

MINUTES OF THE REGULAR MEETING OF APRIL 6, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, April 6, 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 Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Doug Hudson, Mr. Keller Hopkins, Mr. Martin Ross, Ms. Kimberly Hoey-Stevenson, with Mr. James Sharp – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mrs. Jennifer Walls - Planning Manager and Mr. Daniel Brandewie – Planner II.

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

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the Minutes for March 23, 2017 and March 13, 2017. Motion carried 5-0.

ADDITIONAL BUSINESS

Opportunity for public comment regarding Comprehensive Plan

Trish Kelleher spoke regarding the Comprehensive Plan. She stated she is with Housing Alliance Delaware; that there is a need for affordable housing; that average sale price for a home is \$312,000.00; that the average wage is \$10.92; that the wage to rent a two-bedroom apartment is \$19.46.

Carolyn Quinn spoke regarding the Comprehensive Plan. She stated she is a volunteer of the Sussex Housing Corps and works with several different agencies; and that there is need for affordable housing in the County.

Jeff Stone spoke regarding the Comprehensive Plan. He stated he represents the Sussex Alliance for Responsible Growth (SARG) and provided a power point presentation; that he has concerns with transportation; that there is a lack of infrastructure; that there is too much case by case review for transportation and requested that there be a candid and open assessment of the 2008 Comprehensive Plan.

OLD BUSINESS

C/Z #1818 Ocean Highway, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from AR-1 (Agricultural Residential District) to CR-1 (Commercial Residential) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 1.18 acres, more or less. The property is located at the west side of Coastal Highway (Route 1) and

the north side of Dartmouth Dr. 911 Address: 34130 Citizens Drive, Lewes. Tax Map I.D. 334-6.00-497.08 (part of).

The Commission discussed this application which has been deferred since March 23, 2017.

Mr. Hopkins stated that he would move that the Commission recommend approval of Change of Zone No. 1818 for Ocean Highway, LLC for a change of zone from AR-1 (Agricultural Residential District) to CR-1 (Commercial Residential District) based upon the record made during the public hearing and for the following reasons:

1. This site is along the rear of a property that is already zoned C-1 and used for commercial purposes along Route One. The existing C-1 zoning has been in effect since the 1970's on the front parcel. This is a minor extension of the existing C-1 zoning.
2. The site is located at an intersection that has developed with many other commercial uses, including a convenience store, large retail stores, a bowling alley and family entertainment complex and other retail and commercial uses. This is an appropriate location for a relatively minor extension of the existing commercial zoning.
3. The applicant has stated that by expanding the existing commercial area by 1.18 acres, the current tenants can make more efficient use of the entire property, and it will likely reduce the number of truck deliveries to and from the property. This will improve traffic at the intersection with Route One.
4. DelDOT has also recognized that this rezoning will expand the off-street parking area and provide a location for delivery trucks to park overnight instead of along Dartmouth Drive. This supports the need for the rezoning to CR-1.
5. The rezoning to CR-1 in this location will not have an adverse impact upon adjacent roads, properties, community facilities or the neighborhood in general.
6. The rezoning meets the purpose of the Zoning Code in that it promotes the orderly growth, convenience, order, prosperity and welfare of the County.
7. The rezoning is in compliance with the Sussex County Comprehensive Plan, which states that CR-1 zoning is one of several appropriate zoning classifications for this location.
8. No parties appeared in opposition to the application.

Motion by Mr. Hopkins, seconded by Mr. Ross, 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 #2071 Blessing Greenhouses and Compost

An Ordinance to grant a Conditional Use of Land in a AR-1 (Agricultural Residential District) for composting, mixing, blending, bagging poultry by-products, compost, potting soil products, for trucking and wholesale distribution to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 31.95 acres, more or less. The property is located near the northwest corner of Draper Road and Thirteen Curves on the west side of Draper Rd. 911 Address: 9372 Draper Rd., Milford. Tax Map I.D. 230-15.00-34.00 and 230-15.00-35.00 (part).

The Commission discussed this application which has been deferred since March 23, 2017.

Ms. Cornwell advised the Commission that the staff reached out to DNREC and Sussex Conservation District and received responses regarding the purposed stormwater and consent order.

Motion by Ms. Stevenson, seconded by Mr. Ross, and carried unanimously to close the record. Motion carried 3-0. Mr. Wheatley abstained from the this vote. Mr. Hopkins recused.

PUBLIC HEARINGS

C/U #2074 Quail Valley 1525, LLC

An Ordinance to grant a Conditional Use of Land in a AR-1 (Agricultural Residential District) for a commercial use as a therapy and fitness center to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 6.113 acres, more or less. The property is located on the north side of Savannah Rd., approximately 2,150 ft. west of Dove Dr. 911 Address: 1523 Savannah Rd., Lewes. Tax Map I.D. 335-12.06-1.00.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis; that comments were received from DelDOT, Sussex Conservation District, and from the Sussex County Utility Planning Division; and that the applicant submitted a site plan and exhibit booklet.

The Commission found Glenn Mandalas, Attorney with Baird, Mandalas, and Brockstedt, LLC Zachary Crouch of Davis, Bowen, and Friedel, Inc. and Rich Garret and Janet Hohnholt, Principals of the project were present on behalf of the application; that Mr. Mandalas stated the land is zoned as AR-1; that the property is on the north side of Savannah Road; that they want to construct a 67,000 square foot building; that this application is for a conditional use not a change of zone; that the business is currently located behind Midway Cinemas; that the property was purchased in 2013; that they have outgrown the current facility; that are involved with providing facility for movement for people with disabilities; that the facility will contain a gym, wellness center, and community center; that there is potential for an outpatient facility for Beebe; that the owners live in the community; that they are involved in the Beach House; that they held a community meeting and heard some concerns from neighbors; that this facility is adjacent to the Village of Five Points East; that there are concerns with noise, landscaping, and lighting; that they are willing to extend and expand trees; that are willing to put the HVAC on top of the building to reduce noise; that the lighting will be shielded and motion sensitive; that there have been 27 conditional uses approved since 1987 in the area; that one conditional use was recently approved two parcels away; that this project is consist with the Comprehensive Plan; that Mr. Crouch stated this property is in a Level 2 State Strategy Area; that the property is located in an Environmentally Sensitive Developing Area (ESDA); that access is off Savannah Road; that there are no wetlands on the site; that they are in an excellent recharge area and will do bio-retention or infiltration with underground storage for stormwater management; that the property is in the Inland Bays Pollution Control Strategies; that they will need to contribute to the area

wide study fee; that a TOA or TIS is not required per DelDOT; that there will be a protected left turn lane and right turn lane to the site; that the property is located in a sewer district; that there will be 322 parking spaces and 2 loading spaces; that there will be an 8 foot high fence around the perimeter; that they will enhance the area behind the building; that Mr. Garrett stated the current hours of operations are 24 hour; that the new facility hours of operation would be between 5:00 am and 11:00 pm, Monday – Friday, and Saturday and Sundays 8:00 am – 8:00 pm; that they would like a sign; that typically there are 50 to 65 cars in the lot and 200 spaces would be fine; that there will be a gym along with the Cape Center for movement and they are working with Beebe Hospital to bring outpatient therapy to the site; that they offered to plant 8 foot to 10 foot trees and plant along the tree line and fill in the area behind the building; that they are willing to work with the HOA to accommodate whatever they think is reasonable; that they are looking to build manufactured building due to cost and will have to talk to an Architect about changing the size of the building; that if they have a 30 foot rear yard setback they will have extra room for landscaping in the rear; that they were going to put up a metal fence but the HOA seemed to prefer a solid vinyl fence; and that the building will be 67,500 square feet.

The Commission found that there were no parties in support to this application.

The Commission found that Frank Piorko, Shellace James, Robert Courpe, Robert Murphy, Jan Allamras, Art Sullivan, Joan Bessadario, Vance Parker, Lucy Angeline, Tom Moglioni, Margaret Flanagan, and Charmaine Thomas spoke in opposition to the application; that they had concerns with noise, lighting, traffic, size of the building, hours of operation; that there was concern about the potential growth of the business; that the building is not in character of the neighborhood; and that there was concern with landscaping and setback of the rear of the property.

At the conclusion of the public hearings, the Commission discussed this application; that the discussion included height, the tree buffer, size of the building and parking being excessive; that part of the building is medical related; and that the hours of operations.

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

C/U #2075 Burton's Pond, LLC (Burton's Pond Section II)

An Ordinance to grant a Conditional Use of Land in a MR (Medium Density Residential District) for a multi-family (100 townhouse units) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 30.95 acres, more or less. The property is located at the southwest corner of John J. Williams Hwy. (Rt. 24) and Sloan Rd. (Rd. 49). 911 Address: None Available. Tax Map I.D. 234-17.00-29.00 (portion of).

Ms. Cornwell advised the Commission that submitted in the record was a staff analysis, comments were received from DelDOT, Sussex Conservation District, and from the Sussex County Utility Planning Division; and that the applicant submitted a site plan and exhibit booklet.

Ms. Cornwell advised the Commission that there were three letters in opposition to this application.

The Commission found David Hutt, Attorney for Morris James Wilson Halbrook and Bayard, LLP, Zachary Crouch of Davis, Bowen, and Friedel, Inc. and Ben Gordy of Ocean Atlantic, were present on behalf of the application; that Mr. Hutt stated that 10 years ago a change of zone application from AR-1 to MR-RPC was filed; that the application was approved on July 31, 2007; that the RPC has expired; that a subdivision application was filed for a property on the other side of Route 24; that the property received preliminary approval on January 26, 2017; that this application is for 100 townhomes on approximately 31 acres of land; that the townhomes lie on a little over 8 acres of the land; that two-thirds of the property will be open space; that Mr. Crouch spoke the property is zoned MR; that the property is located in a Level 2 State Strategy; that the property is located in an Environmentally Sensitive Developing Area (ESDA); that the density of this project is around 3.23 per acre; that the entrance will be on Sloan Road; that there will be 19.23 acres of open space; that the original application was for 6 multiunit buildings; that the hedgerow will remain to the south of the property; that there will be a pool house, pool, with a walking trail throughout the wooded area; and that there will be sidewalks on one side of the road; that there are no wetlands on this site; that they will try to keep all woodlands as it is today; that a TIS was done per the original application and have meet with DelDOT; that this property is in a Sussex County Sewer District; that the exhibit booklet contains comments from PLUS, TAC, Chapter 99-9C and also an Environmental Assessment report; that there will be a 30 foot buffer around the perimeter; that the existing trees are to remain; that there will be a walking trail through the woods and no trees will not be removed as part of the trail; that there will be a buffer along both side of the road; that there will be a multi-use path along Route 24 and Sloan Road; that as part of DelDOT's requirements, Sloan Road will be relocated at the developers expense; that the realigned road will tie into Hollymount Road; that the developer will enter into a signal agreement and will install the signal at the intersection when it is warranted per DelDOT, the developer will pay for the Signal; that Mr. Gordy spoke that there will be 6 units to a building; that the standard is 3 bedrooms a unit; that square the footage for each unit will be between 1,600 square feet to 2,300 square feet; that the master bedroom will be on the 1st floor; that he meet with some of the property owners; that he is willing to supplement the woods to meet the buffer requirement; that the HOA will be shared with the single family across the street and have shared amenities; that he is a licensed realtor and has no knowledge that multi-family having a negative impact on value of surrounding properties; that Mr. Crouch spoke that the all the trees will be removed on the single family lots so they could get the house on the lots; that the conditional use will allow for townhomes; that the plan in place will address infrastructure and the developer is paying for the improvements; that the developer is going to solve ongoing problems; that the sewer will be provided by a public provider; that there are other developments similar in the area and had no impact to the value; that this is in the ESDA which the code recognized to allow for a range of housing types; that mulch, stone, or natural material will be used for the walking path; that old Sloan Road will be abandoned; that the new intersection will be designed for a signal; that Hollymount Road will also be updated; that Sloan Road will be repaired first and then Hollymount Road; that the roads will meet the current standards; that the amenities will be in by the 51st Certificate of Occupy; that old Sloan Road will be removed and grass will be planted; that there will be centralized cluster mail boxes; that the both sides can share the amenities; that there will be room for additional parking with 15-20 spaces in front of the pool; that there will be a master HOA with a sub association for the townhomes for lawn care; and that the streets meet Fire Marshal requirements.

The Commission found that there were no parties in support to this application.

The Commission found that Arnold Pitman, Karen Snoots, Jessie Ockie, Joe Caserta, Susan Bovine, Chris McDaniel, and Johanna O'Neill, spoke in opposition to the application; that they had concerns with property values; that there concerns with traffic; that the housing should be single family and not townhomes; that it is not compatible with the area; that there are too many houses; and that there was concern about wildlife in the area.

At the conclusion of the public hearings, the Commission discussed this application; that concern of square footage; that the loss of trees; that there is concern with traffic; that the value issue doesn't exist as there was no documentation.

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

OTHER BUSINESS

Coastal Station

Final Site Plan

Mrs. Walls advised the Commission that this is a final site plan for the construction of a convenience store with gas pumps, a building with 2,795 square feet of retail and an 8,500-square foot restaurant with site improvements to be located off Coastal Highway and Holland Glade Road. The Planning Commission approved the preliminary site plan on March 24, 2016. The property is zoned C-1 and CR-1. The Tax parcel is 334-13.00-325.08 (portion of). Staff is in receipt of all agency approvals.

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

Tru by Hilton (S-17-13)

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a preliminary site plan to construct a 11,173-square foot, 98 room hotel to be located off Coastal Highway (Rt. 1). The site plan does not contain the minimum number of parking spaces required for a 98-room hotel, and staff notes that a waiver of 22 parking spaces is requested (151 required, 129 provided). The plan also proposed parking to be located within the front yard setback that requires approval by the Planning Commission. The property is zoned C-1 and is within the CHCOZ (Combined Highway Corridor Overlay Zone). The Tax Parcels are 334-13.00-157.00 and 158.00. Staff is awaiting agency approvals.

The Commission found that Jason Palkewicz, with Solutions IPEM was present along with Mike Meoli, with Tru Hotel; that Mr. Palkewicz spoke that a 14-space reduction is normal; that

employees parking spaces are 1 for any 3 employees and 15 total spaces; that there is no meeting space, no conference rooms, no restaurant; and that are just straight rooms with no pool.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the preliminary site plan with a waiver for parking spaces and to allow parking in the front yard setback with final site plan approval by the Planning Commission. Motion carried 5-0.

The Estuary (2005-64)

Revised Master Plan

Mr. Brandewie advised the Commission that this is to revise and update a Master Plan for The Estuary in anticipation of filing for Preliminary Plan approval for Phases 2,3, and 4 to contain 347 lots. The Master Plan shows existing and recorded Phases 1A, 1B, 1C, and 1D reflecting 284 lots with recent changes, in addition to the proposed phases. The revised Master Plan is due to changes in the street layouts, lot revisions and to be consistent with wetland designations. The overall number of lots remains at 631 lots as a condition established by the Planning Commission. The property is zoned AR-1. The Tax Parcels are 134-19.00-103, 104, 115, 116, and 389-413; 134-21.00-5.00,8.00,11.00, and 12.01.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to approve the revised master plan. Motion carried 5-0.

The Estuary (2005-64)

Revised Preliminary Subdivision Plan

Mr. Brandewie advised the Commission that this is a revised subdivision plan to create three additional lots within a previously approved subdivision for The Estuary, Phase 1C. The Planning Commission approved The Estuary Plan, Phases, 1B, 1C, and 1D on October 15, 2015. This revision creates two lots on Old Pier Lane and one lot off Crow's Nest Lane. These lots are created by reducing the lot widths on adjacent lots which exceeded the minimum lot sizes. No increase in overall density for the subdivision is proposed which is limited to 631 total lots. The property is zoned AR-1. The affected lots (subject to new dimensions) are listed as Tax Parcels 134-19.00-560 through 573 (Lots 73-86) and 134-19.00-590 through 610 (Lots 103-123).

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to approve the revised preliminary subdivision plan. Motion carried 5-0.

Givens Farm, LLC

Agriculture Preservation District

Ms. Cornwell advised the Commission that this is an application for creation of a new Agriculture Preservation District to be located on the north side of Woodland Ferry Road (SCR 78), approximately 2,500 feet northwest of Penn Street, Laurel. The proposed district includes 206.9 acres +/- of cropland and 11.36 acres +/- of woodlands (total acreage 218.26 acres+/-). There are no dwelling units on the property. There are no easements or rights of way, nor does

the farm have historic significance. The property is zoned AR-1. The Tax Parcel is 232-12.00-2.00.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the Agricultural Preservation District. Motion carried 5-0.

Lands of Park Ridge, LLC

Minor Subdivision off 50 ft. easement

Mrs. Walls advised the Commission that this is a minor subdivision for the creation of two (2) new parcels of land and a 50-ft. easement over an existing driveway. Proposed Tract A will contain 9.852 acres +/-, and Tract B will contain 14.642 acres +/- . The residual tract will contain 25.707 acres +/- . Maintenance will be shared by owners of all lots. The property is zoned AR-1. The Tax Parcel is 133-20.00-74.00. Staff is awaiting agency approvals.

Motion by Mr. Ross, seconded by Ms. Stevenson, and carried unanimously to approve a minor subdivision off 50 ft. easement with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

Lands of Betty Black

Minor Subdivision off 50 ft. easement and lot line adjustment

Mrs. Walls advised the Commission that this is a minor subdivision for the creation of four (4) new parcels of land and a 50-ft. easement over an existing farm lane. Lot 1, which is zoned B-1 will contain 0.91 acres +/- and is located with an entrance on Sand Hill Road (SCR 319); Lots 2-4 will be accessed from the 50-ft. easement. Lot 2 will contain 0.75 acres +/-, Lot 3 will contain 0.80 acres +/-, and Lot 4 will contain 0.86 acres +/- . The residual will contain 17.81 acres +/- . Maintenance will be shared by owners of Lots 2-4. Lots 2-4 and the residual are zoned AR-1. The Tax Parcels are 235-19.00-32.00 and 33.00 (part). Staff is awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the minor subdivision off a 50-ft. easement and with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

Lands of Greer

Minor Subdivision with 50 ft. easement

Mr. Brandewie 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 being created off a new 50 ft. easement over an existing driveway. The Planning Commission previously approved this minor subdivision but the owner seeks to move the frontage of the proposed Lot B to a new 50 ft. easement over a different existing driveway location. 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 agency approval.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the minor subdivision with a 50' easement. Motion carried 5-0.

Discussion regarding of the Comprehensive Plan

Ms. Cornwell advised the Commission that there is a meeting Monday April 10, 2017; that Tidewater and Artisian will be invited; and will contact Lighttower and Comcast on their availability.

Ms. Cornwell advised the Commission that she reached out to the office of the State Fire Marshal regarding minor subdivisions; that the Office of the State Fire Marshal is required to review single lot subdivisions. There was a discussion regarding time and cost with the process.

Meeting adjourned at 9:55 p.m.