

QUEEN ANNE'S COUNTY PLANNING COMMISSION MINUTES
March 14, 2019

The Queen Anne's County Planning Commission met on Thursday, March 14, 2019, at 8:45 A.M. The following members were present: Jeffrey Reiss, Tom Leigh, Robert Priest, David Douglas, Tom Jackson, and Sheila Tolliver

Also present were Michael Wisnosky, Director Department of Planning and Zoning; Helen Spinelli, Principal Planner; Rob Gunter, Development Review Principal Planner, John Shelton, Clerk; and Christopher F. Drummond, Esquire.

1. Public Comment – No comments received

2. Meeting Minutes Review – Upon motion made by Commissioner Priest, seconded by Commissioner Leigh and passed by voice vote, the February 14, 2019 Planning Commission Minutes were approved with an amendment.

3. Extension Requests –

(A) Fisherman's Village Major Site Plan #05-14-10-0003-C – Mr. Tom Davis, DMS & Associates said this is just a 6-month update as the approval is valid through the summer. He said Mr. Schulz has been working with architects and engineers to try to cut the cost of the project. Mr. Davis added that just this week they have filed a refinement to the Site Plan layout and have filed a Flood Plain application with FEMA regarding the elevation of the first floor. Mr. Schulz said he is hoping to break ground in the fall. He said they have eliminated underground parking and made other adjustments to reduce costs. No action was taken by the Planning Commission.

(B) Kent Narrows Hospitality, Inc – Holiday Inn Express Major Site Plan #05-10-02-0005-C – Mr. Tom Davis, DMS & Associates said they are asking for a 1-year extension for the project. He said they have been issued a grading permit, updated the sediment control plan, and retained architects. Mr. Davis said the busy season is coming up for the hotel and they do not want to start construction now. They plan to continue with architecture and start construction in the fall and finish by next spring. Victoria Hoffman, owner, said they are making a lot of progress and they expect that this will be the last request. She added that everything still must receive a final blessing from the IHG Corporate, but we have recently renewed our franchise agreement. Renovations are also planned for parts of the existing building.

Upon review and further consideration, the following motion was made by Commissioner Douglas, seconded by Commissioner Leigh and passed by unanimous voice vote;

RESOLVED, that at the request of **Kent Narrows Hospitality, Inc – Holiday Inn Express** , the conditionally approved Major Site Plan, Department of Planning and Zoning File , #05-10-02-0005-C shall be and is hereby extended through and including the date of the regularly scheduled Planning Commission meeting on **March 12, 2019**, with the caveat that the applicant come before the Planning Commission with an update in 6 months.

(C) Walters Properties, LLC – Perry’s Retreat Major Subdivision #05-14-05-0006-C
– Mr. Kevin Shearon, DMS & Associates said they are seeking an extension for the most recently granted final approval that included revisions.

Mike Burlbaugh, Elm Street Development, VP said they are the second developer on the project and were here before you 6 months ago and asked for an extension. Since then, he said, we have had to address some issues with our builder and secure some concessions with Mr. Thompson which has taken the bulk of our time since September. Right now, we are ready to re-start with engineering and believe we have all issues wrapped up. Going forward, we will probably need 2 more STAC meetings, with a best-case scenario of September and worst case in December. We therefore request a 1-year extension.

Upon review and further consideration, the following motion was made by Commissioner Leigh, seconded by Commissioner Priest and passed by unanimous voice vote:

RESOLVED, that at the request of **Walters Properties, LLC – Perry’s Retreat** , the conditionally approved Major Subdivision Plan, Department of Planning and Zoning File , #05-14-05-0006-C shall be and is hereby extended through and including the date of the regularly scheduled Planning Commission meeting on **March 12, 2019**, with the caveat that the applicant come before the Planning Commission with an update in 6 months and retains the discretion to terminate the extension.

4. UPDATES: Legislation and Legal Matters - Mr. Michael Wisnosky, Planning and Zoning Director, said he is monitoring pending legislation in Annapolis. And added that after the legislation session ends, I will give you a written report of bills that are important to the Planning Commission and we will review them with you.

5. Citizen Sponsored Text Amendments – Ms. Helen Spinelli, Principal Planner, said there has only been 1 amendment submitted for this time period to amend §18:1-4 A. (1) in the Purpose and Scope section of the Land Use Article. She said the change is not necessary, but if you were to change it, we recommend using the language “the adopted Comprehensive Plan as amended” so that the language remains generic.

Ms. Spinelli added that the next portion of the request was not really a text amendment or change to the Code, and so we were a bit confused as to what exactly to do. What they are expressing in the request is an intention to achieve a goal of setting a reasonable price and time frame for Moderately Price Dwelling Units. The Planning Commission discussed the importance of fully addressing MPDUs with the next update.

Upon review and further consideration, the following motion was made by Commissioner Tolliver, seconded by Commissioner Priest and passed by voice vote with Commissioners Tolliver, Leigh, Priest, Jackson, and Douglas in favor and Chairman Reiss opposed:

RESOLVED, that the Planning Commission makes a favorable recommendation to the Queen Anne's County Commissioners regarding the Citizen Sponsored Text Amendment petition to amend **§18:1-4 A. (1) Purpose and Scope**, as amended by the Planning Commission and attached hereto labeled as “Exhibit A”.

Upon further discussion and review, the following motion was made by Commissioner Toliver, seconded by Chairman Reiss, and passed by unanimous voice vote:

RESOLVED, in response to the Petitioners request to amend §18:1-108, that we include a thorough discussion of Moderately Priced Dwelling Units in the consideration of the Comprehensive Plan Update and that we consider any issue that may be pertinent to the limitations to our current program for accomplishing the goal of increasing the number of Moderately Priced Dwelling Units in the County.

6. Gibson’s Grant PUD – establishing height limitations on certain lots within the development

Mr. Michael Wisnosky, recalled the discussion last month which ended in your tabling the request to allow developer and homeowner association to meet and reach an agreement. We have received a letter dated March 11,2019 from Mr. Stevens representing the applicant withdrawing the request. Based on that, we will continue to enforce what we believe is the building height limit which is 35 feet.

The Planning Commission recessed for a short break at 9:50 A.M. and reconvened at 9:55 A.M.

7. Bluegrass Solar, LLC – Concept Plan SP#18-10-0015 – Mr. Rob Gunter, Planner II, provided the highlights of the applicant's request for Concept Plan approval and a favorable recommendation for Conditional Use to the Board of Appeals to construct an approximately 311.5-acre solar array operation on three parcels within a 538-acre site boundary in Church Hill.

Mr. Brenden Mullaney, Esq., described the overall process of approvals for the solar array. He said the applicants have a second Conditional Use request for the public utility that will be owned by Delmarva Power, and several variances that do not require action by the Planning Commission today.

Ms. Marty Carroll, Bluegrass Solar, provided a brief overview of the components of the project including energy output, connection, substations, landscaping buffers and environmental design, equipment including locations and decommissioning, Payment In Lieu Of Tax timeline, and pollinator meadows

Mr. Brenden Miller Project engineer, described the overall layout of the arrays and modules, construction details of site entrances and access, queuing of trucks off the road, security during active construction, Nick Meyers, landscape architect described the boundary plants, trees and buffers, and provided 5-year visual renderings.

Ms. Carroll discussed the watering of buffers which she said is currently planned to be accomplished via water trucks and the compatibility of solar panels with birds and wildlife.

Chairman Reiss asked if there were members of the public who wished to be heard at which time the following comments were received:

(A) Mr. Jim Robinson, Church Hill, former QAC Zoning Inspector said he is not opposed to a solar project, but this needs further review. He said the project could negatively impact property values, it surrounds a historic 1893 farm and farmhouse, expressed concern regarding Bald Eagle population and other wildlife. He expressed concern regarding school buses, tractors and other road traffic could be impacted by glare. I ask you to consider all this before deciding and table this for now.

(B) Mr. Larry Clifton, Browns Farm Lane, adjacent landowner, said his farm abuts the applicant's property. He said their land is higher than his and he is very concerned about the runoff from the solar panels. Farming is very important to this county and I never would have bought this farm if I had known about the solar panels. This will also have effect on wildlife.

(C) Mr. Bill Quaid, Browns Farm Lane, strongly opposed as an avid outdoorsman and hunter. Witnessed firsthand in the last 20 years how development and industrialization

has altered waterfowl patterns. Adjacent roosting ponds necessary for waterfowl in this area. This is farm country and that's how we'd like it to stay.

(D) Mr. Collin Campbell, nearby landowner, expressed opposition because it will decrease land values, negative wildlife impacts, and archeology study results

(E) Ms. Katherine McAllistar, Bowers Road, expressed her primary concerns regarding property value, local agriculture, wildlife, and any toxins or impacts to our local water resources.

(F) Ms. Melissa Thompson said she resides on Duhamel Corner Road but owns property on Ewingtown Road nearby. She is opposed to the project despite the fact that her sister is the applicant. This would be a mistake and is not what my parents wanted for their farm. Please table this today to allow further research.

(G) Mr. Richard Jones, Pinderhill Road, neighbor along the southern border expressed opposition because he will be able to see all of the panels from his house no matter how many years the trees grow. He expressed concern regarding noise, decreased property value, reflections of panels, negative impact to deer, and he said this is so big it changes the character of the whole neighborhood.

(H) Mr. Tyler Thompson, Ewingtown Road, concerns re waterfowl, drainage, property values, historical sights. There are at least 4 major sanctuary ponds right in this area, and there are major waterfowl flyways all around this that will be destroyed. These surrounding farm owners have put a lot into the area, and we would all appreciate it staying the way it was. Northern array has 2 irrigation pivots that supply water to the home farm. Topsoil/grade/ drainage

(I) Ms. Andrea Fisher, Pinder Hill Road, just purchased that farm and although I am not opposed to solar projects, I agree with all the comments about the negative impacts to the wildlife and property values at this location and hope that you will postpone this project until all the research is done.

(J) Mr. Bill Price, John Powell Road, spoke in favor of the project saying he inquired with the assessment office and local realtors who said the property value would not be negatively impacted. He also said he think the plantings will slow down the run off and sediment and nutrients reaching the bay. Will also create habitat for small game.

(K) Mr. Jim Moran, Queen Anne's County Commissioner, inquired as to whether the topsoil could be removed from site.

Upon review and further consideration, the following motion was made by Commissioner Leigh, seconded by Commissioner Douglas and passed by voice vote with Commissioner Priest abstaining;

RESOLVED, that the Planning Commission, regarding the request by **Bluegrass Solar, LLC** for Concept Plan approval to construct a solar array on approximately 311.5 acres on land in Church Hill, and as more particularly described in Department of Planning and Zoning **File SP #18-10-0015**, and hereby grants approval.

Upon review and further consideration, the following motion was made by Commissioner Leigh, seconded by Commissioner Tolliver and passed by voice vote with Commissioner Priest abstaining:

RESOLVED, that the Planning Commission, regarding the request by **Bluegrass Solar, LLC** for a favorable recommendation to the Board of Appeals, for approval to construct a solar array on approximately 311.5 acres on land in Church Hill, and as more particularly described in Department of Planning and Zoning **File SP #18-10-0015**, and hereby grants a Favorable Recommendation with the following conditions; (1) if by the time of construction, the panels proposed have changed from that provided on the plans, updated information must be submitted, (2) the Applicant must notify the Department of Planning & Zoning when ownership of the solar array changes, (3) finalized Forest Conservation Plan and Protection plan must be provided, (4) the applicant must continue to work with Maryland Historical Trust to address any potential effects on significant cultural resources that may exist, (5) prior to Final Site Plan approval, the applicant must provide an automatically renewable decommissioning bond that is enforceable by the County, (6) prior to Final Site Plan approval, the applicant must provide an automatically renewable landscape surety and maintenance agreement, (7) the applicant shall provide documentation that connection to the public utility is approved, (8) the applicant shall provide a decommissioning plan that addresses all of the requirements in §18:1-95.S.(5)(e), and (9) any outstanding comments stemming from agency reviews are addressed during Board of Appeals submittal. (10) based on public testimony today, please consider concerns expressed over waterfowl flyways

8. Public Comment

(A) Mr. Thomas Hirsch, McKenny Court, speaking on behalf of himself, his wife and 21 other homeowners in Gibson's Grant and in light of the developer's withdrawal of the request for the 38-foot allowance. He said they think it is important that the commission adopt a 35-foot limit to protect the future of the community and officially, implement precedent that has been set over last 10 years. We are not objecting to the one house that has already been built. We believe the developer is not opposed to setting the height limit to 35 feet.

(B) Dave Airel, McKenny Court, questioned the commission regarding guiding the home owners through the process of establishing the height limit. We are concerned about the future and the possibilities of future home owners and builders adding onto

existing homes. He asked, what process can we follow that would lead you to establishing the 35-foot height limit?

(C) Ms. Valerie Hirsch emphasized that they have already had problems with the permit by permit basis as one home was already built above 35 feet. She said the developer offered to put in the request for the 35-foot height and asked if it would be beneficial for them to do so to which Mr. Drummond replied "yes". Mr. Wisnosky added that the attorney for Gibson's Grant said today that they would agree to build all of the remaining 40 units within the 35-foot height limit. Ms. Tolliver said the most persuasive method would be for the developer and the homeowner's association come before us together and request the establishment of the height limit for the community.

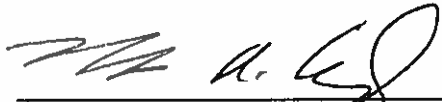
(D) Phil Dumenil, County Commissioner, said he thinks there is not distrust by the homeowners, but they are unclear about the process.

(E) Jody Schulz, MPDU problem has been around for years. We make recommendations that have fallen on deaf ears. I think we need to form a committee to address the MPDU program with focus and desire by the County Commissioners and the community to make it happen because it affects our kids and grandkids that can't afford to live here.

Commissioner Leigh asked that someone from Eastern Shore Land Conservancy be invited to come speak to outline a report that was just released for the Eastern Shore about climate resiliency. I think it is pertinent to this board as it shows areas of concern within this County with projected sea level rise. Mr. Wisnosky agree to make that request. Commissioner Douglas asked for a conservatory group to speak regarding solar arrays and migrating birds and the possible ways to mitigate the impact.

There being no further business to come before the Planning Commission, the meeting was adjourned at 12:10 P.M.

RESPECTFULLY SUBMITTED,



Tom Leigh, Secretary