

MINUTES OF THE REGULAR MEETING OF MAY 18, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, May 18, 2017 in the County Council Chambers, 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 revised. Motion carried 5-0

ADDITIONAL BUSINESS

Discussion regarding of the Comprehensive Plan

Ms. Cornwell advised the Commission that there will be a workshop on May 22, 2017 discussing transportation.

Ms. Cornwell advised the Commission that there will be workshops on June 5, 2017, June 16, 2017, and June 26, 2017. The workshops will be discussing population information.

Mr. Wheatley advised the Commission that he would like to move forward with the Conservation Element in the near future.

Opportunity for public comment regarding Comprehensive Plan

None

OLD BUSINESS

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).

The Commission discussed this application which has been deferred since April 20, 2017.

Mr. Hopkins stated that he would move that the Commission grant preliminary approval of Subdivision 2017-1 for Baylis Estates Phase 2 – Intrinsic Financial, LLC, based upon the record and for the following reasons:

1. The application is for the revision of Subdivision #2004-15, Baylis Estates. The Applicant is seeking to add 37 lots in the area where on-site wastewater treatment facility was previously planned. Now that the Baylis Estates development is going to be connected to the Sussex County Sewer System, the area formerly set aside for the wastewater treatment and disposal system can be developed into lots.
2. The proposed revision of the subdivision will add 37 lots. This results in a density of approximately 1.8 lots per acre, which is less than the maximum density permitted in the AR-1 zone. The average lot size is 10,000 square feet.
3. This 37 lot expansion of the subdivision on this site will not have an adverse impact on the neighboring properties or area roadways.
4. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has addressed the requirements of Section 99-9C of the Code.
5. The developer owns all of the area of the existing subdivision, therefore more than 51% of the existing lots consent to this revision.
6. The project will be served by central water and Sussex County sewer.
7. The development complies with the Sussex County Comprehensive Plan as a low density, single family dwelling subdivision.
8. This preliminary approval is subject to the following:
 - A. There shall be no more than 37 additional lots within the subdivision.
 - B. The extension shall be part of the Baylis Estates Subdivision and the lot owners shall be members of the HOA responsible for the maintenance of streets, roads, buffers, stormwater management facilities and other common areas.
 - C. 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 area and erosion and sedimentation control facilities.
 - D. The Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be clearly shown on the Final Site Plan.
 - E. As proffered by the Applicant, sidewalks shall be installed on both side of the streets in the site.
 - F. The subdivision shall be served by Sussex County sewer.
 - G. The subdivision shall be served by a publicly regulated central water providing drinking water and fire protection.
 - H. Street design shall meet or exceed Sussex County standards.
 - I. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - J. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
 - K. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to grant Preliminary approval of Subdivision No. 2017-1 Baylis Estates Phases 2 – Intrinsic Financial,

LLC based on the stated reasons and conditions. 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

The Commission discussed this application which has been deferred since April 20, 2017.

Mr. Hopkins stated that he would move that the Commission recommend approval of Conditional Use 2072 for KMH Ventures DE, LLC for multi-family dwelling structures (20 units) based upon the record and for the following reasons:

1. The parcel is zoned GR – General Residential and the purpose of the GR District is to provide for medium density residential use. This application is consistent with the purpose of the GR District.
2. The property is in an area along Munchy Branch Road where other residential development has occurred, including single family, multi-family, and manufactured home developments. The project is consistent with those developments.
3. The density of 20 units on 5.1 acres is within the permissible density of the GR General Residential Zone.
4. The project is in a Development District according to the Sussex County Comprehensive Development Plan.
5. The development will be served by central water and sewer.
6. With the stipulations placed upon this approval, there will be no adverse impact on neighboring or adjacent properties. It will also result in housing options in an appropriate location that are essential and desirable for the general convenience and welfare of Sussex County.
7. This recommendation for approval is subject to the following conditions:
 - A. The maximum of residential units shall not exceed 20 units.
 - B. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
 - C. The project will be served by a County Sewer District. It must be constructed in accordance with the requirements of the Sussex County Engineering Department, including any offsite upgrades necessary to provide service to the project.
 - D. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 - E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable state and county requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures. The Final Site Plan shall contain the approval of the Sussex Conservation District for

- the design and location of the stormwater management.
- F. The interior street design shall be in accordance with or exceed Sussex County street design requirements. As proffered by the Applicant, sidewalks shall be installed along both side of all streets.
 - G. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design, as well as buffers along the upland perimeter of the project.
 - H. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7 a.m. and 6 p.m., Monday through Saturday.
 - I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
 - J. The Final Site Plan for the development shall be subject to approval of the Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to forward this application on to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5-0.

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

C/U #2077 Joy Marshall Ortiz

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a campground to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 4.199 acres, more or less. The property is located on the north side of Cordrey Rd., approximately 800 ft. west of Streets Rd. 911 Address: None Available, Millsboro. Tax Map I.D. 234-28.00-56.04

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

The Commission found that Joy Ortiz was present on behalf of her application; that Mrs. Ortiz spoke that her mom owns the land; that she would like to create a tiny home campground community; that by the rights of the AR-1 district, she could have 5 lots; that she does not want to subdivide the property; that she would like to place 10 to 15 tiny home units; that they could build 12 homes with a gazebo to total 3,200 square feet; that the property is 4.199 acres; that there will be limited traffic into the campground site; that a parking lot will be located off the easement; that the tiny homes will be available to rent for the weekend, month, and week; that the homes will be 200 square feet to 250 square feet; that they will look different but as part of a community; that they will create a community feel; that they are thinking of the environment; that they looking at solar energy, composting toilets, and grey water system to reduce the impact on the septic system; that the site will be permanent; that the site will have limited impact on the environment; that the septic system will be in the back; that the roads and parking lot will be

stone and not asphalt; that one unit would be a resident assistant office; that there will be rules and regulations for the campground; that they will have electric hookup with a solar option; that each unit will have its own bathroom; that the campground would be a year round facility and work with a time frame so people do not use it a permanent home; that the tiny homes will stay on wheels; that some of the homes would be anchored and some could be on post but easy to move; that she would like some type of sign; that if the conditional use is approved, she will get a septic approval; that the homes will be brought in; and that they plan on using the existing 50-ft. easement.

The Commission found that Howard Street spoke in support; that he had questions answered about the construction; that he had questions about how it would be maintained; that the family owns parcel D; and that he would like to develop in the future.

The Commission found that Richard Owens spoke in opposition; that he purchased parcel B; that he has concerns regarding the used of the easement; that he has concerns with traffic; that he had concerns about the type of renters; that he questioned why not use the easement on the side of the site and not their driveway; and that he has concerns with the amount of traffic over their driveway.

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

The Commission had a discussion on the use of the property, easement, septic, sewer, composting toilets, and the opinion from DNREC.

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

C/U #2078 Sunlight Ventures, Ltd.

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a professional office to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.974 acres, more or less. The property is located on the north side of Lewes-Georgetown Hwy. (Rt. 9), approximately 791 ft. west of Arabian Acres Rd. 911 Address: 29003 Lewes-Georgetown Hwy., Lewes. Tax Map I.D. 334-4.00-84.00

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

The Commission found Freddy Bada and Robert Rollins with Moonlight Architecture, were present on behalf of the application; that Mr. Bada spoke that they purchased the lot to build a home to sell; that they decided to use it for the Architecture firm; that they don't generate a lot of traffic; that they go to the Clients; that they are already operating the business; that there are 4 full time and 2 part time employees; that maybe 2 or 3 clients a week may come to the office; that they would like a small sign like a real estate sign and not lit; that the hours of operations are typically 8 a.m. to 5 p.m.; that they have onsite septic and well; and that they have had between 5

to 6 employees over the eighteen years of business.

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

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

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

C/Z #1820 W&B Hudson Family LP & John Floyd Lingo III

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a C-1 (General Commercial District) and AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Broadkill Hundred, Sussex County containing 1.16928 acres, more or less. The property is located at the southeast corner of Lewes-Georgetown Hwy. (Rt. 9) and Harbeson Rd. (Rt. 5). 911 Address: None Available, Harbeson. Tax Map I.D. 235-30.00-69.00, 235-30.00-70.00 (portion of).

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

The Commission found William Scott, Attorney with Scott and Shuman, P.A. and Jonathan Street, with Becker Morgan Group, were present on behalf of this application; that they want to rezone a small portion from AR-1 to CR-1 to square off the property and remove the split zoning; that the property is in a developing area per the existing Comprehensive Plan; that the land use permits businesses; that the property is in a Level 3 State Strategy; that DelDOT upgraded the intersection in the fall; that there is public water by Artesian; and that there are common uses and conditional uses in the area.

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

Ms. Stevenson stated that she would move that the Commission to recommend approval of Change of Zone 1820 for W & B Hudson Family, LP & John Floyd Lingo for a change in zone from C-1 and AR-1 to CR-1 based upon the record made during the public hearing and for the following reasons:

1. The site is along Route 9 and Route 5, and adjacent to a lighted intersection that was recently upgraded by DelDOT.
2. The site is already partially zoned C-1 General Commercial. This application will bring all of the property under a single zoning designation. The change from AR-1 to CR-1 only effects a very small area of land directly behind a parcel that is already zoned CR-1.
3. The site is at an intersection where other commercial zonings or uses exist. While this particular location along Route 9 supports commercial zoning, this recommendation should not be considered as an endorsement of commercial zoning everywhere on Route 9.
4. The rezoning to CR-1 in this location will not have an adverse impact upon adjacent roads,

properties, community facilities, or neighborhood in general.

5. The applicant has stated that the site will be served by Artesian Resources Corporation which will provide water and wastewater treatment for any future development on the site.
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 classification for this location.
8. No parties appeared in opposition to this application.

Motion Ms. Stevenson, 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 stated. Motion carried 5-0.

OTHER BUSINESS

Tidewater Landing (2013-2) Revised Subdivision Plan

Mrs. Walls advised the Commission that this is a Revised Subdivision Plan for Tidewater Landing (2013-2), an AR-1 cluster subdivision, for the construction of 195 single family lots located off Robinsonville Road (SCR 277). The Planning Commission approved the Final Subdivision Plan on August 25, 2016 for construction of 213 single family lots with open space and landscape/forested buffers. Changes to the Final Subdivision were required due to the sale of the property and the seller retaining the parcels showing lots 1-18 (Lands of The Vessels Co.). Specifically changes included elimination of 18 lots, update to the property line and landscape easements, relocation of sewer pump station and outfall measurements, revisions to show new street names, show propane farm easement, and clarify DeIDOT easement and R-O-W dedication. The property is zoned AR-1. The Tax Parcels are 234-6.00-780.00 through 976.00, 978.00.

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

Cape Henlopen School District (S-17-27) and (CU 2070) Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a Preliminary Site Plan to construct a 105,262-square foot school building (with alternatives) in addition to site improvements on a 24.816-acre parcel located off Sweet Briar Rd (Rt. 261). Conditional Use #2070 for the Sussex Consortium School in the Cape Henlopen School District was approved by Planning and Zoning Commission on January 26, 2017. The property is zoned AR-1. The Tax Parcel is 235-27.00-20.00. Staff is awaiting agency approvals.

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

Lands of Davidson (S-17-26) and (CU 1978)

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a Preliminary Site Plan for the construction of a 6,300-sq. ft. contractor storage building to be located on a 4.64-acre parcel. The use of the building and lot will be for offices/storage and a house moving business per CU 1978. The use commenced in the approved timeframe. Owner is ready to build building. The property is zoned AR-1. The Tax Parcel is 234-10.00-70.16. Staff is awaiting agency approvals.

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

Lands of Fleming/Lawns Unlimited (CU 952)

Amend Condition of Approval

Mrs. Walls advised the Commission that this is a request to amend condition 2 of Ordinance No. 729 granting Conditional Use No. 952 for a lawn service business, adopted by County Council on October 30, 1990. Condition 2 states “Signage shall be limited to thirty-two (32) square feet per facing (unlit). Specifically, the Flemings request to modify the condition to match the requirements found in Section 115-159.4 for signs permitted in the B-1 (Neighborhood Business District). The property is zoned AR-1. The Tax Parcel is 235-16.00-47.03.

There was discussion that there were concerns with granting variance for sign requirements; and that this could set a precedent.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to deny the amended condition of approval for Conditional Use 952 for the reasons stated. Motion carried 5-0.

Lands of Rementer

Minor Subdivision off 50' Easement.

Mrs. Walls advised the Commission that this is a minor subdivision for 1 new lot off a 50' easement over an existing driveway located off Rementer Rd (SCR 517-A), west of Rum Branch Road (SCR 484). The new lot is 1.327 acres +/- and the residual lot is approximately 57.533 acres +/- . The property is zoned AR-1. The Tax Parcel is 231-10.00-28.00 (part). Staff is awaiting agency approvals.

Motion by Mr. Ross, seconded by Mr. Hudson and carried unanimously to approve the minor subdivision off 50' easement as a preliminary site plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Lands of Michael and Deana Hearn

Minor Subdivision off 50' Easement.

Mrs. Walls advised the Commission that this is a minor subdivision for 1 new lot off a 50' easement over an existing driveway located off Shiloh Church Rd. (SCR 74), east of Scotland Rd (SCR 434). The new lot is 2.00 acres +/- and the residual lot is approximately 8.79 acres +/- . The property is zoned AR-1. The Tax Parcel is 232-15.00-49.03 (part). Staff is awaiting agency approvals.

Motion by Mr. Ross, seconded by Mr. Hopkins and carried unanimously to approve the minor subdivision off 50' easement as a preliminary site plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Lands of Tana/Dawson

Minor Subdivision off 50' Easement.

Mr. Brandewie advised the Commission that this is a minor subdivision for 1 new lot off a 50' easement over an existing private road (Fox Run) located off Robinsonville Rd. (SCR 277), south of Harts Rd (SCR 277-A). The new lot is 5.006 acres +/- and the residual lot is approximately 57.734 acres +/- . The property is zoned AR-1. The Tax Parcel is 234-6.00-76.00 (part). Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded Ms. Stevenson by and carried unanimously to approve the minor subdivision off 50' easement as a preliminary site plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Lands of Robinson/Aiken

Minor Subdivision off 30' Easement and Lot Line Adjustment

Mr. Brandewie advised the Commission that his is a minor subdivision for 1 new lot from an existing 30' easement, expanded to a 50' easement over an existing driveway located off Gravel Hill Road (SR 30), south of Springfield Rd (SCR 47). The new lot is 0.8567 acres +/- and the residual lot is approximately 1.9124 acres +/- . Note, a lot line adjustment subdividing Area "B" which is approximately 0.3069 acres, and assigning it to the adjacent parcel 58.02 was also requested, but does not require Planning Commission review. The property is zoned AR-1. The Tax Parcel is 234-8.00-58.01 and 58.02 (part). Staff is awaiting agency approvals.

Motion by Mr. Ross, seconded by Mr. Hopkins and carried unanimously to approve the minor subdivision off 50' easement and lot line adjustment with the preliminary site approval with final approval subject to staff upon receipt of all agency approvals and noted that the final site plan needs to show tax ditch right-of-way. Motion carried 5-0.

Lands of Daniel and Sharon Bebee

Minor Subdivision off 50' Easement.

Mr. Brandewie advised the Commission that this is a minor subdivision for three (3) lots off a 50' easement over an existing driveway located off Cobbs Creek Road (SCR494A) at the

Delaware/Maryland State line. Each lot will be approximately one (1) acre +/- . Note, an additional 1 acre lot fronting Cobbs Creek Road is also requested and will require approval of DelDOT. The residual lands will contain 15.654 acres +/- . The property is zoned AR-1. The Tax Parcel is 432-5.00-21.01. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson and carried unanimously to approve the minor subdivision off 50' easement as a preliminary site plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Meeting adjourned at 7:33 p.m.