

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

CUAP 19-131-008

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NOAH & ANNIE FISHER

FIFTH ELECTION DISTRICT

DATES HEARD: JUNE 11, 2020 & AUGUST 8, 2020

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ORDERED BY:

Mr. Hayden, Mr. Brown, Ms. Delahay,  
Mr. Miedzinski, and Mr. Richardson

ENVIRONMENTAL PLANNER: STACY CLEMENTS

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DATE SIGNED: August 27, 2020

### Pleadings

Noah & Annie Fisher (the “Applicants”) seek conditional use approval, CUAP Number 19-131-008, for a chicken processing plant within the Rural Preservation District (“RPD”).

### Public Notification

The hearing notice was advertised in *The Enterprise*, a newspaper of general circulation in St. Mary’s County (“County”), on May 27, 2020 and June 3, 2020. The hearing notice was also posted on the Property. The file contains the certification of mailing to all adjoining landowners, including those located across a street. Each person designated in the application as owning land that is located within two hundred feet of the subject property was notified by mail, sent to the address furnished by the St. Mary’s County Department of Land Use and Growth Management (“LUGM”). The agenda was also posted on the County’s website on June 3, 2020. Therefore, the St. Mary’s County Board of Appeals (“Board”) finds and concludes that the Applicants have complied with the notice requirements.

### Public Hearing

A public hearing was conducted at 6:30 p.m. on June 11, 2020 and August 8, 2020 at the St. Mary’s County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, the proceedings were recorded electronically, and the following was presented about the proposed conditional use requested by the Applicants.

### The Property and the Site

The Applicants own a property of approximately 60.73 acres (the “Property”) at 36723 Dixie Lyon Road, Mechanicsville, Maryland. The Property is located in the RPD and is identified on Tax Map 8, Grid 7, Parcel 318, Farmstead B of the Hertzler Property.

The proposed conditional use is a chicken processing plant comprising of a 2,400-sf building; a 9' x 11' external smoker; a gravel parking lot; and a paved parking area (the "Site"). Thirty percent of the 2,400-sf building will encompass refrigeration units. The refrigeration will run on diesel generators.

The Site is 795 feet from Dixie Lane Road and several hundred feet from Maryland Route 236. The property is approximately 500 feet from the nearest property line.

### **The Conditional Use Requested**

The Applicants seek a conditional use pursuant to St. Mary's Comprehensive Zoning Ordinance ("CZO"), Chapter 25, Schedule 50.4 Use # 1, Section 51.3.1 for a chicken processing plant.

### **The St. Mary's County Comprehensive Zoning Ordinance**

Pursuant to Schedule 50.4 of the CZO, Use Type 1, "Agricultural Industry, Major" is defined as:

Extensive processing of crop and animal products produced off site. This use type includes dairy processing plants, meat processing facilities, fertilizer manufacturers, and tanneries.

### **The Evidence Submitted at the Hearing by LUGM**

Harry Knight, Deputy Director of LUGM, presented the following evidence:

- The Property is a family-owned and -operated farm consisting of 60.73 acres according to the Maryland Department of Assessments and Taxation. The Property contains two single-family dwellings and several agricultural outbuildings according to the site plan submitted in support of this conditional use request.
- Neighboring properties maintain similar rural characteristics.
- The Applicants are requesting Conditional Use approval for a proposed chicken processing

plant comprising of a 2,400-sf building, an external smoker, a gravel parking lot, and a paved parking area for ADA compliance.

- The Applicants describe the proposed “chicken processing” activity as follows:
  - Once a month, a tractor trailer load of butchered chickens will be delivered by a United States Department of Agriculture approved supplier.
  - The butchered chickens will be kept in cold storage in the building until ready for smoking.
  - The butchered chickens will be prepared for smoking in the building prior to being placed in the external smoker.
  - The smoked chickens will be removed from the external smoker and kept in cold storage in the building until ready for shipment.
  - Once a week, a two-axle refrigerated box truck will take a shipment of smoked chickens to a wholesale buyer.
- There will be approximately 130 trips per month, averaging five trips per day.
- LUGM reviewed the proposed project during the April 2019 Technical Evaluation Committee cycle.
- Pursuant to Section 25.9 of the Ordinance, “Limitations on Conditional Use Approval,” “Subject to an extension of time granted by the Board of Appeals for cause, no conditional use permit shall be valid for a period longer than one year unless a site plan is approved, a building permit is issued, construction is actually begun within that period and is thereafter diligently pursued to completion, or a certificate of occupancy is issued and use commenced within that period.”
- The following Attachments to the Staff Report were introduced: