

## MINUTES

The Kent County Planning Commission met in regular session on Thursday, February 6, 2014, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland, with the following members in attendance: Elizabeth Morris, Chairman; William Sutton, Vice Chairman; Ed Birkmire; Bill Crowding; Kim Kohl, Randy Bellows and Joe Hickman. Staff in attendance were: Amy Moredock, Director of Planning, Housing, and Zoning; Carla Gerber, Community Planner; Bill Kerbin, Housing Planner; G. Mitchell Mowell, Planning Commission Attorney; and Jennifer Butz, Secretary.

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

## MINUTES

The minutes of the January 6, 2014, meeting were approved as presented.

## APPLICATIONS FOR REVIEW:

**#13-79 – Great Oak Landing Marina** is requesting a buffer variance in order to install a sewerage line within the Critical Area buffer in order to service temporary facilities onsite on the property located at 22176 Great Oak Landing Road in the Sixth Election District. The parcel is zoned Resource Conservation District, Rural Character and Marine.

Present and duly sworn in were William Thomas Davis, Jr., DMS and Associates, and Joe Stevens, attorney for the applicant.

Mr. Kerbin gave an overview of the application and reviewed the Applicable Laws of the Kent County Land Use Ordinance to include Article V, Section 13.5 which contains the minimum yard in the Marine Zoning District; Article V, Section 13.6B which addresses development in the buffer; and Article IX, Section 2.2 which authorizes the Board of Appeals to grant variances from the buffer requirements.

Correspondence was received from the Critical Area Commission approving the application stating there will be no negative impact.

Mr. Davis provided a plat of Great Oak Landing Marina showing where the sewerage line will be installed and stated the Health Department previously approved temporary holding tanks and due to a failure in the holding tank last year, the Health Department is requiring a more permanent solution to pump the wastewater from Jellyfish Joel's to the lagoon. Mr. Davis also stated a buffer planting plan has been submitted to show planting of trees and shrubs to offset the temporary and permanent disturbance.

Ms. Mildred Sutton, Great Oak Estates, had concerns over the wastewater being pumped into the lagoon and whether or not the lagoon is large enough to handle the additional wastewater. Mr. Davis stated the lagoon will not have an issue housing the additional wastewater.

After a brief discussion, Mr. Hickman made a motion to send a favorable recommendation to the Board of Appeals for approval of the buffer variance based on the following:

- Granting of the variance will neither cause a substantial detriment to neighboring properties nor change the character of the neighborhood or zoning district.
- The granting of the variance is 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.
- A copy of the application for variance has been provided to the Critical Area Commission and it

does not have any objections to the project.

- A practical difficulty was caused by the unusual characteristic of the size and shape of the property, as the property in this location is a peninsula. As a result of this configuration, no other location exists to install the sewerage line outside the 100 foot Critical Area buffer.
- Strict application of the Ordinance would produce an unwarranted hardship as there is no alternate location for the sewerage line and, if denied, the applicant would be forced to discontinue a use which was permitted by Board of Appeals decision in 1999.
- The granting of the variance will not cause a substantial detriment to neighboring properties.
- The Kent County Department of Environmental Health is requiring the discontinuance of the existing failing holding tanks to correct a health hazard. The installation of the sewer line should mark an improvement in water quality and habitat protection onsite.
- A literal interpretation of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area of Kent County, as alternative locations do not exist to install the sewerage line.
- The installation of the sewerage line will result in limited disturbance in the buffer.
- A buffer enhancement plan has been reviewed and approved by the Department of Planning, Housing, and Zoning to include a mixture of trees and shrubs.

Mr. Hickman further recommended that a condition of approval be that the granting of the variance shall be subject to the conditions set forth in the October 5, 1999 Kent County Board of Appeals decision to approve a use permit for a temporary facility in the 100 foot Critical Area buffer.

The motion was seconded by Mr. Crowding and approved unanimously.

**#14-03 – Samuel Alexander** is requesting a conceptual site plan review to operate a haunted house for weekend use from September to November on the property located at 13335 Alexander Road, Massey, in the First Election District. The site plan consists of the following improvements: two 3,000 square foot buildings, ticket booth, area of refreshment sales, portable restrooms, designated haunted hayride area, gravel driveway and parking area, grass parking area, dirt lane, and 50 foot landscape buffer along much of the site. The parcel is zoned Agricultural Zoning District (AZD) and is currently in agricultural production and improved with a homestead and agricultural buildings located adjacent to the homestead.

Present and duly sworn in were Jane Alexander and Samuel Alexander, and Robert “Buck” Nickerson.

Ms. Moredock gave an overview of the application and reviewed the Applicable Laws of the Kent County Land Use Ordinance to include Article V, Section 1.2 which outlines the permitted uses and structures in AZD; Article V, Section 1.7.B.2 which establishes the forest conservation standards for the AZD; Article V, Section 1.7.B.8 and Article VI, Section 10 which establish stormwater management provisions; Article VI, Section 9 which address sediment and erosion control measures; Article V, Section 1.8 which addresses site access, parking, lighting, and landscaping; and Article VI, Section 5.3.B which outlines the site plan review standards.

No correspondence has been received regarding this application.

Mr. Nickerson gave an overview of the application and discussion regarding the application ensued. The discussion included the possible hours of operation to appeal to all ages, and a possible kid’s matinee on Sundays. Mr. Nickerson also stated at the citizen participation program the only question that arose was what would happen with the parking situation in the event of heavy rain. Mr. Nickerson stated that the haunted house/hayride would not operate in that environment.

The Planning Commission offered the following comments relative to the conceptual site plan:

- The proposed temporary operation is a permitted use and will be locally owned and operated.
- A parking lot is proposed to be located approximately 60 feet from Alexander Road and 50 feet from Massey Road/MD Route 299.
- The site will be accessed by the existing entrance off of Alexander Road.
- This proposed use and entrance location should not conflict with Kent Sand and Gravel truck traffic.
- The site will be improved permanently with the two 3,000 square foot buildings which will be used for agricultural purposes during the remainder of the year, a gravel driveway and recreational area, dirt lane, and 50 foot landscape buffer along much of the site.
- The site will be improved temporarily (September – November) by a ticket booth, an area of refreshment sales, portable restrooms, designated haunted hayride area, and a designated grass parking area.
- The landscaping plan consisting of white pine trees planted along 10 foot centers appears to be adequate.
- The haunted house is proposed to operate on a seasonal basis for a total of 16 days annually. The proposed period of operation is during weekends from the last Friday in September until the last Sunday in November. Hours of operation on Fridays and Saturdays will be from 7 pm to 11 pm and on Sundays from 7 pm to 10 pm.
- The Commission noted that the applicant should assess the proposed hours to consider earlier, matinees hours on Sunday and potential private parties.
- Any proposed lighting must be dark-sky compatible.
- A Citizen Participation meeting was held and the proposal was well-received by the attendees.

Prior to final site plan review the applicant will need to submit:

- A Forest Conservation Declaration of Intent
- Formal sediment and erosion control and stormwater management plans and associated sureties.
- Signage detail, if proposed.
- Fire Chief Association review of the Emergency Plan.

## **STAFF REPORTS**

Carla Gerber: Ms. Gerber reported she, Ms. Morris, Mr. Ron Fithian, and Ms. Moredock attended an awards ceremony in Annapolis. Kent County received a Sustainable Growth award for its Farmland Preservation Program.

## **GENERAL DISCUSSION:**

Mr. Birkmire addressed the application of the Town of Chestertown for Gateway Park and his concern for the forward progress of the park when the site plan has not yet been approved.

There being no further business for the good of the organization, the meeting was adjourned at 2:37 p.m.

---

Elizabeth Morris, Chairman

---

Jennifer Butz, Clerk