

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, August 5, 2021, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. It was a hybrid meeting, and the following members were in attendance: Vice Chair F. Joseph Hickman, County Commissioner P. Thomas Mason; Tyler Brown (attending remotely), Paul J. Ruge, Jr.; William Sutton; James Saunders (attending remotely); and Cynthia L. McCann, Esq., Planning Commission Attorney. Staff in attendance were William Mackey, Director; Carla Gerber, Deputy Director; Mark Carper, Associate Planner; and Michael Pelletier, Clerk.

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

## MINUTES

Mr. Ruge made a motion to accept the minutes of the June 3, 2021, meeting as distributed.

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

## APPLICATIONS FOR REVIEW:

### **#21-41 Cliff Road Properties, LLC (Great Oak Manor) – Site Plan Review**

Final (Tent Event Area) and Preliminary (Cottages & Pavilion)

#### **Final Site Plan Review - Tent Event Area**

The applicant, Cliff Road Properties, LLC, is seeking final site plan approval to construct a permanent base for erecting a tent to be used in support of the existing country inn.

Great Oak Manor's 8.515-acre property is zoned Critical Area Residential and is located along Cliff Road adjacent to the Chesapeake Bay, Great Oak Estates, and Great Oak Landing Marina to the south and residential uses to the north. The property is currently improved with a 3-story dwelling known as "the Manor House" and a detached garage. The surrounding area is characterized by residential development, agricultural, and marine uses.

William Thomas Davis of DMS & Associates, LLC, Centerville, Maryland, and Applicant Harry Reed, owner of Cliff Road Properties, LLC, Chestertown, Maryland, were sworn in. Mr. Davis indicated that he is working with Cliff Roads Properties, LLC on this project. He indicated the tent area is 60 feet by 80 feet. He also indicated they contracted Phoenix Noise and Vibration to perform a study of the impact the tent venue has on the community. At this time, Mr. Davis moved to enter a letter from Cliff Road Properties, LLC into the record as Applicant's Exhibit 1 which provides a background of Board of Appeals proceedings as well as what Cliff Road Properties, LLC has undertaken to provide the Commission with information and to address many of the concerns of the community. Applicant's Exhibit 1 was accepted by the Commission.

Mr. Davis indicated they retained the services of Mr. Scott Harvey with Phoenix Noise and Vibration, LLC and Mr. Harvey concluded that the property does maintain a 60-decibel average which is consistent with Maryland State regulations.

Mr. Hickman inquired whether the Commission could take a vote on the tent area application first before moving on to the second application.

Ms. McCann raised concerns whether the Commission needed to go into executive session and whether the site plan approval was properly before the Commission. She questioned whether the final site plan and/or preliminary site plan on the pavilion and cottages should go before the Board of Appeals first. Ms. McCann added that the Commission has not yet heard from Staff on its Final Review.

Ms. Gerber gave a description of the proposal, cited the applicable laws, staff and TAC comments, and staff's recommendation to grant final approval of the proposed tent area with conditions to be adopted by the Planning Commission.

The Commission, Ms. McCann, and Mr. Davis held further discussions on whether these applications should go before the Board of Appeals for consideration as well as the distinctions between the two applications. Mr. Hickman inquired whether they could move forward with the tent area approval.

Mr. Reed inquired about tabling the cottages, if they would be able to move forward with the tent area application.

Mr. Sutton inquired whether the tent is up all summer and taken down in the winter. Mr. Reed indicated it is erected only as needed for an event.

Mr. Ruge inquired as to whether the tent, as a temporary use, constitutes a structure. Ms. Gerber indicated that the Ordinance doesn't have standards for temporary uses, but the proposed stable surface is considered a structure based on the definition in the Ordinance.

Mr. Hickman inquired whether the Commission is moving forward on the tent application or both. Mr. Reed asked if it would be better to table the preliminary site plan review of the cottages and pavilion and address the final site plan on the tent area today. Mr. Hickman recommended they proceed on the tent area. After that is complete, the Commission could hear the preliminary site plan application and if the applicant decides to table it, the Commission can address it at that time. The Commission was in agreement.

Mr. Ruge made a motion that the Commission proceed with final approval on the tent area application. Mr. Sutton seconded the motion. Mr. Hickman indicated the Commission is going to act on the tent application and the Commission will hear additional testimony from the applicants and their witnesses.

Scott Harvey with Phoenix Noise and Vibration in Frederick, Maryland, was sworn in. Mr. Harvey testified that he did not take any noise measurements. Mr. Reed was taking the measurements at each event. Mr. Reed indicated that he would measure each wedding and keep the decibels under 60. Mr. Harvey testified that 60 decibels is in compliance with COMAR.

Concerns were raised by the Commission that more permanent recordings should be utilized. Mr. Reed indicated he would install permanent recording devices on the property. Mr. Reed indicated that measurements were taken roughly every hundred feet along the property lines. Mr. Harvey confirmed that a recording device would be in compliance with COMAR but there were tangible benefits from doing live self-measurements to staff and disc jockeys. Mr. Hickman raised concerns that enforcement would fall upon the County's Sheriff's department.

Mr. Hickman inquired as to whether there were any comments from the public on Teams.

Bruce Galton, Cliff Road, Chestertown, Maryland, was sworn in. Mr. Galton testified that the proposed landscaping is needed to block lights from vehicles. Mr. Galton also inquired whether a traffic study would be

taken. Ms. Gerber indicated that a traffic study is not required as there is no change in traffic due to the tent. Regarding the Pavilion, Staff is not going to recommend a traffic study either.

Mr. Hickman stated that the Commission should move to approve the tent event area with conditions regarding shut off times and shrubbery.

Recommended Staff conditions were discussed between the Commission and the applicant. Mr. Reed agreed to include a permanent recording device to alleviate any disputes or concerns.

Mr. Hickman made a motion for final site plan approval based on Staff and Technical Advisory Committee Comments. The approval is conditioned upon the following:

- Acceptance of required letters of credit by the County Commissioners of Kent County.
- Outdoor event music (live or otherwise) will be shut off at 10:00pm. A Great Oak Manor employee will be on-site during all special events at Great Oak Manor and will be reachable by phone or text should there be any need to contact someone.
- Great Oak Manor will monitor and comply with all future County and State noise ordinances. The applicant shall monitor noise levels at events with equipment that is capable of recording decibel levels.
- Once the tent platform area is constructed, all noise-generating, outdoor events shall be held in this location. Speakers and musicians shall project in a southeasterly to southwesterly direction at all times. Sound equipment will be situated adjacent to the Manor House in a best effort to have the building act as a partial noise barrier.
- Evergreen shrubs will be planted along the Great Oak Manor property line to block car lights from impacting neighboring properties.
- Any lighting installed will be low level or landscape lighting. No flood lights or overhead lighting will be utilized.

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

#### **Preliminary Site Plan Review - Cottages & Pavilion**

Ms. McCann suggested the Commission go into a closed session. Mr. Ruge moved to go into a closed session and Mr. Sutton seconded the motion. All members were in favor.

The Commission went into closed session for six minutes at 2:52 p.m. to consult with counsel to obtain legal advice; however, due to technical difficulties, was not able to initiate the session. There was no discussion regarding the application.

Ms. McCann noted that the issue with this application is whether it is an extension of use of an existing structure given the proposed pavilion and cottages. It has been presented as site plan approval, and it's unclear if it can go forward without a special exception review before the Board of Appeals.

Mr. Ruge also noted that the Commission should consider the proximity to the existing structure, the tent area, and the fact that the complex is removing two rooms to offset the two cottages.

Mr. Mackey added that the big picture the Commission should consider is that the property is a country inn. The use is the same and it's a campus with detached buildings. So, other detached buildings appear to be part of that campus approach. This is how the Department interpreted the campus plan on the use which the Department believes is in compliance with the Code.

The Commission decided to proceed with site plan discussion.

Mr. Tom Davis with DMS & Associates, LLC, on behalf of the applicant, opened a discussion regarding the requested approval of a pavilion and two cottages. The pavilion would reduce noise levels and decrease traffic flow onto the property, and the proposal addresses many of the concerns made by the community. Mr. Davis referenced full-size plans, which included at reduced size with the application packet, to discuss details of the layout and amenities of the proposed pavilion and cottages.

Mr. Ruge indicated he would like to explore the idea of taking a site visit to get a better understanding of what is being proposed as opposed to the limited concept of what is presented on paper. Ms. Gerber indicated it would require public notice and it would technically serve as a public meeting. Mr. Mackey indicated there would be a lot of technicalities. Commissioner Mason indicated that there would be nothing prohibiting a single member from visiting the site as an individual. Ms. McCann indicated a single member may be able to conduct a site visit but could not rely on the visit during the fact-finding aspect of the meeting. Ms. McCann indicated she would need to research that topic further.

A discussion concerning tabling the matter to the next meeting was had between Staff, the Commission, and Counsel, and it was determined that the Commission has the authority to table the application if it requires additional information.

The applicant raised concerns over whether the Commission had moved beyond the question of whether this application needs to go before the Board of Appeals. The Commission could not make a ruling on that issue at the time of the hearing.

Mr. Hickman noted that the Commission needs to know how they should consider expansion of use as it relates to separate structures. Ms. McCann added that expansion of use would not be under consideration for a site plan review.

Mr. Hickman moved to table the preliminary review application until the next Planning Commission meeting on the following grounds:

- Board members have expressed an interest in conducting a site visit to the subject property.
- The Commission requires more clarity on what the application is seeking from Staff's Preliminary Report and the applicant.
- The applicant needs to provide pictures of the existing buildings in order for the Commission to consider if the cottages and pavilion reflect the character and features of the existing structures.

Mr. Ruge seconded the motion to table, and the motion to table passed unanimously.

**The Commission recessed for 10 minutes at 3:47 p.m.**

#### **#21-28 ACED, LLC (David & Eileen Smack) – Site Plan Review (Final)**

David and Eileen Smack, members of ACED, LLC, request final site plan review for a tasting room, which will be used in conjunction with their small, "boutique" winery on their adjacent 80-acre farm. The Board of Appeals approved this use conditional upon final site plan approval.

This is a 1.57-acre property located at 22622 Handy Point Road and is zoned Resource Conservation District (RCD). The surrounding area is characterized by agricultural and forested land with sparse residential development and is located approximately seven-miles north-west of Chestertown.

Ms. Gerber gave a description of the proposal, cited the applicable laws, staff and TAC comments, and staff's recommendation to grant final site plan approval.

Applicant David Smack, 22622 Handy Point Road, Chestertown, (attending remotely) was sworn in. Mr. Smack gave a description of the character of the property, the limitations on the use of the tasting room regarding the number of tastings and restriction as a large venue location and identified several positive attributes that could draw tourism to Kent County given the colonial era history associated with the subject property.

Mr. Ruge asked for further clarification pertaining to access to the subject property. Ms. Gerber added that access was available as there is already a right-of-way on the subject property. There are provisions in the deed for ingress and egress, and those provisions should be sufficient without a more formal designation which would require approval by the MALPF Board of Trustees.

Mr. Ruge inquired whether the swimming pool on the property exists and would be part of the wine tasting area. Ms. Gerber confirmed the pool still exists.

Mr. Hickman entertained a motion for final site plan approval. Mr. Ruge moved to accept the final site plan based on the following:

- The proposal is consistent with many Comprehensive Plan Strategies.
- The surrounding area is characterized by sparse residential development and is surrounded by both agricultural and forested land.
- The applicants propose access to the site from the existing driveway on Handy Point Road. The proposed use will have minimal impact on traffic.
- Areas of vehicular flow are clearly identified, and the property provides sufficient parking.
- The proposed use will not place unreasonable 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.
- Existing landscaping is in keeping with the character of the building.
- The site is served by private well and septic, and the Kent County Health Department has approved the proposed use.

Mr. Saunders seconded the motion. Mr. Hickman abstained, and all other Commission members voted to approve.

### **Ina May Puppe Reed – Water and Sewer Plan Amendment (Relocation of Allocation)**

Ina Mae Puppe Reed requested an amendment to the Comprehensive Water and Sewer Plan to transfer an allocation from Map 46, Parcel 22 to Map 46, Parcel 46, which requires an amendment to the Sewer Service and Water Service Maps for the Edesville – Lovers Lane Service Area. The Edesville-Lovers Lane Extension was constructed in 2011 to address failing septic systems of existing homes along Lovers Lane, a project for which the Comprehensive Water and Sewage Plan was amended on December 2, 2008.

Both parcels are owned by Ms. Reed, Parcel 22, on the northern side of Lovers Lane and adjacent to the primary residence of Ms. Reed (Parcel 18), is currently allowed access to the sewer system but, at 3,400 square feet, does not allow for building without variances. Parcel 46, on the southern side of Lovers Lane, across from Parcel 18, is 153.7 acres and is undeveloped. The development plan for this parcel is to construct a single-family dwelling from which a home day care will be operated. All three properties are zoned Agricultural Zoning District.

Mr. Carper gave a description of the proposal, cited the applicable laws, staff and TAC comments, and staff's recommendation to the Planning Commission for a favorable recommendation to be sent to the County Commissioners for approval of the amendment conditioned upon a signed Public Works Agreement.

Applicant Ina May Puppe Reed, 21876 Lovers Lane, Rock Hall, Maryland, was sworn in (attending in person). Ms. Reed added that she would like to move the allocation from one property to the other. She has two farms and she would like give each of her daughters one of them. She wants to construct a new house for her second daughter which is the basis for her request.

Mr. Ruge sought clarification on where the house would be located and wanted clarification on the meaning of the phrase, "denied access." Ms. Reed identified it would be on Lovers Lane and would be approximately four telephone poles towards Route 20. The whole farm will belong to her with one water allocation. Mr. Carper clarified that "denied access" refers to the properties along the main water and sewer line from the Edesville system to the Edesville-Lovers Lane Extension. Unless meeting the provisions set forth in the Water and Sewerage Plan, they would be denied access so as not to encourage unwanted development.

A brief discussion followed between members and staff regarding the inapplicability of State funding and subdivision issues due to the property being located in an Agricultural Zoning District.

In response to Mr. Hickman's inquiry about Staff discussions with John Beskid regarding the "denied access" provisions, Mr. Carper confirmed they did discuss it, and it was his understanding that there was no soil testing on the subject property. It was Mr. Carper's impression that Mr. Beskid was not optimistic that the property would pass a perc test. Mr. Hickman had concerns about setting a precedent with an additional allocation. Ms. Gerber added that it is not a situation in which there would be an additional allocation. It is a situation where Parcel 22 goes out of the service area and Parcel 46 goes in. It's an even exchange of allocations. Both the Maryland Department of the Environment and Maryland Department of Planning performed an initial, informal review at the County's Technical Advisory Committee of this proposed amendment and did not raise any concerns.

No questions or comments were proffered by the public.

Mr. Hickman moved that the Commission send a favorable recommendation to the County Commissioners on the application of Ms. Ina Mae Puppe Reed for an amendment to the Kent County Comprehensive Water and Sewerage Plan to transfer an allocation that she currently has on Map 46, Parcel 22, to Parcel 46, Map 46 in the Edesville – Lovers Lane service area based on the following:

- The extension of service along Lovers Lane, as set forth by the Water and Sewer Plan, served to address failing septic systems.
- Ms. Reed owns a lot (Parcel 22) that, because of its limited size, is unbuildable without variances but has been allocated access to water and sewer service. Ms. Reed also owns a 153-acre farm (Parcel 46) which is contiguous to the water and sewer mains that will support a single-family dwelling.
- The water and sewer systems have adequate capacity.

- This action will not increase density and is within the intent of the Comprehensive Plan to preserve the County's rural character and allow for single-family dwellings and home-based business.
- The Water and Sewer Plan amendment will be approved by the State and County.
- This decision is not intended to intensify existing uses and is a special circumstance.
- Only one allocation is to be granted to this farm (Parcel 46); access to public water and sewer is to be denied to any future lots that may be subdivided; and the allocation to Parcel 22 is to be permanently removed. No additional service will be added to this system through this amendment.

Mr. Ruge seconded the motion which was approved unanimously.

## STAFF REPORTS

Carla Gerber:

- June and July have been busy. The County forwarded the maximum number of applications to MALPF that were allowed for easement consideration and the Department completed the MALPF inspections by the end of June. All of the subject farms passed inspection without any issues.
- The Department continues to review many building permits and assist many callers.
- The Department is very grateful to be fully staffed. Allie Gorman is not present at the Planning Commission meeting, but she is the new GIS Specialist.

Introductions from New Planning Staff:

Mark Carper, Associate Planner, and Michael Pelletier, Planning Specialist and Clerk to the Planning Commission, gave brief self-introductions to the Commission.

Mr. Mackey:

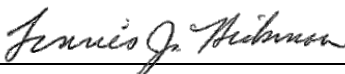
- Mr. Mackey was happy to have the office fully staffed with Mark Carper, Allie Gorman, and Michael Pelletier with the Office.
- The next CRU Task Force meeting will be held on August 11, 2021, at 6:00 p.m. The Task Force will have two meetings on agricultural issues.

Ms. McCann:

- The Maryland Planning Commissioners Association Annual Conference is coming up in October. The agenda is still pending. It's a two-day conference in Solomons. Ms. McCann will provide more information as it becomes available.
- Ms. McCann needs to research a procedure for the Commission to have closed sessions during hybrid meetings.

## ADJOURN

There being no further business, the meeting adjourned at 4:45 p.m.



F. Joseph Hickman, Vice-Chairman



Michael Pelletier, Clerk