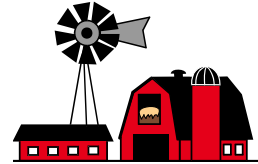




STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
Agricultural Lands Preservation Commission
c/o Department of Environmental Management
235 Promenade Street
Providence, RI 02908



AGRICULTURAL LANDS PRESERVATION COMMISSION
Draft Minutes for the Meeting of Thursday, January 19, 2017

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

COMMISSION MEMBERS ABSENT: George Mason, Jon Reiner

STAFF: Michelle Sheehan – DEM, Lauren Farley – DEM,

GUESTS: Vito Buonomano – Owner, Northeast Solar & Wind Power, LLC, Giovanni D. Cicione, Esq. - Representative of Dane Farm

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 M. Neale and a second By D. Lynch the Commission voted unanimously to approve the minutes of the November 17, 2016 meeting.

For the benefit of guests, agenda items for discussion were moved forward.

Review the ALPC Alternative Energy Policy. Discussion and action.

The Commission discussed the need to balance covenants of Deed to Development Rights (DDR) while maintaining a policy that is innovative and responds to changing agricultural circumstances. Some members felt that utilizing marginal protected land with little conservation value would provide an important revenue stream that contributes to farm viability. DDR covenants restrict commercial energy production. There is no expeditious way around this provision of legally binding document. The ability to amend DDR is limited by existing state law and IRS provisions. It was suggested and agreed on by members that formally enacting policy is premature as there is significant dialogue in the state between agencies like the Department of Environmental Management (DEM), Office of Energy Resources (OER), municipalities and also legislation introduced at General Assembly. Questions of IRS provisions regarding the ability to amend perpetual conservation easements, charitable deductions and private benefits and inurement remain unclear; there is not significant case law or precedent. The ability of ALPC to formalize policy is limited until further guidance from other parties is provided, therefore action is forthcoming. A working group will convene to discuss all of the DDR's existing covenants to ensure they reflect new and emerging technology.

Cottrell Farm, Waites Corner Rd, South Kingstown. Request for an amendment to the Deed to Development Rights to move the set aside area. Discussion and possible action.

The Cottrell's have requested to swap one acre of protected land to locate a 250KW solar electric system adjacent to Route 138. The three phase power necessary for this system is on Route 138.

The Cottrell's have about 4 acres of land on Waites Corner Road with no restrictions. A portion of this area could be used for a swap. Commission members feel it is important that any potential amendment to the DDR be supported by findings of fact that would survive legal test. Forthcoming decision regarding placement of alternative energy systems is expected to be made by South Kingstown officials. This is germane to the proposal before ALPC. The aesthetic appeal of protected farmland is a consideration since the easements were acquired using voter approved bond funding. The Commission felt they needed additional information in order to make a decision. They requested a formal amendment proposal from the Cottrells with details that include the size, specific location, boundaries and soil quality of land for proposed swap. Such an amendment is without precedent and the Cottrells would need to make a robust case as to how the swap has a net benefit to conservation value in order for the Commission to make findings of fact. Other legal tests would have to be met.

Scoring New Applications: Dane Farm/Longo, 60 George Street, Barrington, RI

The farm was scored by the Commission and achieved an average score of 31.8. The minimum score for acceptance into the program is 35.

ALPC Annual Schedule

On a motion by M. Neale and a second By D. Lynch the Commission voted unanimously to hold meetings on the third Thursday of the month at 5:00 April – October. It will be held at 4:00 during the winter months.

Review of current ALPC budget

M. Sheehan provided update on current budget. The current balance \$3,277,808.52. Current project commitments include \$172,000 to Andrews in Exeter, \$195,000 to Regnier/Fletcher Road in North Kingstown, \$200,000 to Whaley Farm in South Kingstown, \$1.1M to Adams in Exeter, and \$233,333 to Hibbad in Tiverton. Current overhead commitments (appraisals and survey) total \$125,000.

Status update of farms in negotiation: Adams, Glen Rock Road, Exeter

Negotiated purchase price is \$3.3M. Purchase and Sales Contract has been finalized. The family has proposed movable building envelopes. This will be reviewed by DEM Legal.

Borders Farm, 31 North Road, Foster. Request to add additional land to this protected farm via an administrative subdivision.

On a motion by M. Neale and a second By D. Lynch the Commission voted unanimously to accept the donation development rights.

Hathaway Farm, Main Road, Tiverton. Request to amend Deed to Development Rights to subdivide a portion of the farm for sale to another farmer.

DEM staff was unable to speak with Tiverton officials regarding whether they would approve the subdivision. The question of "private benefit" and IRS implications remains murky. Further due diligence is needed in order for Commission to make a decision based on findings of fact. The

item was deferred pending receipt of further guidance from the Attorney General's Office and the Town of Tiverton.

Schartner Home Farm, Rt. 2, North Kingstown and Exeter. Discussion of request to sell Development Rights with a moveable General Business zone in the protected area.

The Commission felt that zoning issues are not in their authority but members are supportive of arrangements that encourage farm viability.

Spruce Acres, 1286 East Main Road, Middletown. Request from the Aquidneck Land Trust to contribute \$300,000 to this project (scored into ALPC 11/17/16)

On a motion by M. Neale and a second By D. Lynch the Commission voted unanimously to contribute 25% of the appraised value of development rights, not to exceed \$300,000.00

Farmland Acquisition Program: brief update on progress with the Rules & Regulations

The changes discussed during three workshops are being incorporated into the final version. The rules and regulations will soon be open to the formal approval process.

There being no further business, on a motion by K. Ayars seconded by D. Lynch, the Commission voted unanimously to adjourn the meeting at 6:30

Respectfully submitted by Lauren Farley, DEM