

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, April 1, 2021, virtually in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members attending via audio/video conference: Kim Kohl, Chairman; F. Joseph Hickman, Vice Chairman; County Commissioner P. Thomas Mason; Paul J. Ruge, Jr.; James Saunders; William Sutton; and Cynthia L. McCann, Esq., Planning Commission Attorney; Staff in attendance were William Mackey, Director; Carla Gerber, Deputy Director; and Sandy Adams, Clerk.

Ms. Kohl called the meeting to order at 1:30 p.m.

## MINUTES

Mr. Ruge made a motion to accept the minutes of the March 4, 2021 meeting as distributed.

Mr. Sutton seconded the motion; the motion passed with all in favor.

## APPLICATIONS FOR REVIEW:

### **19-30 The Animal Care Shelter of Kent County (The Humane Society and Kennedyville Properties, LLC) – Final Site Plan Review**

Mr. Mackey gave a description of the proposal, the required Standards, and staff's recommendation.

Mr. Mackey reported that the Animal Care Shelter of Kent County is requesting final approval to construct a 10,648 square-foot facility for the care and boarding of domestic animals. The minor subdivision which created the five-acre parcel, was recorded on April 4, 2020. The facility will include an animal enrichment training center as well as a veterinary office. The property is located on Worton Road between Worton and Chestertown in the Third Election District and is zoned Industrial (I). The parcel is comprised of an open field with a hedgerow along the edge of Route 297. The surrounding area is characterized by agricultural land and residential uses.

Mr. Mackey said staff recommends granting final site plan approval conditioned upon the stormwater management and sediment control plans being approved; the Forest Conservation Plan and Forest Conservation Deed Restrictions being approved; and all required sureties must be submitted.

Representing the applicant were: Mr. Kevin Shearon of Davis, Moore, Shearon, and Associates, P.O. Box 80, Centerville, Maryland; and Richard Keaveney, Executive Director, Animal Care Shelter, 102 S. Water Street, Chestertown, Maryland; both were sworn in.

Mr. Shearon informed the Commission that the Sediment and Erosion Control Plan and the Stormwater Management Plan have been approved and signed off by Kent Soil and Water Conservation District and the sureties have been submitted; the Forest Conservation Easement Agreement has been reviewed by Planning Commission Attorney Cynthia McCann, and comments were forwarded to the applicant's attorney; Mr. Shearon said they are working on finalizing that agreement. Ms. McCann informed the Commission that the agreement has been finalized and that she will be signing the agreement.

Mr. Hickman made a motion to grant final site plan approval based on the following findings and conditioned upon sureties being submitted for stormwater management, sediment and erosion control, and forest conservation:

- The applicant meets the general standards for permitted uses.
- The proposed facility meets all required setbacks.

- The applicant has adequately addressed the performance and noise standards.
- A Forest Conservation Plan has been submitted and reviewed.
- Sediment and Erosion Control and Stormwater Management plans have been submitted and reviewed.
- The applicant exceeds the minimum parking requirements.
- Signage has been presented and meets the standards.
- The proposal is consistent with many strategies of the Comprehensive Plan and conforms with applicable regulations.
- Highway access has been provided and the off-street parking meets the requirements.
- An area for off-street loading and unloading has been provided and adequate dark sky compatible lighting has been provided.
- The facility will place reasonable demands on public water and sewer. The proposed use should not require excessive use of other public infrastructure such as police and emergency services.
- The applicant has proposed adequate methods of solid waste disposal. Stormwater management will be implemented to protect surface waters and groundwater. Sediment control will minimize soil erosion during and after construction.
- The building has been designed thoughtfully, and the materials have been carefully selected to aid in the reduction of sound to protect abutting properties.
- A Citizen Participation Plan has been provided.

Mr. Saunders seconded the motion; the motion passed with all in favor.

#### **20-36 Pep-Up, Inc. – Major Site Plan Review (Final)**

Ms. Gerber gave a description of the proposal and staff and TAC's comments.

Pep Up, Inc. is requesting final site plan approval for a proposed liquid propane storage and distribution center. The liquid propane (LP) facility will be accessed by a rail spur allowing for bulk delivery by railcars. The propane will be offloaded from railcars into one of four new 90,000 gallon above-ground storage tanks. Fixed bodied trucks will fill from the storage tanks and provide deliveries throughout the region.

The property is located at 12213 Galena Road in the First Election District. It is comprised of 7.123 acres and is zoned Employment Center (EC). The existing railroad crossing, with upgrades as directed by the Maryland Department of Transportation, will be utilized to deliver the liquid propane.

Ms. Gerber said Staff recommends granting final site plan approval conditioned upon submission and approval of sureties for sediment and erosion control and stormwater management.

Representing the applicant were Mr. Kevin Shearon of Davis, Moore, Shearon, and Associates, P.O. Box 80, Centreville, Maryland; and Brian Pepper, 24987 Dupont Boulevard, Georgetown, Delaware; Mr. Pepper was sworn in.

Mr. Shearon confirmed that there are no buildings/no architecture to review. He stated that it is simply a propane storage and distribution facility. They are working on posting sureties, and they are requesting that it be a condition of final site plan approval.

Mr. Hickman made a motion to grant final site plan approval based on the following findings and conditioned upon submission and approval of sureties for sediment and erosion control and stormwater management:

- The proposal meets the minimum setback requirements.
- The applicant has addressed the performance standards and submitted a Certified Engineer's Report.
- Forest Conservation was addressed by previous development on site.
- Sediment and erosion control and stormwater management plans have been approved.

- Onsite vehicular circulation appears to promote clearly defined access to the storage tanks while also limiting unauthorized vehicles by gating the entrances to the site.
- The southern portion of the site contains a planted screening buffer that was installed as part of the OneStar Energy solar array project. No additional screening is required.
- A lighting plan has been submitted and lighting appears to be designed to avoid glare onto adjacent properties, roadways, and should not interfere with traffic or create a safety hazard.
- The proposed loading area and access lanes are sufficient for the offloading of LP from railcars into above ground storage tanks and for loading into fix bodied trucks.
- The proposal is consistent with many strategies and goals of the Comprehensive Plan.
- The Kent County Health Department is still evaluating the proposed septic reserve area.
- No additional landscaping is required.
- A Citizen Participation meeting was held on December 1, 2020.
- No signage has been proposed at this time.

Mr. Sutton seconded the motion; the motion passed with all in favor.

#### **20-41 Great Oak Manor – Site Plan Review (Preliminary and Final – Event Tent Area)**

Ms. Gerber gave a description and history of the proposal, relevant issues, standards, parking and loading requirements, site plan review, and staff and TAC’s comments.

The applicants are proposing improvements to create a permanent area for erecting a tent to be used in support of the existing country inn. The other improvements presented at the concept plan hearing will be completed in the future. The tent area will be an 80-foot by 60-foot concrete pad finished with a paver or turf surface on top. It will be connected to the Manor House with a walkway.

Great Oak Manor’s 8.515-acre property is zoned Critical Area Residential (CAR) and is located along Cliff Road adjacent to the Chesapeake Bay, Great Oak Estates, and Great Oak Landing to the south and residential uses to the north. The property is currently approved with a 3-story dwelling known as the “Manor House” and a detached garage. The surrounding area is characterized by residential development, agriculture, and marine uses.

Ms. Gerber said staff recommends granting final approval conditioned upon the acceptance of letters of credit by the County Commissioners of Kent County.

Correspondence was received both in support and in opposition of the project and was provided to the Commission. Ms. Gerber read into the record all correspondence that was received after the meeting packet was distributed.

Representing the applicant were Harry Reed, 16892 Brightling Way, Naples, Florida, and 10092 Third Point Road, Chestertown, Maryland and William Thomas Davis Jr., Professional Engineer, DMS and Associates, 207 E. Water Street, Centreville, Maryland; both were sworn in. Miles Barnard, 10810 Cliff Road, Chestertown, Maryland, was also sworn in.

Mr. Davis stated that they are requesting preliminary and final site plan approval for a tent area. A formal buffer management plan, stormwater management plan, and a sediment and erosion control plan have been submitted. Mr. Davis said while there are a few minor comments to address, agencies have agreed that they have met the Kent County requirements for the plans that were submitted. Mr. Davis said once final approval has been granted, they will submit the required letters of credit for buffer management, stormwater management, and sediment and erosion control.

Mr. Barnard said the applicant is attempting to work through issues and concerns with neighbors on Cliff Road via a “Conditions of Approval” agreement.

Mr. Reed commented that the Manor has been hosting weddings for a number of years. He said they are not asking for a tent site to have weddings. They are asking for a tent site for a more stable surface for the weddings that they do have.

A lengthy discussion ensued pertaining to the correspondence received and with citizens who called into the meeting in opposition due to noise; citizens who called in to testify were sworn in.

Mr. Hickman made a motion to grant preliminary site plan approval based on the following findings:

- The proposal is consistent with strategies and goals of the Comprehensive Plan to retain and promote existing businesses and assist in their growth.
- A country inn has been operating on this site since 1984. The proposed tent area provides an amenity common to other similar inns on large lots. The tent area will provide a permanent, stable base on which tents can be erected, as needed, for weddings or other events. The tent area is located on the south side of the property and is surrounded by existing trees/woodlands.
- A Buffer Enhancement Plan is required for the increase in lot coverage. The total mitigation requirement for this phase is 4,965 square feet. A Buffer Enhancement Plan has been submitted. A mix of trees, shrubs and grasses will be planted in the buffer. Additional landscaping is proposed for the bio-retention area near the tent platform.
- Stormwater and sediment and erosion control plans have been approved. The applicant has submitted a letter from his bank indicating that Letters of Credit will be issued upon project approval.
- The project does not exceed the lot coverage limit of 15%. The total lot coverage after the proposed improvements will be 38,764 square feet, which is 10.5% of the total area.
- Great Oak Manor can accommodate up to 150 people for tented events. The applicant has provided a parking plan showing the availability of 50 spaces on existing lawn areas.
- The property is served by private well and septic. A new well was recently installed. Additional septic reserve area has been shown on the site plan.
- A parking plan has been provided. Sufficient parking is available.
- The applicant provided a sample lease agreement for events which includes a rule that outside music must end by 10:00 pm. Another rule states that vehicles may not block or park on the public roads or shoulders at any time.
- The tent area is an enhancement of the existing use. Great Oak Manor already hosts weddings and other events. The applicant has attempted to integrate tent area into the landscape in a way that is sensitive to the surrounding neighborhood.
- A Citizens Participation meeting was held. There were comments from only one person.

The following conditions will be addressed at final site plan approval:

- An owner, innkeeper, and/or employee must be onsite at all events and make themselves available to staff and/or neighbors.
- Per the contract, a 10:00 p.m. event cut off time will be imposed.
- The applicant must comply with any future County or State noise ordinance.
- The applicant will not seek an exception from any future noise ordinance.
- The tent area will be placed so that musicians and speakers are facing away from Cliff Road residents allowing the existing Manor House to act as a noise barrier.
- Great Oak Manor shall consult with an acoustic consultant.
- Evergreens will be planted on the property line in order to block lights; lighting will be low-impact lighting.

In addition, as part of final site plan review:

- The report prepared by the acoustical consultant on ways to minimize noise leaving the property must be submitted for review by staff and the Planning Commission.
- Staff will research previous applications to determine if limits on the number of events or number of attendees per event was part of previous decisions.

Mr. Ruge seconded the motion; the motion passed with all in favor.

### **21-07 David and Eileen Smack – Special Exception - Adaptive Reuse of Historic Structure**

Mr. Mackey described the proposal.

David and Eileen Smack, sole members of ACED, LLC, are requesting a special exception for an adaptive reuse of a historic structure on their property located at 22622 Handy Point Road. Dr. and Mrs. Smack propose to renovate the existing two-story dwelling into a reservation-only tasting room for their small, “Boutique” winery located on their adjacent 80-acre farm. According to the applicant’s research, the lot upon which the dwelling is located was originally part of the 1658 Great Oak Manor land grant held by one of the most controversial and influential Colonial Governors of the Maryland Colony. This historic farm was subsequently patented and owned for over a century by one of the founding Quaker families of Kent County and the Maryland colony. The structure was originally constructed in the early 1940’s and was remodeled in 2008 to complement the existing period historic features of the circa 1790 Main house on their adjacent farm. The house is not listed on the Maryland Historic Inventory of Properties.

The 1.6-acre property is zoned Resource Conservation District, RCD, and located in the 6th Election District. The property is currently improved with a two-story dwelling. The surrounding area is characterized by agricultural and forested land with sparse residential development. This property is located approximately seven-miles north-west of the Town of Chestertown.

The intent of the special exception provisions is to provide for certain uses with unique characteristics, and the Commission must consider the impact of the uniqueness of these characteristics upon neighboring uses, the surrounding area, and the public need for the particular use at the particular location. Limitations and standards are established by the special exception performance standards.

This application addresses all standards and outlines limitations on its proposed uses onsite. There is a definite uniqueness to the applicant’s site and the historic structure specifically. The use as proposed, in conjunction with the limitations outlined, offers a novel community interface with a valuable historic structure.

Mr. Mackey said the applicant has addressed all specific and general special exception standards and said the Planning Commission is tasked with (a) approving the structure as historically significant, for which the applicant has submitted substantial evidence in the attached report, and (b) making a recommendation to the Board of Appeals on the matter. Mr. Mackey said staff recommends approval conditioned upon site plan approval. Mr. Mackey informed the Commission that the meeting packet includes two letters in support of the project.

David Smack, 22626 Handy Point Road, Chestertown, Maryland, Buck Nickerson, Extreme Measures Surveying, were sworn in.

Dr. Smack said he and his wife have had a hobby winery for about 12 years. He said he is getting ready to retire from his medical career, he loves history, and he feels that this project would be a good fit for him when he retires. Dr. Smack said they currently produce about 100 cases of wine per year; they have a wine tasting room by reservation only; and the product will be mainly for sales to restaurants and licensed resellers. He said by virtue of his MALPF approval, they are not permitted to have weddings or large events, and they do not have

anyone nearby, so he does not believe that what he is proposing will have much of an impact on the neighborhood.

Mr. Nickerson commented that the Health Department typically requires a 10,000 square foot septic area and via his setback calculations, he does not believe there will be any issues for the Health Department for providing an adequate area for the septic reserve area.

Mr. Hickman made a motion to send a favorable recommendation to the Board of Appeals based on the following findings:

- The applicant has provided significant research on the history of the property and provides the context for the adaptive reuse; and the Comprehensive Plan addresses that we seek to use adaptive reuses.
- The applicant intends to preserve the history of the property and no alternations to the building.
- The aerial of the property identifies existing forest on the east portion of the property along the water. Landscaping is in keeping with the character of the building.
- The applicant proposes access to the site from the existing driveway on Handy Point Road; The proposed use will have minimal impact on traffic; no vegetation will be removed; and the proposed tasting room will be located in the interior of the existing house.
- The number of dwellings does not exceed the density permitted in the Resource Conservation District.
- The proposed use does not create an unacceptable impact by way of noise, odor, noxious materials, or other nuisances.
- The surrounding area is characterized by sparse residential development and is surrounded by both agricultural and forested land.
- This property is located approximately seven miles north-west of the Town of Chestertown where the closest churches, schools, and places of public gathering are located.
- The site is served by private well and septic. The Kent County Health Department provided the following comment: An adequate sewage reserve area will need to be established for the proposed use.
- The Comprehensive Plan and the Ordinance encourage the preservation of historic structures. The full scope of the proposal of the uses onsite has been described, identified, and limited by the applicant in the narrative.
- The applicant has outlined use of the property which is specific and clearly defined which should not have a negative impact on property values.
- The proposed use is considered agriculture and will be conducted within the interior of the existing structure. No additions or additional lot coverage will be added.
- The proposal is consistent with many Comprehensive Plan strategies concerning preservation of historic structures.
- Areas of vehicular flow are clearly identified.
- The property provides sufficient parking.
- The use places reasonable demands on public services and infrastructure.
- The proposed use will be conducted within an existing historic structure thereby protecting abutting properties from any undue disturbance caused by excessive or unreasonable noise, smoke, vapor fumes, dust, odors, glare, stormwater runoff, etc.
- No tree or vegetation removal is proposed, and adequate screening currently exists.

Mr. Sutton seconded the motion; the motion passed with all in favor.

## **STAFF REPORTS**

Mr. Mackey:

- Mr. Mackey explained how the DPHZ is currently being restructured, and he congratulated Carla Gerber on her promotion to Deputy Director.
- Mr. Mackey informed the Commission that local ads are being placed in an attempt to fill the Planning Specialist position. This position usually serves as the Clerk for the Planning Commission.

- In response to inquiry by the Commissioners, Mr. Mackey conveyed that there is a steady stream of applicants interested in serving on the boards. He said he intends to approach the County Commissioners in the near future with the list for filling the vacancy on the Planning Commission.
- Mr. Mackey thanked the Chair for reminding him about the Maryland Planning Commission Association. He suggested that at the next meeting the Planning Commission may wish to discuss who would be a good candidate to represent the Commission and interface with that organization.

Carla Gerber:

- The department is in the midst of its MALPF easement application cycle.
- We have reviewed many building permits; and, we have been answering many calls from people looking for property in the County.
- Ms. Gerber said she is working on many items pertaining to the Task Force.
- The audio recordings for the Planning Commission meetings are now posted online, and the recordings for other DPHZ-staffed boards will also soon be posted online.

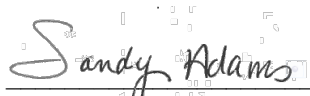
Ms. McCann:

- There were no legal issues that required reporting.

## ADJOURN

There being no further business for the good of the organization, the meeting adjourned at 3:59 p.m.

  
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Kim Kohl, Chairman

  
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Sandy Adams, Clerk