLC, is seeking a Certificate of Public Convenience and Necessity (CPCN) from the Maryland Public Service Commission (PSC) for this project.

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

- Reasonable demands placed on public services and infrastructure must be documented.
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- The site plan should clearly indicate that the non-tidal wetland buffers will be staked during construction to avoid impacts.
- Clarify that the black vinyl will be for screening and the privacy fence will be a chain-link perimeter security fence.
- Provide inverter details.
- The State Highway Administration comments outlined in the staff report must be addressed.
- The site plan submitted on 23 November 2015 indicates that the project area is 42.5 acres; however; the applicant's narrative states the "solar array will occupy approximately 42.6 acres" and the initial submittal of the plan indicated 42.59 acres. The acreage must be clarified for preliminary and final approval.
- Since the remainder 53.041 acres of property will continue to be tilled, any products for cleaning solar panels should be clearly identified prior to final site plan approval and also approved by whomever is farming the land.
- Preliminary Forest Conservation, Landscape, Stormwater Management, Sediment and Erosion Control Plans.

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

- Forest Conservation, Landscape, Stormwater Management, Sediment and Erosion Control Plans must be approved and affiliated sureties submitted.

## Staff Reports

Amy Moredock:

- She and Katrina, as well as members of the both the Planning Commission and Renewable Energy Task Force (RETF), attended Eastern Shore Land Conservancy's Annual Planner's Conference. This

year's theme was renewable energy. It was an information-packed conference that was very educational.

- The RETF are continuing to evaluate utility scale solar system provision, namely in the Agricultural Zoning District. The task force invited a representative from Delmarva Power and Pepco to educate the members regarding the process of system upgrades and line upgrades when utility scale provisions are in place. The next meeting will be December 11<sup>th</sup>.
- The next scheduled Coastal Vulnerability Analysis meeting is scheduled for December. The steering committee meeting will be held this winter and will focus on moving forward with the interview process.
- On December 14<sup>th</sup> the Governor's Intergovernmental Committee on Agriculture will hold a meeting to discuss food safety modernization, food safety programs at the Health and Mental Hygiene Department, and value-added agriculture.
- The Public Service Commission will be holding its local evidentiary hearing and public hearing regarding the OneEnergy Blue Star application on December 16<sup>th</sup> in the Millington Town Hall. In the context of the OneEnergy Blue Star application for their certificate of public need and necessity, there has been a lot communication with the Department of Natural Resources staff who has been evaluating the project. There has been an exchange between Mr. Mowell and the attorney for Department of Natural Resources relative to the Forest Conservation Act and the interpretation of the perceived exemption of the local implementation of the Forest Conservation requirements. The State asked that Mr. Mowell and Ms. Moredock attend the meeting and testify to the fact that in order to receive final site plan review the Planning Commission cannot waive the requirement and the applicant is required to comply (in the form of payment of fee in lieu). The Public Service Commission will make a decision as to whether there is an exemption to the requirement.

Katrina Tucker:

- Participated in the MALPF Program Administrators meeting held at MDA on November 12<sup>th</sup>. The topics included a discussion of the issues some counties are having with the septic laws as it related to determining development rights for properties on which the state will acquire easement. This is not affecting Kent County since the County was granted an exemption. Additionally, baseline documentation was discussed, which is when an easement offer is made the local program administrator conducts a farm inspection to establish the baseline features by which future inspections are based. Other topics included changes to the application, creation of a tenant house designation policy, and issues such as violations that other jurisdictions have experienced.
- Served as a volunteer with Junior Achievement in the 3<sup>rd</sup> grade at Worton Elementary on November 20<sup>th</sup>. Junior Achievement is a non-profit organization founded in 1919 financed by businesses, foundations, government, and individuals. Conducted 5 instructional sessions on Junior Achievement "Our City," that involved hands-on classroom activities that introduced the students to the concepts of zoning and land use, financial literacy, and the characteristics of how businesses within their community manage money. This included concept of taxes, the need and contributions of financial institutions, and an understanding that entrepreneurs promote a healthy economy. Each student received cardboard buildings to color and then as a group activity determined where the building should be placed on a zoning map. The sessions also included games with play money that the students enjoyed.
- Announced that the Planning Director and Ms. Tucker met with Earth Data, Inc., on the work program for the Comprehensive Plan update, and the contract will soon be executed. Mr. Sandy Coyman from Earth Data was introduced.

**General Discussion:**

There being no further business for the good of the organization, the meeting was adjourned at 3:13 p.m.

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Elizabeth Morris, Chairman

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Tonya L. Thomas, Clerk