

MINUTES

November 6, 2025

1:30 p.m.

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The Planning Commission met in regular session on Thursday, November 6, 2025, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. Members of the public were invited to attend in person or via conference call.

The following members were in attendance: Chair Joe Hickman, Vice Chair Paul Ruge, Ray Strong, Sean Jones, Bill Crowding, and Jon Quinn.

County Attorney Bobby Mowell, Esquire, was present. Staff attending included Carla Gerber, AICP, Acting Director; Rob Tracey, AICP, Associate Planner; Holly Baldwin, Associate Planner; and Beth Grieb, Office Manager, serving as Clerk.

Representatives for applications included: Krista Ortiz, project developer for Morgnec Road Solar; Val Newcomb, Vice President of Economic and Community Development for Urban Grid; Meagan Criscuoli, Law Offices of Stevens Palmer, LLC; Dan Mattson, Director of Public Works; Jim Lober, KCI Technologies; Nick Leffner, Kimley-Horn and Associates; Frances Yuhas, Turning Point Energy; Christopher Martin, Kimley-Horn and Associates; Ryan Wesson, Pneuma Solventless; Melissa Kidd, applicant; Lance Young, MacLeod Law Group; and Cindy Genther.

Individuals who signed the sign-in sheet included representatives and applicants listed above, as well as members of the public who spoke during public comment.

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

MINUTES

Motion: Mr. Crowding made a motion to accept the minutes of the meeting on October 2, 2025, with the correction that Buck Nickerson's address is on Ricauds Branch, not Records Branch Road. Mr. Strong seconded. The motion passed unanimously.

APPLICATIONS FOR REVIEW

23-34: Morgnec Road Solar, LLC – Major Site Plan (Amended – Gateway Amenity Location)

Location: Map 37, Parcels 40 and 174 near Chestertown – Fourth Election District – Zoned IV, CR, RR, and RCD

Staff Presentation by Carla Gerber: Ms. Gerber reported that Morgnec Road Solar LLC is requesting final site plan approval for the location of the gateway amenity that was required as a condition of their CPCN. The Planning Commission previously approved everything but the amenity location, with the provision that the applicant would return once the location was decided. Since January 2025, Urban Grid has been working with a committee of county, town, and community representatives to develop the gateway amenity. A Request for Qualifications was issued in September for artists to develop concept proposals. The committee is currently reviewing entries and

Adopted on December 4, 2025

will select up to five finalists to develop full proposals. Staff recommended that the Planning Commission grant final site plan approval for the amenity location.

Applicant Presentation: Kristina Ortiz, project developer for Morgnec Road Solar; Val Newcomb, Vice President of Economic and Community Development for Urban Grid; and Meagan Criscuoli from the Law Offices of Stevens Palmer, LLC, presented the application. Ms. Newcomb explained that the gateway committee included eight members: Kent County Planning Commission, Chestertown Town Manager, Kent Conservation and Preservation Alliance, Shore Rivers, Chestertown Public Arts Committee, a local county representative (Secethia Boardley-Davis), and a local business leader (Andrew Gillespie). The committee worked democratically through each stage of the process. Andrew Gillespie agreed to donate the concrete base and provide consultation on installation. The location was selected based on its proximity to potential future gateway amenities, its relationship to the town boundary, and coordination with Gillespie & Sons regarding their new entrance. The amenity will be set back approximately 50 feet from Morgnec Road, within the approved limits of disturbance. The artwork will be a sculpture made of durable materials that can withstand weather conditions and salt from winter road maintenance. The RFQ specified requirements for professional artists who do public installations.

Public Comment: Frank Rhodes, whose home and business are located directly across from the proposed amenity site, expressed concerns about: (1) not being included in the gateway amenity committee discussions; (2) speed and traffic safety along the road; (3) the height and effectiveness of the berms to screen the solar panels from his property; and (4) the drop-off along the road where the amenity will be located. Staff and the applicant addressed his concerns about berm height, plantings, and screening.

Board Discussion: Commission members discussed concerns about traffic safety given the straight road section, the size and nature of the amenity, the need for pull-off areas, setbacks from the road, durability of materials, and whether the amenity would attract people to stop. The applicant clarified that the amenity is not intended as a destination where people would park and visit, but rather as a visual marker. Members also discussed berm heights, plantings, and screening effectiveness for adjacent properties.

Motion: Mr. Crowding moved to approve the final site plan for the gateway amenity location for Morgnec Road Solar, LLC. Mr. Ruge seconded. The motion passed unanimously.

25-47: Kent County Government/Richardson Fresh Ponds, LLC – Major Site Plan (Concept) – New Millington WWTP

Location: Map 31, Parcel 6 – First Election District – Zoned MXD and MXDCA

Staff Presentation by Carla Gerber: Ms. Gerber presented the concept site plan for the new wastewater treatment plant for Millington. The plant will be located on a newly created 6.6-acre lot that will initially be accessed via private road, which will ultimately become a public road. The parcel is being subdivided from a 93-acre parcel on the east side of Route 301. The plant will serve as the regional wastewater plant for the town of Millington and the surrounding growth area. The parcel is located entirely within the Mixed-use Development Critical Area district. The development is consistent with the County's Comprehensive Plan as a permitted public utility. Engineers working on the design and staff at Public Works are aware of design standards in the zoning district and have indicated willingness to comply with landscaping and fencing requirements. The new plant will replace an existing plant located in the 100-year floodplain and will be upgraded to current best technology. Ms. Gerber noted that if tree removal becomes necessary, mitigation at a one-to-one ratio will be required because the site is in the Critical Area. Staff recommended approval to move forward to preliminary site plan.

Applicant Presentation: Dan Mattson, Director of Public Works, and Jim Lober from KCI Technologies presented additional information. Mr. Lober noted that the County coordinated with the current property owner to do grading in Spring 2025. No tree removal is anticipated. The owner of the larger parcel intends to develop the property at a future date and is very sensitive to vistas from that property, so the wastewater treatment plant will be heavily buffered from all sides with preservation of existing mature tree stands to the east and south. The property has sufficient frontage along Route 301 to accommodate a driveway if needed in the future, though the current plan uses a temporary access road from the Food Lion entrance. A permanent access easement has been established as a condition of the property sale, and the road will become a public street upon development of the area. The plant is designed to treat 350,000 gallons per day initially, with adequate space for future expansion to approximately 700,000 gallons per day. The existing Millington plant currently treats slightly under 100,000 gallons per day.

Public Comment: No members of the public spoke to the application.

Board Discussion: Commission members discussed concerns about permanent access, potential traffic from sludge hauling and chemical deliveries, the need for landscaping to screen the plant from neighbors, pumping requirements to move wastewater uphill from the current floodplain location, and future expansion capability.

Note: The following agenda item (Millington Water and Sewer Plan Amendment) was moved up in the order to accommodate the schedules of Mr. Mattson and Mr. Lober.

Millington Water and Sewer Plan Amendment

Location: 301 Economic Development Corridor

Staff Presentation by Carla Gerber: Ms. Gerber presented the county-sponsored amendment to the Comprehensive Water and Sewer Plan, which will expand water and sewer service areas to the northwest side of the Route 301 corridor at the Route 291 interchange, in the Everton project area. The process for making amendments is outlined in the Comprehensive Water and Sewer Plan. The current plan identifies the area between Millington and U.S. Route 301 as a future growth area and indicates that public services including water and sewer will be extended with development of the new wastewater treatment plant. It is now time to amend the plan to include the northwest corner of the interchange to allow full use of the defined growth area. The Unified Development Ordinance and Zoning Map both support development and extension of county services within the designated growth area. Staff recommended that the Planning Commission make a finding of consistency with the Comprehensive Plan and Ordinance and send a favorable recommendation to the County Commissioners for approval of the amendment. This amendment will also require approval by MDE and a public hearing with the County Commissioners.

Mr. Mattson added that the area being added was part of property already within the existing or planned service area but was separated by Route 301, and that piece was inadvertently left off the 2018 plan. The magnitude of land being added warranted the formal amendment process rather than an administrative correction.

Public Comment: No correspondence was received. No members of the public spoke to the application.

Motion: Bill Crowding moved to make a finding of consistency with the Comprehensive Plan and Unified Development Ordinance and send a favorable recommendation to the County Commissioners for approval of the Millington Water and Sewer Plan Amendment. Mr. Quinn seconded. The motion passed unanimously.

25-48: TPE MD KE51/William M. Chance, Jr., Successor Trustee – Major Site Plan (Concept) – Utility Scale Solar Facility

Location: 10066 Peacock Corner Road, Millington – First Election District – Zoned AZD

Staff Presentation by Holly Baldwin: Ms. Baldwin reported that TPE Turning Point Solar is requesting concept site plan review for a 40.9-acre utility-scale solar energy system. The proposed site is located at 10066 Peacock Corner Road near Millington and is zoned Agricultural Zoning District. The project is currently utilized agriculturally with mostly flat, tilled land. The anticipated output is five megawatts. The installation will use a pile-driven post support racking system. A 35-foot-wide perimeter landscaping buffer is planned to screen the fenced facility. Once operational, traffic to and from the site would be minimal. A pedestrian access path to a private burial site located on the property is planned with egress from Peacock Corner Road. The project received a CPCN from the Public Service Commission dated June 24, 2025, for construction of the community solar energy system. The CPCN includes conditions outlined in the staff report. Interconnection will be with Delmarva Power. Staff noted that the applicant does not plan any tree removal. The concept plan includes a landscape buffer perimeter with appropriate vegetation as outlined in the Kent County Unified Development Ordinance. The project presents no known nuisance issues, and a glare analysis memo has been submitted. Care will be taken to minimize and mitigate fugitive dust during construction. A concept stormwater management plan has been submitted with proposed utilization of a sediment trap or basin. The concept plan includes avoidance of the historic family burial plot and avoidance of state-identified historic sites to the southwest of the limits of disturbance. Staff recommended the applicant move forward to preliminary site plan.

Applicant Presentation: Frances Yuhas, project manager with Turning Point Energy; Christopher Martin and Nick Leffner from Kimley-Horn; and Megan Criscuoli from the Law Offices of Stevens Palmer presented the application. Frances Yuhas explained that Turning Point Energy has completed about five gigawatts of projects nationwide over the last eight years, with focus on community solar for the past six to seven years. Turning Point currently has about ten projects operational or under construction in Maryland under the state's pilot community solar program. Community solar allows people who cannot install solar on their own roofs to enjoy the benefits of renewable generation. The applicant believes the project is a good fit for this location given its rural nature and remote location, with ability to be easily screened from Peacock Corner Road and to the south where stream buffers and trees already exist. The Public Service Commission granted the CPCN in June 2025. The applicant is committed to complying with all licensing conditions, including decommissioning surety and a \$52,500 donation to the Kent County Agricultural Preservation Fund. Christopher Martin described the project as a five-megawatt solar facility with a 20-foot gravel access drive off Peacock Corner Road, adhering to 100-foot setbacks on all sides from all adjacent properties, plus a 35-foot landscape buffer. Additional buffering was added to the south of the property and curves were added to the access road to provide additional screening. The project will coordinate with emergency services for Knox box access. Stormwater management will use non-rooftop disconnects across the site.

Public Comment: David Chance, who lives directly across Peacock Corner Road from the proposed site, spoke in support of the project. He noted that his brother lives in one of the two houses next to his property. Both properties are owned by family members of William Chance, the landowner.

Board Discussion: Commission members discussed the adequacy of the landscaping buffer, the lack of berms, setback measurements from right-of-way, and ownership of adjacent properties by family members. Members expressed general support for the project noting its location and appropriate setbacks. The applicant requested

the ability to combine preliminary and final site plan review if all TAC comments can be addressed, and staff indicated this would be acceptable if the submission is complete with all necessary approvals.

25-49: Melissa Kidd – Special Exception and Variance – Commercial Dog Kennel

Location: 7515 Poplar Avenue, Chestertown – Seventh Election District – Zoned CR

Staff Presentation by Holly Baldwin: Ms. Baldwin reported that Melissa Kidd is seeking special exception approval for a commercial dog kennel on her 0.357-acre parcel located at 7515 Poplar Avenue in Chestertown, zoned Community Residential. Ms. Kidd is also requesting a variance for setback requirements related to a dog kennel, as well as approval for a reduction in minimum parking spaces for the use. The applicant currently operates a doggy daycare at her residence, caring for up to seven dogs during the day and up to four dogs at night, in addition to her three personal dogs. The nature of the site is a residential neighborhood where most lot sizes are roughly 0.3 acres, which is less than the current minimum lot size for the zoning district. The applicant has identified in her narrative that she staggers drop-off and pickup times for dogs to control traffic flow and utilize the current parking area. The applicant's lot is surrounded on each side and rear by neighboring residential properties. A waste management plan informed by the Kent County Health Department identifies mitigation efforts to avoid impacts on surrounding private wells. The narrative addresses potential noise issues by stating that the type of care offered minimizes barking and excitement. Staff witnessed a drop-off during a site visit and noted that dogs quieted down within 60 seconds. Staff noted that the size of the lot (0.357 acres) is smaller than the current minimum lot size required for the community residential zoning district (0.5 acres), which represents a practical difficulty in meeting the setback requirement for this use. Granting the variance would not cause substantial detriment to adjacent or neighboring properties, would not change the character of the neighborhood, and is consistent with the Comprehensive Plan's support for promoting small businesses. The site plan identifies a parking area/driveway that is 60 feet long by 12 feet wide, accommodating up to three vehicles. The use as dog kennel requires a minimum of four spaces. The applicant requested approval of a reduction, which is within the Planning Commission's authority to approve up to a 50% reduction if the establishment meets specific criteria, including staggered hours of use or home occupation. Staff recommended that the Planning Commission approve the reduction in required parking and forward favorable recommendations for both the special exception and the setback variance, with the condition that the number of dogs allowed on the property be limited.

Applicant Presentation: Melissa Kidd explained that her operation is not a traditional kennel with runs and barking dogs. She built her fence in 2011, initially just for her personal dogs, and did not start her business until 2019. The fence is completely open (not solid panels), which helps with noise. The dogs are all together in play groups - they have known each other for 4-5 years. She tries to take a minimal number of dogs to respect her neighbors, and many neighbors are also clients, which reduces traffic because they can walk their dogs over. Ms. Kidd transports most dogs to and from doggy daycare. At night, dogs are not outside - they are kept in her house without crates, so there is no barking. Her hours are 8:00 AM to 5:00 PM to avoid conflict with morning buses and neighbors' work schedules. After 5:00 PM, she doesn't allow dogs outside in play groups - only one or two at a time to go to the bathroom. She doesn't let them out before 8:00 AM in play groups to respect neighbors. Ms. Kidd noted that she had one complaint that initiated this process, and she has fixed that issue - her neighbor has a toddler who loves the dogs and would come onto her property, so she installed a privacy fence and put a barrier down her yard so children cannot access her property anymore. Ms. Kidd emphasized that her business is not visible from the street and that other houses in the neighborhood cannot tell her house is a business. She offered to work with any new neighbors who move in if issues arise.

Public Comment: Multiple members of the public spoke in strong support of the application. Kreigh Kirby and Caitlin Bush of 7518 Poplar Avenue (directly across the street) testified that they have lived across from Ms. Kidd since 2019 and have never had a single issue with noise, parking, or traffic. They noted that Ms. Kidd provides a great service to the County and that their veterinarian recommends her facility as one of only two kennels to clients. Other supporters included customers who testified about the excellent quality of care, the lack of any issues with the service, Ms. Kidd's consideration toward all customers, and her unique approach of allowing dogs to be free rather than crated. One customer noted driving from as far as Centerville because of the quality of care provided.

Board Discussion: Commission members engaged in extensive discussion about the variance criteria and whether the application meets all required findings. Specific concerns were raised about: whether the variance would constitute a substantial detriment to adjacent properties if the property were sold; whether the variance would change the character of a residential neighborhood; the small lot size creating practical difficulty; and the very large reduction in setbacks from 200 feet to 8.5 feet and 10 feet. Staff explained that the practical difficulty is the size of the lot relative to the setback requirement for dog kennels, and noted that while neighbors currently support the application, future neighbors might not. County Attorney Bobby Mowell clarified the legal framework and noted that the findings for granting a variance are appealable if not properly supported. Ms. Gerber explained that the setback requirement is actually a condition within the special exception use, not a traditional fence setback, which caused some initial confusion. The variance is on a specific criterion of the special exception - the requirement that "open dog pens, runs, cages or kennels must be at least 200 feet from any side or rear lot line." Since Ms. Kidd's fence (which constitutes her kennel/cage area) cannot meet this requirement on a 0.357-acre lot, a variance is necessary. Commission members discussed adding conditions regarding maximum number of dogs and hours of operation.

After discussion and clarification of the procedural requirements (variance must be considered first as the special exception cannot be granted without it), the Commission took the following actions:

Motion on Setback Variance: Mr. Crowding moved to send a favorable recommendation to the Board of Appeals for the setback variance for Melissa Kidd operating Hot Diggity Dawg kennel at 7515 Poplar Avenue in Chestertown, Maryland, to reduce the required 200-foot side yard setback to 8.5 feet and to reduce the 200-foot required rear yard setback to ten feet finding that the granting of the variance will not cause substantial detriment to adjacent or neighboring properties; the variance will not change the character of the neighborhood or district; the Comprehensive Plan supports this application as it recognizes the importance of encouraging small businesses; the practical difficulty is due to the size, shape, and configuration of the parcel. The property is below the current minimum lot size for the zoning district. Mr. Ruge seconded. The motion passed 5-1.

Motion on Special Exception: After substantial discussion about how to frame the recommendation given concerns about some of the special exception criteria, Mr. Crowding moved to send an unfavorable recommendation to the Board of Appeals for the special exception for Melissa Kidd operating Hot Diggity Dawg kennel at 7515 Poplar Avenue in Chestertown, Maryland, with the statement that if the Board of Appeals can find that the application meets all the required criteria in Article 4, Section 1.3 of the Unified Development Ordinance (including nature of the proposed site, traffic patterns, nature of surrounding area, proximity to dwellings and public gathering places, impact on community facilities, preservation of cultural and historic features, probable effects of noise and other nuisances, purpose and intent of the ordinance, design standards, appropriate use of land, conservation of property values, water quality impacts, fish and wildlife habitat impacts, and consistency with the Comprehensive Plan), then the Board should approve it. Mr. Ruge seconded. The motion passed 5-1.

Motion on Parking Reduction: Mr. Jones moved to approve the reduction in the recommended number of parking spaces for Melissa Kidd and Hot Diggity Dawg daycare located at 7515 Poplar Avenue in Chestertown from the required 4 spaces to 3 parking spaces, based on the narrative and the fact that she staggers her pickup times and 3 spaces seemed adequate for the use. Mr. Strong seconded. The motion passed unanimously.

25-51: Pneuma Solventless – Zoning Text Amendment – PUBLIC HEARING

Proposal: Adding Cannabis Processor as a defined term and permitted use in C, CCA, EC, ECCA, MXD, MXDCA districts

Public Hearing Notice: Chair Hickman read the public hearing notice published in the Kent County News on October 30, 2025. The notice announced that the Planning Commission would hold a public hearing on November 6, 2025, at 1:30 PM in the County Commissioners Hearing Room at 400 High Street, Chestertown, Maryland, for the following item: Pneuma Solventless Incorporated zoning text amendment adding cannabis processor as a defined term and permitted use in the following districts: C, CCA, EC, ECCA, MXD, MXDCA.

Staff Presentation by Carla Gerber: Ms. Gerber explained that this is a zoning text amendment request to add cannabis processor as a defined term and a permitted use in a number of districts. The applicable law is Article 1, Section 3.3 of the Unified Development Ordinance, which establishes standards for review and approval of zoning text amendments. When reviewing a zoning text amendment, the Planning Commission must address how the proposed text amendment would serve the public interest in general and the extent to which it complies with or deviates from the Comprehensive Plan and Critical Area Law. The Comprehensive Plan has clear goals and strategies to expand and provide more diversity in the size, number, and type of businesses, and to promote development of small, locally owned businesses. Staff noted that opportunities to allow economic expansion are in the public interest and consistent with the Comprehensive Plan. However, staff commented that the text amendment as proposed is too broad and should be narrowed to address the specific need of the applicant. Staff noted that manufacture, processing, fabrication, and assembly of products, including drugs, medicine, and pharmaceuticals or similar uses, is permitted by right in Employment Center, Employment Center Critical Area, Mixed-use Development, and Mixed-use Development Critical Area districts. It is in the Commercial district only that manufacture, processing, fabrication, and assembly of products is limited to the U.S. Route 301 corridor. Staff recommended an amended text amendment for consideration by the County Commissioners: to add new language to the end of the existing use for manufacture, processing, fabrication, and assembly of products, adding "with the exception of cannabis processor as defined by the State of Maryland located on property served by public water and sewer." Staff explained that the County currently addresses all cannabis uses by a comprehensive policy, and singling out the processing use would potentially leave growing, distribution, and combined uses with unclear status. The County's approach to all cannabis uses is considered a model by the State of Maryland. Staff believes the need may be met simply by adding an exception to the existing use and that a new use or definition is not required. Staff also noted that including Critical Area zoning districts would require approval by the Critical Area Commission following adoption by the County Commissioners, which could delay the effective date by several months. Staff recommended sending a favorable recommendation of the zoning text amendment as amended to the Board of County Commissioners.

Applicant Presentation: Ryan Wesson (175 Carol Road, Pasadena, Maryland) and Lance Young (MacLeod Law Group) presented the application. Mr. Young announced that after reviewing TAC comments, the applicant would withdraw the text amendment request for Critical Area zones and amend their application to apply only to Commercial and Mixed-use districts. He explained that their goal is to provide the County with a simple

amendment to allow cannabis processing as a permitted use without ambiguity, which he argued currently exists. He proposed merely adopting the State definition of cannabis processor from the Alcohol and Cannabis Article into the County zoning ordinance. After researching several jurisdictions around the state, he found that each county handles cannabis differently, but Caroline County adopted a simple, straightforward approach a couple of years ago that has worked well - exactly what Pneuma is proposing. Mr. Young reviewed Maryland law (Section 36-405 of the Alcohol and Cannabis Article) stating that political subdivisions may not establish zoning requirements that unduly burden cannabis licensees. He explained that Pneuma Solventless obtained a license for cannabis processing from the state through a lottery process. The license is conditional - they must find a location and become operational within a limited timeframe or lose their license. They are currently under significant time pressure, with a deadline of February 2026. He noted that in 2023, Kent County Commissioners passed Resolution 2023-12 directing the Planning and Zoning Office to approve cannabis processing as a permitted by right use in industrial zones. In the 2025 Zoning Ordinance, industrial zoning was completely absorbed into commercial zoning, creating ambiguity about how to proceed. The current ordinance has manufacturing/processing for food products (permitted as special exception in commercial zones) and manufacturing/processing for pharmaceutical products (permitted by right but only in the Route 301 corridor in commercial districts). Mr. Young argued that cannabis processing doesn't fit either category - it's not food processing and it's not pharmaceutical manufacturing. He stated that if different planning directors interpret the ordinance differently over time, this creates the very definition of ambiguity that needs to be clarified.

Ryan Wesson explained the State licensing process. The State started with a medical cannabis program in 2015-2016 with a rigorous application process and limited licenses. Private equity firms from out of state acquired many licenses, which was not the spirit of the original program. The State tried to correct this with social equity licenses through a lottery system, requiring zip code requirements to ensure Maryland residents would operate businesses. Pneuma was selected in the lottery for the Eastern Shore region. The license is conditional - they must meet requirements including background checks, financial audits, and tax documentation before becoming operational. Additional requirements include occupancy inspections, fire marshal inspections, and safety requirements. A cannabis processor is "a licensed entity that transforms raw cannabis into another product or an extract, then packages and labels that product and sells to a third-party retail license." They are not involved in cultivation or retail - they are the extension of the cultivator and the middleman between the farmer/grower and retail. The process essentially takes what already exists in the plant and creates an extract or oil, which then goes into various products. Mr. Wesson displayed a handout showing common product forms processors create - all starting with the same ingredient (raw cannabis). Different products require only slight changes in production process (temperature and container). He explained they are not processing food, as the Maryland Cannabis Administration does not subject processors to Health Department oversight. They are also not processing pharmaceuticals or medicine - cannabis is approved for 21-and-over use with medical recommendations but not prescriptions. Mr. Wesson described the difficulty finding a location since obtaining the license, noting that almost every county on the Eastern Shore has different requirements and restrictions. Even when Queen Anne's County passed an ordinance allowing his use in certain zones, no available facilities in those zones were legal due to setback violations. The State's time requirement has created significant pressure. Mr. Wesson noted that one facility they found on the Route 301 corridor was a large warehouse costing over \$1,000,000, with an additional \$4-5 million needed to make it operational - far beyond the capabilities of a small local business. He stated this is what happened in the first round of licensing, attracting private equity firms catering to investors rather than small local operations.

Mr. Young concluded by emphasizing that they are not just thinking about this application but about how people will interpret the ordinance 10 years down the road. The goal is to make it clear so future planning directors don't interpret it differently. He argued that cannabis processing is unique and doesn't fit existing definitions in the zoning ordinance, so why not put something in the ordinance that says exactly what it is by using the State definition.

Public Comment: No written correspondence was received. Cindy Genther spoke in support of the text amendment. She explained that she has been helping Pneuma Solventless find a location in Kent County, and they have been struggling with the zoning ordinance. After meeting with former Planning Director Bill Mackey, they found that some products (food products) could only be manufactured in commercial districts as a special exception, while other products could be manufactured in employment center districts. The number of existing facilities in Kent County suitable for their needs is very limited. The majority of land in the Employment Center district has few existing buildings, and those that exist are large - but the applicant needs a commercial-size building of approximately 2,000 to 8,000 square feet on about 2 acres. Building a new facility is cost prohibitive and time prohibitive. Ms. Genther stated that the best outcome would be finding a way to get the applicant into an existing facility with an appropriate text amendment. She noted that after three years of zoning task force meetings, they are realizing some things were inadvertently omitted from the new ordinance.

Board Discussion: County Attorney Bobby Mowell provided legal guidance regarding the state law prohibiting "unduly burdensome" zoning requirements. He explained that the law applies when counties pass zoning ordinances specifically about cannabis. The current Kent County approach of not specifically zoning cannabis is not unduly burdensome. However, once the county starts specifically zoning cannabis (such as by requiring public water and sewer), the question arises whether that becomes unduly burdensome. He noted this is a policy decision for the Commission to make, but they should be fully informed of the legal implications. He suggested that if the Commission wants to require public water and sewer, staff should elaborate on the factual record for why that requirement is not unduly burdensome, to protect against potential legal challenges. Ms. Gerber explained that she does not believe requiring public water and sewer for commercial properties is unduly burdensome because: (1) it serves the public interest to keep this use in areas better able to support it; (2) it does not limit the use to a single location - multiple locations have commercial zoning with water and sewer; and (3) the small pockets of commercial land (such as at crossroads like Route 298 and Route 292 near Still Pond) are very small and probably not appropriate for this use anyway. Commission members discussed at length the difference between the applicant's proposed approach (adding cannabis processor as a new defined use) versus staff's recommended approach (adding an exception to the existing manufacturing/processing use). Members questioned why manufacturing/processing was restricted to the Route 301 corridor in commercial districts when the ordinance was rewritten. Ms. Gerber explained that the commercial district absorbed the crossroads commercial district, which created broader commercial uses throughout the county's residential areas, but the manufacturing/ processing limitation to Route 301 was maintained from the previous ordinance. Jamie Williams from Economic and Tourism Development noted that the county needs to grow its commercial base - a healthy economy typically has 30% of property tax revenue from commercial, but Kent County is in the low teens. She suggested opening up commercial properties to different types of businesses as new industries emerge. Commission members debated whether staff's proposed amendment (limiting to properties with public water and sewer in commercial zones) would meet the applicant's needs. The applicant indicated they were not sure, as this was the first time hearing that specific proposal. One member asked if the applicant had identified a specific property and whether it had public water and sewer. Mr. Wesson indicated he had signed a lease three days ago on a property with public water and sewer in hopes the text amendment would pass. Discussion returned to

whether the requirement for public water and sewer was appropriate and whether it might be unduly burdensome. Members also discussed that while current neighbors support applications, future ownership could change circumstances.

Motion to Close Public Hearing: Bill Crowding made a motion to close the public hearing. Ray Strong seconded the motion. The motion passed unanimously.

Motion on Zoning Text Amendment: After extensive discussion about the two approaches, Mr. Crowding moved to send a favorable recommendation to the County Commissioners for a zoning text amendment for Pneuma Solventless to amend the Unified Development Ordinance Article 3, Section 2.95 regarding the definition of manufacturing, processing, fabrication, and assembly of products, as amended by staff to add language stating "with the exception of cannabis processor as defined by the State of Maryland located on property served by public water and sewer"; finding that the proposed zoning text amendment serves the public interest and is consistent with the Comprehensive Plan and the Unified Development Ordinance. Mr. Ruge seconded. The motion passed unanimously.

GENERAL DISCUSSION

Betterton Comprehensive Plan

Rob Tracey, AICP, presented the draft comprehensive plan for Betterton. The Town is in the process of updating their plan, which was originally adopted in 1997 and rewritten in 2009. The comprehensive plan outlines Betterton's goals and visions for the next 20 years for the Town's growth, development, and conservation. The update follows the same general direction as the 2009 plan. Seven initiatives were outlined in the plan, including improvements to public infrastructure, expansion of emergency services, housing, public recreation, and other initiatives. The review of this plan is a courtesy for neighboring jurisdictions. If the Planning Commission has any significant concerns, those can be relayed to the Town of Betterton for their consideration as they go through the approval process. Commission members had no comments or concerns about the Betterton Comprehensive Plan.

STAFF REPORTS

October Board of Appeals Update:

Ms. Gerber provided an update on the October Board of Appeals meeting. The pier variance for Mr. Schottland was denied - the Board of Appeals did not find a practical difficulty due to siltation of the riverbed. The buffer variance for the Millers (for an addition at Great Oak) was granted. A third application was an appeal of an administrative decision for a special exception, and the Board of Appeals upheld Mr. Mackey's decision.

Agricultural Preservation Fund Donations from Solar Facilities:

In response to a question raised during an earlier application, Ms. Gerber provided an update on donations to the agricultural preservation fund from solar facilities. When applications need a CPCN, there is a 90-day period during which applicants reach out to local governments with draft documents to give the county a chance to review and provide comments on consistency with the Comprehensive Plan or request changes. This solar facility (TPE/Turning Point) is the first one where the County started requesting a donation to the local preservation fund. The donation is calculated using Maryland Department of Agriculture's agricultural value formula - taking the limits of disturbance for the solar facility, determining the soils within that area, and calculating an agricultural value. The county then requests that amount as a donation to the local preservation fund. This approach has been

used for all applications since the Turning Point Energy application. Ms. Gerber noted she will provide information to the Commissioners and Planning Commission members about expected tax payments from the solar facilities.

November Agenda Preview:

Staff indicated that the December meeting could be another large one, with approximately 12 applications on the TAC agenda (though not all will come to the Planning Commission). Applications include a special exception for a cemetery, a lot coverage variance, and a special exception for assisted living, among others.

ADJOURN

Chair Hickman called for a motion to adjourn. Mr. Crowding made a motion. The meeting adjourned at approximately 4:15 p.m.

/s/ Francis J. Hickman

/s/ Carla Gerber

Francis J. Hickman, Chair

Carla Gerber, AICP, Acting Director

Please note 95% of this document was created by Claude Sonnet 4.5 from Anthropic with a transcript from MS Teams.