



CECIL COUNTY, MARYLAND

Division of Planning and Zoning
200 Chesapeake Boulevard, Suite 2300, Elkton, MD 21921

Agricultural Preservation Advisory Board Meeting Minutes

April 12, 2018

Members Present: Anderson, Norm; Ewing, Willie; Hastings, Shelley (Vice Chair); Robinson, Charlie

Others Present: Boothe, Jason & O'Connor, Steve; Department of Land Use & Development Service, Division of Planning & Zoning

Call to Order

The meeting was called to order at 7:01 PM by Vice Chair Hastings.

Meeting Minutes

Mr. O'Connor explained that due to an oversight, the meeting minutes from August 2017 have not be reviewed and voted on by the Board. One typo was corrected. A motion was made by Anderson, seconded by Ewing to approve the meeting minutes, as amended, from the August 2017. The August 2017 meeting minutes, as amended, were approved by unanimous vote.

A motion was made by Anderson, Seconded by Ewing to approve the meeting minutes from December 2017. The December 2017 meeting minutes were approved by unanimous vote.

Announcements

Mr. O'Connor provided an update to the Board about the on-going MALPF application cycle, newly acquired MALPF easements, on-going projects, yearly MALPF inspections, and the County's recertification application. In addition, updates about passed state legislation that have an effect on preservation programs was provided. Additional updates regarding the Rural Legacy program, the new County park, and PDR funding were also discussed.

Presentation & Discussion

FY2019 MALPF Application Cycle

Mr. O'Connor requested the Board's input for the FY2019 MALPF application cycle. Specifically, the County's input in regards to MALPF's consideration to have another 2 year cycle on this year's applications. Mr. O'Connor explained that at the MALPF Board of Trustees meeting on April 24, the Board is going to consider whether to return to an every year application cycle or go to another 2-year application cycle. He further explained that this may affect the number of applications that are going to be as finalists to be appraised.

The discussion looked at the positives and negatives of each scenario. The positives of a 1-year cycle is that it would be more beneficial to the applicant as there is a consistent timing opportunity. The spending of each years allocated funding from the state is positive and that it helps the County and State reach their preservation acreage goals in a timely manner. The negatives of a 1-year cycle is that items such as inspections, stewardship, and serving the needs of current MALPF owners fall behind. There are logistical concerns about having the staff resources to complete applications each year, and that applicants will have to apply the following year without knowing if they're receiving an offer for preservation. Finally, the number of finalists that would be sent to MALPF would be less.

The positives of a 2-year cycle include having significantly more funding to purchase easements. Staff resources would not be as taxed, and there would be more time to complete inspection, stewardship, and serving the needs of current MALPF owners. In addition, the County would be able to send more finalists to the state. The negatives include having applicants wait over a year for an opportunity to apply, including apathy in the program. The poor outlook on the program from elected leaders, and the opportunities for the funding to be "borrowed" in a budget crisis if it is not committed.

Mr. O'Connor and Mr. Boothe reported that staff's recommendation is to go to a 1-year cycle. Specific issues to Cecil County include that projects that have been deferred during the recession are being funded now. The County is playing catch-up on some Capital Improvement Projects (roads, sewer, bridges, school construction, etc.) causing the County PDR program not to be funded in recent years. Therefore, from a customer service standpoint having an opportunity for applications each year outweighs the other, solvable concerns.

It was the consensus of the Board that MALPF should fund a 1-year cycle this year and if there are major issues that the debate of a 1-year or 2-year cycle can be revisited for FY2020.

Adjournment

A motion was made by Anderson, seconded by Ewing, for adjournment. The meeting was adjourned at 8:04 PM by unanimous vote.

underline = amended by addition

~~strikethrough~~ = amended by deletion

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Agricultural Preservation Advisory Board Meeting Minutes

May 10, 2018

Members Present: Anderson, Norm; Ewing, Willie; Hastings, Shelley (Vice Chair); Miller, Bob (Chair); Robinson, Charlie

Others Present: Boothe, Jason & O'Connor, Steve; Department of Land Use & Development Service, Division of Planning & Zoning

Call to Order

The meeting was called to order at 7:01 PM by Chairman Miller.

Meeting Minutes

Chairman Miller stated that he would not vote on the minutes since he did not attend the April meeting. A motion was made by Hastings, Seconded by Robinson to approve the meeting minutes from April 2018. The April 2018 meeting minutes were approved by a vote 4-0 with one abstention.

Announcements

Mr. O'Connor provided an update to the Board about the on-going MALPF application cycle, newly acquired MALPF easements, on-going projects, yearly MALPF inspections, and the County's recertification application. In addition, updates about passed state legislation that have an effect on preservation programs was provided. Additional updates regarding the Rural Legacy program, the new County park, and PDR funding were also discussed. Discussion ensued about MALPF's decision for a single year application cycle and MALPF's system of evaluating properties with potential changes.

Action Items

CE-01-06 Balderston Farm, LLC - Designation of a Pre-Existing Dwelling(s) as Tenant Home(s)

Mr. O'Connor presented this item to the Board. He explained due to the 2014 decision by the MALPF Board of Trustees to only consider minor subdivision potential for Tier III properties located within Priority Preservation areas; the MALPF requirement to have pre-existing dwelling units deducted from the number of qualifying development right for application purposes; that minor subdivisions are limited to a maximum of 5 lots, including the original parcel, from how a parcel existed on April 15, 1976 by the Cecil County Subdivision Regulations; and that there are 5 legally pre-existing dwellings with only 4 minor subdivision rights remaining on this parcel the property would not qualify to apply for MALPF without this designation.

He further explained that the MALPF Board of Trustees adopted a policy on November 24, 2015 that allows each County to adopt a policy to pre-designate tenant homes under certain conditions. On January 14, 2016 former Cecil County Executive Tari Moore approved the Cecil County policy which allows the designation of pre-existing tenant homes for MALPF applications. In summary, the policy requires an application to be made by the applicant to be reviewed and approved by the MALPF Program Administrator, the Cecil County Zoning Administrator, and this Board.

An application from Balderston Farm, LLC for the designation of 4 pre-existing tenant homes with the 5th remaining as the main home. The farming operation is a nearly 275 acre orchard that requires numerous seasonal employees. Discussion ensued regarding the long term ramifications of this designation, including if the farming operation changes from an orchard or a new owner purchases the property. After discussion, the Board requested the following comments be forwarded to MALPF.

1. Approval of this application is due to the farming operation being a labor intensive orchard operation.
2. Should the operation change and/or ownership change that the tenant house designation be reviewed with the to ensure compliance with the MALPF tenant house regulations.
3. If the property is placed under MALPF easement, that the easement document have “Pre-Existing Tenant Houses” added to the header of page one to make potential buyers aware of the conditions of this designation during the title search process.

A motion was made by Anderson, seconded by Hastings to approve the request and forward the aforementioned recommendations to MALPF. The motion passed unanimously.

Presentation & Discussion

MALPF Wetland Policy Update

Mr. Boothe presented an update from the MALPF committee on Wetland Overlay Easements. He stated that they had the first meeting on May 3, 2018 and the items discussed were the different types of wetland overlay easement programs from the federal government, state TMDL requirements, and possible shoreline restoration projects. He further stated that any refinements would likely be a MALPF policy at first and then change to be submitted as state regulation after a trial period. Potential issues include monitoring and using already preserved properties to be preserved for future off-site development. The Board presented their concerns about these project for long term success and agricultural benefit. They asked Mr. Boothe to follow up to see if the Soil Conservation Districts and/or Resource Conservation will have a chance to present their comments during one of these meetings. Additionally, while there is benefit for environmental purposes, there should be a no-flex position of taking active agricultural lands out of production for these purposes. MALPF is an agricultural program first and there are other land protection programs for environmental purposes.

Adjournment

A motion was made by Robinson, seconded by Ewing, for adjournment. The meeting was adjourned at 8:50 PM by unanimous vote.

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Agricultural Preservation Advisory Board Meeting Minutes

June 14, 2018

Members Present: Anderson, Norm; Hastings, Shelley (Vice Chair); Robinson, Charlie

Others Present: O'Connor, Steve; Department of Land Use & Development Service, Division of Planning & Zoning

Call to Order

The meeting was called to order at 7:12 PM by Vice Chair Hastings

Meeting Minutes

Mr. Anderson noted one typographical error in the meeting minutes. A motion was made by Anderson, Seconded by Robinson to approve the meeting minutes with a correction in the error from May 2018. The April May meeting minutes were approved by a unanimous vote.

Announcements

Mr. O'Connor provided an update to the Board about the on-going MALPF application cycle, newly acquired MALPF easements, on-going projects, yearly MALPF inspections, and the County's recertification application. Minor updates regarding a recent meeting regarding the Sassafras Rural Legacy Area was discussed.

Action Items

Cecil County Recertification Report Fiscal Year 2015 through Fiscal Year 2017

Mr. O'Connor presented this item for the Board review. This report is required per Division I, Title 5, Subtitle 4, Section 5-408(i)(2) of the State Finance and Procurement Article of the Annotated Code of Maryland requires that the County request recertification of the County's agricultural land preservation program.

He reminded the Board that the first draft was presented to them back in December while it was under review by the Maryland Department of Planning (MDP) and MALPF. He stated that the MDP comments came back in May and that there a few minor changes or clarifications, but otherwise MDP was very satisfied with the report.

The format and content of this report cover the agricultural preservation activities that have occurred in Cecil County during fiscal years 2015, 2016 & 2017. This activity includes the successful purchases of development rights. A summary of the conditions in the County's unrefined placeholder Priority Preservation Area (PPA) in accordance with the requirements of Section 2-518 of the Agriculture Article of the Annotated Code of Maryland. An update on the method,

evaluation, shortcomings and future actions that the County is using or will use to achieve preservation goals, and an update on the progress towards meeting preservation goals.

A motion was made by Anderson, seconded by Robinson to recommend approval of the report and forward the it MALPF. The motion passed unanimously.

Closed Session

A motion was made by Anderson, seconded by Robinson to enter closed session pursuant to the Maryland Annotated Code article General Provisions, Title 3 Open Meeting Act, Subtitle 3, Open Meetings Requirements, Section 305(b)(13) in order to comply with specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter. (COMAR 15.15.10 - MALPF Confidential Records). The motion passed unanimously.

The Board entered closed session at 7:30 PM and discussed specific FY2019 MALPF applications and rankings to be forwarded to the MALPF program by July 1, 2018.

A motion was made by Robinson, seconded by Anderson to exit closed session. The motion passed unanimously. The board exited closed session at 8:42 PM.

Adjournment

A motion was made by Robinson, seconded by Anderson, for adjournment. The meeting was adjourned at 8:44 PM by unanimous vote.

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Agricultural Preservation Advisory Board Meeting Minutes

July 12, 2018

Members Present: Anderson, Norm; Hastings, Shelley (Vice Chair); Miller, Bob (Chair); Robinson, Charlie

Others Present: O'Connor, Steve; Department of Land Use & Development Service, Division of Planning & Zoning; Cochran, Chris, Department of Economic Development

Call to Order

The meeting was called to order at 7:08 PM by Chairman Miller

Meeting Minutes

A motion was made by Robinson, Seconded by Hastings to approve the June 2018 Open Session and Closed Session meeting minutes. The motion was approved by a unanimous vote.

Announcements

Mr. O'Connor introduced Chris Cochran from the Department of Economic Development. He was hired in June as the County's Agribusiness Coordinator after Joanne Richart-Young's retirement a few months prior.

Mr. O'Connor informed the Board that Carol West has retired and that Michelle Cable has become MALPF's new Executive Director. He also informed the Board that the FY2019 MALPF applications were submitted, some previously approved projects were coming to their conclusion, and that the County's recertification report was scheduled to be heard at the MALPF meeting on July 24, 2018. He also informed the Board of some potentially upcoming projects, including MALPF's amending of the Wetland Overlay Policy. Mr. O'Connor handed out a draft copy for the Board to review prior to discussing it at the August 2018 meeting.

Action Items

07-13-04 Kilby's Inc. -- Uses Policy – Agritourism - Request to have public tasting and sales under the provisions of the Farm Brewery Law on MALPF property.

07-13-04 Kilby's Inc. -- Uses Policy – Processed (value-added) farm and forest products - Request to conduct a distillery operation on MALPF property.

Mr. O'Connor explained that these are two separate requests but were being presented at the same time by the applicant.

Roger Davis and Bill Kilby appeared to present the requests. Mr. Davis provided an update to the Board of the progress since the original request for a farm brewery two years ago. He provided some detail as to some successes and challenges that have occurred, but overall the brewery has generally move forward as envisioned in 2016. He explained that as the success have come in that the brewery has become limited as a condition of the original approval did not include on site sales. He also explained that subsequent to that approval, MALPF has updated their uses policy so that on site sales of the brewery products could be allowed under the Agritourism provisions. Mr. O'Connor further explained that per the original MALPF Board approval, the third condition required that any change of the brewery operation to allow guests would require both local and state board approval.

Mr. Davis' proposal is to construct a 30 foot x 60 foot building addition to the existing 40 foot x 40 foot building that hosts the brewery operation. He stated the main purpose of this addition would be to have a tasting room for the brewery product and some storage for on-site sales. He explained that the farm brewery license issued by the State of Maryland would allow him to sell products produced from Firetower Farm Brewery only. In addition, he would be allowed to have up to 16 festivals or events on site per the conditions of the Brewery license. Mr. O'Connor explained the proposed use is exempt from local zoning regulations as the Maryland Comptroller's office regulations supersede County regulations in regards to the location and use conditions with the issuance of a license for a farm brewery.

Mr. Davis provided details regarding the potential number of visitors, hours of operation, accessory sales, and parking locations. The Board had some questions regarding how the MALPF uses policy would apply this proposal. Chairman Miller suggested that the staff's advice to Mr. Davis had not considered all of the policy uses on this request. He added that the applicant would be in a better position if the request could include an approval for onsite processed (value-added) farm and forest products. It was clear that the events would be an Agritourism use, but wasn't sure that the onsite sales would be considered Agritourism. The addition of the onsite processed farm and forest product would ensure that the State Board had considered the on premise sales in this request.

Mr. Anderson asked about who is employed at the Brewery, and Mrs. Hastings asking if any additional employees would be required. Mr. Davis responded that it is currently it just him, but anticipates an additional one to two employees with the tasting room. Mr. Anderson inquired about the delivery logistics. Mr. Davis provided a detailed explanation. Mrs. Hastings asked if the bar tenders will be licensed. Mr. Davis responded that the bar tenders will be alcohol certified, and that tasting room will be limited only to what is made on the farm. No additional beer or liquor is allowed to be sold under the farm brewery license.

Mr. Anderson asked if the future would include exporting the beer from the brewery. Mr. Davis responded that the economics of it does not make sense, as he would have to be at large national brewery production scale to make it work. Mr. Anderson concurred with his assessment. Mr. Anderson inquired about outside storage, which Mr. Davis responded that there would be none.

Discussion ensued about the amount of beer that can be produced with the current setup. The Board was reminded that the original request limited production to 15,000 barrels (32 gallons per barrel) per year. Mr. Davis indicated that with current equipment and if the brewery was his full time work, he may be able to do 3,000 barrels per year. He stated that he only made 20 barrels in 2017.

Mr. O'Connor provided a staff recommendation of approval with two conditions. The first condition included providing a copy of the Farm Brewery License or a formal letter from the Comptroller's office, stating the number of onsite events allowed for this Farm Brewery. The second including that all other County zoning and/or permitting regulations being satisfied.

Mr. Robinson asked if there was any downside to applicant to adding the value-added use policy to this request. Mr. O'Connor stated that it would force the item to go to the MALPF Board, but in this case, the request is already heading to the Board per the 2016 MALPF approval conditions.

The second request was to add a distillery to the current operation. Mr. Davis explained that he believed that the use would not require MALPF approval since the product would be 100 percent on site grown and processed. Upon consultation with MALPF and County staff, he thought it would be prudent to seek this approval for the chance he like to add outside ingredients to the distilled products or if there was a time when it would have to be supplemented (i.e. bad growing season). He also envisioned using items, like orange peels, cinnamon, cocoa, etc., for future flavored spirits. He further clarified that the building addition was not for the distillery use, but that he would like to sell and store finished product in that area like the brewery request.

Mr. Robinson asked if the distillery would change the setup of the Brewery. Mr. Davis responded that other some new equipment all items will be in the current building.

Mr. Kilby provided some history of the Kilby farm and that at one time a distillery may have been on that farm during the prohibition era.

Mrs. Hastings inquired if the distillery products would go to the tasting room. Mr. Davis replied in the affirmative.

Mr. Anderson inquired about the timeline to open the distillery. Mr. Davis was thinking that the permitting and setup of the distillery would be sometime in 2019.

Mr. Robinson asked about the number of events allowed. Mr. Davis responded would 16 on-site events; subject the Comptroller's definition of events.

Mr. O'Connor explained that the State Comptroller's office has informed the County that this use must be completed with the consent of zoning, unlike the Farm Brewery. He further explained that this use would be classified as general "light industrial" under the permissible uses in the zoning ordinance. He explained that the use could occur on the property if a Special Exception with 10 conditions would be approved. Mr. Davis explained he wanted to go through the local board first prior to applying for the Special Exception. Mr. Davis added that all zoning approvals must obtained before applying for the federal and state permits.

Mr. Cochran presented a letter of support on behalf of the Department of Economic Development

Mr. O'Connor provided a staff recommendation of approval with two conditions. The first condition included providing a copy of all federal and state licenses for the distillery to state and MALPF staff. The second that all other County zoning regulations, including the approval of a Special Exception for this use, is satisfied.

A motion was made by Robinson, seconded by Hastings, for to approve the Agritourism use request and Value-Added use for the Farm Brewery tasting room, sales, tours, and events, with the following conditions:

1. The applicant providing to the County zoning office and MALPF staff, either a copy of the Farm Brewery License or a formal letter from the Comptroller's office, stating the number of onsite events allowed for this Farm Brewery.
2. All applicable County zoning regulations are satisfied.
3. In addition, APAB felt that while the Agritourism applied to the events the processed (value-added) farm and forest products would be the best policy to apply for day-to-day sales under the provisions of the farm brewery license. Their recommendation for approval also includes their support of that policy.

The motion passed by unanimous vote.

A motion was made by Anderson, seconded by Hastings, for to approve the Processed (value added) farm and forest product use request for the on-site distillery, with the following conditions:

1. The applicant providing either a copies all federal and state licenses required for the distillery to County staff and MALPF staff prior to beginning operations
2. All applicable County zoning regulations are satisfied, including approval of a Special Exception to operate this use.

The motion passed by unanimous vote.

Discussion

Chairman Miller discussed with the Board the idea to present to the Maryland Agricultural Land Preservation Foundation's (MALPF) Board of Trustees to amend the Farm Market and Roadside Stand conditions on MALPF eased properties. Specifically the request is to have the "Majority of products must be grown on site..." condition be changed to allow products grown on other nearby farms to be included to meet the majority requirement.

The Board discussed that for a Farm Market or Roadside Stand to be successful, a variety of products must be available for sale and having a situation where other local farmers have an investment in the farm market helps distribute the burden of costs. The Board also recognized the potential issues of changing the condition from majority to some, which this request to change "on-site" to "nearby farms" will still meet the intent of the policy. There are many details and logistical issues, such as distance to a nearby farm, must be considered. Being able to get products grown on the farm directly to the consumer is a key tool to agriculture's success, especially in this region of the Country.

The Board asked Mr. O'Connor to draft a letter and send it to MALPF for their consideration. Mr. O'Connor stated that he would draft and send such a letter.

Adjournment

A motion was made by Robinson, seconded by Anderson, for adjournment. The meeting was adjourned at 9:03 PM by unanimous vote.

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