



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE SPECIAL MEETING OF FEBRUARY 17, 2010

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, February 17, 2010 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. I.G. Burton, III, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. Robert Wheatley with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director and Mr. Shane Abbott – Assistant Director.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the Agenda as circulated. Motion carried 4 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the Consent Agenda as circulated. Motion carried 4 – 0.

The Consent Agenda included:

1. Time Extensions

a. Subdivision #2006 – 67 - - CH3, L.L.C.

This is a request for a one-year time extension. The Commission granted preliminary approval for 99 lots on January 14, 2009. This is the first request for an extension. If an extension is granted, it shall be retroactive to the anniversary date of preliminary approval, and preliminary approval will be valid until January 14, 2011.

b. Subdivision #2007 – 3 - - Donald K. Miller

This is a request for a one-year time extension. The Commission granted preliminary approval for 49 lots on November 12, 2008. This is the first request for an extension. If an extension is granted, it shall be retroactive to the anniversary date of preliminary approval, and preliminary approval will be valid until November 12, 2010. This request was received in November 2009, however it was misplaced in another file.

c. Subdivision #2007 – 13 - - C. Larry McKinley

Minutes

February 17, 2010

Page 2

This is a request for a one-year time extension. The Commission granted preliminary approval for 206 lots on November 13, 2008. This is the first request for an extension. If an extension is granted, it shall be retroactive to the anniversary date of preliminary approval, and preliminary approval will be valid until November 13, 2010.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the items on the Consent Agenda as presented. Motion carried 4 – 0.

Old Business

Subdivision #2005 – 94 - - application of **SEACOAST INVESTMENTS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 81.84 acres into 163 lots (Cluster Development), located east of U.S. Route 113, south of Road 325, and west of Road 326.

The Chairman referred back to this application, which has been deferred since November 5, 2009.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 94 for Seacoast Investments, L.L.C., based upon the record and for the following reasons:

1. This application was originally considered under the County's Moderately Priced Housing Unit Ordinance. On March 13, 2007, the County Council determined that this project should not have qualified under that ordinance.
2. The project, with 163 lots, complies with the Sussex County Subdivision Code. It is zoned AR-1 and meets the purposes and requirements of that District.
3. The development is currently designed in accordance with the Cluster Development Ordinance. The proposed cluster design is superior to a standard subdivision. For instance, clustering has been used to preserve 18.95 acres of wooded areas and the buffer next to Route 113, and there are greenways and small parks throughout the site. Many of the lots are adjacent to open space. There are also sidewalks and walking trails promoting interconnectivity within the project.
4. The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
5. The project will not adversely affect neighboring or adjacent properties. The project is consistent with existing single-family development in the area, and it is located adjacent to Route 113 near the Town of Georgetown.
6. The lots will be served by central water and sewer, in accordance with Federal, State and County requirements.
7. The site's design has a minimal impact on wetlands and no wetlands are included within any lots.
8. The development will protect and enhance the existing natural features at the site, including the woodland areas.
9. The proposed subdivision meets the purposes and standards of the subdivision ordinance.

10. This preliminary approval is subject to the following conditions:

- A. There shall be no more than 163 lots within the Subdivision.
- B. The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, buffers, storm water management facilities, open space and other common areas.
- C. The storm water management system shall meet or exceed the requirements of the State and County. The system shall be operated using Best Management Practices to provide groundwater recharge.
- D. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT.
- E. Street lighting within the subdivision shall be provided.
- F. As proposed by the Applicant, sidewalks shall be installed on both sides of all streets within the subdivision. There shall also be walking paths throughout the subdivision as shown on the Preliminary Site Plan.
- G. The subdivision shall be served by a central sewer system as defined by the Sussex County Zoning Ordinance, designed in accordance with the Sussex County Engineering Department specification and in conformity with all DNREC regulations.
- H. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
- I. A school bus shelter with parking shall be provided on the Final Site Plan. The developer shall coordinate and cooperate with the local school district's transportation manager to establish the school bus stop area. The location of the bus stop area shall be shown on the Final Site Plan.
- J. The "Agricultural Use Protection Notice" shall be included on the Final Site Plan, the Restrictive Covenants and the deeds to lots.
- K. No wetlands shall be included within any lot lines.
- L. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- M. The Applicant shall comply with all of DNREC and/or Brownfields remediation requirements associated with the site or its prior use as a speedway prior to the issuance of the first residential building permit.
- N. The developer shall construct all of the recreational amenities prior to the issuance of the 50th residential building permit. Amenities shown on the Final Site Plan shall include tot lots, picnic area, tennis courts, and a more definite representation of the "ball fields" than what is currently shown on the Preliminary Site Plan.
- O. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- P. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.

- Q. The Final Site Plan shall contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
- R. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
- S. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 4 – 0.

Subdivision #2008 – 10 - - application of **JACK STANTON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 72.46 acres into 43 lots, located north of Road 473 (Joseph's Road) approximately 650 feet east of Route 20.

The Chairman referred back to this application, which has been deferred since November 19, 2009.

Mr. Smith stated that this application was heard several months ago and that action was deferred pending receipt of a septic feasibility statement from DNREC and that he would move that the Commission grant preliminary approval of Subdivision #2008 – 10 for Jack Stanton, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
5. DNREC has indicated that the site is suitable for individual on-site septic systems.
6. This approval is subject to the following conditions:
 - A. There shall be no more than 40 lots within the subdivision.
 - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.

- C. The storm water management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
- D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
- E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
- G. A 30-foot forested Agricultural Buffer shall be provided along the entire perimeter of the project. The Final Site Plan shall include a landscaping plan for all buffer areas.
- H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- I. No wetlands shall be included within any lots.
- J. As stated by the Applicant, there shall be a 50-foot buffer from the 4.25 acres of wetlands on the site.
- K. This Preliminary Approval is contingent upon the applicant submitting as revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
- L. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 4 – 0.

C/U #1857 - - application of **DELMARVA POWER & LIGHT CO.** to consider the Conditional Use of land in a GR General Residential District for an electrical substation to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 8.04 acres, more or less, lying west of Road (Hudson Road) approximately 1,600 feet north of Route 9.

The Chairman referred back to this application, which has been deferred since January 28, 2010.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1857 for Delmarva Power & Light Company based upon the record and for the following reasons:

1. The Conditional Use for an electrical substation is of a public nature, and it will promote the health, safety and welfare of the residents of Sussex County.
2. The property has been owned by DP & L since 1977.

3. DP & L has stated that the substation is necessary to maintain and improve its electrical service to current and future residents of Sussex County.
4. The substation will be connected to existing power transmission lines that serve the Delmarva Peninsula.
5. The operation and maintenance of a substation will have no adverse or detrimental impact on neighboring areas.
6. This recommendation is subject to the following conditions:
 - A. The entire perimeter of the substation shall be fenced, with a gate placed at the point of access to the substation road from East Lake Drive.
 - B. Two signs shall be permitted on the fencing around the property to identify the site and emergency contact information.
 - C. Any security lighting shall be screened away from neighboring properties and County Roads.
 - D. A landscaping buffer shall be provided along all boundaries of the substation (not including the entrance road) to screen it from view of neighboring residential properties and to reduce any noise that may be emitted from the site. The landscape plan for the buffer areas shall be included as part of the Final Site Plan.
 - E. The Applicant shall maintain as many trees as possible. The Final Site Plan shall identify all undisturbed forested areas.
 - F. The Final Site Plan shall include the approval of the Sussex Conservation District for the location and design of the storm water management system.
 - G. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously that this application be forwarded to the Sussex County Council with the recommendation that it be approved, for the reasons, and with the conditions stated. Motion carried 4 – 0.

Other Business

The Refuge at Dirickson Creek MR/RPC Revised Multi-Family Site Plan – Route 54

Mr. Abbott advised the Commission that this is a revised site plan for 48 multi-family units; that there are 8, 5-unit buildings, 2, 3-unit buildings and 1, 2-unit building proposed; that the building setbacks, building lengths and separation distances meet the minimum requirements of the zoning code; that 144 parking spaces are proposed; that the previously approved plan of May 2, 2003 proposed 56 multi-family units; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Minutes

February 17, 2010

Page 7

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approved the revised plan as a revised preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Canal Point MR/RPC

Buildings E and F – Revised Building Separation – Road 271

Mr. Abbott advised the Commission that this is a request for a waiver from the required building separation distance of 40-feet between buildings E and F to 30-feet; that the approved record plan permits 162 multi-family units, 115 condominium units and 294 single-family lots; that since this project is a residential planned community, the Commission may amend height, area and bulk requirements; that the request is due to the architecture of the buildings and that stipulation that all multi-family dwelling units must maintain a minimum 300-foot setback from the Henlopen Keys Subdivision; and that the Office of the State Fire Marshal has indicated that they do not have any problems with fire protection requirements.

Zac Crouch, P.E. with Davis, Bowen & Friedel was present on behalf of this request and advised the Commission that the end units are proposed to be 52-feet in length; that this is the same as all other units in the project; that if a 40-foot separation distance is required, the end units could only be 45-feet in length; that if the end units were 45-feet in length, they would be out of character with the other units; that a 40-foot separation distance could be maintained if there wasn't the 300-foot setback from Henlopen Keys required; that when the project received final approval, the actual floor plans were not completed; that the units could have sunrooms or decks; and that this will be the only area where a lesser separation distance is requested.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve a minimum 30-foot separation distance between Buildings E and F as presented. Motion carried 4 – 0.

Tanya Y. and Truman B. Mason, Sr.

3 Lots and 50' Right of Way – Road 541

Mr. Abbott advised the Commission that this is a request to subdivide a 23.37-acre parcel into 3 lots with access from a 50-foot right of way; that 2 of the lots will contain 2.50-acres and that the residual lands will contain 18.37-acres; that the owner proposes to create the 50-foot right of way over an existing driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; and that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 4 – 0.

Minutes
February 17, 2010
Page 8
Jerry Murphy
Lot and 50' Easement – Road 487

Mr. Abbott advised the Commission that this is a request to create a 1.0-acre lot out of an 18.23-acre parcel with access from a 50-foot easement; that the 50-foot easement would be an extension to an existing 15-foot easement; and that the request can be approved as submitted, or an application for a major subdivision can be required.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the request as submitted. Motion carried 4 – 0.

Helen J. and Paul L. Kruger, Sr.
3 Lots and 60' Right of Way – Road 321

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from a 60-foot right of way; that Lot 1 will contain 3.915-acres, Lot 2 1.975-acres and Lot 3 1.646-acres; that the owner proposes to create the right of way over an existing farm lane; that the request may be approved as submitted, or an application for a major subdivision can be required; and that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 4 – 0.

Additional Business

Mr. Lank advised the Commission that the public hearings that were postponed on February 11, 2010 due to the snowstorms have been rescheduled for March 25, 2010.

Mr. Wheatley advised the Commission that he would not be at the March 11, 2010 meeting.

Meeting adjourned at 3:45 p.m.