

MINUTES

The Kent County Planning Commission met in regular session on Thursday, April 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; William Crowding; and Joe Hickman. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; Stephanie Jones, Environmental 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 March 3, 2016, meeting, were approved as presented.

PUBLIC HEARING

Frederick E. Keer, Kelly Anne Richards, and Alice Kelly Holton filed an application for a zoning map amendment for the lands known as Tax Map 43, Parcel 4. It is the applicant's contention that there was a mistake in the drafting of the Zoning Map as the entire parcel should have been zoned Resource Conservation District during the initial 1989 mapping of the Critical Area line. This intention is not correctly reflected on the Zoning Map. Map 43, Parcel 4 is currently zoned Resource Conservation District, Rural Character, and Agricultural Zoning District. The configuration of Parcel 4 as represented on the Tax Map has changed over time to incorporate a pond that is no longer in existence. This reconfiguration has resulted in a drafting error on the Zoning Map. The current property owner cites a mistake in the original zoning and requests that the Zoning Map be amended such that the entirety of Parcel 4 is zoned Resource Conservation District.

Ms. Jones provided a brief overview of the request. No other persons testified during the public hearing, and the Chair closed the public hearing.

AGRICULTURAL PRESERVATION DISTRICTS APPLICATIONS FOR REVIEW:

Casey C. and Meagan B. Owings seek to establish an Agricultural Preservation District on their farm located at 28690 River Road, Millington, in the Second Election District. The farm is comprised of 121.12 acres containing 62.7% qualifying soils. There are no dwellings on the property. However, a 10,000 square foot area, measuring 100 feet by 100 feet, is withheld since it is subject to an area under lease for a personal communication cell phone tower that will be subject of a future special exception and site plan application. This application was postponed from the Planning Commission's 7 March 2016 Agenda in order to address the leased area.

The farm is zoned "AZD", Agricultural Zoning District and is outside the 10-year water and sewer planning service area. The adjacent farm on the eastern boundary is in a Maryland Agricultural Land Preservation Foundation (MALPF) Easement. Within a two mile radius are significant blocks of properties in easements held by MALPF.

Ms. Tucker gave an overview of the application and cited the applicable law found in the *Code of Public Laws of Kent County in Chapter 171: Agricultural Preservation Districts*, which establishes a program of Agricultural Land Preservation. Ms. Tucker advised that the Agricultural Preservation Advisory Board reviewed this application at their meeting on February 17, 2016, and then the revised report at their March 23rd meeting. They unanimously submit a favorable recommendation.

Following discussion by the members of the Planning Commission, Mr. Sutton made a motion to forward a favorable recommendation to the County Commissioners based on the following findings:

- The property meets the criteria for creating an Agricultural Land Preservation District.
- It complies with the goal of the Comprehensive Plan to preserve large blocks of contiguous prime agricultural land.
- The Nutrient Management Plan as well as the Soil and Water Conservation Plan are current.
- The Agricultural Preservation Advisory Board has recommended approval.

Mr. Crowding seconded the motion, and it was approved unanimously.

Judith Anne McBee seeks to establish an Agricultural Preservation District on her farm located along Forrest Lane, south of Great Oak Landing Road, and identified by tax assessment records with a premise address on Handy Point Road, Chestertown, in the Sixth Election District. The farm is comprised of 100.44 acres containing 74.1% qualifying soils. Approximately 70 acres of the farm is in Agricultural Zoning District (AZD) and the remaining approximate 30 acres are zoned Resource Conservation District (RCD). The farm is located outside the 10-year water and sewer planning service area.

Present and duly sworn in were the applicant, Ms. Owings; and Ms. Tucker, Community Planner.

Ms. Tucker gave an overview of the application and cited the applicable law found in the *Code of Public Laws of Kent County in Chapter 171: Agricultural Preservation Districts*, which establishes a program of Agricultural Land Preservation. Ms. Tucker advised that significant areas of preserved lands are in the vicinity. The Agricultural Preservation Advisory Board reviewed this application at their meeting on 23 March 2016, and unanimously submit a favorable recommendation.

Following discussion by the members of the Planning Commission, Mr. Sutton made a motion to forward a favorable recommendation to the County Commissioners based on the following findings:

- The property meets the criteria for creating an Agricultural Land Preservation District.
- It complies with the goal of the Comprehensive Plan to preserve large blocks of contiguous prime agricultural land.
- The Nutrient Management Plan as well as the Soil and Water Conservation Plan are current.
- The Agricultural Preservation Advisory Board has recommended approval.

Mr. Crowding seconded the motion, and it was approved unanimously.

ZONING MAP AMENDMENT

Frederick E. Keer, Kelly Anne Richards, and Alice Kelly Holton filed an application for a zoning map amendment for the lands known as Tax Map 43, Parcel 4. It is the applicant's contention that there was a mistake in the drafting of the Zoning Map as the entire parcel should have been zoned Resource Conservation District during the initial 1989 mapping of the Critical Area line. This intention is no longer reflected in the tax maps. Map 43, Parcel 4 is now zoned Resource Conservation District, Rural Character, and Agricultural Zoning District. The change in the configuration of Parcel 4 has created a drafting error, putting the current property owner in a strong position to meet the criteria to receive a map amendment.

Present and duly sworn in were the applicants, Ms. Kelley Anne Richards; Ms. Alice Kelly Holton; Mr. Frederick Keer; Mr. Robert Nickerson, L.S. of Extreme Measures Land Surveyors; and Ms. Jones, Environmental Planner.

Ms. Jones gave an overview of the request for a zoning map amendment and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article XII, Section 6 that sets forth the standards for review and approval of a Zoning Map amendment; as well as the *Annotated Code of Maryland*, Land Use Article §4-204 which establishes the authority of a local jurisdiction to amend zoning boundaries. Ms. Jones advised that the State Critical Area Commission (CAC) must approve any change to the Critical Area designation of the Zoning Map, either as a program change or a refinement. This application has been submitted to the CAC staff for review and for CAC approval.

Mr. Nickerson stated the zoning map has become incorrect over time. Recent maps do not show a critical area line through Mill Pond. Mr. Nickerson stated that during Hurricane Agnes Mill Pond blew out creating a perennial stream, flowing year round with marsh like characteristics. To support the applicant's claim in mistake of the original zoning, Mr. Nickerson presented maps that reflected the incongruity of the zoning and Critical Area line for the area labeled as "Mill Pond" on the tax maps and zoning maps over time.

Ms. Richards stated that Ms. Holton has two dwellings on the parcel and one is inhabitable. The property owners would like to demolish one of the existing structures and construct a new single family dwelling. As the parcel stands as split zoned the owner is not permitted to have two (2) dwellings on the parcel that does not meet the density requirement of 1/20 within the Resource Conservation District.

Following discussion by the members of the Planning Commission, Mr. Hickman made a motion to forward a favorable recommendation to the County Commissioners based on finding that there was a drafting error creating a mistake in the original zoning in accordance with the following:

- Tax Map 43 has evolved from displaying open water (Mill Pond) adjacent to Parcel 4 to displaying a mapped stream (refer to the 1989 and 2002 tax maps in the file).
- As the pond area was remapped as a stream, the parcel boundaries of Parcel 4, and the surrounding parcels, gained land area.
- As this occurred, land was zoned according to existing zoning on adjacent parcels.
- The property owner at the time when the Critical Area (CA) mapping was first adopted in 1989 had opted to include the entire property (Parcel 4) in the Resource Conservation Zoning District (RCD). During the original CA mapping, property owners were given this option when their properties were "split-zoned" at the 1,000 foot mark.
- In 1989, the entirety of Parcel 4 was shown to exist only on the east of the Mill Pond.
- In 2002, Parcel 4 was shown to exist on the west and east sides of the blue line stream (formerly Mill Pond).
- In 2002, the west side of the parcel was not mapped RCD, but Rural Character and Agricultural Zoning Districts. Based on the property owner's intent in 1989, this change in the configuration of Parcel 4 on the tax map has created a drafting error.
- The applicant has documented the area of the parcel zoned RCD to be approximately 25.1 acres, the area zoned Rural Character to be approximately 2.5 acres, and the area identified as the Mill Pond to be approximately 18 acres, all based on the 2002 Zoning Map.

Mr. Birkmire seconded the motion, and it was approved unanimously.

APPLICATIONS FOR REVIEW:

Julie Brice-Nickerson is requesting combined preliminary and final site plan review for a cottage industry to allow Mr. Robert “Buck” Nickerson’s land surveying and civil engineering business to operate from a portion of the 5.0 acre property located at 23680 Ricauds Branch Road in the Sixth Election District. The Special Exception for the cottage industry has been approved by the Board of Appeals subsequent to their public hearing held on 22 February 2016, and a waiver to the rear yard parking requirement of Article VI, Section 1.4.B.3 was granted by the Planning Commission on 4 February 2016 during concept review. The property is in the Agricultural Zoning District and the surrounding area is characterized by farms.

The use of the property will remain as Mrs. Brice-Nickerson’s and Mr. Nickerson’s primary residence while adding a building that will contain the cottage industry. The applicant proposes to construct a 2,100 square foot pole building, measuring 30 feet by 70 feet, of which 1,200 square feet will be used for the cottage industry and the remainder set aside for personal use as an accessory residential garage. The narrative states that it will be designed to mimic an agricultural building and will be similar in appearance to other existing buildings in the surrounding area. Though the new pole building will be located in front of the existing dwelling on the property, it will be 77 feet from the front property line, 52 feet from the eastern side property line, and more than 360 feet from the west side boundary. Orientation of the building will be such that it will face the interior of the site, so that the building side is towards the street and the rear towards the eastern side property line. A gravel parking area will be located at the building’s front.

The applicant does not propose any outdoor storage or signage. The narrative further states that two additional full-time employees and one part-time employee would be hired. In addition, minimal customer traffic would be generated as a result of the business activities. The narrative states that the core hours of operation are 7:30 a.m. to 5:30 p.m. from Monday to Friday and 7:30 a.m. to noon on Saturdays. The business will be closed on Sundays.

Present and duly sworn in were the applicant, Ms. Julie Brice-Nickerson; Mr. Robert Nickerson, L.S. of Extreme Measures Land Surveyors; and Ms. Tucker, Community Planner.

Ms. Tucker gave an overview of the application, including the granting of the Special Exception by the Board of Appeals and the parking waiver granted by the Planning Commission, and cited all of the applicable law of the *Kent County Land Use Ordinance* to include Article VI, Section 5 which outlines the procedures and requirements for site plan review.

Mr. Nickerson described the nature and history of the property. Mr. Nickerson stated that his business has outgrown its current location so he decided to relocate to this property and seek the special exception for a cottage industry. The proposed rain gardens presented on the site plan for addressing stormwater management will also enhance the property landscaping and serve as a display for potential clients. In response to the inquiry from the Chair, Mr. Nickerson advised that he did not intend to install a sign.

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

- The Board of Appeals based on the testimony and evidence presented their public hearing held on 22 February 2016 unanimously found that the cottage industry, as set forth by the applicant and in the application, met all applicable criteria for a special exception. Accordingly, the Board granted the special exception for a cottage industry on this 5-acre property in the Agricultural Zoning District in an area that is characterized by farms.

- The proposal is consistent with the Comprehensive Plan strategies to support cottage industries and small, locally-owned businesses.
- The area of the new 2,100 square foot pole building designated for the cottage industry use totals 1,200 square feet. This area for the cottage industry is incidental to the 2,150 square foot area of the existing two-story dwelling and the 5-acre property.
- The new pole building will be located in front of the existing dwelling on the property, though not within the front yard setback. Orientation of the building will be such that it will face the interior of the site, so that the building side is towards the street and the rear towards the eastern side property line.
- The application with the accompanying site plan clearly distinguishes the areas of business and personal use (per supplemental renderings on file).
- The building will be designed to mimic an agricultural building and will be similar in appearance to other existing buildings in the surrounding area.
- The property and cottage industry area is accessed by an existing entrance and driveway.
- The business will have two full-time employees and one part-time employee in addition to the applicant. Although clients will come to the site for meetings associated with a land surveying and civil engineering business, this use should not create an unusual amount of traffic or other impacts on infrastructure.
- Four on-site gravel parking spaces will be added for employees, customers, and parking of the survey truck.
- The property is served by a private well and on-site septic.
- Sediment and erosion control plans have been approved.
- Installation of two rain gardens for addressing stormwater management has been approved.
- The nature of the work associated with land surveying and civil engineering should not be expected to generate harmful noises, odors, or otherwise noxious materials.
- The applicant does not propose to install signage.
- Exterior lighting comprised of three motion activated lights along the front of the building will be dark sky compatible.
- In addition to the existing landscaping on the property, which includes evergreen trees that provide screening along the road and eastern boundary line, the applicant proposes to install two rain gardens that will offer both landscaping and serve a stormwater management purpose. Another three native understory trees will also be planted in the vicinity of the new pole building.
- The Citizen Participation meeting was conducted and received positive feedback.
- The applicant through testimony, clarified that on-site maintenance of the vehicles associated with this cottage industry would involve maintenance and minor repairs.
- The core hours of operation are 7:30 a.m. to 5:30 p.m. from Monday to Friday and 7:30 a.m. to noon on Saturdays. The business will be closed on Sundays.
- In review of the concept plan, a waiver to the rear yard parking requirement of Article VI, Section 1.4.B.3. was granted.
- All sureties have been posted.

Mr. Sutton seconded the motion, and it was approved unanimously.

Willards Agri-Service of Lynch, Inc. is requesting combined concept, preliminary and final site plan approval to construct a 7,200 square foot product and equipment storage warehouse at its existing facility in Lynch along with the conversion of a 550 square foot portion of an existing “High-Q” building into office space. The site is located on a 48.933 acre parcel situated on the east side of

Lynch Road (Maryland Route 561) in the Second Election District and is split zoned with 8.933 acres in the Village (V) District and the remaining 40 acres in the Agricultural Zoning District, AZD. The surrounding area is characterized by farmland to the east and south and by residential and commercial development in the Village of Lynch to the north and along the west side of Lynch Road.

Willards Agri-Service is an existing agriculture service company occupying this site with offices, several outbuildings consisting of shops and sheds, as well as assorted types of above ground storage tanks. According to the State Department of Assessments and Taxation the primary structures on the site were initially constructed in 1930.

Present and duly sworn in were the applicant, Bob Willard; Owner; Jeff Gloede; Willards Special Projects Manager; Kenneth Fry; Willards Chief Operating Officer; Kevin Shearon, DMS & Associates; and Ms. Tucker, Community Planner.

Ms. Tucker gave an overview of the application, the project background with respect to right-of-way issues and ingress-egress access with the adjacent property, and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 7.5 that establishes the area, height, width and yard requirements for the Village District; Article V, Section 7.6 that establishes the general standards; Article V, Section 7.7.A & B which establishes the environmental standards; Article V, Section 7.8.A, B, and C which establishes the General Design Standards, Elements and Specific Design Standards addressing the design elements, site access, building arrangement, site design, parking, landscaping, lighting, and architectural features including building mass, size and scale; Article VI, Section 10 that sets forth the stormwater management and water quality criteria; and Article VI, Section 5 which outlines the procedures and requirements for site plan review.

Ms. Tucker also outlined the following five waivers to various provisions of Article V, Section 7.8.A, B, & C sought by the applicant, advising that the staff was in support of these waivers: 1) A waiver from all landscaping requirements; 2) A waiver from all of the varying massing, size, scale and architectural design standards; 3) A waiver from the bicycle circulation design standards; 4) A waiver from the Village Design Elements, which sets forth patterns and features that are to be incorporated into new development; and, 5) A waiver from compliance with the site access specifications.

Mr. Shearon gave a brief description of the proposed 7,200 square foot warehouse and the conversion of 550 square feet of interior space in an existing building into office space.

Mr. Birkmire asked the applicants what would be stored in the newly constructed building. Mr. Fry replied that supplies that are currently stored in storage containers will be relocated to the warehouse, and this includes materials such as dry bulk, super sacs, and spare parts. Once these materials are moved into the new warehouse the storage containers will be removed from the site.

After deliberations and much discussion Mr. Hickman made a motion to grant the five waivers requested based on the following findings:

- Waiver from all landscaping requirements of Article V, Section 7.8.A, B, & C. finding that the impact should be de Minimis given the location of the new warehouse within the developed site and behind much larger and taller structures. The office component is an existing structure.
- Waiver from all of the varying massing, size, scale, and architectural design standards of the Village District contained in Section 7.8.A, B, & C of Article V, finding that the character of the new warehouse building and its location internal to the site is such that it will be set back from public view and is congruent with the nature of this existing businesses and the commercial-industrial use of the adjacent property.

- Waiver from the bicycle circulation design standards as the nature of this business on this site is not conducive for bicycling.
- Waiver from the Village Design Elements of Section 7.8.B. which sets forth patterns and features that are to be incorporated into new development as it is also the intent of Land Use Ordinance to provide for the continued existence and operation as well as the reasonable expansion of commercial and industrial enterprises that existed in the Village District as of August 1, 1989, and the goal of the Comprehensive Plan to encourage the development of Farm-based business.
- Waiver from compliance with the site access specifications of Article V. Section 7.8.C.1. The existing access from Lynch road into the project site will not be modified.

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

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

- The application is consistent with the Comprehensive Plan.
- Access issues and right-of-way issues have been resolved, with the execution and 27 October 2015 recordation of an “Extinguishment, Release and Termination of Easements” at Liber 845, Folio 375, as well as the “Declaration of Common Driveway Easement and Maintenance Covenant” that was also recorded on 27 October 2015 at Liber 845, Folio 631.
- The proposed new warehouse and existing building with the office conversion meet the minimum yard setback requirements. The existing building is interior to the site and located over 280-feet from the south side property line.
- The proposed warehouse is also located within the interior of the site and will be 9-feet from a side property line.
- At a height of 25-feet the warehouse complies with the height limitation of the Village District.
- The warehouse will be constructed over an existing stone surface and will not result in an increase in disturbed area for the project site. Perimeter silt fence will be installed. As an Environmental Site Design (ESD) technique the roof drains on the new warehouse will flow to a stone infiltration trench. Outfall from the trench will be directed to an existing stormwater management pond.
- Parking areas for the total number of employees and for the area of building that will be converted to office space has been demarcated on the site plan. Parking spaces for the warehouse and other on-site industrial operations will be located on the existing stone surface. Parking for the office component will be created on the disturbed area that is currently occupied by storage containers. Once the warehouse is completed these storage containers will be removed from the site.
- New lighting will be wall mounted on the warehouse and will be dark sky compatible.
- All five waivers have been approved as the impact should be de minimums given the location of the new warehouse within the developed site and behind much larger and taller structures. The office component is an existing structure.
- There are no additional outdoor display areas proposed as part of this project.
- The location of the proposed warehouse will not significantly alter the current delivery and trash collection flow.
- The Citizen Participation plan was accomplished by the applicant sending letters to neighboring property owners in August 2014 and received positive feedback.
- Sureties for stormwater and sediment control have been submitted.

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

Mr. Duane Lindstrom is seeking a waiver of the County's private road standards in connection with a minor subdivision. The applicant proposes to subdivide one lot from a 122-acre property, which is identified on Tax Map 4 as Parcel 12, for the purposes of transferring a lot surrounding the existing house to his son. The proposed lot will consist of 3.5 acres surrounding the existing house, and the remainder tract will comprise 118.5 acres. The relief the applicant is seeking through this waiver is from the requirement to provide a 50-foot right-of-way for a private road.

Though the property does not have frontage on Still Pond Neck Road, its address is 25820 Still Pond Neck Road, Worton, since historical access to the property has been from Still Pond Neck Road via a 16.5 right-of-way across the adjoining land. The property is in the Agricultural Zoning District (AZD), and in the Third Election District.

There is an existing excavation contractor's yard that occupies approximately 4.84 acres of this 122-acre tract for which a Special Exception has been granted. On the adjoining property to the northwest, Parcel 9 on Tax Map 4, which is also owned by the applicant, is an existing sand and gravel pit, for which a Special Exception has been granted.

Present and duly sworn in were the applicant, Duane Lindstrom; Michael Scott, Michael A. Scott, Inc.; and Ms. Tucker, Community Planner.

Ms. Tucker gave an overview of the application, prior Special Exceptions granted for the gravel pit, and cited all of the applicable laws of the *Kent County Land Use Ordinance* to include Article V, Section 1.8.B.1 that establishes the criteria for site access in the AZD; Article V, Section 1.8.B.3.m. of the Ordinance which establishes the criteria for private roads in the AZD; and Article IX, Section 3.1 that authorizes the Planning Commission to grant a waiver of the private road requirements so as to relieve extraordinary hardship or other injustices arising out of the strict application of these provisions.

Mr. Scott described the topography of the area, existing yard structure and the right-of-way since the 1960's.

Mr. Hickman opined that with the streams and steep area on Clark Road the only access is the existing 16.5 foot right-of-way.

After much discussion and consideration of all applicable laws, Mr. Hickman made a motion to grant the waiver to the requirement that a 50-foot wide right-of-way be provided for a private road based on the following:

- The existing lane provides access to the existing house, as well as the excavation contractor's yard and the gravel pit on the adjoining parcel. This lane in its current width, configuration, and condition has served the existing dwelling, excavation contractor's yard, and gravel pit for more than 25 years. A subdivision of a 3.5 acre lot around the existing dwelling precipitated the need to increase the right-of-way in order to comply with the private road standards of the Land Use Ordinance, though the physical width of the lane will not be altered.
- The property on either side of this existing right-of-way is not owned by the applicant, which presents the hardship in providing the required 50-foot width. Upon entering the applicant's property, the subdivision plat reflects that the width of the right-of-way will be increased to comply with the 50 foot requirement.
- While the property does have frontage on Clark Road, the presence of a stream and the topography adjacent to Clark Road present an extraordinary hardship for creating access at that location.

- The County Engineer has advised that he inspected the existing conditions and verified that the private road otherwise complies with the Kent County Road Design and Construction Standards for existing roads. He found the current condition of the existing lane acceptable.
- A road maintenance agreement must be signed by the owner of the adjacent property and recorded in the Land Records.
- Granting a waiver to the width of the right-of-way for a private road will not cause a substantial detriment to neighboring properties since the historical and continued use of the lane will not be substantially altered by this minor subdivision. It is consistent with the Comprehensive Plan and the general intent of the Land Use Ordinance. The strict application of these provisions would result in inhibiting the achievement of the goals and objectives of the Comprehensive Plan.

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

Mr. Hickman made a motion to approve the minor subdivision based on the following:

- The subdivision is consistent with the Comprehensive Plan and in the intent of the Agricultural Zoning District (AZD).
- The subdivision generally is consistent with the AZD Specific Design standards.
- The minor subdivision is for the purpose of an intra-family transfer from father to son, Forest Conservation has been addressed through the Declaration of Intent filed with the Department.
- The Open Space Fee has been paid.
- The deed shall state: “The road is private and not the responsibility of Kent County.”
- The plat shall identify the private road and shall state: “The road is private and not the responsibility of Kent County.”
- This approval is subject to receipt of a letter from the local Fire Department with respect to the analysis of the cost of providing local government services to the proposed subdivision. Letters from the Sheriff’s Department and Board of Education has been submitted to the Department.
- A road maintenance agreement must be signed by the owner of the adjoining properties, reviewed and approved by the Planning Commission’s Attorney, and recorded in the Land Records.

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

Oxford Chase Development, Inc. proposes to construct a 9,115 square foot Dollar General Retail Store on a 1.178 acre lot proposed to be subdivided from the existing 28.014 acre parcel owned by P. Thomas Mason located in Worton at the corner of Route 297 and Porters Grove Road. In addition to the proposed retail store, the site plan consists of 37 automobile parking spaces (including 2 handicapped spaces), 1 bike rack, a dumpster pad, and 1 truck loading/unloading area located behind the building. After development, the 1.178 –acre site will have 0.74 acres of impervious surfaces or 63% of the property.

Porters Grove Road, a county public road, and Maryland 297, a state highway, border the site from which access to the site is proposed. In accordance with the provisions of Article V, Section 7.8.C.1 of the *Kent County Land Use Ordinance* the applicant is seeking approval from the Planning Commission in order to obtain 2 points of access to the 1.178-acre site, one from a secondary and one from a primary road. The applicant is further seeking Planning Commission approval to allow for more than 1 point of access point onto a primary road (MD Route 297) from the 28-acre parcel owned by Mr. Mason. The applicant also seeks a reduction in the number of required parking spaces onsite as provided in Article VI, Section 1.2. The property is in the Third Election District and is zoned “V,” Village. It is surrounded by residential, agricultural, institutional, and commercial properties. It is currently in agricultural production.

Citing a conflict due to business associations with Mr. Mason, the land owner, Chairperson Morris recused herself from acting as Chair and from deliberations on this application. Ms. Morris left the dais. Vice Chairman Sutton acted as Chair for this application.

Present and duly sworn in were the applicant, Howard Crossan of Oxford Chase Development, Inc.; Daniel Saunders, Counsel for Applicant; Davis Strouss of McCrone; William Carroll, Regional Engineer for Access Management for State Highway Administration District 2; and Ms. Moredock, Director

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 V, Section 7.5 that establishes the density, height, width, bulk, and fence requirements for the Village District; Article V, Section 7.8.C.10 which establishes the Village District Specific Design standards to include street layout, sufficient off-street parking and loading, lot arrangement, impact on adjacent residential areas, access to a public road and dedication of public right of way, and access to adjacent tracts; Article VI, Section 6.2.2 which establishes the Subdivision General Requirements for minor subdivisions; Article VI, Section 6.3 that establishes the Minor Subdivision review procedures; Article VI, Section 6.4 which establishes the Plat Requirements to include narrative and plat standards; Article V, Section 7.6 which establishes the Village District general standards; Article V, Section 7.7 that establishes the Village District environmental standards which include the Forest Conservation, Stormwater Management, and water quality standards; Article VI, Section 9 that establishes the sediment and erosion control standards; Article V, Section 7.8.C.1 that establishes the Village District specific design standards as they relate to site access; Article V, Section 7.8 that establishes the Village District general and specific design standards, as well as design elements which address site access, landscaping, screening, lighting, building design, parking lot configuration, display areas, and pedestrian movement; Article VI, Section 1 which establishes the parking, loading, and bicycle parking standards; and Article VI, Section 5 which outlines the procedures and requirements for site plan review.

Mr. Daniel Saunders offered a brief description of the nature of the proposed access points and history of Oxford Chase Development and Dollar General. Mr. Saunders also explained that the number of parking spaces identified on the site plan were determined through comparison to other Dollar General Stores on the Eastern Shore and their clientele.

Testimony from the general public was offered by the following persons: Nancy Nunn; Kathleen Benarick; Cindy King; Richard Crane, Jr.; Bonnie Blyman; and P. Thomas Mason (the property owner). Testimony cited concerns relating to design aspects including Stormwater Management, traffic patterns, parking, and the entrance access points.

Mr. Crowding inquired whether the store could be reconfigured or lot size enlarged to accommodate the required parking spaces and comply with access requirements of the Land Use Ordinance.

Mr. Strouss described the configuration of the lot and the proposed building and opined that the proposed access points were at the most appropriate locations for the 1.178 lot.

Mr. Daniel Saunders opined that most of the community would like to have this store in Wornton. He noted that there is an existing issue with traffic at the Porters Grove and MD 297 intersection due to cars parking on both sides of the road at the Post Office.

The requests for relief from provisions of the *Land Use Ordinance*, along with the Conceptual site plan, were reviewed in great detail by the Planning Commission who offered the following comments:

- Adequate documentation was not provided to substantiate a determination that direct

access onto the primary road would promote traffic safety.

- Adequate documentation was not provided to substantiate a determination that more than one access approach would be significantly beneficial to the safety and operation of the highway or if allowing only one access approach would be a safety hazard or increase traffic congestion.
- Adequate documentation was not presented to incline the Commission to find that the 37 parking spaces provided rather than the required 46 represent adequate parking onsite for a retail store of this size in this location. Further, as provided for in Article VI, Section 1.2 of the Land Use Ordinance, additional open space was not presented to the Commission for the purpose of providing the additional spaces and the associated maneuvering area in the event it is found that these spaces are required in the future.
- Forest Conservation must be addressed with the minor subdivision.
- Stormwater management and water quality improvements which address a 10% pollutant load reduction must be addressed prior to final site plan approval.
- Sediment and Erosion Control must be addressed prior to final site plan approval.

As the Planning Commission was unable to favorably consider the requests of the applicant which exceed the general site plan review standards, the following suggestions were offered:

- Provide a traffic impact study which analyses the impacts of the proposed retail store traffic, including delivery vehicles, onto Porters Grove Road, as well as all approaches at the intersection of Porters Grove Road and MD 297.
- The study should also address the safety of school buses, the railroad crossing, and overall inadequate parking offsite which may impact access to the proposed Dollar General site.
- The Commission formally requests that the State Highway Administration conduct a traffic impact study relative to the impacts noted above.
- Due to the proposed location of the loading area when delivery trucks are present it will impede vehicular and pedestrian circulation.
- The subdivided 1.178-acre parcel needs to be enlarged in order to accommodate Ordinance requirements.
- The stormwater management plan must address impacts to adjacent properties and roadways.
- Provide landscape plan calculations which document Ordinance compliance (notably the percentage of the parking lot which must be landscaped).
- The applicant would be well-served by reviewing the 2007 subdivision application known as Worton Station, LLC, which received preliminary approval by the Planning Commission. The project included residential and commercial lots.

The applicant requested that review and action on the Minor Subdivision application be tabled pending the resolution of the matters outlined above.

Staff Reports

Amy Moredock:

- The Public Service Commission Utility Law Judge who is assigned to the OneEnergy Blue Star Solar, LLC, application for a Certificate of Public Convenience and Necessity, found compliance with the Forest Conservation Act to be reasonable and in the public interest in issuance of his ruling and upheld the County's Land Use Ordinance that requires OneEnergy to mitigate 5.3 acres. The Judge

was very specific in his ruling relative to his review of the FCA on this particular case in which Kent County outlined specific FCA compliance requirements.

- Healthy Waters Round Table meeting initiative is still continuing with Eastern Shore counties and municipalities working together for a regional approach to implement Local Watershed Implementation Plans. The group is seeking support from MDE regarding tracking and reporting BMPs since such a mechanism has never existed for non-MS4 counties. MACo will support the Healthy Waters Round Table on their initiative to find support from MDE.
- The County is also seeking support from MACo planning, legal, and administrator affiliates in its position relative to the matter of preemption in CPCN cases. The County designated \$18,000 in legal fees in the FY17 budget for this purpose and is looking for MACo support as the results of the preemption decision by the PSC are far-reaching in the State.
- The Maryland Association of Floodplain and Stormwater Managers is a very active chapter in the National network. The MD Chapter has submitted a Chapter Award application for consideration by the American Association of Floodplain and Stormwater Managers at its National Conference.
- Staff held an Administrative Hearing on March 28th for the approval of an accessory structure (pool) in the front yard of a waterfront parcel. This application was granted.
- There are two administrative hearings scheduled in April: one is to hear another request for an accessory structure in the front yard of a waterfront parcel and the other is for an accessory structure larger than 1200 square foot on a parcel less than 5 acres.
- The ground breaking ceremony for the upgrade to the Galena Water and Wastewater Treatment Plant will be held on April 27th.

Stephanie Jones:

- Attended the BMP Conference for Chesapeake Bay Restoration that included best management practices for the urban environment, ecosystem management and agricultural BMPs.
- On April 4-5th attended the Eastern Regional Climate Preparedness Conference in Baltimore. Discussed the impact of Climate Change. Discussed the grey versus green infrastructure as well as psychological and cultural changes.

Katrina Tucker:

- There will be an easement cycle this year for the Maryland Agricultural Land Preservation Foundation (MALPF) and the applications forms will be on the MALPF website. Ms. Tucker will send a notification letter to all owners of property currently the County's Agricultural Preservation District advising the easement cycle.
- The Renewable Energy Task Force continues with their bi-weekly meetings and has completed their review of utility scale and small solar systems. They commence review and discussion of wind energy systems.
- The monthly Comprehensive Plan update work-session was held yesterday, April 6th and the committee will continue review of draft elements. A Facebook page is in the process of being developed and everyone is encouraged to "like" the page. A survey is also being finalized that will be available to complete both on-line and in paper.
- A field trip is scheduled for April 19th as part of the Planning Commission's Comprehensive Plan update work-sessions. A 15-person van from the County's Parks and Recreation Department is reserved so the entire Planning Commission, staff, consultant, and press (invited) may travel together through the County and collectively discuss any concerns. Staff requested that the Planning Commission notify staff of any sites or locations that they would specifically like to visit so that they could be incorporated into the itinerary.

- An application for special exception and site plan is anticipated to be submitted within the next month or so for the communications tower (cell phone tower) on the farm of Casey and Megan Owings.

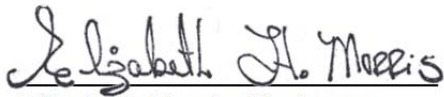
Mitch Mowell:

- Advised that the Public Service Commission Hearing on the issue of pre-emption from local zoned filed by Mills Branch Solar, LLC, was scheduled for April 19; however, it has been re-scheduled for April 26.

General Discussion:

Bill Crowding asked that the County look into availability of State funding for sidewalks and traffic calming in Worton.

There being no further business for the good of the organization, the meeting was adjourned at 5:49 p.m.



Elizabeth Morris, Chairman



Tonya L. Thomas, Clerk