

**Worcester County Planning Commission
Meeting Minutes**

Meeting Date: July 2, 2020

Time: 1:00 P.M.

Location: Worcester County Government Office Building, Room 1102

Attendance:

Planning Commission

Jay Knerr, Vice Chair

Marlene Ott

Rick Wells

Betty Smith

Brooks Clayville

Staff

Roscoe Leslie, County Attorney

Ed Tudor, Director

Phyllis Wimbrow, Deputy Director

Jennifer Keener, Zoning Administrator

Jessica Edwards, Customer Service Representative

Robert Mitchell, Director of Environmental Programs

I. Call to Order

II. Administrative Matters

A. Review and approval of minutes, June 4, 2020— As the next item of business, the Planning Commission reviewed the minutes of the June 4, 2020 meeting. Following the discussion, it was moved by Mr. Wells seconded by Ms. Smith and carried unanimously to approve the minutes as submitted.

B. Board of Zoning Appeals agenda, July 9, 2020— As the next item of business, the Planning Commission reviewed the agenda for the Board of Zoning Appeals hearing scheduled for July 9, 2020. Mrs. Keener was present for the review to answer questions and address concerns of the Planning Commission. No comments were forwarded to the Board.

III. MALPF Application Review

Ms. Munson reminded the Planning Commission that the Maryland Agricultural Land Preservation Foundation (MALPF) purchases agricultural preservation easements, funded by agricultural and real estate transfer tax revenue, generally on an annual basis. She provided county-wide maps depicting the following six (6) applications to sell an easement to MALPF in Worcester County that have been received by the county for the FY 21 funding cycle:

Re-applications

- Fair, Freddie and Fay; TM 93, Grid 16, P 41; W side Steel Pond Rd, Stockton; 102.0 acres
- Gross, Mark; TM 32, Grid 16, P 217; Harrison Road, Berlin; 210.13 acres
- Holland, Glenn and Jean; TM 100, Grid 1, P 6, 55, 84; Colona and New Bridge Roads; 53.81 acres
- Wilkins, Tom et al; TM 77, Grid 5, P 102; Route 364; 139.9713 acres

New Applications

- Aberdeen Farm, LLC; TM 92, Grid 3, Parcel 69; 2836 Sheephouse Road, Pocomoke City; 144.93 acres
- Lambertson, Jason and Kelly; TM 92, Grid 4, P 8; 3105 Sheephouse Road, Pocomoke City; 74.821 acres

A table summarizing information for each application was also provided.

The maps provided indicate that all applications are zoned A-1 and/or RP and all are within the Agriculture or Green Infrastructure 2006 land use category. She stated that on June 30, 2020, the Worcester County Agricultural Land Preservation Advisory Board reviewed the applications and recommended that all applications be forwarded to the state for consideration. She stated that the Planning Commission must determine whether an easement on each applicant property is compatible with existing county plans and policy and thus whether or not approval of the application is recommended to the Worcester County Commissioners.

In response to a question, Ms. Munson explained that the applicant may waive all rights to lots or retain the right to one “unrestricted” lot when they apply to sell an easement. This affects the value of the easement which is why it is determined at the time of application. An “unrestricted” lot right could be transferred to anyone at any time after the easement is purchased. In response to a question Ms. Munson stated that solar panels are only allowed on a property encumbered with an easement if they are non-commercial (serving the property only). In response to a question, she stated that easement purchases are funded by agricultural transfer tax and real estate transfer tax. This revenue is to be used for easement purchases only (per statute), however, the real estate transfer tax revenue has in the past been diverted for other uses.

Ms. Ott made the motion to recommend that all applications are eligible for consideration for easement purchase; this was seconded by Mr. Wells. The favorable recommendation was unanimous.

IV. §ZS 1-325 Site Plan Review

As the next item of business, the Planning Commission reviewed a site plan associated with the proposed addition of 112 campsites and associated amenities within the Frontier Town campground, located on the easterly side of Stephen Decatur (MD Route 611), approximately 705 feet north of Assateague Road, Tax Map 33, Parcel 94, Tax District 10, A-2 Agricultural District. Hugh Cropper IV, Esquire, attorney, and Chris McCabe, consultant, were present for the review. Mr. Cropper testified that the project was in front of the board for a similar request previously and that this was the final expansion of the campground, with this request including 112 new “pull-in” campsites, one bathhouse and associated playground area.

Mr. Cropper also noted that the required EDUs have already been secured and supplied photographs and architectural elevations of the bathhouses existing in other areas of the campground. He explained the proposed bathhouse will be of the same earth-tone color scheme to blend with all existing structures.

Following the discussion, a motion was made by Ms. Ott, seconded by Mr. Wells, and carried unanimously to approve the site plan subject to addressing the code requirements and the following items:

1. The Planning Commission found that the proposed expansion need not comply with ZS 1-318(c)(1)J. due to the age of the original development.
2. After reviewing the photographs and façade design plan provided during testimony, the Planning Commission found the proposed earth tone colors, consistent with the existing overall development.
3. The Planning Commission also granted a waiver to Item 3 referencing compliance with the Design Guidelines and Standards as many of the typical design requirements for standard buildings are not generally featured on bathhouses. Additionally, the building is not visible from the public roadway.

V. Comprehensive Water and Sewerage Plan Amendment No. SW-2020-04.

As the next item of business, the Planning Commission reviewed an application associated with the expansion of the Sewer Planning Area in the *Master Water and Sewerage Plan (The Plan)* for the Mystic Harbour Sanitary Service (SW 2020-04). Robert Mitchell, Director of Environmental Programs, appeared on behalf of the applicant, the Worcester County Commissioners, and presented the staff report to the Planning Commission. Hugh Cropper, attorney, was present on behalf of the Steve Hoffman, the applicant. John Salm, from JW Salm Engineering, and Steve Engle from Vista Design, were present on behalf of the applicant as well.

Mr. Mitchell explained that the applicant is requesting an expansion of the Mystic Harbour Sewer Planning Area in *The Plan*. This revision is to provide sewer sanitary capacity to serve a proposed 41 unit residential development on the property. This property is already included within the West Ocean City sewer planning area with a planning designation of S-1 (immediate to 2 years). The property's western edge already is included in the Mystic sewer planning area and the owner would like the entire property within the Mystic planning area. Mr. Cropper and Mr. Salm and Mr. Engle reviewed the residential project that the owner wanted to develop on the site and urged the amendment's approval. They noted that the sewer capacity does not exist in the West Ocean City Sanitary Area to serve the proposed project.

Mr. Mitchell answered a question from Mr. Knerr that the Mystic area would be the only area that could provide the sewer capacity needed for this proposed development. He also indicated that the Mystic Sanitary Service area through prior planning efforts and amendments was, by design, a non-exclusive service area and would have overlays with adjacent service areas in West Ocean City.

Mr. Mitchell did conclude with a review the staff report noting the consistencies found for such a development within the *Comprehensive Plan* and land use designations, and that the proposed improvements would be permitted in accordance with existing zoning within the property boundaries of the current campground.

Following the discussion, a motion was made by Mr. Clayville, seconded by Mr. Wells, and carried unanimously to find this application consistent with the *Comprehensive Plan* and recommended that they forward a favorable recommendation to the County Commissioners.

VI. Map Amendment – Case No. 425

As the next item of business, the Planning Commission reviewed Rezoning Case No. 425, a request to rezone a portion of Tax Map 70, Parcel 18 from RP Resource Protection District to A-1 Agricultural District. This segment of the property consists of 54.7 acres on the southerly side of Nassawango Road, to the west of MD Route 12, northwest of Snow Hill. It is located on the easterly side of the former Nassawango Country Club and Golf Course. Hugh Cropper, IV, Esquire, Mr. and Mrs. Hope, property owners, Chris McCabe, consultant, and Frank Lynch, Jr. surveyor were present for the review. Mr. Cropper noted that he represents the prospective buyer, Mr. Smithson. Mr. Cropper testified that the request is being made based upon a mistake in the assigned zoning district.

Submitted as Applicant's Exhibit No. 1 was a copy of the RP Resource Protection District zoning regulations. Mr. Cropper noted that the district allows a very limited number of uses by right and that the construction of a single-family dwelling would require a special exception by the Board of Zoning Appeals. Mr. Cropper emphasized the importance of agriculture in Worcester County as expressed in the staff report. Mr. Cropper further noted that agricultural uses, such as tilling land, would also need a special exception; staff clarified that such a use is allowed in every zoning district and can be found in §ZS 1- 105.

Submitted as Applicant's Exhibit No. 2 was a copy of the Land Use Map taken from the Worcester County Comprehensive Plan reflecting the petitioned area as being located within the Agricultural designation. Mr. Cropper further indicated he believes the zoning should have followed the line indicated on the aforementioned Land Use Map. Additionally, Mr. Cropper testified that the entire 54.7 acres should be rezoned as requested; however, there is a small strip of land bordering the river that could understandably remain zoned RP District, if the board so found.

Submitted as Applicant's Exhibit No. 3 was a map of the petitioned area. Mr. Cropper again expressed that the area along the river, bordering the wetlands, could remain as RP to lessen this request.

In response to a question posed by Mr. Cropper, Mr. Lynch confirmed it is axiomatic to say that the land should be zoned A-1 to be consistent with the Land Use Map. He agrees that there was a mistake in the zoning of the property and also believes it should have been an agricultural district. Mr. Cropper also questioned Mr. McCabe who indicated his agreement of Mr. Lynch's testimony and the importance of agriculture in Worcester County. Mr. McCabe also testified that the lands to one side of this property are zoned RP yet the other side, previously occupied by the Nassawango Country Club and Golf Course, is zoned A -2. Relative to the Critical Area comments, Mr. McCabe explained that the property is considered Resource Conservation Area (RCA). The A-1 zoning would be consistent with these regulations. Mr. Cropper further

expressed that in the event two single family dwellings were built on the property, they would be required to comply with current Storm Water Management practices which could cause the water quality of the river to improve.

Mr. Hope explained that he owns and lives on the adjoining property. His family farm, encompassing the petitioned area, has been in the family for three generations and used for agricultural purposes for over one hundred years. Mr. Hope agrees that A-1 zoning is more compatible with the current and historical uses.

Mr. Knerr questioned the necessity of the request as the property can continue to be farmed as currently zoned. Mr. Cropper responded indicating that the property does not meet the definition for RP zoning and that the land is not environmentally sensitive. Mr. Cropper expressed that the RP District was a new district created in 2009 and felt that the County Commissioners were unaware of the impact that this zoning district would create. Mrs. Wimbrow explained that the RP District replaced the previously existing Conservation District by name only. Mr. Cropper alleged that the current agricultural field is a non-conforming use and that agriculturally used lands should be zoned agricultural. Staff again confirmed that pursuant to §ZS 1-105, cropland is allowed in every zoning district and that the current use is allowed by right. Mr. Mitchell expressed that he supports the RP zoning, especially the area surrounding the river and urged the Board to keep the existing zoning intact. Mr. Tudor posited that by following Mr. Cropper's argument, all cropland located in a C-2 General Commercial District or C-3 Highway Commercial District located along US Route 50 should be rezoned to an agricultural designation as well. Mr. Cropper expressed his disagreement with Mr. Tudor's remarks.

Mrs. Keener explained that approval from the Board of Zoning Appeals would be necessary for any future subdivision, as the lands in the front of the parcel are still proposed to remain RP District. Mr. Cropper replied by indicating it is not the intention of the current or prospective owners to subdivide. Mr. Tudor further elaborated explaining that a dwelling could be constructed as currently zoned by means of an approved special exception from the Board of Zoning Appeals. Mr. Clayville expressed that A-1 zoning is quite restrictive and RP zoning is even further restrictive and that he is unsure why the construction of a single-family dwelling requires a special exception.

The Planning Commission discussed each one of the findings to determine whether they had a consensus. They were as follows:

1. With respect to the definition of the neighborhood, they noted that defining the neighborhood was not necessary as the request is based upon a mistake.
2. With respect to the Planning Commission's concurrence with the definition of the neighborhood, they noted that this was not applicable as Mr. Cropper had asserted that there is a mistake in the existing zoning rather than a change in the character of the neighborhood.
3. Relating to population change, the Planning Commission finds that there has been no change.

4. Relating to the availability of public facilities, the Planning Commission finds that there is no impact upon public facilities as a single-family dwelling in this location would require a private septic system regardless of zoning. Additionally, they found that the Critical Area designation of RCA limits development to one dwelling per 20 acres; thus the petitioned area could theoretically have a maximum of two lots with one dwelling each.
5. Relating to present and future transportation patterns, the Planning Commission finds that present transportation patterns are sufficient as no significant changes are anticipated with a maximum of two dwellings permitted.
6. Relating to compatibility with existing and proposed development, and environmental conditions in the area, the Planning Commission finds that there would be no adverse impact.
7. Relating to compatibility with the Comprehensive Plan, the Planning Commission finds that the Land Use Map within the Comprehensive Plan reflects the petitioned area to be within the Agricultural Land Use area; therefore, rezoning would further the petitioned area's compatibility with the Comprehensive Plan.
8. Relative to the consideration of whether there has been a substantial change in the character of the neighborhood since the last Comprehensive Rezoning, the Planning Commission determined that there been no change.
9. Relative to whether the change would be more desirable in terms of the Comprehensive Plan, the Planning Commission found that it would.

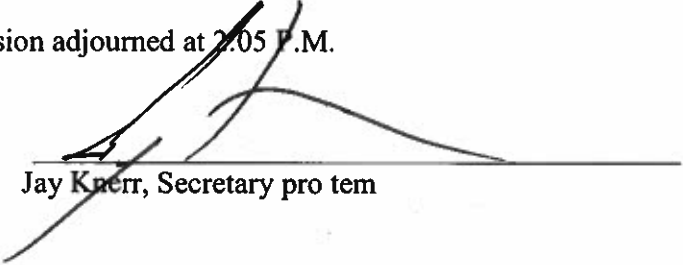
Following the discussion, a motion was made by Mr. Clayville, seconded by Ms. Ott and carried four to one, with Mr. Knerr in opposition, to find the map amendment for A-1 zoning of the uplands consistent with the Comprehensive Plan, subject to retaining the delineated wetlands as shown on the survey prepared by Mr. Lynch in the RP Resource Protection District, and forward a favorable recommendation to the Worcester County Commissioners based on the findings as outlined above.

VII. Election of Officers

As the next item of business, the Planning Commission considered the election of officers. Following a motion by Ms. Ott, seconded by Ms. Smith, and carried unanimously, the following members were elected to the officers' positions:

Chair: Mr. Knerr
Vice Chair: Mr. Wells
Secretary: Mr. Barbierri
TRC Representative: Mr. Clayville

VIII. Adjourn – The Planning Commission adjourned at 2:05 P.M.


Jay Knerr, Secretary pro tem

Jessica Edwards

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