

MINUTES

April 3, 2025

1:30 p.m.

Video recordings of the Kent County Planning Commission meeting are available online for viewing on the County's YouTube channel at <https://www.youtube.com/@kentcountygovernment2757>. Meeting materials are available on the County portal at <https://www.kentcounty.com/commissioners/kent-countys-agenda-and-minutes-portal>.

The Planning Commission met in regular session on Thursday, April 3, 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, Jim Saunders, Ray Strong, Sean Jones, William Crowding, and Jonathan Quinn.

Acting Planning Commission Attorney Thomas N. Yeager, Esquire, was present. Staff attending included Bill Mackey, AICP, Director; Carla Gerber, AICP, Deputy Director; Robert Tracey, AICP, Associate Planner; Beth Grieb, Office Manager, serving as Clerk; and Tyler Arnold, GIS Specialist.

Individuals who signed the sign-in sheet included Janet Christensen-Lewis, KCPA, and Allan V. Durham.

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

MINUTES

Mr. Saunders moved to approve the minutes of the meeting on March 6, 2025. Mr. Strong seconded. The motion passed unanimously.

LEGAL

*22-67 Everton Industrial, Lot 1 – Major Site Plan – Review of curb cut and setback waivers
Map 31, Parcel 6, Part 1, Lot 1 near Millington – First Election District – Employment Center (EC)*

*23-28 Everton Industrial, Lot 2 – Major Site Plan – Remand of curb cut and setback waivers
Map 31, Parcel 6, Part 1, Lot 2 near Millington – First Election District – Employment Center (EC)*

County Attorney Tom Yeager explained that the preliminary site plan in the Everton matter was petitioned to the Circuit Court for judicial review. The Court found that the approval for the preliminary site plan was not reviewable because it was preliminary. However, the court noted that in addition to the vote on the preliminary site plan, there were two other votes: one for the curb cut waiver and the other for establishing setbacks. The Court could not determine from the minutes whether these two approvals were final actions or merely advisory to give the applicant guidance.

Adopted on May 1, 2025

The Court remanded the curb cut waiver and setback waiver issues to the Kent County Planning Commission for further action: either (1) indicating that waivers were not approved, or (2) issuing additional written findings as to what they considered and their reasons for approving the waiver.

Mr. Crowding stated that when the plans were submitted, they were submitted as three separate items: the preliminary plan, the road cut/curb cut waiver request, and the building setbacks. He clarified that his motions for the curb cut waiver and setbacks were intended as separate items and not preliminary.

On the curb cut waiver, Mr. Crowding stated that staff found the proposal complied with the spirit and intent of the land use ordinance and comprehensive plan. The waiver would not cause substantial detriment to adjacent or neighboring property. The Maryland Department of Transportation indicated the waiver would not create a safety hazard or increase traffic congestion. MDOT requested more sight distance coming out of the intersection and asked for marked trees within the State highway to be removed. The applicant testified the waiver was the minimum necessary to relieve practical difficulty and was not sought for convenience, profit, or caprice.

Mr. Crowding moved to reaffirm the waiver that was granted for those reasons listed, noting that the waiver was a final decision, and incorporated into the written minutes of this meeting, specifically those findings as presented at the summer meeting [June 6, 2024] and referenced in the transcript pages 176-180, specifically page 178, #19; Page 179, #1-21; and the discussion on pages 176 and 177. Mr. Jones seconded. The motion passed unanimously.

On the setbacks, Mr. Crowding explained that the applicant requested a 15-foot setback along Edge Road and had a 50-foot setback along Chesterville Bridge Road. The Planning Commission voted for a 50-foot setback along Edge Road to maintain consistency. The applicant initially requested 15 feet due to potential future parking needs but agreed to the 50-foot setback. The engineer and owner confirmed this would be acceptable.

Mr. Crowding moved to reaffirm the [modified] setback requirement of 50 feet along Edge Road and 50 feet along Chesterville Bridge Road, as voted on at the June [6, 2024] meeting, noting that the action was final, referencing transcript pages 181-186. Mr. Strong seconded. The motion passed unanimously.

APPLICATIONS FOR REVIEW

Note: Mr. Sean Jones recused himself for the following three applications, and he left the hearing room during the deliberations and the votes on these three items.

*ALP 24-02 -- Lester C. Jones & Sons, Inc. -- Ag Preservation District Rec to CCs
12824 Massey Road, Massey -- First Election District -- Agricultural Zoning District (AZD)*

Mr. Tracey presented the staff report, noting the farm is 258 acres and meets all criteria for the creation of an agricultural preservation district. Staff recommended a favorable recommendation.

Mr. Crowding moved to send a favorable recommendation [to the County Commissioners] for Lester C. Jones & Sons, Inc. to create an agricultural preservation district on their 258-acre farm located at 12824 Massey Road, finding that it exceeds the minimum 50-acre lot size requirement; at least 50% of the land consists of soil capability classes 1, 2, or 3; the property consists of land which is either used primarily for the production of food or fiber,

or is of such open space character and productivity compatibility that continued agricultural production is feasible; is considered a suitable location in the Priority Preservation Area of the County; and, the land has development potential. The Agricultural Advisory Board has reviewed this application and recommends approval of the district. Staff recommends forwarding a favorable recommendation to the County Commissioners for the establishment of an agricultural preservation district on this property. Mr. Quinn seconded. The motion passed unanimously.

*ALP 24-03 -- Lester C. Jones & Sons, Inc. -- Ag Preservation District Rec to CCs
13013 Massey Road, Massey -- First Election District -- Agricultural Zoning District (AZD)*

Mr. Tracey presented the staff report, noting the farm consists of 99.55 acres with 96 acres of cropland and 3.55 acres associated with a dwelling. Approximately 96% of the soils are considered class 1 or 2. The farm is in the Agricultural Zoning District and Priority Preservation Area, adjacent to over 1,000 acres of other districts, easements, and public lands. It is outside the 10-year water and sewer plan. The application meets all criteria for the creation of an agricultural preservation district. Staff recommended a favorable recommendation.

Mr. Crowding moved to send a favorable recommendation to the County Commissioners for the proposed agricultural preservation district on the lands of Lester C. Jones & Sons, Inc. on their 99.5-acre farm located at 13013 Massey Road, finding that the farm exceeds the 50-acre minimum required; at least 50% of the land consists of soil capability classes 1, 2, or 3; it lies outside the 10-year water and sewer service area; consists of land which is primarily for the production of food or fiber; it is located in the Priority Preservation Area; and the land has development potential; that the Agricultural Advisory Board has reviewed the application and recommends approval of the district and the staff has reviewed and recommends sending a favorable recommendation to the County Commissioners for the establishment of an agricultural preservation district on this farm. Mr. Strong seconded. The motion passed unanimously.

*ALP 24-04 -- Lester C. Jones & Sons, Inc. -- Ag Preservation District Rec to CCs
Massey Road, Massey -- First Election District -- Agricultural Zoning District (AZD)*

Mr. Tracey presented the staff report, noting that the farm consists of 154.9 acres with 95.5 acres of cropland and 59 acres of woodland. Approximately 78% of the soils are considered class 2 or 3. There is no dwelling on the property. The farm is in the Agricultural Zoning District and Priority Preservation Area, adjacent to over 1,000 acres of other districts, easements, and public lands. It is outside the 10-year water and sewer service areas. The application meets all criteria for the creation of an agricultural preservation district. Staff recommended a favorable recommendation.

Mr. Crowding moved to send a favorable recommendation to the County Commissioners to put Lester C. Jones & Sons, Inc. for their 154.9-acre farm located on Massey Road in an agricultural preservation district on testimony that it exceeds the minimum 50 acres required; it exceeds 50% of the land consisting of soil capability classes 1, 2, and 3; generally the land is lying outside of the 10-year water and sewer service area; that the property consists of land primarily for the production of food or fiber; it is not located within a Priority Funding Area; the land does have development potential; and the Agricultural Preservation Advisory Board has reviewed this application and recommends approval of the district; and that staff recommends forwarding a favorable recommendation to the County Commissioners for the establishment of an agricultural preservation district on this farm. Mr. Strong seconded. The motion passed unanimously.

Note: Mr. Sean Jones returned to the meeting following these applications.

ALP 24-05 -- Fairfield One, LLC -- Ag Preservation District Rec to CCs

Locust Grove Road, Kennedyville -- Second Election District -- Agricultural Zoning District (AZD)

Mr. Tracey presented the staff report, noting that the farm is 203.11 acres located on Locust Grove Road in Kennedyville. The farm is entirely cropland with all soils considered class 2 or 3. There is no dwelling on the property. The farm is in the Agricultural Zoning District and Priority Preservation Area, adjacent to over 1,000 acres of agricultural preservation districts and other preserved lands. It is outside the 10-year water and sewer service areas. The application meets all criteria for the creation of an agricultural preservation district. Staff recommended a favorable recommendation.

Mr. Crowding moved to send a favorable recommendation for Fairfield One LLC to place their 203.11-acre farm located on Locust Grove Road near Kennedyville in the second election district [in an agricultural preservation district, finding] that the farm exceeds the 50-acre minimum required, that 100% of the property consists of soil capability classes 1, 2, or 3, that the land lies outside of the 10-year water and sewer service area, that the property consists of land which is either used primarily for the production of food or fiber, that it is not located in a Priority Funding Area, and that the land has development potential, pointing out also that in the staff comments that the proposed district complies with MALPF criteria for applying to sell an easement; therefore, the property meets or exceeds the criteria for creating an agricultural preservation district and complies with the goals of the comprehensive plan to preserve large blocks of contiguous prime agricultural land, and that the Agricultural Preservation Advisory Board has reviewed the application and recommends approval of this district. Staff recommends sending a favorable recommendation to the County Commissioners for the establishment of an agricultural preservation district on this farm. Mr. Quinn seconded. The motion passed unanimously.

PUBLIC COMMENT

Public comment was received from Janet Christensen-Lewis, KCPA, and Allan V. Durham regarding the discussion by the Planning Commission related to the Everton Industrial warehouses including the setback waivers granted.

Mr. Mackey clarified that in Employment Center district, the setback is applied to the parking lot. Even with the reduction, the buildings would still be further back than the normal setback for the area.

Mr. Crowding noted that part of the preliminary approval included a condition that the applicant must return with plans for berms on the site.

GENERAL DISCUSSION

Transportation Priority Letter Recommendation to County Commissioners

Mr. Mackey presented the annual transportation priority letter. The letter's content remains largely the same from year to year, with minor adjustments from the Towns. The major request is the second crossing into

Chestertown (Chester River Boulevard Bypass), estimated at \$640 million in 2010 and likely closer to \$1 billion now. The project is not eligible for State ranking this year because it exceeds the cost cap.

Mr. Crowding suggested getting support from the school board regarding sidewalks on Routes 298, 297, and 292, noting safety concerns for children walking to school in these areas.

Mr. Crowding moved to recommend forwarding the letter from Planning and Zoning to the County Commissioners for their signature [to send] to the State of Maryland Department of Transportation. Vice Chair Ruge seconded. The motion passed unanimously.

STAFF REPORTS

Mr. Mackey sought clarification from the Planning Commission's Attorney Tom Yeager, Esq. regarding whether a judicial review would stay the process of review. Mr. Yeager confirmed there is not an automatic stay unless the petitioner requests a Court Order. The applicant would proceed at their own risk, as any successful petition for judicial review could invalidate work done during that time.

ADJOURN

Chair Hickman called for a motion. Mr. Crowding moved. Vice Chair Ruge seconded. The meeting adjourned at approximately 2:45 p.m.

/s/ Francis J. Hickman
Francis J. Hickman, Chair

/s/ William Mackey
William Mackey, AICP, Director

Please note that 80% of this document was created by Claude 3 from Anthropic, using a transcript from Microsoft Teams.