

MINUTES OF THE REGULAR MEETING OF DECEMBER 18, 2014

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 18, 2014 in the County Council Chambers, 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. Michael Johnson 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.

OLD BUSINESS

Subdivision #2004 – 8 Spring Breeze Associates

Application of **SPRING BREEZE ASSOCIATES** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, Sussex County, by dividing 139.62 acres into 235 lots, located north of Road 48 (Hollymount Road) 1,380 feet east of Road 285.

Mr. Abbott advised the Commission that this is the final site plan for a 176-lot cluster subdivision application; that the County Council granted preliminary approval on November 15, 2005; that the Commission granted final record plan approval on December 12, 2007; that the Commission granted a revised preliminary approval on October 10, 2013 and the County Council amended a condition of approval on December 10, 2013; that the revised final record plan meets the requirements of the subdivision and zoning codes and the conditions of approval; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve this application as a final. Motion carried 4 – 0.

PUBLIC HEARING

Subdivision #2014 – 7 Helen Street, Etal

Application of **HELEN STREET, ETAL** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, Sussex County, by dividing 12.60 acres into 3 lots, and a waiver from the street design requirements, located north of Road 308 (Cordrey Road) 2,400 feet northeast of Road 309 (Tax Map I.D. # 2-34-28.00-56.03).

Mr. Abbott advised the Commission that on September 11, 2014 the Commission approved a request to waive the topography requirements for this application since the applicants are requesting a waiver from the street design requirements.

The Commission found that the Sussex Conservation District provided written comments in the form of a memorandum advising that there are four soil types on the property; that the applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction; that no storm flood hazard area is affected; that it is not likely for any off-site drainage improvements; that it is possible that on-site drainage improvements may be required; and that no tax ditch is affected.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided written comments in the form of a memorandum advising that the site is not located in a County operated and maintained sanitary sewer and/or water district; that the site is in the North Coastal Planning Area; that individual on-site septic systems are proposed to serve the subdivision; that the site is not in an area where Sussex County expects to provide central sewer service at this time; and that a concept plan is not required.

The Commission found that Sharon Wright was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that the site has been owned by her family for many years; that the intent is to divide the property among the owner's heirs; that family members live in the immediate area; that it is their hope to build on one of the lots; that they have no intentions of developing the property for commercial use; that her brother will maintain the roadway; that they could consider reducing the length of the easement; and that site evaluations have not been done at this time.

The Commission found that Bonita Spencer was present in support of this application and advised the Commission that her grandfather was the owner of the site; that the family takes pride in owning and developing the property; that the subdivision will allow the property to remain in the family; and that it will keep younger family members in the area.

The Commission found that no parties appeared in opposition to this application.

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

Mr. Johnson stated that he would move that the Commission grant Preliminary and Final approval of Subdivision #2014 – 7 for Helen Street, et al, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 3 lots on 12.60 acres of land is significantly less than the allowable density. The three lots will also each be 4.2 acres in size, which significantly exceeds the minimum lot size required by the County.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.

5. The proposed subdivision will not adversely affect traffic on area roadways.
6. A waiver from the street design requirements is appropriate in this case, given the small number of lots that will have access to the roadway.
7. This Preliminary and Final approval is subject to the following conditions:
 - A. There shall be no more than 3 lots within the subdivision.
 - B. The recorded Plot shall clearly explain who is responsible for the perpetual maintenance of the roadway, which will be all 3 lot owners.
 - C. All entrances shall comply with all of DelDOT's requirements.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve this application as a Preliminary and as a Final, for the reasons, and with the conditions stated.

Motion carried 4 – 0.

OTHER BUSINESS

Lewes Townhouse

Preliminary Site Plan – Road 276 (Shady Road)

Mr. Abbott advised the Commission that this is a preliminary site plan for 53 multi-family units located on 6.49 acres that is zoned C-1 General Commercial; that the maximum allowable density is 77 units; that there are 2, 6 unit buildings, 5, 5 unit buildings and 4, 4 unit buildings proposed; that the 2, 6 unit buildings fit within a 165 foot building envelopes; that the typical units measure 28.17 feet by 52 feet; that the setbacks and building separations meet the minimum requirements of the zoning code; that 2 parking spaces per unit are provided which includes a garage unit and an outside stacked parking space; that ingress/egress to the site will be from an easement provided by DelDOT to the adjacent DART site; that there is no direct ingress/egress from Plantation or Shady Roads; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities, Inc.; that the site is not in a flood zone and there are not any wetlands on the site; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan and the applicant's response to the PLUS comments.

Mr. Johnson advised the Commission that he has concerns about sidewalks not being provided; that there appears to be a lack of dumpsters provided; that there is a large number of units proposed on a small parcel; and raised a question if the Commission can require sidewalks and landscaping.

Mr. Robertson advised the Commission that the Zoning Code does not require sidewalks or landscaping for commercial site plans.

Mr. Smith stated that the area is small; that most residents will walk on the pavement on short streets; and that he is not concerned about sidewalks in this case.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the 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 4 – 0.

Governor's

CU #1772 Preliminary Site Plan – Road 267 (Gills Neck Road)

Mr. Abbott advised the Commission that this is a preliminary site plan for 426 multi-family units located on 254.86 acres that is zoned AR-1; that the approved Ordinance permits 472 multi-family units and was a bonus density application; a total of 53 units are part of the bonus density program and will result in a fee of \$1,060,000 to the County; that this conditional use was approved on December 16, 2008 with 15 conditions of approval; that approval is valid until January 1, 2016; that the 15 conditions of approval are noted on the site plan; that 139 multi-family units are proposed in 26 buildings; that these building range from 6 units to 2 units; that the 6 unit buildings fit within a 165 foot square building envelope that the Commission has permitted on past projects; that there is a 40-foot building separation between the buildings; that 287 single family detached dwellings are proposed; that there is a 10-foot separation between the units and a 40-foot separation between groups of buildings; that the detached single-family dwellings are located to the west of the Senators subdivision and the multi-family buildings are to the west of the single family detached units; that a clubhouse, swimming pool and sports court are also proposed; that 852 parking spaces are required and 910 spaces are provided; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that if preliminary approval is granted, final approval shall be subject to the review and approval of the Commission since a landscaping plan needs to be submitted with the final site plan; and that the Commission was previously provided a copy of the preliminary site plan.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the review and approval of the Commission upon receipt of all agency approvals and the submittal of the required landscaping plan. Motion carried 4 – 0.

Pelican Landing

Preliminary Site Plan – Route 24 (John J. Williams Highway)

Mr. Abbott advised the Commission that this is a preliminary site plan for an 87,800 square foot shopping center located on 14.11 acres and containing 3 separate parcels; that the parcels are zoned B-1 Neighborhood Business; that Parcel 1 contains 70,400 square feet of retail space located on 11.89 acres; that Parcel 2 contains 4,100 square feet for a bank, fast food restaurant or retail located on 0.98 acres; that Parcel 3 contain 13,300 square feet for a drug store or other commercial use located on 1.23 acres; that the setbacks for each parcel meet the minimum requirements of the zoning code; that there is an area on Parcel 2 that needs to be noted what it is since there is an encroachment into the front yard setback; that 439 total parking spaces are required and 450 spaces are proposed; that there is a note on the site plan indicating that a shared parking agreement will be utilized and that the Commission will have to approve the agreement; that a 50 foot buffer from Tidal wetlands is provided; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that no structures are

located in a flood zone; that solid vegetation or a 6 foot solid fence is provided to screen the parking areas from the adjacent residential uses; that the site plan is suitable for preliminary approval, but final site plan approval should be subject to the review and approval of the Commission since the shared parking agreement needs to be reviewed and approved by the Commission; and that the Commission was previously provided a copy of the site plan.

The Commission discussed the possible encroachment into the front yard setback on Parcel 2.

Mr. Abbott advised the Commission that no one was present on behalf of this item.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration and a clarification for Parcel 2. Motion carried 4 – 0.

**Marina Bay at The Peninsula
Revised Site Plan – Phase 5B, Areas 1 & 2 and Area 7
and Phase 6B, Area 8**

Mr. Abbott advised the Commission that this is a revised preliminary plan for 61 detached single-family units that would replace 76 multi-family units for this area; that a 20 foot front yard setback with 10 foot rear yard setbacks are proposed; that there is a minimum 10 foot separation between the units; that there is a 15 foot minimum corner yard setback proposed; and that the Commission was previously provided a copy of the revised site plan.

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 review and approval of the Commission upon receipt of all agency approvals. Motion carried 4 – 0.

**Dolores Desmond
2 Parcels & 50' Easement – Road 258 (Hudson Road)**

Mr. Abbott advised the Commission that this is a request to subdivide an 8.6 acre parcel into 2 parcels with access from a 50-foot easement; that Lot 1 will contain 7.1 acres and Lot 2 will contain 1.5 acres; that the owner is proposing to create the 50-foot easement over an existing driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

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

**Dan Sander
3 Lots & 50' Right of Way – Road 280B (Conleys Chapel Road)**

Mr. Abbott advised the Commission that this is a request for reconsideration for a request that was denied on November 20, 2014 for a request to subdivide a 5.73 acres parcel into 3 lots with

access from a 50-foot right of way; that 2 of the lots will be a minimum of 1.0 acre and the other lot will be 3.0 acres; that the owner is proposing to extend an existing 50-foot right of way to serve as access to the proposed lots; 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.

Mr. Lank advised the Commission that the existing lot with access from the easement was created in 1988 which was prior to the Commission's policy of 3 lot subdivisions which was established in 1997.

Motion by Mr. Johnson, seconded by Mr. Burton, 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 4 – 0.

Matthew Smith

Parcel & 50' Easement – Road 40 (Redden Road)

Mr. Abbott advised the Commission that this is a request to create a 10.0 acre parcel with access from an existing 50-foot easement; that there are 2 poultry houses located on the proposed parcel; 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, approval would be required from the Delaware Agricultural Lands Preservation Foundation prior to the staff approving the survey for recordation since the site is part of an Agricultural Preservation District; and that the Commission was previously provided a sketch drawing of the request.

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

Meeting adjourned at 6:55 p.m.