

MINUTES OF THE REGULAR MEETING OF June 26, 2014

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 26, 2014, in the County Council Chambers, County Administrative Office Building in 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. Michael Johnson, Mr. Rodney Smith, Mr. I.G. Burton III, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Agenda as corrected and revised to correct some typographical errors. It is noted that C/Z #1752 was withdrawn on June 9, 2014. Motion carried 5 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of June 12, 2014 as circulated. Motion carried 5 – 0.

OLD BUSINESS

Subdivision #2007-43 – Cool Spring Equities, LLC

Application of **COOL SPRING EQUITIES, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 45.05 acres into 67 lots, (Cluster Development) located east of Road 290, 520 feet south of Road 262 (Tax Map I.D. #3-34-10.00-67.00).

Mr. Abbott advised the Commission that this is the final record plan for a 41-lot cluster subdivision; that the Commission granted preliminary approval for 67 lots on August 19, 2009; that the Commission granted a revised preliminary approval on November 12, 2012 reducing the total number of lots to 41 and also allowing the developer to use individual on-site septic systems as permitted by DNREC on 0.50 acre lots; that on December 19, 2013 the Commission agreed to delete the condition requiring sidewalks on one side of all streets and also clarified the condition requiring forested buffers along any lands used for agricultural purposes shall not include any berms within the required buffer; that berms are permitted outside of any required agricultural buffers; that a 5-foot mulch/dirt walking path is provided throughout the project; that the final record plan complies with the subdivision and zoning codes and the amended conditions of preliminary approval; that all agency approvals have been received; that preliminary approval is valid until January 1, 2016; and that the plan is suitable for final approval.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to grant final approval of Subdivision #2007-43 for Cool Spring Equities, LLC. Motion carried 5 – 0.

Change of Zone #1751 – Peninsula at Long Neck, LLC

Application of **PENINSULA AT LONG NECK, LLC** an Ordinance to modify Condition No. 10 C imposed on Ordinance No. 2180 for Change of Zone No. 1697, the application of Peninsula at Long Neck, LLC for “The Peninsula”, a MR-RPC Medium Density Residential District – Residential Planned Community, to extend the time to construct and open for use the golf clubhouse facility (911 Address: None Available) (Tax Map I.D. #2-34-30.00-1.00 and others).

The Commission discussed this application which has been deferred since June 12, 2014.

The discussion included references that the proposal was supported by the residents of “The Peninsula” project; that there should be something firm on the design, square footage, and cost estimates on the clubhouse; that the residents and the Bank should be in agreement; that the County could call the bond or hold building permits; questioning what was proposed to be built and when construction would start; that there is a need for a time line to establish when the clubhouse would be built for the benefit of the residents; questioning if there is some way to get the developers to provide a plan for the clubhouse that has been approved by the residents prior to taking action; noting that the residents have not gotten what they were proffered; that they were impressed by the support of the residents; and questioning if we can require a submittal of the necessary plans for the clubhouse with an accurate cost estimate.

Mr. Robertson stated that a Condition of Approval is requested to be changed; that the Commission has been asked to amend the Ordinance which required the Conditions of Approval; that the Commission can require that new Conditions be imposed; that a cost estimate should be required to establish any bonding requirements; and that it sounds like the Commission wants the developer to provide a site plan for the clubhouse and area, which is a normal requirement of development, noting the square footage, with a cost estimate.

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

Change of Zone #1753 – Cadbury at Lewes, Inc.

Application of **CADBURY AT LEWES, INC.** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.00 acres, more or less, land lying northeast of Road 267 (Gills Neck Road) 1,100 feet east of Road 268 (Kings Highway) (911 Address: 17028 Cadbury Circle, Lewes, Delaware) (Tax Map I.D. #3-35-8.00-37.00 (Part of).

The Commission discussed this application which has been deferred since June 12, 2014.

Mr. Johnson stated that he would move that the Commission recommend approval of Change of Zone #1753 for Cadbury at Lewes, Inc. for a Change in Zone from AR-1 to MR-RPC Medium Density Residential – Residential Planned Community based upon the record made during the public hearing and for the following reasons:

- 1) This is a five (5) acre expansion of the existing Cadbury at Lewes Senior Residential project. It will consist of 4 new residential buildings with a total of 29 units in the new area and three (3) units in the existing facility. It will be consistent with the overall density of the existing Cadbury facility.
- 2) The rezoning will not adversely affect neighboring communities and roadways in the area.
- 3) This expansion of Cadbury promotes the health, safety and welfare of Sussex County and its residents by providing additional Senior Housing opportunities for Sussex County residents.
- 4) The site is in a developing area under the Sussex County Comprehensive Development Plan and the rezoning is consistent with the Plan.
- 5) The rezoning is consistent with the existing Cadbury project as well as the nearby residential development on Gill's Neck Road.
- 6) No parties appeared in opposition to the Application.
- 7) The project will be served by central water and Sussex County sewer.
- 8) This recommendation is subject to the following conditions:
 - a. The total number of units permitted by this application shall be 32. This includes 29 new units in the rezoning area and three (3) units within the existing Cadbury project.
 - b. The property that is covered by this application shall be incorporated into the entire Cadbury at Lewes project.
 - c. The existing 30 foot landscaped buffer located along the western boundary of Cadbury shall be relocated to the western boundary of the expansion area.
 - d. With the exception of the number of units, the conditions imposed on Ordinance No. 1679 shall apply to this approval.
 - e. The Final Site Plan for this MR-RPC shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to forward this application 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.

Subdivision #2013-3 – Rocks Bethany, LLC

Application of **ROCKS BETHANY, LLC** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 2.33 acres into 5 lots, and a waiver from the Forested Buffer requirement, located on the east side of Delaware Route One, north of Gum Road, a private road within Sussex Shores Subdivision (Tax Map I.D. 1-34-13.00-142.00 & 143.00).

Mr. Abbott advised the Commission that this is the final record plan for a 5-lot standard subdivision; that the Commission granted preliminary approval for 5 lots on July 11, 2013 and granted a revised preliminary approval on August 22, 2013 which addressed the conditions of the preliminary approval; that the final record plan complies with the subdivision and zoning codes and the conditions of approval; that all agency approvals; and that the plan is suitable for final approval.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to grant final approval of Subdivision #2013-3 for Rocks Bethany, LLC. Motion carried 5 – 0.

PUBLIC HEARINGS

Change of Zone #1754 – Bayshore Plaza Associates, LLC

Application of **BAYSHORE PLAZA ASSOCIATES, LLC** to amend the Comprehensive Zoning Map of Sussex County from a B-1 Neighborhood Business District to a CR-1 Commercial Residential District to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 0.52 acre, more or less, land lying north of Route 54 (Lighthouse Road) 800 feet east of Road 381 (Old Mill Road) (911 Address: 36437 Lighthouse Road, Selbyville, Delaware) (Tax Map I.D. 5-33-12.00-77.00 & 76.03).

The Commission found that the application included a survey of the application site which includes two properties intended for expansion of the existing C-1 General Commercial District surrounding the site.

The Commission found the DelDOT provided comments in the form of a memorandum on February 28, 2014 referencing that a traffic impact study was not recommended and that the current Level of Service “E” of Lighthouse Road 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 on June 17, 2014 referencing that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that no off-site drainage improvements will be necessary; that it is not likely that on-site drainage improvements will be necessary; and that no tax ditches are affected.

The Commission found that Pret Dyer was present on behalf of Bayshore Plaza Associates, LLC and stated in his presentation and in response to questions raised by the Commission that they are proposing to change the zone from B-1 Neighborhood Business to CR-1 Commercial Residential as an extension to the C-1 General Commercial zoning that surrounds the site; that CR-1 Commercial Residential is more compatible to the uses permitted in C-1 General Commercial, in example: boat sales; that the site is located in the Environmentally Sensitive Developing Area according to the Comprehensive Development Plan; that the site is located in an Level 2 area according to the State Strategies; that with the property extended to the adjoining C-1 zoned property, access will be from the existing entrance from Route 54 that serves the adjoining C-1 zoned property, not this site; that the entrance to the adjoining C-1 zoned property now exists, since it was built along with the Route 54 DelDOT improvements; that the property lines for this site will be eliminated once the property extension is recorded; that they were not required to submit to the PLUS process; that this rezoning is basically an in-fill; and that combining the properties creates a more effective use of land.

Mr. Dyer submitted an area map showing other commercial zoning in the area along Route 54.

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.

Mr. Smith stated that he would move that the Commission recommend approval of Change of Zone #1754 for Bayshore Plaza Associates, LLC for a change in zone from B-1 to CR-1 based on the record made during the public hearing and for the following reasons:

- 1) This application will bring the entire parcel under a consistent commercial zoning classification. It is basically an in-fill rezoning.
- 2) Access to this property will be from an existing commercial entrance on the adjacent property.
- 3) The site is within a Developing District according to the Sussex County Comprehensive Development Plan.
- 4) The rezoning will not adversely affect neighboring properties or area roadways.
- 5) No parties appeared in opposition to this application.

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 approved for the reasons stated. Motion carried 5 – 0.

Change of Zone #1752 – TD Rehoboth, LLC

Application of **TD REHOBOTH, LLC** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 114.4821 acres, more or less, land lying northeast side of Route One (Coastal Highway) across from Route 88 (Cave Neck Road) 911 Address: None Available) (Tax Map I.D. 2-35-23.00-1.00).

Mr. Lank advised the Commission that this application was withdrawn on June 9, 2014.

OTHER BUSINESS

Joseph & Cynthia Black

4 Parcels & 50' Right-of-Way – Road 249

Mr. Abbott advised the Commission that this is a request to re-subdivide 3 parcels and a 50-foot right of way containing 28.49 acres into 4 lots with access from a 50-foot right of way; that Parcel A will contain 12.98 acres, Parcel B 4.61 acres, Parcel C 4.85 acres, Parcel D 4.73 acres and the 50-foot right of way 1.32 acres; that it has been the Commission's policy to only permit 3 lots or parcels having access from a 50-foot right of way without going through the major subdivision process; and that the Commission was previously provided copies of sketch drawings showing what currently exist and what is proposed.

The Commission discussed this request.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to deny this request as submitted since the request exceeds 3 lots and that if the applicants want to pursue this matter, they will be required to follow the major subdivision application process. Motion carried 5 – 0/

Gerald Baldi

3 Lots & 50' Easement – Road 88

Mr. Abbott advised the Commission that this is a request to subdivide a 3.0 acre parcel into 3 lots with access from a 50-foot easement; that all of the lots will exceed 0.75 acre; that the owner is proposing to create the easement over an existing driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the site will require an application for a major subdivision; and that the Commission was previously provided a sketch drawing of the request.

The Commission discussed this request.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the request as submitted as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Helen Street & Others

3 Parcels & 50' Easement – Road 308

Mr. Abbott advised the Commission that this is a request to subdivide a 12.60 acre parcel into 3, 4.20 acre parcels with access from a 50-foot easement; that the owner is proposing to create the 50-foot easement at the approved entrance location; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the site will require an application for a major subdivision; and that the Commission was previously provided a sketch drawing of the request.

The Commission discussed this request.

Motion by Mr. Johnson to deny the request as submitted and require the applicant to follow the major subdivision application process if they choose to pursue this matter. The motion died for a lack of a second.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Black Creek Cove

Amend Condition – Sidewalks – Road 317

Mr. Abbott advised the Commission that this is a request to delete the condition of approval requiring sidewalks on one side of all streets within this subdivision; that this 68-lot standard subdivision received final approval on August 25, 2005; that the potential new owner and the homeowners' association are requesting that the requirement be deleted; and that the Commission was previously provide copies of letters from the new developer and homeowners' association detailing the reasons for this request.

The Commission discussed this request.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the request. Motion carried 5 – 0.

ADDITIONAL BUSINESS

Mr. Smith updated the Commission on the pending Stormwater Management regulations and advised the Commission that the record is open for public comments to the State DNREC.

Mr. Lank and Mr. Abbott advised the Commission that the public hearings scheduled for July 10, 2014 may be lengthy, and that it may be appropriate that the Commission schedule a Special Meeting to discuss Old Business and Other Business since the Department has already received more than 10 Other Business items for consideration.

Meeting adjourned at 7:10 p.m.