

MINUTES OF THE REGULAR MEETING OF OCTOBER 27, 2016

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, October 27, 2016 in the County Council Chambers, Sussex County Administrative 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. I.G. Burton, III, Mr. Martin Ross, Mr. Doug Hudson, with Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Planning and Zoning Director Appointee, and Mr. Daniel Brandewie – Planner II.

Ms. Cornwell advised the Commission that the approval of the minutes from October 13, 1027 could be removed from the agenda and noted that application CU 2061 was withdrawn by the applicant.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the Agenda as revised. Motion carried 4 – 0.

OLD BUSINESS

2015-1 Lands of Roy F. Rogers

Zoned AR-1 (Agricultural Residential District) in Indian River Hundred, Sussex County, by dividing 17.42 acres into 5 lots and a waiver from the street design requirements and forested buffer requirements. The property is located at the southeast corner of Washington Street Extended and Walt Carmean Lane. Tax Map I.D. 234-32.00-40.09

Notice of receipt of Soil Feasibility Study and resolution of ownership issue.

Ms. Cornwell advised the Commission that staff is in receipt of the Soil Feasibility study.

The Planning Commission took no action on the application.

2016-10 Hamlet of Tillery – Dale Wheatley

This a Major Subdivision for the creation of a cluster subdivision. The plan proposes to subdivide 27.61 acres +/- into 27 single family lots with a private road and open space. The property is located west side of Long Branch Rd. approximately 822 ft. northwest of Sharps Mill Rd. Tax ID: 430-11.00-30.00 & 107.00-139.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since October 13, 2016.

Mr. Ross stated that he would move that the Commission approve the preliminary subdivision 2016-10 Hamlet of Tillery – Dale Wheatley upon the record made during the public hearing and for the following reasons:

- 1) This subdivision previously received Final Site Plan approval in 2009. That plan expired and now the applicant is seeking to have it re-approved.
- 2) The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
- 3) The proposed subdivision density is less than the density permitted by the existing AR-1 zoning. It is 27 lots on 27.65 acres, which is significantly less than the maximum of 2 units per acre as permitted in the AR-1 Zone.
- 4) The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
- 5) The subdivision is consistent with other developments in the area.
- 6) The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
- 7) The subdivision includes active and passive recreational uses on approximately 9.21 acres, or 33% of the site.
- 8) DNREC has indicated that the site is suitable for individual on-site septic systems.
- 9) This approval is subject to the following conditions:
 - a. There shall be no more than 27 lots within the subdivision.
 - b. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
 - c. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
 - d. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
 - e. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
 - f. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - g. A 20-foot-wide vegetated buffer shall be shown along the boundaries of the site. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
 - h. No wetlands shall be included within any lots.
 - i. The developer shall construct all of the recreational amenities prior to the issuance of the 27th residential Building Permit for the project.
 - j. The Final Site Plan shall comply with the requirements of the Sussex County Source Water Protection requirements.
 - k. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
 - l. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

PUBLIC HEARINGS

C/U #2060 – Shelby Trucking and Construction Company, Inc.
An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a heavy equipment storage, trucking and construction business to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 6.983 acres, more or less. The property is located at the northwest of Hudson Rd. (Rd. 387) 2,100 feet south of Lynch Rd. (Rd. 387A). 911 Address: 37268 Hudson Rd., Selbyville. Tax Map I.D. 533-17.00-160.00.

The Commission found that the application was filed on May 20, 2016; that the application was delayed in processing for DelDOT comments received August 31, 2016; and that the applicants provided an Exhibit Booklet for consideration on October 17, 2016.

The Commission found that DelDOT provided comments on August 31, 2016 advising that a Traffic Impact Study was not required, and that the current Level of Service “B” of Hudson Road will not change as a result of this application.

Ms. Cornwell advised the Commission that a letter was received earlier today from Steve and Sheila Long voicing no opposition to the application, but asking for some consideration when it comes to the hours of operation; that seven days per week, any hour of the day is not acceptable; that they are asking for reasonable hours and no Sunday hours; that they enjoy being outdoors with their family and it can be difficult at times with all of the possible business noise on the subject site.

The Commission that Lisa Gray, owner/operator of Shelby Trucking and Construction Company, Inc. was present with Jeff Clark, Landscape Architect with Land Tach Land Planning, and that they stated in their presentation and in response to questions raised by the Commission that the Exhibit Booklet describes the history of the activities on the site; that they have applied for the conditional use to allow for the continuation of the business activities that have existed on the site for almost 50 years; that the survey/site plan included in the Exhibit Booklet depicts the many buildings and driveways on the site; that they submitted the application for a PLUS review through the Office of State Planning, as referenced in Tab 7 of the Exhibit Booklet, and found that the site is located in an Investment Level 2; that DelDOT did not require a Traffic Impact Study; that an on-site septic system exists on the site; that they have provided suggested proposed Findings of Fact and suggested Conditions of Approval in Tab 10 of the Exhibit Booklet; that the site is very neat and tidy; that they are not proposing any major changes in the uses on the site; that the site and business has been handed down from the applicants father who operated Hitchens Brothers Trucking and Construction, Inc.; that the business is currently only part-time and being operated by family members; and that they do not want to lose their business status so that they can get more involved with the business once they retire from their current positions.

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

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

Mr. Hudson stated that he would move that the Commission recommend approval of Conditional Use No. 2060 for Shelby Trucking and Construction Company, Inc. for heavy equipment, storage, trucking and a construction business based on the record made during the public hearing and for the following reasons:

- 1) This allows the continuation of a use that has existed on this property for approximately 50 years. This Conditional Use will simply confirm the legal existence of the businesses on this site.
- 2) The use, which has existed for decades, will not adversely affect neighboring properties or roadways.
- 3) The use will be primarily contained within the existing buildings and parking and storage areas on the site.
- 4) The site is in a Town Center Area, which is an appropriate location for a use such as this.
- 5) While there was some concern expressed about hours of operation, the record reflects that this use has existed at various hours for many years. The conditions will also address the hours of operation.
- 6) No parties appeared in opposition to this Conditional Use.
- 7) This recommendation is subject to the following conditions:
 - A. All maintenance shall be performed inside of buildings, with appropriate disposal of fluids and other waste materials.
 - B. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - C. Any dumpsters on the site shall be screened from view of neighboring properties or roadways.
 - D. The hours of operation for the trucking office are Monday through Saturday from 6:00 a.m. to 8:00 p.m., and Sunday from 9:00 a.m. to 5:00 p.m.
 - E. Heavy equipment hours of operation shall be from 7:00 a.m. through 5:00 p.m. Monday through Saturday, and Sunday from 9:00 a.m. to 5:00 p.m. During snow events, these hours may be extended.
 - F. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Burton, 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 4 – 0.

OTHER BUSINESS

Route 9 Meadery (CU 2013) Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan for the construction of an 1,800 SF building and site improvements to be located off of Lewes-Georgetown Hwy. (Rt. 9). The use as a meadery went through the Conditional Use process. The Planning Commission held a public hearing on March 12, 2013. The application was reviewed under the name TBHM,

LLC. The County Council approved the Conditional Use on June 2, 2015. The property is zoned AR-1 and the tax parcel is 334-4.00-34.00. Staff is awaiting agency approvals.

Motion by Mr. Burton, seconded by Mr. Hudson and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4-0.

**Term 2, LLC on Lowes Rd. (CU 187)
Preliminary Site Plan**

Mr. Brandewie advised the Commission that this is a preliminary site plan for the construction of an 8,000 sq. ft. building to be used as an office and storage and the construction of a truck scale. The building and scale are associated with the excavation of the borrow pit. The Conditional Use for the borrow pit was approved in March 1971. The buildings and scale are in compliance with the Zoning Code. The tax parcel is 333-14.00-23.00 and is zoned AR-1. Staff is awaiting agency approvals.

Motion by Mr. Ross, seconded by Mr. Burton and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4-0.

**John Atkins & Sons Fire Wood on U.S. Rt. 113
Preliminary Site Plan**

Ms. Cornwell advised the Commission that this is a preliminary site plan for the establishment of a fire wood sales business with a 12'x8' shed and storage bins to be used as part of the business. The plan is before the Planning Commission as there is parking located within the front yard setback. The parcels will be combined. The tax parcels are 233-10.00-49.00 and 51.01. The parcels are zoned C-1. Staff is awaiting agency approvals.

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

**Lands of Peden on Epworth Church Rd.
Minor Subdivision with 50 ft. easement**

Mr. Brandewie advised the Commission that this is a minor subdivision for the creation of one parcel of land and a 50 ft. easement. The new lot will be 1 ac. +/- . The residual will be 6.1 ac. +/- . The easement will go over an existing driveway on the adjacent parcel of land owned by Jimmie and Martha Peden. Both the new 1 ac. +/- parcel and the residual will have the required 100 ft. of frontage along the easement. Any further subdivision shall require a major subdivision. Staff is awaiting approval from DeIDOT.

Motion by Mr. Ross, seconded by Mr. Hudson and carried unanimously to approve the preliminary minor subdivision with 50 ft. easement with final plan approval subject to staff upon receipt of all agency approvals. Motion carried 4-0.

**Lands of BGR Investments, LLC
Minor Subdivision with 50 ft. easement**

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of two parcels of land with a residual parcel and the creation of a 50 ft. easement. The new parcels will be 1.5 ac. +/-, 3.0 ac. +/- . The residual will be 8.48 ac.+/. All three parcels will have access off of the 50 ft. easement. The new 50 ft. easement will go over an existing driveway. Any further subdivision shall require a major subdivision. Staff is awaiting approval from the Office of the State Fire Marshal and DelDOT.

Motion by Mr. Burton, seconded by Mr. Ross and carried unanimously to approve the preliminary minor subdivision with 50 ft. easement with final plan approval subject to staff upon receipt of all agency approvals and that any further subdivision shall require a major subdivision. Motion carried 4-0.

ADDITIONAL BUSINESS

Discussion regarding the Comprehensive Plan

Ms. Cornwell advised the Commission that there is a proposed workshop between the Planning Commission and the County Council to discuss the Comprehensive Plan with the consultant on November 15, 2016 in the afternoon with the exact time and place to be determined; that the contract is a planning services contract for 5 years to address not only the Comprehensive Plan but other items that could be assistance in the implementation of the Plan, ordinance research, etc.

Opportunity for public comments regarding the Comprehensive Plan

None

Meeting adjourned at 6:47 p.m.