

MINUTES OF THE REGULAR MEETING OF JUNE 25, 2015

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 25, 2015 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Rodney Smith, Mr. I.G. Burton, III and Mr. Martin Ross with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director and Ms. Janelle Cornwell – Planning and Zoning Manager.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Agenda as amended by deletion of C/Z #1777 Michael Makowski, which was withdrawn on June 24, 2015, and removal of the Presentation by the County Administrator. Motion carried 4 – 0.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Minutes of June 11, 2015 as amended. Motion carried 4 – 0.

Mr. Lank announced that the Presentation by the County Administrator on the New Planning and Zoning Website will be presented on July 9, 2015.

OLD BUSINESS

C/U #2018 – David Clark Lankford

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a sporting goods business to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 11,473 acres, more or less. The property is located at the southwest corner of Tharp Road (Road 534) and Brown Street and at the northwest corner of Charles Street and Brown Street (911 Address: 9636 Tharp Road, Seaford) Tax Map I.D.: 331-6.00-89.00.

The Commission discussed this application which has been deferred since June 11, 2015.

Mr. Smith stated that he would move that the Commission recommend denial of Conditional Use #2018 for David Clark Lankford for a conditional use for a sporting goods business based on the record made during the public hearing and for the following reasons:

- 1) The purpose of this Conditional Use is to operate a small gun shop on the Applicant's residential property. The site is located in a residential area, with no other businesses in the vicinity. The proposed use is not compatible with the surrounding area.
- 2) The property is undersized for any retail use, and the existing structures on the property are not configured for adequate vehicular access or parking.
- 3) The use as a retail gun shop is more appropriately located on property that is already zoned for that purpose, such as commercial C-1 or CR-1 zoned property. There was testimony in the record that there is existing vacant commercial space nearby that could be utilized for this use in more appropriate locations.

- 4) There were several parties that appeared in opposition to the application, expressing concerns over compatibility with the neighborhood, traffic, security, and the nature and condition of the applicant's property as reasons for denying the application.
- 5) There is not an adequate basis in the record for granting this Conditional Use application in this location.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 4 – 0.

2004-52 – Holland Mills Subdivision

Walker Road Development, LLC is requesting to revise the approved final record plan to consider the deletion of the sidewalks throughout the development. The subdivision is zoned AR-1. The subdivision is located on the south side of Walker Road, approximately 1 mile west of Hudson Road. Tax Map I.D.: 235-26.00-8.00, 8.01, & 235-26.00-183.00 through 235-26.00-318.00.

The Commission discussed this application which has been deferred since June 11, 2015.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to defer action for further consideration by the full Commission. Motion carried 4 – 0.

2004-54 – Anthem Subdivision

Holland Mills Development, LLC is requesting to revise the approved final record plan to consider the deletion of the sidewalks throughout the development. The subdivision is zoned AR-1. The subdivision is located on the north side of Walker Road, approximately 1 mile west of Hudson Road. Tax Map I.D.: 235-26.00-7.00, 7.01 & 235-26.00 336.00 through 235-26.00-487.

The Commission discussed this application which has been deferred since June 11, 2015.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to defer action for further consideration by the full Commission. Motion carried 4 – 0.

PUBLIC HEARINGS

C/U #2019 – J.B. BUILDERS, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a construction company office, storage of materials, retail sales, and equipment storage and rental to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 34,495.70 square feet, more or less. The property is located north of John J. Williams Highway (Route 24) 500 feet east of Gull Point Road (Road 313) (911 Address: 27324 John J. Williams Highway, Millsboro) Tax Map I.D.: 234-28.00-153.00.

The Commission found that the applicant had submitted a survey/site plan with their application on April 17, 2015; that on June 16, 2015 the applicant submitted an Exhibit Packet which included photographs of the site and the general area.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated February 18, 2015, which references that a traffic impact study is not recommended, and that the current Level of Service "E" of John J. Williams Highway will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments in the form of a Memorandum, dated June 23, 2015, which references that there is one soil type on this property; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that there are no storm flood hazard areas affected; that off-site drainage improvements will not be required; that it is not likely that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that the County Engineering Department Planning and Permits Division provided comments on June 25, 2015, which reference that the site is located in the Oak Orchard Sanitary Sewer District; that wastewater capacity is available for this project; that Ordinance 38 construction is not required; that sewer service is not available at this time; that the parcel will receive sewer service in the future; that when sewer service becomes available connection to the system will be mandatory; that connection to the system must occur within the first year of service being available; and that a concept plan is not required.

Mr. Lank advised the Commission that this site was previously approved for a Conditional Use for the Sales and Service of Golf Carts and Related Work (C/U #1395).

The Commission found that Stephen Spence, Esquire with Phillips, Goldman & Spence, P.A., was present with Airton P. Maria, Jr. on behalf of J. B. Builders, LLC and that they stated in their presentation and in response to questions raised by the Commission that the applicants purchased the property in 2014; that the applicants have obtained a new septic permit; that they are presenting an aerial photograph showing the location of the business and commercial uses along John J. Williams Highway; that the applicants intend to renovate and expand the existing buildings on the site for the purpose of a construction company home office, retail sales of small building supplies, materials, nails, screws, tools, etc. primarily to sub-contractors working for them; that storage of materials will be primarily indoors; that some equipment will be stored outdoors; that they will also have a forklift rental business; that most of the forklifts will be on job sites off-premise; that business hours are planned to be from 8:00 a.m. to 5:00 p.m. weekdays; that the applicants have been in business for 2002; that all maintenance of equipment will be performed indoors; that they would like to have a lighted sign, if possible; that they are willing to screen any dumpsters on site from neighboring properties and roadways; that they will have three employees; and that waste oils/fluids will be handled by a licensed waste handler.

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

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

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

C/U #2020 – CHARLES AUMAN

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for mini-storage units, and boat and RV storage to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 8.93 acres, more or less. The property is located west of Marshall Street Extended (Road 225) and south of Swain's Private Road 570 feet west of Marshall Street Extended. (911 Address: None Available) Tax Map I.D.: 330-11.17-18.00 and 330-15.05-6.00.

The Commission found that the applicant had provided a survey/site plan with his application.

The Commission found that DelDOT has issued an Entrance Approval Letter, dated February 5, 2015.

The Commission found that the Sussex Conservation District provided comments in the form of a Memorandum, dated June 23, 2015, which references that there are four soil types on this property; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that there are no storm flood hazard areas affected; that off-site drainage improvements will not be required; that it is not likely that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a Memorandum on June 25, 2015 referencing that this project site is located in the North Coastal Planning Area; that the project is not capable of being annexed into a County operated Sanitary Sewer District; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County currently plans to provide sewer service; and that a concept plan is not required.

Mr. Lank reminded the Commission that this site is the site of a previously approved Conditional Use #1771 for the same use that only had access to Swain's Private Road; that this application intends to access Marshall Street Extended; and that the County Council approved Conditional Use #1771 in 2009.

The Commission found that Charles Auman was present and stated in his presentation and in response to questions raised by the Commission that his intent is to include a new entrance location to help pull traffic away from the private road; that the only difference in this application and his previous application is the additional land for the entrance to Marshall Street

Extended; and that Charles Harding, an immediate neighbor, has written a letter voicing no objections.

Mr. Robertson stated that the conditions of approval relating to Conditional Use #1771 (Ordinance No. 2056) should be included with this application if the application is approved.

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

The Commission found that Mark Donovan, a resident living on Swain's Private Road, was present and express concerns about the use of Swain's Private Road to the site.

The Commission found that Thomas Jester, a resident living on Swain's Private Road, was present and stated that he would have no objection if the access to Swain's Private Road is closed as access to the site; that he has some concerns about crime; that a fence should be erected around the perimeter of the storage area; that he would prefer a berm with trees to screen the use; that he originally opposed the original application due to concerns about leaking oils and fluids from boats and RVs that may be parked on the site getting into the water table; and that there are a lot of elderly people that live in the area.

The Commission found that Tonia Younus was present and expressed concerns about noise, and added that this site is not an appropriate location for such a use.

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

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

C/Z #1777 – MICHAEL MAKOWSKI

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from AR-1 (Agricultural Residential District) to B-1 (Neighborhood Business District) for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 2.53 acres, more or less. The property is located south of Lewes Georgetown Highway (Route 9) 0.3 mile west of Fisher Road (Road 262) (911 Address: None Available) Tax Map I.D.: 235-30.00-56.00.

Mr. Lank advised the Commission that this application was withdrawn by the applicant on June 24, 2015.

2015-2 – TALL GRASS ESTATES LANDS

lots. Lands of Mary S. Hazzard zoned AR-1 (Agricultural Residential District) and GR (General Residential District) in Indian River Hundred, Sussex County, by dividing 18.366 acres into 16 Lots. The property is located east of Wil King Road (Road 288) 600 feet north of Conleys Chapel Road (Road 280B). Tax Map I.D. 234-6.00-74.09 and 74.10.

The Commission found that the applicants submitted a preliminary subdivision plan on March 12, 2015.

The Commission found that the Department forwarded a request for comments to the Technical Advisory Committee member for comments on or before May 1, 2015, and that the following agencies responded: County Engineering Department Public Works and Utility Planning; the Office of the State Fire Marshal; the Department of Agriculture; the Natural Resources Conservation Service; the Delaware Division of Fish and Wildlife; the Department of Transportation; the DNREC Tank Management Section; and the Sussex Conservation District.

OTHER BUSINESS

Hardy's Self-Storage Final Site Plan on DuPont Blvd.

Ms. Cornwell advised the Commission that this is a Final Site Plan for the construction of a 32,971 SF self-storage building with site improvements located on the east side of DuPont Blvd. The site plan is in compliance with the *Zoning Ordinance*. The Planning Commission granted preliminary approval for the revised plan at their meeting on March 26, 2015. The property is zoned C-1 (General Commercial District). The tax parcel is 533-16.00-55.00. Staff is in receipt of all reviewing agency approvals.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve the Final Site Plan. Motion carried 4-0.

Skipjack, Inc. CU # 1997- Final Site Plan - DuPont Blvd. & East Piney Grove Rd.

Ms. Cornwell advised the Commission that this is a Final Site Plan for the construction of a 17,864 SF office/warehouse building along with commercial propane storage and dispensing with site improvements. The Conditional Use was granted approval by County Council at their meeting on October 14, 2014. The Planning Commission approved the preliminary site plan with an amendment to Condition D – approving a grass landscaping buffer in lieu of trees at their meeting of February 12, 2015. The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 133-11.00-1.01. Staff is awaiting the Sussex Conservation District approval and has the other reviewing agency approvals.

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to approve the Final Site Plan upon receipt of the approval from the Sussex Conservation District. Motion carried 4-0.

Swann Cove – Phase 7 Final Subdivision Plan – Lighthouse Rd.

Ms. Cornwell advised the Commission that this is a final subdivision plan for phase 7 of the Swann Cove subdivision. Phase 7 includes 30 single family dwellings with open space for stormwater management. The subdivision is zoned MR (Medium Density Residential District) and is a RPC. The property is located off of Lighthouse Rd. Staff is awaiting receipt of Engineering approval. All other agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve the Final Subdivision Plan upon receipt of the approval from the Sussex County Engineering Department. Motion carried 4-0.

**American Bayside Parcel 304 – Village C (Phase 2)
Preliminary Site Plan – MR – RPC**

Ms. Cornwell advised the Commission that this is a preliminary site plan for the construction of forty-three (43) single family dwellings with site improvements for Village C- Phase 2 within the Americana Bayside development. The phase complies with the *Zoning Ordinance*. The amenities for this phase will come before the Planning Commission as a separate site plan. The property is zoned MR (Medium Density Residential District) and is part of a RPC. The tax parcel is 533-19.00-304. Staff is awaiting approvals from the other reviewing agencies.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve the Preliminary Site Plan. Motion carried 4-0.

**Rehoboth Gateway
Revised Preliminary Site Plan - Rt. 1 and Country Club Rd**

Ms. Cornwell advised the Commission that this is a revised preliminary site plan for the construction of six (6) commercial buildings for a total of 65,978 SF with site improvements. The Planning Commission previously reviewed and approved a Site Plan for three (3) commercial buildings in 2013 with final Site Plan approval granted on June 24, 2014. The property is located on the southwest corner of Coastal Hwy. (Rt. 1) and Country Club Rd. The site plan indicates several parking spaces located within the front yard setback that requires Planning Commission approval. The site is in compliance with the setbacks and the landscape buffer for the Combined Highway Corridor Overlay Zone along DuPont Blvd. A parcel consolidation plan will be recorded prior to Final Site Plan approval to combine the two (2) parcels of land into one (1) parcel of land. The property is zoned C-1 (General Commercial District). The tax parcel is 334-13.00-325-.18 & 334-13.00-325.44. The property is 11.53 +/- acres. Staff has approvals from the other reviewing agencies.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to approve the Site Plan. Motion carried 4-0.

**Waves Car Wash
Preliminary Site Plan - Savannah Rd**

Ms. Cornwell advised the Commission that this is a preliminary site plan for the construction of a 3,629 SF car wash, a canopy over the full service and detail lanes with site improvements. The property is located southwest corner of Savannah Rd. and Five Points Square. The site is in compliance with the setbacks. The property is zoned C-1 (General Commercial District). The tax parcel is 334-6.00-26.01. The property is 0.83 +/-ac. Staff is awaiting approval from the other reviewing agencies.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to approve the Final Site Plan subject to staff pending all agency approvals. Motion carried 4-0.

Spring Lake – Commercial Parcel
Preliminary Site Plan - Rt. 1 and Spring Lake Dr.

Ms. Cornwell advised the Commission that this is a preliminary site plan for the construction of two (2) condominium buildings (with 48 units) and six (6) Townhouse buildings (with 36 units) and one (1) mixed use building with 11,808 SF commercial of the first floor and 12 dwelling units on the 2nd and 3rd floors for a total of 96 dwelling units with site improvements to be located off of Rt. 1 and Spring Lake Dr. The site plan indicates several parking spaces located within the front yard setback that requires Planning Commission approval. The property is zoned C-1 (General Commercial District). The tax parcel is 334-20.00-1.05. Staff is awaiting approval from the other reviewing agencies.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to approve the Final Site Plan subject to staff pending all agency approvals. Motion carried 4-0.

Old Morgan School #2 District
Agricultural Preservation District

Ms. Cornwell advised the Commission that this is an application for the creation of a new agricultural preservation district. The property is zoned AR-1 (Agricultural Residential District). The property is 265 ac. +/- The property is located on the north side of County Seat Rd. (Route 9) and on the east side of Kaye Rd. (Rd. 474). The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 132-8.00-36.00.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to approve the agricultural preservation district. Motion carried 4-0

Lands of Hitchens & Smack
Relocation of 50' easement for Lot Line Adjustment - Cloverdale Rd. (Rd. 525)

Ms. Cornwell advised the Commission that this application is to relocate the existing 50' easement to allow for a Lot Line Adjustment. The existing easement ends in a cul-de-sac. The new easement will eliminate the cul-de-sac and go north 100' from the south property line of the existing easement. The property is zoned GR (General Residential District). The tax parcels are 231-9.00-37.03 and 231-9.00-37.14.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve the relocation of the 50' easement for the lot line adjustment. Motion carried 4-0

Ocean Way Estates Subdivision

Mr. Robertson advised the Commission that this is a plan showing the location of gates within the Ocean Way Estates Subdivision. The plan was previously reviewed by the Planning

Commission at their meeting of December 11, 2014. The Planning Office is in receipt of the Fire Marshal approval. The property is currently in litigation with the County regarding the gates.

The Planning Commission took no action on the item and discussed that it may be beneficial for the applicant to request a public hearing before the Planning Commission to allow for the public to provide testimony regarding the item.

The Meadows at Beaver Creek Phase 3 Amenities Plan - Rt. 9

Ms. Cornwell advised the Commission that this plan is for the proposed amenities for the Meadows at Beaver Creek Phase 3 Subdivision. The amenities plan includes a 960 SF pool, a 1,716 SF bathhouse (including covered entries, and porch), a 16 space parking lot with 2 handicap spaces, 120 SF shed, and site improvements. The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 235-30.00-24.02. Staff is in receipt of the Fire Marshal approval.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to approve the amenities plan for The Meadows at Beaver Creek Phase 3. Motion carried 4-0

Lands of Lofland Minor Subdivision off private road - Lofland Ln.

Ms. Cornwell advised the Commission that this is a Minor Subdivision of an existing private and an increase to the width of the private road. The existing private road is 30' wide. The proposed subdivision off the existing private road is to create one (1) lot and increase the width of the private road along the proposed parcel of land to 50'. It was suggested to the applicant that the 30' private road be extended to 50' going west along Lofland Ln. from the proposed subdivision. The property is zoned: AR-1 (Agricultural Residential District). The tax parcel # is 330-11.17-13.00. Staff is awaiting DelDOT approval.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to approve defer the request for the minor subdivision off the private rd. Motion carried 4-0

ADDITIONAL BUSINESS

Amendment to Rules and Procedures

Mr. Robertson described the changes relating to an applicant that fails to appear for his public hearing that were recently adopted by County Council, and advised the Commission that those changes need to be corrected in the Commissions' Rules and Procedures.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to amend the Rules and Procedures per Mr. Robertson's recommendation. Motion carried 4 – 0.

Meeting adjourned at 7:58 p.m.