

MINUTES OF THE REGULAR MEETING OF MARCH 9, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, March 9, 2017 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Doug Hudson, Mr. Keller Hopkins, Mr. Martin Ross, Ms. Kimberly Hoey-Stevenson, with Mr. Vince Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mrs. Jennifer Walls - Planning Manager and Mr. Daniel Brandewie – Planner II.

Motion by Mr. Ross, seconded by Mr. Hopkins, and carried unanimously to approve the Agenda. Motion carried 5-0

Motion by Mr. Ross, seconded by Mr. Hopkins, and carried unanimously to approve February 9, 2017 and February 23, 2017 as revised. Motion carried 5-0.

ADDITIONAL BUSINESS

Discussion regarding of the Comprehensive Plan

Mr. Robertson spoke regarding the Comprehensive Plan. He read an email from Robert Tunnell III and the email will be added to the public comments regarding the Comprehensive Plan. Mr. Tunnell III would like to thank the Commission for the workshop, that the depth of information provided the openness of the process; that Mr. Tunnell III is going to do some research contacting some professionals and other areas in research transfer of development rights program; and that he commented on the vision.

Opportunity for public comment regarding Comprehensive Plan

Barbara Vaughn spoke regarding the Comprehensive Plan. She spoke that she represents Historic Lewes Byway; that she would like some information about the Byway included in the Comprehensive Plan; that she gave an Exhibit book; and that included a brief history of the Byway.

Jeff Stone spoke regarding the Comprehensive Plan. He stated that he lives in Milton; that he is a member of Sussex Alliance for Responsible Growth (SARG); that he encourages as many people as possible to get involved in the Comprehensive Plan process; that he would like to see how the public comments are being integrated into the plan; that there is a need for more transparent plan; and that the plan be less grey in text and use SMART goals.

Sue Claire Harper spoke regarding the Comprehensive Plan. She stated she lives in Rehoboth Beach; that she hopes the plan has a response to climate change, sea level rise, and storm surge;

and that she likes the Comprehensive Plan comments taking place at the beginning of the meeting.

OLD BUSINESS

C/Z #1814 Stockley Tavern LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County containing 1.005 acres, more or less. The property is located on the southwest side of DuPont Blvd. (U.S. Rt. 113) approximately 0.3 mile south of Governor Stockley Rd. (Rd. 432). 911 Address: 26072 DuPont Blvd., Georgetown. Tax Map I.D. 133-6.00-41.00

The Commission discussed this application which has been deferred since February 23, 2017.

Mr. Ross stated that he would move the Commission recommended approval of Change of Zone No. 1814 for Stockley Tavern LLC for a change of zone from AR-1 (Agricultural Residential District) to CR-1 (Commercial Residential District) based upon the record made during the public hearing and the following reasons stated:

1. This site is located along Route 113, which is an appropriate location for CR-1 Zoning.
2. This application is for a site that has been used for commercial purposes for decades. There has been a tavern continuously operating on the site since at least the 1940s.
3. This application will make the underlying zoning consistent with the historical use of the property.
4. Rezoning the property to CR-1 will not have an adverse impact upon adjacent properties, community facilities, roadways or the neighborhood in general.
5. This rezoning meets the purpose of the Zoning Code in that it is located on a major arterial roadway and it promotes the orderly growth, convenience, order, prosperity and welfare of the County.
6. No parties appeared in opposition to the application.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons. Motion carried 5-0.

C/U #2068 Charles J. Short

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an auto repair shop to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 24.9784 acres, more or less. The property is located on the side southeast of Cordrey Rd. (Rd. 308) approximately 0.72 miles southwest of Mount Joy Rd. (Rd. 297). 911 Address: 30226 Cordrey Rd., Millsboro. Tax Map I.D. 234-28.00-146.00

The Commission discussed this application which has been deferred since February 23, 2017.

Mr. Hopkins stated that he would move that the Commission recommend approval of

Conditional Use No. 2068 for Charles J. Short for an auto repair shop based upon the record made during the public hearing and for the following reasons:

1. This automobile repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community.
2. The site is located on a 24.978-acre property. With the conditions imposed upon this approval, the conditional use will only occupy a small portion of the site.
3. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
4. This recommendation for approval is subject to the following conditions and stipulations:
 - A. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - B. Security lighting shall be downward screened and shall be directed away from the neighboring properties and roadways.
 - C. Any dumpsters shall be screened from view of neighbors and the roadways. The dumpster locations shall be shown on the Final Site Plan.
 - D. All repairs shall be performed indoors. No automobile parts shall be stored outside.
 - E. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.
 - F. No more than 10 cars shall be on the site for repairs at any one time.
 - G. The area of the Conditional Use shall be limited to the “Paved Driveway”, the “Stone Driveway/Entrance” and existing Metal Building” shown on the “Conditional Use Plan” submitted with the Conditional Use Application or approximately 2 acres. These areas shall be clearly identified on the Final Site Plan as “Area of Use”. The use shall not expand beyond these areas without an additional public hearing.
 - H. The rear perimeter of the Conditional Use area shall be screened from view of neighboring properties with a fence or vegetation. This screen shall be shown on the final site plan.
 - I. No cars shall be sold on the property.
 - J. The site shall be subject to all DelDOT entrance and roadway requirements.
 - K. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Mr. Ross, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5-0.

PUBLIC HEARINGS

C/U #2069 Rudolph Joseph Johnson

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a workout studio to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 21,962 square feet, more or less. The property is located on the north side of Clay Rd. (Rd. 269) approximately 600 ft. east of

Shady Rd. (Rd. 276). 911 Address: 34001 Clay Rd., Lewes. Tax Map I.D. 335-12.06-58.00

Ms. Cornwell advised the Commission that there was a staff analysis submitted into record as part of the application; that comments were received from DelDOT, Sussex Conservation District, and from the Sussex County Utility Planning Division; and that the applicant submitted a site plan and an exhibit booklet.

Ms. Cornwell advised the Commission that there was a petition with approximately 12 signatures in opposition to the application.

The Commission found that Robert Gibbs, Esquire with Morris James LLP was present along with Joseph Johnson, the applicant; that Mr. Gibbs stated there are commercial use surrounding this property; that there is mix of residential, commercial and neighborhood business uses; that there is a small building for a workout studio; that the hours of operation will be 9 am -5 pm Monday through Friday; that there may be 5 to 6 people in a class but it is usually a one-on-one class; that the property is in Level 2 State Strategy; that a TIS was not required; that there were 3 additional letters in support; that permits are pending and others approved as part of the project; that there is a fee for EDU's if it exceeds the approved EDU's; that if the owner occupied the residence it would be viewed as a home occupation; that this fits in with the mixed use neighborhood; that there is heavy industrial across the street; that there is some residential along the north side of Clay Rd.; that Mr. Johnson stated the hours of operation will be 9 am -5 pm Monday, Tuesday and Wednesday; that on Monday night there will be a class of 6 to 7 people; that the classes are usually one-on-one; that there has never been a parking problem and there is parking on site; that the rear of the building is a 3 car garage for personal storage; that there will be no employees; that no sign is needed, but if needed he would like options; and that the music is low and quiet.

That Commission found no parties appeared in support of the application.

The Commission found that Bill Kirsch, spoke in opposition of this application; that from Clay Rd. to Westcoast Rd. is all residential; that across from the property is agricultural land; that the only commercial property is Poores Propane business which has been there a long time; that the residents like their privacy; that there are other appropriate places for the business but not here; that a previous request for a Conditional Use was denied for an electrical business; that now he wants to put a yoga studio; and that what is the use of the accessory building.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and moved unanimously to defer action for further consideration. Motion carried 5-0.

C/Z #1815 Two Farms, Inc.

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Georgetown Hundred, Sussex County containing 2.8573 acres, more or less. The property is located on the southeasterly corner of the

intersection of Gravel Hill Rd. (Rt. 30) and Lewes Georgetown Hwy. (U.S. Rt. 9). 911 Address: 24616 Lewes Georgetown, Hwy., Georgetown. Tax Map I.D. 135-11.00-78.00

Ms. Cornwell advised the Commission that there was a staff analysis submitted into record as part of the application; that comments were received from DelDOT, Sussex County Utility Planning Division, and Sussex Conservation District; and that the applicant submitted a site plan and an exhibit booklet.

The Commission found Mike Reimann with Becker Morgan Group, Bruce DiCintio of Trice, with William Scott, Esquire of Scott & Shuman Law Offices, LLC were present of behalf of the application; that this is an application to rezone 2.9 acres; that this property is located at the intersection of Rt. 9 and Rt. 30; was located across the street but is now the DelDOT maintenance yard; that the intersection has recently been upgraded; that the TIS was completed and traffic is adequate; that the Level of Service C included summer counts data; that the entrance will be a right-in and right-out only along Rt. 9; that full access will be on Rt. 30; that Artesian has the ability to provide water and sewer service; that the site would meet all new stormwater regulations; that additional screening and fencing will be added along the east side of the property; that additional landscaping to the south of the property per adjacent property owners request; that a lot of commercial properties are in the area and commercial uses in the area to the west; that the property is located in a low density area; that the land use does allow commercial and residential uses; and that the property is split between the Level 3 and 4 State Strategies; that it would not have adverse affect and would be beneficial.

The Commission found that there were no parties in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/Z #1817 Liborio Ellendale, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an MR (Medium Density Residential District) to a MR-RPC (Medium Density Residential District – Residential Planned Community) for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County containing 141.086 acres, more or less. The property is located on the west side of Old State Rd. (Rd. 213) and Southeast of Sharons Rd. (Rd. 641) and also approximately 118 ft. south of Wild Cherry St. (a subdivision St.) Lincoln. 911 Address: None Available. Tax Map I.D. 230-26.00-115.00, 115.04, 122.00 and 230-31.00-33.00, and 230-31.00-33.00, 33.01

Ms. Cornwell advised the Commission that there was a staff analysis submitted into record as part of the application; that comments were received from Plus, Sussex County Utility Planning Division, Sussex Conservation District, and DNREC; and that the applicant submitted a site plan and an exhibit booklet.

The Commission found Zachary Crouch, of Davis, Bowen, and Friedel, Inc. and, Lou Ramunno, Attorney were present on behalf of the applicant; that 141 acres was previously approved and rezoned as a MR-RPC in 2008; that they are looking for 224 single family homes and 72 townhomes; that it would be 2.11 units per acre and that they would cluster the lots; that 36 acres of woodlands would be in a Conservation easement; that there are lots of amenities which people can be walk to; that they will be able to walk to the pool and clubhouse that is proposed; that in May 2009 the Planning Commission approved the same plan and on June 30, 2009 the County Council approved the plan; that since the approval the property changed property owners; that during that time they were in the process of getting all agencies approvals when the RPC expired; that they have all approvals; that it was annexed into the sewer district and sewer plans are approved; that the Milford School District has approved a bus stop along with DART; that there is a required buffer of the project; that there will be sidewalks, street lighting and landscaping throughout the community; that streets will be built to County standards; that the pump station was approved; that stormwater management was approved in June 2015; that the water will be supplied by Artisan; that the TIS was done and requirements have been met; that PLUS comments have been address as well as Chapter 99-9; that 5,000 square feet is typical for a clubhouse and there will be more detail on the site plan; that the property is annexed into the sewer district with specific number of units; that the old house is included as part of the application; and that 75 acres will be open space.

The Commission found that there were no parties in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 5-0.

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE II (“ESTABLISHMENT OF DISTRICTS; MAPS”) AND TO REPLACE THE OFFICIAL ZONING MAP OF SUSSEX COUNTY WITH AN IDENTICAL OFFICIAL ZONING MAP IN GIS-BASED FORMAT.

Ms. Cornwell advised the Commission that this will replace the current paper maps and will make it easier for the public to access zoning information; that it will be updated regularly; that no parcels were rezoned; and that this is an electronic version of the paper maps.

The Commission found that there were no parties in support of or in opposition to this application.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to recommend adoption of the ordinance. Motion carried 5-0.

OTHER BUSINESS

Bay Forest Club RPC – Community Center/Clubhouse #2

Final Site Plan

Ms. Cornwell advised the Commission that this is a Final Site Plan for the construction of Bay Forest Club Community Center #2 for the construction of a 7,080 SF fitness center, 7,566 SF recreational facility/barn, and pool with site improvements. The property is zoned MR-RPC. The Planning Commission approved the Preliminary Site Plan on December 22, 2016. The site plan complies with the conditions of approval and the Zoning Code. This is the second community center within the development. The tax parcel is 134-8.00-15.02. Staff is in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the final site plan. Motion carried 5-0.

Days Inn on Parsonage Rd.

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a Preliminary Site Plan for the Days Inn to construct a 60-room hotel to be located off Parsonage Road. The property is located in the CHCOZ and has a split zoning, with the majority zoned C-1, and a small wedge to the rear which is zoned GR. The hotel will be located in the front of the property and consists of 4 stories. A variance from the minimum parking off-street parking space for a hotel was approved by the Board of Adjustment on October 3, 2016. The tax parcel is 334-13.00-5.00. Staff is waiting on agency approvals from the Sussex Conservation District, DelDOT and the Office of the State Fire Marshal.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the preliminary site plan with final site plan approval by Planning Commission. Motion carried 5-0.

Hale Trailer Brake and Wheel on Sussex Hwy.

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a Preliminary Site Plan for Hale Trailer Brake and Wheel (S-17-11) for the expansion of their trailer storage lot and a landscape plan. Parking is proposed in the front yard setback that requires approval by the Planning Commission. The project is located on Sussex Highway (Rt. 13). The property is zoned CR-1, and the tax parcel is 532-13.00-78.00. Staff is in receipt of all agency approvals.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve preliminary site plan with parking in the front yard setbacks and as a final site plan. Motion carried 5-0.

Cellco Partnership on Dairy Farm Rd.

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a Preliminary Site Plan for Cellco-Verizon Partnership –DOV Jimtown (S-17-15) for the construction of a 140-ft. monopole

telecommunications tower and compound to be located on a 72.68-acre tract at 18186 Dairy Farm Road. The use and structure were originally submitted as part of the Special Use Exception Application # 11885, approved by the Board of Adjustment on December 12, 2016. The property is zoned AR-1, and the tax parcel is 334-10.00-51.00. Staff is waiting for agency approval from the Sussex Conservation District, DelDOT and Office of the State Fire Marshal.

Motion by Mr. Hopkins, seconded by Mr. Ross, and carried unanimously to approve the preliminary site plan with final site plan approval by staff upon receipt of all agency approvals. Motion carried 5-0.

C. Eric and Christina Patchett

Minor Subdivision with 50 ft. easement

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of one (1) new parcel of land with the creation of a new 50-ft. easement off an existing 50-ft. easement. The new parcel will contain 1.012 ac. +/- . The residual will contain 65.58 ac. +/- . The maintenance of the road should be shared by the owners of the residual lands, the new lot (Lot 2) and an existing lot (Lot 1). The property is zoned AR-1. The Tax Parcel is 132-12.00-114.01 (part). Staff is awaiting agency approvals from DelDOT and Office of State Fire Marshal.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the minor subdivision with maintenance of road with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Summercrest

Request to Amend Condition of Approval

Me. Cornwell advised the Commission that this is a request to amend a condition of approval for the Summercrest subdivision. The applicant is requesting the Planning and Zoning Commission eliminate the requirements for a Gazebo, bituminous path around the pond, tables, benches, 5-ft. wide hot mix path between manholes 24&25, and additional trees and shrubs required in the approved Landscaping and Recreational Plan. The Planning Commission approved the final site plan in 2004. The property is zone MR-RPC and the tax parcel is 334-12.00-57.04.

There was discussion regarding the request.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration. Motion carried 5-0.

The Woodlands Subdivision – Amenities Plan (2005-49)

Request to Amend Condition of Approval

Mrs. Walls advised the Commission that this is a request to amend condition #8 as shown on the Preliminary Record Plan dated November 20, 2006 for The Woodlands Subdivision (2005-49) which required a pool and community clubhouse to be located in a more central location within the project, and sufficient parking added for the pool and clubhouse as well as parent pickup and

drop-off for school buses. The new location was to be shown on the Final Site Plan. The applicant is requesting relief from the condition requiring the amenities be relocated due to site constraints. The tax parcel is 134-19.00-30.00.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve Amend Condition #8 to leave amenities as shown as on preliminary site plan and the bus stop will be located at the front of the subdivision. Motion carried 5-0.

The Woodlands Subdivision – Amenities Plan (2005-49)
Preliminary Amenities Site Plan

Mrs. Walls advised the Commission that this is a Preliminary Amenities Site Plan for the construction of a 1,350-sq. ft. pool house, swimming pool and 17 space parking lot within the Woodlands Subdivision (2005-49) off Blue Heron Drive (a private street). The property is zoned AR-1 and the tax parcel is 134-19.00-30.00. Staff is waiting for agency approvals from Sussex Conservation District and Office of the State Fire Marshal.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to approve the preliminary site plan with the final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Meeting adjourned at 8:20 p.m.