

THE MINUTES OF THE REGULAR MEETING OF DECEMBER 10, 2020

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, December 10, 2020 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware. Members of the public also attended this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 5:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, and Ms. Lauren DeVore – Planner III and Mr. Chase Phillips – Planner I.

Mr. Whitehouse noted that the Agenda was amended to remove Bioenergy Development Group, LLC (CU1962) to be heard at a future meeting. Motion by Ms. Wingate seconded by Ms. Stevenson and carried unanimously to approve the amended Agenda. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Mr. Hopkins to approve the Minutes of the November 12, 2020 and November 19, 2020 Planning and Zoning Commission meeting as revised. Motion carried 5-0.

OTHER BUSINESS

Dagsboro Trace (2004-34)

Revised Subdivision Plan

This Revised Subdivision Plan proposes to remove the sidewalks from the subdivision. The Planning and Zoning Commission previously reviewed this request at their meeting of Thursday, September 24, 2020, where they had requested additional information be provided from the applicant prior to a final decision being rendered. The sidewalks have not been installed and the proposed location of the sidewalks would require the relocation of street lighting and transformers already installed throughout the development. The Planning and Zoning Office has received documentation that 51% of existing property owners within the subdivision consent to this proposed change. Tax Parcel: 233-11.00-194.01 & 233-11.00-194.05. Zoning: AR-1 (Agricultural Residential Zoning District).

Motion by Mr. Mears, seconded by Ms. Wingate, and carried unanimously to approve the Revised Subdivision Plan. Motion carried 5-0.

Plover Point (F.K.A. Oak Landing) (2018-9)

Revised Preliminary Subdivision Plan

This is a Revised Preliminary Subdivision plan for the creation of a cluster subdivision to consist of one-hundred and forty-seven (147) single-family lots with private roads, open space and associated amenities on a 60.199-acre parcel of land. The proposed subdivision is located on the east side of Route 5 (Oak Orchard Road). At their meeting of Thursday, September 13, 2018, the Planning and Zoning Commission approved the Preliminary Subdivision Plan for what was previously known as the Oak Landing subdivision subject to 16 conditions. The proposed changes to the plan include the removal of Scarlett Oak Drive, adding cul-de-sacs on both ends of Chestnut Oak Drive, the addition of stormwater management ponds along the project's frontage, and a decrease of 92 lots. The Revised Preliminary Subdivision Plan complies with the Sussex County Zoning and Subdivision Code and all Conditions of

Approval. Tax Parcel: 234-34.00-97.00. Zoning: GR (General Residential Zoning District). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Mr. Hopkins, and carried unanimously to approve the Revised Preliminary Subdivision Plan with final approval by the Planning and Zoning Commission. Motion carried 5-0.

Cripple Creek Golf and Country Club (S-89-12)

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for a 5,000 square foot proposed pool house, three different building additions, parking modifications, fencing, and pickleball and bocce courts. The property is located off Cripple Creek Drive which is a private lane that has access from Irons Lane (S.C.R. 348). While an overall reduction in parking is proposed, staff note the plan complies with the Sussex County Zoning Code. Tax Parcel: 134-3.00-2.00. Zoning: HR-2 (High Density Residential Zoning District). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson, and carried unanimously to approve the Revised Preliminary Site Plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

Seaglass at Rehoboth Beach (F.K.A. Herola Property) (S-20-39)

Preliminary Site Plan

This is a Preliminary Site Plan for a proposed 224-unit multi-family apartment complex to consist of a clubhouse, pool, dog park, tot lot, 448 parking spaces and other site improvements located on 18.759 acres +/- . The property is located directly east of John J. Williams Hwy (Route 24) just south of Coastal Highway (Route 1). The applicant is seeking relief for 74 parking spaces to be located within the front setback of a private right of way. The Preliminary Site Plan otherwise complies with the Sussex County Zoning Code. Tax Parcel: 334-12.00-127.01 & 127.10. Zoning: CR-1 (Commercial Residential Zoning District). Staff are awaiting Sussex Conservation District approvals.

Motion by Mr. Mears, seconded by Mr. Hopkins, and carried unanimously to approve the Preliminary Site Plan with final approval by staff upon receipt of Sussex Conservation District approval. Motion carried 5-0.

Jerry Ann McLamb Medical Pavilion (S-20-46)

Preliminary Site Plan

This is a Preliminary Site Plan for a proposed 40,000 square foot medical facility to be located off Milton Ellendale Highway (Route 16) in Milton. The plan includes 209 parking spaces, a stormwater management basin, and other site improvements on a parcel of land that is approximately 142 acres. Staff note the potential subdivision of this site is considered, and it was requested the site plan process be pursued while Minor Subdivision Plans are generated. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 235-14.00-77.00. Zoning: C-1 (General Commercial Zoning District) & HR-2 (High Density Residential Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to approve the Preliminary Site Plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

Quality Care Homes (S-20-48)

Preliminary Site Plan

This is a Preliminary Site Plan for a proposed home construction service, offices, and light material storage to be located at 20366 Hopkins Road in Lewes. This plan also includes a proposed infiltration basin and relevant parking. The proposed use is part of Conditional Use No. 2216 which was approved by the Sussex County Council on August 25, 2020 and adopted through Ordinance No. 2735. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 234-5.00-46.04. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the Preliminary Site Plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

OLD BUSINESS

C/U 2243 Keith Twardowski

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District and GR General Residential District for a landscaping business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.18 acres, more or less.

The property is lying on the north side of Friendship Road (S.C.R. 306A), approximately 0.36 mile southwest of Indian Mission Road (Rt. 5). 911 Address: 33602 Samantha Drive, Millsboro. Tax Parcel: 234-23.00-51.00

The Commission discussed this application which has been deferred since November 19, 2020.

Mr. Mears moved that the Commission recommend approval for Conditional Use 2243 for Keith Twardowski based upon the record made during the Public Hearing and for the following reasons:

1. The property is located on a 3.18-acre parcel and it is surrounded by properties that have a similar size. It has a “split-zoning” of both AR-1 and GR. It is an appropriate location for this limited type of use.
2. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area is a Developing Area according to the Plan. This type of use is appropriate within this Area.
3. The property is partially zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the agricultural zoning of the property.
4. The use will not adversely affect area roadways or neighboring properties.
5. The landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
6. The Applicant resides on the property and the landscaping business will be located to the rear of the residence on the property. It will not be visible from the roadway.
7. No parties spoke in opposition to this application.
8. This recommendation is subject to the following conditions:
 - a. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.

- b. As stated by the Applicant, there shall not be any retail sales occurring from the site.
- c. One unlighted sign, not to exceed 32 square feet per side, shall be permitted.
- d. The hours of operation shall be limited to 7:00 am through 6:00 pm, Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as - needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
- e. There shall not be any dumping of trees, branches, grass or other debris on the site.
- f. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
- g. The applicant shall comply with all DeDOT requirements, including any entrance or roadway improvements.
- h. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
- i. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.
- k. This use shall be limited to a landscaping business. For purposes of this Conditional Use, "Landscaping" shall include the Applicant's tree service business.

Motion by Mr. Mears, seconded by Ms. Wingate, and carried unanimously to recommend approval for the reasons and conditions stated in the motion. Motion carried 5 – 0.

C/Z 1927 Preston Lynch Dyer and Mason Dyer

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 2.5 acres, more or less. The property is lying on the north side of Lewes-Georgetown Hwy. (Rt. 9) approximately 0.12 mile west of Josephs Rd. (S.C.R. 281). 911 Address: N/A. Tax Parcel: 334-4.00-34.02 & 34.03

The Commission discussed this application which has been deferred since November 19, 2020. Ms. Stevenson stated that she has listened to the audio from the previous meeting and is prepared to make a motion.

Ms. Stevenson moved that the Commission recommend approval for Change of Zone 1927 Preston Lynch Dyer and Mason Dyer based upon the record made during the Public Hearing and for the following reasons:

- 1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
- 2. The Applicant's property is currently zoned AR-1, but it is contiguous to State Route 9. There are other commercial zonings and commercial uses existing in the area. This is an appropriate location for C-2 zoning.
- 3. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for small retail and medical service uses.

4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is in the “Coastal Area” according to the Sussex County Land Use Plan and the Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
6. Central sewer is expected to be available in the near future, which is appropriate to support C-2 and the permitted uses within that district.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. No parties appeared in opposition to the rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval for the reasons and conditions stated in the motion. Motion carried 5 – 0.

PUBLIC HEARINGS

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

Chairman Wheatley read the mask policy.

2020-12 – Carsyljan Acres

A standard subdivision to divide 0.58 acre +/- into 2 lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the northeast side of Brohawn Ave., approximately 0.11-mile northeast of Sweetbriar Rd. (S.C.R. 261). Tax Parcel: 235-27.00-94.00. Zoning District: GR (General Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant’s subdivision Plat and comments from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that the Office of Planning and Zoning received zero comments to the Application and one mail return.

The Commission found that Ms. Jennifer Knighton was present on behalf of her Application, that also present is Mr. Jeffrey Nolt, co-owner of the property; that they have owned the property since 2006; that they would like to subdivide the property so that could each build homes; that she has spoken with neighbors and there is no opposition; and that the covenants of the HOA do not prohibit subdivision of lots.

The Commission found that no one spoke in favor of or in opposition to the Application. Upon there being no further questions, Chairman Wheatley left the public hearing open for this application.

At the conclusion of the Public Hearings, the Commission discussed 2020-12 Carsyljan Acres. Motion by Ms. Stevenson, seconded by Ms. Wingate, to leave the record open for the Applicant to submit written documentation that 51% of property owners are in support of the subdivision until the close of business on January 7, 2021. Motion carried 5-0.

2020-18 – The Woodlands II

A coastal area/cluster subdivision to divide 16.52 acres +/- into 33 single family lots to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County. The property is lying on the southeast corner of Central Ave. (Rt. 84) and Bayard Rd. (Rt. 84), approximately 0.28-mile northwest of Double Bridges Rd. (S.C.R. 363) Tax Parcel: 134-19.00-23.00. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's Subdivision Plat, comments from the Department of Agriculture, comments from the Sussex County Engineering Department Utility Planning Division, a copy of the Applicant's Environmental Assessment and Public Evaluation Report. Mr. Whitehouse noted that the Office of Planning and Zoning received eight letters in opposition to the Application.

The Commission found that Mr. Ron Sutton was present on behalf of the Applicant, Gulfstream Development; that Mr. Sutton distributed copies of the Powerpoint presentation to the Commission members; that although the application was submitted as The Woodlands II, it will have a different name; that the property is in the Coastal Area and a cluster subdivision is being sought; that there are no wetlands on site and it is not affected by the 100-year flood plain; that there is an existing tax ditch row which will be reduced and there is an agreement regarding the right-of-way; that the proposal is for 33 single-family lots; that the density will be 2 lots per acre; that 66 off-street parking spaces will be provided; that open space will be 37.7%, the requirement is 30%; that water will be provided by Tidewater Utilities; that sewer will be provided by Sussex County via a pump station located in the Woodlands Subdivision; that there will be a 20 ft. forested buffer and currently a 30 ft. buffer on the Woodlands property making a total of 50 ft. buffer; that the proposed connection to The Woodlands will be via Wichess Lane; that there is 40 ft. dedicated right-of-way to DelDOT; that there are proposed road improvements following a May 12, 2020 meeting with DelDOT; that there are no historical features on the site; that storm water will be managed through a storm water pond which will be located on the lowest area of the property; that the proposed use will have minimal effects on schools as the expectation is that the homes will be purchased by part-time residents and/or retirees; that there will be no impact on roadways; that the proposed use is compatible with the neighboring properties as there was a sub-street created for connection and there are other subdivisions in the area; that construction traffic will not enter the site through The Woodlands; that there is no intended overlap of the amenities at The Woodlands; and that if a speed hump is requested, the Applicant would be willing to install one.

Mr. Robertson stated that when the site plans for The Woodlands was approved, there was connectivity clearly shown on the plan and that Wichess Lane has been in existence and is the site of inter-connectivity.

The Commission found that Mr. Paul Jankovic spoke in favor of the Application; that he is the owner of the property; that he chose this builder because of the good tract record they have; that he requests approval of the project; and that he has resided there for over 50 years and wants a good steward to take over this property.

The Commission found that Mr. Joseph Knooren resident of The Woodlands and HOA representative stated that he had questions regarding the Application. Mr. Knooren asked if it is necessary to connect developments specifically in the area of Wichess Lane.

Mr. Wheatley responded that it is desirable to the general public for the public convenience for emergency response vehicles, police and fire personnel.

Mr. Knooren stated that he has concerns about flooding particularly in the area of Wichess Lane and concerns about the safety of pedestrians if there is increased traffic cutting through The Woodlands; that the residents of The Woodlands were promised sidewalks but that there are none in the development.

Mr. Robertson stated that the sidewalks in The Woodlands is not part of the Application before the Commission tonight and that the Staff can address that as a separate issue at a future date.

The Commission found that Ms. Nancy Yeroshefsky spoke in opposition to the Application; that she has concerns about traffic cutting through the developments to avoid the intersection at Bayard Road and Double Bridges Road and could improvements be made to that intersection.

Mr. Wheatley stated that DelDOT will require certain improvements as part of the Application. Mr. Wheatley encouraged Ms. Yeroshefsky to contact DelDOT and her State Representative with her concerns.

Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed 2020-18 - The Woodlands II. Motion by Ms. Wingate, second by Mr. Mears, to defer action for further consideration. Motion carried 5-0.

ADDITIONAL BUSINESS

Mr. Whitehouse asked if the Commission would be agreeable to holding an additional meeting during the month of March if necessary.

Mr. Wheatley stated that the Commission would be willing to hold an additional meeting and reminded the members to keep Thursday nights open pending confirmation of scheduled meeting.

Meeting adjourned at 6:41 p.m.

Planning and Zoning Commission meetings can be monitored on the internet at www.sussexcountyde.gov.
