

DORCHESTER COUNTY PLANNING COMMISSION

MINUTES – June 5, 2019

The Dorchester County Planning Commission held their regular meeting on June 5, 2019 at 12:00 pm in the County Office Building, Room 110 in Cambridge, MD. Members present were Jerry Burroughs, Vice Chair, Bill Giese, Ralph Lewis, Mary Losty and William N. Windsor. Also present were Rodney Banks, Acting Director, Brian Soper, Planner and Christopher Drummond, Attorney. Absent: Robert Hanson and Laura Layton

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

Mr. Burroughs asked for a motion to approve the minutes of May 1, 2019. Mr. Giese made a motion to approve the minutes and Mr. Lewis seconded. The motion unanimously carried.

NEW BUSINESS

A. Critical Area Administrative Variance Request – Case #AV-51, David and Barbara Harding, owners, for property located at 1713 Perseus Road, Church Creek, MD. Requesting an administrative variance approval to construct a deck within the Chesapeake Bay Critical Area 100' Tidewater Buffer.

Tim Marshall, Tim Marshall & Associates, and any other person who would be testifying in this case, were sworn in.

Mr. Soper reviewed the Staff Report dated June 5, 2019. He noted the Critical Area Commission commented in an email dated May 20, 2019, they do not oppose the request. A buffer management plan will be required at the time of permit application.

Mr. Lewis made a motion to send a favorable recommendation to the Acting Director. Mr. Giese seconded and, the motion unanimously carried.

B. P & Z #1352 – Glassywing Solar, applicant – Site Plan Approval. The applicant is requesting site plan approval for the construction of a utility scale solar energy system (community solar) with associated site improvements. The site is located south of MD-392 and west of Linkwood Drive. It is shown on Tax Map 21, Grid 24, Parcel 100. Property is zoned AC, Agricultural Conservation.

Ryan Showalter, McAllister, DeTar, Showalter & Walker, LLC, handed out an exhibit entitled “Glassywing Solar, Project Introductions to: Dorchester County Planning Commission”, dated June 5, 2019. Mr. Showalter introduced Tim Ahrens, Clean Choice Energy, 1055 Thomas Jefferson St., Washington, DC, Nick Leffner, Project Engineer and Scott Scarfone, Landscape Architect, both with Kimley-Horn.

Mr. Ahrens gave an overview of Clean Choice Energy. He reviewed the project using the exhibit Mr. Showalter handed out. The project is proposed to last for 25 years. Ms. Losty asked if there is a decommissioning plan. Mr. Showalter advised this type of project does not require CPCN approval, therefore the decommissioning plan will be with the County only. Mr. Banks noted that a surety and agreement will need to be provided for decommissioning purposes.

Mr. Windsor asked about the type of solar panel that will be used. Mr. Leffner advised this will be a single axis tracker, following the sunlight from east to west over the course of the day. The height of the panel at its highest point will be 10 ft.

Mr. Drummond asked about irrigation for the landscape. Mr. Showalter stated a water truck would be used. Mr. Drummond asked who would be responsible for the landscaping once planted. Mr. Showalter advised Glassywing Solar, LLC will be the long term owner and operator of the project, however, there is no long term owner at present. Mr. Drummond pointed out that CPCN requires notification of change of ownership of the project within thirty days. Mr. Showalter was agreeable for this to be a condition of approval.

Mr. Leffner reviewed the project. He spoke about the existing driveway and proposed upgrades to it. He noted the power lines will run underground from the site until they reach the interconnector at the Rt. 392 bypass, where they will connect overhead. There will be a fence around the project with a 50 ft. buffer screen. A security box will be located on the front gate so the fire department can gain access in case of emergency.

Mr. Leffner discussed the landscape buffer using the plat provided. Trees will be 6 ft. tall at installation and shrubs will average 36" in height. Ms. Losty asked who the guarantor for the plants would be. Mr. Showalter advised that the contractor hired to do the landscaping will be responsible for the plantings. Mr. Soper reviewed the landscape agreement, noting that when the agreement is executed, the contractor has one year to plant. Once planting is completed, the two year time period begins. The bond covers this three year period. Mr. Showalter noted the guarantee portion of the maintenance agreement should be revised to reflect the two year guarantee period begins when installation of the plants has been completed and, acceptance is the County's final inspection and approval. Mr. Drummond agreed the landscape agreement needs to be revised as discussed.

Mr. Windsor asked about using yearlings vs. 6 ft. trees. Mr. Drummond pointed out the contractor must plant according to what the code specifies. There was a lengthy discussion on including whips and seedlings on this project. Mr. Showalter suggested if whips and seedlings were used, the buffer could be increased from 50' to 75'. Mr. Scarfone stated that adequate screening using whips and seedlings would not take place for 4 to 7 years, but agreed they would grow faster than 6 ft. trees. Mr. Banks would like to see the whips and seedlings used closer to the panels, noting he would prefer the use of the larger stock where residences are located on Linkwood Road. Mr. Scarfone suggested this be considered a reforestation buffer since the accepted standards would be utilized and there is criteria for this type of project. It was agreed that the landscape agreement would

increase to 5 years and, a chart will need to be provided with the proposed plantings.

Mr. Showalter asked if the Planning Commission would consider granting conditional approval based on review of the alternative landscape plan at the next meeting and, agency notes added to the plat. There was a discussion about the need to have agency comments addressed before a conditional approval is granted.

Mr. Showalter summarized the items the Planning Commission is requesting:

1. The buffer along Linkwood Rd. will be planted with the landscape stock that is proposed, 50 ft. wide or as wide as possible without changing the solar array.
2. Return with a landscape plan that includes quantities, species and spacing
3. Revision of site plan notes
4. Provide a Planting Agreement to Mr. Drummond in advance. Agreement to be extended to 5 years to provide for the whips and seedlings. Two bonds and two Planting Agreements will be needed, one for whips and seedlings, the other for the larger plantings.
5. Owner of the land to be a party to the Planting Plan and Maintenance Agreements.

A motion was made as follows:

1. Final site plan approval conditioned on revisions to landscape plan to provide a variety of buffers, as designed by the Landscape Architect and, to be reviewed again by the Planning Commission when next presented
2. Conditioned upon revision of the site plan notes
3. Execution of the Landscaping & Maintenance Agreement on the condition that the fee simple owners of the land adjoin as guarantors of the Landscaping Agreement
4. Conditioned upon a note being placed on the site plan that notification of change in ownership of the solar facility, to the County, will be made in accordance with the Public Utilities Section of the Annotated Code of Maryland.
5. A decommissioning bond acceptable to the County will also be provided

Mr. Burroughs made a motion to grant conditional approval of the site plan. The motion carried with Mr. Giese opposing.

C. P & Z #1350A – Shared Driveway Request – Oxford Chase Development and Warwick Corporation, 4440 East New Market-Hurlock Road, Hurlock, MD. For property identified on Tax Map 21, Grid 24, Parcel 100, zoned B-2, General Business.

John Camp, Oxford Chase Development, and any other person who would be testifying in this case, were sworn in.

Mr. Soper reviewed the request. He noted the State and the Planning staff would prefer access to Rt. 16 in one location only. Warwick Corp. will continue to own lot 2 with the storage building on it. Lot 2 will be the beneficiary of the shared lot

agreement. Mr. Soper advised that a Shared Driveway Maintenance Agreement will be required.

Mr. Camp stated there will be no change to the access from site plan approval. Mr. Drummond did note that the Shared Driveway Agreement is being revised for a commercial property.

Mr. Lewis made a motion to approve the request with the condition that a Shared Driveway Maintenance Agreement is executed. Seconded by Ms. Losty and unanimously carried.

D. Comprehensive Plan Discussion – Chris Drummond, Shared Facilities, Sewer Service Areas, Denied Access Lines.

Mr. Drummond advised that bermed infiltration ponds (BIP) are peculiar to Dorchester County. He noted that some of the ponds are not functioning properly and this issue will need to be addressed. Mr. Banks used an example of a failing BIP and the need to connect to an existing sewer line. This would require a change to the Comprehensive Water & Sewer Plan. The question then arises would this be consistent with the Comprehensive Land Use Plan. Mr. Drummond explained that the Planning Commission had questions as to how these facilities should be addressed in the Comprehensive Plan update.

Bill Forlifer, Director, Environmental Health, passed out a list of the shared facilities in the County. He advised there are 48 shared facilities. He gave a brief history, the first one was done in 1982, the last in 2006. He reviewed the requirements for the shared facilities, noting the Sanitary District is the controlling authority for them. Mr. Forlifer has spoken with other counties that have shared facilities and found the operating entity owns/operates the facility. Mr. Forlifer advised that Dorchester County does not have a clear understanding as to who owns the pond as each facility has an easement.

Mr. Soper advised that the communities have paid into a fund for replacement of a failing shared facility. There was a discussion about using the replacement funds to connect to a sewer line. Mr. Forlifer explained the Bay Restoration Fund and how the funds are appropriated.

Mr. Drummond suggested they ask Chris Rogers, AECOM, to draft language in the Comprehensive Plan that would include supporting the Health Department's efforts to free up Bay Restoration funds for conversion of old shared facilities. He also suggested adding language to the Comp Plan concerning the use of the shared facility funds for decommissioning the ponds. Ms. Losty would like to have a figure on what is in the Sanitary District fund.

Mr. Windsor asked what becomes of the abandoned BIP system. Mr. Forlifer advised there have been ponds that have been abandoned within the County and they generally revert back to a farm pond. Mr. Forlifer advised that a healthy pond should maintain fish populations. The question of who would be responsible for fixing an unhealthy pond has yet to be determined because of the ownership question.

Mr. Burroughs suggested that Mr. Rogers or a representative of AECOM should be attending discussions such as this for the benefit of the Planning Commission and AECOM. Mr. Soper advised that based on the contract, AECOM submits a draft of each element for Planning Commission review. A draft of the Water Resource Element will be presented soon.

E. Board of Appeals Cases – Review and recommendation.

Case #2646 - Michael R. Regan (owner)
Sean Callahan (applicant)

To request a variance to allow a modification of an existing dilapidated 1392 sq. ft. boat house with a 1376 sq. ft. replacement boat house. Property is located at 5666 Belle Aire Road, East New Market, MD 21631, containing 12.57 acres. Zoned RR – Rural Residential.

Based on the information provided, the Planning Commission has no objection to the request.

INFORMATION

With no further business, Ms. Losty made a motion to adjourn. Mr. Giese seconded and, the motion unanimously carried. Time of adjournment, 2:25 PM.

Respectfully submitted,

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