

THE MINUTES OF THE REGULAR MEETING OF MARCH 12, 2020

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, March 12, 2020, in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

Chairman Wheatley read the following message:

For those individuals who do not wish to attend this meeting in person, it can be viewed online at <https://mediasite.sussexcountde.gov/mediasite/Catalog/catalogs/public>. In addition, testimony in the form of written comment will be accepted and included in the record for any public hearing until the conclusion of that hearing. Written comment can be sent to <https://sussexcountyde.gov/contact-us?id=92> until public hearing is closed.

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, Ms. Kim Hoey-Stevenson, Ms. Holly Wingate, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse –Director of Planning and Zoning and Ms. Lauren DeVore – Planner III.

Mr. Whitehouse noted that there is a revision to the Agenda. Cypress Pointe Subdivision (2005-75) removed from the Agenda. Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to approve the Agenda as revised. Motion carried 4-0.

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to approve the Minutes of the February 13, 2020, Planning and Zoning Commission meeting as submitted. Motion carried 4-0.

OLD BUSINESS

None

PUBLIC HEARINGS

Mr. Robertson described the procedures for public hearings before the Planning and Zoning Commission.

C/U 2222- Jessica F. Peake

An Ordinance to grant a Conditional Use of land in a C-1 General Commercial District for an outdoor miniature golf course to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 0.46 acre, more or less. The property is lying on the east side of Coastal Highway (Rt. 1), approximately 212 feet south of Jefferson Bridge Road. 911 Address: 32967 Coastal Highway, Bethany Beach, Tax Parcel: 134-17.11-40.00

Mr. Whitehouse advised the Commission that submitted into the record were an exhibit booklet, a staff analysis of the plan, a letter from the County Engineering Utility Division, a site plan, and the

DelDOT service level evaluation confirming that a TIS is not required. Seventeen (17) letters in support of the Application were received.

The Commission found that Mackenzie Pete, an attorney with Tunnell & Raysor, spoke on behalf of the Applicant Nick Geracimos, Founder of Nick's Mini Golf, who owns six existing locations in Delmarva and has approximately 30 employees. Also, present are Nick Geracimos, Dean Geracimos and Jack Burbage. Ms. Pete explained that Mr. Geracimos has partnered with Mr. Jack Burbage in this venture and they currently have a lease with Ms. Jackie Peake owner of the parcel. Mr. Geracimos is seeking approval to grant Conditional Use in a C-1 Commercial District for an 18-hole miniature golf course located on the property at 32967 Coastal Hwy., Bethany Beach, DE. The property conforms to the minimum lot requirement and is situated near residential and commercial uses. Ms. Pete presented aerial images of the property to the Commission. Ms. Pete stated that she previously appeared before the Board of Adjustment in February and March and was denied 3-2 for the following three variances:

- A variance from front yard setback of C-1 for proposed structures;
- A variance from the landscaped buffer requirement of the combined highway corridor overlay zone (CHCOZ);
- And a reduction in the parking requirements.

Ms. Peet stated that in her opinion the Board of Adjustment's decision was based on their concern about the impact on the surrounding sites, i.e., Boathouse Restaurant and Hickman Plaza. Mr. Archut, owner of these facilities, opposed the Application. According to physical and geographical evidence, Ms. Pete stated that there is no relationship between the sites and it is not likely that the patrons of the mini-golf would park at the Boathouse Restaurant or Hickman's Plaza as they would have to cross barriers. The mini golf will have a total of eighteen (18) designated parking spaces with twelve (12) spaces at the Holiday Inn Express. Ms. Pete submitted a letter from Mr. Burbage detailing the lease agreement with Holiday Inn Express.

Ms. Pete stated that according to Zoning Code 115-79 Outdoor Amusement places include, but are not limited to, batting cages, skating rinks, water slides and mini-golf courses. Nick's Mini-Golf will demolish the existing liquor and thrift stores on the site and be replaced by the 18-hole miniature golf course, of which nine (9) holes will be handicap compliant. The use is desirable for the surrounding area as expressed by the letters of support submitted to Planning & Zoning, and the use will not adversely impact the surrounding uses. Visitors will be able to walk and bike to the site. The original golf course design was reduced in size to allow for a buffer of 15 ft. from the highway and the course itself. Macrone Engineering has designed a landscape plan that addressed safety concerns. The plan will provide a shared-use path for pedestrians, buffer the property with crepe myrtles and install a 42 ft. net to prevent any stray balls from flying onto Route 1.

Ms. Pete stated that they have begun working with DelDOT about specific needs for the existing entrance permit and have engaged the Sussex Conservation District to prepare a plan for sediment and stormwater. Ms. Jessica Watson, Sussex Conservation District noted that tearing down the existing building and replacing it with more pervious surface will improve the stormwater conditions.

Ms. Pete asked the Commission to reassess the parking issue. The Zoning Code does not address parking spaces for outdoor uses but only for indoor uses. If this was indoor use, 125 spaces would be required. Most of the patrons to the mini golf will travel by foot from the surrounding communities, hotels and restaurants. There will be a total of eighteen (18) designated parking spaces for the use of the mini-golf course, six (6) on site and twelve (12) shared parking spaces on the Holiday Inn Express property. Mr. Burbage has submitted a letter regarding the lease for the parking spaces at the Holiday Inn's property and the letter also stated that bike racks would be provided on the same property to allow for additional parking.

Mr. Robertson stated that under County Code 115-162 the Commission has the ability to adjust the number of parking spaces for uses in Sussex County.

Mr. Nick Geracimos stated that the proposed idea of a mini golf is a perfect use for this site and will add an aspect to the town that is currently missing. Mr. Dean Geracimos confirmed Mr. Nick Geracimos' points and stated that research was done on the property. After talking with local businesses, it was determined that they also thought it would be a huge plus to the community. In fact, restaurants felt it would keep people in the town. He felt there was a need because there are not a lot of other activities in the area. Mr. Jack Burbage, owner of Holiday Inn Express, spoke about the cleanup of the lot and the current building noncompliant. He believes that parking is a minor issue and feels that the mini-golf would give people something to do during the extended season.

Chairman Wheatley asked if Holiday Inn Express will still meet the parking requirements if they lease twelve (12) spaces to the mini golf. Mr. Whitehouse replied that they would still meet the requirements.

Mr. Mears discussed DelDOT's list specifically the wide-open entrance which is as wide as the property and gives him some concerns for safety, especially for children who might dart out onto the road. Ms. Pete replied that it was also a concern for the Applicant and the reason for pulling the course back 15 ft. and adding a chain rope fence.

Ms. Wingate asked about sidewalks for the project. Ms. Peet stated that the Applicant is working with DelDOT about the requirements for sidewalks and should it be required will install sidewalks.

Chairman Wheatley asked if anyone wanted to speak in favor of the Application.

Mr. Paul Reiger spoke in favor of the mini golf course but was opposed to the Board of Adjustment making decisions on parking which he felt should fall to Planning & Zoning Commission. He also argued that all three variances should not be voted as one. Each variance should be voted on separately.

Mr. Mike Nally, Ms. Samantha Pielstick, and Mr. David Closson all spoke in favor of the Application and concurred with everything previously stated.

Chairman Wheatley found that there were no parties present in opposition to the Application.

Mr. Whitehouse stated that he was monitoring the online inbox and there were no further comments in favor of or against the Application.

At the conclusion of the Public Hearings, the Commission discussed Application C/U 2222-Jessica F. Peake. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

OTHER BUSINESS

2019-18 Merrill J. & Betty L. Parker

Final Subdivision Plan

This is a Final Subdivision Plan for a standard subdivision of eight (8) single-family lots and site improvements. This site is 49.80 acres located on the northeast side of Lakeview Rd. The Preliminary Subdivision Plan was approved with conditions at the October 17, 2019 meeting of the Planning and Zoning Commission. The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Code and all conditions of approval. The Applicant is seeking to split the subdivision into phases while awaiting further DelDOT approval. Phase I will consist of four (4) lots and the residual land. Tax Parcel: 133-15.00-19.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff is in receipt of agency approvals for the Phase I portion of the subdivision.

Motion by Mr. Mears, seconded by Ms. Stevenson, to approve final Subdivision Plan and carried unanimously. Motion carried 4-0.

Ernest Maier, Inc./Parker Block

Revised Site Plan

This is a Revised Site Plan for a proposed 4,144 square foot office addition and other site improvements on a 20.3313-acre parcel of land accessed from Millsboro Hwy. The Revised Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 133-20.00-15.01. Zoning District: AR-1 (Agricultural Residential Zoning District) and LI-2 (Limited Industrial Zoning District). Staff awaiting agency approvals.

Motion by Ms. Wingate, seconded Ms. Stevenson, to approve revised Site Plan with final approval by Staff subject to receipt of all agency approvals. Motion carried 4-0.

Giant Food Expansion

Preliminary Site Plan

This is a Preliminary Site Plan for an 14,800 square foot expansion of the existing Giant Food building. Site improvements included extending the existing sidewalk around the building, shifting the fire lane, the addition of forty-eight (48) new parking spaces, changes to the existing parking lot and landscaping between the new parking area and Seaside Boulevard. The site is located at 19312 Lighthouse Plaza with access off Coastal Highway. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcels: 334.13.00-325.40 & 325.41. Zoning District: C-1 (General Commercial). Staff is awaiting agency approvals.

Motion by Mr. Mears, second by Ms. Stevenson, to approve Preliminary Site Plan. Motion carried 4-0.

Americana Bayside MR-RPC – Freeman Arts Pavilion

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of a 1,010-seat proposed arts pavilion, including 845 parking spaces, 18 handicap spaces, 14 large passenger vehicle spaces and other related uses on the parcel consisting of 8.98 acres. The site is located on the south side of Signature Boulevard within the Americana Bayside community. The Preliminary Site Plan complies with the Sussex County Zoning and Subdivision Code. Tax Parcels: 553-19.00-3601, 846.00, 866.00, 881.00 and 990.00. Zoning District: MR-RPC (Medium Density Residential, Residential Planned Community). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson, to approve Preliminary Site Plan. Ms. Wingate abstained from the vote. Motion carried 3-0.

Americana Bayside MR-RPC – The Point Amenity

Revised Amenities Site Plan

This is a Revised Amenities Site Plan for the Point Amenity for the proposed installation of six (6) removable safety bollards, a proposed building roof addition with columns over the existing patio to connect the existing pool bar roof and proposed 445 square foot patio expansion (consisting of a total of 1, 1713 square feet). The addition will open to the air with rope fencing surrounding to match existing proposals. The public service area has also been delineated on the plans. The Planning and Zoning Commission approved the installation of the bollards to prevent vehicular traffic access beyond the existing parking area and the commercial use of the existing tiki bar at their meeting of December 19, 2019. Tax Parcel: 533-19.00-304.01. Zoning: MR-RPC (Medium Density Residential, Residential Planned Community). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson, to approve Revised Amenities Site Plan. Ms. Wingate abstained from the vote. Motion carried 3-0.

R. E. Michel Co. (S-20-04)

Preliminary Site Plan

This is a Preliminary Site Plan for a proposed 24,760 square foot building addition with expanded parking lot and a possible stormwater management facility. The site is 11.56 acres and accessed from Janice Road. The existing use is commercial, and the proposed use is wholesaling. The site plan complies with the Sussex County Zoning Code. Tax Parcel: 334-5.00-138.00. Zoning District: C-1 (General Commercial). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate, to approve Preliminary Site Plan with final approval by Staff subject to receipt of all agency approvals. Motion carried 4-0.

Lands of Wine Worx, LLC

Minor Subdivision off a 50-ft. easement

This is a Preliminary Subdivision Plan for the establishment of an additional proposed lot off a 50-ft. ingress/egress access easement. The parcel is located on the west side of the Blackwater Road

(S.C.R.385). The Preliminary Subdivision Plan complies with the Sussex County Zoning and Subdivision Code. Tax Parcel: 134-11.00-53.00. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate, to approve Minor Subdivision with final approval by Staff subject to receipt of all agency approvals. Motion carried 4-0.

At the end of the Agenda, Chairman Wheatley congratulated Mr. Whitehouse on his appointment as director of the Planning and Zoning Department. Mr. Wheatley and the Commission discussed the impact of Governor Carney's Executive Order as it pertains to public meetings which may require rescheduling some meetings if a large crowd is anticipated.

Meeting Adjourned 7:07 pm