

1 THE PRINCE GEORGE'S COUNTY PLANNING BOARD OF
2 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

3
4
5 ROYAL FARMS GREENBELT
6 Detailed Site Plan, DSP-19045

7
8 T R A N S C R I P T
9 O F
10 P R O C E E D I N G S

11
12 COUNTY ADMINISTRATION BUILDING

13 Upper Marlboro, Maryland

14
15 December 3, 2020

16 VOLUME 1 of 1
17

18
19 BEFORE:

20 ELIZABETH M. HEWLETT, Chair

21 DOROTHY F. BAILEY, Vice-Chair

22 MANUEL R. GERALDO, Commissioner

23 WILLIAM M. DOERNER, Commissioner

24 A. SHUANISE WASHINGTON, Commissioner
25

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OTHERS PRESENT:

ADAM BOSSI, Staff Urban Design Section

DAVID WARNER, Principal Counsel

JAMES HUNT, Division Chief, Development Review Division

JILL KOSACK, Staff, Urban Design Section

ANDREE GREEN CHECKLEY - Planning Director

THOMAS HALLER, Attorney for Applicant

C O N T E N T S

SPEAKER

PAGE

Macy Nelson

10

1 the Planning Board's decision on Detailed Site Plan, DSP-
2 19045 for Royal Farms Greenbelt. This decision is reflected
3 in the Board's Resolution 4, which was adopted on November
4 12th. This request for reconsideration was filed by the
5 applicant's attorney, Mr. Haller, in accordance with Section
6 10(a) of your Rules of Procedure.

7 In essence, this request seeks to allow persons of
8 record an additional opportunity to provide testimony about
9 information added to the record after the original
10 publication of the Staff Report. The request is further
11 detailed in the applicant's letter dated November 18th and
12 in staff's memorandum dated November 24th, both of which are
13 in your backup material.

14 The latter staff memo does also include a list of
15 those pieces of information that were received after the
16 publication of the Staff Report and does include a page
17 number where you can find those in the lengthy backup
18 material that was posted with this today.

19 Madam Chair, that captures the general nature of
20 the request. If the Board would find it helpful, staff did
21 prepare a brief presentation, it's mainly about the DSP as
22 it was approved. You know, other than that I will leave it
23 to the Board and Mr. Haller to discuss this request.

24 MADAM CHAIR: Okay.

25 MR. BOSSI: And I'm here to answer any questions.

1 MADAM CHAIR: I think I'm going to turn directly
2 to Mr. Haller because this is for a very limited purpose and
3 although having read the letter, my view may be slightly
4 different but we'll see. Mr. Haller?

5 MR. HALLER: Thank you and good afternoon Madam
6 Chair and members of the Board. Thomas Haller on behalf of
7 the applicant and the owner of the property in this case.

8 As the Board is aware when this matter was heard
9 on October 29th, the attorney representing certain parties
10 in opposition, Mr. Nelson, objected or raised a concern
11 about some of the information that was provided to the
12 Planning Board post publication of the Staff Report. And in
13 response to question, I think from the Chair, he was asked
14 if he had requested a postponement of the hearing and he
15 indicated that he did. The basis of that request is Section
16 27-125.05 of the Code, which suggests that new information
17 is provided by the applicant or governmental agency after
18 the publication of the Staff Report that a postponement of
19 one week shall be granted. At the time that the discussion
20 was held before the Planning Board, I did not have a copy of
21 that statutory provision in front of me and was of the
22 belief which I expressed to the Chairman at the time of the
23 hearing that while I understood that Mr. Nelson had the
24 right to request a continuance I thought that the Board had
25 the discretion to not grant a postponement for a week. But

1 after the hearing and looking at the statute, the statute
2 clearly says that in the event that new information is
3 provided that the postponement shall be granted.

4 And while I understand this is a unique case in
5 that the information that was provided, it was verification
6 information that was provided to address conditions of a
7 Preliminary Plan which had previously not been found and was
8 in response to issues raised by Mr. Nelson and by other
9 opponents to the application.

10 You know, in looking at the statute I think that a
11 postponement of a week would have been the preferable course
12 to address any administrative concerns. And having looked
13 at the Staff Report and their recommendation regarding the
14 reconsideration, I agree with their rationale that in this
15 particular case that it is probably the most appropriate
16 path to grant a reconsideration. As the Rules of Procedure
17 indicate that the issue dealing with reconsideration is
18 whether or not it's in furtherance of substantial public
19 interest or other good cause.

20 And I think in this particular case in order to
21 make sure the record is clear that all parties of record
22 were given an opportunity to adequately address any
23 information which they felt was new as opposed to
24 clarification or responsive information. I would request
25 that the Board reconsider this and schedule a hearing to all

1 parties of record to respond to that information.

2 Obviously, in hindsight, it would have been far
3 preferable from the applicant's perspective to simply
4 postpone the case for one week back then as opposed to two
5 months now. But to ensure that the record that's
6 transmitted to the Council is clean and to avoid a
7 possibility of a remand at that point in time I would
8 request that the Council reconsider at this point and give
9 Mr. Nelson and any other parties of record an opportunity to
10 respond to the new information. With that I'd answer any
11 questions that you have.

12 MADAM CHAIR: Okay. Thank you, Mr. Haller. I'm
13 going to, so from my standpoint I consider this other good
14 cause in the substantial interest and in an abundance of
15 caution I would consider this other good cause. I think
16 it's really, it's important to have, but it's limited and
17 depending on how the vote goes. It's limited to address the
18 new information that was submitted and during the hearing
19 there was some question about the new information, whether
20 it was new or clarifying and so we can revisit that at the
21 time. But it does give in addition to giving that one week
22 that Mr. Nelson on behalf of his clients and other parties
23 of record might have needed, and it actually provides more
24 time so I would support, I think, the request for that
25 purpose, so depending on what everyone else has to say

1 first. So let me see if there are any questions --

2 MR. NELSON: Don't I have the opportunity to be
3 heard, Chairwoman?

4 MADAM CHAIR: Yes --

5 MR. NELSON: This is Macy Nelson.

6 MADAM CHAIR: -- I didn't call you yet, of course
7 you have the opportunity to be heard. I have to --

8 MR. NELSON: I know but you've indicated in your
9 vote before I've addressed the issue.

10 MADAM CHAIR: I did not. I did not. I did not.
11 I did not indicate my vote, I said I'd be inclined to
12 depending on what everyone has to say. I haven't heard from
13 you yet. So your testimony and information is vital to this
14 as well. I just want to see now if the Board has any
15 questions of Mr. Haller, as the applicant and then I will
16 call upon you, Mr. Nelson. Okay.

17 MR. NELSON: (Sound.)

18 MADAM CHAIR: So now Madam Vice Chair, are there
19 any questions for Mr. Haller?

20 MADAM VICE CHAIR: No questions for Mr. Haller at
21 this time, thank you.

22 MADAM CHAIR: Okay. Commissioner Washington?

23 COMMISSIONER WASHINGTON: No questions.

24 MADAM CHAIR: Okay. Commissioner Doerner?

25 COMMISSIONER DOERNER: Just to be succinct, Mr.

1 Haller, the new information quote unquote, is that the
2 information from the City of Greenbelt?

3 MR. HALLER: New information is listed at the
4 bottom of the Staff Report, there are four items that were
5 listed there and the four items that are referenced is the
6 letter from the City of Greenbelt, the two memoranda that I
7 submitted to the Planning Board one dated October 13th the
8 other dated October 22nd, excuse me, 27th. And then the
9 staff's supplemental memorandum clarifying their Staff
10 Report dated October 22nd. So those are listed at the
11 bottom of the Staff Report.

12 MADAM CHAIR: Yes, page 3, yes. Okay.

13 COMMISSIONER DOERNER: Okay. Thank you. Any
14 other questions, Commissioner Doerner?

15 COMMISSIONER DOERNER: No, that was it. I'm not
16 sure that most of that is actually new, but the City of
17 Greenbelt letter might be, so --

18 MADAM CHAIR: Okay.

19 COMMISSIONER DOERNER: -- I look forward to
20 hearing from Mr. Macy as well.

21 MADAM CHAIR: Okay. Okay, thank you.
22 Commissioner Geraldo?

23 COMMISSIONER GERALDO: Madam Chair.

24 MADAM CHAIR: Did you say no questions?

25 COMMISSIONER GERALDO: I don't have any questions,

1 Madam Chair.

2 MADAM CHAIR: Okay. Thank you.

3 COMMISSIONER GERALDO: No questions.

4 MADAM CHAIR: Okay. Now Mr. Nelson?

5 MR. NELSON: Thank you. Macy Nelson here. I'm
6 counsel for citizens and small business owners in the
7 Greenbelt community. My clients oppose the request for
8 reconsideration.

9 Yesterday Todd Pounds, the attorney for the City
10 of Greenbelt, telephoned me and instructed me to inform the
11 Planning Board that the City of Greenbelt also opposes the
12 request for reconsideration, and he asked me to inform the
13 Planning Board that the City joins in my arguments.

14 I have a preliminarily matter to make. We assert
15 that this Planning Board does not have the legal authority
16 to hear this request for reconsideration today. Section 27-
17 125.05 requires the filing of a Staff Report two weeks
18 before the scheduled hearing. Today is December 3rd, the
19 Staff Report was filed November 24, 2020. So this hearing
20 today violates the express requirements of 27-125.05, so for
21 that reason as a preliminary matter I assert that the
22 Planning Board doesn't even have the authority to hear the
23 request today, and I'd like a ruling on that preliminary
24 matter before I address my remaining substantive arguments.

25 MADAM CHAIR: Okay. So I will turn to Mr. Warner,

1 our Principal Counsel on this matter because I'm not sure if
2 we have, I don't know how much of a different Staff Report
3 we have. I think, I'll just turn to Mr. Warner. And then
4 I'm going to --

5 MR. WARNER: Thank you, Madam Chair, this is David
6 Warner, Principal Counsel. Listening for the first time to
7 Mr. Nelson's argument I would say I disagree with it for two
8 reasons. One, this is a matter to evaluate a court policy
9 and a court policy about whether a matter should be
10 reconsidered. It's not a quote unquote zoning or site plan
11 case which is what 27-125.05 requires a two week Staff
12 Report for. And this memorandum from Adam Bossi is not a
13 Staff Report in any event anyway. It's a memo. So I don't
14 agree with his position.

15 MADAM CHAIR: Mr. Nelson, let me ask you a
16 question. I know you have some other issues to raise, but I
17 am curious because at the last hearing you said there wasn't
18 enough time for you to consider the new information and this
19 affords you time to address the new information even more
20 than a week. So I'm trying to understand what your
21 opposition is to the additional time.

22 MR. NELSON: (No audible response.)

23 MADAM CHAIR: I'm not sure, if you've spoken I
24 don't think we hear you. Have you said any --

25 MR. NELSON: No, I was --

1 MADAM CHAIR: Okay. Okay.

2 MR. NELSON: -- no, I have other points to raise.
3 I think it's important for the Planning Board to rule on my
4 threshold issue. I heard Mr. Warner's opinion, I disagree
5 with it but if the Planning Board is going to rule against
6 that argument I'll go into my substantive points. But I
7 think my clients are entitled to a ruling on that issue, on
8 that argument, on that threshold jurisdictional argument.

9 MADAM CHAIR: Mr. Nelson, you know, we're trying
10 to accommodate what you wanted. You wanted the additional
11 time for these cases and after Mr. Haller submitted his
12 request for a reconsideration, number one, this is not a
13 Staff Report per se. It is a memo addressing the request
14 for a reconsideration, it's not a Staff Report on a case
15 because we already had that, number one and you've heard
16 that from our counsel, number one.

17 Number two, it gives you what you've always said
18 that you wanted so I'm a little bit baffled by that.

19 MR. NELSON: I'll respond to that question. I'm
20 an advocate for my clients. One of my objectives for my
21 client is to preserve their resources so we can get to the
22 end of this case and the effect of this request for this
23 reconsideration has the effect of exhausting my client's
24 financial resources. The Planning Board will recall that
25 there was a hearing first scheduled on October 15, 2020. We

1 knew that staff was requesting a postponement but the
2 Planning Board heard the request for postponement at the
3 very end of the hearing on October 15th. So that was a full
4 day that my clients spent involved with that case. We came
5 back on October 15th, we had a full hearing on the merits of
6 the case.

7 The Planning Board decided the case, issued a
8 resolution approved on November 12th, mailed it on the 17th.
9 Then today is the third hearing, we've been here since 10
10 o'clock today, this is the third hearing. If the Court were
11 to grant the request, we'd have to come back for a fourth
12 hearing. I assert on behalf of my clients that process is
13 not fair, we tried the case on October 15th, I made a point,
14 argument, the Planning Board considered it. Mr. Haller
15 argued. Mr. Warner weighed in on it. It was not an issue
16 of first impression, it was merely me citing a section in
17 the Zoning Ordinance. I lost the issue. The resolution was
18 issued. We intend to appeal and to require my clients to go
19 through a fourth hearing, I assert is prejudicial to them.
20 And just, I would add also that the mechanism by which we
21 got this hearing strikes me as unfair.

22 The applicant filed, the resolution was issued on
23 the 17th, the applicant submitted by mail according to
24 stationery, a request for a reconsideration, we didn't know
25 that. We learned about it by looking at the Planning Board

1 agenda and seeing that this case was on the agenda before we
2 had even been informed of the request for reconsideration.
3 How did that happen? How did the Planning Board get this
4 case on the agenda before we even knew that the applicant
5 had requested a reconsideration? Did the applicant hand
6 deliver the request to the Planning Board? Did the
7 applicant e-mail it to the Planning Board? Did the
8 applicant telephone the Planning Board? They mail it to us,
9 we received the notice on November 20th and discovered the
10 day before that it was on the agenda.

11 MADAM CHAIR: Okay. So --

12 MR. NELSON: I think the whole --

13 MADAM CHAIR: -- let me stop you for a second, Mr.
14 Nelson. Two things. One, I know you said that you were on
15 since 10 o'clock this morning, but the Planning Board, the
16 Development Review Portion starts at 10:30, so we had
17 administrative items and that was clearly publicized.
18 Number two, I assure you that nobody hand delivers anything
19 to the Planning Board. Nobody hand delivers anything to
20 this Board. Nobody e-mails directly to this Board. So you
21 know I can't speak to that. When the request is made, I
22 guess it goes through the Planning Department, it doesn't
23 come directly to us so I don't know but one thing you did
24 raise, you said you didn't know about this until you saw the
25 agenda. Did I misunderstand you or hear you correctly?

1 MR. NELSON: Well, I'll reiterate. Ruth Grover,
2 who works for me, tracks the Planning Board agendas. She
3 called me up, I think on the 19th or the 20th, the morning
4 of the 20th and said Macy, what's this on the agenda, we
5 have a reconsideration, what's this about. I said I haven't
6 heard anything. It was on the agenda, on the website then
7 when my mail arrived on November 20th, I have a copy of the
8 letter from the applicant to you dated, to the Chairwoman,
9 dated November 18th and the correspondence indicates that it
10 was mailed to you as it was mailed to me. And I said how in
11 the world did the Planning Board get this case on the
12 docket, on the agenda before they got the letter and before
13 I got my letter.

14 Normally the way I was raised in the law is if an
15 advocate communicates with a tribunal you communicate with
16 the adversary at the same time. This clearly did not happen
17 in this instance.

18 MADAM CHAIR: Okay.

19 MR. NELSON: Somehow, somehow the applicant was
20 able to get this case on the docket before he even knew the
21 request was made.

22 MADAM CHAIR: Okay.

23 MR. NELSON: I object to that.

24 MADAM CHAIR: And I don't know I'm hearing that
25 for the first time, so I will have folks address that

1 because I don't know how, you know, when it came in. You
2 know we get our stuff just before the case is heard so I
3 don't know when that came in and I'm hesitant to suggest
4 that there was any nefarious kind of action, occurrence
5 here. Nobody hand delivers anything to us and the worst
6 when you said telephones the Board, I assure you nobody
7 telephones any of us, that's ex parte. So I guarantee you
8 that didn't happen. But I don't know who is going to
9 address this. Mr. Haller, perhaps you can address that, who
10 is going, are you going to address it? Mr. Hunt?

11 MR. HUNT: Yes, Madam Chair.

12 MADAM CHAIR: (Indiscernible) okay, well.

13 MR. HUNT: So, go ahead, mister, did you want to
14 go ahead, sorry.

15 MR. HALLER: No, you go ahead and then I'll follow
16 up --

17 MR. HUNT: Okay.

18 MR. HALLER: -- on your comment.

19 MADAM CHAIR: Okay. Mr. Hunt?

20 MR. HUNT: Okay. Yes, staff received the request
21 on November the 18th and immediately following and Mr. Byrd
22 can kind of, I'm sorry, I apologize, Ms. Kosack and I also
23 talked to this as well. So the letter was received on
24 November the 18th and upon receiving that we, but there's a
25 time period that's required for us to go ahead and schedule

1 it before within that 10-day time period, I believe and we
2 can speak to that a little bit later. I think Mr. Warner
3 can speak to that as well. And so that's exactly what
4 happened and Ms. Kosack, are you available?

5 MS. KOSACK: Yes, hi, good morning everyone, Jill
6 Kosack from the Urban Design Section. Yes, the request for
7 a reconsideration from Mr. Haller was stamped as received by
8 the Planning Department on November 18th. The request for
9 reconsiderations have to be scheduled to be heard by the
10 Board within 30 days of the receipt, so you know it's a
11 relatively short timeframe in consideration of the hearing
12 schedule within December. We placed the request hearing on
13 December 3rd to fit in with the agendas and then the mailing
14 for the hearing was sent out immediately, which has to be
15 done 10 days prior to this hearing on the 3rd. So
16 everything was done, again moved quickly because of this 30-
17 day timeframe requirement.

18 MADAM CHAIR: Okay. And then Mr. Haller, you get
19 to explain as well. So we got it on the 18th, Mr. Nelson is
20 saying that he got it I think on the 20th. Mr. Haller?

21 MR. HALLER: Right. And I hand delivered a copy
22 of the request to the drop box maintained by Park and
23 Planning at the County Administration Building on the 18th
24 and I e-mailed a copy to staff to let them know that it had
25 been delivered and that's why it was stamped in on that

1 date. And then I also made sure that copies were mailed
2 first thing on the 18th, which is why Mr. Nelson got it on
3 the 20th.

4 MADAM CHAIR: Okay.

5 MR. BOSSI: Madam Chair, Adam Bossi from the Urban
6 Design Section as well. In your backup material for today,
7 there is the notification letter that staff did send out on
8 November 19th. It's actually the first page of your backup
9 document.

10 MADAM CHAIR: Okay. Okay. So you --

11 MR. NELSON: Yes.

12 MADAM CHAIR: -- let me be clear. You hand
13 delivered it to a drop box because the Board, you did not
14 hand deliver anything to the Board, because the Board does
15 not get that. So you hand delivered it to the drop box.
16 You then, or Mr. Bossi then turned around the next day and
17 sent notice to the parties of record and then you, Mr.
18 Haller, mailed yours on the same day, November the 18th to
19 Mr. Nelson. I will say this, maybe the thing, you mailed it
20 the same day but maybe, yes and we got ours a little earlier
21 because you hand delivered it and maybe the thing to have
22 done would have been to e-mail to Mr. Nelson. But okay.
23 Mr. Nelson? Did anybody --

24 MR. NELSON: (Sound.)

25 MADAM CHAIR: -- on Park and Planning have

1 additional comment on that?

2 MS. CHECKLEY: Yes, Madam Chair --

3 MADAM CHAIR: Okay. Hold on, Madam Planning
4 Director?

5 MS. CHECKLEY: Madam Chair, this was performed in
6 the regular course of business, the way we operate with all
7 requests for reconsiderations. We do not follow the
8 procedures under the Zoning Ordinance because this is not a
9 hearing under the Zoning Ordinance, this is a
10 reconsideration request which is provided for under your
11 Rules of Procedure and everything that was done was done in
12 accordance with those Rules of Procedure. This is nothing
13 extraordinary.

14 MADAM CHAIR: Thank you. I didn't think anything
15 different necessarily, but I was saying Mr. Haller, so that
16 is how we got it, I guess. Mr. Haller indicated how we got
17 it. Okay. Mr. Nelson?

18 MR. NELSON: Yes, thank you. I have an additional
19 basis for my objection. It's my professional opinion there
20 were serious shortcomings in the application, serious
21 shortcomings in the statement of justification and I believe
22 that one of the motivations for the request for
23 reconsideration was for the applicant to try to fill in the
24 gaps of their presentation. Because their concerned my
25 clients will appeal, they're concerned that I'm going to

1 raise those shortcomings and they want a second bite of the
2 apple to fill in the gaps to try to strengthen their case.
3 I object to that process. There was a hearing. My clients
4 conform with each of the rules. My clients should not be
5 required to participate in four Planning Board hearings,
6 when there should have been just one.

7 MADAM CHAIR: Okay.

8 MR. NELSON: So for all those reasons on behalf of
9 my citizen clients, the citizens and the small business
10 owners, we have a long term commitment to this community
11 that we request the Planning Board deny the request for
12 reconsideration. Let this case proceed in its current
13 posture. Thank you.

14 MADAM CHAIR: Okay. So Mr. Nelson --

15 MR. NELSON: (Sound.)

16 MADAM CHAIR: -- what you've just indicated was
17 your belief that the applicant wants a second bite of the
18 apple. You have no way of knowing that, you did say belief.
19 I have no way of knowing that. The Board has no way of
20 knowing that. But what we do have in the Staff Report was
21 originally based on why you said that the new information
22 that you didn't have time to see. So any reconsideration
23 would be limited to those four items specified on page 3.
24 And so are you saying that those four items on page 3 gives
25 the applicant a second bite at the apple?

1 MR. NELSON: I believe we're going to hear from
2 Wes Guckert, he'll be there, he was --

3 MADAM CHAIR: How do we know he's going to be
4 there?

5 MR. NELSON: -- fill in the gaps on the fly at the
6 last hearing, and I predict the plan is for them to do it
7 again. So the basis for my objection are as follows.
8 Number one, the Staff Report was untimely.

9 MADAM CHAIR: Okay.

10 MR. NELSON: Number two, it's unfair to require my
11 clients to participate, at their own expense, great expense
12 before --

13 MADAM CHAIR: Mr. Nelson?

14 MR. NELSON: -- the Planning Board --

15 MADAM CHAIR: You've already said that you're
16 being repetitive at this point. You've said that already.
17 You've given your reasons but the last reason you just gave
18 was speculative because you were saying that the applicant,
19 you believe that the applicant wants a second bite at the
20 apple to submit additional information and that Mr. Guckert
21 is going to provide additional information and we have no
22 way of knowing that. And my question is if it's limited to
23 those four items that's specified, do you still believe that
24 they will funnel new information on those four things?

25 MR. NELSON: Would the Planning Board consider a

1 ruling that Mr. Guckert will not be permitted to testify?

2 MR. HALLER: Madam Chair?

3 MADAM CHAIR: Mr. Haller?

4 MR. HALLER: I have no intention of submitting any
5 additional information into the record. The sole purpose
6 was to give Mr. Nelson what he requested at the hearing,
7 which was an opportunity, an additional time to respond to
8 the information we submitted. I would say, however, that if
9 Mr. Nelson responds to that information and provides and
10 raises questions, Mr. Guckert should be permitted to answer
11 those questions as he would have done the week after had
12 this case been postponed. But we will provide, and we'll
13 commit that we will not provide any written information, any
14 studies, any reports into the record prior to the Planning
15 Board's consideration of this request. That's not the
16 purpose of the request. The purpose of the request is to
17 give Mr. Nelson the additional time that he requested at the
18 Planning Board hearing because he indicated he didn't have
19 sufficient time to evaluate the information that was
20 provided.

21 MADAM CHAIR: Okay. Thank you. Okay. So to be
22 clear you're saying you are not intending to provide any
23 additional information, but should Mr. Nelson or his clients
24 or the parties of record provide information on those four
25 items that requires rebuttal then you will in that, only in

1 that case, only in that situation, is that correct, Mr.
2 Haller?

3 MR. HALLER: That's correct, as I would have been
4 permitted to do --

5 MADAM CHAIR: Correct.

6 MR. HALLER: -- the next week had we --

7 MADAM CHAIR: Okay.

8 MR. HALLER: -- postponed the hearing for a week.

9 MADAM CHAIR: Okay. And I'm going to take
10 exception to calling it four hearings, because there weren't
11 four hearings because there was, you know, a continuance in
12 there too. So all right. Mr. Nelson, in addition to the
13 items that the basis for your opposition now to the
14 additional time, is there anything else that you have to add
15 at this point?

16 MR. NELSON: No, I do have a motion to make in the
17 event there's a ruling against my clients on this issue.
18 But I'll wait until the ruling.

19 MADAM VICE CHAIR: There's a motion?

20 MADAM CHAIR: Okay. You have a motion?

21 MR. NELSON: Yes.

22 MADAM CHAIR: Okay. All right.

23 MR. NELSON: I'll just say in the event the
24 Planning Board grants the motion for reconsideration, I
25 would like to file a petition for reasonable fees and

1 expenses associated with preparing for and attending this
2 hearing and preparing for and attending the rescheduled
3 hearing if it's rescheduled, but only if the Planning Board
4 grants the request for a reconsideration. I think it's only
5 fair to my citizen clients that they be made whole. They
6 didn't create this problem. They didn't submit the
7 information late. They didn't submit a new report from an
8 expert witness after the timeline. So in the event the
9 Planning Board grants the request for reconsideration, I
10 would like to make a petition for reasonable fees and
11 expenses for today and the next hearing.

12 MADAM CHAIR: Okay. You can file, you have the
13 right to file your petition. I can't answer that right now.
14 So let me see if the Board has any questions of anyone at
15 this time. Madam Vice Chair, any questions? Oh, Mr.
16 Warner, do you have anything else to add?

17 MR. WARNER: (No audible response.)

18 MADAM CHAIR: Not that you have to but if you do,
19 I don't want to preempt anybody.

20 MR. WARNER: No, only that I have (indiscernible)
21 that there's any support for the petition that Mr. Nelson's
22 requesting or that would give you authority to grant legal
23 fees to --

24 MADAM CHAIR: Okay. Well --

25 MR. WARNER: -- someone who represents persons of

1 record.

2 MADAM CHAIR: -- I can't even begin to address
3 that at this point in time. So he has the right to file a
4 motion and we'll, you know, see what happens. Okay. So
5 does the Board have any questions of anyone?

6 MADAM VICE CHAIR: No questions.

7 MADAM CHAIR: Okay. Commissioner Doerner?

8 COMMISSIONER DOERNER: Yes, I just want to ask Mr.
9 Haller, since you know Mr. Nelson is opposed to this and you
10 were doing it on his behalf, do you still want to go through
11 with it or would you like to withdraw it? I realize that
12 this might be kind of contingent upon his case at appeal
13 that he could provide other sort of arguments that you don't
14 allow this to happen and go forward. But I wasn't sure if
15 you wanted to even keep going forward with it.

16 MR. HALLER: Mr. Doerner, thank you for the
17 question. I do because I'm assuming that Mr. Nelson will
18 not waive his right to raise an objection at the Council
19 that the Board should have granted him a continuance. And
20 if the Council if they agreed with his position, would have
21 no choice but to remand this case to the Planning Board.

22 MADAM CHAIR: So then --

23 MR. HALLER: Which means he'd have another hearing
24 anyway. I'm trying to avoid that occurrence. I want, Mr.
25 Nelson has the right to continue to raise any objections

1 that he wants with regard to the Planning Board's decision
2 from the standpoint of making sure that the record is clean
3 and that he has had an opportunity to respond to all of the
4 information provided that he's got the right to do that. As
5 I indicated in my request, the reason that the applicant
6 submitted the information was not to disadvantage any party
7 of record, but to answer questions raised by the parties of
8 record. And so if Mr. Nelson needs more time to respond to
9 that, I'm trying to give him that time so that that isn't an
10 issue with the Council.

11 MADAM CHAIR: So let me make sure I heard that
12 correctly. So basically the reason that some of the
13 information was late was in response to the information that
14 the parties of record had, or questions or information that
15 they had submitted. Is that it? To clarify, is that what
16 you're saying, Mr. Haller?

17 MR. HALLER: That is absolutely correct and --

18 MADAM CHAIR: And that's what precipitated it.

19 MR. HALLER: -- that's the reason the information
20 was submitted.

21 MADAM CHAIR: Okay. That's what precipitated the
22 additional information. Okay. Commissioner Doerner, did
23 you have additional questions?

24 COMMISSIONER DOERNER: No, I think Mr. Nelson is
25 almost waiving his right by trying to not support this

1 reconsideration. Like I would assume that the Council would
2 rule in that way, but no that's fine, we can go to the vote.

3 MADAM CHAIR: Okay. Did I ask Commissioner
4 Washington, did I call on you yet? No.

5 COMMISSIONER WASHINGTON: You did not but I have
6 no questions, thank you.

7 MADAM CHAIR: Okay. Commissioner Geraldo?

8 COMMISSIONER GERALDO: I don't have any questions.

9 MADAM CHAIR: Okay. Then what's the pleasure of
10 the Board? Mr. Bossi, do you have anything else to add?

11 MR. BOSSI: No, ma'am. Thank you.

12 MADAM CHAIR: Okay. What's the pleasure of the
13 Board with regard to the request for reconsideration based
14 on whatever, you know it could be mistake or other good
15 cause?

16 COMMISSIONER WASHINGTON: Madam Chair, I move that
17 we approve the request for reconsideration for DSP-19045,
18 based on other good cause and specifically and limited to
19 allowing the persons of record to submit additional
20 information and testimony regarding the four items as
21 detailed in staff's report at the bottom of page 3.

22 MADAM CHAIR: We have a motion.

23 MADAM VICE CHAIR: Second.

24 MADAM CHAIR: A motion by Commissioner Washington,
25 seconded by Vice Chair Bailey. Vice Chair Bailey?

1 MADAM VICE CHAIR: I vote aye.

2 MADAM CHAIR: Commissioner Washington?

3 COMMISSIONER WASHINGTON: Aye.

4 MADAM CHAIR: Commissioner Doerner?

5 COMMISSIONER DOERNER: I'll vote aye. I'll just
6 add for discussion, I think it's a little bit absurd to have
7 the consideration since Mr. Nelson is opposed to it and it's
8 more for his favor. But because it is being requested by
9 the applicant, they have that right, and I guess in that way
10 we should go forward. But I think this is a bit obnoxious
11 to kind of keep going forward if he doesn't want to do it.

12 MADAM CHAIR: Okay.

13 COMMISSIONER DOERNER: I'll vote aye.

14 MADAM CHAIR: Commissioner Geraldo?

15 COMMISSIONER GERALDO: Madam Chair, I vote aye.

16 MADAM CHAIR: Okay.

17 COMMISSIONER GERALDO: The applicant has the right
18 to ask for the motion for reconsideration.

19 MADAM CHAIR: Okay. The ayes have it, 5-0, it
20 will be set in for another day. Thank you. Okay. Thank
21 you, Mr. Nelson. Thank you, Mr. Haller. Thank you to
22 everyone and I'm going to let me see --

23 MR. HALLER: Thank you, Madam Chair.

24 MADAM CHAIR: Okay.

25 MR. NELSON: Thank you.

1 MADAM CHAIR: Okay. We're going to go to closed
2 session which is pursuant to Section 3-3 --

3 **(Whereupon, the proceedings were concluded.)**

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DIGITALLY SIGNED CERTIFICATE

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Prince George's County Planning Board in the matter of:

ROYAL FARMS GREENBELT

Detailed Site Plan, DSP-19045



By: _____

Date: February 24, 2021

Diane Wilson, Transcriber