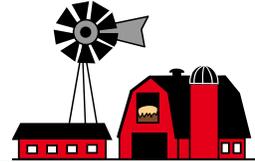




STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
Agricultural Lands Preservation Commission
c/o Department of Environmental Management
235 Promenade Street
Providence, RI 02908



AGRICULTURAL LANDS PRESERVATION COMMISSION
Minutes of the Thursday, July 28th Meeting FINAL

COMMISSION MEMBERS PRESENT: Kevin Nelson, Everett Stuart, Martha Neale, Ken Ayars, Dave Wallace, Jon Reiner, Diane Lynch

COMMISSION MEMBERS ABSENT: George Mason

STAFF: Michelle Sheehan – DEM, Lauren Farley – DEM, Attorney Mary Kay– DEM

GUESTS: Attorney Nicole J. Benjamin representing Dionysus Acquisition LLC d/b/a Carolyn's Sakonnet Vineyards; Vito Buonomano, Owner of Northeast Solar & Wind Power, LLC; William Richmond, Vice Chairman of Little Compton Agricultural Conservancy Trust; Dianne Izzo, Attorney for Farm Bureau

The meeting was called to order at 4:00 at USDA, 60 Quaker Lane, Warwick, RI by Kevin Nelson, Vice Chair.

On a motion by J. Reiner and a second by E. Stuart, the Commission voted unanimously to approve of the minutes of the meeting of 6/28/16.

The Commission agreed unanimously to address agenda items related to Sakonnet Vineyards and Cottrell Farm first, for the benefit of meeting guests.

Sakonnet Vineyards, Main Road, Little Compton. Potential violation of Deed to Development Rights. Review of memo from Dionysus Acquisition, LLC d/b/a Carolyn's Sakonnet Vineyards. N. Benjamin reported on the Supplemental Memorandum submitted to ALPC on 7/20/2016. In response to ALPC's concerns expressed at the meeting on 6/28/2016 regarding the agricultural nature of use of the pergola, Dionysus has implemented additional uses including: Vineyard Views Tasting Bar, Wine and Vineyard Education Classes, Food and Wine pairing classes, Winemaker and Farm to Table Classes and a gathering place for Vineyard tours. Dionysus contends these are all agricultural purposes expressly allowed by terms of the DDR. They contend that the DDR is the governing document rather than provisions of the Right to Farm Act. The pergola does not derogate from the perpetual protection and preservation of the agricultural lands. Section B(2) of DDR allows for "the construction or placing of buildings, structures, or parking areas for agricultural purposes, including buildings for related retail sales...". N. Benjamin spoke about soil compaction and an updated report submitted on July 11, 2016 by Natural Resource Services, Inc. The report found that the infiltration rate requirements were all in the expected range for Prime and Soils of Statewide Importance as defined by the USDA-NRCS. The infiltration rates were not impacted in the field used for parking. Dionysus reiterated their two previous requests to ALPC and provided one additional request 1.) Retroactive approval of the construction of the pergola. 2.) A written statement of the ALPC to the Town of Little Compton stating that the entertainment activity proposed in the Entertainment License Application is fully consistent with the terms and conditions of the DDR. The additional

request asked ALPC to recognize the efforts of Dionysus to cure the violation outlined in the July 13, 2016 letter issued by ALPC for failure to seek approval prior to construction; the pergola is now being demonstrably utilized for agricultural purposes. D. Lynch asked about the history of the concert series compared to current programming. N. Benjamin stated that the concerts began in 2015 and attendance rates were comparable in 2016. It is the hope and intention of Dionysus that the concerts continue at the same rate of attendance and that tasting and educational events continue with the same rates of future attendance. J. Reiner asked if the parking area required prior ALPC approval since it is on protected land not in cultivation. N. Benjamin stated the DDR had no provisions regarding parking on unpaved areas. M. Sheehan concurred. W. Richmond, in response to E. Stuart's question about the position of the LCACT stated that the state of RI and LCACT have spent millions on conservation easements in the state and the judgement of the Commission members will have a wide ranging effect. E. Stuart asked if DEM Legal concurs that the DDR supercedes the Right to Farm Act. M. Kay agreed that the DDR is the governing document and its provisions were what was analyzed. K. Ayars further stated the Right to Farm Act was more a guide to proportionality and primary use, not a governing statute. N. Benjamin re-iterated the position of Dionysus that the pergola is not the agricultural marketing building reserved in DDR terms. The Commission considered many aspects of the request by Dionysus to approve retroactively the construction of the pergola, including the structure's footprint, design plans and specifications. M. Kay stated that based on the supplemental memorandum submitted by Dionysus that the activities occurring in the structure are agricultural uses. W. Richmond expressed concern about the duplication of activities that occur in a proximate marketing building.

On a motion by D. Wallace and a second by K. Ayars, the Commission voted unanimously to approve the construction of the agricultural structure retroactively under Section B(2) of Exhibit A of the Deed to Development Rights ("the construction or placing of buildings, structures, or parking areas for agricultural purposes, including buildings for related retail sales), subject to the submission of plans showing the exact location and dimensions of the structure as constructed and subject to a positive determination from NRCS relative to soil compaction, and conditioned on the uses of the structure remaining consistent with those outlined in the Supplemental Memorandum.

W. Richmond asked if ALPC had any advice for LCACT, the co-holder of easement. J. Reiner asked if there have been coordinated responses in the past. M. Kay stated there exists no precedent. The Commission spoke at length about the request of Dionysus to provide a statement to the Town of Little Compton that the entertainment activity proposed in their Entertainment License Application, namely the Family Music Nights and Sunday Brunch Music events, are consistent with DDR. There was agreement that the request is out of the purview of the ALPC. N. Benjamin asked the Commission to articulate that in the form of a motion so that she may ask the Town of Little Compton for a waiver of that provision of their local ordinance.

On a motion by D. Lynch and a second by M. Neale, the Commission voted unanimously that the request by Dionysus for written notice that Thursday Night Family Music and Sunday Brunch Music events are consistent with the terms, conditions, and provisions of the Deed to Development Rights, the ALPC does not believe these activities fall within its purview and therefore they take no position on this matter.

Cottrell Farm, Waites Corner Rd, South Kingstown. Request to run an underground power line across the farm to service a commercial solar array. V. Buonomano spoke about the financial difficulties faced by dairy farmers in the state and region. He explained the proposed plan to run power from a solar array constructed on set-aside area not subject to the

easement. The proposed trench would run along western property line and consist of sand and conduit covered by topsoil in conformance with the National Electrical Code (NEC). The commercial solar system proposed would allow the Cottrells to sell electricity directly to the grid, rather than net-metering. K. Ayars spoke of DEM's work to support dairy farmers and hoped that ALPC would be able to support them as well - but also mentioned the requirement of staying within terms of the DDR. M. Kay read the relevant DDR provision: "No building, residential dwelling, tennis court, artificial swimming pool, asphalt driveway, road, parking lot, mobile home, utility pole, tower, conduit or line or other temporary or permanent structure or improvement requiring construction shall be constructed, placed or permitted to remain on the Premises, except structures existing on the Premises at the time of the execution of this covenant." D. Izzo referred to the reserved right to: "The installation, maintenance, repair, replacement, removal and relocation of utility facilities and services over the Premises for the purpose of providing utility service to the Premises". The proposal before the Commission is for commercial electricity generation. K. Ayars added that if the electricity generated was for on-farm use it would change the nature of the proposal. The item was deferred pending receipt of an amended plan that includes trench specifications, details about the ability of agricultural operations to continue above the conduit, and clarification about whether this system would service the "Premises".

Review of current ALPC budget: M. Sheehan provided update on current budget. The current balance \$2,732,167.00. \$150,000 for Rippin in N. Kingstown is now included in FY '16 closings. \$200,000 to Dawson in Little Compton is no longer in commitments since LCACT withdrew their funding request as they are no longer purchasing the property in fee. Current project commitments are \$172,000 to Andrews in Exeter, \$150,000 to Rippin in N. Kingstown, \$550,000 to Bailey, \$185,000 to Regnier/Fletcher Road, \$200,000 to Whaley Farm in South Kingstown, \$1,000,000 to Adams in Exeter, \$330,000 to Broadwall in Coventry, \$233,333 to Hibbad in Tiverton. Current overhead commitments (appraisals and survey) total \$85,000.

Status update of farms in negotiation: M. Sheehan reported on Adams Farm, Glen Rock Road, Exeter. \$500K was requested from Champlin Foundation. They are considering the request and requested a site visit which will be held on September 2, 2016. Funding was also requested from the 1772 Foundation who will be conducting a site visit in early August.

Review the ALPC Alternative Energy Policy. Farm Credit East would like to address the Commission regarding the economic perspective of policy. The Office of Energy Resources is in alignment with DEM counsel that alternative energy on protected farms should be used only for agricultural purposes. Adoption of policy was deferred pending additional stakeholder input.

West Wind Farm, Reservoir Road, North Smithfield. Request to install a temporary solar array on one acre of this protected farm. Deferred pending adoption of alternative energy policy.

Simmons Farm, West Main Road, Middletown. Request to install a solar farm on 10 acres of this protected farm. Deferred pending adoption of alternative energy policy.

Keah/Wallace Farm, Kingstown Rd and Waites Corner Rd, South Kingstown. Request to install a temporary hoop house on the protected property for the purposes of farm equipment storage. D. Wallace provided Commission with plan specifications. **On a motion by K. Ayars and a second by D. Lynch the Commission voted unanimously to approve the request.**

Amendment policy. Update on development of the policy. M. Sheehan provided update.

Chuck Allott of the Aquidneck Land Trust has offered to speak to ALPC about the policy, specifically IRS implications. For practical reasons land trust policies are typically more flexible than government run programs that need to be more conservative due to the public money investment and issues related to legal precedence. DEM holds many conservation easements that have never been amended.

Subdivision prohibition in the Deed to Development Rights. Brief discussion of the possibility of amending the subdivision provision. Discussion to continue at next meeting.

Scoring New Applications: Phoenix Rising Farm, Pound Hill Road, North Smithfield
Deferred pending NRCS soil evaluation.

Farmland Acquisition Program: The regulatory process is well underway. A public workshop will be held on August 17, 2016.

NRCS Agricultural Conservation Easement Program: update on program: Deferred. No NRCS staff present.

Additional Business: The Commission welcomed new member Diane Lynch.

There being no further business, on a motion by J. Reiner, seconded by D. Lynch, the Commission voted unanimously to adjourn the meeting at 6:00.

Respectfully submitted by Lauren Farley