



HOWARD COUNTY OFFICE OF COMMUNITY SUSTAINABILITY
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**HOWARD COUNTY AGRICULTURAL PRESERVATION BOARD (APB)
AND STATE AGRICULTURAL PRESERVATION ADVISORY BOARD (APAB)**

August 26, 2019

Attendance:

Board Members: Mickey Day
Ann Jones (Vice Chair)
Cathy Hudson
Savannah Kaiss
Jamie Brown

Staff: Joy Levy, Administrator (ALPP)
Lisa O'Brien, Senior Assistant County Solicitor
Beth Burgess, Chief, Resource Conservation Division
Amy Gowan, Deputy Director, Planning & Zoning
Matthew Hoover, Administrative Aide, Office of Community Sustainability

Guest: Mike Calkins, Howard Soil Conservation District, Stormwater Management Specialist
Reed Wills, Sun East
Stefano Ratti, Sun East
Paul Sill, Civil Engineering Group
David Yungmann, County Council
Sarah Latimer, Planning & Zoning
Harles Streaker
George Streaker Jr.

The meeting began at 7:05 PM

Action Items

1) Request for Approval, Meeting Minutes July 22, 2019

There were two corrections to names. Ms. Jones motioned to approve, and Ms. Hudson seconded the motion. All members in attendance approved the minutes.

2) Request for Recommendation Commercial Solar Facility, Clear View Farm, LLC property, HO-86-05-E, 120.77 acres (APB)

Ms. Hudson asked if there is a zoning issue with the property and she was advised there is for the MHGH & S, LLC property which will be reviewed next. They were advised that the Board could still review the MHGH & S, LLC request. They have already been granted a conditional use for a firewood processing operation. They are currently operating a logging operation on the property that is not permitted. The Board was advised that the Conditional Use for bulk firewood processing was located on both the Clear View Farm property and the MHGH & S property.

Ms. Levy went over the two key points of the legislation that the policy was based on. One, is that the siting of commercial solar facility (CSF) is ancillary business, which supports the economic viability of the farm. Two, the siting of the CSF supports the primary agricultural purpose of the easement property. The policy that was formed around those two things is the CSF must be equal to or less than 34% of the properties size. The commercial solar operational area is defined as the entire area of the CSF including any equipment, spacing, structures or other uses that support the CSF and any new roads that must be constructed to access it. Existing roads being used to access the new facility are not included within the 34% operational area. In determining if the siting of the CSF supports the primary agricultural purpose of the property, the portion not included in the commercial solar operational area must have a soils capability of more than 50% USDA Classes I-III and more than 66% USDA Classes I-IV.

Ms. Levy went over the contents included in the Clear View Farm Staff Report. Based on the information that the applicant provided the proposal meets the two primary standards. The requested lease area is comprised of two separate areas and Ms. Levy showed where they were located on the aerial map. The total is 37.7 acres, which is approximately 31.2% of the overall property size. The soil capabilities of the land not included in the solar area, 56.4% would be USDA Classes I-III, and 67.4% would be Classes I-IV. 96% of the soils within the CSF are classes I-III. There is an existing corn operation on approximately 80 of the 121 acres, so the CSF would remove 37.7 of the 80 acres of the corn operation. The CSF would be planted with a native pollinator habitat and the remaining acreage would remain in corn production.

The Board members asked questions about a new roadway, the area selected for the CSF, what happens if the company is no longer viable and how will the soil be after they remove the CSF from the land. There was new roadway marked on the map, but it was not accurate because the roadway already existed. They are going to add some dog legs from the existing roadway. The board was advised that the area selected for the CSF is because the ground didn't slope. A decommissioning bond will be set up, so if the company goes out of business the CSF would be removed. They were advised that the CSF soil would be fallow ground that should repair itself and should be more viable later if there is a cover to maintain the soil structure.

The following recommendations are what the Board wants the Hearing Examiner to consider when reviewing the request.

1. Recommend that the gravel or impervious areas on the property associated with the commercial solar facility be minimal and be no more than required by County codes. Ms. Jones motioned to approve, and it was seconded by Mr. Day. All other board members in attendance approved the recommendation.
2. Recommend a financial security be put in place against the owner of the commercial solar facility to ensure that upon termination of the lease for the Commercial Solar Facility the land be restored for agricultural purposes. Mr. Day motioned to approve, and Ms. Hudson seconded the motion. All Board members in attendance approved.
3. Recommend that the area covered by the solar operation always have an up to date soil conservation plan approved by the Soil Conservation District. Ms. Jones motioned to approve, and Ms. Kaiss seconded the motion. All Board members in attendance approved the recommendation.
4. Recommend that it be clear to all parties involved, that despite the length of time of this agreement, the agreement does not constitute as a sub-division of the property or be used as a consideration in the future for a sub-division of the property. Ms. Jones motioned to approve, and Mr. Day seconded the motion.

3) Request for Recommendation Commercial Solar Facility, MHGH & S, LLC property, HO-90-17-E, 83.22 acres (APB)

The key points for the standard to the CSF Conditional Use Petition criteria were reviewed earlier in the meeting. Ms. Levy reviewed the property specific information. The lease area is 27.11 acres which is about 32.6% of the property size. The soils capability not included in the operation area are 90.1% USDA Classes I-III and 66% Classes I-IV. 100% of the soils within the CSF are classes I-III. There is an existing corn operation in the proposed area that they would take out and a pollinator habitat will most likely be put in.

The Board has questions on what they were going to do with the remaining land on the farm and who is responsible for the setbacks. The board was advised that they planned to farm all the land except for about three or four acres and they plan on farming on the setbacks. They advised that they are landscape buffering along the route 70 line which will be outside the CSF fence line.

Ms. Jones motioned to have the recommendations that the Board agreed to for the Clear View Farm LLC request be applied to this request and all Board members in attendance agreed with this.

1. Recommend that the gravel or impervious areas on the property associated with the commercial solar facility be minimal and be no more than required by County codes.
2. Recommend a financial security be put in place against the owner of the commercial solar facility to ensure that upon termination of the lease for the Commercial Solar Facility the land be restored for agricultural purposes.
3. Recommend that the area covered by the solar operation always have an up to date soil conservation plan approved by the Soil Conservation District.
4. Recommend that it be clear to all parties involved, that despite the length of time of this agreement, the agreement does not constitute as a sub-division of the property or be used as a consideration in the future for a sub-division of the property

Discussion Items

1) Community Solar Facilities

Mr. Brown motioned to have the Board not review anymore CSFs until they reviewed and updated the Community Solar Facilities policy and Ms. Kaiss seconded the motion. All Board members in attendance approved.

2) Program Updates

a. IPA Maturations

Ms. Levy gave a brief report on the first group of IPA agreements that have reached their maturation dates. There have already been a few processed that had ten-year terms. Coming up will be the first batches of the original thirty-year terms from 1989 when the IPAs were first set up. Out of the seven, five of them were able to find the original documents, which is necessary to get their balloon payment at the end of the IPA. In anticipation of this starting, and the possibility they couldn't find the document, Planning & Zoning, Miles & Stockbridge and Wilmington Trust came up with a process for the people who have lost theirs, so they could substitute the original IPA.

b. Agricultural Preservation Tax Credit

Ms. Levy gave a briefing on the Agricultural Tax Credit. Any property in the County or State program is eligible for a property tax credit. They had an inquiry of the tax credit last year. One thing that came out of the inquiry is they need to apply for the credit every year. Another thing they found out was the calculations were incorrect for some of the properties. The people who were not receiving the correct calculations can, by law, go back two years, 2016 and 2017 and submit an inquiry. March 1 through June 1 is the ideal time for people to apply, which will give them time for it to show up on the July 1 bill. The County does not send out reminders for people to apply for the credit.

3) Proposed Changes to ALPP Scoring System

Ms. Levy went over the proposed changes to the ALPP Scoring System. The changes incorporate some of the recommendations made by the Board during the last meeting. She discussed each of the changes with the Board.

Mr. Calkins went over with the Board about what the Implementation of Soil and Water Quality Plan means and its intent for the scoring. The owner must contact the Howard Soil Conservation District to request a plan.

There was a discussion of eliminating some categories and adding points to other categories. They went over every category and how many points would be in each. They also discussed how many points would be distributed in each category. The Board discussed possible reasons they would give out optional points.

Ms. Levy will come back to the board with a revision of the scoring system. It will take legislation to have the scoring changed and it will have to go in front of the County Council. It was requested that Ms. Levy score some previously scored parcels using the updated/drafted scoring system, so the Board can see the difference.

4) Ideas for Preservation and Incentives in the East

Mr. Brown motioned to table this agenda item and it was seconded by Mr. Day. All Board members in attendance were in favor of tabling it.

Ms. Jones moved to adjourn, and Mr. Brown seconded the motion. All members in attendance were in favor of adjourning the meeting.

The Board decided to hold a meeting on September 12, 2019 at 7:00PM.