

DORCHESTER COUNTY PLANNING COMMISSION

MINUTES – January 4, 2017

The Dorchester County Planning Commission held their regular meeting on January 4, 2017 at 12:00 pm in the County Office Building, Room 110 in Cambridge MD. Members present were: Robert Hanson, Chair, Laura Layton, Bill Giese, Ralph Lewis and Mary Losty. Also present were Steve Dodd, Director, Rodney Banks, Deputy Director, Brian Soper Critical Area Planner and Christopher Drummond, Attorney. Absent: Jeffrey King.

Mr. Hanson called the meeting to order at 12:00 p.m.

Mr. Hanson asked for a motion to approve the minutes of December 7, 2016. Mr. Giese made a motion to approve the minutes and Mrs. Layton seconded. The motion unanimously carried.

OLD BUSINESS

A. Chesapeake Bay Critical Area Ordinance Text Amendment New Critical Area Chapter 156, Planning Commission final review.

Mr. Soper reviewed the changes that were made to the final draft. Buffer exempt areas are now referred to as modified buffer areas. This relates to how close one can get to the water, which now includes neighbors and the distance of the closest structure, changed to the primary structure only. He pointed out that there is nothing stricter in the ordinance than what the Critical Area Commission requires.

Mr. Soper also reviewed some exemptions that were approved for the 100' buffer. The in-kind replacement in the 100' buffer or expanded buffer will not require a variance anymore. An example would be replacement of an existing home in the original footprint. If a property is in the floodplain and renovations are done, to include elevation of the home, a variance would not be required to build steps within the buffer. Through the Administrative Variance, a deck would be allowed closer to the water within the 100' buffer, but the buffer cannot be reduced any less than 50'. The size of the deck is also limited and cannot count as lot coverage. A deck will be allowed in the expanded buffer as long as it does not encroach into the 100' buffer.

Mr. Banks noted that the Critical Area Commission would not agree to allow swimming pools to go through an Administrative Variance in the 100' buffer or expanded buffer. The Critical Area Commission indicated that they would be open to review it again at a later date. Mr. Drummond noted that a property owner could still try to obtain a variance for the pool.

Mr. Soper noted that this document takes all the critical area laws from the County ordinances and places them in one document.

Mr. Dodd advised that if approved today, it will go before the County Council for a public hearing and then to the Critical Area Commission for their approval.

Mr. Soper answered any questions the Planning Commission members had concerning the document.

Mr. Hanson asked for a motion to forward the document to the County Council for a public hearing. Mr. Giese made a motion to forward to the County Council with a favorable recommendation and Ms. Losty seconded. The motion unanimously carried.

NEW BUSINESS

A. P & Z # 1073B – Abandonment of Lots, Elizabeth Morgan Estate. The applicant is requesting the abandonment of lots 2-6 as shown on an approved subdivision plat, for property identified on Tax Map 6, Grid 3, Parcel 4.

Bill Craig, Applicant, PO Box 614, Cambridge, MD and any other person who would be testifying came forward and were sworn in.

Mr. Dodd reviewed the request. This was a cluster subdivision that created lot 1 in 2005 and lots 2-6 in 2011. Mr. Dodd advised that a house was built on lot 1 in 2006. There is an existing home (built around 1941) on lot 6. The owners have been unable to sell lots 2, 3 and 4 and are paying residential taxes on them. Mr. Craig advised that the owners would like to undo the subdivision of lots 2-6 and revert them back to agricultural zoning for tax purposes. They would also like to get back the \$7,000 plus application fee of \$467 for the stormwater management bond. Mr. Craig noted that there is a forest conservation plan that will probably need to be undone as well. It was noted that the house on lot 6 will become part of the farm and is owned by the Morgan family. The house on lot 1 also belongs to one of the Morgan relatives.

Mr. Dodd read agency comments into record. The Health Department stated they have no problem with this request but there would be a \$75 review fee. Greg LaBlanc, Public Works had no objection to the request. Mr. Dodd advised Mr. Craig that he would need to get in touch with Greg LaBlanc about refunding the stormwater management fee and bond.

Mr. Drummond advised Mr. Craig that someone will need to prepare instruments that abandon the Forest Conservation easement and long-term protective agreement, shared driveway maintenance agreements, stormwater management plan, right of way easement on both roads and any deed covenants. Mr. Craig advised that there were covenants, however he has been unable to locate them in Land Records. He was also unable to find the long-term protective agreement. Mr. Dodd suggested he look at the Forest Conservation easement, the language might be in that document. Mr. Craig does not believe the right of way easements will be released by the County.

Mr. Drummond advised that the forest conservation plat will need to be abandoned as well. He suggested that a revised forest delineation plat be

prepared abandoning the original plat with notes on the side stating that this document is undoing the restrictions of the forest conservation area. He also suggested that all documents pertaining to the abandonment of this subdivision be recorded simultaneously. Mr. Craig asked Mr. Dodd if the revised plat “Abandonment of Lots 2-6, land of the Estate of Elizabeth H. Morgan” was satisfactory to file and Mr. Dodd stated no changes were needed.

Mr. Craig asked if he would need to come back before the Planning Commission with these documents. Mr. Hanson stated he would not need to return.

Mr. Hanson asked for a motion to approve the reversal of the subdivision, to include two documents that will undo the shared driveway agreements, and the stormwater management plan, to be filed in Land Records. A revised forest delineation plat that abandons the original Forest Conservation Plan will also need to be filed with Plats. Ms. Losty made the motion and Mr. Giese seconded. The motion unanimously carried.

Board of Appeals Cases – Review and recommendation.

Mr. Dodd advised that the Sunnee Bee Solar project (Case #2600) is the only item on the Board of Appeals docket for the January meeting and the Planning Commission has already given their recommendation on this case.

INFORMATION

Mr. Drummond advised that within the last month, four applications for solar projects have been given to the Public Service Commission for review. Mr. Dodd advised that the solar companies are applying directly to the PSC citing that PSC pre-empts the local land use authority. He also pointed out that the only projects the Board of Appeals and the Planning Commission would see if the PSC approves this are projects under 2 megawatts. The applications are in Queen Anne, Dorchester (Cambridge) and Kent Counties. Ms. Losty advised that there have been three inquiries concerning solar projects within the City of Cambridge. One of the failed subdivisions in the City is under consideration for a solar project.

Mr. Lewis asked if this is farm land that has sold their development rights. Mr. Banks advised that MALPF (Maryland Agricultural Land Preservation Foundation) has not yet come out with a policy concerning solar projects. Mr. Banks advised that MALPF does not approve of the projects because it is taking farm land out of production. Mrs. Layton advised that the Maryland Farm Bureau provided a document in December that states they are against these projects on agricultural land. Mr. Lewis asked how the projects are taxed. Mr. Dodd stated that they fall under commercial taxes.

There was a discussion on whether the Planning Commission could deny an application for a solar project based on the recommendations they had given the Board of Appeals, if the Board of Appeals grants the request. Mr. Drummond advised that the Board of Appeals grants the use and the Planning Commission then reviews the site plan for zoning compliance. It is his understanding that the Planning Commission would not be able to deny site plan approval based on the

recommendations they had given to the Board of Appeals, since the recommendations were considered at the time the variance was requested. Mr. Dodd noted that the Planning Commission does have discretion on the screening of the project and can require a 50' buffer from all properties that abut the project.

Mr. Lewis asked why a moratorium cannot be placed on these projects until a plan can be put in place. Mr. Dodd advised that the County Council had decided not to place a moratorium on the solar projects. Mr. Dodd advised that Talbot County has placed a moratorium on the projects and is considering a cap on the number of acres that could be placed in solar panels. It does not specify the zoning districts where the projects can and cannot be placed. He noted that this has not yet been passed. Mr. Drummond advised that Kent County also placed a cap on the solar projects but it is driven by zoning districts.

With no further business, Mr. Giese made a motion to adjourn and Ms. Losty seconded. The motion unanimously carried. The meeting was adjourned at 12:57 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "A. Giese", written in a cursive style. The signature is positioned below the text "Respectfully submitted,".