

THE MINUTES OF THE REGULAR MEETING OF APRIL 09, 2020

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, April 09, 2020, by Teleconference

The meeting was called to order at 5:45 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, 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 read the following statement at the beginning of the meeting:

Today's Planning and Zoning Commission meeting is being conducted electronically by means of a teleconference under the authority of Governor John C. Carney's declaration of a state of emergency and proclamation number 17-3292. Planning and Zoning Commission members and staff are connected by phone and/or internet and are participating in real time. Members of the public may connect using a telephone conference number that was advertised on this week's agenda. Members of the public may access the packet materials on the County's website. Also, member of the public may listen and view this meeting using the regular chambers broadcast on the County's website. I can confirm that all members of the Planning and Zoning Commission are present.

Mr. Whitehouse conducted a roll call of members and found all members present and connected.

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

Motion by Ms. Wingate, seconded by Ms. Stevenson, to approve the Minutes of the March 12, 2020, Planning and Zoning Commission meeting as revised. Motion carried 5-0.

OTHER BUSINESS

Fox Haven II 2018-3

Request to amend condition of approval

This is a request to amend a condition of approval for the Fox Haven II subdivision which was approved by the Planning and Zoning Commission on February 28, 2019 subject to conditions. The Planning and Zoning Commission approved a previous request to amend Condition "H" at their June 28, 2018 meeting. At the 2018 meeting, the applicant requested that Condition "H" be amended from, *"The developer shall begin construction of the active amenities before the issuance of the 30th residential building permit and the developer shall complete all amenities prior to the issuance of the 60th residential building permit"* to instead require that, *"The developer shall begin construction of the active amenities before the issuance of the 48th residential building permit and the developer shall complete all amenities prior to the issuance of the 75th residential building permit."* The applicant has now indicated that sales have far

exceeded initial projections and that, to date, a total of 23 building permits have been issued for the subdivision. The Applicant has stated that extending the requirement to allow for the commencement of construction on the proposed amenities to occur before the issuance of the 48th residential building permit (instead of the 30th residential building permit as previously required) will allow the completion of all site work in Phase 2, which consists of 48 lots. The utilities necessary to construct homes in Phase 2 will also be required for the completion of the proposed amenities. The Applicant states that the purpose of the request is to satisfy the current sales demand and streamline the construction process. The Final Amenities Plan was approved by the Planning and Zoning Commission on February 12, 2020. Tax Parcel: 533-11.00- 45.01. Zoning: GR (General Residential Zoning District).

Specifically, the applicant is looking to continue with the site work for Phase 2 for the construction of the necessary utilities and hold off on pursuing the construction of the amenities until after Phase 2 is completed. While a clubhouse and pool are proposed for Phase II, a bath house and pool house were approved for the original Fox Haven Subdivision and have been constructed. The first proposal was for the amenities to be completed when approximately 32% (30/95) of the building permits have been issued. The second proposal is for the active amenities to be constructed when 32% (30/95) of the building permits have been issued and before 63% (75/95) of building permits have been issued. This proposal is for the active amenities to be constructed when 51% (48/95) of the building permits have been issued and before 78% (75/95) of building permits have been issued.

By comparison, Keystone Bay, approved on January 23, 2020 which consists of 651 lots contained the requirement that the core amenities prior to the issuance of 23% (151/651) of the building permits. Additionally, Chase Oaks, approved on September 26, 2019, which consists of 253 lots contained the requirement that all amenities be completed and open for use prior to the issuance of 47% (120/253) of the building permits. Lastly, Azeala Woods, approved on December 19, 2019 which consists of 610 lots, contained the requirement that all amenities be completed prior by the issuance of 41% (250/610) of the building permits.

Motion by Mr. Mears, seconded by Ms. Stevenson, to approve the amended conditions of approval. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea. Ms. Wingate abstained.

Fox Haven II Subdivision - Phase 2 (2018-3)

Final Subdivision Plan

This is a Final Subdivision Plan for Fox Haven II. This Subdivision Plan is for Phase II which consists of 48 single family lots out of a total of 95 approved lots. The Fox Haven II Subdivision is located off Johnson Road and can be accessed by a connection and continuation of Fox Tail Road at the southern end of the Fox Haven subdivision. The Planning and Zoning Commission approved the Preliminary Subdivision Plan May 24, 2018 and Fox Haven II Phase 1 for 47 lots was approved on February 28, 2019. Tax Parcels: 533-11.00-48.00, 45.01, & 518.00. Zoning: GR (General Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Hopkins, to approve the Final Subdivision Plan. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea. Ms. Wingate abstained.

Americana Bayside MR-RPC

Revised Masterplan

This is a Revised Masterplan for the Americana Bayside MR-RPC (proposed version 13). The masterplan has been amended to include the proposed Parcel P consisting of a 6,300 square foot retail building. The total square footage (including the square footage of approved but not yet constructed commercial projects and approved and constructed commercial projects) for the whole RPC consist of 138,595 square feet, of which the cap of 170,000 square feet of retail/office space has not been exceeded set forth in Condition 2 of the Conditions of Approval. The Revised Masterplan complies with the Sussex County Zoning Code and all conditions of approval.

Motion by Mr. Mears, seconded by Mr. Hopkins, to approve the Revised Masterplan. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea. Ms. Wingate abstained.

Americana Bayside MR-RPC (Weidman Parcel – Phase 2)

Final Site Plan

This is a Final Site Plan for the construction of 116 duplex units on a parcel consisting of 71.38 acres. The site is located on the east and west sides of Williamsville Road (S.C.R. 395). Phase 1 of the project was approved by the Planning and Zoning Commission at their meeting of December 19, 2019 only consisted of those lots which were not impacted by wetlands. Phase 2 consists only of the lots within the 116-units which are impacted by federal wetlands and required a permit through the Army Corp of Engineers. The proposed 116-unit scheme complies with the maximum number of residential units for the community which, according to Condition 1 of the Conditions of Approval, shall not exceed 1,700. The Final Site Plan complies with the Sussex County Zoning and Subdivision Codes, all conditions of approval and the most recent Masterplan submitted for the community. Tax Parcel: 533-19.00-297.00. 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 the Final Site Plan. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea. Ms. Wingate abstained.

Americana Bayside MR-RPC (Village “A”)

Final Site Plan & Landscape Plan

This is a Final Site Plan and Landscape Plan for the creation of one hundred (100) single-family detached homes within the existing Americana Bayside MR-RPC and accessed off a proposed entrance road on North Haven Drive. The Planning and Zoning Commission approved the Revised Site Plan for Americana Bayside Village A at their meeting of Tuesday, October 1, 2019 showing an increase in the number of lots from 96 to 100 lots. The proposed 100-unit (76 estates homes and 24 patio homes) scheme complies with the maximum number of residential units for the community which, according to Condition 1 of the Conditions of Approval, shall not exceed 1,700 units. The Final Site Plan complies with the Sussex County Zoning and Subdivision Codes, all conditions of approval and the most recent master plan submitted for the community. The applicant has also included a landscape plan in their submittal as previously requested by staff. Tax Parcel: 533-19.00-36.00 & 36.01. Zoning: MR-RPC (Medium Density Residential, Residential Planned Community.) Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Hopkins, to approve the Final Site Plan and Landscape Plan. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea. Ms. Wingate abstained.

Americana Bayside MR-RPC (Parcel “P”)

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of a proposed 6,300 square foot retail building, parking to consist of 57 total parking spaces and other associated site improvements. The site is located on the northeast side of the intersection of Lighthouse Road (Route 54) and Zion Church Road (Route 20). There are 29 parking spaces proposed in the front yard setback. The Preliminary Site Plan complies with the Sussex County Zoning Code, all conditions of approval and the most recent Masterplan for the community. Tax Parcel: 533-19.00-17.01. Zoning: MR-RPC (Medium Density Residential, Residential Planned Community.) Staff are awaiting agency approvals.

Additionally, staff notes that Commercial use is already allowed on Parcel P per the original Zoning Conditions of the Americana Bayside MR-RPC through C/Z 1393, by Condition of Approval #24 which specifies that Parcel P is the ONLY area of the RPC where commercial activity is allowed on the north side of Route 54.

Ms. Stevenson was concerned about the design and did not think that parking should allowed in the setbacks. Mr. Wheatley stated that this is an applicant created hardship, had known setbacks, and the Applicant appears to be asking for more parking than required. Mr. Whitehouse stated that with some more design work, he believes the Applicant could meet the necessary requirements for parking.

Motion by Mr. Mears, seconded by Ms. Stevenson, to deny the Preliminary Site Plan. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea. Ms. Wingate abstained.

Wyoming Millwork

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the proposed 9,900 square foot open air pavilion style pole barn for material storage on a paved area and other site improvements. The Planning and Zoning Commission approved the Final Site Plan at their February 25, 2016 meeting. The site is located at 15080 Gravel Hill Rd. The Revised Preliminary Site Plan otherwise complies with the Sussex County Zoning Code. Tax Parcel: 235-19.00-23.00. Zoning: HI-1 (Heavy Industrial Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson seconded by Mr. Hopkins, to approve the Revised Preliminary Site Plan. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

APD 2020-01 – J.C Wells and Sons

Consideration of Agricultural Preservation District

This is an application to consider an Agricultural Preservation District in an Agricultural Residential Zoning District in Cedar Creek Hundred for two (2) parcels of land totaling 365.75 acres more or less, located on the northwest side of Slaughter Beach Road (Route 36) for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation. Tax Parcels: 230-3.00- 9.00 and 10.00. Zoning: AR-1 (Agricultural Residential Zoning District).

Motion by Ms. Stevenson seconded by Ms. Wingate, to approve the Agricultural Preservation District. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

Lands of Camden Chorman

Minor Subdivision off a 30-ft easement

This is a Preliminary Subdivision Plan for the establishment of an additional lot off of a 30-ft ingress/egress access easement. The parcel is located on the east side of Hudson Rd. (S.C.R. 258). The Preliminary Subdivision Plan complies with the Sussex County Zoning Code and Subdivision Code. Tax Parcel: 235-22.00-23.12. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson seconded by Mr. Mears, to approve the Minor Subdivision Plan with a recommendation that a road maintenance agreement be put in place. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

ADDITIONAL BUSINESS

Mr. Wheatley announced that there was an issue with the call-in number for this evening's meeting, therefore, this meeting will be repeated on April 16, 2020 at 5:30 p.m. Mr. Robertson stated that anyone using the telephone to listen to the meeting would not have been able to do that due to an incorrect number, under the FOIA and the Governor's order the meeting will be renoticed with the same agenda.

Meeting Adjourned 6:25 p.m.