

MINUTES OF THE REGULAR MEETING OF JUNE 22, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, June 22, 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, and Mrs. Jennifer Walls - Planning Manager.

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

OLD BUSINESS

2017-3 River Rock Glen – Key Properties Group, LLC

This is a cluster subdivision. The cluster subdivision is for the creation of 26 single family lots with private roads and open space. The property is located on the south side of Hudson Rd. across the street from River Rock Run approximately 1,500 ft. northeast of Sweetbriar. Tax Parcel: 235-22.00-19.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since May 11, 2017.

Ms. Stevenson stated that she would move that the Commission grant preliminary approval of Subdivision 2017-3 for River Rock Glen – Key Properties Group, LLC based upon the record during the public hearing 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.
2. The proposed subdivision is zoned AR-1 and will consist of 26 single family lots on 29.31 acres.
3. As a cluster subdivision, the project is permitted to have minimum lot sizes of one-half acre and the proposed subdivision has an average lot size of 23,115 square feet. The subdivision complies with the density requirements for the parcel.
4. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values. It is also consistent with nearby residential developments.
5. The proposed subdivision will not adversely impact schools, public buildings, or community facilities.
6. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
7. The project contains approximately 11.6 acres of open space which represents approximately 40% of the site.

8. There are no wetlands or cultural or historical features on site.
9. With the conditions imposed, the development will be designed and built in accordance with the subdivision code and the cluster subdivision ordinance.
10. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 26 lots in the subdivision.
 - B. All lots will be served by private individual on-site wells and septic systems permitted by DNREC.
 - C. The applicant shall form a homeowners' association to be responsible for the maintenance of streets, sidewalks, amenities, roads, buffers, stormwater management facilities, and other common areas.
 - D. 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.
 - E. A 20 foot forested or landscaped buffer shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscape plan for these areas.
 - F. All entrances and roadways shall be constructed in accordance with DelDOT's requirements.
 - G. Interior street design shall meet or exceed Sussex County Standards and shall include sidewalks on one side of the street. Street Lighting shall be included as proffered by the applicant.
 - H. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.
 - I. The location for a school bus stop shall be coordinated with the local school district's transportation manager. The location of the bus stop shall be shown on the Final Site Plan.
 - J. A sidewalk on one side of the road shall be installed to allow for school age children to walk to the entrance to catch the bus.
 - K. Recreation areas and amenities shall be completed within the project no later than the issuance of the 20th certificate of occupancy.
 - L. A walking trail shall be installed as proffered by the applicant.
 - M. The Final Site Plan shall include a Landscaping Plan which shall clearly delineate all undisturbed trees and forested areas.
 - N. A revised Preliminary Site Plan either depicting or noting these conditions shall be submitted to the Sussex County Office of Planning and Zoning.
 - O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission

Motion by Ms. Stevenson, seconded by Mr. Ross, and carried unanimously for Preliminary approval of Subdivision No. 2017-3 for River Rock Glen – Key Properties Group, LLC based on above reasons and conditions. Motion carried 5-0.

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

C/U #2083 Richard H. Bell III

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an office, storage building, storage yard and crushing of concrete for a contracting business to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 5.97 acres, more or less. The property is located on the south side of Lewes-Georgetown Hwy. (Rt. 9), approximately 1,731 ft. west of Park Ave. 911 Address: 22592 Lewes-Georgetown Hwy., Georgetown. Tax Map I.D. 135-15.00-79.03

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

The Commission found Richard H. Bell III and Jennifer Bell were present on behalf of the application; that Mr. Bell spoke that his primary business is Clean Cut Interlock Pavers; that he wants to recycle concrete to use as a base underneath new projects; that the crushing will not be daily; that the crushing has a sprinkler system for dust control and they try to crush when it is raining; that there are only a few dump trucks a day; that the material mainly comes in from a dump truck; that there was a letter of support from an adjoining neighbor; that the crusher is 275 horsepower; that they will get a water truck to hose down the road as needed; that the hours of operation for dumping are Monday – Friday 7:00 am to 5:00 pm; that the hours of operation for crushing will be Monday – Friday 9:00 am to 4:00 pm; that there is a 32 square foot sign on site; that there are no plans to grow; that there is 1 new employee hired to operate the crushing machine; that he has a total of 20 employees; that the crusher is at the back of the property and near a stormwater management pond; that there is no processing of wood; that a wood chipper makes more noise than a crusher; that they are good with all the conditions in the previous Conditional Use; that the crusher is a mobile unit and would like to take it off-site; and that they will register the unit with DNREC.

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

The Commission found that George W. Dick, lives on Route 9; that he spoke in opposition that the dust is a problem now; that there is a sign at the entrance of Park Avenue stating no trucks over 2 axels except for local deliveries; that there is a lot of concrete coming in; that where is the water going to run off; that he has concerns with traffic; and that he has concerns that this may affect Sports at the Beach with noise and dust.

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

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

C/U #2084 Term 2, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a recycle center and weight scale operation to be located on a certain parcel of land lying and being in Gumboro Hundred, Sussex County, containing 30.89 acres, more or less. The property is located on the north side of Lowes Rd., approximately 63 ft. southwest of Betts Rd. 911 Address: 20139 Lowes Rd., Millsboro. Tax Map I.D. 333-14.00-23.00

Ms. Cornwell advised the Commission that submitted into record as part of the application were the staff analysis, an Environmental Impact Statement, comments from DelDOT, Sussex County Utility Planning Division, that there is a Subsurface Expiration Report and that the applicant submitted a site plan and exhibit book.

The Commission found Dennis Schrader, Attorney with Morris James, Barry Baker, Principal Owner, Kyle Lampron, with Ten Bears, and Michael Reimann, with Becker Morgan Group, were present on behalf of the application; that Mr. Schrader spoke that the property is 30.88 acres and zoned AR-1; that there have been 2 previous applications for Conditional Use on this property; that first Conditional Use No 187 was approved in 1974 for a borrow; that the Commission recently reviewed a site plan for a 8,000 square foot pole barn with weight scales; that they propose a recycle center and weight scale operation; that this is consistent with the Comprehensive Plan; that it is a Low Density and in a Level 4 State Strategy; that no TIS was required from DelDOT; that they have on-site septic and well; that Mr. Reimann spoke that the property has been a borrow pit since 1974 and also a hot mix operation plant; that there is woods located on 3 sides of the property and across the street; that there is a trucking business, construction business in the area and the rest is agricultural use; that there are 2 existing entrances; that there is a fence on Lowes Road; that the type of materials that would be coming to the site are construction debris, concrete, recycled asphalt, top soil, and wood materials to be reused off-site; that they are not looking to expand the site area; that there are proposing 2 small office buildings; that they are going to use the existing pavement for parking; that there will be a permit from DNREC giving permission for crushing on-site; that the crushing equipment would be brought to the site to do crushing when needed; that Mr. Baker spoke that they are expanding their work in Sussex County; that he confirmed Mr. Reimann's testimony; that they will have 7 employees; that the operations are 6:00 am to 6:00 pm Monday – Saturday; that there are no issues with traffic and neighbors; that there are 5 to 7 trucks entering the site per hour and maybe 50 loads a day; that 75% of the materials come from their own company; that they are available to take materials from smaller companies; that Mr. Baker spoke that there will be no food product; that the site will only contain concrete, asphalt, wood, and top soil; that there will be a chipper for chipping wood for mulch; that they will try to direct traffic to come down the east side of Lowes Road to enter the site; that there will be a dumpster on-site that will have to be screened; that there will be a 32 square foot lighted sign; that there won't be much noise on site; that the crusher will be placed back in a corner; that there will be lots of trees to control the noise and water to control the dust; that the nearest resident is 800 feet from the site; that there is a berm under construction; that there will be a fence around the frontage to start; that they can crushed and chip at different hours; and that the site is no longer a borrow pit.

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

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. Motion carried 5-0

C/Z #1819 MTC Properties, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County containing 13.063 acres, more or less. The property is located on the east side of Sussex Hwy. (Rt. 13), approximately 1,226 ft. south of Adams Rd. 911 Address: 14485 Sussex Hwy., Bridgeville. Tax Map I.D. 530-14.00-24.00 (portion of)

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

The Commission found that J.J. Carter, Owner of All-Span was present on behalf of the application; that Mr. Carter spoke that they have a Conditional Use on the adjacent property for truss manufacturing and have expanded the business into other businesses; that they only want to rezone 600 feet in depth of the property; that they have a commercial entrance on-site, that there are other commercial zonings in the area; and that they have 57 employees and want to grow into businesses that complement their business.

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

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. Motion carried 5-0

C/Z #1823 WMF Watercraft & Marine, Inc.

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Indian River Hundred, Sussex County containing 4.4890 acres, more or less. The property is located on the south side of John J. Williams Hwy. (Rt. 24) and east side of Layton Davis Rd., approximately 208 ft. east of said intersection. 911 Address: 27037 John J. Williams Hwy., Millsboro. Tax Map I.D. 234-29.00-64.00, 64.01. and 65.00

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

The Commission found that Tim Willard, Attorney with Fuqua, Willard, Stevens, and Schab, William Foreski, Principal, and Ring Lardner, with Davis, Bowen, & Friedel, were present on behalf of the application; that Mr. Willard spoke that are commercial use in the area which are

CR-1, C-1 and B-1 to the east of the property; that the property is in an Environmental Sensitive Developing Area (ESDA) in the Comprehensive Land Use Plan; that there are other commercial properties in the area; that Mr. Foreski spoke that he confirms Mr. Willard testimony; and that he has 15 employees.

The Commission found there were no parties in support 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. Motion carried 5-0.

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, X, XIA, XX, XXI, XXIII, XXV AND XXVII BY AMENDING SECTIONS 115-4, 115-5, 115-75, 115-83.10, 115-156, 115-195.4, 115-159.5, 115-161.1, 115-170.1, 115-180, 115-194.1, AND 115-218, AND BY CREATING NEW ARTICLES XA, XB, XIB, XIC, XID, XIE, AND XIF AND ADDING NEW SECTIONS 115-75.1 THROUGH 115-75.13 AND 115-83.11 THROUGH 115-83.46 TO CREATE A NEW “B-2 BUSINESS COMMUNITY” DISTRICT; “B-3 BUSINESS RESEARCH” DISTRICT; “C-2 MEDIUM COMMERCIAL” DISTRICT; “C-3 HEAVY COMMERCIAL” DISTRICT; “C-4, PLANNED COMMERCIAL” DISTRICT; “C-5, SERVICE/LIMITED MANUFACTURING” DISTRICT, AND “I-1, INSTITUTIONAL” DISTRICT; AND TO CLOSE THE CR-1 AND B-1 DISTRICTS.

The Commission found that Kyle Gulbranson and George Bendler with AECOM were present on behalf of the Ordinance Amendment; that Mr. Gulbranson presented a PowerPoint presentation that will be attached as part of the minutes; that Mr. Gulbranson indicated that this is an amendment to create 7 new zoning categories and close 3 of the existing commercial zones (B-1, CR-1 and UB); that C-1 is already a closed zone; that the purpose is to provide more predictability when Change of Zone applications are submitted; that some of the new districts have a minimum and maximum lot size; that the B-3 is a Professional Office District; that the I-1 is an Institutional District that would allow schools, hospitals, governmental buildings, etc.; and that C-4 is similar to an RPC as it would be a change of Zone with site plan review.

The Commission found that Dennis Schrader had concerns about drafting issues; that he had concerns about parking and it being identified as special use exception or a variance which goes to the Board of Adjustment; that he suggest to combine all of that into one and it go before County Council; that he had concerns with the lack of conditional uses; that he didn't see a provision for mixed uses; that he had a concern with the pyramid effect for uses; that there were some issues with buildings verses structures; that he was confused with the difference between public verses private; that he had a concern about farming as a use; and that he has concerns with the time of adoption and suggested an effective date of one (1) year.

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. Motion carried 5-0

OTHER BUSINESS

Waters Run (2005-60)

Amend Condition of Approval

Ms. Cornwell advised the Commission that this is a request to amend a condition of approval for Waters Run (2005-60). Condition P, in the Conditions of Approval, stated *“The Community may be served by a crabbing/fishing pier, if permitted by the appropriate regulatory agency, to be located on the east side of Old Mill Bridge Road. There shall be no individual, co-shared, or community piers, boat ramps, or docking facilities of either temporary or permanent nature on the community boundary that is west of Old Mill Bridge Road.”* The Waters Run HOA submitted a letter in support of the proposed crabbing and fishing pier and requested to add 12 boat slips as part of this amenity, pending approval by DNREC. Preliminary approval was granted by Planning and Zoning Commission on October 17, 2007 and Final Approval on March 22, 2012. The amenity is on a portion of a 27.34 acre parcel located off Old Mill Road (Rt. 381) and is zoned AR-1 Cluster. The Tax Parcel is 533-12.00-20.00. Staff is awaiting permit approval from DNREC Wetlands and Subaqueous Lands Section.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to approve the amendment to the condition of approval. Motion carried 5-0.

Waters Run (2005-60)

Revised Amenities Site Plan

Ms. Cornwell advised the Commission that this is a Preliminary Amenities Site Plan for Waters Run (2005-60) to construct a crabbing/fishing pier with 12 boat slips and site improvements on a portion of a 27.34-acre parcel located off Old Mill Road (Rt. 381). Preliminary approval was granted by Planning and Zoning Commission on October 17, 2007 and included a crabbing/fishing pier. Final Subdivision Approval was granted on March 22, 2012. The site plan for the amenities is in compliance with zoning code requirements for approval. The Waters Run HOA submitted a letter in support of the proposed crabbing and fishing pier with 12 boat slips to be added, pending approval by DNREC. The property is zoned AR-1 Cluster. The Tax Parcel is 533-12.00-20.00. Staff is awaiting agency approval from DNREC Wetlands and Subaqueous Lands Section.

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

Besche Properties-Apartment Complex

Preliminary Site Plan (S-17-31)

Ms. Cornwell advised the Commission that this is a Preliminary Site Plan for Besche Properties-Apartment Complex to construct 287 apartments within 12 buildings including recreational amenities and site improvements located off Lewes Georgetown Hwy (Rt. 9). The site plan is in compliance with zoning code requirements for preliminary approval. The property consists of

26.96 acres and is zoned C-1 (General Commercial). The Tax Parcel is 135-11.00-33.00. Staff is awaiting agency approvals.

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

Lands of Robert Bower

Minor Subdivision off 50' Easement

Ms. Cornwell advised the Commission that this is a minor subdivision off a 50' wide easement over an existing road. The easement will go over (Willow Pond Lane) off Cubbage Pond Rd (SCR 214) to create two (2) new lots, each 1 acre +/- . Owner currently operates business, Midway Services, under CU #1787 on the property. The parcel is located in a Groundwater Monitoring Zone due to a landfill in the area. The Parcel is zoned AR-1. The Tax Parcels are 230-14.00-195.00 (part of) and 195.02. Staff is awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the minor subdivision off 50 ft. easement with the approval of 4 conditions per the June 15, 2017 letter with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

ADDITIONAL BUSINESS

Discussion regarding of the Comprehensive Plan

The Commission discussed upcoming dates for workshops. The first one will be held on June 26, 2017 from 9:00 am till 3:00 pm the topic is Conservation. There will be 3 workshops in July which will be held on Friday, July 14, 2017 at 10:00 am the other two workshops will be held on July 21, 2017 and July 28, 2017 at 9:00 am. The Historic Preservation is on the website. They are continuing to work on the Community Design chapter. That they will be discussing the Economic Development chapter. That they are waiting for the chapter to come back for Mr. Meldarz regarding the Utilities.

Opportunity for public comment regarding Comprehensive Plan

None

Meeting adjourned at 8:16 p.m.