

DORCHESTER COUNTY PLANNING COMMISSION

MINUTES – October 3, 2018

The Dorchester County Planning Commission held their regular meeting on October 3, 2018 at 12:00 pm in the County Office Building, Room 110 in Cambridge, MD. Members present were: Robert Hanson, Chair, Bill Giese, Mary Losty, Ralph Lewis and Jerry Burroughs. Also present were, Steve Dodd, Director, Rodney Banks, Deputy Director, Brian Soper, Planner and Christopher Drummond, Attorney. Absent: Laura Layton and 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 September 5, 2018. Mr. Giese 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-44, Christopher & Heather Morrow, owners, for property located at 6018 Castle Haven Road, Cambridge, Maryland. Requesting an administrative variance approval to allow the replacement and expansion of a dwelling, the construction of a deck within the 100’ and expanded buffer, and replacement and expansion of an accessory structure within the expanded buffer.

Steve Whitten, Fink, Whitten & Associates, 504 Maryland Ave., Cambridge, MD, Kay Godfrey, 206 S. Harrison St., Easton, MD, and any other person who would be testifying in this case, were sworn in.

Mr. Soper reviewed the Staff Report. Property is zoned RC, Resource Conservation, critical area overlay is RCA, size of property is 5.197 acres. Mr. Soper advised that the proposed dwelling and deck is outside the 1% chance floodplain. Mr. Soper noted that in an email dated September 21, 2018, Charlotte Shearin, Critical Area Commission advised the County must find that the request meets all the requirements of the Administrative Variance criteria and that mitigation is performed in accordance with COMAR 27.01.09.01. Mr. Soper also noted that a buffer management plan would be required at the time of permit application.

Mr. Whitten reviewed the site plan noting that there are two non-conforming accessory structures, a non-conforming dwelling and non-conforming deck that will be removed and replaced with a new dwelling; reducing coverage within the 100 ft. buffer. The existing 1,337 sq. ft. accessory structure will be

relocated closer to the proposed dwelling, onto higher ground and partially out of the floodplain.

Mr. Drummond asked if there had been any discussion about removing the existing concrete boat ramp. Mr. Soper advised that the boat ramp existed prior to the establishment of the Critical Area law, making it an existing nonconformity. Mr. Soper stated the ramp would need to be addressed only if something was being done to it.

Kay Godfrey spoke on behalf of the surrounding land owner. She advised they have no objection to the Administrative Variance request, however they are requesting that it be noted in the Administrative Variance that the Morrows understand their property is surrounded by active, organic farm land and there will be agricultural noise and odor. Mr. Whitten pointed out that the Morrows recently purchased the property and, at settlement would most likely have signed a Right to Farm agreement.

Ms. Godfrey asked about the proposed plan to rework the driveway. Mr. Whitten showed Ms. Godfrey on the plat what portion of the driveway would be reworked and the proposed changes. Ms. Losty asked what material would be used for the driveway. Mr. Whitten advised it will be gravel and is mitigated at the same ratio as asphalt.

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

Critical Area Administrative Variance Request – Case #AV-45, James Christian Little, owner, for property located at 1725 Brannocks Neck Road, Cambridge, Maryland. Requesting an administrative variance approval to allow expansion of a dwelling and the construction of a deck within the 100’ buffer.

Mr. Soper reviewed the Staff Report. Property is zoned RC, Resource Conservation, Critical Area overlay is RCA, size of property is 24.998 acres. Mr. Soper advised that an email had been received from Charlotte Shearin, Critical Area Commission, dated September 15, 2018, advising that the request appears to meet the Administrative Variance requirements for a dwelling expansion and deck in the 100 ft. buffer. Mr. Soper advised that a buffer management plan will be required at the time of permit application.

Mr. Whitten advised that the owners plan to elevate the existing dwelling to conform to the current floodplain ordinance and will do some expansion at that time. He noted that surface coverage will be reduced.

Mr. Hanson asked for a motion. Mr. Giese made a motion to send a favorable recommendation to the Director. Ms. Losty seconded, and the motion unanimously carried.

B. Board of Appeals Cases – Review and recommendation.

Case #2634 – Fairmount Foundry Holdings, LLC

To request a special exception, a sum total area of accessory structures greater than the building footprint of the principal residential structure, or as allowed by Code. Property located at 1609 Perseus Road, Church Creek, MD 21622 containing 4.55 acres. Zoned RC, Resource Conservation District.

Based on the information provided, the Planning Commission has no issue with the request.

Case #2635 – Edmond H. Burns IV & Candy L. Burns

To request a special exception and decision on allegation of error. This application requests confirmation by the Board of Appeals that his proposed storage of a soil amendment product regulated and supported by the Maryland Department of Agriculture in a structure designed in compliance with and reviewed by the NRCS is a permitted accessory use to the Applicants' grain and hay production operation. Alternatively, if the Board declines to revise the County staff interpretation, the Applicants request approval of a special exception to permit construction and operation of an agricultural fertilizer storage tank. Property located at 5178 Aireys Road, Cambridge, MD 21613 containing 633.14 acres. Zoned AC, Agricultural Conservation District

Based on the information provided, the Planning Commission suggests the Board of Appeals make their decision from the information provided.

D. Comprehensive Plan Update

Mr. Soper advised the public opinion survey has gone out and they have not received the results yet. The survey will stay on the website until the end of September. He noted that as soon as the results from the survey has been received and processed, they will move forward with drafts.

INFORMATION

- A.** Mr. Drummond spoke about a Court of Special Appeals unreported decision for a solar project in Washington County. The decision ruled that the State law administered by the Public Service Commission pre-empts local zoning regulations in reference to utility scale solar projects. Washington County has decided to file a petition to the Court of Appeals to take up the case and decide if the Special Appeals Court was right or wrong in their decision. Perennial Solar is asking the Court of Special Appeals to change the decision from unreported to reported. Mr. Drummond explained that when the decision is unreported, it does not set a precedence, it only binds the parties to the case, in

this instance, Washington County and Perennial Solar. A reported decision has state wide effect.

Mr. Drummond spoke about the completed solar project off Rte. 404 noting that the landscaping for this project is either nonexistent or has died. The Rte. 404 project is approximately 400 plants short of what was proposed during the site plan review. There was a discussion on who is responsible for enforcing what is on the site plan. Mr. Lewis asked if it would be possible to hold the landowner responsible for the plantings. Mr. Drummond advised this would be something the Planning Commission could require. Mr. Dodd noted that the Richfield solar project may be on the November or December agenda for site plan approval. Mr. Lewis asked if the Board could make this a requirement for the Richfield project and Mr. Drummond stated yes.

Mr. Drummond also suggested looking into the requirement of irrigation systems for the plantings. Mr. Lewis asked if the Planning Commission could require this. Mr. Drummond advised he would research this and let the Board know by the next meeting. Another suggestion was to increase the term of the planting agreement.

Mr. Lewis asked why they could not require the buffer plantings be installed before the solar components. Mr. Banks advised that the Todd solar project was required to plant the side facing residences before they can proceed further. Mr. Drummond advised that the Planning Commission could stipulate that the plantings be done first.

With no further business, Mr. Burroughs made a motion to adjourn and Mr. Giese seconded. The motion unanimously carried. The meeting was adjourned at 1:10 pm.

Respectfully submitted,

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