

THE MINUTES OF THE REGULAR MEETING OF MARCH 26, 2020

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, March 26, 2020, 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, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Mr. Bruce Mears, 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.

Chairman Wheatley read the following statement at the beginning of the meeting:

As a result of Governor John C. Carney's modified State of Emergency Declaration issued on March 22, 2020, all public hearings are hereby postponed until further notice. The agenda is amended by striking all the Public Hearings. Please note that as permitted by the Gubernatorial Authority, in order to limit the risk of potential Covid-19 exposure, the Public shall be denied entry to the Planning & Zoning Commission meetings, The Public is encouraged to watch or listen to the Planning & Zoning Commission meeting electronically at: <https://SussexCountyDE.gov>.

Motion by Ms. Wingate to approve the amended Agenda, seconded by Ms. Stevenson, and carried unanimously. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Ms. Wingate, to approve the Minutes of the February 27, 2020, Planning and Zoning Commission meeting as amended. Motion carried 5-0.

OLD BUSINESS

2019-25 Workman's Crossing – Dunn Investments, LLC

A standard subdivision to divide 11.483 acres, +/-, into 5 single-family lots to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County. The property is lying at the northeast corner of Pepperbox Rd. and Brittingham Rd. Tax Parcel: 532-15.00-11.00. Zoning District: A\$-1 (Agricultural Residential District).

Mr. Whitehouse stated that the Staff were waiting on a septic feasibility study which has now been received and circulated to the Commission.

Ms. Wingate moved that the Commission grant preliminary approval of Subdivision 2019-25 for Workman's Crossing - Dunn Investments, LLC, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.

2. The land is zoned AR-1 Agricultural Residential. The proposed subdivision density of 4 lots and residual acreage on 11.483 acre of land is significantly less than the allowable density in the AR-1 Zone.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. Given the small size of this Subdivision, a waiver from the street design and requirements is appropriate.
7. This preliminary approval is subject to the following conditions:
 - a. There shall be no more than 4 lots within the subdivision. Any further subdivision of the residual land shall require another public hearing.
 - b. All entrances shall comply with all of the DelDOT's requirements.
 - c. The Final Site Plan shall be subject to the review and approval of Sussex County.

Motion by Ms. Wingate, seconded by Mr. Mears, to approve Subdivision 2019-25 Workman's Crossing – Dunn Investments, LLC for the reasons in which the conditions stated in the Motion. Motion carried unanimously. Motion carried 5-0.

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. Mears moved to recommend approval of CU # 2222 for Jessica Peake for a Miniature Golf Course based on the record contained in the public record and for the following reasons:

1. The site is located in the resort area of Sussex County between the towns of Bethany Beach and South Bethany. This is an appropriate location for a miniature golf course.
2. The property is zoned C-1 General Commercial. A miniature golf course is an appropriate use on C-1 property in this location.
3. This is the redevelopment of an existing commercial site. Previously, a liquor store existed on this site for many years. The use as a miniature golf course is consistent with the historical commercial use of the property.
4. The property is surrounded by other commercial uses that are compatible with a miniature golf course, including the high-density Sea Colony development, a hotel, retail stores and several restaurants.
5. The use will provide a family activity for residents and visitors to this area of Sussex County.
6. The use will not generate a significant amount of traffic, as the use is within walking and biking distance of the Bethany Beach resort area.
7. There was no evidence that the use would adversely affect neighboring properties, area roadways or public facilities.

8. There is no provision for Miniature Golf parking requirements in the Sussex County Zoning Code. In that instance, Sections 115-163 and 115-164 of the Code permit the Commission to establish or modify the parking requirements when there is not a clear calculation. In this case, 18 parking spaces is appropriate since much of the business will come from people walking or biking to the site. These parking spaces must be on-site or provided through an approved Shared Parking Agreement with a neighboring property owner.
9. Several people testified in favor of the application and no parties appeared in opposition to it.
10. This recommendation is subject to the following conditions:
 - a. The use shall be limited to a mini golf course and uses associated with that activity.
 - b. The signage shall comply with the sign requirements for the underlying C-1 zone.
 - c. There shall be fencing along the Route One boundary of the property to prevent golfers and golf balls from inadvertently leaving the property and getting near the Route One right of way. The location and type of fencing shall be shown on the Final Site Plan.
 - d. The applicant shall comply with all of DelDOT's Requirements.
 - e. At least 18 parking spaces shall be provided for the use. These spaces must either be on-site or on an adjacent property pursuant to a Shared Parking Agreement.
 - f. All lighting shall be downward screened and shielded so that it does not shine on neighboring properties or roadways.
 - g. Any dumpsters shall be screened from view from neighboring properties or roadways.
 - h. The entrance to the site shall be oriented to the north and east side so that families and golfers enter from that side and are discouraged from walking along Route One to get to the use.
 - i. The applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - j. The Site Plans shall include a landscape plan that identifies the landscaping within the buffer area required by the Combined Highway Corridor Overlay Zone.
 - k. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.
 - l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

At the recommendation of the Commission, Mr. Mears amended his motion to add one word in Item #3 to read "consistent with historical *commercial* use of the property", seconded by Ms. Stevenson, to recommend approval of C/U 2222- Jessica F. Peake, as amended. Motion carried unanimously. Motion carried 5-0.

OTHER BUSINESS

WMF Powersports LLC (S-20-07)

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the proposed 2,200 sq. ft. pole building and other site improvements on a 0.471 acre, plus or minus parcel. The Applicant is seeking relief from the

off-street parking requirements and interconnectivity for commercial uses. The site is located 32665 Oak Orchard Rd. The Revised Preliminary Site Plan otherwise complies with the Sussex County Zoning Code. The Tax Parcel is District 234-34.08-54.00. The Zoning is C-1 (General Commercial Zoning District) and GR (General Residential Zoning District). Staff are awaiting agency approvals. It was noted that on the Plan there is parking located within the front yard setback. There are approximately 12 spots to park in the front yard setback. The Plan also includes Parcel 63 which is zoned General Residential to the rear. They have submitted a Lot Consolidation Plan and that will be recorded prior to the Final Site Plan approval.

The Commission needed clarification on the parking spaces as shown on the Plan. It was noted that there are currently five existing parking spaces and Applicant is adding an additional seven. The Applicant is using automobile and service garages parking spaces in the calculation for this site, but parking in the setback is the issue. Mr. Whitehouse stated that considering the comments the Commission grant the Preliminary Site Plan for the building with the expectation that the Final Site Plan with the changes be brought before the Commission for approval.

Motion by Mr. Mears, seconded by Ms. Stevenson, to approve Revised Preliminary Site Plan for WMF Powersports LLC (S-20-07) with the recommendation that the Final Plan be revised to indicate interconnectivity and changes to parking as needed which will be presented to the Commission for final approval. Motion carried unanimously. Motion carried 5-0.

Generations Welding (S-20-08)

Preliminary Site Plan

This is a Preliminary Site Plan for the proposed 2,800 sq. ft. commercial welding fabrication shop and other site improvements for Generations Welding and Contracting LLC on a 1.605 acre, plus or minus, parcel located 14716 Laurel Rd. Conditional Use 2178 was approved by the Planning and Zoning Commission at their June 27, 2019 meeting and approved by the Sussex County Council on their July 16, 2019 meeting. The Preliminary Site Plan complies with the Sussex County Zoning Code. The Tax Parcel is District 232-19.00-30.00. The Zoning is AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals. Also noted that there are 5 parking spaces in the side yard setback.

The Commission questioned the interconnectivity based on the recent Code Ordinance changes. If the parcels change to commercial use, there will be a need to have that connectivity. Mr. Whitehouse suggested reaching out to the Applicant to explore this for the Final Plan.

Motion by Mr. Hopkins, to approve Preliminary Site Plan for Generations Welding (S-20-08) with a request that interconnectivity to the adjacent parcels be shown on the Final Site Plan, seconded by Ms. Wingate. Motion carried unanimously. Motion carried 5-0.

Baker Petroleum – Lewes Exxon

Preliminary Site Plan

This is a Preliminary Site Plan for site improvements at the existing Lewes Exxon location. Site improvements include a proposed 3,748 sq. ft. retail store, 29 new parking spaces, changes to ingress and egress to the site and the demolition of an existing building. The site is located at the corner of Coastal Highway, State Route 1, and Westcoats Rd. with entrances from both streets. The Preliminary Site plan complies with the Sussex County Zoning Code. The Tax Parcel is District 334-6.00-35.00. The Zoning District is C-1 (General Commercial Zoning District) and Staff are currently waiting agency approvals. It was noted that in this particular instance the Applicant has used average setbacks and averaged their front yard setback per Section 115-182C of the Code and justification has been received prior to the deadline to allow parking in the front yard setback as well as the dumpster in the front yard setback, the dumpster in the side yard setback and interconnectivity with the surrounding parcels.

Mr. Whitehouse stated that there is an additional letter dated March 18 to consider more evidence on interconnectivity, parking in the front yard setback and the location of the dumpster. The Commission noted that the design is not different than what is currently there but for the addition of a couple more parking spaces.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, to approve Preliminary Site Plan Baker Petroleum – Lewes Exxon and with final approval by Staff subject to receipt of all agency approvals. Motion carried unanimously. Motion carried 5-0.

Lands of the Dale Farm, LLC

Minor Subdivision off Existing Easement

This is Concept Plan for a proposed Minor Subdivision off an existing easement. The proposed Plan is to create one parcel measuring approximately 1.8 acres, plus or minus. The Preliminary Minor Subdivision Plan will be reviewed by Staff for compliance with the Sussex County Subdivision Code prior to the approval of any Final Subdivision Plan. The Subdivision is located off Adams Road SCR 583 in Bridgeville, Delaware. Tax parcel is District 530-16.00-13.00. The Zoning is AR1 (Agricultural Residential Zoning District) and Staff is waiting agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Wingate, to approve Minor Subdivision off Existing Easement for Lands of the Dale Farm, LLC with final approval by Staff subject to receipt of all agency approvals. Motion carried unanimously. Motion carried 5-0.

PUBLIC HEARINGS

The following Public Hearings have been postponed:

C/U 2224 – Pamela Price

C/Z 1907 – Matthew C. Hete

C/U 2209 – Matthew C. Hete

C/Z 1904 – Dry Acres LLC

ADDITIONAL BUSINESS

Chairman Wheatley stated that the Commission was to discuss start time for future meetings but given the fluid nature of things right now this topic should wait until business is back to normal. He also noted that this may be the last time the Commission physically meets as a group. The County is working on the technology for Commission to be able to meet electronically and still fulfill all the State and Local requirements for a public meeting. Staff will continue to process and record Site Plans etc. The next meeting scheduled for April 9, 2020, there will be some communication detailing how it will work. The County is looking at how other jurisdictions are handling their public meetings. The Commission will continue to do as much as they can.

Meeting Adjourned 6:30 pm