



County Commissioners Hearing Room
400 High Street
Chestertown, Maryland

AGENDA
October 5, 2023
1:30 p.m.

Members of the public are welcome to attend meetings in person or via conference call.

Public participation and audio-only call-in number:

1. Dial **1-872-239-8359**
2. Enter Conference ID: **744 475 535#**

Members of the public are asked to mute their phones/devices, until the Commission Chair opens the floor for comment.

MINUTES

September 7, 2023

APPLICATIONS FOR REVIEW

- 23-51 Minary’s Dream Alliance Inc. – Major Site Plan (Concept)..... PC Review
9155 American Legion Drive – Fourth Election District – Critical Area Residential (CAR)
- 23-41 Lawrence and Donna Miller – Variance – Buffer..... Rec to BOA
10129 Cove Road – Sixth Election District – Critical Area Residential (CAR)

GENERAL DISCUSSION

- Rock Hall Comprehensive Plan
- Millington Draft PUD Process
- Proposed Draft Land Use Ordinance Review – Articles V, VI, VII

STAFF REPORTS

ADJOURN

Meetings are conducted in Open Session unless otherwise indicated. All or part of the Planning Commission meetings can be held in closed session under the authority of the MD Open Meetings Law by vote of the members. Breaks are at the call of the Chairman. Meetings are subject to audio and video recordings.

All applicants will be given the time necessary to assure full public participation and a fair and complete review of all projects. Agenda items are subject to change due to cancellations.

MINUTES

September 7, 2023

1:30 p.m.

An official recording of the Kent County Planning Commission meeting is available for viewing in its entirety on the County's YouTube channel: Kent County Government (<https://www.youtube.com/watch?v=UHLiObjjUh8>.)

The Kent County Planning Commission met in regular session on Thursday, September 7, 2023, at 1:30 p.m. in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. The following members were in attendance: Chair F. Joseph Hickman, Vice Chair Paul Ruge, James Saunders, Paula Reeder, and William Crowding. Cynthia L. McCann, Esquire, Planning Commission Attorney, was in attendance. Staff in attendance were William Mackey, AICP, Director; Carla Gerber, AICP, Deputy Director; Mark Carper, LEED Green Associate, Associate Planner; and Campbell Safian, Planning Specialist.

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

MINUTES

Mr. Ruge moved to approve the minutes of August 3, 2023, as presented. Ms. Reeder seconded the motion. The motion passed unanimously 5-0.

APPLICATIONS FOR REVIEW

*23-48 Choptank Electric Cooperative Inc. – Lot Line Adjustment – Front Yard Setback
Map 16, Parcel 61 – First Election District – Employment Center (EC)*

Choptank Electric Cooperative is requesting review and approval of a lot line adjustment plat that would establish a 46-foot front yard setback from the right of way, equivalent to 60 feet from the edge of the roadway. The property is located along Massey Rd (MD State Highway 299), just north of Massey.

Mr. Carper presented the staff report, recommending approval with conditions.

The Planning Commission heard from Michael Noh, PLS, and Robert Beadle, PE, with RGrid Power, PLLC, on behalf of Choptank Electric Cooperative Inc.

Mr. Beadle indicated that the proposed setback will allow for increased spacing between electrical equipment.

Mr. Crowding moved to grant final approval to Choptank Electric Cooperative located at 12305 Massey Road in Massey, Maryland, for the proposed lot line adjustment and reduction of the front yard setback to 46 feet. The proposal is in conformance with the Comprehensive Plan and the provisions of all applicable rules and regulations of County, State, and Federal agencies. The applicants have proven convenience and safety of both vehicular and pedestrian movement within the site and in relation to adjoining ways and properties. There is a reasonable demand placed on public services and infrastructure. There is no sewer and water needed on this project. If any trees are to be removed, replacement trees shall be planted.

Adopted on [version for review]

Ms. Reeder seconded the motion, and the motion passed unanimously, 5-0.

*23-46 Little Neck Farm Homeowners Association Inc. – Variance – Pier Length
Map 45, Parcel 49 – Fifth Election District – Resource Conservation District (RCD)*

The Little Neck Farm Homeowners Association is requesting a variance to remove, replace, and further extend a nonconforming community pier. The community pier is located off Burriss Road.

The pier encroaches 224 feet into Swan Creek and the main 240-foot-long portion runs perpendicular to the shore. The proposed actions will extend the pier and all of its components to 239 feet channelward of the MHW, 15 feet further than that existing.

Mr. Carper presented the staff report, recommending approval with conditions.

The Planning Commission heard from George Barnett with Little Neck Farm Homeowners Association Inc.

Mr. Barnett stated that the community pier is in poor condition. Extending the pier 15 feet channelward will allow the inner slips to be used. Currently, the inner slips are only accessible for pontoon boats, small motorboats, or canoes.

When asked, Mr. Barnett noted that the HOA has not pursued shoreline management measures in order to prevent shoreline vegetation and sediment from intruding further into the waterway.

Chair Hickman asked for clarification regarding the practical difficulty. Chair Hickman expressed concerns about the validity of a practical difficulty that is simply the water depth.

Mr. Mackey opined that the water depth, siltation, and the change in the land are eligible to be considered as topographical practical difficulties not caused by the applicant's own actions.

Mr. Crowding expressed interest in receiving additional documentation pertaining to the increase in sedimentation over time along the shoreline of the subject property.

Ms. Reeder moved to send a favorable recommendation to the Board of Appeals for a variance of the pier length after finding that MDE and the U.S Army Corps of Engineers have found the proposal to be acceptable; the variance will not cause a substantial detriment to adjacent or neighboring property; the variance will not change the character of the neighborhood or district; the variance is consistent with the Comprehensive Plan and the general intent of the Ordinance; the practical difficulty cited by the applicant is the change in the condition of the property that affects the access to the inside section of the pier slips; and the practical difficulty or other injustice was not caused by the applicant's own actions. The recommendation is made subject to the Homeowners Association confirming it has the legal authority to pursue the application and speak for the homeowners; the applicant's agreement, at their expense, to install a standpipe system in accordance with NFPA 303 and that plans be submitted to the Fire Marshal for review and approval prior to any action being taken; and that the applicant provide more substantive information to the Board of Appeals regarding the change in the condition of the property over time.

Mr. Ruge seconded the motion, and the motion passed, 4-1.

GENERAL DISCUSSION

Millington Comprehensive Plan

Mr. Mackey presented the staff report and noted that the Town of Millington’s proposed 2023 Comprehensive Plan Update is a working draft. The Plan states that it is intended to be forward-looking and fiscally oriented. Discussions are still underway by Millington to finalize the proposed annexation areas. A public hearing by the Town’s Planning Commission is scheduled for September 28, 2023, at 7 p.m.

Discussion ensued regarding the proposed annexation areas.

Mr. Mackey noted that the Town of Millington Planning Commission would like to coordinate with the Kent County Planning Commission on the review of projects in the Town’s designated growth areas.

Mr. Crowding recommended that the Millington 2023 Comprehensive Plan include language stating that developers will pay a portion of the infrastructure costs associated with their development projects. Mr. Ruge spoke in agreement.

Proposed Draft Land Use Ordinance Review

The Planning Commission reviewed Article IV “Processes” of the Proposed Draft Land Use Ordinance for Review.

Discussion ensued regarding Article IV Section 6 “Waivers.”

Mr. Mackey stated that the waiver processes existing in the current Land Use Ordinance are included in the Proposed Draft Land Use Ordinance for Review. The waiver processes have been reorganized and streamlined; however, the content and substance of the Ordinance is preserved.

The Planning Commission discussed Article IV Section 1.14 “Amendments” and Section 1.15 “Appeals.”

Mr. Mackey introduced the Partial Amendment process, which is a new amendment category proposed in the Draft Land Use Ordinance. A Partial Amendment allows applicants to amend a phase or a component of the larger project without requiring that the entire project be reviewed again.

STAFF REPORTS

ADJOURN

Mr. Crowding moved to adjourn the meeting. Ms. Reeder seconded. The meeting adjourned at approximately 3:30 pm.

Francis J. Hickman, Chair

/s/ Campbell Safian
Campbell Safian, Planning Specialist



To: Kent County Planning Commission
From: Carla Gerber, Deputy Director
Meeting: October 5, 2023
Subject: Minary’s Dream Alliance, Inc. – Site Plan Review – Concept

Executive Summary

Request by the Applicant

Minary’s Dream Alliance, Inc. (MDA) is requesting concept review of a proposed Site Plan that will function as MDA’s master plan for projects on the site and would be implemented over the next 10 years as funding allows. If required, building permits will be issued for individual projects.

Public Process

Per Article VI, Section 5.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and approve major site plans.

Summary of the Staff Report

Minary’s Dream Alliance, Inc. is proposing site improvements including the creation of a “Sacred Place” sitting area, labyrinth, living shoreline, reconfigured garden, wooden platform for outdoor classroom or performance, and reconfigured entrance/parking area. The site plan in this case must be considered with respect to Judge Murphy’s order concerning the legal non-conforming use of the property and as to permitted uses currently allowed within the Critical Area Residential district.

PRELIMINARY STAFF REPORT

To: Kent County Planning Commission
Subject: Minary's Dream Alliance, Inc.
Site Plan Review – Concept
Date: September 29, 2023

Description of Proposal

The applicants are seeking site plan review for their property at 9155 American Legion Drive near Chestertown. The Site Plan identifies a number of improvements that will be implemented over the next 10 years as funding allows. The improvements include creation of a "Sacred Place," labyrinth, living shoreline, reconfigured garden, wooden platform for outdoor classroom or performance, and reconfigured entrance/parking area. More details may be found in the applicant's narrative. If required, building permits will be issued for individual projects.

The 8.12-acre property is zoned "CAR" Critical Area Residential and is located on American Legion Drive adjacent to Morgan Creek. There are residential uses on either side along the creek and an agricultural field across the road. The property is currently improved with an existing main building, plus accessory buildings used as an office and garage. There is also a camping and picnic area and dock that runs parallel to the shoreline.

History

The property was developed in the 1960s and owned by the American Legion until it was sold to the applicants. Under current zoning regulations, the Legion's use as a social, charitable, business, and civic organization was a legal non-conforming use. A decision of the Zoning Administrator that the use of the property by the applicant to provide education to families, community services, and youth services was consistent with the uses conducted by the American Legion and could continue was appealed to the Kent County Board of Appeals, which was then appealed to Kent County Circuit Court. The Court ruled that use of the property consistent with the historic uses could continue with some contingencies. Judge Murphy's order is included in the applicant's documentation.

Relevant Issues

I. Uses

- B. *Applicable Law:* Article VIII, Nonconformities, Section 1.1 establishes that nonconforming uses may continue. Article V, Section V, Critical Area Residential establishes the permitted and accessory uses within the district.
- C. *Staff and TAC Comments:* The Zoning Administrator has the authority to determine if uses are permitted. Determinations on proposed uses will be made following review of the concept site plan.

II. District Environmental Standards

- A. *Applicable Law:* Article V, Section 5.7 in the Kent County Land Use Ordinance establishes the Critical Area Environmental Design Standards, which include stormwater and Critical Area standards. The purpose of these standards is to provide for the proper stewardship of the County's natural resources. Specifically, it is the overall goal of the County to maintain the quality of the County's ecosystem in the face of continuing activity, growth and change.

Article VI, Section 9 of the Kent County Land Use Ordinance sets forth the provisions for Erosion and Sediment Control and Section 10, Stormwater Management.

- B. *Staff and TAC Comments:* The proposed site plan includes enhanced landscaping along the perimeter of the property and within the proposed parking lot. No clearing of existing forest is proposed. Proposed improvements are located outside of the floodplain and proposed structures are outside of the Critical Area buffer and the non-tidal wetlands buffer. The living shoreline will enhance water quality.

Stormwater management and sediment and erosion control plans will be submitted with individual projects, as applicable.

The total existing lot coverage exceeds the 15% limit and is grandfathered. The proposed lot coverage is 10 square feet less than the existing and will establish a new limit of 61,472 square feet. MDA will not be allowed to exceed the new limit in the future without a variance.

IV. Parking and Loading Requirements

- A. *Applicable Law:* Article VI, Section 1.3 of the Kent County *Land Use Ordinance* establishes the parking standards. Community Centers/Civic Clubs/Museums require one parking space per 50 square feet of gross floor area. There are no parking standards for parks or greenhouses.
- B. *Staff and TAC Comments:* There are currently 75 standard parking spaces and 4 handicapped-accessible spaces, which is less than the required number of spaces for community centers or civic clubs. The reconfigured parking lot will have 73 standard spaces and 6 handicapped-accessible spaces. As there are no changes proposed with the existing building and the total number of spaces is not decreasing, it has been the practice of DPHZ that additional parking is not required to comply with the current standards.

V. Site Plan Review

- A. *Comprehensive Plan:* "Implement thorough design review for new development and major renovations." (Page 33)
- B. *Applicable Law:* Article VI, Section 5.3 of the Kent County *Land Use Ordinance* establishes site plan review procedures. The Planning Commission shall prepare findings of fact concerning the reasonable fulfillment of the objectives listed below.
- a. Conformance with the Comprehensive Plan and, where applicable, the Village Master Plan.
 - b. Conformance with the provisions of all applicable rules and regulations of county, state, and federal agencies.
 - c. Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
 - d. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate lighting, and internal traffic control.
 - e. Reasonable demands placed on public services and infrastructure.
 - f. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
 - g. Protection of abutting properties and County amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.
 - h. Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.

- i. The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.
- j. The applicant's efforts to design the development to complement and enhance the rural and historic nature of the County including incorporating into the project forms and materials that reflect the traditional construction patterns of neighboring communities.
- k. The building setbacks, area, and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding townscape and the natural landscape.

C. *Staff and TAC Comments:*

- The proposal is consistent with strategies and goals of the Comprehensive Plan. The programs operated by MDA support the Plan's goal to develop an educated workforce with the skills and training required to serve current and future employers. In addition, MDA programs are intended to fill gaps in services provided by other community facilities such as schools, libraries, and parks and recreation. The proposed shoreline and landscaping improvements support goals of the Environment section to protect sensitive resources and expand forests.
- The property is served by private well and septic. The applicant is working with the Health Department to establish a new septic reserve area. Health Department approval will be required before final site plan approval may be granted.
- The redesign of the parking lot is intended to improve traffic patterns and safety of pedestrians within the site.
- Stormwater management and erosion and sediment control plans will be reviewed with individual projects, as applicable.
- The applicant has designed the project with the goal to complement the neighborhood and to enhance habitat and improve water quality.
- Existing vegetation will not be removed.
- Design charrettes, which were open to the public, have been conducted.

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7423 (phone) • 410-810-2932 (fax)

SITE PLAN APPLICATION

File Number: _____ Amount Paid: _____ Date: 8-30-23

Project Name: MINARY'S DREAM ALLIANCE

District: _____ Map: 38 Parcel: 57 Lot Size: 8.12 Deed Ref: 01230 Zoning: CAR

LOCATION: 9155 AMERICAN LEGION DR. CHESTERTOWN, MD

PROPOSED USE: NO USE CHANGES PROPOSED

OWNER OF LAND:

Name: MINARY'S DREAM ALLIANCE, INC. Telephone: 302-566-8160

Address: 9155 AMERICAN LEGION DR. CHESTERTOWN, MD 21620 Email: minarysdreamalliance@gmail.com

APPLICANT:

Name: MILES BARNARD, SOUTH FORK STUDIO Telephone: 410-778-1098

Address: 10810 CLIFF RD. CHESTERTOWN, MD Email: miles@southforkstudio.com

AGENT/ATTORNEY (if any):

Name: _____ Telephone: _____

Address: _____ Email: _____

REGISTERED ENGINEER OR SURVEYOR:

Name: DAVIS, BOWEN & FRIEDEL Telephone: 410-770-4744

Address: 106 N. WASHINGTON ST. EASTON, MD 21601 Email: _____

Please provide the email of the one person who will be responsible for responding to comments. Only this person will be contacted by staff and will be the person responsible for forwarding the comments or requests for additional information to any other interested parties. EMAIL: _____

Water Supply: [] Public System [x] On lot system

Sewerage: [] Public System [x] On lot system

TELEPHONE SERVICED BY: _____

ELECTRIC SERVICED BY: _____

NOTICE: The Planning Office is not required to make out this Application. If the Planning Department assists you, it cannot be held responsible for its contents.

D. Mike Barnard 8-30-23

Signature of Applicant Date

[] Concept Plan Approving Authority: _____ Date _____

[] Preliminary Approving Authority: _____ Date _____

[] Final Approving Authority: _____ Date _____



September 26, 2023

Kent County Department of Planning, Housing and Zoning
300 High Street
Chestertown, MD 21620

Re: Minary's Dream Alliance, Inc.
9155 American Legion Drive
Chestertown, MD 21620
Map 38 – Parcel 57 8.12 Acres
Zoning: Critical Area Residential

NARRATIVE

We are submitting this project for Minor Site Plan approval of a proposed Master Plan for 9155 American Legion Drive in Chestertown which is the headquarters for Minary's Dream Alliance (MDA). MDA was founded in 2020, and their mission is to transform the lives of youth, families, and communities through education, resource development, and community engagement. In 2022 they purchased the American Legion property to serve as their home where they have offices, hold events such as food drives, movie nights, and back-to-school giveaways. They provide indoor and outdoor education, teach about sustainable gardening and renewable energy, and provide other community support.

MDA is the recipient of a grant from an Annapolis-based organization called Nature Sacred which has been funding design services that have resulted in the attached drawings showing an overall property Master Plan. The intention of the Master Plan is to provide a road map for property improvements over the next 5-10 years. We are seeking Minor Site Plan approval for the Master Plan only. MDA would then seek individual building permits through Kent County Planning, Housing and Zoning for each project as funding becomes available.

Property Specifics

The property sits along the banks of Morgan Creek, a tributary of The Chester River and is 8.12 acres. It is entirely located within the Chesapeake Bay Critical Area, zoned Critical Area Residential, and is served by private water and sewer. While operating as the American Legion from 1978 until 2021, nonconforming uses were taking place and accepted by Officials and citizens. However, when MDA was under contract to buy the property in 2021, some neighbors challenged the validity of ongoing nonconforming uses. This challenge resulted in a lawsuit which ended with a ruling from Judge Harris Murphy which is included with this submission. In that ruling, Judge Murphy acknowledges the historic nonconforming uses, and allows for those nonconforming uses to continue under the MDA ownership with some contingencies. Those

contingencies are that the nonconforming uses cannot be intensified and includes some specific examples such as not constructing new athletic facilities or creating new access points on Morgan Creek.

Proposed Improvements

The Master Plan includes improvements to existing features and the addition of some new ones. The overall theme of site improvements is to maintain harmony with adjacent properties, enhance and expand habitat for animals, birds, and insects, improve water quality of Morgan Creek, incorporate sustainable construction where possible, and in general honor the site's existing attributes. All the improvements on the Master Plan result in a zero net change in Lot Coverage which is detailed on the drawing worksheets.

Sacred Place: First and foremost is the creation of what is called a Sacred Place. This is an important part of the Nature Sacred design philosophy and will be a place where people can sit alone on a bench and write in a weatherproof journal, gather as a group to discuss current events or attend an outdoor class, or simply sit to commune with nature, enjoy the view, and read a book. The Sacred Place will have a bench (on the drawings), boulders for sitting, native plantings, and a mulch walking surface. The Sacred Place installation would be phase 1 of implementation and a detailed drawing of this space is included in the package. If this Master Plan is approved, we would immediately submit a building permit for the Sacred Place.

Labyrinth: The labyrinth is a meditative walking experience that can be done alone or with other people. The labyrinth path would be built in the grass with flagstone as the walking path. The Labyrinth would be built as part of phase 1 and a detailed drawing of this space is included in the package. If this Master Plan is approved, we would immediately submit a building permit for the Labyrinth.

Driveway Entrance Relocation: The proposed shift to the entrance off American Legion Drive would allow for a better parking lot design as seen on the drawings. The existing entrance would be removed and planted with trees.

Parking Area: The existing parking lot is an aging expanse of asphalt. The proposal is to remove all this asphalt and reconfigure the paving as shown. If budget allows, a large portion of the new parking lot would be built using porous pavers to aid in stormwater management. The parking lot would also be designed to drain water to a series of bioretention areas which would further treat stormwater. The end result is a parking lot with less paving and more parking, trees, and environmental benefits.

Living Shoreline: What makes this property special is its location along Morgan Creek. We plan to celebrate and enhance this special and sensitive habitat with a living shoreline. This is a project within the project and would require approvals from The State along with the County. This project would stabilize the undercut bank along Morgan Creek and restore native plantings in the tidal zone. In addition, it allows children access to shallow water. This type of shoreline stabilization is preferred over a traditional stone revetment. The construction of the living shoreline may result in the relocation of water dependent access from the currently existing stairs

to the currently existing naturally graded slope to the creek. All these details would be provided in a separate prepared building permit application in the future.

Garden: The current vegetable garden would be relocated and rotated to sit outside the 100' buffer. In the long term there would be a greenhouse built beside the garden and a storage building for garden equipment. Behind the greenhouse would be composting bins to support garden activities. In the garden, kids would learn how to grow their own food, generate their own power, and build a garden of their own using sustainable practices.

At-Grade Deck: This low wooden deck (12" off the ground) would provide clean dry space for outdoor classroom activities as well as outdoor performance space for something like community theatre.

Meadows: As part of the plan to enhance and create habitat, a series of small warm season grass meadows would be created throughout the property. Warm Season grass meadows provide habitat for declining populations of Bobwhite Quail and provide forage for insects and nesting habitat for other ground dwelling bird species.

Mowed Lawn: The drawings show ample area of mowed lawn to provide for freeform play and activities.

Tree Planting: In addition to tree planting around the proposed parking lot, the drawings indicate that the long-term goal is to surround the site with a forest edge to provide habitat and privacy. Some areas show expanding existing forest cover.

Requirements per Land Use Ordinance Article VI, Section 5.4B

1. *Owner/Representative*

- a. Owner: Minary's Dream Alliance, Inc. P.O. Box 35 Denton, MD 21629
- b. Representative: South Fork Studio Landscape Architecture 10810 Cliff Rd.
Chestertown, MD 21620

2. *Street address, tax map, parcel number, and subdivision if any.*

9155 American Legion Drive
Chestertown, MD 21620
Map 38 – Parcel 57
8.12 Acres

3. *Zoning:* Critical Area Residential

4. *Current and proposed use of the property*

Current/Previous Use: American Legion Post 36. While operating as the American Legion from 1978 until 2021, nonconforming uses were taking place and accepted by Officials and citizens.

Proposed Use: Minary's Dream Alliance Headquarters and offices with events such as food drives, movie nights, and back-to-school giveaways taking place. They provide indoor and outdoor education, teach about sustainable gardening and renewable energy, and provide other community support.

5. *An explanation of the viewshed, open space, and conservation analysis undertaken during the design of the site plan*

There are two primary viewsheds on this property. One is the view *of* the property from Legion Drive, the other is the view of Morgan Creek *from* the property. To address views of the property from Legion Drive, the design calls for the creation of a forested edge. This forested edge will also extend up the side property lines. This will help to define the property lines, improve privacy, and also create habitat for birds, mammals and insects. The approach for the view of Morgan Creek is to simply conserve, maintain and celebrate it. A Sacred Place with a bench will allow visitors a place to sit and enjoy the view of the Creek. All existing native trees and understory vegetation will be conserved, protected and expanded. Some areas of open and mowed lawn outside the 100' Buffer will be maintained as such, but other areas will see expansion of forested areas and creation of native warm season grass meadows.

6. *How the proposed development complies with the Comprehensive Plan and the design and environmental standards of this Ordinance*

- a. Comprehensive Plan: Some of the activities that take place at MDA, particularly outreach and education of young members of the community are in direct support of the Comprehensive Plan's section on *Economy* and specifically Education and Training. Here, youth will learn many skills to help them enter the workforce and contribute to the economy of Kent County. As is more completely described in the

next section of this narrative under *Environmental Standards*, the project has many environmental benefits to Kent County and its tidal waters. While technically not a public facility, MDA serves many similar functions and can fill the gaps in services provided by other *Community Facilities* like Schools, Libraries and Parks & Recreation facilities. In addition, these services are being provided using an existing facility, preventing the need for a new development project.

- b. Environmental Standards:** No new agriculture land will be created, and no activities that would adversely affect Anadromous fish will be undertaken. No existing trees or vegetation is proposed to be removed within the 100' Critical Area Buffer. A bench/gathering area with mulch groundcover is proposed within the 100' Buffer. A new living shoreline is the only Development Activity proposed inside the buffer for the Morgan Creek waterfront. This project would stabilize the shoreline, allow for the establishment of aquatic and subaquatic plants, create aquatic and shoreline habitat that currently does not exist, improve water quality, and provide water dependent access for the users of Minary's Dream Alliance. There are two existing accessory structures within the 100' buffer. No expansion or changes are proposed to those structures. If the proposed greenhouse and garage by the relocated garden is approved, it may be possible to remove the existing garage from the buffer. No forested areas are planned for development or disturbance. Every effort will be made to reduce existing impervious surfaces (lot coverage), but no net increase in impervious surface will happen. The current lot coverage exceeds the allowed 15%, but is grandfathered at 61,482 square feet. There are currently no non-tidal wetlands mapped on the project site. The only slopes over 15% are within the buffer along the shoreline and will not be disturbed. There is currently no Low Impact Development stormwater management on the property. The proposed Master Plan calls for a newly designed parking area that would use porous paving and Micro-Bioretenion to more effectively control both volume and quality of stormwater runoff. There are no known endangered or protected species of concern on the property. Regarding sewage disposal, MDA is communicating with MDE and the Kent County health Department about establishing provisions for future septic disposal area expansion to comply with all current and proposed uses.

7. *Proposed type of water and sewer service:* Private Water & Sewer

8. *Number of employees:* 6

9. *The proposed development schedule and phases of development for all proposed construction*

- a. Sacred Place Sitting Area
- b. Sacred Place: Labyrinth
- c. Relocate existing Garden
- d. Living Shoreline Construction
- e. At-grade Classroom and Performance Deck

- f. Greenhouse & Garage Construction
- g. Parking Lot Reconstruction

10. ***Statement of provisions for ultimate ownership and maintenance of all parts of the development including streets, structures, and open space:*** This is all private property and this question does not pertain to the project.

11. ***The only water dependent uses in the Critical Area for this project would be the Living Shoreline. See the following response related to the Living Shoreline proposal:***

- a. *That the activities will not significantly alter existing water circulation patterns or salinity regimes:*
 - i. The living shoreline will have no impact on circulation or salinity.
- b. *That the water body upon which these activities are proposed has adequate flushing characteristics in the area of development.*
 - i. This shoreline is tidal with continuous water movement
- c. *That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized.*
 - i. Current water depth suggests there is very little submerged aquatic vegetation. However, this will be more closely analyzed when a permit is filed with MDE. Aquatic habitats will only be improved and expanded, not disturbed.
- d. *That adverse impact to water quality that may occur as a result of these activities, such as non-point source runoff, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized.*
 - i. Water quality will only be improved by the Living Shoreline simply from the creation of new riparian plantings alone.
- e. *That shellfish beds will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.*
 - i. There are no known shellfish beds that existing in Morgan Creek in front of this property.
- f. *That dredging shall be conducted in a manner, and using a method, which creates the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the Critical Area.*
 - i. No dredging is proposed
- g. *That dredge spoil will not be placed within the minimum 100-foot buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for the following:*
 - i. Backfill for permitted shore erosion protection measures;
 - ii. Use in approved vegetated shore erosion projects;
 - iii. Placement on previously approved channel maintenance spoils disposal area
 - iv. Beach nourishment
 - 1. No dredging is proposed
- g. *That interference with the natural transport of sand will be minimized.*
 - i. The Living Shoreline will be designed and constructed in a way that minimizes impacts to the natural movement of sediment.

- h. That in the context of existing uses, the proposed use will result in only minimal individual and cumulative impact on water quality and fish, wildlife and plant habitat in the Critical Area.*
 - i. The proposed Living Shoreline should improve water quality, fish, wildlife and plant habitat
- i. That the activity meets all required environmental standards*
 - i. Once a final design is created, and the design goes through the permitting process it will be reviewed for compliance with all required environmental standards.

12. Critical Area density calculations based on the original parcel

- i. The project does not involve the addition of any parcels or dwelling units that would generate density

13. Citizen Participation Plan

- i. To date, the planning and design process has included several design charrettes open to the public and the Major Site Plan Review process will also allow citizens to participate in the process.

In summary, the proposed improvements to the property are meant to enhance habitat, improve water quality, and improve use without negatively impacting adjacent properties.

Thank you're your consideration of this proposed Master Plan at 9155 American Legion Drive.

Sincerely,



D. Miles Barnard, ASLA RLA

Cc: Doncella Wilson - Minary's Dream Alliance
Vanessa Holloway-Truxon - Minary's Dream Alliance
Paul Tue - Minary's Dream Alliance
Kim Righi - Minary's Dream Alliance
Darran Tilghman – Shorerivers
Neha Srinivasan – Nature Sacred

Attachments:

January 4, 2022 Order by Judge Harris P. Murphy
September 15, 2023 Email from MDE

Entered: Clerk, Circuit Court for
Kent County, MD
January 4, 2022

IN THE CIRCUIT COURT FOR KENT COUNTY, MARYLAND

In the Matter of Thomas Voshell, et al.

for Judicial Review of the Kent County

Case No: C-14-CV-21-44

Board of Appeals

* * * * *

ORDER

Having considered the record and pleadings, and for the reasons more fully articulated on the record at the hearing on December 30, 2021, it is, this 01/04/2022 2:54:00 PM, by the Circuit Court for Kent County,

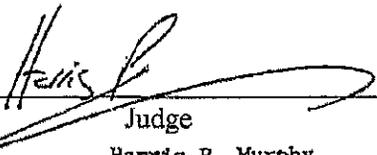
ORDERED, that Appellee, Frank M. Jarmen American Legion Post 36's, Motion to Strike Petitioners' Amendment to Petition for Appeal is DENIED; and it is further,

ORDERED, that Appellee, Minary's Dream Alliance's, Motion for Reconsideration of the Motion to Dismiss is GRANTED with respect to Petitioner, Thomas Voshell, as his property has been transferred. However, the Court will permit substitution of the new owner as one of the Appellants, if requested within 30 days of the date of this order; and it is further,

ORDERED, that the decision of the Kent County Board of Appeals (hereinafter "the Board") is AFFIRMED IN PART and REVERSED IN PART as indicated below.

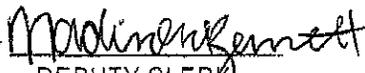
The Court finds that the Board's determination that there were certain existing and legal non-conforming uses of the property was based on substantial evidence. The uses for which there was substantial evidence of an existing and legal non-conforming use are: social, charitable, business and civic meetings, events and functions of a character and nature consistent with the established non-conforming use (i.e.: Cancer Society fundraisers, Red Cross Blood Dives, food drives, cotillion, and various other dinners, dances, meetings and events).

However, to the extent that the Board addressed uses other than the legal non-conforming uses indicated above, the Court finds that the Board was incorrect as a matter of law in determining that other uses – current, anticipated or contemplated – constituted, or could constitute, a permissible intensification of the non-conforming use. By way of example, the Court finds that the implantation of a program that includes any services involved in substance abuse treatment, or the use of the property for sporting events, particularly where that may involve the construction of new facilities for that purpose, or the creation of a new point of access to the Chester River or facilities at that location, or any similar development or use would be an impermissible transmogrification of, and inconsistent with, the nature and character of the established and legal non-conforming use of the property.



Judge
Harris P. Murphy

TRUE COPY TEST
SHERISE L KENNARD, CLERK

BY 
DEPUTY CLERK

Miles Barnard

From: Brennan Greene -MDE- <brennan.greene@maryland.gov>
Sent: Friday, September 15, 2023 10:30 AM
To: Miles Barnard
Cc: Carla Gerber; William Mackey; Erika Hercher -MDH-
Subject: Re: Chestertown Project

Hi Miles,

After reviewing the file, it looks like the two sand mound disposal systems were approved by John Beskid in 2019/2020 for a maximum of 600 gallons per day (gpd) of flow from the existing American Legion. In 2022 the owners of Minary's Dream approached the Kent County Health Department (KCHD) regarding the change in use for the establishment. At the time they were asked to provide an accurate assessment of what current usage and future plans were for the establishment to get an understanding of what kind of wastewater flow would be necessary to accommodate the structure.

MDE was brought in at the time to assist with the restrictive soils outside of the approved sewage disposal area, and we had advised and requested that KCHD work with the owners to pin down the projected usage of the establishment. To-date it does not seem that any projected or existing usage has been provided to the KCHD for the purposes of sizing the wastewater generated by the establishment.

What we would be looking for at the moment is a realized wastewater flow of the current establishment. What are the operations that are occurring out of the establishment? What are the hours of operation? Specifically, how many people are in the establishment? How many other entities use it and how many people are in these groups? Without changing anything, what operations can be conducted there? We know that there is a kitchen that can be utilized, but may not be to the fullest extent at this point in time.

As for expansion, the current approved area for sewage disposal is for two sand mounds (one initial, and one replacement) for 600 gpd. We generally do not evaluate a structure or proposal before application is submitted, but the Maryland Department of the Environment does have a guidance for wastewater flows for on-site systems on their website that is promulgated to the Approving Authorities and the public here:

<https://mde.maryland.gov/programs/water/BayRestorationFund/OnsiteDisposalSystems/Documents/Onsite%20Systems/MDEGuidanceWastewaterFlowsForDesign.pdf>

Please note that from our brief evaluation of the site in April of 2022, that aside from the already approved sewage disposal area (SDA), the soils were poor, and sensitive environmental receptors (non-tidal wetlands, open water) were restrictive for placement of other areas for sewage disposal. We had recommended that once Minary's Dream had provided a definitive proposal for the existing and expansion, that they may need a third party consultant to evaluate the property for potential non-conventional disposal.

If you have any questions regarding this, please feel free to contact me and I will try to assist as I can.

Brennan E. Greene, L.E.H.S.
Sanitarian VI, Regional Consultant
On-Site Systems Division Wastewater Pollution Prevention and Reclamation Program
Water and Science Administration
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230 (c) 410-207-7291
[gwjssfs3lwjsjEr fwqfsi3lt{](#)
[Website](#) | [Facebook](#) | [Twitter](#)

Click here to complete a three question [customer experience survey](#).



▼ Find address or place



Queen Anne's Co



40m
200ft

-76.035 39.228 Degrees

REVISIONS

03-29-23	Steering Comm. #2
08-30-23	Site Plan Review
09-26-23	Planning Commission

ISSUED FOR:

<input type="checkbox"/> Client Review	<input type="checkbox"/> Revision
<input type="checkbox"/> Bid	<input checked="" type="checkbox"/> Approval
<input type="checkbox"/> Permit	<input type="checkbox"/> Coordination
<input type="checkbox"/> Construction	

Minary's Dream Alliance
 9155 American Legion Drive
 Chestertown, MD

These drawings and specifications and the ideas represented thereby are and shall remain the property of the Landscape Architect. No part thereof shall be copied or used in connection with any work or project or by any other person for any purpose other than for the specific project for which they have been prepared and developed without the written consent of the Landscape Architect.

Not for Construction

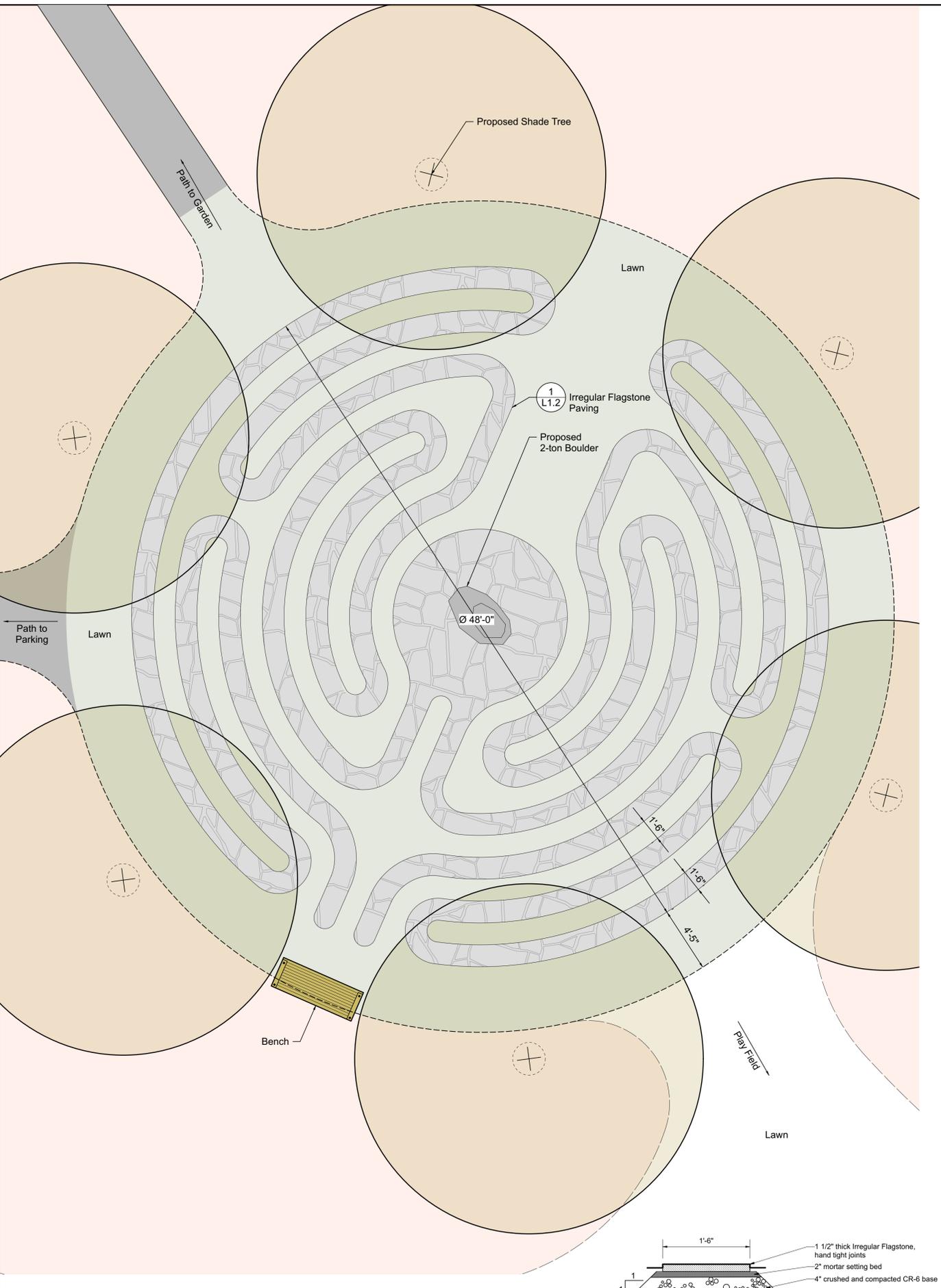
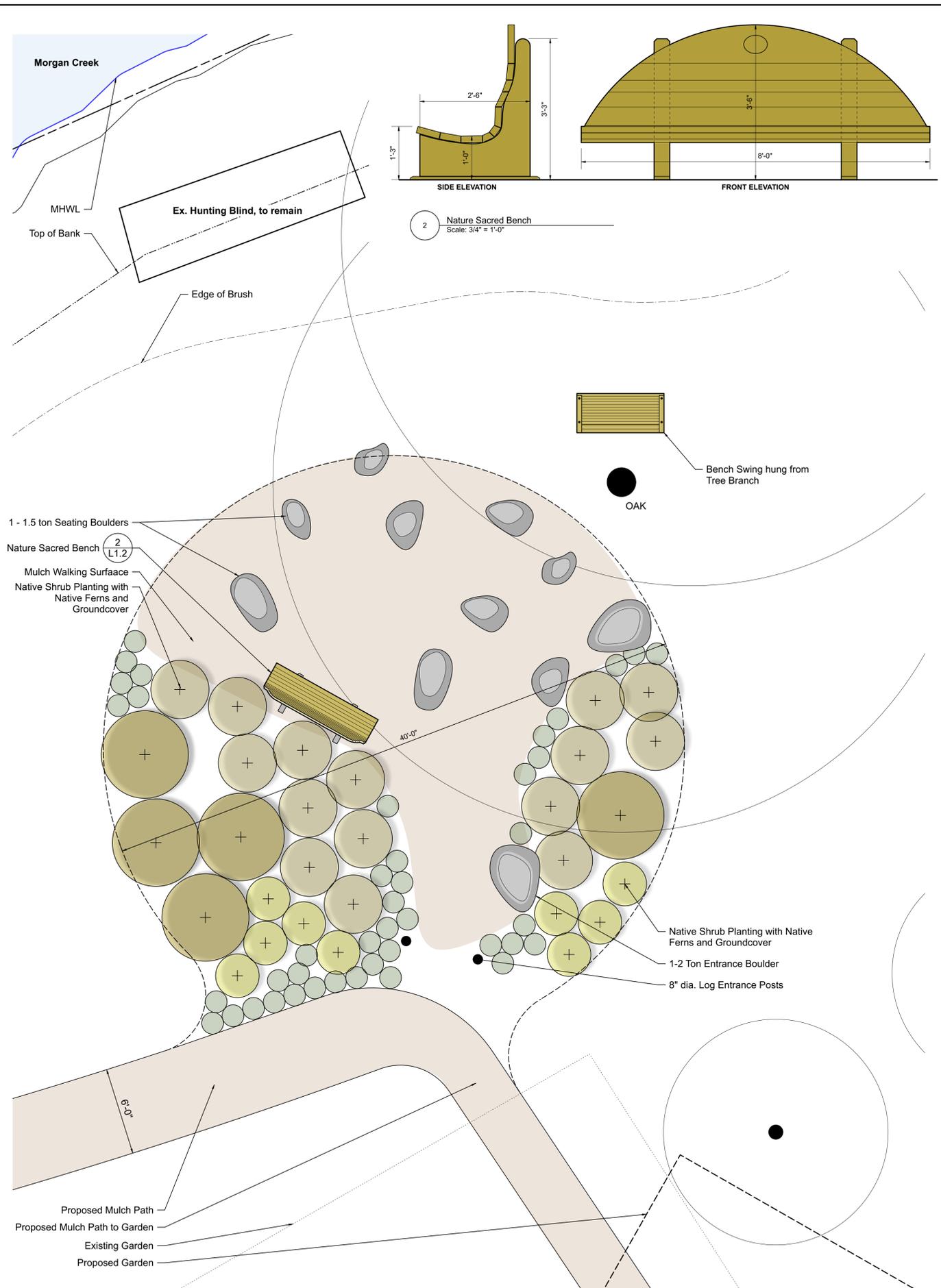


Detailed Plans

Scale: 1/4" = 1'-0"
 Drawn by: DMB

L1.2
 1st Issue Date 03-29-23

Property Information:
 9155 American Legion Drive
 Chestertown, MD 21620
 Map 38 Grid 5A Parcel 57
 8.12 Acres
 County: Kent
 Election District 4, Precinct 1



LABYRINTH
 1/4" = 1'-0"

1 Irregular Flagstone Paving
 Scale: 3/4" = 1'-0"

To: Kent County Planning Commission
From: Mark Carper, Associate Planner
Meeting: October 5, 2023
Subject: Lawrence and Donna Miller
Buffer Variance

Executive Summary

REQUEST BY THE APPLICANT

Lawrence and Donna Miller are requesting a variance to construct a 468 sq. ft. addition to an existing single-family dwelling that is partially located within the Critical Area 100-foot buffer.

PUBLIC PROCESS

Per Article IX, Section 2.2 of the Kent County *Land Use Ordinance*, the Planning Commission shall review and make a recommendation to the Board of Appeals for variances.

SUMMARY OF THE STAFF REPORT

The project includes the removal of a 72 square foot slate patio, 20 square feet of which is in the buffer. Of the proposed 468 square foot addition, 206 square feet will be in the buffer. The net increase in permanent disturbance in the buffer will be 186 square feet. Outside of the buffer, 52 square feet of the existing slate patio is to be removed, and 262 square feet of the 468 square foot addition is to be constructed. The net increase in lot coverage outside of the buffer is 210 square feet.

The purpose of the proposed addition is to accommodate the relocation of the laundry facilities from the basement and to provide room for therapy equipment needed for post-operative spine rehabilitation. The property is located at 10129 Cove Road in the Sixth Election District and is zoned Critical Area Residential (CAR).

STAFF RECOMMENDATION

Staff recommends, with the following conditions, forwarding a favorable recommendation to the Board of Appeals for approval of a variance to construct a 468 sq. ft. addition to an existing single-family dwelling, of which 206 sq. ft. will be in the 100-foot buffer and which will cause 186 sq. ft. of permanent disturbance in the buffer:

- Approval of a buffer management plan that mitigates for the permanent disturbance in the buffer at a ratio of 3:1, mitigates for the increase in lot coverage outside of the buffer at a ratio of 1:1, and installation be located between the improvements and the shoreline.
- Per the requirements of the Kent County Health Department, the location of the well is to be shown on the site plan.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

PRELIMINARY STAFF REPORT

TO: Kent County Planning Commission
SUBJECT: #23-15 – Lawrence and Donna Miller
Buffer Variance
DATE: September 27, 2023

DESCRIPTION OF PROPOSAL

Lawrence and Donna Miller are requesting a variance to construct a 468 sq. ft. addition to an existing single-family dwelling that is partially located within the Critical Area 100-foot buffer. The project includes the removal of a 72 square foot slate patio, 20 square feet of which is in the buffer. Of the proposed 468 square foot addition, 206 square feet will be in the buffer. The net increase in permanent disturbance in the buffer will be 186 square feet. Outside of the buffer, 52 square feet of the existing slate patio is to be removed, and 262 square feet of the 468 square foot addition is to be constructed. The net increase in lot coverage outside of the buffer is 210 square feet.

The purpose of the proposed addition is to accommodate the relocation of the laundry facilities from the basement and to provide room for therapy equipment needed for post-operative spine rehabilitation. The location of the existing septic tank prohibits the addition from being moved back from the water. The property is located at 10129 Cove Road in the Sixth Election District and is zoned Critical Area Residential (CAR).

RELEVANT ISSUES

I. Development in the Buffer

- A. *Comprehensive Plan*: “Maintain, enforce and if necessary, strengthen existing regulations for floodplains and buffers.” (Page 86)
- B. *Applicable Law*: Article V, Section 2.7.B.3.a of the Kent County Land Use Ordinance establishes the standards for development in the buffer:

3.a. Development in the Buffer

- i. Development activities, including structures, roads, parking areas, and other impervious surfaces, mining, and related activities, or septic systems shall not be permitted within the minimum 100-foot buffer. This restriction does not apply to water-dependent facilities that meet the criteria set forth below.
 - ii. New or expanded development activities may be permitted in the minimum 100-foot buffer, provided:
 - a) The use is water dependent.
 - b) The project meets a recognized private right or public need.
 - c) Adverse effects on water quality and fish, plant, or wildlife habitats are minimized.
 - d) In so far as possible, non-water dependent structures or operations associated with water dependent projects or activities are located outside the minimum 100-foot buffer.
- C. *Staff and TAC Comments*:
- Development activity of this nature is not permitted in the buffer; therefore, the applicant has applied for a buffer variance to construct a 468 sq. ft. addition to an existing single-family dwelling, of which 206 sq. ft. will be within the Critical Area 100-foot buffer.

- The project includes the removal of a 72 square foot slate patio, 20 square feet of which is in the buffer. The net increase in permanent disturbance in the buffer will be 186 square feet. The net increase in lot coverage outside of the buffer is 210 square feet.
- The Critical Area Commission (CAC) has reviewed this application and does not oppose the buffer variance. The CAC recommends that the required 3:1 mitigation be located between the improvements and the shoreline to maximize water quality benefits.

II. Variance

- A. *Applicable Law*: Article IX, Section 2.2, Variances of the Kent County *Land Use Ordinance* authorizes the Board of Appeals to grant variances from the ... buffer requirements so as to relieve practical difficulties or other injustices arising out of the strict application of the provisions of this Ordinance.

...

In the Critical Area, for a variance of 15% slope, impervious surface, or buffer requirements, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional unwarranted hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

In order to grant a *variance*, the Board of Appeals must find all of the following:

- a. That the *variance* will not cause a substantial detriment to adjacent or neighboring property.
- b. That the *variance* will not change the character of the neighborhood or district.
- c. That the *variance* is consistent with the *Comprehensive Plan* and the general intent of this Ordinance.
- d. That the practical difficulty or other injustice was caused by the following:
 - i. Some unusual characteristic of size or shape of the property.
 - ii. Extraordinary topographical or other condition of the property.
 - iii. The use or *development* of property immediately adjacent to the property, except that this criterion shall not apply in the *Critical Area*.
- e. That the practical difficulty or other injustice was not caused by the applicants own actions.
- f. That within the *Critical Area* for *variances* of 15% *slope, impervious surface, or buffer* requirements:
 - i. The granting of a *variance* will be in harmony with the general spirit and intent of the *Critical Area Law* and the *regulations* adopted by Kent County
 - ii. That the granting of a *variance* will not adversely affect water quality or adversely impact fish, wildlife, or *plant habitat*.
 - iii. That the application for a *variance* will be made in writing with a copy provided to the *Critical Area Commission*.
 - iv. That the strict application of the Ordinance would produce an *unwarranted hardship*.
 - v. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - vi. The authorization of such *variance* will not be a substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the *variance*.
 - vii. That a literal interpretation of this Ordinance deprives the applicant of rights commonly enjoyed by other properties in similar areas within the *Critical Area* of Kent County.

- viii. That the granting of a *variance* will not confer upon an applicant any special privilege that would be denied by this Ordinance to other lands or *structures*.
- ix. Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or *structure*, a literal enforcement of this Ordinance would result in *unwarranted hardship* to the applicant.
- x. The Board of Appeals finds that the applicant has satisfied each one of the *variance* provisions.
- xi. Without the *variance*, the applicant would be deprived of a use of land or a *structure* permitted to others in accordance with the provisions of the critical area program.
- g. In considering an application for a *variance*, the Board shall consider the reasonable use of the entire parcel or lot for which the *variance* is requested.
- h. In considering an application for a *variance*, the Board of Appeals shall presume that the specific *development* activity in the Critical Area that is subject to the application and for which a *variance* is required does not conform with the general purpose and intent of this Ordinance and the Critical Area Law.
- i. The Board may consider the cause of the *variance* request and if the *variance* request is the result of actions by the applicant, including the commencement of *development* activity before an application for a *variance* has been filed.

B. *Staff and TAC Comments:*

- The Comprehensive Plan advocates for the maintenance, enforcement, and, if necessary, strengthening of existing regulations for floodplains and buffers. The intent of the Ordinance is to set the standards for variances from certain enumerated provisions.
- The practical difficulty is that approximately half of the principal structure is within the 100-foot buffer and the location of the existing septic tanks prevent setting the proposed addition outside of the buffer.
- The proposed permanent disturbance proposed, which is to be mitigated at 3:1, will have negligible impact. The granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law and Kent County regulations.
- The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat.
- Authorization of the variance will not be a substantial detriment to adjacent property, and the character of the district will not be changed.
- The Critical Area Commission has reviewed the application and is not opposed to a variance.

STAFF RECOMENDATION

Staff recommends, with the following conditions, forwarding a favorable recommendation to the Board of Appeals for approval of a variance to construct a 468 sq. ft. addition to an existing single-family dwelling, of which 206 sq. ft. will be in the 100-foot buffer and which will cause 186 sq. ft. of permanent disturbance in the buffer:

- Approval of a buffer management plan that mitigates for the permanent disturbance in the buffer at a ratio of 3:1, mitigates for the increase in lot coverage outside of the buffer at a ratio of 1:1, and installation be located between the improvements and the shoreline.
- Per the requirements of the Kent County Health Department, the location of the well is to be shown on the site plan.
- The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

BOARD OF APPEALS APPLICATION

Kent County Department of Planning, Housing and Zoning

Kent County Government Center
400 High Street • Chestertown, MD 21620
410-778-7475 (phone) • 410-810-2932 (fax)

**IN THE MATTER OF THE APPLICATION OF:
(Name, Address and Telephone Number of Applicant)**

LAWRENCE & DONNA MILLER

10129 COVE ROAD

CHESTERTOWN, MD. 21620

Email: DONNAMILLER88@GMAIL

TO THE KENT COUNTY BOARD OF APPEALS: In accordance with Article _____ Section _____ of the Kent County Zoning Ordinance, as amended, request is hereby made for:

_____ Appealing Decision of Kent County Zoning Administrator Variance
_____ Special Exception _____ Non-conforming Use

DESCRIPTION OF PROPERTY INVOLVED:

Located on: (Name of Road, etc.) 10129 COVE ROAD, GREAT OAK ESTATES

In the SIXTH Election District of Kent County.

Size of lot or parcel of Land: 4.877± Ac.

Map: 26 Parcel: 57 Lot #: N/A Deed Ref: _____

List buildings already on property: 1 STORY FRAME DWELLING WITH WALK-OUT BASEMENT, PORTABLE FRAME SHED, & DETACHED
FRAME GARAGE

If subdivision, indicate lot and block number: N/A

If there is a homeowners association, give name and address of association: _____

PRESENT ZONING OF PROPERTY: CAR - CRITICAL AREA RESIDENTIAL IN THE LDA

DESCRIPTION OF RELIEF REQUESTED: (List here in detail what you wish to do with property that requires the Appeal Hearing.) BUILD ADDITION IN EASTERN PORTION OF HOUSE. APPROXIMATELY 206 FT² WILL BE IN THE 100' CRITICAL AREA
BUFFER, BUT WILL NOT BE ANY CLOSER TO THE APPROXIMATE MEAN HIGH WATER LINE THAN THE EXISTING DECK OR HOUSE.

If appealing decision of Zoning Administrator, list date of their decision: _____

Present owner(s) of property: LAWRENCE & DONNA MILLER Telephone: _____

If Applicant is not owner, please indicate your interest in this property: _____

Has property involved ever been subject to a previous application? _____

If so, please give Application Number and Date: _____

For Office Use Only:

Case Number/Date Filed: _____

Filed by: _____

Applicant: _____

Planning Commission: _____

Date of Hearing: _____

Parties Notified: _____

Notice in Paper: _____

Property Posted: _____

PLEASE FILL IN BELOW, OR ATTACH HERETO, A SKETCH OF THIS PROPERTY.
List all property measurements and dimensions of any buildings already on the property.

Put distances between present buildings or proposed buildings and property lines.

NAMES OF ADJOINING PROPERTY OWNERS:

Owner(s) on the North: LAWRENCE & DONNA MILLER & COVE ROAD

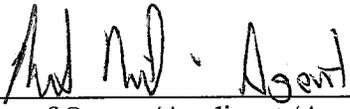
Owner(s) on the South: FAIRLEE CREEK

Owner(s) to the East: LAWRENCE & DONNA MILLER

Owner(s) to the West: ANTHONY MICHEAL MALBA & FOURTH POINT ROAD

Homeowners Association, name and address, if applicable: _____

BY SIGNING THIS APPLICATION I GRANT MEMBERS AND ALTERNATE OF THE BOARD OF ZONING APPEALS THE RIGHT TO ENTER ONTO THE PROPERTY FOR THE PURPOSE OF VIEWING THE SITE OF THE APPLICATION OR APPEAL.


Signature of Owner/Applicant/Agent or Attorney

5-31-23
Date

Please file this form at 400 High Street, Chestertown, MD 21620 accompanied by **\$350.00** filing fee made payable to the Board of Appeals. If you have any questions, contact Clerk at 410-778-7467.

NOTICE: Neither the Board of Appeals or the Planning Office is required to make out this Application. Application should be filled in by applicant or its agent. If the Planning Office assists you, they cannot be held responsible for its contents.

Applicants arriving more than 10 minutes after the scheduled hearing will not be heard and will be re-scheduled at the applicant's expense.



March 31, 2023

Property Owner: Larry & Donna Miller
10129 Cove Road
Chestertown, MD 21620
Donnamiller88@gmail.com

Subject Property: Tax Map 26, Parcel 57. Created in 1972 as part of Great Oak subdivision.

Size of Property: 212,442ft² (4.877acres)

Existing Lot Coverage = 16,688ft²

Lot Coverage Allowed (15%) = 31,865ft²

Lot Coverage Proposed (total) = 17,084ft²

Limits of Disturbance will be less than 5,000ft² therefore no stormwater management will be required.

A Buffer Enhancement Plan will be prepared with a mitigation ratio of 3:1

Mean height of existing dwelling is approximately 18'. The mean height of the proposed addition is approximately 16'.

The site is currently zoned – Critical Area Residential with an LDA (Limited Development Area) designation.

Minimum Setbacks: Front Yard – 50', Side Yard - 15' and Rear Yard - 30'

This site is in the Critical Area and not in the Floodplain. There are no wetlands on the site, according to DNR wetlands map.

Current Use – Single Family Residential

Proposed Use – Single Family Residential

The property adjoins other lands of Larry & Donna Miller to the west and north, the residence of Anthony Malba to the south and Fairlee Creek to the east. There is no active Homeowners Association.

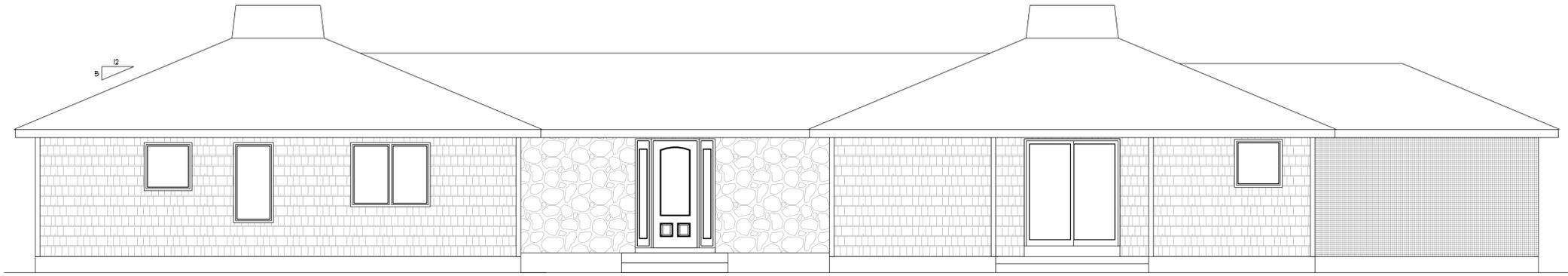
Mr. & Mrs. Miller would like to build a 468ft² addition to the existing dwelling.

Existing Conditions: The property contains an existing house, frame garage, shed and associated driveway. The property is served by private well and septic. The existing house is a one story frame dwelling with a walkout basement that was built in 1974 (according to assessment records). The closest house corner is 85.4' from the Mean High Water Line. There is also an elevated deck along the full length of the front of the house that is 73.0' from MHWL at its closest point. It is unknown what year the deck was built. The area where the addition is proposed is currently a 72ft² slate patio, flower garden and lawn.

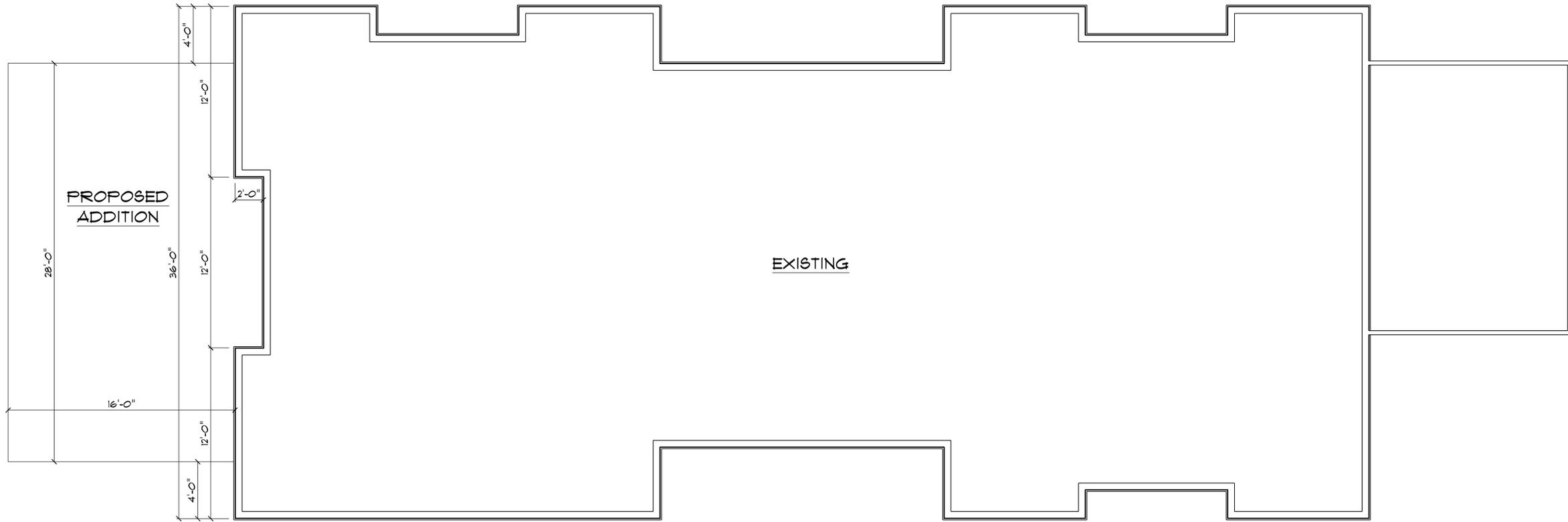
Proposed Conditions: The Miller's would like to construct a 468ft² addition to their house which would be partially in the 100' Critical Area Buffer, with the closest corner being 85.9' from MHWL. The need arises for the addition to relocate the washer/dryer from the basement to the first floor and to allow rehabilitation equipment needed after Mrs Miller's recent back surgery. The existing septic tank in the rear of the house prohibits the addition from being moved back from the water. The topography of the property prohibits the addition from being located in the rear or other side of the house.

Granting this variance will be in harmony with the general spirit and intent of the Critical Area Law and Kent County Zoning Ordinance. The granting of this variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat. Denying this application would produce an unwarranted hardship that is not shared by other properties in the same zoning district and the same vicinity. The granting of this variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by granting of this variance.

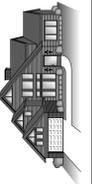
This project should not adversely impact traffic patterns within Great Oak subdivision. This project will not adversely impact any community facilities or services. The nearest public meeting place is Great Oak Marina, 0.6 miles away. Kent County High School is 8 miles away.

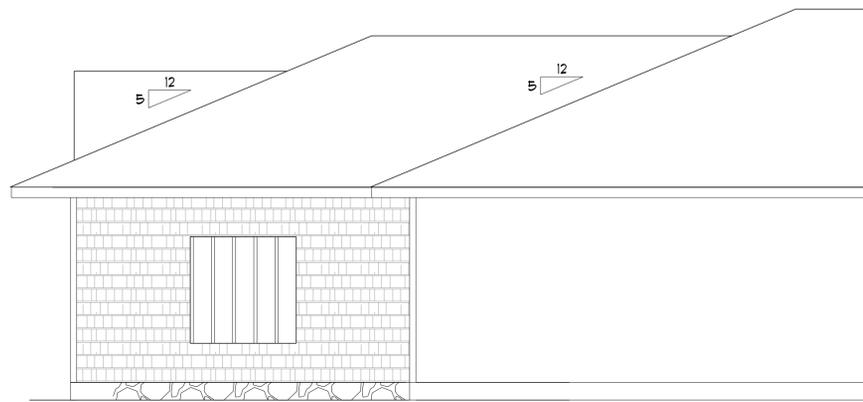


EXISTING ELEVATIONS
SCALE: 1/4" = 1'-0"



EXISTING HOUSE
SCALE: 1/4" = 1'-0"

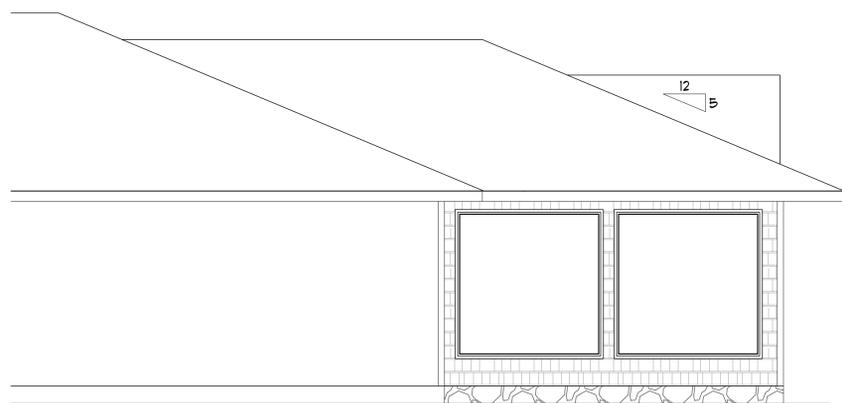




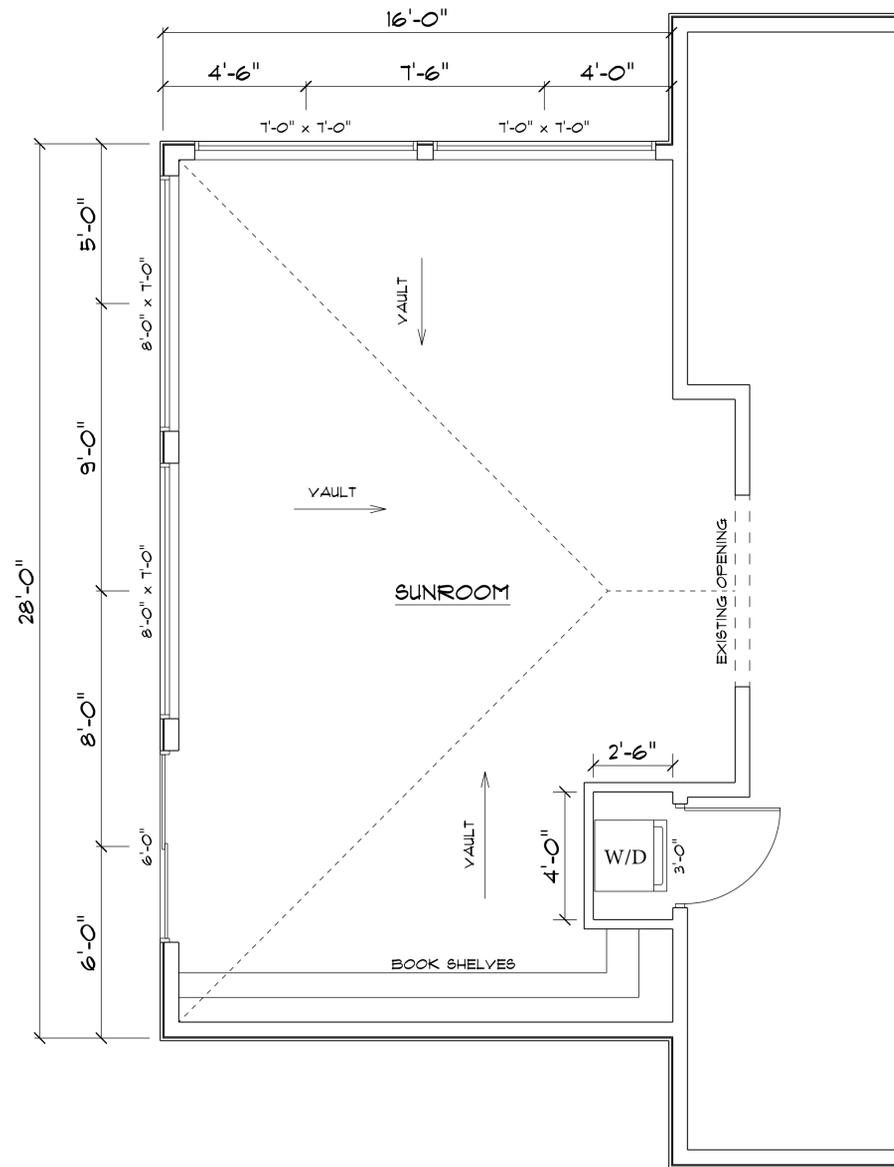
FRONT ELEVATION
SCALE: 1/4" = 1'-0"



LEFT ELEVATION
SCALE: 1/4" = 1'-0"



REAR ELEVATION
SCALE: 1/4" = 1'-0"



FLOOR PLAN
SCALE: 3/8" = 1'-0"

Wes Moore
Governor

Aruna Miller
Lt. Governor



Erik Fisher
Chair

Katherine Charbonneau
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

August 18, 2023

Mr. Mark Carper
Kent County
Department of Planning, Housing, and Zoning
400 High Street, 1st Floor
Chestertown, Maryland 21620

Re: Miller Buffer Variance Request (#23-41)
10129 Cove Road, Chestertown (TM 26, P 57)

Dear Mr. Carper:

Thank you for forwarding information regarding the above referenced variance request. The applicant is requesting to remove a patio, and construct an addition, located partially in the 100-foot Buffer. The proposed footprint of the addition includes the area of the existing patio and does not extend further waterward than the existing dwelling. The area of patio proposed to be removed is 72 square feet, of which 20 square feet is located in the Buffer. The proposed addition is 468 square feet, of which 206 square feet is located in the Buffer and 262 square feet is located outside of the Buffer. The removal of the patio and the construction of the addition will result in 186 square feet of permanent impacts to the Buffer and 210 square feet of increased lot coverage outside of the Buffer.

The 4.877-acre parcel is located on lands designated as Limited Development Area (LDA). The allowable lot coverage for a lot this size is 15%, which is 31,865 square feet. The existing lot coverage is 16,688 square feet (7.86%) and the proposed lot coverage is 17,084 square feet (8.04%), an increase of 396 square feet, of which 186 square feet will occur in the Buffer. No clearing is proposed.

Based on the information provided, we do not oppose this Buffer variance request. Mitigation at a 3:1 ratio is required for permanent impacts to the Buffer per COMAR 27.01.09.01-2. Locating the plantings between the new addition and the shoreline is recommended to maximize water quality benefits. The applicant shall provide a Buffer Management Plan per COMAR 27.01.09.01-3 to the County for review and approval that includes species, size, spacing, schedule of plantings, maintenance activities, and survivability assurance.

In addition, when deciding the proposed Buffer variance request, the Board of Appeals shall make its decision based on the variance findings set forth in Article IX, §2.2.3h of the Kent County Land Use Ordinance and COMAR 27.01.12.04.

Thank you for the opportunity to provide comments. Please include this letter in your file and submit it as part of the record for this variance. Please notify the Commission in writing of the decision made in this case. If you have any questions, please contact me at 410.260.3477 or kathryn.durant@maryland.gov.

Sincerely,

A handwritten signature in blue ink that reads "Kathryn Durant". The signature is written in a cursive style with a long horizontal stroke at the end.

Kathryn Durant
Natural Resources Planner

KC 0271-23

To: Kent County Planning Commission
From: Campbell Safian, Planning Specialist
Date: September 22, 2023
Subject: Town of Rock Hall Comprehensive Plan

Memorandum

Description

The Town of Rock Hall is in the process of reviewing its 2011 Comprehensive Plan to update it. The Town's planning consultant, Chris Jakubiak, has drafted a 20-year plan to guide the Town to the year 2040. DPHZ will transmit the Kent County Planning Commission's comments and input to the Town of Rock Hall Planning Commission for its meeting on Wednesday October 11, 2023.

The 2011 Comprehensive Plan may be found online [here](#), and the proposed 2040 Comprehensive Plan may be found [here](#). Printed copies may be made available upon request, as needed.

Review

The 2011 Comprehensive Plan identified three overarching goals that are retained in the proposed 2040 Plan:

- Rock Hall will build a sustainable community that meets the needs of townspeople, visitors, and the environment.
- Rock Hall will maintain its small-town character and its particular sense of place while allowing planned change which will enhance the quality of life for residents and visitors of all income levels and ages.
- Rock Hall will establish a strong economic base.

The 2011 Plan identified eight fundamental principles that are retained in the proposed 2040 Plan:

1. The traditional, small town character of Rock Hall with its active business district, working harbor, and closely connected residential areas will be maintained.
2. The Town is committed to the development of water-based businesses including marinas, marine suppliers and technicians, seafood harvesting, and recreational boating activities.
3. All new development and renovations will meet high quality design standards that are consistent with the eclectic character of Rock Hall in architecture, scale, and spacing and that retain the high quality of the public views of the water.
4. A diverse set of business and industry ventures compatible with the needs of the community and that provide well-paying jobs is essential for a healthy and balanced community.
5. New businesses should locate on Main Street to maintain the distinctive character of the Town Center.
6. The Town will be made more accessible and unified with the improvement of pedestrian and bicycle paths.

7. The Town is committed to maintaining a working harbor and assuring a place for local watermen in the Town's future.
8. The Town is committed to protecting its natural resources and amenities by maintaining and improving the quality of the natural environment and sensitive areas.

Changing Perspectives

The 2011 Comprehensive Plan and the proposed 2040 Comprehensive Plan share the same goals and principles; however, the proposed 2040 Comprehensive Plan recommends a stronger emphasis on residential growth in an effort to accomplish the goals set forth. The population of the Town of Rock Hall declined from 1,310 to 1,198 between 2010 and 2020 (p.10). In fact, the Town's 2020 population was just 75% of the population it had in 1990. "This Plan seeks to reverse declining population levels and to establish conditions more favorable to development and the production of new houses (p.31)."

One major difference between the 2011 Comprehensive Plan and the proposed 2040 Comprehensive Plan is the Town's viewpoint on the annexation of land. The 2011 Comprehensive Plan stated that "the Town is not desirous of annexing additional land, with the exception of those areas of existing development that are already served by town services. Additionally, the Town has not expressed an interest in modifying the existing zoning designations. Therefore the existing land use plan is identical to the future land use plan (p.13)." The 2040 Plan states that a municipal growth area has been designated for the first time in Rock Hall's long term planning history. This is an area into which the Town may expand its boundaries through annexations in the years ahead (p. 31). The growth area encompasses 435 acres; north, east, and south of the Town.

The 2040 Plan recommends that land use policies supporting residential growth be front and center. The wastewater treatment plant (WWTP) has the capacity to absorb new housing and population growth. There are 76 platted vacant lots where houses could be built. There are 78 acres available within all zoning districts for new residential use and this acreage could accommodate up to 203 new housing units (p.31).

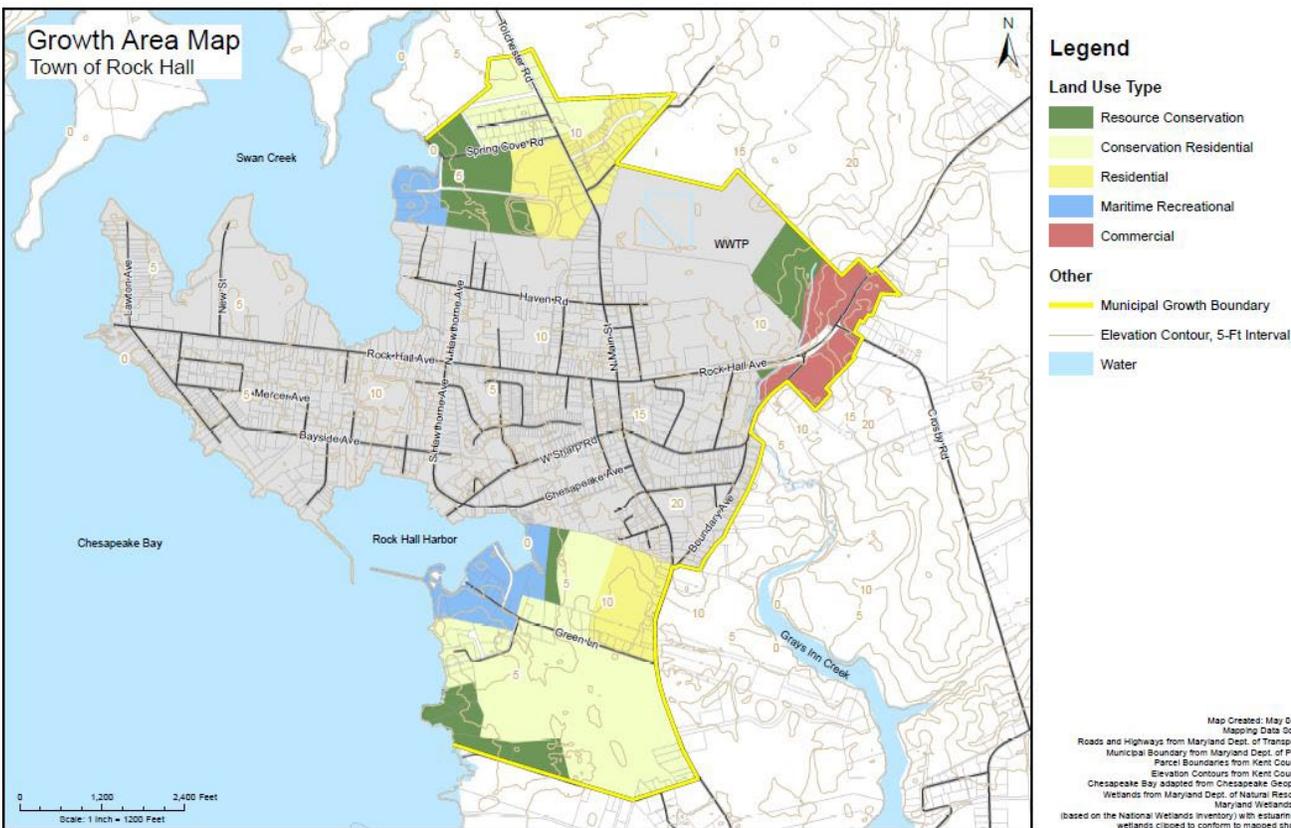
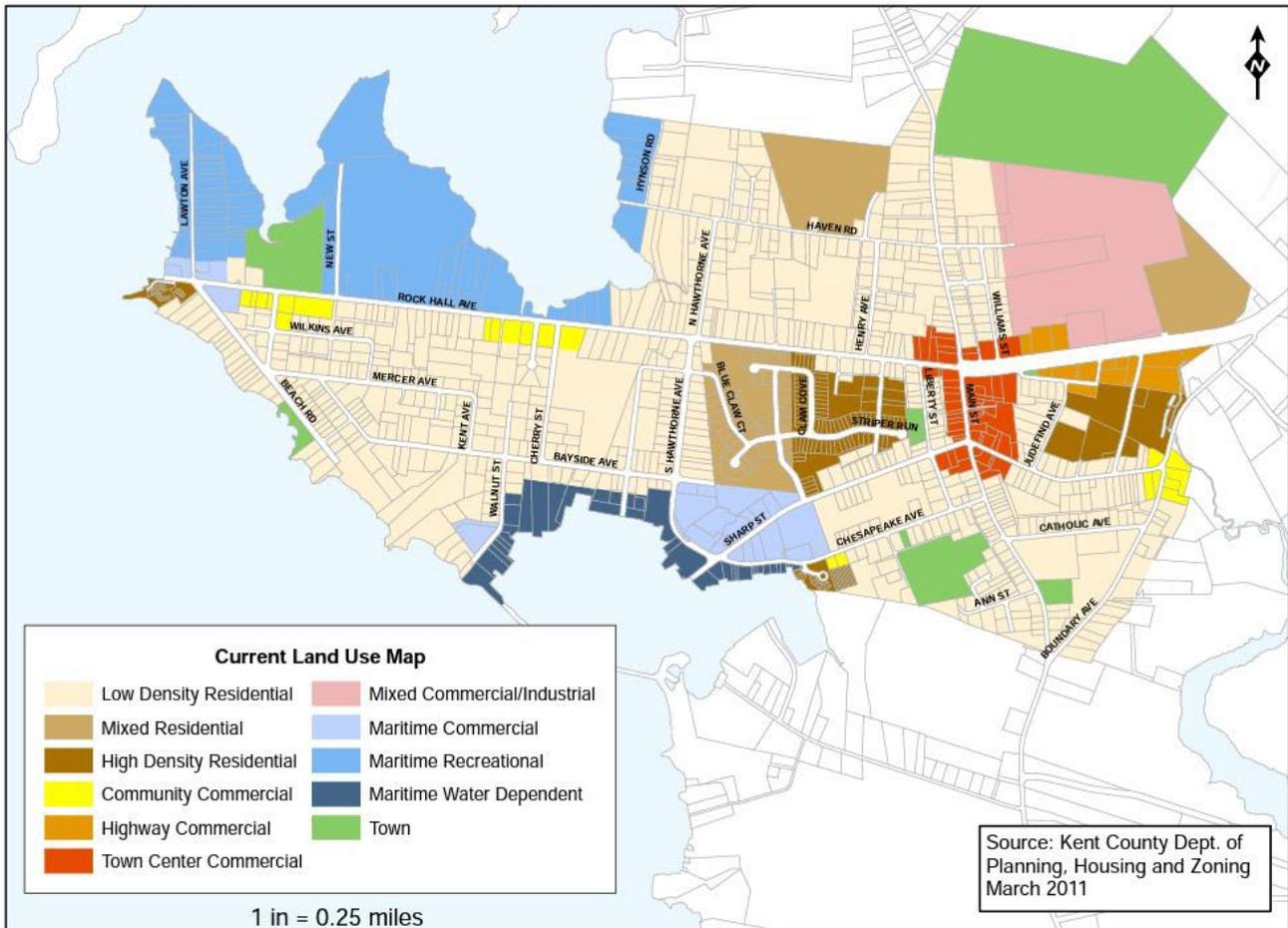
Following the adoption of this Plan, it is recommended that the Planning Commission embark on a Comprehensive Rezoning of the Town. The Comprehensive Rezoning would include zoning map changes and text amendments in order to bring the ordinance and zoning map into conformance with the land use recommendations of this Plan. Recommendations for adoption during the Comprehensive Rezoning process include mixed-use development within the C-3, Town Center zoning district, which is located downtown. Mixed-use development would encompass residential, retail, and service commercial uses together. Within the Town Center zoning district, apartments, condominium buildings, senior housing, and townhouses would be permitted by right. The Plan further recommends that the Town undertake a Downtown Revitalization Master Plan that includes zoning text amendments and building design standards to successfully implement the mixed-use development and wide array of housing types. Architectural and building design standards will ensure that development and housing options match the small town, eclectic character of Rock Hall.

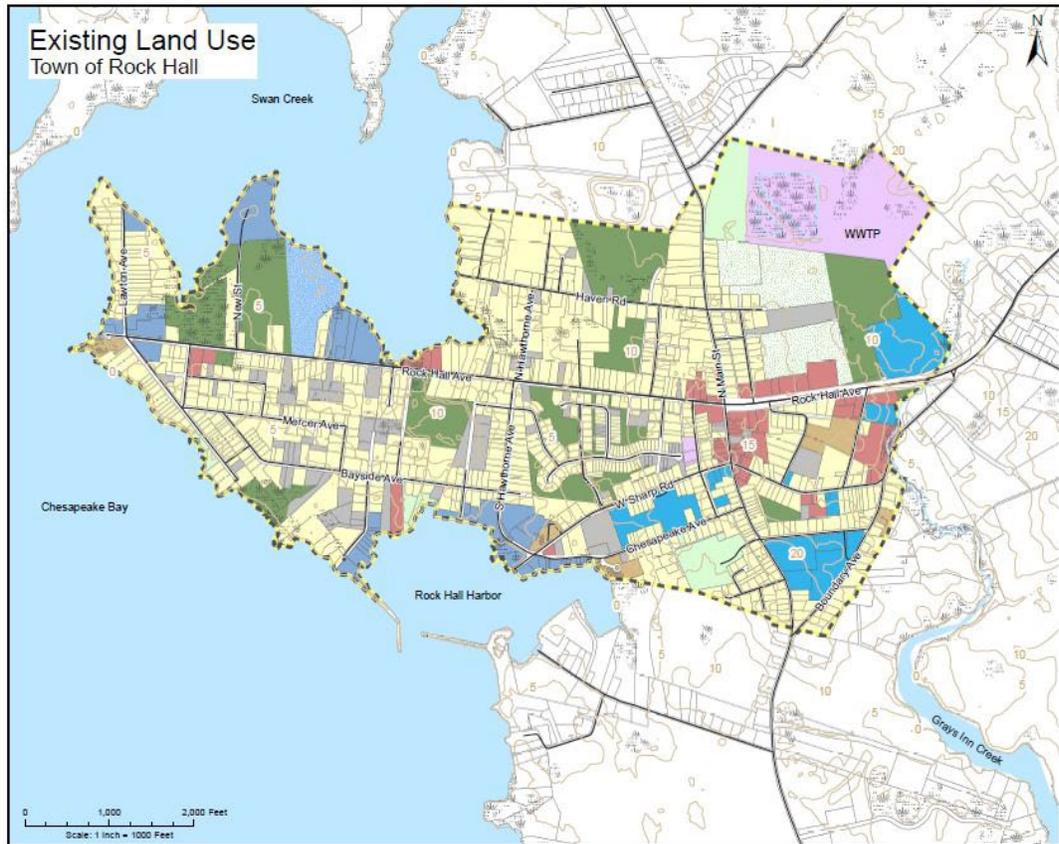
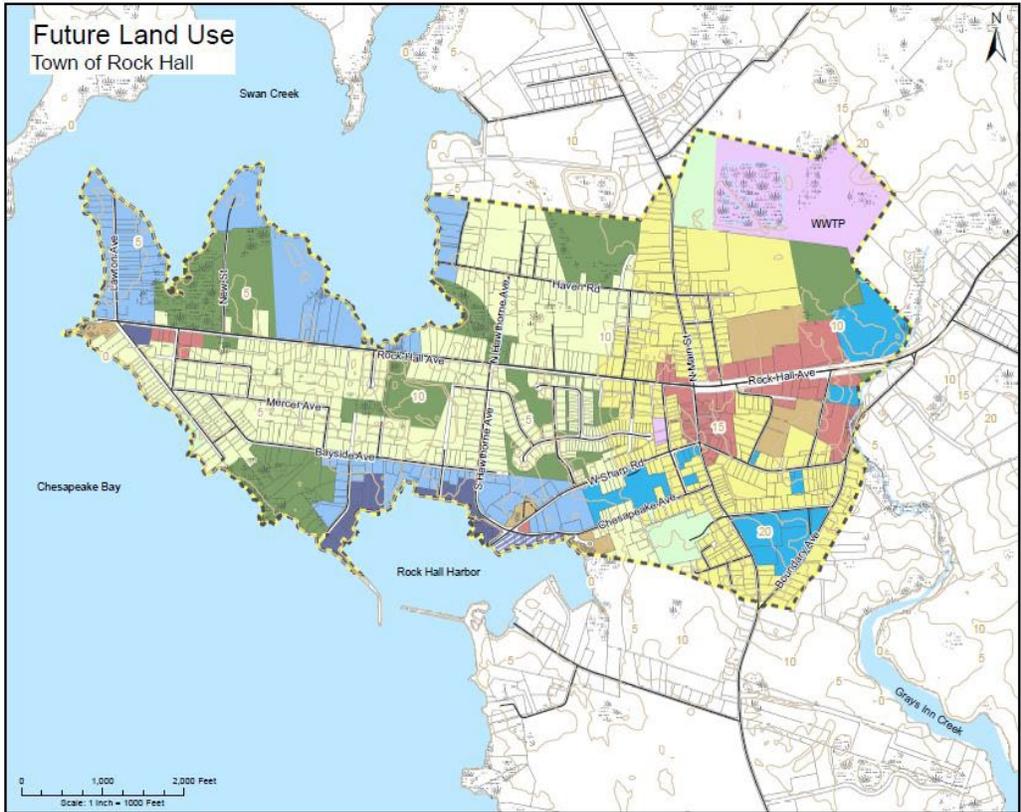
It is recommended by the proposed Plan that new zoning districts be implemented such as Resource Conservation, Institutional, and Mixed-Residential (R-4), as well as the expansion of the Maritime Recreational (MREC) District. This Comprehensive Plan incorporates the Rock Hall Waterfront Master Plan. A draft of the Waterfront Master Plan was published in 2017; however, it was never adopted by the Rock Hall Town Council. It is recommended that the Mixed-Residential (R-4) zoning district permit single family housing and other compatibly sized residential building types with two, three, or four housing units (p. 91). Increasing the density of housing units in residential buildings and clustering future home sites, where applicable, enables the Town to minimize the coverage of land.

The Plan recommends that new impervious surfaces be minimized as development and redevelopment takes place. This can be achieved by encouraging optimal subdivision design, pervious parking lots, and updating the lot coverage and open spaces standards in the Zoning Ordinance. The Plan also encourages the preservation of natural areas and recreational assets, which help to link the Town as it grows. The Plan recommends that an interconnected town park system be built. The Town wants to capitalize on its natural, economic, and cultural resources to become more economically vibrant and to add year-round residents to help secure the essential institutions, businesses, and sense of community that embodies Rock Hall. Planned residential growth can also help ensure the long-term viability of Rock Hall Elementary School by providing a pipeline of enrollment (p.84).

Staff Recommendation

Staff recommends that the Planning Commission review the document. Usually, the plan review distribution is a courtesy for the information of neighboring jurisdictions. If there are substantive issues, then these can be noted in comments. DPHZ will transmit any comments to the Town for inclusion in its Public Hearing, which is currently scheduled for Wednesday, October 11, 2023.





Hello again, Claude. Would you be able to summarize this document by chapter?

WM

Here is a summary of the key points from each chapter of the Rock Hall Comprehensive Plan:

Chapter 1 (Introduction)

- The plan provides guidance for Rock Hall's growth and development through 2040. It aims to maintain the town's small town character while allowing planned change, establish a strong economic base, and build a sustainable community. It adopts 12 state visions for comprehensive planning.

Chapter 2 (Population)

- Rock Hall's population has declined 14% since 2000, following a longer term trend of population loss dating back to the 1970s. The town's population is aging, with over one-third now 65 or older. Households are getting smaller on average.

Chapter 3 (Natural Environment)

- Key natural features like forests, wetlands, and shorelines provide vital ecosystem services and comprise the town's "green infrastructure." Sea level rise threatens parts of the town. A coastal resiliency plan is needed.

Chapter 4 (Water Resources)

- Groundwater supplies drinking water. Water quality improvements are needed. The wastewater treatment plant requires upgrades. Stormwater management and sea level rise resiliency planning are priorities.

Chapter 5 (Municipal Growth)

- The plan forecasts a modest increase of 174 households through 2040. Growth impacts on schools, water, sewer, etc. are manageable. A municipal growth area is designated for potential annexation.

Chapter 6 (Land Use)

- Key land use goals include revitalizing downtown, sustaining the working waterfront, allowing more housing variety, and adapting to sea level rise. A coastal resiliency master plan is needed.

Chapter 7 (Housing)

- Housing costs are high. More affordable and senior housing is needed. Zoning changes can allow more housing types. Short-term rentals reduce housing supply.

Chapter 8 (Transportation)

- Main priorities are improving walkability, parking, waterfront access, and transit services.

Chapter 9 (Community Facilities)

- Upgrades are needed to the water system, wastewater treatment, and other infrastructure. Parks, trails, and open spaces need enhancing.

Chapter 10 (Heritage)

- Cultural and historic resources need preserving. Museums and heritage tourism should be promoted.

Chapter 11 (Implementation)

- Key steps include rezoning, special studies, infrastructure upgrades, interjurisdictional coordination, and monitoring/updating the plan over time.

Let me know if you would like me to expand on any part of this summary further.



To: Kent County Planning Commission Chair and Members
From: Bill Mackey, AICP, Director
Meeting: October 5, 2023
Subject: Discussion of Joint Development Review and Approval Process (version 8-30-2023)

Memorandum

In preparation for the future development and annexation of the properties known as Millington Crossing, representatives from Fresh Ponds, LLC/Millington Crossing, the Town of Millington, and Kent County met to discuss a potential *Draft Annexation Agreement* to address transfers of properties from the County's jurisdiction to Town's jurisdiction and the timing of that process. Included in the discussion was the idea of a joint review process whereby properties in the Millington Crossing project could be developed under Kent County review and annexed into the Town after development. A joint review by the Town's Planning Commission and County's Planning Commissions was proposed, so both would have input on projects.

Town Planner Peter Johnston formulated an initial proposal for consideration, and this is being presented to both the Town of Millington's Planning Commission and this body for input and review. As part of the discussion before each Planning Commission, how the two bodies would sit and decide together could be discussed. Of course, formal action by the Town and County would be needed to effect any such solution.

This is intended as the beginning of an iterative discussion, and the results would be shared with the Town of Millington's Planning Commission. The Town's Planning Commission plans to share the results of its discussions with the Kent County Planning Commission as well. A letter from the Town is expected by the meeting date.



DRAFT
JOINT DEVELOPMENT REVIEW AND APPROVAL PROCESS
MIXED-USE PLANNED DEVELOPMENT

MIXED-USE PLANNED DEVELOPMENT APPROVAL PROCESS

The following outlines the steps in the Mixed-Use Planned Development approval process. Each includes review and approval by the Kent County and Millington Planning Commissions (the approving authority) following a public hearing.

PRELIMINARY DEVELOPMENT PLAN (PDP)

All petitions to create a Mixed-use District (MU) or to add land to the MU District must include a Preliminary Development Plan (PDP), which maps the general location of land uses, major roads, and major public facilities. The land use categories shown may include residential, commercial, industrial, and Open Space. The PDP is approved and can be amended only by the Kent County and Millington Planning Commissions following a public hearing.

COMPREHENSIVE SKETCH PLAN (CSP)

A CSP covers a portion of the MU District. It establishes the location and acreage of land use areas, the number and type of dwelling units, and the specific location of roads, open spaces, schools, and other public or community uses.

The CSP also includes "criteria" establishing requirements for the area covered by the plan, such as permitted uses, minimum lot sizes, parking requirements, setbacks, building heights, and other development regulations tailored to fit a development plan for a particular area.

The Kent County and Millington Planning Commissions must approve the CSP. The combined Planning Commissions hold a public hearing on a proposed CSP.

The stage includes the execution of a comprehensive Developer Rights and Responsibilities Agreement (DRRA) and public works agreement

FINAL DEVELOPMENT PLAN (FDP)

The FDP provides exact boundary descriptions and acreage for the land use areas shown on the Comprehensive Sketch Plan and must include the detailed development requirements (criteria) approved with the Comprehensive Sketch Plan.

The Kent County and Millington Planning Commissions must approve the FDP. The combined Planning Commissions hold a public hearing on a proposed FDP. The FDP is recorded in the Kent County Land Records and becomes the permanent record of land use controls for MU properties.

SITE DEVELOPMENT PLAN (SDP)

A Site Development Plan (SDP) is the last stage before building permits are issued and construction begins in the MU District. An SDP must be per Kent County or Millington's site plan and/or subdivision requirements. At the SDP stage, the Kent County and Millington Planning Commissions will review and approve details such as the adequacy of landscaping and the relationship of parking areas and driveways to streets and other properties. Land use decisions made at the PDP and recorded at the Comprehensive Sketch Plan stages cannot be revisited at this stage.