

MINUTES OF THE REGULAR MEETING OF September 14, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, September 14, 2017 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 Ross presiding. The following members of the Commission were present: Mr. Martin Ross, Mr. Doug Hudson, Mr. Keller Hopkins, Mr. Robert Wheatley, Ms. Kimberly Hoey-Stevenson, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mrs. Jennifer Walls - Planning Manager and Mr. Jamie Whitehouse, Planner.

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

Motion by Ms. Stevenson, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes for August 10, 2017 as revised. Motion carried 5-0.

ADDITIONAL BUSINESS

Discussion regarding of the Comprehensive Plan

Ms. Cornwell advised the Planning Commission of the upcoming Planning Commission workshop dates of Wednesday Sept. 20th and 27th and that the Draft Economic Development and Demographics Chapters were added to the comp plan website.

Opportunity for public comment regarding Comprehensive Plan

None

OLD BUSINESS

C/U #2092 Timothy Robinson

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a produce stand to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 5.9 acres, more or less. The property is located on the east side of Gordy Rd., on the west side of Sussex Hwy. (U.S. Route 13) at the intersection. 911 Address: 32129 Gordy Rd., Laurel. Tax Map I.D. 332-1.00-67.01

The Commission discussed this application which has been deferred since August 24, 2017.

Mr. Wheatley, moved that the Commission recommend approval of Conditional Use # 2092 for Timothy Robinson for a Produce Stand with Retail Sales based upon the record made during the public hearing and for the following reasons:

1. The property is zoned AR-1. The use as a produce stand with retail sales is consistent with this zoning. Sales of produce grown by the applicant would be a permitted use; the conditional use is only necessary because the applicant intends to sell other products.
2. The produce stand promotes local agriculture and is desirable for the general convenience and welfare of the area.

3. The proposed use is located adjacent to Route 13 at the intersection with Gordy Road. This is an appropriate location for a produce stand with retail sales.
4. This use is consistent with other zonings and uses in the area, including C-1 Zoning directly across the highway from this site.
5. This recommendation is subject to the following conditions:
 - a. Sales shall only occur during daylight hours.
 - b. Sales shall be limited to one week prior to Easter Sunday through November 1.
 - c. The applicant shall comply with any DelDOT requirements associated with the use.
 - d. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
 - e. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - f. The applicant shall provide for interconnectivity if the adjacent properties are ever developed.
 - g. The failure to abide by these conditions shall result in the termination of this Conditional Use.
 - h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 5-0.

C/U #2093 John Huss

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a landscaping business with equipment storage to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 3.740 acres, more or less. The property is located on the northwest corner of Lewes Georgetown Hwy. (Rt. 9) and Prettyman Rd. 911 Address: None Available, Georgetown. Tax Map I.D. 235-30.00-6.20

The Commission discussed this application which has been deferred since August 24, 2017.

Mr. Hopkins moved that the Commission recommend approval of Conditional Use # 2093 for John Huss for a landscape business with equipment storage based on the record made during the public hearing and for the following reasons:

1. The property is located along Route 9, which is an appropriate location for this limited type of use.
2. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business with equipment storage is consistent with the underlying agricultural zoning of the property.
3. The applicant has stated that all landscaping work is performed offsite, and that there will not be any dumping on the site. Also, there will not be any major deliveries to the site as part of the business.
4. There will be no retail sales from the property, and the use is limited in nature. It will not adversely affect neighboring properties, roadways or traffic.
5. The applicant has stated that his 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. This recommendation is subject to the following conditions:
 - A. This use shall be limited to a landscaping business with equipment storage. No retail sales shall be conducted from the site.
 - B. 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.
 - C. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - D. The hours of operation shall be limited to 6:30 am through 6:00 pm, Monday through Saturday.
 - E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
 - F. The applicant shall comply with all DeIDOT requirements, including any entrance or roadway improvements.
 - G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.
 - H. As stated by the applicant, there shall be no dumping on the site, and any dumpsters on the site shall be screened from the view of neighboring properties and roadways.
 - I. The Final Site Plan shall clearly show all areas for vehicle 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.
 - J. Several nearby property owners wanted the dirt road that runs along the western side of the property to be closed. The applicant has stated that the area of the existing dirt roadway along western boundary of the property shall be removed within his property. This shall be shown on the Final Site Plan.
 - K. The Final Site Plan shall be designed to allow interconnectivity with adjacent properties along Route 9 if those properties are developed in the future.
 - L. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
 - M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 5-0.

C/U #2096 Capitol Buildings Shed Outlet

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a gazebo and shed business with outdoor storage to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.040 acres, more or less. The property is located on the south side of Lewes Georgetown Hwy. (Rt. 9), approximately 972 ft. east of Josephs Rd. 911 Address: 28922 Lewes Georgetown Hwy., Lewes. Tax Map I.D. 334-4.00-55.00

The Commission discussed this application which has been deferred since August 24, 2017.

Mr. Hopkins moved that the Commission recommend approval of Conditional Use # 2096 for Capitol Buildings Shed Outlet for a gazebo and shed business with outdoor storage based upon the record made during the public hearing and for the following reasons:

1. This use is limited in nature. It is a location for model sheds and gazebos to be viewed for purchase from the manufacturer. It is not a location where sheds or gazebos are stockpiled for sale from the site. Once purchased, sheds and gazebos are delivered directly from the manufacturer to the purchaser's property.
2. The use as location for model sheds will not require extensive deliveries to or from the site, and the use does not generate a significant amount of traffic from customers.
3. This limited use, as a display area for sheds and gazebos, is appropriate for this location along Route 9.
4. The use is consistent with area zonings and uses. The property across Route 9 is zoned commercial, and there are other commercial uses in the vicinity on both sides of Route 9. There are also numerous conditional uses in the area. This is an appropriate location for this conditional use.
5. The applicant has stated that he provides a convenient location and service for Sussex County property owners who desire to place sheds and gazebos on their properties.
6. The limited use will not have an adverse impact upon traffic, roadways or area properties.
7. The applicant has stated that they intend to restore and reside in the farmhouse that exists on the property. As a result, they will have control over the use and maintenance of the property at all times.
8. This recommendation is subject to the following conditions:
 - A. The use shall be limited to the display of model sheds and gazebos that are for sale. No other sales shall occur on the property.
 - B. No sheds or gazebos shall be constructed, stockpiled or inventoried on the property. As stated by the applicant, all sheds and gazebos on the property shall be display models, used by customers to inspect prior ordering the structures for delivery from the off-site builder directly to their properties.
 - C. As stated by the applicant, the home on the property shall be the owner's primary residence which shall include a small office for the business.
 - D. A fence with landscaping shall be installed along the side and rear property lines to screen this property from the neighbors. The type of landscaping and location of the fence shall be shown on the final site plan.
 - E. The hours of operation shall be limited to 9:00 am until 5:00 pm, Monday through Saturday, and between 10:00 am and 4:00 pm on Sundays.
 - F. As stated by the applicant, signage shall be limited to one lighted sign along the roadway not to exceed 6 square feet in size, and one sign on the building not to exceed 4 square feet in size. The location of the roadway sign shall be shown on the Final Site Plan.
 - G. Any lighting directed at the display models shall be screened so that it does not shine on neighboring properties or roadways. As stated by the applicant, it will be turned off no later than 9:30 pm each day.
 - H. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.

- I. All entrances shall be subject to all DeIDOT requirements.
- J. No trucks associated with the use shall be parked or idling along Route 9.
- K. The applicant shall allow for interconnectivity with the adjacent properties along Route 9 if they are ever redeveloped.
- L. The failure to abide by these conditions shall result in the termination of the conditional use approval.
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 5-0.

C/U #2104 Grace-N-Mercy Ministries, Inc.

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a cemetery on a half-acre of the 9.8 acres to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 9.98 acres, more or less. The property is located at the southeast corner of Woodyard Rd. and Sussex Hwy. (Rt. 13). 911 Address: None Available, Greenwood. Tax Map I.D. 530-5.00-40.05

The Commission discussed this application which has been deferred since August 24, 2017.

Ms. Stevenson moved that the Commission recommend denial of Conditional Use # 2104 for GRACE-N-MERCY MINISTRIES, INC., based on the lack of a record made during the public hearing.

While I am not opposed to a cemetery being located on this property owned by the applicant-church, there was not enough information provided for the Commission to make an informed recommendation of approval. For example, no details were provided about the size, location, number of gravesites, access, or other factors that must be considered. Also, there was no detail about the proximity of the proposed cemetery to surrounding properties, the church building and parking proposed on the property, or the tax ditches and their easements that surround most of the property. Under these circumstances, there is not enough of a record to act favorably on this application.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried 4-1 to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 4-1. Mr. Ross voted against the motion.

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

2017-9 Lewes Shores Estates – Key Properties Group, LLC

This a Major Subdivision for the creation of a standard subdivision. The plan purposes to subdivide 81.05 acres +/- into 61 single family lots with a private roads and open space. The property is located west side of Hudson Rd. (Rd. 258) north of Eagles Crest Rd. (Rd. 258) Milton. Tax ID: 235-22.00-4.00. Zoning: AR-1 (Agricultural Residential District).

Mr. Robertson recused himself from the application due to a conflict and left the chambers.

Ms. Cornwell advised the Commission that submitted into the record were a subdivision plan, comments from TAC including: DeDOT, Public Works Utility Planning Division, DNREC Divisions of Watershed, Groundwater Discharge, Wetlands, and Fish and Wildlife, Department of Mapping and Addressing which approve the name change to Winsmore Landing, Office of the State Fire Marshal, Delaware Electric Coop, Division of Public Health office of Drinking Water, and Department of Agriculture; that the applicant submitted a soil feasibility study, and wetlands delineation; that subdivision was previously reviewed and approved by the Planning Commission and that it expired.

The Commission found the Mr. Ramesh C. Batta from Ramesh C. Batta Associates PA and Mr. James Baeurle from Key Properties were present on behalf of the application; that the application was originally presented in 2006 and the economy changes and the owner dropped the project; that Key Properties purchased the property and is looking to move forward with the project; that they revised the plan and it shows the floodplain, wetlands and woodland; that application went through PLUS and they will address those comments; that the site is 81 acres; that they won't pollute the water; that the lots are $\frac{3}{4}$ acres in size; that the lots will have on-site will and septic; that there are proposed 61 lots; that there will be a 50 ft. buffer from the wetlands; that the lots are completely out of the floodplain; that the stormwater management will be along both sides of the road; that there will be a sidewalk along one side of the road; that they will protect the cemetery on the site and provide parking for patrons to the cemetery; that there will be a bus stop along with parking for parents; that there will be a buffer along the property; that there will be approximately 25 acres of open space within the development; that they have no problems with the TAC comments; that the site complies with Chapter 99-9C; that they will provide landscaping along the four houses that front along Hudson Rd.; that a TIS was not required; however, a contribution is required; and that they are not planning on a stormwater management pond as they plan on doing infiltration; however, they do have a location on site if needed

The Commission found no one in support of the application.

The Commission found that Don Knessi, Keith Wilhelm were in opposition to the application; that they had concerns about the impact on the neighboring properties, access to the development; that there were concerns with traffic along Hudson Rd., concern with the density of the project and size of the lots; that there were concerns with the quality of life and wildlife in the area; that there were concerns with the stormwater management of the site and flooding concerns in the area.

The Commission found that Brenden Buschi spoke about concerns with access off of Hudson Rd. with one way in and out and emergency access and safety of the road and the development should be consistent with the community.

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

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/U #2097 Christopher Lopez

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for automobile and truck sales, service, and repair to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 1.01 acres, more or less. The property is located on the east side of DuPont Blvd (Rt. 113), approximately 1,297 ft. south of Wood Branch Rd. 911 Address: 24487 DuPont Blvd., Georgetown. Tax Map I.D. 133-2.00-21.00

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, exhibit book, site plan and comments from Public Works Utility Planning Division.

The Commission found that Mr. Mark Davidson with Penonni Associates and Mr. Christopher Lopez, owner were present on behalf of the application; that this is an extension to an existing Conditional Use to allow for auto sales and repair; that they received final approval in 2012 for the site; that Mr. Lopez has another location for the auto sales; however, the lease was not renewed and was able to purchase additional land to his existing site; that the site is in Level 2 per the State Strategies; that they have been working on renewing permits; that they will relocate the entrance per DelDOT; that there are less than 50 trips a day and does not require a TIS; that there will be a right-in and a right-out only; that the septic system will be relocated to the rear of the property; that there will be between 18-20 vehicles on site for sale; that the hours of operation are from 7am-6pm Monday through Friday and 7am-5pm on Saturday; that there is no outside storage or items; that he does do basic oil changes; that his specialty is fixing the computers in the vehicles; that he would like one sign at 32 SF with ground lighting; that it is a family business with he and his 2 sons and one other employee; that there are 2 bay doors on the building; that there are no more than 5 vehicles being worked on at the site at one time; that stormwater management will be done through infiltration; and that he will comply with all recycling of oil and other materials.

The Commission found that there was one person in support of the application who did not wish to speak. The Commission found no one in opposition to the application.

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

Motion by Mr. Hopkins, seconded by Mr. Wheatley, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/U #2099 Richard and Dawn Jamison

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a wedding venue within an existing barn on approximately 2 acres around the barn to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 49.12 acres, more or less. The property is located on the north side of Woodpecker Rd., approximately 600 ft. east of Green Briar Rd. 911 Address: 4647 Woodpecker Rd., Seaford. Tax Map I.D. 531-12.00-92.00 (portion of)

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, and site plan.

The Commission found that Mr. Richard Jamison was present on behalf of the application; that he would like to have a wedding venue with reception on the site; that the maximum number of people would be approximately 100 people; that the existing barn would be used as the venue; that there is parking in the area of the barn; that he and his wife would be on site during the events to keep an eye on the event; that a caterer would be able to come onto the site; that he wants to keep it as an agricultural venue with a focus on agriculture; that he is ok with a ending time; that he may want to hold anniversary and birthday parties on the site; and that they are looking at putting in a bathroom in the barn or barn area.

The Commission found no one in support of the application.

The Commission found that Jane Walter Dempsey spoke in opposition to the application; that she had concern with noise from the events, noise from music, hours of operation; possibility of it being more than a wedding venue; and that it could impact the quite community.

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

Motion by Mr. Wheatley, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C/Z #1828 Coastal Club (a/k/a Marine Farm)

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC (Medium Density Residential District – Residential Planned Community) to a MR-RPC (Medium Density Residential District – Residential Planned Community) to amend Change of Zone No. 1764 (Ordinance No. 1770) Conditions 17A and 17D to extend timeframe one year for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 373 acres, more or less. The property is located on the south side of Beaver Dam Rd. 911 Address: None Available, Lewes. Tax Map I.D. 334-11.00-5.00, 334-11.00-395.00 and 396.00

Mr. Hopkins recused himself due to a conflict and left the chambers.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, and an exhibit book. Mr. Robertson stated that the application before the Commission is only whether the request for the time extension for the specific conditions should be approved.

The Commission found that James Fuqua, with Fuqua, Willard, Stevens and Schab PA and Preston Schell with Schell Brothers, Bobby Horsey with Horsey Construction Companies, and Zachary Crouch of Davis, Bowen and Friedel were present on behalf of the application; that the request is to request a one year time extension of conditions 17A and 17D that required construction of the sewer and sidewalks be completed prior to May 22, 2017; that they are asking for an extension for 8 months from now; that the original approval was granted in April of 2005 with a different developer; that the previous developer recognized the impact on the Jimtown Road area and proffered sewer, water, sidewalk, street lights and road improvements along Jimtown Rd.; that the application was part of the time extensions granted by Council and a new developer purchased the property; that work began on the project in 2014; that the sewer went

from being private provide to County sewer; that County Council required the improvements identified in conditions 17A and 17D to be completed within three years; however, it only allowed the developer 19 months to complete the improvements based on approval by County Council; that the developer is trying to do road improvements in a 50 ft. right-of-way that would typically require a 70 ft. right-of-way; that they have been working with DelDOT to address the roadway plans; that they submitted the request for the time extension prior to May 22, 2017; that DelDOT granted approval on August 10, 2017; however, they cannot begin construction until October 1, 2017 and shall be finished prior to May 22, 2017; that Mr. Horsey stated that the job is a 6 month job; however, there could be impediments to completing the job and it will be done within the 8 months; and that Mr. Fuqua indicated that they intend to begin construction on October 1, 2017.

The Commission found no one in support of the application.

The Commission found that Gay Allen, Rosalyn Allen Echol, Dennis Moore and Lucinda Allen spoke in opposition to the application; that they were disappointed that their petition from the original application requesting the items not be required was ignored; that they do not like having decisions impacting them done without them; that per the petition that they were all in agreement that the residents did not want any of the items along Jimtown Rd.; that have issue with the process that occurred at the meeting at the Church and that the decision made was that the survey that was taken it was inconclusive; that they feel they are being railroaded into getting services they do not want; that they have concerns about the notification process; that they want the entire development stopped and the approval voided; and that they would like to be left alone and things to stay the way they are.

The Commission discussed this application.

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration and to inquire about the public notice concerns. Motion carried 5-0.

OTHER BUSINESS

Osprey Point (RPC)

Final Site Plan

Mrs. Walls advised the Commission that this is the Final Site Plan for the construction of 217 single family lots on 132.31 acres to be located off Old Landing Road (Rt. 274). Planning Commission granted Preliminary Approval on March 23, 2017. The Final Site Plan is in compliance with the Sussex County Zoning Code and staff is in receipt of all agency approvals. The tax parcel is 334-18.00-83.00 and is zoned MR-RPC.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to approve the final site plan. Motion carried 5-0.

Swann Cove West (RPC)

Revised Final Amenities Plan

Mrs. Walls advised the Commission that this is a Revised Final Amenities plan for the Swann Cove West subdivision (Phase 8) to add a boardwalk located behind Tammy Court and cross access easement located behind Homestead Court for a dock. Planning Commission granted

Preliminary approval of the revised amenities plan on May 11, 2017. The Final Site Plan is in compliance with the Sussex County Zoning Code and staff is in receipt of all agency approvals and permits. The parcel is zoned MR-RPC. The tax parcel is 533-12.00-80.00 (part of).

Motion by Mr. Wheatley, seconded by Ms. Stevenson, and carried unanimously to approve the revised final amenities site plan. Motion carried 5-0.

Americana Bayside Golf Clubhouse (RPC)

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a Preliminary Site Plan for Americana Bayside-Golf Clubhouse Amenities to construct a golf clubhouse, pro shop and restaurant with site improvements. The Golf Clubhouse was shown on the Master Plan approved by Planning Commission on December 16, 2015 and November 7, 2016. The Preliminary Site Plan is in compliance with Sussex County Code. Staff is awaiting agency approvals. The property is zoned MR-RPC and the tax parcel is 533-19.00-36.01(Parcel 39).

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the preliminary site plan with final site plan approval by the Planning Commission. Motion carried 5-0.

Marshall Street Storage (CU 1771, CU 2020 and S-17-34)

Request to Amend Condition of Approval

Mrs. Walls advised the Commission that this is a request to amend Condition of Approval #1 of Conditional Use 1771 and 2020 for Marshall Street Mini Storage, a 79,132 S.F. mini storage facility to be located off Marshall Street and Swains Rd. Condition #1, as approved, states “all boats and RVs shall be stored under roof.” This request is to allow outdoor storage for boats and RVs. Planning Commission granted Preliminary and Final Site Plan approval on July 27, 2017. The property consists of 8.919 acres and is zoned AR-1. The Tax Parcels are 330-11.17-18.00, 20.00, and 330-15.05-6.00.

There was discussion regarding the proposed outdoor storage and that it was originally proffered by the applicant and the applicant has now realized that outdoor storage is needed and not feasible to do completely indoors.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to grant the request to amend Condition #1 of Conditional Use #1771 and 2020 to delete the requirement that “all boats and RV’s shall be stored under roof”. Motion carried 5-0.

Meeting adjourned at 8:57 p.m.