

22-NT-3282/202261946 Patuxent Owner LP Public Informational Hearing (2023-05-08 19:00 GMT-4) - Transcript

Attendees

Alan Schwartz (by phone), Amanda Sigillito -MDE-, Brian England, Dan Lekites, Elizabeth Everhart, Haley Kelly, Haley Kelly's Presentation, Joan Lancos, Katelyn Hoisington, Ken Bawer, Marius Flemmer, Mark Richmond, Matthew Blum, Mike Klebasko, Paula Stonesifer -MDE-, Paula Stonesifer -MDE-'s Presentation, Sarah Constant, Sean McKewen -MDE-, Sharon Boies, Todd Reddan

Transcript

This editable transcript was computer generated and might contain errors. People can also change the text after it was created.

Amanda Sigillito -MDE-: Good Evening. I would like to welcome all to the Maryland Department of the Environment's public informational hearing for the Nontidal Wetlands Application No. 22-NT-3282/202261946 submitted by Patuxent owner LP. My name is Amanda Sigillito and I am the Chief of the Nontidal Wetlands Division at the Maryland Department of the Environment. I will be presiding official for this evening's public information hearing. Also in attendance with me from the Department tonight are Sean McKewen, Chief of the Western Region of the Nontidal Wetlands Division and Paula Stonesifer, Project Manager of the Western Region of the Nontidal Wetlands Division. I would like to thank everyone for taking the time to participate in the public comment process.

Amanda Sigillito -MDE-: It is the responsibility of my office to evaluate applications that propose impacts to nontidal wetlands. The Department's authority is found in Subtitles 5 and 9 of the Environment Article. Each application received through our regulatory program has specific and unique issues and impacts that must be considered in relationship to weighing the potential benefits and detriments of the project. The Department is neither a proponent nor an opponent of any project.

The logistics for this evening's hearing are as follows: I will make a few opening remarks about the purpose of the public informational hearing and briefly list the proposed impacts. I will then call on the applicant, Patuxent Owner LP or their representative for the applicant statement regarding their project.

Amanda Sigillito -MDE-: After these required presentations, the Department will facilitate public statements by first calling on any elected officials or their representatives to make a statement. I will then call on those of you who indicate that you wish to speak. It is not necessary to read a statement to make it part of the official record, written comments will also be accepted and receive the same consideration as any oral statement. In fact, for accuracy, if you have a letter to read into the record, I suggest you also provide us with a copy of the letter via email or regular mail after the hearing. We do not permit cross-examination of the speakers during their presentation, but you may pose questions as part of your statement for our consideration in our permit evaluation. Please note that we will not be responding to questions, or comments posed this evening. This venue is for the Department to hear and record your public comments.

Amanda Sigillito -MDE-: This public informational hearing is being recorded and the recording will be used to facilitate the final permit decision. At this time, I would like to acknowledge any elected officials who may be present with us here this evening. If you are an elected official or are representing an elected official, please raise your virtual hand now to be recognized.

Amanda Sigillito -MDE-: And I don't see any virtual hands up so, we will keep going. The Department is conducting this evening's public informational hearing pursuant a Subsection 5-204 of the Environment Article and Code of Maryland Regulations 26.23.02.02 The purpose of this public informational hearing is for the applicant to present an analysis of impacts that may be associated with the proposed activity. I would like to emphasize that the purpose of this public informational hearing is to consider the application pending before the Department. There may be a number of additional concerns related to issues that are beyond the scope of this particular hearing. I would like to have this hearing remain focused on the proposed nontidal wetland application.

This public informational hearing for Nontidal Wetlands Application number 22-NT-3282/202261946 submitted by Patuxent Owner LP. The project includes the construction of a driveway, stormwater outfall, parking spaces and a new residential building, The project will permanently impact 1,841 square feet of forested nontidal wetland and 8,069 square feet of the 25-foot nontidal wetland buffer. The project is proposed along an unnamed tributary of the Little Patuxent River (a Use IV water). Mitigation will be provided by purchasing mitigation credits at the Patuxent Mitigation Bank at a ratio of two to one for the permanent impacts to forested nontidal wetlands. The project is located at the corner of Freetown Road and Cedar Lane in Columbia Howard County, Maryland.

Amanda Sigillito -MDE-: I will now ask the applicant to provide a brief presentation of their proposed project. Will the first speaker identify yourself by your full name, please and where you're from?

00:05:00

Elizabeth Everhart: Sure, this is Elizabeth Everhart. I'm a senior development manager with Mission First. We are 501c3 nonprofit that is currently the sole member of Patuxent Owner LP.

Elizabeth Everhart: This shows the project site location at the northeast corner of Cedar Lane and Freetown Road in Columbia Maryland. Next slide. And this shows the Patuxent Commons project which is a proposed new construction 76-unit residential building. The project will be 98% affordable and have a set aside of 25% of the units for adults with disabilities. The project concept came out of the research and advocacy of the Howard County Autism Society. The need for affordable housing and in particular for adults with disabilities is great and growing in Howard County. The project location across the street from the Hickory Ridge Village Center and adjacent to a bus stop is ideal for this target population. The project is a single L-shaped building which includes structured parking underneath the building as well as some surface parking. The building is three stories at grade level and includes one-, two-, and three-bedroom units and has extensive amenity space, including a club room, fitness room, library, and computer room. With that, I'll turn it over to Mike Klebasko.

Mike Klebasko: My name is Mike Klebasko with Wetlands Studies and Solutions Inc. I am representing the applicant. I'm the environmental consultant working on this project. If Haley could we go back one slide, please.

Mike Klebasko: I want to touch on stormwater management for this project. This project will provide full environmental site design to the MEP. Which will consist of two bioretention facilities which you can see

are shaded in light green at the north end of the site and down near the entrance driveway along Freetown Road. There will also be one filtering device and porous pavement in a portion of the surface parking area and there that's the darker gray area along the northwestern property line. There will also be underground attenuation, which is the orange crosshatched area underneath the surface parking which will provide 100-year flood flow management as well.

Mike Klebasko: Next slide.

Mike Klebasko: We looked at lots of alternatives to try to access the site but in reviewing and going through traffic analysis, the best, and safest location to access the site is off Freetown Road where it's shown on this exhibit. And in order to avoid wetland impacts, which are the areas highlighted in orange, the 1,841 square feet of a little nontidal wetland finger, the road comes in off of Freetown and makes as sharp as possible, bend to the left or to the west to access the site so that we could preserve as much of the wetland as possible on the property. However, to access the site via Freetown Road, there is no way to avoid the existing wetland finger that is located there today.

Mike Klebasko: um, there's also one small outfall impact from the attenuation facility, but that only impacts the buffer and that's located near the western property line, the little rectangle. So, this project has been designed to minimize all jurisdictional impacts to the maximum extent practicable. Now with this project there are no impacts to streams or the 100-year floodplain. The impacts are only to a small upper portion of a wetland finger and it's buffer. And as Amanda stated, we will be mitigating for all our nontidal wetland impacts at a two to one ratio for this project. Thank you.

Amanda Sigillito -MDE-: Does that conclude your overview of the project of the application? Thank you. All right, then I will now allow any members of the general public to make a statement if you'd like to. And again, you don't have to this evening. You can send in comments afterwards and I'll go through that at the end of the hearing. But if you would like to make a statement, please raise your virtual hand and leave it raised until we call on you. When we call your name, we will unmute you and then you may begin to speak. Please start by clearly stating your name and any interest which you may be representing. Speakers representing a group or organization are allotted five minutes to make their remarks and individuals are allotted three minutes for their remarks.

00:10:00

Amanda Sigillito -MDE-: Alright Ms. Boies, if you want to unmute yourself,

Amanda Sigillito -MDE-: Ms. Boies, I have unmuted you...you might have to unmute on your end if you're speaking, we can't hear you.

Amanda Sigillito -MDE-: Ms. Boies, are you there? We can't hear you.

Sharon Boies: There we go.

Amanda Sigillito -MDE-: There you are.

Sharon Boies: I kept pushing unmute. Nothing was happening. I'm sorry.

Amanda Sigillito -MDE-: I'm sorry.

Sharon Boies: Okay, great,...

Amanda Sigillito -MDE-: Well, we can hear you now. Thank you. Please go ahead.

Sharon Boies: Thank you. I've will turn my camera off to read my statement. Okay, thank you.

Amanda Sigillito -MDE-: Okay.

Sharon Boies: All right, good evening. And thank you for this opportunity. As the 24/7 caregiver for my mom for many years I really mean it when I say, I know this is an admirable project, but that doesn't make this crucial wetland carbon sink and floodplain any more suitable of a lot to build on. The slow line biodiverse multi-layer shady canopy of mature wooden wetland forest is providing a long list of invaluable eco services. There's mention that only six mature specimen trees will be removed but there's plenty of others within inches of reaching that status. As forested sponge for the area drop several feet down and soaks up the upland runoff from a tremendous amount of impervious surface directly above it and alongside this carbon sink that has seeps, springs, ephemeral pools, and a stream that appears to regulate your neck to its fern and skunk cabbage dotted floodplain. This sponge collects, the polluted storm water and holds it slowly absorbing the water and nutrients, while recharging the ground water instead of the runoff blasting unmitigated into and flooding out this clean headwater

Sharon Boies: stream. This wetland has provided protection to the neighborhood downstream for approximately 50 years. The forest surrounding two sides of the site is a forest conservation easement and will undoubtedly be impacted by this project. The site lies at the bottom of acres of pavement and concrete and it's the top end of a vital wildlife corridor. The very type of ecosystem that is extremely important to preserve as providing habitat for birds, bats, insects, amphibians, reptiles and mammals. It cannot be recreated by man elsewhere or replaced by credits sold for profit from another project, The equal heart, but for some reason, it's called mitigation. The wetland, buffer and stream are fairly protected for a reason, climate change and cloudburst and produce inches of rain in a short amount of time, This I will collect and hold even more runoff with the removal of the water absorbing trees and vegetation, and the addition of impervious surface and a straight outflow and a cistern that is not designed to be the collection device for the acres of impervious surface above the project site, the project itself.

Sharon Boies: And the loss of the forest. I want to know who's going to take responsibility for the downstream impacts. Can anyone guarantee this project will not cause flooding? It's really not okay that the county and MDE could consider allowing such a noble project to take place in such a potentially bad location for a building in such great location for permanent FCA. So they can often be the guardian sponge of the upland store, water runoff are providing habitat, carbon sequestration cleaning clean water and even quality of life. The neighborhood should not have to worry about decisions made by others who have not taken their interest into consideration. Finally, I support this project. I'm opposed to any construction activity at this location. Howard County is loaded with more suitable locations on developed lots. There's no need to drain a wetlands and log a forest. Of course, landowner and the county immediately consider a land swap of sorts. The County can purchase the spot and add it to the surrounding FCA and consider it as a first project in support of the Maryland, the beautiful Act

Sharon Boies: Everyone could come out a winner, including the environment. Thank you so much for your consideration in this opportunity.

Amanda Sigillito -MDE-: Thank you, Ms. Boies. All right.

Sharon Boies: Thank you.

Amanda Sigillito -MDE-: Thank you, Mr. Bawer. You have your hand up next. Go ahead and unmute yourself. I've unmuted you on my end.

00:15:00

Ken Bawer: Okay, can you hear me? okay, my name is Kenneth Bawer

Amanda Sigillito -MDE-: I can hear you just fine. Yes, please.

Ken Bawer: First, I request a 30-day extension from the date that complete product information is made available to the public. Do the apps, due to the absence of documents critical for public understanding of this proposed project, the public cannot be expected to comment on vaporware. And Notice document has a link to plans, which only has a few maps, which can't even be read due to the poor quality upon magnification, missing are at a minimum, a plan or perspectives with basic information including the exact size of species of trees to be removed, the specifications for the stormwater control facilities. Also missing is the alternate compliance application, which I was made aware of and the minutes from the December 1st Pre-Submission Community meeting. Although this is a laudable project with respect to providing units to set aside for adults with disabilities the fact is that this is the wrong location based on the forested and wetland natural resources on this site. Any granting of the requested waivers of Maryland regulations would defy common sense and logic. The applicant knew full, well, the severe limitations on the property and yet bought it anyway, presumably

Ken Bawer: at a fire sale price because of the existence of protected wetlands. This is precisely why the property was never developed. They were gambling that MDE could be blown over like a feather and allow regulations to simply be waived. A permit for this project should be denied for the following reasons: One. So called mitigation is a sham that adds insult to injury since two different sites are damaged, both the impact site and the mitigation site. Two. Enforcement of the regulations would not deprive the landowner of rights commonly enjoyed by others in similar areas. Three. Proposed permanent impact of forested nontidal wetland and nontidal wetland buffer is completely avoidable. There are six, Four. The removal of six year old of six old growth trees and in this age of global warming is unconscionable. Five. The science does not support the requirement that mitigation projects provide biological uplift, which is the most important and ultimate goal of functional outlet. Six. The clear cutting and resulting stormwater runoff from the site, will erode the adjacent stream and create downstream problems and potential flooding. Seven. The permit

Ken Bawer: requesting team is not qualified based on past performance on similar projects and I'll read as much as I can but I'll provide my written statement. Following is more detailed information. One. So called mitigation is a sham. Unfortunately, the result is never a zero sum. In reality, the result is the killing of wildlife and a net decrease in foraging. Forest acreage, wildlife habitat and functioning streams and wetlands including large ecosystem services, such as carbon sequestration,

Ken Bawer: Mitigation is a legal but ethically and environmentally corrupt money-making scheme. The science shows that mitigation projects do not repair environmental damage at the mitigation site and this cannot possibly balance the environmental destruction at a developer's construction impact site. On this basis, mitigation projects are in clear violation of the Clean Water Act as Levy and Marin say in their streams of revenue Book, quote, While Congress, likely assumed that the regulatory agencies implementing the Clean Water Act, would deny many permits to prevent harm to these ecosystems. The vast majority of permits have been granted as the agencies have yielded to the political cost of limiting development, be it new homes, factories or...

Amanda Sigillito -MDE-: Mr. Bawer

Ken Bawer: roads rather than

Amanda Sigillito -MDE-: you're the three minute mark, if you could wrap up your comments, please.

Ken Bawer: Okay. I'll send my. I'll wrap it up now and I'll send in my written comments. Thank you very much.

Amanda Sigillito -MDE-: Thank you so much.

+1 410-***-***73: Ms. Chair Person, my name's Alan Schwartz. And I could not get online. But and...

Amanda Sigillito -MDE-: More.

+1 410-***-***73: so I raised my hand.

Amanda Sigillito -MDE-: All right Mr. Schwartz I've got one person in front of you and then I will call on you. I see that you're our caller you've called in and I'll call you after the next person.

+1 410-***-***73: Okay. Yeah. Thank you very much.

Amanda Sigillito -MDE-: All right. Thank you. So we're going to move to Joan Lancos. Ms. Lancos, if you could unmute yourself. I have unmuted you on this end.

Joan Lancos: Good evening. I have been following the proposed Patuxent Commons project since it was first presented to the Hickory Ridge Village Board in the fall of 2020. The developers have reached out several times to the community via the Howard County pre-submission meeting process as well as via their own initiative to make sure the community was aware of this worthwhile project. The community asked many questions and the project team worked very hard to answer those questions.

Joan Lancos: I'm familiar with the site. Having lived nearby since 1976, I'm aware of runoff problems, on an adjacent site, when the Hickory Crest Senior community was built in the late 1990s, much of the Hickory Crest issues were resolved, when the nearby abiding Savior Lutheran Church sold off its back parking lot, which had no storm water management. That property was redeveloped as Hidden Ridge as well, a 12-unit townhouse project that has stormwater management that meets current regulations. Having up to date stormwater management makes a huge difference regarding both water quality and water flow in an area. I'm not an expert, not even an Internet expert. I leave the decisions regarding whether improvements proposed on a project are appropriate and sufficient to professionals who know the rules of development and interpret those rules as part of their daily job description. I leave evaluation and hydrology review to Howard County and to the State and to private engineers who've examined the plans put forward from Patuxent Commons.

00:20:00

Joan Lancos: I'm here tonight because I support the Patuxent Commons project, as do many community members. It is a good project that fills the need of an underserved population and balances the social equity of those who have appropriate housing versus those who need appropriate housing. The improvements proposed on the site will at a minimum cause no additional harm to downstream

properties. The upgrades particularly to water quality may actually improve the drainage area of the little Patuxent River and ultimately improve the water quality of the Chesapeake Bay. Thank you for your consideration of my comments.

Amanda Sigillito -MDE-: Thank you, Ms. Lancos. All right. Now we'll go to our caller. If you would unmute yourself and please start by giving us your name, please.

+1 410-***-***73: Yes. And can you hear me? Okay that's great.

Amanda Sigillito -MDE-: I can hear you just fine. Yes.

+1 410-***-***73: My name is Alan Schwartz and I live very close to the area and in fact about 150 feet of our property line lies adjacent to the stream called the Brass Knob stream that receives runoff from the area.

+1 410-***-***73: I am in support of the concept of the project. I was a social worker myself, worked for the elderly, the mentally disabled, and children with functional issues. But I think the real issue is the appropriateness of this project at that site. If it was a site that wasn't protected by any law for any reason, then it would be certainly appropriately fit into the zoning categories, but as Mr. Bawer and Ms. Boies pointed out, it is a site that was protected under the Forest Conservation Act which is under the county's jurisdiction. But we start from the premise that the property should be considered in a very different manner. I say that having myself been involved in the passage of the Ag land Preservation Act here in Howard County and I know full well that at the time that it passed and the county was early in that reg.

+1 410-***-***73: There, there were a lot of concerns about overdevelopment and creating critical problems. This particular site under the Forest Conservation Act is also at issue in terms of the environment, the potential environmental changes, the removal of trees, the effect on wildlife that runs nearby and certainly on the stream that just runs a few feet off the property and runs by our house. I've been told by the engineers that the stormwater runoff is, is not an issue. But frankly, my wife and I are concerned in that regard because we've seen before at Ellicott City where assurances and that manner have not been meet. The idea that the, the property and the wetlands of the property do not impact the adjacent stream is something that I think the MDE should think about more thoroughly before it grants approval for this particular project on that site.

+1 410-***-***73: Love to see the project go forward. I just think that there's an expense being paid, by allowing it to potentially damage that area that is currently protected. Thank you very much.

Amanda Sigillito -MDE-: Thank you, Mr. Schwartz. All right, so let's see if there are other virtual hands that are raised before we move forward. I'll just give everyone one last chance or anyone who hasn't spoken that would like to speak this evening.

Amanda Sigillito -MDE-: All right, very well. The hearing record will remain open for two weeks until 5 pm on Monday May 22, 2023. The public comments received during the public comment period will become part of the project file and will be considered by the Department when rendering a decision on application number 22-NT-3282/202261946. Unless extenuating circumstances justify an extension of time, the Department is obligated to issue, modify or deny the permit within 45 days of the close of the public informational hearing record, which is Thursday June 22, 2023. The Department's decision and accompanying information will be sent to the interested persons list as well as to the applicant.

Amanda Sigillito -MDE-: The Department's decision will be a final agency determination; there will be no further opportunity for administrative review. Any person with standing who is either the applicant or who participated in the public participation process through the submission of written or oral comments may petition for judicial review in the Circuit Court in Howard County. The petition for judicial review must be filed within 30 days of the publication of the permit decision. On behalf of the Maryland Department of the Environment, I appreciate your interest in this project and your attendance at this evening's public informational hearing. The hearing is now adjourned. Again, thank you for attending.

Meeting ended after 00:25:45 🙌