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GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

Memorandum and Order

First Procedural Order
In the Matter of the
Substantive Review of the Petition to Remove Carroll Plantation
from the Expedited Permitting Area for Wind Energy Development

June 24, 2016

In 2015, the legislature enacted “*An Act To Improve Regulatory Consistency within the Jurisdiction of the Maine Land Use Planning Commission*,” [Public Law 2015, Ch. 265] (“the Act”), which became effective January 1, 2016. The Act created a six month time window within which registered voters in a given town, township, or plantation within the Commission’s service area may petition to have a place removed from the Expedited Permitting Area for Wind Energy Development (“Expedited Area”). Title 35-A, section 3453-A of Maine’s statutes describes the mechanism by which the petition process is to take place, and provides the opportunity for any person to request “substantive review” of the petition. Substantive review involves consideration of two statutory criteria, both of which must be met during the substantive review process to remove a place from the Expedited Area.

Criterion A. The proposed removal will not have an unreasonable adverse effect on the State’s ability to meet the state goals for wind energy development in [Title 35-A] section 3404, subsection 2, paragraph C.

Criterion B. The proposed removal is consistent with the principal values and the goals in the comprehensive land use plan adopted by the Maine Land Use Planning Commission pursuant to Title 12, section 685-C.

Background

On January 4, 2016, the Commission received a rulemaking petition requesting the removal of Carroll Plantation from the Expedited Permitting Area for Wind Energy Development.

On February 22, 2016, the Commission received a timely request for substantive review of the petition to remove Carroll Plantation from the Expedited Area. The property owners of Carroll Plantation were subsequently notified that a substantive review request had been received, that a public comment opportunity will be provided, and that they may request a public hearing, in accordance with Title 35-A §3453-A(4).

On March 9, 2016, the Commission determined that public hearings on substantive review requests would provide information helpful to the Commission in its review and voted to hold a public hearing for each substantive review request.

A pre-hearing meeting with the person requesting substantive review (“Requestor”) was held on June 7, 2016. A pre-hearing meeting with the petition circulator for Carroll Plantation (“Circulator”) was held on June 8, 2016.

Validity of Request for Substantive Review

During the pre-hearing meeting with the Circulator, an interested person questioned the validity of the request for substantive review filed for the Carroll removal petition. Commission Staff have reviewed the request and believe it satisfies the requirements contained in 35-A M.R.S. § 3453-A(3). The request was made by one or more persons, in writing, and was timely filed. Any person wishing to formally challenge the validity of the request for substantive review must submit the basis of their objection to the Commission in writing on or before July 11, 2016 (*all deadlines close at 5:00 PM on the deadline date*). Rebuttal to a challenge on the validity of the request must be submitted to the Commission in writing by July 25, 2016. The Commission will address any challenges filed on the matter at one of its subsequent business meetings.

Public Hearing Dates and Submission Deadlines for Substantive Review

With regard to the Commission’s substantive review of the Carroll removal petition, the deadline for filing pre-hearing submissions is August 3, 2016. The Commission asks anyone interested in this matter submit written comments and information that would be helpful to the Commission in preparing for the hearing and asking questions during the hearing by the August 3rd deadline. Comments and information should be relevant to the statutory criteria (Criterion A and Criterion B, above).

A public hearing to receive oral testimony from the public regarding the petition to remove Carroll Plantation from the Expedited Area will be held on September 28, 2016. A written copy of the oral testimony may be submitted to the record at the hearing, or after the hearing on or before October 10, 2016. The time and location of the public hearing will be set in a subsequent procedural order. A public notice of the hearing will be included as part of the Secretary of State’s Consolidated Rulemaking Notice, which will be published in the Portland Press Herald, Bangor Daily News, Lewiston Sun Journal, Kennebec Journal, and Waterville Morning Sentinel, and will be posted on the LUPC website.

The public comment period will close on October 10, 2016. Following the public hearing, anyone wishing to submit additional comments relating to the statutory criteria and addressing the removal of Carroll Plantation from the Expedited Area must submit those comments in writing by the public comment deadline.

The rebuttal period will close on October 17, 2016. The Commission will accept comments rebutting testimony at the public hearing or written comments submitted during the public comment period up until the close of the rebuttal period.

The record will close on October 17, 2016.

All comments and rebuttal received through October 17th will be posted to the Commission’s web site at: http://www.maine.gov/dacf/lupc/projects/wind_expedited_area/wind_expedited.shtml.

Receiving Public Comment

Comments from the Circulator, Requestor, and public on this matter should be directed in a way that allows the comments to be properly heard and considered by the full Commission. In this proceeding, Commission members may not consider nor act upon public input unless it is orally provided to the Commission as a body at a Commission meeting or hearing, or it is addressed to the Commission in writing. Any private discussions between interested persons or members of the public, and Commission members should avoid this substantive review matter while it is pending before the Commission in accordance with the *Commission Guidance on Receiving Public Comment*, adopted October 16, 1996.

Commission Decision

The Commission will deliberate and make a determination on this proposed rulemaking at a regular monthly business meeting following the close of the record. The agenda for the meeting and the staff memo for the deliberation may be viewed on the Commission's web site when it becomes available 5 to 7 days before the Commission meeting at:

http://www.maine.gov/dacf/lupc/projects/wind_expedited_area/wind_expedited.shtml.

All information, and written comments or rebuttal relating to this matter may be directed to Stacie Beyer, Chief Planner, by mail or email.

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Questions or requests to be added to the notice list for this petition may also be directed to Stacie Beyer by phone at (207) 941-4593.

This memorandum and order is issued by the Presiding Officer pursuant to the Commission's Chapter 5 Rules for the Conduct of Public Hearings.

DATED AT AUGUSTA, MAINE THIS 24th DAY OF JUNE, 2016

By: 
Everett Worcester, Presiding Officer