

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, April 2, 2020, virtually in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members attending via conference call bridge: Elizabeth Morris, Chairman; William Sutton, Vice Chairman; F. Joseph Hickman; Kim Kohl; Commissioner P. Thomas Mason; B. Douglas Megargee; Cynthia L. McCann, Esq.; Staff in attendance were Carla Gerber, GIS Specialist; William Mackey, Director; Robert Tracey, Community Planner; Sandy Adams, Clerk; Beth Grieb, Clerk; and Brian Jones, Clerk.

The following attended and participated in the meeting: Mr. Kevin Shearon of DMS & Associates, LLC; Mr. Jack Kirby of Kirby and Associates, Inc.; and Mr. Martin Holden, Chief of Kent County Environmental Operations.

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

## MINUTES

The minutes of the meeting on February 6, 2020, were approved as corrected.  
The minutes of the meeting on March 5, 2020, were approved as written and distributed.

## PUBLIC HEARING

Ms. Morris closed the meeting at 1:34 pm and opened the public hearing.

### **20-13 County Commissioners of Kent County – Zoning Text Amendment – Directional Signs**

Mr. Tracey, describing the proposal, said the Board of Commissioners of Kent County have proposed an amendment to the Kent County Land Use Ordinance Article VI. Special Provisions, Section 2. Signs, 2.4 Exemptions, by adding a new sub-section to address tourism related signs erected by Kent County within the public-rights-of-way to assist the motoring public in locating tourism, heritage development, and marine uses situated within Kent County, Maryland.

Testimony was not offered by the audience; therefore, Ms. Morris closed the public hearing and re-opened the meeting at 1:38 p.m.

## APPLICATIONS FOR REVIEW:

### **APD 19-08 – Wayne H. Thieme – E/S of Massey, 258.57 acres**

Wayne Thieme wishes to create an Agricultural Preservation District on his 258.572-acre farm located on Galena Road south of Massey in the first Election District. The farm consists of 253 acres of crop land and 4.5 acres of woodland. Approximately 94% of the soils are considered Class I, II or III. There are no dwellings on the property. The farm is zoned "AZD," Agricultural Zoning District. It is outside the 10-year water and sewer plan.

Mr. Tracey provided background information and the applicable laws as outlined in the staff report. He further noted the farm is located within the Priority Preservation Area. Mr. Tracey advised that the Agricultural Preservation Advisory Board has reviewed the application and recommends approval of the district.

Ms. Morris asked for public comment and there was none.

Ms. Morris asked if any correspondence has been received. Mr. Tracey said no correspondence has been received.

Mr. Sutton made a motion to send a favorable recommendation to the County Commissioners with the following findings:

- At least 50% of the land consists of Soil Capability Classes I, II, or III, or Woodland Groups 1 or 2.
- The land is outside of the 10-year water and sewer service area.
- The property consists of land which is either used primarily for production of food or fiber or is of such open space character and productive capability that continued agricultural production is feasible.
- The Agricultural Preservation Board reviewed this application and unanimously submitted a favorable recommendation.

The property meets or exceeds the criteria for creating an Agricultural Land Preservation District, complies with the goal of the Comprehensive Plan to preserve large blocks of contiguous prime agricultural land, and is located within the County's PPA.

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

**APD 19-09 – Wayne H. Thieme – N/S of Walnut Tree Road, 70.124 acres**

Wayne Thieme wishes to create a 70.124-acre Agricultural Preservation District on a portion of his 185-acre farm, as the remaining part of this farm has already been protected by a MALPF easement. The property is located between Maryland Line Road and Walnut Tree Road east of Massey in the First Election District. The proposed district consists entirely of crop land. Approximately 98% of the soils are considered Class I, II or III. There are no dwellings on the property. The farm is zoned "AZD," Agricultural Zoning District. It is outside the 10-year water and sewer plan.

Mr. Tracey provided background information and the applicable laws as outlined in the staff report. He further noted that the farm is located within the Priority Preservation Area. Mr. Tracey advised that the Agricultural Preservation Advisory Board has reviewed the application and recommends approval of the district.

Ms. Morris asked for public comment and there was none.

Ms. Morris asked if any correspondence has been received. Mr. Tracey said no correspondence has been received.

Mr. Sutton made a motion to send a favorable recommendation to the County Commissioners with the following findings:

- The application meets the same criteria as the previous application.

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

**APD 19-10 – Wayne H. Thieme – S of Walnut Tree Road, 295.897 acres**

Wayne Thieme wishes to create an Agricultural Preservation District on his 295.897-acre farm located on Walnut Tree Road south of Massey in the First Election District. The farm consists of 252 acres of crop land and 21 acres of wetlands. Approximately 85% of the soils are considered Class I, II or III or Woodland Group 2. There are no dwellings on the property. The farm is zoned “AZD,” Agricultural Zoning District. It is outside the 10-year water and sewer plan.

Mr. Tracey provided background information and the applicable laws as outlined in the staff report. He further noted that this property is located within the Priority Preservation Area. Mr. Tracey advised that the Agricultural Preservation Advisory Board has reviewed the application and recommends approval of the district.

Ms. Morris asked for public comment and there was none.

Ms. Morris asked if any correspondence has been received. Mr. Tracey said no correspondence has been received.

Mr. Sutton made a motion to send a favorable recommendation to the County Commissioners with the following findings:

- The application meets the same criteria as the previous applications.

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

**APD 20-01 – Robin May and Jonathan Reed – Flatland Road, 94 acres**

Robin Reed May and Jonathan F. Reed wish to create an Agricultural Preservation District on their 94-acre farm located on Flatland Road outside Chestertown in the Third Election District. The farm consists of 87 acres of crop land and five acres of woodland. Approximately 92.5% of the soils are considered Class I, II or III or Woodland Group 2. There are no dwellings on the property. The farm is zoned “AZD,” Agricultural Zoning District. It is outside the 10-year water and sewer plan.

Mr. Tracey provided background information and the applicable laws as outlined in the staff report. He further noted that this property is located within the Priority Preservation Area. Mr. Tracey advised that the Agricultural Preservation Advisory Board has reviewed the application and recommends approval of the district.

Ms. Morris asked for public comment and there was none.

Ms. Morris asked if any correspondence has been received. Mr. Tracey said no correspondence has been received.

Mr. Sutton made a motion to send a favorable recommendation to the County Commissioners with the following findings:

- The application meets the same criteria as the previous applications.

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

**APD 20-02 – Robin May and Jonathan Reed – 9600 Worton Road, 250.79 acres**

Robin Reed May and Jonathan F. Reed wish to create an Agricultural Preservation District on their 250.794-acre farm located at 9600 Worton Road outside Chestertown in the Third Election District. The farm consists of 228 acres of crop land and 10 acres of woodland. Approximately 74% of the soils are considered Class I, II or III or Woodland Group 2. There is one dwelling on the property. An approximately 3-acre gravel pit is located on the south east portion of the farm. Because MALPF regulations prohibit this use, it is being excluded from the ag preservation district. If the farm were to receive an easement offer, MALPF would require the gravel pit to be surveyed so the acreage could be withheld from the easement. The farm is zoned “AZD,” Agricultural Zoning District. It is outside the 10-year water and sewer plan.

Mr. Tracey provided background information and the applicable laws as outlined in the staff report. He further noted that this property is located within the Priority Preservation Area. Mr. Tracey advised that the Agricultural Preservation Advisory Board has reviewed the application and recommends approval of the district.

Ms. Morris asked for public comment and there was none.

Ms. Morris asked if any correspondence has been received. Mr. Tracey said no correspondence has been received.

Mr. Sutton made a motion to send a favorable recommendation to the County Commissioners with the following findings:

- The approximately 3-acre gravel pit is being excluded from the ag preservation district.
- The Agricultural Preservation Board reviewed this application and unanimously submitted a favorable recommendation.
- The property meets or exceeds the criteria for creating an Agricultural Land Preservation District, complies with the goal of the Comprehensive Plan to preserve large blocks of contiguous prime agricultural land, and is located within the County’s PPA.

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

**APD 20-03 – Jonathan and Jane Reed – 24913 Chestertown Road, 233.52 acres**

Jonathan and Jane Reed wish to create an Agricultural Preservation District on their 233.52-acre farm located at 24913 Chestertown Road outside Chestertown in the Seventh Election District. The farm consists of 217 acres of crop land and 10 acres of woodland. Approximately 77% of the soils are considered Class I, II or III or Woodland Group 2. There is one dwelling on the property. The farm is zoned “AZD,” Agricultural Zoning District. It is outside the 10-year water and sewer plan.

Mr. Tracey provided background information and the applicable laws as outlined in the staff report. He further noted that this property is located within the Priority Preservation Area. Mr. Tracey advised that the Agricultural Preservation Advisory Board has reviewed the application and recommends approval of the district.

Ms. Morris asked for public comment and there was none.

Ms. Morris asked if any correspondence has been received. Mr. Tracey said no correspondence has been received.

Mr. Sutton made a motion to send a favorable recommendation to the County Commissioners with the following findings:

- The application meets the same criteria as the previous applications.

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

**APD 20-04 – Frank & Janet Lewis – 30475 River Road, 322 acres**

Frank R. Lewis, Jr., and Janet C. Lewis wish to create an Agricultural Preservation District on their 322-acre farm located at 30475 River Road near Millington in the First Election District. The farm consists of 236 acres of crop land, 15 acres of pasture, and 52 acres of woodlands. Approximately 89% of the soils are considered Class I, II or III or Woodland Group 2. There is one dwelling on the property. The farm is zoned “AZD,” Agricultural Zoning District and “RCD,” Resource Conservation District. It is outside the 10-year water and sewer plan.

Mr. Tracey provided background information and the applicable laws as outlined in the staff report. He further noted that this property is located within the Priority Preservation Area. Mr. Tracey advised that the Agricultural Preservation Advisory Board has reviewed the application and recommends approval of the district.

Ms. Morris asked for public comment and there was none.

Ms. Morris asked if any correspondence has been received. Mr. Tracey said no correspondence has been received.

Mr. Sutton made a motion to send a favorable recommendation to the County Commissioners with the following findings:

- The application meets the same criteria as the previous applications.

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

#### **APD 20-05 - Timothy and Mary Catherine Redman – 7939 Bakers Lane, 137.23 acres**

Prior to review of this application, Mr. Hickman disclosed that he has a business relationship with the applicants, but he believes he can make a fair and impartial decision.

Timothy and Mary Catherine Redman wish to create an Agricultural Preservation District on their 137-acre farm located at 7939 Bakers Lane outside Chestertown in the Sixth Election District. The farm consists of 131 acres of crop land and four acres of wood lands. Approximately 73% of the soils are considered Class I, II or III or Woodland Group 2. There is one dwelling on the property. The farm is zoned “AZD,” Agricultural Zoning District. It is outside the 10-year water and sewer plan.

Mr. Tracey provided background information and the applicable laws as outlined in the staff report. He further noted that this property is located within the Priority Preservation Area. Mr. Tracey advised that the Agricultural Preservation Advisory Board has reviewed the application and recommends approval of the district.

Ms. Morris asked for public comment and there was none.

Ms. Morris asked if any correspondence has been received. Mr. Tracey said no correspondence has been received.

Mr. Sutton made a motion to send a favorable recommendation to the County Commissioners with the following findings:

- The application meets the same criteria as the previous applications.

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

#### **20-11 Chester River Yacht and Country Club – Buffer Variance**

Present and duly sworn in were Kevin Shearon and Jim Gillespie representing the Chester River Yacht and Country Club.

Ms. Gerber gave a brief overview of the proposal, citing relevant issues, the applicable laws and staff and TAC comments. The applicants wish to increase their onsite parking for an existing

Private Club and Golf Course. In addition to site plan review, the applicants request a variance to allow 828 square feet of lot coverage within the 100-foot Critical Area Buffer. The expanded parking lot will provide 37 additional spaces. The 175-acre property is located on Quaker Neck Road in the Seventh Election District. Ms. Gerber noted the surrounding area is characterized by single-family residential development and the property is zoned Critical Area Residential, "CAR", Community Residential, "CR" and Rural Residential "RR". Ms. Gerber further noted the parking lot expansion is entirely within the CAR district.

Ms. Gerber said it is staff's opinion that granting a variance will not cause a substantial detriment to neighboring properties or change the character of the neighborhood or district. The existing property configuration already has some buffer encroachment, and the existing building is located in such a manner that any other parking lot arrangement would require much more lot coverage in the form of long drives. Additionally, due to the property being split by a State highway, the current parking scenario requires some individuals to cross the State highway in order to access the primary use on the property. This was not due to any action by the applicant, but a peculiar condition of the property, thereby creating a practical difficulty; the test for a variance of the Critical Area buffer is an unwarranted hardship.

Mr. Shearon shared with the Commission the history of the Chester River Yacht and Country Club with regards to past projects and expansions. He said the marina side has seen more expansion in recent years and for safety reasons, it is necessary for the club to expand its parking area.

Ms. Morris asked if any correspondence has been received. Ms. Gerber said no correspondence has been received.

Mr. Hickman wanted to know why the parking could not be located in another area, especially if the Critical Area Commission were to ask the question.

Mr. Shearon stated that they picked the most efficient place to add parking. He said the club is trying to keep large trees and reduce surfacing. Mr. Shearon stated that he is of the opinion that the new parking area should be considered a water-dependent use and therefore exempt from complying with the 100-foot buffer requirements.

Ms. Gerber stated that she did not believe that the request met the standard for a water dependent use and would need to verify with the Critical Area Commission if marina parking is considered a water-dependent use. Lacking that information, she opined that the project does not meet the letter of the law, and she would still have a hard time making a favorable recommendation.

After further discussion and additional questions, Mr. Hickman made a motion to send a favorable recommendation for the variance to the Board of Appeals to allow 828 square feet of lot coverage in the 100-foot Critical Area buffer to expand the parking area based on the following findings:

- Granting a variance will not cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.

- The use of pervious pavers will minimize impervious surfaces and the design protects mature trees.
- Based on the information received to date, the application is in harmony with the Critical Area Law and general spirit and intent of the Land Use Ordinance.
- The granting of the variance does not confer any special privileges that would be denied to other similar lands and uses.
- The reasonable use of the entire property was considered.

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

### **20-12 Chester River Yacht and Country Club – Major Site Plan (Concept)**

Ms. Gerber provided an overview of the concept site plan. Article VI, Section 5.3 of the Kent County Land Use Ordinance establishes site plan review procedures. Concept review is an opportunity for the Planning Commission to comment on the proposal. No votes are taken.

Ms. Gerber reminded the applicants that they need to make every effort to integrate the proposed parking area into the existing landscape by providing an adequate vegetative buffer, roadside plantings, and landscaping within the proposed parking area. The applicant will need to present landscaping plans before final site plan review.

The applicants also need to submit storm-water management and sediment control plans before final site plan review.

Mr. Shearon briefly discussed with the Commission the landscaping plans which include adding plantings and more trees and shrubs.

### **19-35 Remus S. Butler, Jr., and Franklin C. and Wynee D. Butler – Variances (Side Yards and Minimum Lot Size)**

Present and duly sworn in representing the applicant was Jack Kirby, Kirby and Associates, Inc.

Ms. Gerber gave a brief overview of the proposal, citing relevant issues, and staff and TAC comments. She said in order to complete an adjustment of lot lines, Remus S. Butler, Jr., is requesting a 4-foot and 0.3-foot variance from the minimum 8-foot side yard setback requirement for a dwelling and a 2,530.4 square foot variance from the 9,500 square foot minimum lot size requirement that will help minimize existing nonconformities on two parcels. Ms. Gerber also noted as part of the same application, Franklin C. and Wynee D. Butler are requesting a 3-foot variance from the minimum 8-foot side yard setback requirement for an accessory structure. She said the properties are located at 8600 and 8610 Caulks Field Road in the Sixth Election District and are zoned Village.

Ms. Gerber said the variance will not cause a substantial detriment to adjacent or neighboring properties and will not change the character of the neighborhood. The Comprehensive Plan is neutral on this application. Ms. Gerber stated there was no correspondence received.



Mr. Hickman wanted to know if the property was on public water and sewer. Ms. Gerber confirmed that the property is on public water and sewer.

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

- Granting a variance will not cause a substantial detriment to neighboring properties nor will it change the character of the neighborhood and district.
- The Comprehensive Plan is neutral on this issue and the proposal is consistent with the general intent of the Land Use Ordinance.
- The practical difficulty is caused by the unusual size and shape of the property.
- The reasonable use of the entire property was considered.

The motion was seconded by Mr. Megargee, and the motion passed unanimously.

### **20-13 County Commissioners of Kent County – Zoning Text Amendment – Directional Signs**

Mr. Tracey, describing the Zoning Text Amendment, said that on March 3, 2020, the Kent County Commissioners adopted a resolution to consider a Zoning Text Amendment to add a provision for tourism-related signs. The signs would be located within the public rights-of-way and erected by Kent County. The desire is to assist the motoring public in locating tourism, heritage development and marine uses that are not readily visible from the road. The signs would be approved by the Kent County Commissioners and general guidelines would be developed by appropriate County departments. This would be an act to amend Article VI, Special Provisions, Section 2, Signs, 2.4. The proposal is consistent with numerous goals of the Kent County Comprehensive Plan such as supporting businesses, maintaining and strengthening working lands-based industries, and enhancing and expanding locally based tourism.

Mr. Tracey said no correspondence has been received.

Mr. Hickman asked if the signs will have business names on them.

Ms. Gerber commented that she believes the signs will have individual business names on them. She said they will not be like your standard state issued tourism-based signs. Ms. Gerber also discussed the design process and guidelines.

Mr. Megargee said he believes there will be an objection to business specific signs, and he thinks the signs should be kept generic.

There were questions as to whether the signs would only be for permanent businesses or also for special events.

Mr. Mackey said the signs could be used for special events, but the intention is for the signs to be wayfinding signs to direct people to uses not visible from the roadway. Mr. Mackey further stated that the businesses would work with the County to develop the signs, and they would be

responsible for all costs. He said after the sign is completed, the County would place the sign on a County right-of-way, and it would be a County owned sign.

After further discussion and additional concerns expressed by the Commission, Mr. Hickman made a motion to send an unfavorable recommendation for the proposed Zoning Text Amendment to the County Commissioners based on the following findings:

- The definitions of tourism, heritage development and marine uses are not clearly defined;
- Motoring public from state highways is not clearly defined, as the County right-of-way does not define what happens in the State right-of-way;
- The government would be controlling who gets the signs;
- Petitions could be from private or non-profits describing what their efforts are and what their standards are to get a sign;
- Understands this is meant for all good intentions, not debating that, but the amendment is a little wide open and could see it not being very well handled; and
- Recommends staff to craft a better amendment to the Article in the future.

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

### **Office Building Recycling (OBR) Plan for Kent County – Senate Bill 370**

Mr. Tracey described the proposal which outlines the County's plan to require recycling in office buildings larger than 150,000 square feet. The County must amend the 10-year Solid Waste/Recycling Management Plan to include the subject of Office Building Recycling (OBR) as required by Senate Bill 370. Before adoption of the amendment to the County's Solid Waste/Recycling Management Plan, the County is required to submit the plan to the County's planning department for its certification of the OBR plan. Mr. Tracey further noted the proposal is consistent with the Kent County Comprehensive Plan which encourages household and business recycling. Staff recommends approval.

Ms. Morris wanted to know if any correspondence has been received. Mr. Tracey said no correspondence has been received.

Marty Holden, Chief of Environmental Operations, commented that the OBR plan is very similar to the Apartment Building Recycling Program, and as of right now, Kent County does not have any office buildings that would be required to comply with the requirements.

Ms. Morris asked for public comment and there was none.

Ms. Morris said the Commission approves of the OBR Plan as written.

### **STAFF REPORTS**

Ms. Morris acknowledged the planning staff for their hard work.

Carla Gerber:

- Ms. Gerber reminded everyone of the 2020 Census. She said events scheduled by the Complete Count Committee promoting the 2020 Census have been canceled, but they will be hosting Facebook live events. Ms. Gerber said tablets will be used at some of the food distribution sites to encourage everyone to participate by filling out their census forms.

Rob Tracey:

- Mr. Tracey informed the Commission that he is continuing to work on projects and permit reviews.

Cynthia McCann:

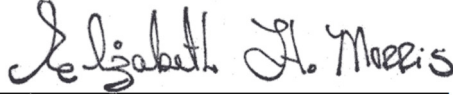
- Ms. McCann said she is excited to serve the County and to work with the Planning Commission.


### **GENERAL DISCUSSION**

- Ms. Kohl suggested the Commission explore video conferencing options for future meetings.
- Ms. Morris encouraged everyone to stay safe and to utilize safety precautions during the State of Emergency.

### **ADJOURN**

There being no further business for the good of the organization, the meeting was adjourned at 3:19 p.m.

  
Elizabeth Morris, Chairman

  
Brian Jones, Clerk