

MINUTES OF THE REGULAR MEETING OF APRIL 20, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, April 20, 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. Vincent Robertson – 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 as amended. Motion carried 5-0

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the Minutes for April 6, 2017. Motion carried 5-0.

OLD BUSINESS

2016-20 Donna Smith and Teresa Smith

A Major Subdivision for the creation of a standard subdivision. The plan proposes to subdivide 63.64 acres +/- into 1 single family lot (0.90 ac. +/-) with a residual parcel of land. The property is located on the west side of Clendaniel Pond Rd., the north side of Fleatown Rd. and is approximately 218 ft. northwest of the intersection of said roads. Tax ID: 230-13.00-121.00.

Zoning: AR-1 (Agricultural Residential District).

Receipt of Soil Feasibility Study

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

Ms. Cornwell advised the Commission that the Soil Feasibility Study has been received.

Mr. Hudson stated that he moves the Commission grant preliminary approval of Subdivision 2016-20 for Donna Smith and Teresa Smith, based upon the record and for the following reasons:

1. This subdivision is in accordance with the requirements of the Sussex County Subdivision Code. The lots also exceed the $\frac{3}{4}$ acre minimum lot size for a subdivision in the AR-1 Zone.
2. The lots are consistent with the other properties in the area.
3. DNREC has granted septic approval for the lots.
4. Because this is a one-lot subdivision, a waiver of the landscape buffer and street design standards are appropriate.
5. This is a preliminary approval. Final Site Plan approval by the Planning and Zoning

Commission.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to approve preliminary subdivision with final subdivision approval by Planning Commission upon receipt of all agency approvals. Motion carried 4-0. Ms. Stevenson abstained as she was not a member of the Planning Commission at the time of the public hearing.

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.

Mr. Robertson advised the Commission that he requests staff to coordinate an annual report with DNREC.

Mr. Ross; requested staff coordinate annual reporting and inspections with DNREC; that a joint memo from DNREC and Planning and Zoning staff be provided annually; and that if motion is to be approved that the conditions be enforceable.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration. Motion carried 4-0. Mr. Hopkins recused himself from the this application.

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

2017-1 Baylis Estates Phase 2 – Intrinsic Financial, LLC

A Major Subdivision for the creation of a cluster subdivision. The cluster subdivision is for the creation of 37 additional single family lots with private roads and open space. The property is located on the northeast side of Mt. Joy Rd. (Rt. 297), approximately 1,243 ft. north of John J. Williams Hwy. (Rt. 24) Millsboro. Tax ID: 234-29.00-42.00. Zoning: AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that there was a staff analysis submitted into record as part of the application; were comments received from TAC process, DelDOT, Sussex Conservation District, and from the Sussex County Utility Planning Division, Fire Marshal, Public Health, DNREC, and Delaware Electric Cooperative; and that the applicant submitted a site plan and exhibit book.

The Commission found that James Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab,

P.A.; and Michael Cotten, of Cotten Engineering; were present on behalf of the application; that Mr. Fuqua spoke that the application is a revision of an approved 99 lot subdivision; that it is to add 37 single family lots; that there will be a total of 136 single family lots and no new land; that some site work has started; that no lots have been sold; that the original subdivision was approved on October 18, 2006; that the site was not in a sewer district at the time of approval and an area was reserved for an on-site sewer; that the original subdivision had some time extensions; that on January 10, 2013 the subdivision got final approval; that the site is now in the Oak Orchard Sanitary Sewer District which allows the site to be served by the Sussex County Sewer; that the on-site treatment plant and disposal area was no longer needed; that the lots have access from the existing entrance with two road connections; that they will have sidewalks on both sides of the street and street lights; that there will be three new stormwater management areas; that the lots vary in size from 7,500 square feet to 16,000 square feet and the average lot size is 10,000 square feet; that there is a 30 foot forested buffer and it will remain; that the sewer system is designed to treat up to 4 units per acre; that the proposed density of the project is 1.8 units per acre; that there are services nearby on Route 24; that the parcel can be a cluster option since it is served by central sewer and meets density requirement; that the site will contain 34 acres (46%) open space; that the exhibit book addresses items in Chapter 99-9C; that they submitted a proposed findings with conditions; that the entrance will be off Mount Joy Road; that they will try to preserve as many trees as possible; that Mr. Cotten spoke that a stub road shown on the plan is a potential connection to the adjacent undeveloped parcel; and that Mr. Fuqua spoke that the amenities include a clubhouse and an arrangement to join the Sussex Pines as a member.

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

The Commission found that Steve Smyk, Joe Anlage, Marie Tallman, Sterling Street, and Natasha Norwood Carmine spoke in opposition to the application; that they has concerns with flooding, traffic, stormwater runoff; that there were concerns with the age of the TIS; that there were questions about the location of sewer access; that there were concerns with potential Archeological items on the site and questions about surveys for the history of the site and if any items found that they be treated respectfully; and that there were concerns with the forested buffer.

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

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to defer action and leave record open to for the receive a copy of the memorandum. Motion carried 5-0.

2017-2 Woodfield Preserves Expansion – Thompson Schell, LLC

A Major Subdivision for the creation of a cluster subdivision. The cluster subdivision is for the creation of 36 single family lots with private roads and open space. The property is located on the south side of Broadkill Rd. (Rt. 16), approximately 2,184 ft. east of Coastal Hwy. (Rt. 1) Milton. Tax ID: 235-8.00-87.00. Zoning: AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into record as part of the application were comments received from TAC, Public Health, Sussex Conservation District, DNREC Air

Quality, Delaware Electric Cooperative, and from the Sussex County Utility Planning Division; and that the applicant submitted a site plan and exhibit book.

The Commission found James Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab, P.A., Ben Gordy, on behalf of the applicant and Ring Lardner with Davis, Bowen, and Friedel, Inc., were present on behalf of the application; that Mr. Fuqua spoke that this is an expansion to an existing subdivision; that no lots have been sold; that there will be 25.94 acres added to the parcel; that original subdivision was approved by the Planning Commission on October 9, 2008 as a 256 single family lot cluster subdivision; that the final plan was approved by the Planning Commission on October 28, 2011 and a revised final site plan was approved on November 17, 2016 to remove 3 lots, which created access to this piece of land; that the gross density is 1.3 lots per acre; that the density will remain 1.3 with the combined acres; that the access will be through the internal streets; that the minimum lot size in the addition is 15,000 square feet and 24 of the 36 lots are greater; that the addition will have central water served by Tidewater; that the sewer is provided by Artesian; that the streets will be private, curbed, guttered with street lights and sidewalks on both sides except the entrance which will only have sidewalks on one side of the street; that there will be 20 foot forested buffer; that there will be a 50 foot buffer along; that they are requesting a waiver from the buffer the common boundary line; that there still will be an open space area; that they will have the same HOA; that a statement provided in the exhibit book addresses Chapter 99-9C and a statement of cluster subdivision; that a proposed conditions similar to the original subdivision were provided.

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

The Commission found that Jeff Hertzog spoke; that his property adjoins this project; that he had concerns with the access road which the only access will be through the development, with open space; that there will be no entrance on Route 16; that his understanding that this development will be central sewage and water; that will there be any ability to tie into the sewer; and that he might want to talk to Tidewater and Artesian.

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

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

C/U #2072 KMH Ventures DE, LLC

An Ordinance to grant a Conditional Use of land in a GR (General Residential District) for multi-family dwelling structures (20 units) located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.1 acres, more or less.

The property is located on the north side of Munchy Branch Rd, approximately 1,064 ft. southwest of Field Ln. 911 Address: 18834 Munchy Branch Rd., Rehoboth Beach. Tax Map I.D. 334-13.00-27.00

Ms. Cornwell advised the Commission that there was a staff analysis submitted into record as part of the application; that comments were received from PLUS, DelDOT, Sussex Conservation District and from the Sussex County Utility Planning Division; and that the applicant submitted a

site plan and exhibit book.

The Commission found James Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab, P.A., Frank Kea, with Solutions IPEM and the developer, Ed Launey, with Environmental Resources, Inc., and Jason Palkewicz with Solutions IPEM, were present on behalf of the application; that Mr. Fuqua spoke that this is an application for a conditional use for 20 single family detached residential condominiums unit; that the land contains 5.18 acres; that the site is in Level 2 of the State Strategies; that the land is zoned GR (General Residential District); that the zoning allows for medium density residential use including manufactured homes; that max density is 4.35 residential units per acre; that the property is located in the Environmental Sensitive Developing Area and the Mixed Residential Area per the Comprehensive Plan; that there is a mixture of residential and commercial uses in the area; that water is provided by Tidewater Utilities; that the property is located in the Sussex County Sewer District; that the sewer capacity is 4 EDU's per acre and the capacity is available for this site; that the sewer concept plan was approved; that a wetland delineation was performed and there is a ½ acre that is non-tidal wetlands; that the wetlands are located to the rear of the property adjacent to Munchy Branch Road; that all the buildings are going to be located 30 feet from the wetlands and the wetlands boundary will be marked; that the stormwater management will be meet or exceed DNREC standards and they can do infiltration on site; that DelDOT did not require a TIS; that no endangered or threatened species exist on site; that there are no historical structures on or near the property; that the driveway will be built to Sussex County Road standards; that the street will be curbed with gutters; that there will be sidewalks on both sides of the street and street lighting; that there will be a 20 foot landscape buffer on the sides of the upland portion of the site and a 40 foot landscape buffer along Munchy Branch Road; that there is a community gathering area with a picnic area, shade structure, and a fire pit; that passive inactive open space including the wetlands will total approximately 2 acres; that there will be one (1) lighted sign; that the gross density is 3.9 units per acre; that each unit will have a two vehicle garage in addition to the two parking spaces in the driveway; that there will be a Condominium Association; that there is not an Environmental Assessment in the exhibit book; that the exhibit booklet did address Chapter 99-9C even though it was not required; that there is proposed findings and conditions; that condominium is a form of ownership; and that Mr. Kea spoke that the roads will be built as a private drive with the new Road standards and not as the old Road standards.

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

The Commission found that Fran Haneschlager, Ann Nowack and Bill Nowack spoke in opposition; that they had concerns with traffic, pedestrian and bike safety; that there was concerns with stormwater management; and that there was talk of a new bike path on the main road.

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

OTHER BUSINESS

Solitude on Whites Creek (2005-59)

Preliminary Amenities Plan

Mr. Brandewie advised the Commission that this is a request for Preliminary Site Plan approval for amenities in the Solitude on Whites Creek subdivision located off Club House Road (SCR 351). The subdivision received Preliminary Planning and Zoning Approval on August 16, 2006 and Final Approval on August 19, 2009 and May 12, 2016. The parcel is zoned MR and the Tax Parcel is 134-12.00-170.00. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the preliminary amenities site plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

Delmarva Power and Light (C/U 2073)

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a request for Preliminary Site Plan Approval for CU 2073 Delmarva Power and Light Midway Substation, to be located off Coastal Highway. The Conditional Use was approved on March 7, 2017. This project falls within the Combined Highway Corridor Overlay Zone (CHCOZ). The property owner intends to consolidate parcels. The parcels are zoned C-1 and the Tax Parcels are 334-6.00-496.00 and 497.00. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the preliminary site plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

Peninsula Lakes

Revised Master Plan

Mrs. Walls advised the Commission that this is a request to revise the Master Plan for the Peninsula Lakes Subdivision, located off Bay Farm Road (Rd 299) near Millsboro. This project was originally approved on February 13, 2003. The developer has reconfigured the amenities, relocated lots, eliminated commercial space, and reconfigured the Park and Ride. The number of lots remain the same. The parcels are zoned MR-RPC and the Tax Parcels are 234-29.00-248.00, 249.00, 249.01, 249.02, 256.00, and 259.00.

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

Peninsula Lakes

Revised Preliminary Site Plan – Park and Ride

Mrs. Walls advised the Commission that this is a request for revised Preliminary Site Plan approval for a Park and Ride facility in the Peninsula Lakes subdivision, located off Bay Farm Road (Road 299), near Millsboro. The Park and Ride was previously approved by Planning Commission on October 16, 2008. This facility is listed as Condition of Approval #7, as

amended by Planning and Zoning on February 13, 2003. The parcels are zoned MR-RPC and the Tax Parcels are 234-29.00-248.00,249.00,249.01, 249.02, 256.00, and 259.00. Staff is awaiting updated agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to approve the revised preliminary subdivision plan. Motion carried 5-0.

Peninsula Lakes

Request to Amend Condition of Approval

Mr. Walls advised the Commission that this is a Request to amend a Condition of Approval for Peninsula Lakes Subdivision as amended by Planning and Zoning on February 13, 2003. Condition #9 requires recreational facilities to be constructed and open to use by residents within two years of issuance of the first building permit. Per the County's records, the first building permit was issued on February 19, 2016. As of April 7, 2017, a total of 127 building permits have been approved. The owner has submitted a request to revise the schedule of completion for the Community Amenities. A preliminary site plan for amenities has been submitted to the Planning and Zoning office and will be scheduled for consideration at a future date. The parcels are zoned MR-RPC and the Tax Parcels are 234-29.00-248.00,249.00,249.01, 249.02, 256.00, and 259.00.

The Commission found Mr. Jeff Harmon spoke; that this schedule has been marketed to the buyers; that Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to approve the amended Condition #9. A (per letter). Pool, Pool House, Pool Deck Amenities completed by the issuance of the 138th residential building permit. B. The Clubhouse completed by the issuance of the 256th residential building permit. C. The remaining amenities including tennis courts, bocce ball pit, pickle ball courts, horseshoe pits, dog park, walking trails, tot lot, etc. shall be completed by the issuance of the 330th residential building permit. Motion carried 5-0.

Kings Landing

Preliminary Commercial Site Plan

Mr. Brandewie advised the Commission that this is a request for Preliminary Site Plan approval to create 45,288 square feet of storage space and 14,112 square feet of office space off Harbeson Rd (Rt 5). The property is zoned C-1. The Tax Parcel is 235-30.00-21.00. Staff is awaiting all agency approvals.

Mr. Ross has concerns with rear yard setback and required a 20-ft. forested buffer in rear yard from adjoining residential property.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve preliminary commercial site plan with a 20-ft. forested buffer in the rear yard setback. Motion carried 5-0.

Lands of Olson

Minor Subdivision off 50 ft. easement

Mr. Brandewie advised the Commission that this is a minor subdivision for the creation of two (2) parcels of land and a 50-ft. easement over an existing driveway. Proposed Lot 1 and Lot 2 will contain approximately 1.2 and 1.3 acres +/- each. The residual parcel will consist of 1.5 acres +/- with frontage on Hopkins Road. The Tax Parcel is 234-5.00-46.03 and is zoned AR-1. Staff is awaiting agency approvals.

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

ADDITIONAL BUSINESS

Discussion regarding of the Comprehensive Plan

Ms. Cornwell advised the Commission; that there would be a workshop on Friday April 21, 2017 at 9:00 am till 12:00 pm.

Opportunity for public comment regarding Comprehensive Plan

None

Meeting adjourned at 7:49 p.m.