

PLANNING AND ZONING COMMISSION
MEETING MINUTES
September 16, 2021

1. Chairperson Liddle called the meeting to order at 6:00 p.m. with the Pledge of Allegiance. Commission Members Sigvardson, Nicholson, Curran, and Amendt were in attendance. Planning, Zoning & Development Director Ken Cimino, Town Solicitor Dennis Schrader, Jim Lober Town Engineer and Town Clerk Donna Schwartz were also in attendance. The meeting was held at 32 West Avenue.

2. **SWEARING-IN OF WALTER CURRAN**

3. **APPROVAL OF AGENDA**

A motion was made by Mr. Sigvardson, seconded by Nicholson, to approve the agenda. The motion carried unanimously 5/0.

4. **APPROVAL OF MINUTES**

A motion was made by Mr. Nicholson, seconded by Mr. Sigvardson, to approve the July 15, 2021, minutes as presented. The motion carried unanimously 5/0.

5. **NEW BUSINESS**

A. **P-336 32 & 34 Woodland Avenue (PIDNs:116.010 & 116.011/CTM#s: 134-12.00-317.01 &134-12.00-317.00)**

A concept plan submitted by the property owners, Steven J. & Ann Collazuol, to subdivide parcels of land into seven (7) parcels on property zoned R-1 (single family residential district), located at 32 & 34 Woodland Avenue, CTMs:116.010 & 116.011/CTM#s: 134-12.00-317.01 & 134-12.00-317.00)

- Blue Heron Landing - Concept Plan - as completed by Pennoni Associates, Inc dated 6/4/21

Steve Anderson, of Pennoni Associates, was present and spoke on behalf of the owners. He said they are proposing the same six lot subdivision as previously recorded. The project sunsetted, and they need to start over. Mr. Anderson stated he received Mr. Lober's comments and understood what he needed to do before coming back to Planning and Zoning. Mr. Liddle questioned a road on the plan, he asked if that was Hummingbird Lane. Mr. Anderson agreed that it was.

Mr. Lober said, based upon our review, we have the following comments.

Generally

1. Provide topography on the plan in accordance with §140-102-D(6)
2. Remove note #5. The existing building should be shown to be demolished on the plan and will be required to be removed as part of the initial site work so that work in the ROW can proceed properly to construct the new road.

Wetlands

1. A wetland delineation will be required for the property in accordance with §116-13. If no wetlands are found on-site, a report describing the investigation from a qualified professional is still required.

Floodplain

1. The entirety of the site lies within FEMA - zone AE - 100-year floodplain – elevation 6.0 /7.0 with no floodway.
2. §116-5-E2 of the Town code- Development in Areas with Base Flood Elevations but No Floodways, states:
 - a. For development activities in a flood hazard area with base flood elevations but no designated floodways, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting the proposed activity and shall submit such technical data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.
 - b. The proposed development activity may be permitted if the analyses demonstrate that the cumulative effect of the proposed development activity, when combined with all other existing and potential flood hazard area encroachments will not increase the base flood elevation more than 1.0 foot at any point.

Until items a and b have been satisfied, no plan for development on-site within the floodplain boundary can be considered code compliant.

3. Assuming that FEMA approval can be obtained, any plan for the site will be required to comply with all applicable aspects of Sections 116-4 and 116-5 of the Town Code.
4. It is possible that the previous CLOMR approval is still valid, but it will be the applicant's responsibility to provide verification from FEMA if that is the case.

Utilities

1. Provide a conceptual sanitary and water main layout including service tie-ins.

Stormwater Management

1. Sediment and stormwater approval will be the jurisdiction of the Sussex Conservation District. However, the Town will also need to review the stormwater design. Please provide copies of the sediment and stormwater management plans to the Town.

Grading and Drainage

1. Provide lot grading that directs runoff to a closed drainage system in the street. Eliminate the swale behind the sidewalk.

Easements

1. Label the existing water easement with recordation information and note that it benefits the Town.

2. The existing culvert along the rear property line is mutually owned and maintained by the property owner to the west and the applicant. An agreement will need to be recorded and referenced on the plan outlining responsibility for the pipe between the property owner to the west and the homeowner's association for Blue Heron Landing.
3. Label the offsite drainage easement with recordation information.
4. Specifically reference the agreement between the Collazuols' and Robert Herrington on the plan.

Streets and Sidewalks

1. Provide a sidewalk from woodland avenue to the proposed stub to the Herrington property on the south side of Hummingbird Lane.

Mr. Bob Herrington, 38 Woodland Avenue, spoke favorably to the Commission, saying Ocean View is a wonderful place. He asked if his property would have a change of frontage, or if he needed a subdivision of his lot. Mr. Lober replied to Mr. Herrington, he explained that he becomes a corner lot, so his setbacks will change. Mr. Lober said there needs to be an agreement between Collozuol and him as to this change. Mr. Herrington does not need to change his address.

Mrs. Darlene Boerlage, 35 Woodland Avenue, said storm water management is a big problem for her. She also asked if an EIS was required and said she considers the proposed development to be a traffic concern. Mr. Cimino said a traffic study was done. Mrs. Boerlage asked about landscaping since she looks at the side of these new homes. Mr. Cimino stated there would be new landscape screening and sidewalk projects that will help with drainage.

Mr. Al Casapulla, 15 Powell Lane, spoke against the proposed development commenting on a ditch at the rear of the lot, which backs up to his property and a disagreement he has with the Collozuols. He said he does not like Mr. Collozuol and said he doesn't fit into the community. Mr. Lober asked if he has a shared agreement with the ditch. Mr. Casapulla replied yes. It cost him \$5,500 to fix the ditch. Mr. Lober said they will insist on an agreement with the future HOA about the ditch.

B. P-337 104 Atlantic Avenue (PIDN: 074.002/CTM#:134-12.00-428.01)

A concept plan for a proposed retail/office building, submitted by the property owners, Eric E. & Denise F. Beam, for property zoned GB-1 (general business district), located at 103 Atlantic Avenue, (PIDN: 074.002/CTM#:134-12.00-428.01)

- Concept Plan Beam Route 26, as completed by Plitko, LLC / Land Design, Inc dated 7/12/21.

Mr. Ray Blakeney, of Land Design, was present to answer questions from the Commission. He said this is a small parcel of land, zoned business, and the owner wishes to build a small office building.

Mr. Lober said based upon our review, we have the following comments:

Parking

1. The last two parking spaces on the building side of the drive aisle are impossible to back out of without multiple turning movements. Reconfigure the parking to provide an appropriate backing opportunity for all of the spaces.
2. The last space on the opposite side of the drive aisle from the building and the dumpster enclosure are within the 10' easement required by §140-79-B-6. Reconfigure the parking to remove any proposed improvements from the easement.
3. Stipulate in the parking calculation that the office use permitted is non-medical/dental.

Wetlands

1. If the ACoE does not approve the application of the nationwide permit for the disturbance of the wetlands, as the plan currently indicates, the layout will need to be revised, or the wetland buffer averaging will need to be applied to provide compliance with Article II of Chapter 116.

Floodplain

1. The entirety of the site lies within FEMA - zone AE - 100-year floodplain – elevation 7.0 with no floodway.
2. §116-5-E2 of the Town code- Development in Areas with Base Flood Elevations but No Floodways, states:
 - a. For development activities in a flood hazard area with base flood elevations but no designated floodways, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting the proposed activity and shall submit such technical data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision or Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.
 - b. The proposed development activity may be permitted if the analyses demonstrate that the cumulative effect of the proposed development activity, when combined with all other existing and potential flood hazard area encroachments will not increase the base flood elevation more than 1.0 foot at any point.

Until items a and b have been satisfied, no plan for development on-site within the floodplain boundary can be considered code compliant.

3. Assuming that FEMA approval can be obtained, any plan for the site will be required to comply with all applicable aspects of Sections 116-4 and 116-5 of the Town Code.

Utilities

1. Show proposed connections to public water and sewer.

Landscaping and Screening

1. A 15' screening buffer is required against the residential properties to the rear. Given that disturbance of the wetlands is prohibited, it will be

impossible to provide this screening in the area immediately adjacent to the residential properties. An assessment will need to be made of the existing vegetation within the wetland area to determine if that vegetation, in conjunction with the distance to the building, provides sufficient screening. It is possible that the screening will need to be provided in the upland area between the building and the wetlands.

2. Although parking in the setback areas is permitted, and no minimum distance is specified in the code for a buffer between non-residential uses, the parking against the property line and the dumpster enclosure only a few feet off of the property line will not allow sufficient distance to provide the screening required by §140-73.

Stormwater Management

1. Sediment and stormwater approval will be the jurisdiction of the Sussex Conservation District. However, the Town will also need to review the stormwater design. Please provide copies of the sediment and stormwater management plans to the Town.

Fire Marshal Approval

1. We are uncomfortable with the configuration of the entrance and drive aisle with respect to fire department access. However, the Town will defer to the Fire Marshal for review and approval of the entrance and parking lot configuration for fire protection purposes.

Streets and Sidewalks

1. Provide a sidewalk connecting the sidewalk along Atlantic Avenue to the sidewalk along the building.
2. We are uncomfortable with the configuration of the entrance and drive aisle with respect to ingress/egress and stacking. However, the entrance design is within DelDOT's jurisdiction. The Town will defer to them for review and approval of the entrance configuration.

Additional Agency Approvals

1. Given the potential need for significant changes to the site layout based on comments from outside agencies, and in accordance with §140-103-I-1, the Planning and Zoning Commission will not take action on the Preliminary Plan until the applicant can show that the ACoE, the Fire Marshal and DelDOT have approved the site design.

Mr. Liddle asked if the number of parking spaces were based upon the size of the building. Mr. Lober agreed that was the case.

5. ADJOURNMENT

A motion was made by Mr. Liddle, seconded by Mr. Nicholson, to adjourn the meeting at 6:40pm. The motion carried unanimously 5/0.

Respectfully submitted, Donna M. Schwartz, CMC. Town Clerk

