

# M I N U T E S

The Kent County Planning Commission met in regular session on Thursday, September 1, 2011, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; Jay Lancaster, Bill Crowding, William Sutton and Roy Crow. Staff: Amy Moredock, Environmental Planner; Carla Gerber, Community Planner; Gail Owings, Director Planning, Housing and Zoning; G. Mitchell Mowell, Planning Commission Attorney; and Kim Dixon, Secretary.

Ms. Morris called the meeting to order at 1:30 p.m.

## MINUTES

The minutes of the August 4, 2011, meeting were approved with a correction to the date.

## APPLICATIONS FOR REVIEW

**Mitchell Lewis and Kathy Lawler – Buffer Variance** – Mr. Lewis and Ms. Lawler requested a buffer variance for the construction of their replacement single family dwelling within the 100 foot Critical Area Buffer. The existing dwelling is currently located within the 100 foot Buffer and sustained flood damage in 2003 during Hurricane Isabel. The existing one-story dwelling has a footprint of 1,713 square feet and is located 66 feet from mean high tide at its closest point to Davis Creek. The replacement two-story dwelling has a proposed footprint of 1,393 square feet and is proposed to be located in the same general footprint, maintaining a 66-foot setback from Davis Creek at its closest point.

The 1.567-acre property is located on Hidden Acres Lane in the Fifth Election District and is zoned Critical Area Residential. This parcel is comprised almost entirely of buffer, as it is an oddly shaped and narrow peninsula. The surrounding area is zoned Critical Area Residential and Resource Conservation District with a mixture of agricultural and residential use comprised of one- and two-story homes.

Ms. Moredock reviewed the staff report noting the Applicable Laws cited in the Kent County Land Use Ordinance to include Article V, Section 5.5 which establishes the required minimum yard; Article V, Section 5.7.B3a which addresses development in the buffer; and Article IX, Section 2.2 which authorizes the Board of Appeals to grant variances under certain circumstances.

Staff recommended approval. Staff further recommended mitigation of 3:1 for disturbance within the Buffer in the form of native Maryland tree and understory plantings within the Buffer.

Correspondence in this matter was received from the Critical Area Commission. The Commission does not oppose the approval of this application if variance standards are met.

Mr. Crowding recused himself because he has worked on this project.

Present and duly sworn was Peter Bourne, engineer, representing the applicants.

Mr. Bourne stated the applicants would like to construct a replacement dwelling on their property. The current dwelling was damaged during Hurricane Isabel. The applicants have tried to repair the house; however, they were unable to rid the house of mold. The proposed dwelling will have a smaller footprint and will not block the view from any of the neighboring properties.

There were no comments from the audience.

After a discussion, Mr. Crow made a motion to send a favorable recommendation to the Board of Appeals finding:

- There will be no substantial detriment to neighboring or adjacent properties.
- The approval will not change the character of the neighborhood.
- The proposal is consistent with the Comprehensive Plan.
- The practical difficulty is caused by the size and shape of the property and was not caused by the applicants' own actions.
- This parcel is comprised almost entirely of buffer, as it is an oddly-shaped and narrow peninsula. Further, one of the only areas located outside of the buffer has been identified by the Kent County Health Department as the location of the private sewerage disposal system.
- The Critical Area Commission has not opposed this variance.
- There will be no adverse effect on water quality.
- Strict application of the Ordinance could produce an unwarranted hardship as, due to the location of the sewage disposal system, there is very little area onsite located outside of the 100 foot buffer in order to construct a replacement dwelling (or any other structure onsite).
- A literal interpretation of the Ordinance could deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County, as residential development is common to the area and the zoning district.

Further, the Planning Commission suggests the following conditions of approval:

- The applicant shall comply with all health department requirements
- Mitigation of 3:1 for disturbance within the Buffer in the form of native Maryland tree and understory plantings within the buffer shall be required.

The motion was seconded and approved unanimously.

## **STAFF REPORTS**

**AMY MOREDOCK** –The Local Emergency Planning Committee will hold a safety fair at Heron Point on September 15, 2011. The County will participate in the Fair by providing information regarding the Kent County Hazard Mitigation Plan update. The County is moving forward with the local Phase II Watershed Implementation Plan by drafting 2-Year Milestones and attending state and local meetings relative to the WIP. A meeting will be held in Easton sponsored by the Center of Agro-Ecology on September 16<sup>th</sup> and the Sassafras River Association will co-host a WIP informational meeting at the Galena Fire Hall on September 27<sup>th</sup>.

**CARLA GERBER** – No report

**MITCH MOWELL** – No report

**GAIL OWINGS** – The Maryland Department of Planning is drafting changes to PlanMaryland as a result of comments received. PlanMaryland will come back before the Planning Commission if substantial changes are made. Additional comments should be submitted by the end of October 2011. The County Commissioners have not reached a decision on the DRRA for Kent Recycling and Land Reclamation project. There will be a meeting held on September 6<sup>th</sup> at the Middletown Fire Hall to discuss improvements to Route 301 in Delaware.

There being no further business, the meeting was adjourned at 2:14 p.m.

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Elizabeth Morris, Chairman

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Kim Dixon, Secretary