

MINUTES

April 6, 2023

1:30 p.m.

The Kent County Planning Commission met in regular session on Thursday, April 6, 2023, at 1:30 p.m. in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. The following members were in attendance: Chair F. Joseph Hickman, Vice Chair Paul Ruge, William Sutton, James Saunders, Ray Strong, Paula Reeder, and William Crowding. Cynthia L. McCann, Esquire, Planning Commission Attorney, was in attendance. Staff in attendance were William Mackey, AICP, Director; Carla Gerber, AICP, Deputy Director; Mark Carper, LEED Green Associate, Associate Planner; and Campbell Safian, Planning Specialist.

Other Kent County staff: Jamie Williams, CECD, Economic Development Director (remote); and Dawson Hunter, Housing and Transportation Coordinator (remote).

Members of the public in attendance included Latonya Cotton Tillman, LCSW-C, Kenah One Health Care Services; Kevin Shearon, P.E., LEED AP, DMS & Associates, LLC; Eugene Aucott; Erin Murphy; Dan Gural; Ed Breitenbach; Melanie Breitenbach; Michael Kent; Chip MacLeod, Esquire; Janet Christensen-Lewis; Catherine Durham; Russ Richardson; Commissioner Ronald Fithian; Judy Gifford; Frank Lewis; Jay Silcox, P.E., Silcox Engineering & Drafting; and Melinda Bookwalter (remote).

Chair Hickman called the meeting to order at 1:30 p.m.

MINUTES

Ms. McCann requested that the motion made by Mr. Strong on page 2 of the March 2 minutes which reads "Mr. Strong seconded the motion, and the motion did not pass by a vote of 2-4", be changed to "Mr. Strong seconded the motion, and the motion failed with 2 votes in favor and 4 against."

Additionally, Ms. McCann requested that the first sentence on page 5 of the March 2 minutes which reads "Mr. Crowding exited the County Commissioners Hearing Room to recuse himself from participating in the review of this application", be changed to "Mr. Crowding recused himself from participating in the review of this application and exited the County Commissioners Hearing Room."

Mr. Sutton requested that "gas sales" be changed to "fuel sales" in Task Force Recommendation item P5. "Request to allow truck stops, truck parking lots, gas sales, convenience stores and restaurants with or without drive-through in the Industrial district."

Mr. Crowding moved to accept the minutes of March 2, 2023, with the corrections. Mr. Ruge seconded the motion. The motion passed with all in favor.

APPLICATIONS FOR REVIEW

22-41 Kenah One Health Care Services – Site Plan Review for Special Exception 25000 Lambs Meadow Road – Third Election District – Village (V)

Kenah One Health Care Services is requesting final site plan review to operate an existing assisted living facility as a hospital, rehabilitation facility, or other similar institution for human care in a Village District. The facility will service adults with mental health and substance use disorders who need rehabilitative services over a 30–90-day period. Current assisted living residents will continue to be provided services as needed.

At its August 15, 2022, meeting, the Board of Appeals approved a special exception with the conditions that the facility shall have no more than 14 in-patients at any time and that the Planning Commission shall be satisfied that adequate parking can be provided on-site for the assisted living and rehabilitative services to be offered. The property is located at 25000 Lambs Meadow Road in the Third Election District.

Mr. Carper presented the staff report, recommending approval with conditions. The Chair swore in Latonya Cotton Tillman with Kenah One Health Care Services.

Ms. Tillman stated that eight parking spaces are outlined on site; however, there is adequate space available to park additional cars.

Chair Hickman noted that the proposal complies with the Kent County Land Use Ordinance. A minimum of 7 spaces is required to comply with the 1 space per 2 patient beds ratio for hospital use.

Mr. Saunders spoke in support of the application.

Mr. Crowding made a motion to grant final site plan approval based on Staff's comments. The proposal is consistent with the Comprehensive Plan. Areas of vehicular flow are clearly identified, and sufficient parking is provided. The proposal will not create undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, or stormwater runoff. The proposed use places reasonable demands on public services and infrastructure.

Ms. Reeder seconded the motion, and the motion passed unanimously, 7-0.

23-11 Camp Fairlee – Major Site Plan (Final) 22242 Bay Shore Road – Sixth Election District – Agricultural Zoning District (AZD) and Resource Conservation District (RCD)

Camp Fairlee/ESSD-M, Inc., is proposing to construct two, single-story dwellings for full-time, permanent staff. The proposed cottages will allow staff who currently live in the Manor House, which is also used for administrative purposes, to move into single-family dwellings. The property is currently improved with other cottages and buildings associated with the use as a camp. The property is located at 22242 Bay Shore Road in the Sixth Election District and is zoned Agricultural Zoning District (AZD) and Resource Conservation District (RCD).

Ms. Gerber presented the staff report, recommending approval with conditions. The Chair swore in Eugene Aucott with ESSD-M, Inc and Kevin Shearon with DMS & Associates, LLC.

Mr. Aucott opined that the Manor House is not adequate housing for the permanent staff who are asked to work and be on-call for over 80 hours per week.

Mr. Crowding made a motion to grant final site plan approval to Camp Fairlee/ESSD-M Inc. to construct two, single-story dwellings on the site contingent upon corrections to the Forest Conservation Plan, recordation of the Forest Conservation Easement, final approval of the Stormwater Management Plan, and final approval of water and sewer improvements.

Ms. Reeder seconded the motion, and the motion passed unanimously, 7-0.

*23-15 Thomas and Susan Schwarzwaldler – Buffer Variance
9827 Breezecroft Lane – Sixth Election District – Critical Area Residential (CAR)*

Thomas and Susan Schwarzwaldler, property owners, are requesting a variance to replace 88 feet of existing 4-foot-high fence in the buffer. The in-kind replacement fence follows the same configuration as the existing fence; It will be 4 feet high, set in concrete, and include two gates. A 2" x 4" wire fence is to be added and attached to the wooden structure. The Public Landing on Fairlee Creek abuts this fence line, and the replacement fence is to keep people at the Public Landing and their pets from trespassing on the applicant's property. The property is located at 9827 Breezecroft Lane in the Sixth Election District and is zoned Critical Area Residential (CAR).

Mr. Carper presented the staff report, recommending approval with conditions. A letter from the Critical Area Commission (CAC) was read into the record. The CAC did not oppose the approval of the application. The Chair swore in Thomas Schwarzwaldler, property owner.

Mr. Carper stated the size of the 3:1 mitigation requirement will be based upon the square footage of the cement footers.

Mr. Crowding recommended that Mr. Schwarzwaldler have a survey conducted before constructing the fence, to verify the boundary line of his property.

Chair Hickman asked for additional information regarding the practical difficulty of the property.

Mr. Mackey opined that the right of way to the public landing, which is parallel to the side property line, creates an extraordinary topographical practical difficulty.

Mr. Crowding made a motion to send a favorable recommendation to the Kent County Board of Appeals for Thomas and Susan Schwarzwaldler for a variance to replace 88 feet of existing 4-foot-high fence in the buffer. The variance will not cause a substantial detriment to adjacent or neighboring properties. The variance will not change the character of the neighborhood or district, and the variance is consistent with the Comprehensive Plan and the general intent of this Ordinance. According to testimony, the practical difficulty is the fact that this property abuts a public landing and the fence will deter trespassing onto this lot. This is dissimilar from a residential neighborhood, where neighbors are on either side of a property. The public landing has different people at all times who could trespass onto the property. The practical difficulty or other injustice was not caused by the applicant's own actions. The proposed 2" by 4" wire fencing will keep out errant pets while allowing small wildlife

to pass through or climb over. Cement footers are to be included. This application was sent to the Critical Area Commission for review, comments have been received, and the CAC does not object. The boundary line is to be located before the fence is replaced and installed.

Mr. Ruge seconded the motion, and the motion passed unanimously, 6-0.

Mr. Sutton abstained himself from voting on the application. Mr. Sutton was not present in the County Commissioners Hearing Room during a majority of the testimony for this application.

*23-27 County Commissioners of Kent County – Zoning Text Amendment – Height of Industrial Structures
Recommendation to the County Commissioners*

Ms. McCann read into the record the notice of the public hearing that appeared in the Kent County News on March 23, 2023.

Mr. Mackey noted correspondence was received from Patricia Langenfelder, and Brenda and Mali Vujanic. Mr. Mackey read the letters into the record.

Mr. MacLeod noted that the site for the proposed warehouses is a wooded area along Route 301. Mr. MacLeod expressed that the Dixon building on MD 213 and the Gillespie Precast, LLC, sites on Morgnec Road are not hidden by landscaping.

Ms. Murphy, co-owner of Everton Industrial Development, LLC, stated that the HVAC equipment and solar panels will be stationed on top of the proposed warehouse buildings. The HVAC equipment is 5 to 6 feet tall, and the solar panels are roughly 4 feet by 8 feet.

Ms. Durham, Mr. Kent, Ms. Bookwalter, Ms. Gifford, Ms. Christensen-Lewis, and Mr. Lewis spoke in opposition to the proposed Zoning Text Amendment.

Mr. Ruge moved to close the public hearing. Mr. Sutton seconded, and the motion passed unanimously, 7-0.

Ms. Reeder spoke in favor of the proposed Zoning Text Amendment. Ms. Reeder noted that the maximum allowable height of silos is 150 feet.

Mr. Saunders spoke in agreement with Ms. Reeder, stating that Kent County will benefit from increasing the permitted height of industrial structures in the 301 Corridor.

Mr. Crowding expressed interest in receiving confirmation from the Towns' fire departments whether they have the appropriate equipment to contain a potential fire on top of a 60-foot-tall building. Mr. Crowding was also interested in seeing examples of 60-foot-tall buildings.

Chair Hickman spoke in favor of increasing setback and buffer requirements if the maximum allowable height of industrial structures in the 301 Corridor were to be increased. Chair Hickman also expressed interest in receiving a revised definition of the 301 Corridor that is more precise.

Mr. Ruge spoke in agreement, requesting a revised definition of the 301 Corridor. Mr. Ruge suggested that the Planning Commission table the proposed Zoning Text Amendment until the next Planning Commission meeting.

Mr. Mackey confirmed with the Planning Commission that the members would like to see photographic examples of buildings that are 60 feet in height, photographic examples of screening for the buildings that are 60 feet in height, a map depicting the 301 Corridor, and a more precise definition of the 301 Corridor in writing.

Mr. Ruge made a motion to postpone the decision until the next Planning Commission meeting. Mr. Sutton seconded the motion, and the motion passed unanimously, 7-0.

STAFF REPORTS

Mr. Mackey reported that the Planning Commission's recommendations on the Comprehensive Rezoning and Update (CRU) Task Force Recommendations are included in the April 4 County Commissioners agenda. The document includes links to the minutes and staff reports that discuss each recommendation. Mr. Mackey is crafting legislation to incorporate the Planning Commission's recommendations into the Land Use Ordinance. The legislation will be presented to the County Commissioners for their consideration, then the legislation will come before the Planning Commission for their recommendations. Lastly, the legislation would go through the standard legislation process. Changes to the Kent County Zoning Map will be the next half of the Comprehensive Rezoning process, following the adoption of the text changes.

GENERAL DISCUSSION

ADJOURN

Mr. Ruge moved to adjourn the meeting. Mr. Strong seconded. The meeting adjourned at approximately 3:55 pm.

Francis J. Hickman, Chair

/s/ Campbell Safian
Campbell Safian, Planning Specialist