

MINUTES OF THE REGULAR MEETING OF JANUARY 12, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, January 12, 2017 in the County Council Chambers, Sussex County Administrative 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, Mr. Doug Hudson, Mr. Keller Hopkins, Mr. Martin Ross - Absent, with Mr. James Sharp – Assistant County Attorney, Ms. Janelle Cornwell – Director, and Mr. Daniel Brandewie – Planner II.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to approve the Agenda as revised by removal of the Approval of Minutes. Motion carried 3 – 0.

OLD BUSINESS

2016-14 – Burton's Pond – Burton's Pond, LLC

This is a Major Subdivision for a cluster subdivision. The plan proposes to subdivide 158.75 acres +/- into 265 single family lots with private roads and open space. The property is located on the northwest and southwest corners of Hollymount Rd. and John J. Williams Hwy. (Rt. 24). Tax ID: 234-17.00-17.00 and 234-11.00-97.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since December 22, 2016.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to defer action for further consideration. Motion carried 3 – 0.

PUBLIC HEARINGS

C/U #2062 RDK & A Investments, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an office to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 25,163 square feet, more or less. The property is located on the north side of Burbage Rd. (Rd. 353) approximately 1,456 ft. west of Windmill Dr. 911 Address: 36017 Burbage Rd., Ocean View. Tax Map I.D. 134-12.00-373.05.

Ms. Cornwell advised the Commission that there was a staff analysis submitted into the record as part of the application; that comments were received from the Department of Agriculture regarding drainage and soils and comments from the Sussex County Utility Planning Division: and that there is a letter from an adjacent property having no objection to the application.

The Commission found Richard H. Swear, President of North East Express, was present on behalf of North East Express along with Mr. Hal Dukes, Esquire of Tunnel & Raysor, and that they state in their presentation and in response to questions raised by the Commission that this is

a business for a mail order medical supply company specializing in colostomy bags, catheters etc.; that employees in this industry are highly paid because of the special programs required to learn terminology and how to use devices; that there is no inventory; that the supplier ships directly to the patients; that the business deals directly with patients, insurance companies, and third parties; that the exhibit book describes the history of the activities on the site; that they applied for a Conditional Use to allow for the continuation and growth of the business activities on the stated site; that the survey/site plan included in the packet depicts the building and parking on the site; that the parking lot accommodates 8-10 vehicles and there is adequate land in the back if needed for additional parking; that the business will reuse the current building on site, which is double what they have now; that the business is currently full time and year round with hours being Monday through Friday from 9:00 A.M. to 4:00 P.M.; that only five are employed with an estimate doubling the number of employees within the next year; that there will be no deliveries coming in or out of the site as all supplies go directly from warehouse to patient; that the condition proposed is reasonably compatible with the surrounding area.

The Commission found that there were no parties present in support of or in opposition to this application.

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

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to defer action for further consideration. Motion carried 3 – 0.

C/U #2063 Michael and Faith Whaley

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an office and storage area for U-Haul vehicles and trailers to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 34,788 square feet, more or less. The property is located on the west side of Cedar Creek Rd. (Rt. 30), approximately 130 ft. north of Fork Rd. (Rd. 270A). 911 Address: 7512 and 7524 Cedar Creek Rd., Lincoln. Tax Map I.D. 330-15.00-60.01

Ms. Cornwell advised the Commission that there was a staff analysis submitted into the record as part of the application; and that comments were received from the Department of Agriculture regarding drainage and soils.

The Commission found that Michael and Faith Whaley were present on behalf of their application; that they submitted a letter in support of this application from Irene Bonville who was not in attendance; that their hours of operation will be Monday – Friday from 10:00 am – 4:30 pm and Sundays from 6:00 am – 9:00 am; that the maximum amount of vehicles at a time being stored will be no more than two but there will be many months without any; that the equipment in a rural area is an issue; that there will not be any repairs on site, all repairs will be taken to another locations to be worked on; that U-Haul provides a sign to show there is equipment, currently unlit, unless provided otherwise by U-Haul; that they request permission to allow for a lighted sign if need be; that the area is 1 mile from the proposed hospital; that the area is not fenced in because the property north of and behind is owned by applicant; that the

applicant understands the Conditional Use is contained only on the lot that is part of the application and not on the adjacent lots owned by the applicant; and that there is a hair salon on the property.

The commission found that Irene Bonville is in support of this application; that she stated in a letter that she is sound of mind and not a protester and the applicant has her permission to run the U-Haul business.

The commission found that there were no parties in opposition to this application.

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

Mr. Hopkins stated that he would move that the Commission recommend approval of Conditional Use No. 2063 for Michael and Faith Whaley for storage of U-Haul vehicles based on the record made during the public hearing and for the following reasons:

- 1) The project is located on the west side of Cedar Creek Road in close proximity to Route One. It is also in the same area where a new hospital is being constructed. With the conditions imposed on this use, this is an appropriate location for the conditional use.
- 2) The project, with the conditions and limitations placed upon it, will not have an adverse impact on the neighboring properties or community.
- 3) The use as a U-Haul office and storage area is of a public or semi-public character and is desirable for the general convenience and welfare of residents of Sussex County.
- 4) This recommendation for approval is subject to the following conditions and stipulations:
 - A. There shall not be any building contractors or subcontractor's offices or workshops within the site.
 - B. There shall not be any storage of building materials or other construction materials on the site.
 - C. Any security lighting shall be downward screened so that it does not shine onto neighboring properties or roadways.
 - D. A landscape buffer of Leyland Cypress or similar vegetation shall be maintained or planted along the boundaries of the project adjacent to any residential properties so that the storage areas are screened from view from any residential properties.
 - E. No U-Haul vehicles shall be parked or stored within the front yard setbacks of the property.
 - F. Only one lighted sign shall be permitted on the property. It shall not exceed 32 square feet in size per side.
 - G. All vehicle and trailer parking areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself.
 - H. Hours of operation shall be between 10:00 am and 4:30 pm, Monday - Friday, and Sundays 6:00 am to 9:00 am.
 - I. No more than 20 U-Haul vehicles or trailers (or similar vehicles and trailers for rent) may be stored on the site at any one time. And some months there will be none at all.
 - J. No vehicle or trailer repairs shall be performed on the site.

- K. 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 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 and with the conditions stated. Motion carried 3 – 0.

C/Z #1811 Dustin Yoder

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a LI-2 (Light Industrial District) for a certain parcel of land lying and being in Nanticoke Hundred, Sussex County containing 1.079 acres, more or less. The property is located on the northwest side of Shawnee Rd. (Rt. 36), approximately 3,500 ft. northeast of Coon Den Rd. (Rd. 628). 911 Address: 10862 Shawnee Rd., Harrington. Tax Map I.D. 430-3.00-11.01 (Part of)

Ms. Cornwell advised the Commission that there was a staff analysis submitted into the record as part of the application; and that comments were received from the Department of Agriculture regarding drainage and soils.

The Commission found that Dustin Yoder was present on behalf of the application; that he plans to build additional buildings, one straddling the existing zoning line which will spill over into the AR-1 area, the other building will need additional vehicle turn around area; that the property map from February 2, 2015 shows the current property line as well as proposed buildings and storage area; that if additional employees are added there is sufficient parking for employees provided; that the business manufactures doors and windows with business hours being Monday - Friday from 5:00 am – 6:00 pm with around 19 employees; that the traffic includes delivery of rough lumber; that one additional building is for extra lumber storage; that more of the same manufacturing will continue along with some importing of metal windows that are not manufactured there; that a cell tower is located on the adjacent property that is close to the proposed expansion; that the Yoder family owns nearby properties; that his mother and father own adjacent land and the business; that the business has been under the Yoder family ownership since the late 1980's; that prior to it was owned by Nanticoke Homes in which the current building has existed many years.

The Commission found that there were no parties present in support of or in opposition to this application.

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

Mr. Hopkins stated that he would move to recommend the approval of C/Z #1811 for Dustin Yoder for a change in zone from AR-1 Agricultural to LI-2 Light Industrial based upon the record made during the public hearing and for the following reasons:

- 1) The land that is the subject of this application is adjacent to other lands of the applicant that are zoned LI-2. This small 1.079-acre parcel will be a reasonable expansion of the

existing LI-2 District.

- 2) The rezoning will not have an adverse impact on neighboring properties, roadways or other public facilities.
- 3) This small expansion of the LI-2 zone satisfies the stated purposes of the district according to the Sussex County Zoning Code.
- 4) This rezoning will bring most of the property under one consistent zoning category.
- 5) This property is also the site of a large communications tower. LI-2 zoning is compatible with this existing use on the property.
- 6) No parties appeared in opposition to this application.
- 7) Any development of this additional property under LI-2 zoning will be subject to Site Plan review by the Sussex County Planning and Zoning Commission to ensure that it complies with all requirements of the Zoning Code.

Motion by Mr. Hopkins, 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 and with the conditions stated. Motion carried 3 – 0.

OTHER BUSINESS

Baylis Estates 2004-55

Revised Plan

Ms. Cornwell advised the Commission that this is a revised plan to allow for the increase in size of the lots. The Planning Commission approved the preliminary cluster subdivision plan on October 18, 2006 and the final subdivision plan on January 10, 2013. The lots are proposed increase in depth from 100 ft. to 125 ft. The average lot size increases from 8,098 SF to 9,671 SF. The open space will go from 64% to 54%. The applicant also proposes to remove the walking path, the tennis court and swimming pool. The applicant is also requesting to reduce the size of the clubhouse from 3840 SF to 2304 SF. The walking path, swimming pool and tennis courts were conditions of approval of the subdivision. The applicant is looking into the potential to offer the property owners the ability to share the amenities that are located in nearby developments. Staff is awaiting revised approvals from the reviewing agencies.

Motion by Mr. Hopkins, seconded by Mr. Hudson and carried unanimously to approve the revised subdivision plan with site. Motion carried 3-0.

Royal Farms #263 on Lighthouse Rd.

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a preliminary site plan for the construction of a convenience store with gas pumps and site improvements. The Board of Adjustment granted a variance of the front yard setback to allow the canopy over the gas pumps to be located closer to the front property line. The site plan complies with the Zoning Code. A parcel consolidation plan will be recorded prior to final site plan approval. The property is located on Lighthouse Rd.

(Rt. 54). The properties are zoned B-1, C-1 and CR-1. The tax parcels are 533-12.00-76.03, 76.06 and 77.00. Staff is awaiting approval from the reviewing agencies.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to approve the preliminary site plan with final site plan approval upon subject to staff receiving all agency approvals. Motion carried 3-0.

Lands of Debra Riddle

Minor Subdivision with 50 ft. easement

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of two parcels of land off a proposed 50 ft. easement. The two parcels will each contain 6.663 ac. +/- . The residual will be 112.641 ac. +/- . The 50-ft. easement will go over an existing driveway. The proposed easement is over 1000 ft. and requires approval by the Planning Commission. The property is zoned AR-1. The tax parcel is 333-5.00-14.00. Staff is awaiting approval from DelDOT and the Office of the State Fire Marshal.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to approve the minor subdivision with a 50-foot easement with final approval subject to the staff upon receipt of all agency approvals. Motion carried 3-0.

Lands of C&P Farms, LLC

Minor Subdivision with 50 ft. easement

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of one parcel of land off a proposed 50 ft. easement. The new parcel will be 1.711 ac. +/- . The residual will contain 75.329 ac. +/- . The 50-ft. easement will go over an existing driveway. The proposed easement is over 1000 ft. and requires approval by the Planning Commission. The easement may have to be slightly relocated to ensure buildings are not located within the easement. The property is zoned AR-1. The tax parcel is 433-10.00-4.00. Staff is awaiting approval from DelDOT and the Office of the State Fire Marshal.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to approve the minor subdivision with a 50-foot easement with final approval subject to staff upon receipt of all agency approvals. Motion carried 3-0.

Lands of Greer

Minor Subdivision with 50 ft. easement

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of one parcel of land off a 50-ft. easement. Parcel B is the parcel being created off the existing 50 ft. easement. The easement is being extended to provide frontage to Parcel B. The plan also proposes several lot line adjustments and the creation of a lot along Huff Rd. The lot line adjustments and creation of the lot along Huff Rd. do not require Planning Commission approval. The property is zoned AR-1. The tax parcels are 135-7.00-11.00 and 11.05. Any

further subdivision shall require a major subdivision. Staff is awaiting approval from DelDOT and the Office of the State Fire Marshal.

Motion by Mr. Hopkins, seconded by Mr. Hudson and carried unanimously to approve minor subdivision with a 50-foot easement with final approval subject to staff upon receipt of all agency approvals and there shall be no furthermore subdivision. Motion carried 3-0.

Angola Beach and Estates

Consideration of Reconfiguration of Lots

Ms. Cornwell advised the Commission that this is a request to amend the layout of the Angola Beach development along Dunes Court and Beacon Ct. There are currently 42-leased lots along the two courts. The request will reduce the number of leased lots along Dunes Ct from 14 to 10 and reduce the number of leased lots along Beacon Ct. from 28 to 20. The leased lot areas shall comply with the separation distances, lot area, and setbacks. The Planning Commission previously approved a similar request. The applicant will have to come back before the Planning Commission to relocate the leased lot areas that are being removed.

Motion by Mr. Hopkins, seconded by Mr. Hudson and carried unanimously to approve reconfiguration of lots with final approval subject to staff upon receipt of all agency approvals. Motion carried 3-0.

Governors CU 1772

Request to amend a condition of approval

Ms. Cornwell advised the Commission that this is a request to amend condition 9A regarding the number of residential permits that can be issued within a calendar year. The Planning Commission approved the Conditional Use on March 27, 2008. Condition 9A requires that no more than 60 residential building permits be issued within any given calendar year. The applicant is requesting that they be allowed to have 90 residential detached and 50 attached building permits issued within any given calendar year.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to amend condition 9A to allow 90 residential detached and 50 attached building permits issued within any calendar year. Motion carried 3-0.

Vista Del Mar (aka Dukes Dune) 2013-3

Request for entrance gate

Ms. Cornwell advised the Commission that this is a request to allow for the installation of a gate at the entrance to the Vista Del Mar (Dukes Dune) development. The applicant has submitted letters in support of the installation of a gate at the entrance of the development from all five (5) of the property owners. The gate will be setback far enough to allow cars to enter the site and be out of the main road. The applicant has provided an approval letter from the Office of the State Fire Marshal and a letter from the Bethany Beach Fire Company.

Motion by Mr. Hopkins, seconded by Mr. Hudson and carried unanimously to approve installation of a gate. Motion carried 3-0.

ADDITIONAL BUSINESS

Discussion regarding the Comprehensive Plan

Ms. Cornwell advised the Commission that the Goals and Objections was sent. A joint meeting between the Commission and County Council will be held on February 7, 2017 at West Complex at 1:30 pm.

Opportunity for public comment regarding Comprehensive Plan

Nancy Feichtel spoke regarding the Comprehensive Plan. She read a statement that she handed out in which she stated Sussex County is the oldest County in the nation with numbers of elderly 55 and older doubling by the year 2020; that the Independent Transportation Network Southern Delaware (ITN Southern Delaware) offers members 55 years of age and older transportation 24 hours a day, seven days a week for any need; that ITN America has operated for 20 years in many states; that she is seeking understanding and financial support from developers to help those 55 years and older to have a safe way of transportation and increase the membership.

Barbara Vaughn spoke regarding the Comprehensive Plan. She stated that she is looking for affordable housing and support. According to numbers, by 2030, there will be 180% more people in Sussex County over 80 years which she hopes gets more attention in the Comprehensive Plan. She encourages villages and to not get too large. 28% of the population in Sussex County are renters with rent being more expensive than a mortgage but can't afford a down payment. Rent averages at \$1,000.00 a month. 12% of households in the county are at poverty level. She says when looking at the overall picture, there should be some county effort and negotiating should be increases to provide affordable housing. She states there is a good group run by Brad Whaley, where they were able to get streetlights in Pinetown. Now group is looking at Coverdale and researching good affordable housing options.

Meeting adjourned at 7:15 p.m.