

MINUTES OF THE REGULAR MEETING OF JANUARY 26, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, January 26, 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, with Mr. James Sharp – Assistant County Attorney, Ms. Janelle Cornwell – Director, and Mr. Daniel Brandewie – Planner II.

Motion by Mr. Ross, seconded by Mr. Hopkins, and carried unanimously to approve the Agenda as revised by removal of the Approval of Minutes and other business, Key Properties, LLC. Motion carried 4 – 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.

Mr. Hudson stated that he would move that the Commission grant preliminary approval of Subdivision 2016-14 for Burton's Pond, LLC, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects orderly growth of the County. The project complies with the Sussex County Subdivision Code. It lies partly within the Environmentally Sensitive Development District Overlay zone. It is zoned AR-1 and meets the purposes and requirements of that district.
2. The development is designed in accordance with the Cluster Development Ordinance. The proposed cluster design is superior to a standard subdivision. For instance, clustering has been used to preserve wooded areas and the natural buffer next to the wetlands and Burton's Pond, and there are greenways and small parks throughout the site. Most of the lots are adjacent to open space. There are also sidewalks and walking, jogging, and bike trails promoting interconnectivity within the project.
3. The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
4. The applicant has proposed 265 lots within the project, which is a permissible density within an AR-1 subdivision on the land.

5. The project will not adversely affect neighboring or adjacent properties. The project is consistent with existing single-family development area.
6. The lots will be served on central water and sewer, in accordance with Federal, State, and County requirements.
7. Although there are wetlands on the site, they will not be distributed by this development, and the lots are substantially separated from them. No wetlands are included within any lots.
8. The development will protect and enhance the existing environmental features at the site, including the wetland and woodland areas. It will do this through the use of an Environmental Management Plan to evaluate, monitor and address non-point source pollution, water quality, wildlife habitat, invasive species and aesthetics in and around Burton's Pond and its watershed.
9. With the conditions imposed, the proposed subdivision will be designed and built in accordance with the subdivision code and the requirements of the "Environmentally Sensitive Development District".

This preliminary approval is subject to the following conditions:

1. There shall be no more than 265 lots within the subdivision.in order to provide ease of use and to promote safety in the community, all lots must be located on the southwest side of Hollymount road.
2. The applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, open space, and other common areas, including an Environmental Management Plan for Burton's Pond.
3. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities. The system shall be operated using Best Management Practices to provide groundwater recharge.
4. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the applicant as required by DelDOT. In addition, the relocation of Hollymount Road shall be completed within the first phase of the development.
5. Street lighting shall be provided and the location of the streetlights shall be shown on the Final Site Plan.
6. Street design shall meet or exceed Sussex County Standards.
7. Sidewalks shall be installed on both sides of all streets within the subdivision. There shall also be walking, jogging and bike paths throughout the subdivision as shown on the Preliminary Site Plan.
8. The subdivision shall be served by a central sewer system as defined by the Sussex County Zoning Ordinance, designed in accordance with the Sussex County Engineering Department specification and in conformity with all DNREC regulations.
9. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.

10. A school bus shelter with parking shall be provided on the Final Site Plan. The developer shall coordinate and cooperate with the local school district's transportation coordinator to establish the school bus stop area. The location of the bus stop area shall be shown on the Final Site Plan.
11. In order to provide ease of use and to promote safety in the community, the pool, clubhouse, tot lot, and amenities shall be located on the southwest side of Hollymount Road. A parking lot for homeowners to access Burton's Pond shall be located on the northeast side of Hollymount Road.
12. No wetlands shall be included within any lot lines. The tree surrounding the wetland areas shall be preserved. As presented by the applicant, a minimum 30-foot buffer from the 404 wetlands shall be provided as shown on the Preliminary Site Plan. The wetlands shall be marked with a permanent marker to prevent disturbance.
13. The undisturbed forested areas shall be shown on the Final Site Plan.
14. Within two years of receipt of a certificate of occupancy for the first owner-occupied home (not unoccupied model homes), the developer shall construct all of the recreational amenities.
15. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
16. All agricultural and wetland buffers shall be provided in accordance with applicable regulations.
17. As represented by the applicant, the applicant shall establish an Environmental Management Plan for Burton's Pond including designing and implementing monitoring and managing strategies for the Pond and its watershed. This responsibility shall be transferred to the Homeowners' Association and an adequate budget shall be established to accomplish the intent of the Plan. Prospective homeowners shall be made aware of the Association's responsibility prior to purchase of a lot.
18. The developer shall design and install a landscape buffer of berms and plantings running South to North along the entire property boundary with Route 24.
 - a) As represented by the applicant, the use of Burton's Pond by residents of the subdivision shall be subject to the following conditions: watercraft shall be limited to fishing boats with electric motors and non-motorized watercraft.
 - b) Watercraft use of Burton's Pond by community residents shall be limited to a maximum of 30 watercrafts at any one time. The Homeowners' Association will establish a system of ownership of registration to implement this policy.
 - c) After the receipt of a certificate of occupancy for the first owner-occupied home, hunting will not be permitted on Burton's Pond. Signs will be posted.
19. The use of Burton's Pond will also be made available to the public and adjacent property owner and they will be able to utilize the proposed parking to access the pond. The Public and adjacent property owners will not be permitted to use or launch watercraft to access Burton's Pond. This condition shall not prohibit or limit access and use of Burton's Pond by adjacent property owners who may otherwise have a legal or prescriptive right to use Burton's Pond with or without watercraft.
20. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Sussex County Office of Planning and Zoning.

21. This site maybe be in the vicinity of an existing well head. The Final Site Plan and the development of this project shall comply with the requirements of the Sussex County Source Water Protection Ordinance.
22. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to grant preliminary approval of Subdivision No. 2016-14 for Burton's Pond. Motion carried 4 – 0.

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.

The Commission discussed this application which has been deferred since January 12, 2017.

Mr. Hudson stated that he would recommend approval for Conditional Use #2062 for an office based upon the record and for the following reasons:

1. The project is located on the north side of Burbage Rd. with conditions imposed for this use and is an appropriate location for this Conditional Use.
2. The project with conditions and limitations placed upon it will not have an adverse impact on the neighboring properties or community.
3. The property will be used and an office for a mail order medical supply company and will have minimal impact on the character of the neighborhood.
4. This recommendation for approval is subject to the following stipulations and conditions:
 - a. There shall not be any building contractor or subcontractor's office or workshop on the site.
 - b. No medical supply, device or product shall be manufactured, created, or assembled, or stored on the property except that such medical supplies, devices or products which are customarily found in an office setting shall be permitted on this premises.
 - c. Any security lighting shall be downward screened so that it doesn't shine on any 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 office shall be screened from the view of any residential properties.
 - e. The site shall not be used for the storage or deliver of medical supplies, devices or products or other items sold as part of the mail order medical supply business.
 - f. All inventory for the mail order medical supply business shall be maintained at a different location.

- g. Only one unlit sign shall be permitted on the property and shall not exceed 32 SF per side.
- h. All vehicles parking shall be clearly shown on the final site plan and clearly marked on the site.
- i. The site shall not be used for any on-site retail business sales.
- j. The final site plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried with 3 votes to grant preliminary approval. Motion carried 3 – 0, 1 abstention by Mr. Ross.

PUBLIC HEARINGS

C/U #2064 R&K Partners – an Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for medical offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.54 acres, more or less. The property is located on the northwest side of Savannah Rd (Rt. 18), approximately 450 ft. northeast of Wescoats Rd. (Rt. 12). 911 Address: 1537 Savannah Rd., Lewes. Tax Map I.D. 335-12.05-4.00

Ms. Cornwell advised the Commission that a staff analysis was done providing surrounding zoning and land use; that a response from DelDOT regarding the service level request was received; that the applicant submitted a site plan along with an exhibit booklet.

The Commission found David Hutt, Esquire, was present on behalf of R&K Partners along with the Hasmone family, property owners, and John Murray, Project Manager, and that they state in their presentation, exhibit booklet, and in response to questions raised by the Commission that the Hasmone family has owned the proposed property since 1988; that the application is a proposal for a medical office building that will be less than 10,000 sq. ft.; that the preliminary site plan is provided; that the preliminary site plan shows the proposed parking, approximate location of the building, and the proposed entrance; that from 1980 until today there have been more than 30 conditional uses applied for on Savannah Rd. of which many were for medical offices consistent with this application; that the properties to the left and right of the proposed parcel are both medical offices with conditional uses, one being Bayview Medical Center and the other being Bayhealth Health Associates; that the proposed property is zoned AR-1; that the proposed office will have central water with Tidewater Utilities and central sewer with Sussex County; that DelDOT issued a letter of no objection with approval of the proposed entrance; that DelDOT ensures there is no traffic impact study required; that the proposed office hours will be Monday-Friday 7:00 am – 7:00 pm and Saturdays 8:00 am – 2:00 pm; that a lighted sign is required being no more than 32 sq. ft. on each side; that a dumpster location will be provided if need be; that medical waste will be disposed of in regards to medical requirements; that by code they are required to provide 21 parking spaces but are providing about 60 parking spaces with open space if more parking is needed; that the proposed medical office building will benefit the health, safety, and welfare of the Sussex County residents.

The commission found there were no parties present in support of this application.

The commission found that Joanna Sockle is in opposition of this application; that she stated in her presentation that she lives at 33506 West Hunters Run; that her back yard is directly opposite the property applied for; that she has concerns about the project; that her concerns are how will waste be disposed of, will the lighted sign be glaring, will there be a tree buffer; that she just moved to Lewes in 2014; that with questions answered, application will be welcomed to the neighborhood.

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

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

C/U #2070 Cape Henlopen School District – an Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a special needs school (Sussex Consortium) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 25.0 acres, more or less. The property is located on the southwest side of Sweetbriar Rd (Rd. 261) approximately 3,800 ft. southeast of Cave Neck Rd. (Rt.88). 911 Address: 17344 Sweetbriar Rd., Lewes. Tax Map I.D. 235-27.00-20.00

Ms. Cornwell advised the Commission that a staff analysis was done providing surrounding zoning and land use based off the Comprehensive Plan; that a response from DelDOT regarding the service level request was received; that a PLUS was performed on December 15 and the PLUS review comments and responses are in the submitted exhibit booklet; that the applicant submitted a site plan along with an exhibit booklet.

The Commission found Jim Fuqua, Esquire, was present on behalf of Cape Henlopen School District along with Brian Bassett, Director of Administrative Services for Cape Henlopen School District, and Tim Metzner, Architect at Davis, Bowen, & Friedel, and that they state in their presentation, proposed site plan, exhibit booklet and in response to questions raised by the Commission that the application is for a new proposed school for Cape Henlopen School District; that the parcel is cleared; that the proposed parcel is surrounded by farm land and woods on the south, east, and west sides; that north of the proposed parcel there are 3 developments; that it is zoned AR-1; that the proposed school is the Sussex Consortium; that the Sussex Consortium started in 1975; that the proposed school has been providing education opportunities to a variety of students with special needs; that the proposed school will serve the needs of children throughout Sussex County; that the number of children has grown from 95 in 2003 to over 280 today; that the main facility is now located at the old Lewes school building; that it has been moved from building to building as space was available; that there are Consortium classrooms located in the high school, middle school, and two elementary schools; that the student to teacher ratio is 4.3 students per teacher; that the proposed building will accommodate 410 students; that the building will be built in stages with the main building being the first part of construction being 60,000 sq. ft. with additions totaling 38,000 sq. ft.; that the school will contain classrooms, administrative offices, a gymnasium, a cafeteria with a kitchen, and possibly

in the future an indoor swimming pool with locker rooms; that the proposed office will have central water with Tidewater Utilities and central sewer with Sussex County; that the proposed entrance would be designed within DelDOT requirements; that according to DelDOT a traffic study was not warranted; that according to DNREC the site has few environmental concerns; that the proposed school will be located within the Cape Henlopen School District boundaries; that the proposed school will be located to the west part of the district to make the school more accessible for children all over Sussex County; that a lighted sign no larger than 32 sq. ft. on both sides will be required; that dumpsters will be screened; and that a forested buffer around the perimeter for aesthetic and noise purposes will be included in the site plan.

The commission found that Dale Oberender, Karen Shaud, and Ginger Shaud are in support of this application and that they stated in their presentations that they believe Sussex County needs a school like this for disabled children; that the location is best being these children cannot last long on bus rides without behavioral issues; that

The commission found that Frank Rozark and Carl and Linda Haden are in opposition of this application and that they stated their concerns were traffic, noise, and what type of buffer will there be to separate the proposed school from the neighborhoods.

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

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use #2070 for Cape Henlopen School District for a special needs school (The Sussex Consortium) based upon the record made during the public hearing and for the following reasons:

- 1) The property is zoned AR-1 and it is within the Environmentally Sensitive Developing Area according to the Sussex County Comprehensive Plan. These are appropriate locations for a school.
- 2) The property is in an area that is agricultural within areas developing residentially. It is also in proximity to the Route 9 and Sweet Briar Road intersection. This is an appropriate location for this proposed school.
- 3) The use as a school will benefit families and particularly children of Sussex County.
- 4) The school addresses a growing need for classroom space for special needs students in Sussex County.
- 5) The school will be served by central water and it will be part of a Sussex County Sewer District.
- 6) The State Department of Education, the Office of Management and Budget, and the Office of State Planning Coordination have all approved this site.
- 7) This recommendation is subject to conditions:
 - a. The site shall comply with all DelDOT entrance and roadway improvement requirements.
 - b. The site shall comply with all requirements of the Sussex Conservation District.
 - c. All lighting shall be downward screened so that it does not shine on neighboring properties and roadways.
 - d. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.

- e. All dumpsters shall be screened from view of neighboring properties and roadways.
- f. A landscape plan shall be submitted as part of the final site plan.
- g. The final site plan shall be subject to the review and approval of the Planning & Zoning Commission.

Motion by Mr. Ross, 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 4 – 0.

OTHER BUSINESS

The Vineyards at Nassau Valley Phase 2

Final Site Plan

Ms. Cornwell advised the Commission that this is a Final Site Plan for Phase 2 of The Vineyards at Nassau Valley for the construction of additional residential homes. This phase consists of 316 residential dwelling units using single-family, apartments and condominium building types. The plan modifies the parking lot contained in the Phase 1 and 1A projects. The Planning Commission approved a revised Master Plan-Concept Plan for the project on November 12, 2016 and granted Preliminary Site Plan approval on February 25, 2016. The property is zoned C-1. The tax parcel number is 334-5.00-152.06. The Planning Office is in receipt of agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson and carried unanimously to approve the final site plan. Motion carried 4 – 0.

Chorman Airstrip (CU # 2055)

Preliminary Site Plan

Ms. Cornwell advised the Commission that this is Preliminary Site Plan to allow a private airstrip with landing field, tie-down and parking area for Jeffrey Allen Chorman as part of (CU 2055). The Planning Commission reviewed the Conditional Use at their meeting on August 25, 2016. The County Council approved the Conditional Use at their meeting on October 4, 2016. The property is owned by Sharp Farms Limited Partnership and is partially being leased to the Chorman's for the airstrip. The Conditional Use consists of 5.7 acres +/- and is zoned AR-1. The Tax Parcel is 330-8.00-46.00. Staff is awaiting agency approvals.

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 4 – 0.

Heron Bay

Revised Amenity Site Plan

Ms. Cornwell advised the Commission that this is a revision to the Amenity Site Plan to relocate a buffer and jogging path. The revision to the buffer is to relocate the buffer near the amenities/common open space area from the residential lots to the amenities/common open space parcel. The relocation of the buffer shifts the jogging path closer to the other amenities.

Motion by Mr. Hopkins, seconded by Mr. Ross and carried unanimously to approve the amenity site plan with final site plan approval upon subject to staff receiving all agency approvals.

Motion carried 4 – 0.

Lands of Park Ridge, LLC

Minor Subdivision with 50 ft. easement

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of two (2) parcels of land with a residual and the creation of a 50-ft. easement. The two new parcels will contain 17.643 ac. +/- and 30.794 ac. +/- . The residual will contain 33.265 ac. +/- . The new easement will go over an existing driveway. The proposed easement is over 1000 ft. and requires approval by the Planning Commission. Any further subdivision shall require a major subdivision. The property is zoned AR-1. The tax parcel is 234-14.00-22.00. Staff is awaiting approval from the Office of the State Fire Marshal and DelDOT.

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 4 – 0.

Lands of John Paul Vickers, Jr.

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 with a residual and the creation of a 50-ft. easement. The new parcel will contain 1.53 ac. +/- . The residual will contain 3.638 ac. +/- . The new 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 235-25.00-40.02. Staff is awaiting approval from the Office of the State Fire Marshal and DelDOT.

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 4 – 0.

Lands of Olsen

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 with a residual and the creation of a 50-ft. easement. The two new parcels will contain 1.25 ac. +/- and 0.75 ac. +/- . The residual will contain 16 ac. +/- . The new easement will go over an existing driveway. Any further subdivision shall require a major subdivision. The property is zoned AR-1. The tax parcel is 330-7.00-10.01. Staff is awaiting approval from the Office of the State Fire Marshal and DelDOT.

Motion by Mr. Hudson, seconded by Mr. Hopkins 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 any further subdivision shall require a major subdivision application. Motion carried 4 – 0.

Lands of Brittain and Umbrel

Minor Subdivision with 50 ft. easement

Ms. Cornwell advised the Commission that this is a minor subdivision and lot line adjustment plan for the creation of one parcel land with a residual and the utilization of an existing 50 ft. easement. The new parcel will contain 0.810 ac. +/- . There are currently two lots and the minor subdivision will create a new parcel from the two existing parcels. Any further subdivision shall require a major subdivision. The property is zoned AR-1. The tax parcels are 234-20.00-1.00 and 133-7.00-16.00. Staff is awaiting approval from DelDOT.

Motion by Mr. Hudson, seconded by Mr. Hopkins 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 any further subdivision shall require a major subdivision application. Motion carried 4 – 0.

Lands of Robinson

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 with a residual and the creation of a 50-ft. easement. The new parcel will contain 1.00 ac. +/- . The residual will contain 10.95 ac. +/- . The new easement will go over an existing driveway. The property is zoned AR-1. The tax parcel is 133-6.00-33.00. Staff is awaiting approval from DelDOT.

Motion by Mr. Ross, 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. Motion carried 4 – 0.

ADDITIONAL BUSINESS

Presentation regarding Commercial Zoning Districts

Ms. Cornwell advised the Commission that staff has been working with Kyle Gulbranson, AICP, Urban Land Use Planner with AECOM at the request of County Council to look at the possibility of re-defining the existing zoning districts to create more specific zoning categories.

Following presentation, Ms. Cornwell advised Commission that this presentation was an initial introduction to this topic and further discussions will be held with agencies, interested parties, and Council. Mr. Gulbranson's presentation is attached.

Discussion regarding the Comprehensive Plan

Ms. Cornwell advised the Commission that there would be a joint workshop between the County Council and Planning Commission on Tuesday February 7, 2017 at 1:30 pm at the West complex to discuss the draft goals and objectives.

Opportunity for public comment regarding Comprehensive Plan

None

Meeting adjourned at 8:00 p.m.