

MINUTES OF THE REGULAR MEETING OF July 24, 2014

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 24, 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. James Sharp – 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 circulated. Motion carried 5 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of June 10, 2014 as amended. Motion carried 5 – 0.

OLD BUSINESS

Conditional Use #1989 – Bruce Sentman, Jr.

Application of **BRUCE SENTMAN, JR.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a small engine and lawn mower repair shop to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 42,961 square feet, more or less, land lying southeast of Road 328 (Sheep Pen Road) 250 feet northeast of Road 410 (Godwin School Road) (911 Address: 24230 Sheep Pen Road, Millsboro, Delaware) (Tax Map I.D. #1-33-16.00-73.03)

The Commission discussed this application which has been deferred since July 10, 2014.

Mr. Ross stated that he would move that the Commission recommend approval of C/U #1989 for Bruce Sentman, Jr. for a small engine and lawn mower repair shop based upon the record made during the public hearing and for the following reasons:

- 1) The Applicant intends to operate this business in his spare time on his own property. There will not be any employees. The use is very similar to a home occupation.
- 2) The use will occur within existing structures on the property.
- 3) The Conditional Use will not adversely affect neighboring properties, the community or area roadways and traffic.
- 4) The use will promote the convenience of residents of Sussex County by providing a local small engine and lawn mower repair service to area residents in need of such a service.
- 5) No parties appeared in opposition to the application.
- 6) This recommendation is subject to the following conditions:
 - A. The use shall be limited to the repair of small engines, generators and lawn mowers. No automobiles, boats, trucks or other similar vehicles shall be repaired on the site as part of the Applicant's business.

- B. The hours of operation for the business shall be Monday through Friday from 5:30 p.m. until 9:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m.
- C. The business shall not have any employees aside from the Applicant and his family.
- D. No repair work shall be performed outside, except for limited testing of the engines.
- E. There shall not be any retail sales of lawn mowers, small engines or similar equipment.
- F. All waste oils and similar fluids shall be disposed of properly or taken to the appropriate State Recycling Center.
- G. One lighted sign, not to exceed 32 square feet per side shall be permitted.
- H. Any dumpster on the site shall be screened from view of neighboring properties and roadways.
- I. Any security lights associated with the Conditional Use shall be downward screened so that they do not shine on neighboring properties or roadways.
- J. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Smith, 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.

Conditional Use #1990 – Olsen Enterprises, Inc.

Application of **OLSEN ENTERPRISES, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a nursery and landscaping business to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 5.436 acres, more or less, land lying northwest of Road 431 (Shortly Road) 600 feet south of Road 471 (Paradise Road) (911 Address: 26250 Shortly Road, Georgetown, Delaware) (Tax Map I.D. #1-33-5.00-26.00).

The Commission discussed this application which has been deferred since July 10, 2014.

Mr. Ross stated that he would move that the Commission recommend approval of C/U #1990 for Olsen Enterprises, Inc. for a nursery and landscaping business based upon the record made during the public hearing and for the following reasons:

- 1) The Applicant, Patrick Olsen, resides on the premises where this conditional use will be located. He proposes to operate a landscaping business with greenhouses and nursery stock.
- 2) The site has a history of business uses and was previously used as a beauty shop.
- 3) The proposed use is compatible with the underlying agricultural zoning and other agricultural uses in the area.
- 4) The use promotes both business and convenience in Sussex County in that it provides contracting services in the area with full service landscaping, hardscaping, and irrigation services, as well as snow removal in the winter months.
- 5) Aside from the proposed greenhouse and nursery stock, the landscaping business primarily occurs off the site, with workers traveling to customers' locations for landscaping services.

- 6) The Conditional Use will not adversely affect neighboring properties, the community or area roadways and traffic.
- 7) This recommendation is subject to the following conditions:
 - A. The Final Site Plan shall specifically show all areas for existing and proposed greenhouses and nursery stock, as well as vehicle and truck parking. It shall also show existing and proposed storage containers on the site. Those storage containers shall be screened from view of neighboring properties.
 - B. All materials and equipment storage shall be within the existing pole building.
 - C. One lighted sign, not to exceed 6 square feet per side, shall be permitted.
 - D. The Applicant has proposed to extensively landscape the property. The Final Site Plan shall contain a proposed landscaping plan for the site.
 - E. The Applicant shall confirm on the Final Site Plan whether the ditch on the property is a Tax Ditch. If it is a Tax Ditch, all Tax Ditch Easements shall be shown on the Final Site Plan.
 - F. The hours of operation for the business shall be from 6:00 a.m. to 6:00 p.m. Monday through Saturday.
 - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Johnson, 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.

Conditional Use #1991 – Cool Spring, LLC/Highway One

Application of **COOL SPRING, LLC/HIGHWAY ONE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a facility for outdoor entertainment events with temporary camping facilities during events only to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing approximately 500 acres, more or less, of two parcels containing 1,057.6 acres, land lying north of Route 302A (Avalon Road), west of Road 48 (Hollyville Road), south of Road 47 (Johnson Road), and east of Road 296 (Lawson Road) (911 Address: 23430 Hollyville Road, Harbeson, Delaware) (Tax Map I.D. # 2-34-15.00-22.00 and 2-34-9.00-34.00).

The Commission discussed this application which has been deferred since July 10, 2014.

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

Subdivision #2010-7 – A. J. Bierman, Bierman Family, LLC

Application of **A. J. BIERMAN, BIERMAN FAMILY, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 55.059 acres into 47 lots, located northwesterly side of Road 446 (Beaver Dam Branch Road) 525 feet southwesterly of Road 447 (Johnson Road) (Tax Map I.D. #2-32-13.00-62.00).

Mr. Abbott advised the Commission that this is the final record plan for a 47-lot standard subdivision application; that the Commission granted preliminary approval for 47 lots on June 9, 2011; that the preliminary approval is valid until January 1, 2016; that the final record plan complies with the subdivision and zoning codes and the conditions of the preliminary approval; that all agency approvals have been received; and that final approval may be granted.

Motion by Mr. Ross, seconded by Mr. Smith and carried unanimously to approve this application as a final. 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 concerns about how much time it will take to complete the clubhouse; that conceptual plans should be submitted for the clubhouse; that a cost estimate, based on the cost of construction, is needed to determine the amount of bonding necessary to protect the residents; that time is needed to allow the developer time to meet with the residents of the project to determine the size of the clubhouse; and that time is needed to acquire a bonding method to guarantee the construction of the clubhouse.

Mr. Johnson stated that he would move that the Commission recommend a conditional approval of the modification of Condition 10 (C) imposed by C/Z #1697 and Ordinance No. 2180 for “The Peninsula”. After considering the information presented, including the current owner’s position and the general approval from those who spoke in favor of the condition, it is appropriate to extend the time period for constructing The Peninsula Golf Course Clubhouse. But, this extension should give the County and everyone involved an opportunity to clarify the size and scale of the clubhouse and to obtain an appropriate bond guarantying completion of it. Also, because this is the latest in a series of delays in the construction of the clubhouse, it must be the last extension granted by the Commission.

As a result, Condition 10 (C) of C/Z #1697 in Ordinance No. 2180 is modified to extend the time period for constructing the clubhouse until December 1, 2016. However, this extension is contingent upon the following events occurring: 1) Within 60 days of the approval of this Ordinance Amendment, the developer shall submit to the Sussex County Planning and Zoning Commission a sketch or concept plan of the proposed clubhouse with the estimated square footage of the structure. The developer shall consult with the homeowners regarding the design in the sketch plan and the proposed square footage of the clubhouse; 2) At the same time the concept or sketch plan and square footage are submitted, the developer shall submit an estimated cost per square foot to construct the proposed clubhouse; 3) Within 30 days of the approval of the concept or sketch plan and square footage by the Sussex County Planning and Zoning

Commission, the developer shall submit a Bond or Letter of Credit acceptable in form by the Sussex County Attorney in the amount of 125% of the estimated cost to construct the proposed clubhouse; 4) If the developer does not submit a new Bond or Letter of Credit as required, Sussex County shall prohibit the issuance of any further residential building permits within The Peninsula until the new Bond or Letter of Credit is submitted to Sussex County; and 5) No further extensions will be granted.

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.

PUBLIC HEARINGS

Subdivision #2014-2 – Showfield, LLC

Application of **SHOWFIELD, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 132.05 acres into 166 lots, located northwesterly side of Road 267, adjacent to Breakwater RPC (Tax Map I.D. #3-35-8.00- 46.00, 51.00, and 53.02).

Mr. Lank advised the Commission that the applicants submitted an Exhibit Booklet on July 14, 2014 and that the Exhibit Booklet is a part of the record for this application.

Mr. Abbott advised the Commission that one letter in support of and one letter expressing concerns has been received and that they are a part of the record.

Chairman Wheatley acknowledged that Marc Cote' of DelDOT was present and would make himself available for questions from the Commission.

Gene Bayard, Esquire, Doug Motley, Nick Hammonds, and Bill Lingo of Jack Lingo Assessment Management and Doug Warner, P.E. with Element were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the site contains approximately 133 acres; that the applicants have been acquiring the subject site lands since 2005; that the original plan was to be considered within the City of Lewes and 607 units were originally proposed; that the applicants referenced the number of public meetings with City of Lewes officials which is described in Tab C of the Exhibit Booklet; that the economy and market dictated that the plan needs to be revised; that this application proposes 166 single-family detached lots; that the applicants are no longer seeking annexation into the City of Lewes; that the preliminary plan complies with all codes and regulations; that the site is located in the vicinity of Wolfe Point, Wolf Runne, Hawkseye, Senators, Breakwater and Cadbury developments; that the Lewes and Rehoboth Canal is east of the site and White's Pond is located to the north; that the applicants consider this application as an in-fill project; that according to the State's Strategies for Spending Map, the site is located in an Investment Level 1 where development is encouraged; that there are approximately 33 acres of wooded lands on the site; that approximately 1.6 acres of wetlands exist; that no disturbance to the wetlands is proposed; that the developers will retain two old barns on the site and that they

will be refurbished; that there is a drainage ditch that flows to the Canal; that a soils study has been completed; that stormwater management will be handled through infiltration and wet ponds on the site; that they will seek a quantity waiver from the Sussex Conservation District since the pond and canal are tidal influenced; that a portion of the site is located in a good to excellent recharge area; that no portion of the site is within a wellhead protection area; that groundwater recharge will be enhanced; that central water will be provided by Lewes Public Works and central sewer will be provided by Sussex County; that the applicants went through the PLUS process and responded to the comments; that the applicant's response is contained in the Exhibit Booklet; that the project also went through the County's Technical Advisory Committee review; that the developers will retain all natural areas; that walking trails are provided throughout the project; that two entrances are proposed; that the entrance locations are where DelDOT wants them; that the interior streets will be 50-foot right of ways with curb and gutter with sidewalks on one side of all streets; that a proposed interconnection is proposed to the adjacent parcel near the Monroe Avenue Extended is located; that 44 acres or 33% of the site is open space; that a 20-foot buffer is provided around the perimeter of the site where required and a proposed 50-foot buffer from the wetlands is provided; that the items referenced in Section 115-24E of the Code have been addressed in the Exhibit Booklet and briefly summarized these items; that the minimum lot size is 13,000 square feet; that none of the lots have direct access to Gills Neck Road; that a yield plan has been prepared and submitted into the record; that the yield plan has 186 lots with no open space provided; that the requirements of the Environmentally Sensitive Developing District Overlay Zone are addressed in the Exhibit Booklet and briefly summarized some of those requirements; that the project will comply with the Total Maximum Daily Load requirements; that no rare or endangered species were found on the site; that the site contains no known historic features; that the plan complies with the zoning and subdivision codes and the Comprehensive Land Use Plan; that the applicants feel that the proposed design is superior to a standard subdivision plan; that the items referenced in Section 99-9C of the Subdivision Code have been addressed in the Exhibit Booklet and briefly summarized some of these requirements; that the requirements referenced in Section 99-9C are very similar to the requirements of the Lewes Code; that as many trees as possible will be retained; that a bike path connecting to the Breakwater Junction trail is proposed; that the developers have gifted an easement to DelDOT for additional right-of-way; that the developers have agreed to improvements required by DelDOT; that some of the off-site improvements to Gills Neck Road include 5-foot shoulders with 11-foot travel lanes; that multi-modal paths will be required; that the developers have agreed to monetary contributions for offsite improvements; that new traffic signals are a part of the improvements; that Tab #12 of the Exhibit Booklet addresses the economic benefits that the project will create; that no negative impacts are anticipated to the Cape Henlopen School District since the project will be marketed to older adults; that not many homes will have small children; that the lots will range from \$300,000 to \$600,000; that the price of the custom built homes will range from \$800,000 to \$1,200,000; that the cluster design is better than the original annexation plan that was submitted to the City of Lewes; that the project is a low density project; that the proposed density is 1.25 lots/acre; that construction improvements to Gills Neck Road will begin in the summer of 2015; that the proposed conditions of approval make reference to potential school bus stops, if required; that DelDOT prefers entrances to line up with one another; that the two entrances will alleviate bottle necks along Gills Neck Road; that they anticipate the amenities being completed within 2 years of the issuance of the first building permit; that the

City of Lewes is constructing a library not far from this site; and that the developers would be willing to meet with the Postmaster about a centralized mailbox location.

Mr. Cote' advised the Commission that improvements in front of the Cape Henlopen High School will be completed by the developers of the Senators subdivision; that construction will begin in the near future; that offsite improvements are borne by the developers; that 5-foot shoulders will be required in front of the site with 11-foot travel lanes; and that the improvements towards the Lewes and Rehoboth Canal have not been completed.

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

Ronald Smith, Larry Edwards, Nancy Smith, Dorothy Greet, Gail VanGider, David Greer, Kathy Pergola all area residents and Ted Becker, Mayor of the City of Lewes, were present and expressed concerns about proposed improvements to Gills Neck Road; the effect on other property owners in the area; that traffic is bad in the Lewes and Rehoboth Route One area; that bicyclists utilize Gills Neck Road; that the number of traffic lights in the area causes longer trips; questioning if there are any archaeological sites on the property; that they are glad that two entrances are proposed; that Gills Neck Road is considered a Scenic By-Way; that the developers need to work with DelDOT to maintain the appearance of the Scenic By-Way; that being on a Scenic By-Way improves property values; that there is no solution to the traffic problems in the area; that the previous owner of the property did not want to see the area developed; that the proposed buffers need to be increased; that annexation of the site has not moved forward; that there would be two different parcels being developed under separate requirements; that there is a need for emergency access for first responders; and that the City of Lewes feels that the entire site should be developed under the City of Lewes guidelines.

Mr. Warner advised the Commission that the developers are required to dedicate appropriate right-of-way to DelDOT; and that an interconnection is provided to Monroe Avenue Extended.

Mr. Cote' advised the Commission that additional right of way is being dedicated to the State and that a Scenic By-Way is required to have a management plan.

Mr. Motley advised the Commission that the 1868 Beers Atlas is a part of the record in Tab #3 of the Exhibit Booklet and that the Delaware State Historic Preservation Office had no comments during the PLUS review of this project.

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

Motion by Mr. Johnson, seconded by Mr. Smith and carried 4 votes to none, to defer action for further consideration. Motion carried 4 – 0. Mr. Burton was absent during the vote.

OLD BUSINESS

Swann Estates
3 Lots – Cygnet Drive

Mr. Abbott advised the Commission that this is a request to subdivide a 2.116 acre parcel into 3 lots with ingress/egress off of Cygnet Drive within the Swann Estates Subdivision; that the 2.116 acre parcel is referenced as reserved for future development on the recorded Swann Estates plot; that Parcel A contains 32,629 square feet, Parcel B contains 26,744 square feet and Parcel C contains 32,829 square feet; that the lots will be served by County sewer; that the Commission needs to determine if a public hearing is required in which case the applicants would be required to provide documentation that 51% of the property owners are aware of and consent to an application; and that the Commission was previously provided a sketch drawing of the request.

Mr. Smith stated that Swann Estates is close to being fully developed; that the proposed lots are similar to the existing lots; and that the property owners should be able to participate in a hearing.

Mr. Johnson stated that since more lots are being proposed, it has been the Commission's policy to require a public hearing as required by Code.

Motion by Mr. Smith, seconded by Mr. Ross and carried 4 votes to none with Mr. Burton being absent, to deny the request as submitted and require the applicant to proceed with the major subdivision process. Motion carried 4 – 0.

ADDITIONAL BUSINESS

Mr. Lank advised the Commission that the meetings in August are scheduled for the 7th and 21st due to Labor Day being early in September.

Meeting adjourned at 7:55 p.m.