

MINUTES

October 5, 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=rc3FzppUGfQ>.)

The Kent County Planning Commission met in regular session on Thursday, October 5, 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, Ray Strong, 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 September 7, 2023, as presented. Mr. Strong seconded the motion. The motion passed unanimously 6-0.

APPLICATIONS FOR REVIEW

*23-51 Minary's Dream Alliance Inc. – Major Site Plan (Concept)
9155 American Legion Drive – Fourth Election District – Critical Area Residential (CAR)*

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.

The proposed site improvements include 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. 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.

The Planning Commission heard from Miles Barnard, ASLA RLA, with South Fork Studio Landscape Architecture, Inc., and G. Mitchell Mowell, Esquire, with the Law Offices of Wadkovsky & Mowell on behalf of Minary's Dream Alliance, Inc.

Mr. Mowell introduced case number C-14-CV-21-44 of the Circuit Court for Kent County, Maryland.

Adopted on November 2, 2023

Mr. Barnard presented the proposed site plan and site improvements.

Discussion ensued regarding Judge Murphy's ruling 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."

Mr. Crowding queried whether a reconfigured entrance would be considered as the creation of a new point of access to the location.

Ms. Reeder asked for clarification whether existing plantings onsite would be removed to accommodate the proposed site plan.

Mr. Barnard stated that the intent is not to remove plantings. Plantings would be relocated, when applicable, and adjustments to the site plan could be made in order to prevent the removal of plantings.

Mr. Saunders spoke in favor of the proposed site improvements. Mr. Saunders expressed that the proposals would improve the property.

Ms. Reeder spoke in agreement with Mr. Saunders.

The following members of the public provided testimony to the Minary's Dream Alliance, Inc., Major Site Plan: Mary McGinnis, Annie Richards, Eric Colliflower, and Nathan Shroyer.

When asked, Ms. McCann stated that the Planning Commission is not charged with making a determination on the non-confirming use of the property. The Zoning Administrator shall determine whether a use is permitted by the Zoning Ordinance. The Planning Commission does not determine uses.

Chair Hickman expressed support for the proposed living shoreline and noted that the proposed site plan will be beneficial to the environment.

Ms. Reeder spoke in favor of the proposed site plan and the addition of the meadows.

Mr. Crowding expressed interest in a condition to limit the period of time that the camping area may be used by a guest, such as two or three nights.

Mr. Ruge and Mr. Strong spoke in favor of a stipulation on the camping area.

*23-41 Lawrence and Donna Miller – Variance – Buffer
10129 Cove Road – Sixth Election District – Critical Area Residential (CAR)*

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. Of the proposed 468 sq. ft.

addition, 206 sq. ft. will be in the buffer. The net increase in permanent disturbance in the buffer will be 186 sq. ft.

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

The Planning Commission heard from Lance Young, Esquire, with MacLeod Law Group, LLC; Buck Nickerson, LS, owner of Extreme Measures, LLC; and Lawrence Miller.

Mr. Young and Mr. Miller presented the case as to the need for the buffer variance. The purpose of the proposed addition is to accommodate the relocation of the laundry facilities from the basement; and provide room for therapy equipment, fitness equipment, and a home-office.

Ms. Reeder moved to send a favorable recommendation to the Board of Appeals finding that granting the variance would be in harmony with the general spirit and intent of the Critical Area Law, the Comprehensive Plan, and the Kent County Zoning Ordinance. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat. Denial of the application would produce an unwarranted hardship that is not shared by other properties in the same zoning district and the same vicinity. Several neighbors have spoken in favor of granting the variance. The granting of the variance will not be a substantial detriment to adjacent property. The character of the district will not change with the granting of the variance. The recommendation is made with the condition that the applicant receive approval of the buffer management plan. The variance will lapse after the expiration of one year if no substantial construction in accordance with the plans herein presented occurs.

Mr. Strong seconded the motion, and the motion passed unanimously 6-0.

GENERAL DISCUSSION

Rock Hall Comprehensive Plan

Mr. Safian presented the staff report and noted that the Plan seeks to establish conditions more favorable to development and the production of new houses. The Town of Rock Hall Planning Commission will review the proposed Comprehensive Plan at its meeting on Wednesday October 11, 2023.

Mr. Crowding expressed concerns regarding the proposed reduction of land zoned Maritime Water Dependent. Additionally, Mr. Crowding queried whether the proposed Rock Hall municipal growth area aligns with the Kent County Comprehensive Water and Sewage Plan.

Mr. Ruge questioned the feasibility of septic systems in the proposed municipal growth area.

Ms. Reeder requested that the proposed Comprehensive Plan address services and housing for senior citizens.

Millington Draft PUD Process

Mr. Mackey presented the staff report and introduced the Draft Joint Development Review and Approval Process. The process would enable the Kent County Planning Commission and the Town of Millington Planning Commission to have input on projects overseen by the County and eventually annexed into the Town.

Chair Hickman, Mr. Crowding, and Mr. Saunders spoke in favor of a joint review and approval process.

Ms. Christensen-Lewis provided testimony to the Millington Draft PUD Process.

Proposed Draft Land Use Ordinance Review – Articles V, VI, VII

The Planning Commission reviewed Article V “Zoning Regulations” of the Proposed Draft Land Use Ordinance for Review.

Mr. Mackey noted the inclusion of Electronic Message Center (EMC) signs in the proposed Draft Land Use Ordinance. EMC signs will be permitted at gas stations, quasi-public/institutions, and fire companies. Additionally, the Draft Land Use Ordinance proposes that the maximum area of agricultural signs be increased from 16 sq. ft. to 32 sq. ft.

Discussion ensued regarding Article V Section 3 “Signs.”

Mr. Ruge expressed concerns regarding ground-mounted and monument-type signs that are located in close proximity to an intersection of roads.

Chair Hickman inquired about the setback requirements under Article V Section 4.1.6. Chair Hickman questioned whether setbacks shall be measured from the fence line rather than the outermost edge of the nearest solar panel structure.

Discussion ensued regarding Article VI “Environmental Regulations.”

At the November 2 Planning Commission meeting, members will discuss Article I “Enactment”, Article IV “Processes”, and Article VII “Definitions.”

STAFF REPORTS

ADJOURN

Mr. Crowding moved to adjourn the meeting. Mr. Saunders seconded. The meeting adjourned at approximately 4:48 pm.

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

/s/ Campbell Safian
Campbell Safian, Planning Specialist