



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE SPECIAL MEETING OF SEPTEMBER 16, 2009

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, September 16, 2009 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. Robert Wheatley, Mr. Rodney Smith, Mr. I.G. Burton, III, Mr. Michael Johnson, Mr. Martin Ross with Mr. Vincent Robertson – Assistant County Attorney and Mr. Shane Abbott – Assistant Director.

Motion by Mr. Smith seconded by Mr. Burton 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 Consent Agenda as circulated. Motion carried 5 - 0.

The Consent Agenda included the following:

1. Time Extensions

a. CU #1738 – Baywood, LLC

This is a request for a one-year time extension. This conditional use for an equestrian center was approved on July 22, 2008. This is the first request for an extension, and if an extension is granted, it shall be retroactive to the anniversary date of approval and approval will be valid until July 22, 2010.

b. Subdivision #2003 – 50 – Kaplan, Gallo & Howett

This is a request for a one-year time extension. The Commission granted preliminary approval on April 19, 2007 and granted a one-year time extension on June 18, 2008. This is the second 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 April 19, 2010.

c. Subdivision #2005 – 61 – Delmarva Woodlands Alliance 3, LLC

Minutes

September 16, 2009

Page 2

This is a request for a one-year time extension. The Commission granted preliminary approval on September 14, 2006 and granted one-year time extensions on September 19, 2007 and November 12, 2008. This is the third 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 September 14, 2010. Since this is the third request for an extension, it should be the last one that the Commission will grant.

d. Subdivision #2005 – 62 – Dream Builders Construction, Inc.

This is a request for a one-year time extension. The Commission granted preliminary approval on August 24, 2006 and granted a one-year time extension on February 8, 2008. This is the second 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 August 24, 2010.

e. Subdivision #2006 – 26 – Gravel Hill Properties, LLC

This is a request for a one-year time extension. The Commission granted preliminary approval on August 23, 2007 and granted a one-year time extension on October 16, 2008. This is the second 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 August 23, 2010.

f. Subdivision #2006 – 35 – 2416 Joppa Road, LLC

This is a request for a one-year time extension. The Commission granted preliminary approval on September 17, 2008. This is the first request for an extension. If an extension is granted, preliminary approval will be valid until September 17, 2010.

g. Subdivision #2006 – 68 – Dove Estates

This is a request for a one-year time extension. The Commission granted preliminary approval on September 17, 2008. This is the first request for an extension. If an extension is granted, preliminary approval will be valid until September 17, 2010.

h. Subdivision #2006 – 74 – David and Carolyn Wilson

This is a request for a one-year time extension. The Commission granted preliminary approval on September 17, 2008. This is the first request for an extension. If an extension is granted, preliminary approval will be valid until September 17, 2010.

2. Howard and Jacqueline Ritter

2 Lots on 50' Right of Way – Road 285

This is a request to subdivide a 1.57-acre parcel into 2 lots with access from an existing 50-foot right of way. The proposed lots will contain 0.80-acres and 0.77-acres. The request may be approved as submitted or an application for a major subdivision can be

Minutes

September 16, 2009

Page 3

required. 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. The Commission originally approved this request on September 20, 2006 but the record plan was never recorded. At the September 20, 2006 meeting, Mr. Johnson made a motion to approve the request and Mr. Burton made the second. The vote was 5 to 0 to approve.

3. Daniel Burton

2 Lots and 50' Easement – Road 410

This is a request to subdivide a 7.55-acre parcel into 2 lots and create a 50-foot easement over an existing dirt lane to serve as access to the 2 parcels. Lot A will contain 0.75-acre and the residual land will contain 6.80-acres. The owner proposes to create the 50-foot easement over an existing dirt lane. DelDOT has issued a Letter of No Objection. The request may 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 items on the Consent Agenda as presented and stipulated. Motion carried 5 – 0.

OLD BUSINESS

Subdivision #2004 – 38 - - application of **RIVER BASIN ENGINEERING** to consider the Subdivision (Cluster Subdivision) of land in an AR-1, Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 65.00 acres into 126 lots, located south of Road 302, 0.4 mile east of Road 305 and Route 48 intersection.

Mr. Abbott advised the Commission that this is the final record plan for a 126-lot cluster subdivision; that the Commission granted preliminary approval for 126 lots on August 11, 2005 and granted one-year time extensions on August 16, 2006, July 18, 2007 and August 20, 2008; that the Commission stipulated that the time extension granted on August 20, 2008 would be the last extension granted; that the final record plan meets the requirements of the zoning and subdivision codes and the conditions of preliminary approval; that all agency approvals have been received with the exception of Sussex County Engineering; that the Engineering Department has issued a letter advising that the plans for all on-site improvements have been found to be satisfactory but that the off-site wastewater system and the Wandendale Treatment and Disposal system is still pending approval and that an approval letter cannot be issued until the system has been designed and permitted; and that the Commission was provided a copy of that letter.

Mr. Abbott advised the Commission that Mr. Izzo – County Engineer has written a letter on another application similar to this application in that central sewer will be provided to the other development and that his department has no objections to that application receiving final approval with the stipulation that a notice to proceed letter will not be issued until the sewer treatment plant is operating or under construction; that the Wandendale Treatment Plant would have to be under construction by December 2012; and that the final record plan for this application would have to be recorded within sixty days and be substantially under construction within five years of the date of recordation.

Motion by Mr. Johnson seconded by Mr. Burton and carried 4 votes to none, with Mr. Ross not participating, to approve this application as a final with the following caveat: A notice to proceed with the construction will not be issued for this project until the specified regional waste water facility is substantially under construction or another treatment and disposal facility has been approved by DNREC to service this project. Motion carried 4 – 0 – 1.

OTHER BUSINESS

1. Seaside Plaza, LLC

Revised Site Plan and Shared Parking Analysis – Route One

Mr. Abbott advised the Commission that this is a revised preliminary site plan for a 20,310 square foot mixed use building located on 1.46 acres; that the site is zoned C-1 and was the former site of Webster's Furniture near Rehoboth Beach; that the proposed uses are a fast food restaurant, a casual dining restaurant, furniture sales and medical offices; that the setbacks are legal non-conforming; that under Section 115-162, 102 parking spaces would be required based on 5 spaces per 1,000 square feet of gross leasable area; that Section 115-163(H) would require 71 spaces; that based on the applicant's shared parking study, 62 spaces are required; that the applicant has provided 65 parking spaces; that Mr. Robertson has reviewed the shared parking analysis and based on Section 115-165B(2)C indicates that that the developers are in compliance with the shared parking requirements, subject to approval by the Director and the Planning and Zoning Commission; that 10 parking spaces are located within the front yard setback and are subject to site plan review; that a 20-foot landscaped buffer is provided along Route One and additional landscaping is provided along Road 270A; that a right out only is proposed along Route One and ingress/egress to the site is off of Road 270A to the rear of the site; that Sussex County will provide central sewer to the site and Tidewater Utilities, Inc. will provide central water; that there are no wetlands on the site and the site is not located in a flood zone; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was provided copies of the Shared Parking analysis and Mr. Robertson's response and the proposed site plan.

Mr. Johnson expressed concerns about the hours of business, the total number of employees and questioned if there is any additional parking on adjoining parcels.

David Kuklish, P.E. with Element was present and advised the Commission that the shared parking rational has been performed in accordance with Urban Land Institute guidelines; and that the 65 parking spaces required under these regulations are provided on this site.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the revised site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

2. Richard and Sonya West
CU #1735 Site Plan – Route 17

Mr. Abbott advised the Commission that this is a site plan for an airport and heliport located on 28.55-acres; that the conditional use was approved on June 24, 2008 with 9 conditions; that a 7,814.40 square foot hanger is proposed and the minimum setback requirements are met; that Mr. Smith questioned the stipulations imposed; and that the site plan can be approved as a final with the stipulation that the conditions of approval be referenced on the final site plan.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the site plan as a preliminary with the stipulation that the conditions of approval be referenced on the final site plan. Motion carried 5 – 0.

3. Subdivision #2005 – 65 – Reynolds Road, LLC
Bay Manor – Revised Preliminary and Time Extension

Mr. Robertson did not participate in this discussion.

Mr. Abbott advised the Commission that this is a request to amend a preliminary subdivision plan and a request for a one-year time extension; that the Commission granted preliminary record plan approval for an 85-lot cluster subdivision on October 18, 2006 and granted one-year time extensions on November 14, 2007 and December 17, 2008; that the 85 lots were a minimum of 7,500 square feet; that the revised preliminary plan is two fold, first, the developers are proposing 8, 0.75-acre lots along Road 233, each of these lots has the required 150-feet of road frontage, secondly, the developers are proposing 41, 0.50-acre lots on 41.38-acres on the interior of the site; that the total number of lots on the revised subdivision is 49 lots, which is a reduction of 36 lots from the original plan; that a time extension is also needed; that if an extension is granted, it should be the last extension that the Commission granted since this is the third request that the Commission was provided copies of a letter from the applicant's engineering firm explaining the request and a copy of the revised plan.

Mark Davidson of Design Consultants was present on behalf of this request and advised the Commission that the plan has been reduced from 85 to 49 lots; that soils work has been completed and submitted to DNREC for a septic feasibility statement; that the statement should be issued at any time; and that revised proposed conditions of approval have been submitted.

Mr. Burton stated that he would move that the Commission grant a revised preliminary approval for Subdivision #2005 – 65 with the following amended conditions:

1. The maximum number of dwelling units shall not exceed 41.
2. Final Site Plan review by the Planning and Zoning Commission shall be required.
3. Sidewalks will be provided on one side of all subdivision streets.

4. Interior street design shall meet or exceed Sussex County standards.
5. All entrances, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the applicant as required by DelDOT and within the time periods required.
6. Subdivision lots shall be served by individual on-site wastewater disposal systems as approved by DNREC.
7. Potable drinking water shall be provided by individual on-site wells as approved by DNREC.
8. Storm water management and erosion and sediment control shall be constructed in accordance with all applicable State and County requirements and shall be operated utilizing Best Management Practices to provide positive ground water recharge.
9. No wetlands shall be included in the individual lots.
10. A homeowners' association shall be formed to provide for the perpetual maintenance, repair and replacement of interior streets, buffers, storm water management facilities, recreational facilities and other common areas.
11. Street lighting will be provided through Delaware Electric Co-op.
12. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
13. A landscaping plan will be provided as a part of the final subdivision plan.
14. The applicant shall coordinate and cooperate with the local school district's transportation manager to establish a school bus stop area, if the transportation deems a stop area necessary or appropriate.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to grant a revised preliminary approval with the conditions stated and to grant a one-year time extension. Motion carried 5 – 0.

4. Subdivision #2006 – 70 – PAF, LLC
Amended Condition

Mr. Abbott advised the Commission that this application received preliminary approval on July 16, 2008 and the Commission granted a one-year time extension on June 17, 2009; that preliminary approval was granted with 11 conditions; that Condition J requires that sidewalks shall be located on one side of all streets in the subdivision; that the developers are requesting that this condition be deleted; and that the Commission was provided a copy of a letter from the developer's engineer explaining the request.

Mr. Johnson questioned if he made the motion to grant preliminary approval; and advised that Commission that since only 10 lots are proposed in a rural area, he does not feel that sidewalks are a critical component to the subdivision and that there will be adequate lighting from the adjacent correctional facility.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to delete the condition that sidewalks shall be located on one side of all streets in the subdivision. Motion carried 5 – 0.

5. Blue Claw, LLC
2 Lots and 50' Easement – Road 313A

Mr. Abbott advised the Commission that this is a request to subdivide a 1.05-acre lot into 2 lots, which would have access from a 50-foot easement; that Lot A will contain 0.52-acre and Lot B will contain 0.53-acre; that the owner proposes to create the 50-foot easement over an existing driveway across another parcel owned by the owner; that DelDOT has issued a Letter of No Objection; that if the request is approved as submitted, the site would have to be annexed into a sewer district before recordation could occur or a variance in lot size would be required from the Board of Adjustment.

Gary Cuppels, P.L.S. with ECI was present and advised the Commission that the site is located in a sewer district.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the request as submitted with the stipulation that the applicant provide confirmation that the site is in an existing sewer district or that the site has been annexed into a sewer district. Motion carried 5 – 0.

6. Coleman Property
4 Lots and 50' Right of Way – Road 426

Mr. Abbott advised the Commission that this is a request to subdivide a 79.0-acre parcel into 5 lots and create a 50-foot right of way to serve as access to 3 of the lots; that the lots will contain 21.13-acres, 16.34-acres, 16.27-acres, 10.35-acres and 14.91-acres; that the 50-foot right of way will serve as access to lots 2, 3 and 4; that the owner proposes to create the right of way over an existing lane; that all of the lots have the minimum required 150-feet of road frontage; 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.

Mr. Robertson advised the Commission that the staff could approve the subdivision over the counter since it meets the requirements of the subdivision code and that the request is before the Commission since DelDOT is only granting two entrance locations for the 5 parcels.

Mr. Abbott advised the Commission that the 5 parcels contain both uplands and wetlands; and that there is adequate room for dwellings and septic systems to be located on the upland areas.

Mr. Ross stated that he would move that the Commission grant conceptual approval of 4 lots on a 50-foot right of way for the Coleman Property, with the stipulation that the applicant add a statement on the recorded site plan that each of the lot owners shall be

Minutes

September 16, 2009

Page 8

equally responsible for the cost of maintaining the access road and that any further subdivision of the property shall require an application for a major subdivision.

Motion by Mr. Ross, seconded by Mr. Smith and carried unanimously to approve the request as a concept with the stipulations stated. Motion carried 5 – 0.

Meeting adjourned at 4:00 p.m.