

DORCHESTER COUNTY PLANNING COMMISSION

MINUTES – June 6, 2018

The Dorchester County Planning Commission held their regular meeting on June 6, 2018 at 12:00 pm in the County Office Building, Room 110 in Cambridge MD. Members present were: Robert Hanson, Chair, Laura Layton, Vice Chair, Bill Giese, Jerry Burroughs and Ralph Lewis. Also present were, Rodney Banks, Deputy Director, Brian Soper, Critical Area Planner and Christopher Drummond, Attorney. Absent: Jeffrey King, Mary Losty and Steve Dodd, Director.

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

Mr. Hanson asked for a motion to approve the minutes of April 4, 2018. Mr. Lewis made a motion to approve the minutes and Mr. Burroughs seconded. The motion unanimously carried.

OLD BUSINESS

A. None

NEW BUSINESS

A. Critical Area Administrative Variance Request – Case #AV-43, Matthew and Beverly Priest, owners, for property located at 4435 Pine Top Road, Taylors Island, Maryland. Requesting administrative variance approval to allow the replacement and expansion of a dwelling, the construction of a deck within the 100’ and expanded buffer, and relocation and replacement of an accessory structure within the expanded buffer.

Mr. Soper reviewed the request. Property is zoned RC – Resource Conservation, containing 28.5 acres and the Critical Area Overlay is RCA – Resource Conservation Area. Mr. Soper reviewed the Staff Report dated June 6, 2018. Charlotte Shearin, Critical Area Commission, stated in an email dated March 17, 2018 that they did not oppose the request provided mitigation is performed as required. A buffer management plan will be required at the time of permit application.

Mr. Whitten advised that the existing dwelling was built in 1920. The owners attempted to save the structure and elevate it to comply with the floodplain ordinance. The owners found that it was not feasible to save the dwelling. He noted that two accessory structures will be removed and replaced with one new structure of 1,240 sq. ft.

Mr. Drummond raised a question about removing the lot line between the two parcels noted as deed lot 1 and deed lot 2 on the site plan. Mr. Whitten advised

there is one tax ID and one deed for both parcels. Mr. Whitten stated that they would be agreeable to sign a covenant not to separate if required to do so.

Mr. Hanson asked for a motion. Mr. Giese made a motion to send a favorable recommendation to the Director. Mrs. Layton seconded and the motion unanimously carried.

- B. P&Z #1335 – Todd Solar, c/o Ryan D. Showalter, applicant, W & J McWilliams Farms, owner. Site Plan Approval. The applicant is requesting site plan approval for a utility scale solar energy project. The site is located on Harper Road and is shown on Tax Map 23, Grid 3, Parcel 1. Property is zoned AC, Agricultural Conservation.**

Sandy McAllister, Esq., 300 Academy St., Cambridge, MD, Brendan Mullaney, Esq., 100 N. West St., Easton, MD, both with McAllister, DeTar, Showalter & Walker, and any other person who would be testifying in this case, were sworn in.

Revised site plans were handed out and then Mr. Banks reviewed the request. He noted that a special exception was granted by the Board of Appeals for the project as well as a variance for fence height. An extension of time was also granted for the project. Mr. Banks noted that a small portion of land is within the critical area and is excluded from the project. Disturbance of more than 5,000 sq. ft. will require stormwater management, sediment and erosion control and a grading permit. Issuance of a grading permit causes the Forest Conservation requirement to be addressed.

Mr. Banks noted that the applicant is proposing 50 ft. wide screening along the property except where there is existing forest, woodlands and adjacent to the Town of Hurlock's wastewater treatment plant. He also advised that if this plan is approved, a cost estimate for plant material, labor and maintenance will need to be given to the Planning Office so the surety can be determined. A planting plan maintenance and management agreement will be required for the surety and will need to be executed before building permit approval. An easement will be required for the existing forest that is used to meet screening requirements to assure it is not removed.

Mr. Banks advised that if the project is approved by the Planning Commission, the approval will be valid for a period of one (1) year, and the applicant will need to obtain building permits within that time frame.

Mr. Hanson asked about surety for take down of the project. Mr. Banks advised that the County does not have a surety for dismantling the project. He noted that a surety is required by the Maryland Public Service Commission.

Mr. McAllister introduced Nick Leffler, Project Engineer, Kimley Horn, who would be reviewing the project and the site plan details. Mike Casey, Landscape

Architect, will address the buffer, screening plantings and anything related to the plantings. Brendan Mullaney would address criteria questions.

Mr. Leffler advised that Invenergy will be on site throughout the construction process and will own and operate the project once it is up and running. Mr. Drummond noted that through new legislation, if a company such as Invenergy decides they are going to sell the project they must notify the local municipality.

Mr. Hanson stated that one of the Board's main concerns is how the plantings will be kept alive. Mr. Leffler advised the plantings will be watered as needed. Mr. Giese pointed out there are two center pivots on this property that could be used for irrigation.

Mr. Leffler reviewed the project and spoke about the forest conservation plan. He advised approximately 28 acres will need to be mitigated. He noted half of the mitigation will be done on site and the other half off site; the off-site location has not yet been determined. He advised that a forest delineation is being done at this time and a wetlands delineation has been completed.

He spoke about drainage of the property and portions that will need to be graded to address wash out situations; as pointed out in a letter from Karen Houtman, District Manager, Soil Conservation. Mr. Leffler noted there is a small ditch along Harper Road that will be maintained by the project.

Mr. Drummond noted the grade on Palmers Mill Rd. around the existing houses and asked if the stanchions for the panels would follow the grade. Mr. Leffler stated they would follow the grade. There was a discussion about the landscaping for this area and Mr. Burroughs asked if they would be able to provide 10 ft. trees to screen the panels from those residences. Mr. Leffler stated they would.

Mr. Leffler reviewed the site plan, noting entrances, vegetative buffers and fencing. The project will cover approximately 145 acres. He advised there may be a building located on the property in the future for project supplies.

Mr. Giese asked if they were aware of any problems with the grasses under the panels catching fire during the winter months. Zach Nelson, Project Developer, Invenergy, was unaware of any problems. He did note that they recently met with Hurlock Volunteer Fire Department and made a donation for a utility scale solar project training course, which Hurlock has completed. He stated that they would be willing to do the same for the East New Market Volunteer Fire Department.

Questions were raised as to how the fire departments would access the project. Mr. Leffler advised there will be a locked gate. The fire department will be given a key to the padlock on the gate. A lockbox will also be located near the gate and the fire departments will have access to it. There will be cameras at

the entrances to monitor the project 24/7 from Invenergy's headquarters in Chicago. Local employees will respond to problems as well.

Mike Casey, Landscape Architect, Kimley Horn, reviewed the planting plan and species proposed. He advised the buffers will be 50 ft. wide. Evergreens will be the predominant plant with some deciduous species. He reviewed the plantings that will be used in the type 1, and type 2 buffers. Mr. Casey reviewed a photo taken of the site as it is now. He reviewed the landscape plans and renderings of the plantings at different stages of development Mr. Casey noted the bond period for the plantings runs for two years. The company that installs the plantings is responsible for replacement the first year. The second year becomes Invenergy's responsibility.

There was a discussion on the bonding period for the plantings. The Planning Commission agreed that a two-year bonding period is not long enough. Mr. Hanson asked Mr. Drummond if the State requirement for a two-year bonding period can be superseded by the Planning Commission. Mr. Drummond advised it could. There was a discussion on extending the bonding period. Mr. McAllister suggested a three-year guarantee with the right to extend this guarantee for a fourth year if deemed necessary by the Director of Planning and the applicant.

There was a question and answer period between the Planning Commission and representatives from the project.

Mr. Hanson asked if there was anyone in the audience that would like to speak for or against the project. No one spoke for or against the project.

Mr. Hanson asked for a motion. Mrs. Layton made a motion to approve the site plan pending completion of the following:

1. Staff Report - six (6) comments
2. Soil Conservation – five (5) comments; particularly item #4
3. Lane Engineering – nine (9) comments
4. All materials included in this presentation.
5. A three (3) year surety for plantings with the option to extend to a fourth year, at the discretion of Planning & Zoning.
6. Tier 2 plantings behind the residences on Palmer Mill Road be installed before construction begins.
7. All parties will undertake by agreement to see if the County can be added as a party benefitted by the demolition bond.
8. All these items must be completed before permits are issued.

Mr. Burroughs seconded, and the motion unanimously carried.

C. Board of Appeals Cases – Review and recommendation.

Case # 2630 – Charles Bethel & Loribeth Weinstein

To request as a variance: Expansion of an existing dwelling into the 100 ft. buffer and new pervious deck within the 100 ft. buffer.

Based on the information provided, the Planning Commission suggests the Board of Appeals take into consideration the hardship. They have no negative comments.

D. Comprehensive Plan Update

Mr. Soper introduced Chris Rogers with AECOM, the consultant firm selected to assist with the Comprehensive Plan update.

Mr. Rogers advised that he had planned to do an exercise with the Planning Commission today, to obtain their vision for the County over the next 10-20 years. A “word cloud” of phrases, words, etc. would then be prepared based on the input. Due to the length of this meeting, it was agreed the Planning Commission would complete the forms at home and return them to Mr. Soper within a week.

Mr. Rogers advised there will be three public workshops held in three different areas of the County. Cambridge is the only location selected at this time. Dates and times for the workshops have not yet been established. He also spoke about the format and the information they hope to obtain through the workshops.

INFORMATION

A. None

With no further business, Mr. Burroughs made a motion to adjourn and Mr. Giese seconded. The motion unanimously carried. The meeting was adjourned at 2:30 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "A. Giese", written in a cursive style.