

MINUTES

The Kent County Planning Commission met in regular session on Thursday, January 7, 2016, 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, Critical Area Planner; 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 December 3, 2015, meeting were approved as presented with the addition of Kim Kohl in attendance.

PUBLIC HEARING:

The Kent County Planning Commission held a public hearing to review the petition by P. Thomas Mason and Oxford Development, Inc. for a zoning Text Amendment to revise sign provisions and to enhance the bonus signage criteria found in Article VI, Section 2.7 of the Ordinance.

P. Thomas Mason and Oxford Development, Inc. have submitted an application to amend Article VI, Section 2.5 of the Kent County Land Use Ordinance by revising sign provisions in the Crossroads Commercial, Commercial, Commercial Critical Area, Village, Intense Village, Intense Village Critical Area, Marine, Employment Center, Industrial, and Industrial Critical Area-LDA and Industrial Critical Area Districts. The applicants also propose to enhance the bonus signage criteria found in Article VI, Section 2.7 of the Ordinance.

Specifically, the applicants propose to delete separate provisions which are more restrictive for the Village, Intense Village, and Intense Village Critical Area Districts and add these zoning districts to the less restrictive provisions outlined for the Crossroads Commercial, Commercial, Commercial Critical Area, Industrial, Industrial Critical Area, Industrial Critical Area-LDA, Employment Center, and Marine Districts. In addition, the applicants propose to increase the size limit of signage total square foot age under the bonus criteria from 32 to 35 square feet and to increase the bonus percentages from 10 to 15 percent for detached signs and attached signs which are indirectly illuminated.

No testimony was presented during the public hearing. Ms. Morris closed the public hearing and reopened the regular meeting.

APPLICATIONS FOR REVIEW:

P. Thomas Mason and Oxford Development, Inc. have submitted an application to amend Article VI, Section 2.5 as noted above.

Ms. Elizabeth Morris recused herself from this project due to a personal conflict.

Present and duly sworn in were Howard H. Crossan, President of Oxford Chase Development, Inc.; C. Daniel Saunders, Counsel for the applicants; and Amy G. Moredock, Director of Planning, Housing, and Zoning.

Ms. Moredock gave an overview of the application and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article VI, Section 2.5 which identifies special provisions and permitted signs; Article VI, Section 2.7 which establishes special provisions and criteria for bonus sign area; and Article XII, Section 6 that establishes the standards for the review and approval of zoning text amendments.

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

Mr. Saunders stated the corporate office for Dollar General has sign standards for its franchise stores and is looking for flexibility in the Kent County Land Use Ordinance for a potential location in the county. The County needs to re-examine the need to bring businesses to Kent County versus neighboring counties. The County needs to increase the incentives and make the sign requirements more consistent throughout the County in the Crossroads Commercial, Commercial, Village, Industrial, Employment and Marine Districts. The need for economic growth is the need for businesses and, therefore, the need for advertisement. Their intent is to protect the Village Districts but also encourage economic development.

Mr. Crossan stated the corporate office for Dollar General has specific locations and construction details for all of their stores. He added he worked diligently with the corporate office to gain concurrence with the provisions presented in this text amendment.

Much of the Planning Commission's discussion was based on the size of the signs that will be allowed in the Village Districts through the proposed text amendment. Their concern was that other small businesses in the area will install larger signs. There are sign restrictions specifically with respect to the Village Districts so the signs would not distract from the residential neighborhoods in these areas that are also significant aspects of the Village Districts in addition to the permitted types of retail uses. Members discussed the level of community input which went into the drafting and adopting the Village District standards and affiliated Comprehensive Plan strategies. This input was meant to ensure the public interest within the residential areas located in villages.

In addition, the Planning Commission expressed concern that the text amendment may devalue Commercial Zoned property, and that if these types of corporate franchises need larger signs, then they should consider development in the Commercial districts.

The Planning Commission failed to find a public need for these proposed zoning text amendments.

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

- The applicants failed to demonstrate that there is a public need for the proposed amendments and found rather that the testimony solely demonstrated the interest of the applicants.
- The proposal as submitted is not in harmony with the Statements of Intent for the Village Zoning Districts.

The Planning Commission recognizes the importance of economic development and the Comprehensive Plan strategy to recruit new businesses which are desirable to the County. Therefore, it would add that, if the County Commissioners were inclined to favorably consider the request and finds that there is a public need for a text amendment, the Planning Commission would recommend the following changes by ~~deletion~~ and **ADDITION** to the text amendments as submitted in order to provide greater consistency with the Statements of Intent within the impacted Village Zoning Districts:

Article VI, Section 2.5 (Special Provisions, Permitted Signs)

Village, Intense Village and Intense Village Critical Area. - The following signs are permitted in the Intense Village, Intense Village Critical Area and Village District provided that the total sign area shall not exceed one and one half (1-1/2) square feet for each linear foot of the building frontage and that the maximum total area shall not exceed 100 square feet.

1. One flat sign per establishment, limited in area to ~~45~~ **25** square feet or 5% of the front facade of the establishment, whichever is the least.

OR

One projecting sign per establishment, limited in area to 5 square feet.

2. One detached sign, limited to ~~9~~ **25** square feet.
3. One flag in addition to the incidental flags provided the area of the flag does not exceed 15 square feet and the flag is mounted on the building façade (not roof) or approved flagpole.
4. One neon sign attached to a window or inside the building, limited to 2 square feet in Intense Village and Intense Village Critical Area.
5. The **TOTAL SIGN AREA SHALL NOT EXCEED** one and one-half square feet for each linear foot of building frontage. The maximum total area shall not exceed 100 square feet.

Article VI, Section 2.7 (Special Provisions, Criteria for Bonus Sign Area)

To encourage design excellence, the maximum sign area for certain businesses (not including directional signs or sign for home occupations), industries, and agricultural uses, may be increased by the percentages herein. A separate bonus is granted for compliance with each of the criteria and the area is cumulative, but the percentage is based on the original sign area. In no instance shall the sign area exceed 32 square feet except for directory signs.

A. Detached signs may be may increased as follows:

1. Twenty percent when the sign is constructed of solid wood and uses colors approved by the Planning Commission.
2. Ten percent when a directory sign utilizes uniform coloring and lettering for all establishments listed in the directory except the one major facility.
3. Twenty percent when the sign is installed in a landscape planter having an area twice the area of the resultant sign and the entire area is approved by the Planning Commission.
4. ~~Ten~~ **FIFTEEN** percent when the sign is not designed or used with illumination, or the sign uses indirect lighting.
5. Twenty percent when the sign uses a pedestal or monument base and does not exceed 5 feet in height.

B. Attached signs may be increased as follows, but only if the projection does not exceed 12 inches.

1. Ten percent when all lettering and background is uniform in style and color for signs in a shopping center or for any three consecutive separate establishments.
2. ~~Ten~~ **FIFTEEN** percent if the sign is not designated or used with any illuminations or the sign uses indirect lighting.
3. Five percent if the sign design compliments and utilizes the architectural details of the façade particularly with the respect to historic structures.

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

Staff Reports

Amy Moredock:

- She has been working with Public Service Commission staff to review 3 utility scale solar system projects which have submitted applications for Certificate of Public Convenience and Necessity. OneEnergy Blue Star in Massey on 36.6 acres was granted preliminary site plan approval by the Planning Commission. A hearing was scheduled in December and was canceled due to an advertising error on the part of the applicant. The controversy surrounding the OneEnergy application involves Forest Conservation Act implementation. The Power Plant Research Program (PPRP) of the Maryland Department of Natural Resources (DNR) is interested in making sure that all the local ordinance provisions have been met and that due consideration is given in this Forest Conservation Act discussion. OneEnergy was planning to comply in December and planned to challenge in the future. Since the delay, they are now challenging the PPRP staff's recommendation to enforce the Forest Conservation Act. Mr. Mowell submitted an opinion letter on behalf of the County Commissioners and the Planning Commission outlining the importance of following the Forest Conservation Act not only in this case but also in the cases to follow.

Community Solar is going down the same path as One Energy Blue Star but the public hearings and evidentiary hearings will take place in April of 2016.

The Mills Branch (Apex Project) has now switched from a utility scale wind turbine project to a utility scale solar project comprised of 2 parcels totaling 370 acres. Staff will not be attending the preconference hearing that is scheduled for January 12th to be held in Baltimore. The Planning Department will be submitting comments on behalf of the County Commissioners and the Planning Commission to the PSC asking that the PSC uphold the County Ordinance requirements (in regard to the Forest Conservation Act and Preemption).

- The Renewable Energy Task Force continues to meet. The County Commissioners are awaiting the Task Force's recommendations, if any, regarding utility scale solar system text amendments in the AZD.
- The Board of Appeals met on December 7, 2015 and approved Zebulon Blyman's special exception application for adaptive reuse of his existing structures in the Village District.
- On January 11, 2015, she will hear an administrative setback variance in order to construct additions to the existing dwelling that will be 24 and 20 feet from the rear property line.
- She approved an administrative variance from the buffer requirements in order to install a nitrogen removal septic system and tanks within the 100 foot Critical Area Buffer.
- She is working with the Health Department and other County Staff to try to come up with a more streamlined and viable protocol to address extreme nuisance cases.
- She made everyone aware that there is a possibility that all meetings held in the Commissioners Hearing Room will be live-streamed.

Stephanie Jones:

- She is currently processing a violation for an accessory structure extension, renovations, and bulkhead built within the critical area buffer without permits.
- She will be attending a symposium on nutrient trading at which the Maryland Department of the Environment (MDE) and Maryland Department of Agriculture (MDA) will address basic concepts on current trading and future plans.

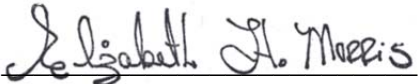
Mitch Mowell:


- He is processing enforcement action in Tolchester and Fairlee regarding exotic birds/chickens.
- He is also coordinating with Ms. Amy Moredock regarding the Public Service Commission cases.

Katrina Tucker has been working with the consultant on the first Planning Commission work-session for the Comprehensive Plan update which will be held immediately after the conclusion of this meeting.

General Discussion:

There being no further business for the good of the organization, the meeting was adjourned at 3:22 p.m.


Elizabeth Morris, Chairman


Tonya L. Thomas, Clerk