



Planning & Zoning

Agendas & Minutes

MINUTES OF THE SPECIAL MEETING OF OCTOBER 20, 2005

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 20, 2005 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Acting Chairman Wheatley presiding. The following members of the Commission were present: Mr. Gordy, Mr. Johnson, Mr. Smith, and Mr. Wheatley with Mr. Robertson – Assistant County Attorney, and Mr. Abbott – Assistant Director.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the Agenda as circulated.

OTHER BUSINESS

Bethany Grand, L.L.C.
Multi-Family Site Plan – Road 357 (Cedar Neck Road)

Mr. Abbott advised the Commission that this is a multi-family site plan for 28 townhouse units on 2.63 acres; that the site is zoned C-1; that 31 units are permitted; that the proposed density is 10.6 units per acre; that there are 4, 3-story buildings with 7 units each proposed; that 84 parking spaces are required and provided including an attached garage for each unit; that a swimming pool and pool house are also proposed that central sewer will be provided by Sussex County and central water will be provided by Sussex Shores Water Company; that the setbacks meet the requirements of the zoning code that there are not any wetlands on the site and the site is not located in a flood zone; and that the site plan is suitable for preliminary approval and final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 4 – 0.

Nassau Gardens
Multi-Family Site Plan – Road 266 (New Road)

Mr. Abbott advised the Commission that this is a multi-family site plan for 12 units on 1.24 acres; that the site is zoned C-1; that 14 units are permitted; that the proposed density is 9.7 units per acre; that there are 2, 2-story buildings with 6 units each proposed; that 36 parking spaces are required and provided; that the setbacks meet the requirements of the zoning code; that central sewer will be provided by Sussex County and a private on-site well will be used; that there are not any wetlands on the site and the site is not located in a flood zone; that DelDOT has issued a letter of no objection for the entrance

Minutes
October 20, 2005
Page 2

location; and that the site plan is suitable for preliminary approval and final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 4 – 0.

M. Michael Massumi
Commercial Site Plan – Road 357 (Cedar Neck Road)

Mr. Abbott advised the Commission that this is a commercial site plan for a temporary medical office in a B-1 District; that a 16' x 72' manufactured home will be utilized as a temporary office; that the Board of Adjustment granted a special use exception for a 2-year period on June 6, 2005; that 6 parking spaces are required and provided; that as required by the Board's approval, Leyland Cypress trees will be planted along the southern boundary line; that the setbacks meet the requirements of the zoning code; that the existing on-site septic and well will be used; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 4 – 0.

Bay Front Subdivision
Amenity Area Site Plan – Marsh Island Avenue

Mr. Abbott advised the Commission that this is a site plan for a 1-story clubhouse and associated parking for the residents of the Bay Front Subdivision; that the setbacks meet

the requirements of the zoning code; that 39 parking spaces are proposed; that all agency approvals have been received; and that the site plan is suitable for final approval.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a final.

Motion carried 4 – 0.

Minutes
October 20, 2005
Page 3

Robert Clendaniel
Revised Site Plan – Route One

Mr. Abbott advised the Commission that this is a revised site plan for a 50' x 102' (5,100 square feet) storage building for a non-conforming auto parts business; that the proposed storage building will be attached to 2 existing buildings; that the last building that was built was approved by the Commission in March 1992; that the setbacks meet the requirements of the zoning code; that the site plan can be approved as a preliminary; and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the revised site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 4 – 0.

The Arbors of Cottage Dale
CU #1522 Revised Site Plan – Road 275 (Plantation Road)

Mr. Abbott advised the Commission that this is a revised site plan for 66 multi-family units on 18.33 acres; that on September 8, 2005 the Commission granted conceptual approval for the revised site plan with the stipulation that an engineered site plan be submitted for review; that the previous approved plan was for 80 units; that the revised site plan has been reduced to 66 units; that there are 11, 3-story buildings with 6 units each proposed; that the buildings are grouped into 6, 165' x 165' building envelopes with a 40-foot separation between the envelopes; that the setbacks meet the requirements of the zoning code; that 198 parking spaces are required and 210 spaces are provided which includes 66 garage spaces; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the revised site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 4 – 0.

Verandah Bay
CU #1523 Site Plan – Route 54

Minutes
October 20, 2005
Page 4

Mr. Abbott advised the Commission that this is a site plan for 12 detached single-family units on 2.48 acres; that the Conditional Use was approved by the County Council on March 9, 2004; that the Commission granted a one-year time extension on March 10, 2005; that the Board of Adjustment granted a 10-foot variance to allow the front yard setback to be 30 feet on August 2, 2004; that the setbacks meet the requirements of the zoning code and the approved variance; that the minimum building separation between the units is 10 feet; that a swimming pool is also proposed; that the site plan complies with the conditions of approval; that a 50-foot buffer from all wetlands has been provided and there is not any encroachment into the wetlands; that Sussex County will provide central sewer and Artesian Water Company will provide central water; that all agency approvals have been received; and that the site plan is suitable for final approval.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a final.

Motion carried 4 – 0.

Paradee Gas Millsboro Facility
CU #1543 Site Plan – Route 24

Mr. Abbott advised the Commission that this is a site plan for a propane service and refilling center with an office and a showroom located on 3.0 acres; that the site is zoned AR-1 and the conditional use was approved by the County Council on July 20, 2004; that a 3,424 square foot office building and showroom is proposed; that 10 parking spaces are provided; that on site septic and well are proposed; that the setbacks meet the requirements of the zoning code and the site plan complies with the 8 conditions of approval; that there are not any wetlands located on the site and the site is not located in a flood zone; that all agency approvals have been received; and that the site plan is suitable for final approval.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to approve the site plan as a final.

Motion carried 4 – 0.

Tidewater Utilities, Inc.
CU #1583 Site Plan – Road 299 (Bay Farm Road)

Mr. Abbott advised the Commission that this is a site plan for a 160-foot tall, 500,000 gallon elevated water storage tank on 20,087 square feet; that the conditional use was approved by the County Council on February 1, 2005; that the setbacks meet the requirements of the zoning code; that the 8 conditions of approval are referenced on the

Minutes
October 20, 2005
Page 5

site plan and the plan is in compliance with the conditions; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 4 – 0.

Gerlinde H. Voegele
CU #1059 Revised Site Plan – U.S. Route 13

Mr. Abbott advised the Commission that this is a revised site plan to add a 1-story, 1,800 square foot (30' x 60') building with a 6' x 60' porch for storage only; that the conditional use was approved by the County Council on December 14, 1993; that the setbacks meet the requirements of the zoning code; that the building will be used for the storage of the display items that are currently located in the front yard; that on June 9, 2005 the Commission denied this request with the understanding that the building was going to be used for retail sales; that it will be used for storage only and that can be noted on the building permit.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the site plan as revised with the stipulation that the building be used for storage only.

Motion carried 4 – 0.

Beaver Dam Properties, L.L.C.
Lot – Kitts Borrow Court – Route 9

Mr. Abbott advised the Commission that this is a request to subdivide a 2.85-acre lot into 2 lots with access from a private subdivision street; that Kitts Borrow Court is a private

subdivision street that serves as access for a 22-lot subdivision; that Beaver Dam Properties still owns all 22 lots; that the proposed lots will have access from the street; and that Lot 23 will be 1.07 acres and Lot 24 will be 1.78 acres.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the request.

Motion carried 4 – 0.

Minutes
October 20, 2005
Page 6

Mary Catherine Hopkins
Lot and a 50' Right of Way – Road 257

Mr. Abbott advised the Commission that this is a request to create a 2.0-acre lot with access from a 50-foot right of way; that the aerial photograph of the site does not show an existing road, farm lane, etc. where the proposed right of way will be located; that since nothing exists, this request should be denied as submitted; and that the owner should be required to file an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to deny the request as submitted.

Motion carried 4 – 0.

Chester and Donna Kaser
2 Lots and a 50' Right of Way – Road 226

Mr. Abbott advised the Commission that this is a request to create 2 lots with access from a 50-foot right of way; that the owner has 100 feet of existing road frontage with an existing gravel driveway located within it that serves as access to the parcel in the rear; that the owner proposes to add 50 feet of frontage to an adjoining lot and retain the other 50 feet with the driveway; that this remainder would serve as access to the proposed lots to the rear; that one of the lots has an existing dwelling on it; and that if approved, it should be stipulated that any further subdivision of the property would require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve this request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision.

Motion carried 4 – 0.

Norma Dukes

Lot on an Existing 50' Right of Way – Road 80

Mr. Abbott advised the Commission that this is a request to create a 1.84-acre lot with access from an existing 50-foot right of way; that the residual land would contain 1.08 acres and has access to Road 80; and that DelDOT has issued a letter of no objection.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve this request as submitted.

Minutes

October 20, 2005

Page 7

Motion carried 4 – 0.

Joseph V. and Virginia Mangone

2 Lots on an Existing 50' Right of Way – Road 531

Mr. Abbott advised the Commission that this is a request to create 2 lots that would have access from an existing 50-foot private road; that the proposed lots would be 0.79 acres and 0.82 acres; that the 2 lots would have a combined entrance and DelDOT has issued a letter of no objection for the entrance; and that if approved, it should be stipulated that any further subdivision of the property would require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve this request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision.

Motion carried 4 – 0.

Peggy Parkinson

Parcel and a 50' Right of Way – Road 436

Mr. Abbott advised the Commission that this is a request to create a 4.28-acre parcel with access from a 50-foot right of way; that the owner proposes to widen an existing driveway to a 50-foot right of way to serve as access to the proposed parcel and also to the remaining 6.00-acre parcel that has an existing dwelling located on it; and that if approved, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve this request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision.

Motion carried 4 – 0.

Debra Tyre

Lot and a 50' Right of Way – Wells Lane (Road 417)

Mr. Abbott advised the Commission that this is a request to create a 1.0-acre lot with access from a 50-foot wide right of way; that the owner proposes to extend an existing 50-foot right of way to serve as access to the lot; that the 1.0 acre lot was previously approved as an extension to another parcel and that the owner now would like for the lot

Minutes

October 20, 2005

Page 8

to be a separate lot; that the owner's son proposes to build a dwelling on the proposed lot; and that this request was deferred at the September 22, 2005 meeting.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried unanimously to deny this request as submitted since the proposed lot would be the fourth lot with access from the right of way and to require an application for a major subdivision.

Motion carried 4 – 0.

It was the consensus of the Commission that if the applicant applies for a major subdivision, the process will be expedited.

Sitton Living Trust

2 Lots – Ocean Pines Lane

Mr. Abbott advised the Commission that this is a request to subdivide a 24,800 square foot lot into 2 lots; that the proposed lots would be 11,613 and 13,187 square feet; that the site is zoned MR and with central sewer the minimum lot size is 10,000 square feet; and that Ocean Pines Lane is dedicated to public use.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried 3 votes to none, with Mr. Smith not participating, to approve this request as submitted.

Motion carried 3 – 0 – 1.

Julia Faya

Lot on an Existing 50' Right of Way – Route 20

Mr. Abbott advised the Commission that this is a request to create a $\frac{3}{4}$ acre lot with access from an existing 50-foot right of way; and that if approved, it should be stipulated that any further subdivision of the property would require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve this request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision.

Motion carried 4 – 0.

James E. and Jann C. Cox
2 Lots on an Existing 50' Right of Way – Road 291

Minutes
October 20, 2005
Page 9

Mr. Abbott advised the Commission that this is a request to create 2 lots with access from an existing 50-foot right of way; that both lots would be 1.0 acre; that this would make three lots with access from the right of way; and that if approved, it should be stipulated that any further subdivision of the property would require an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve this request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision.

Motion carried 4 – 0.

David M. and Carol A. Collison
2 Lots and a 50' Right of Way – Road 405

Mr. Abbott advised the Commission that this is a request to create 2 lots with access from a 50-foot right of way; that the owner proposes to widen an existing driveway to a 50-foot right of way to serve as access to the 2 lots; that both lots will be a minimum of $\frac{3}{4}$ acre; and that if approved, it should be stipulated that any further subdivision of the property would require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried unanimously to approve this request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision.

Motion carried 4 – 0.

North Beach, L.L.C.
CU #1507 Time Extension – Road 360

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that this conditional use for multi-family dwelling structures was approved on December

16, 2003; that the Commission granted a one-year time extension on August 24, 2004; that the Commission granted preliminary site plan approval on March 31, 2005; and that this is the second request for an extension and the last one that the Commission has the authority to grant.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant a one-year time extension.

Motion carried 4- 0.

Minutes
October 20, 2005
Page 10

Inland Bays, L.L.C.
CU #1519 Time Extension – Road 360

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that this conditional use for multi-family dwelling structures was approved on January 27, 2004; that the Commission granted a one-year time extension on September 23, 2004; and that this is the second request for an extension and the last one that the Commission has the authority to grant.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to grant a one-year time extension.

Motion carried 4 – 0.

N.C.O.R.B., L.L.C.
CU #1552 Time Extension – Road 361

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that this conditional use for professional offices was approved on September 21, 2004; and that this is the first request for an extension.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant a one-year time extension.

Motion carried 4 – 0.

Subdivision #2001 – 3 - - C. Larry McKinley
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that this application received preliminary approval on January 24, 2002; that the Commission granted a one-year time extension on April 10, 2003; that a new engineering firm has

taken over the project; that construction drawings have been prepared since January 2002; that SCD has granted their approval; that DelDOT and County Engineering approvals have been upheld until the developer verified the existence or non-existence of an existing cemetery; that the State has verified the existence of the cemetery; and that if an extension is granted, this should be the last one granted and should expire from this date.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried unanimously to deny this request since it has been over two years since any action has taken place.

Minutes
October 20, 2005
Page 11

Motion carried 4 – 0.

Subdivision #2003 – 52 - - Norris L. Niblett
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that this application received preliminary approval on September 23, 2004; and that this is the first request for an extension.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to grant a one-year time extension.

Motion carried 4 – 0.

Merestone Consultants, Inc.
Interpretation of Subdivision Code

Mr. Abbott advised the Commission that Roger Gross of Merestone Consultants is requesting that the Commission verify whether an application for a major subdivision can be applied for; that his client owns a 5.30-acre tract with access from a 25-foot private road; that this is the only access to the site; that his client wishes to subdivide his property; that the new streets on the 5.3 acre tract will need to be 50-feet in width however the access road to the site will still be 25-feet; and that this has been done other times with no problems.

Roger Gross was present on behalf of this discussion and advised the Commission that he was directed to seek an opinion from the Commission.

The Commission took no action.

Mr. Gross will meet with Mr. Robertson about this.

Meeting adjourned at 7:25 p.m.