

MINUTES OF THE REGULAR MEETING OF DECEMBER 8, 2016

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, December 8, 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. Doug Hudson, Mr. Keller Hopkins, Mr. I.G. Burton, III, Mr. Martin Ross was absent with Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Ms. Janelle Cornwell – Planning and Zoning Director Appointee, and Mr. Daniel Brandewie – Planner II.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to approve the Agenda as amended by removal of Old Business Items 2015-1 and 2016-1. Motion carried 4 – 0.

Motion by Mr. Burton, seconded by Mr. Hopkins, and carried unanimously to approve the Minutes of October 27, 2016, November 3, 2016 and November 17, 2016. Motion carried 4 – 0.

OLD BUSINESS

None

PUBLIC HEARINGS

**2016-19 The Greens at Indian River – Bunting and Murray Construction Corporation**

This a Major Subdivision for a standard subdivision. The plan proposes to subdivide 1.03 acres +/- into 2 single family lots with a private road and open space. The property is located on the east side of Irons Ln. and south side of Windward Way. Tax ID: 134-7.00-165.00. Zoning: AR-1 (Agricultural Residential District).

Mr. Hudson recused himself from the application.

Ms. Cornwell advised the Commission that this is a major subdivision for the creation of one new lot and that the Homeowner's Association has provided a letter stating the owners are in agreement with the creation of the parcel and inclusion of the parcels into the HOA.

The Planning Commission found that Mr. Doug Brown of Bunting and Murray were present to represent the application; that the property is adjacent to the Crickle Creek Golf Course; that the property was used as part of a construction project; that a modular home was placed on the property and used as an office trailer and a family member lives in the property; the property has access off of Irons Ln; that he contacted the HOA and add the lots into The Greens at Indian River; that the access would be off of Windward Way and the modular home would be removed; that enhanced landscaping would be added to the entrance of the development; that the HOA overwhelming approved the inclusion of the parcels into the development with 84% that 79 out of 94 homeowners voted and all 79 votes were in favor of the application.

The Planning Commission found no public in favor or in opposition to the application.

**2016-16 Piney Creek – Briggs 2, LLC**

This a Major Subdivision for a standard subdivision. The plan proposes to subdivide 9.39 acres +/- into 7 single family lots with a private road and open space. The property is located on the south side of Piney Neck Rd. approximately 101 ft. east of Bunting Rd. Tax ID: 233-7.00-10.00 and 10.03-10.10. Zoning: AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that this is a major subdivision for the creation of seven lots; that the application was previously approved as part of 2006-18 that the application went through the TAC process and comments were received from Utility Planning Division; 911 Addressing and Mapping; DNREC Tank Management Section; US Department of Agriculture, DNREC Groundwater Discharge Section and that an exhibit book was submitted.

The Planning Commission found that Mr. Victor Chen of Capital Development Design Inc. was present to represent the application; that the plan is very similar to the previous plan; that the previous plan was approved and recorded; that the intent of the AR-1 Zoning District is to be followed and the subdivision will comply; that there was an old house on the property; that the wetlands will be protected; that there are no proposed Conditional Use or Special Use Exceptions proposed for the site; that there was discussion about the potential access to sewer and the applicant will look into the possibility of connection to sewer.

The Planning Commission found no public in favor or in opposition to the application.

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

Motion by Mr. Hudson, seconded by Mr. Burton, and carried unanimously to defer action.  
Motion carried 4 – 0.

**2016-15 Belle Terre – Sussex Real Estate Partners, LLC**

This a Major Subdivision for cluster subdivision. The plan proposes to subdivide 123.75 acres +/- into 269 single family lots with a private road and open space. The property is located southwest of Dorman Fam Ln., approximately 1,000 ft. southwest of Mulberry Knoll Rd. (Rd. 284), approximately 1,800 ft. southeast of Cedar Grove Rd. (Rd. 283) and approximately 1,200 ft. northwest of John J. Williams Hwy. (Rt. 24). Tax ID: 334-12.00-17.00, 18.00, 19.00 and 20.00. Zoning: AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that this is a major subdivision for the creation of 269 single family lots; that the application went through the TAC process and comments were received from Utility Planning Division; 911 Addressing and Mapping; DelDOT, Division of Public Health, DNREC Tank Management Section; US Department of Agriculture, DNREC Groundwater Discharge Section, HOA documents and that an exhibit book was submitted.

The Planning Commission found that Mr. James Fuqua Esquire of Fuqua, Willard, Stephens and Schab, Frank Kea and Jason Palkewicz of Solutions IPEM, Betty Tustin of the Traffic Group and Ed Launey were present to represent the application. Mr. Fuqua submitted proposed findings of fact and went over the exhibit book and presented an overview of the Environmental Assessment, and PLUS response; that a previous application was for a change of zone with a

Residential Planned Community for a density of 3 units per acre was considered inappropriate by a number of neighbors and was withdrawn by the applicant; that the applicant is requesting a cluster subdivision with the AR-1 Zoning District; that the property is in the ESDDOZ; that the density is 2.17 units per acres; that the property is located between Rt. 24, Cedar Grove Rd. and is west of Rt. 1; that the proposed development is adjacent to the Bridlewood development and Saddle Ridge development; that the new Delaware State Troop facility and a new elementary school are proposed in the area; that the site is cleared farmland and the Hetty Fisher pond is on the southwest portion of the site; that Mr. Dorman has lived on the property his entire life; that the average lot area is 8,000SF; that all lots are adjacent to open space; that the amenities are centrally located on the site; that there is a walking path to the school; that there are walking paths throughout the community; that there will be sidewalks on both sides of the streets with the exception of the entrance road where there will only be sidewalk on one side of the road; that water will be provided by Tidewater; that sewer will be provided by the County; that the land can be annexed into the sewer district and sewer capacity is fine; that stormwater management will comply with the regulations and the facilities are being sized to prevent future flooding; that the Rehoboth Beach Fire Company will provide fire protection; that the site is in the Cape Henlopen School District; that the site is close to the new elementary school and the middle school; that there is access to Rt.1 from two ways; that retail and medical services are in the area; that a wetlands delineation has been performed; that there are both tidal and non-tidal wetlands on the site; that they are in receipt of a letter from the Army Corp of Engineers; that they are providing a minimum of a 50 ft. buffer around the wetlands; that there is a 50 ft. buffer between the lot lines and the wetlands buffer; that there is a buffer around Hetty Fisher Pond; that it meets the intent of the ESDDOZ; that there are no know endangered species or animals on site; that there are no known historical sites on site; that a Traffic Impact Study (TIS) has been performed; that the TIS looked at 10 intersections; that there are several DelDOT projects currently underway; that the applicant will participate in the signal at Mulberry Knoll Rd. and Rt. 24; that the developer will be responsible for several road projects; that the site is in Level 2 per the State Strategies; that the development is consistent with the Subdivision Code and Zoning Code; that he addressed concerns expressed in the letter submitted by Mr. Zak; that the zoning allows for 10 ft. setbacks and 7,500 SF lot size; that some of the other developments have larger lots as they have on-site septic systems; that the Zoning Code allows a 10 ft. side yard setback; that Mr. Palkewicz stated that they are submitting to FEMA a letter of map revision to address the floodplain; that part of the sewer will go to the pump station that is under construction for the new elementary school and the state police facility; that there may be an opportunity to provide parking for the kayak launch and Mr. Kea stated that they are working with the state police and school regarding the pathway from the development to the school.

The Planning Commission found that Mr. Todd Sammons from DelDOT was present and provided information regarding the proposed road improvements that would be associated with the proposed development; that the developer will make improvements and the applicant will install a traffic signal; and that the installation of the signal will depend timing.

The Planning Commission found that Mr. William Zak, Kate Zak, Alan Strigga, Gretchen Klein, Steve Reitz, spoke in opposition of the application with concerns regarding traffic, size of the development and lots, stormwater management and environment.

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

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to defer action.  
Motion carried 4 – 0.

## OTHER BUSINESS

### **The Estuary Revised Final Subdivision Plan**

Ms. Cornwell advised the Commission that this is a revised subdivision plan for The Estuary (Subdivision No. 2005-64) to allow for a revision to the final subdivision to allow for two more lots. The Planning Commission approved the plan on October May 22, 2014 with 281 single family lots with 259 lots proposed in Phases 1B-1D was approved on November 10, 2015 with a total of 257 lots. The lots were reduced to allow for a builder who required oversized lots. This builder is no longer associated with the project and the developer would like to have the lots similar in size to the other lots within the development that allows for the increase in the two lots.

Motion by Mr. Hudson, seconded by Mr. Burton, and carried unanimously to grant Final approval of the Revised Subdivision Plan. Motion carried 4 – 0.

### **Hawthorne – Phase 2-5 Final Site Plan**

Mr. Brandewie advised the Commission that this is a revised final subdivision plan for the Hawthorne Phase 2-5 sections to construct 173 single family lots. The overall Hawthorne subdivision was approved by the Planning Commission for 213 lots with recreational amenities on August 13, 2015 (formerly known as the Paradise Lakes-2005-73). The Phase 2-5 portions of this plan modifies the street layout but does not increase the overall number of lots. The property is zoned AR-1, cluster zoning. The Tax Parcel is 135-11.00-66.00. Staff is in receipt of all agency approvals.

Motion by Mr. Burton, seconded by Mr. Hudson and carried unanimously to grant final approval of the site plan. Motion carried 4 – 0.

### **Iglesia De Dios Pentecostes Alfa y Omega Preliminary Site Plan**

Mr. Brandewie advised the Commission that this is a preliminary site plan to construct a 4,200 sq. ft. building for church with site improvements. The property consists of 2.26 acres and is located at the intersection of Deep Branch Road and Pine Haven Drive. The property is zoned AR-1. The Tax Parcel is 234-8.00-27.00. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Burton, and carried unanimously to approve the Preliminary Site Plan. Final approval shall be subject to the staff receiving all agency approvals.  
Motion carried 4 – 0.

**Cellco Partnership (Verizon Wireless) for Zoar Bella/BAR-SRG  
Preliminary Site Plan**

Mr. Brandewie advised the Commission that this is a revised preliminary site plan for the construction of a 145' monopole cell tower, fenced compound and equipment shelter on a 69.59-acre site at 24296 Lawson Road, Georgetown. A Special Use Exception (11677) was granted by the Board of Adjustment for the use and structure at their meeting on January 26, 2016. The property uses an existing driveway and complies with all zoning requirements. The tax parcel is 234-15.00-10.00 and is zoned AR-1. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to approve the Preliminary Site Plan. Final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

**Linkside Village Townhomes  
Consideration of conversion to fee simple parcels**

Ms. Cornwell advised the Commission that this is a request for consideration to allow for conversion of condominium units to fee simple lots. The Planning Commission reviewed the site plan on April 19, 2007. The Planning Commission previously approved the conversion of one 6-pack of townhouses to fee simple lots in late 2014/early 2015. The applicant is now requesting to convert the rest of the units into single family fee simple lots.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to approve conversion to fee simple parcels. Motion carried 4 – 0.

**Woodfield Preserves (2007-09)  
Consideration of Waiver**

Ms. Cornwell advised the Commission that this is for the consideration of a waiver from the 20 ft. forested landscape buffer along lots 5-11. The original subdivision did not show the buffer along these lots; however, there is no record of a waiver being granted by the Planning Commission. The Planning Commission approved the plan on October 13, 2011. The plan has been recorded and the recorded plan did not show the buffer along the lots. The Planning Commission approved a revised plan on November 17, 2016 to allow for a minor street design and reduction in the overall number of lots. Lots 5-11 were not impacted by the revised plan and the buffer was not shown on the revised plan.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to approve Waiver. Motion carried 4 – 0.

**ADDITIONAL BUSINESS**

**Discussion regarding the Comprehensive Plan**

Ms. Cornwell gave a summary update of the activities taking place on the Comprehensive Plan; that she and Mr. Lank will be meeting with the consultants on Dec. 16<sup>th</sup> to discuss land use trends over the last ten years and members are welcome to attend the meeting; that a follow up workshop between the Planning Commission and County Council will be held early next year; and that the public comments received from the website over the last month and a half were sent to the Planning Commission and County Council for their review.

### **Opportunity for public comments regarding the Comprehensive Plan**

Nancy Castner spoke regarding the Comprehensive Plan. She stated that she lives in Lincoln; that she is concerned with the potential loss of mill ponds and the ability to utilize the mill ponds; that she would like to know if anyone has considered purchasing the ponds once the owner sells the ponds; that she would like public bus service in Lincoln especially with access to the hospital; that there should be more street lights along Route 30; and has concerns about historic preservation for the Middle School façade in the City of Milford.

Meeting adjourned at 8:38 p.m.