

**Town of Milton
Planning and Zoning Commission
Minutes
March 15, 2005**

Members Present:

**Dean Sherman Denny Hughes Mike Filicko Herb Dutt
Eric Evans**

Planning and Zoning held a public hearing on the following:

Proposed site plan of parcel 105 and 107 Union Street further identified by Sussex County tax map as 2-35-20.07 77.00 and 2-35-20.07 76.00 14.00 84.00. The application is filed by Ballybunion L.L.C. The applicant is requesting a restaurant for the Town Center District, which is a special permitted use.

Dean Sherman introduced the application and asked if anyone was present to represent the application. Mr. David Ellis stated he was representing Ballybunion LLC. Ballybunion LLC are the current owners of the Irish Eyes Restaurant located in Rehoboth and Lewes and they wish to open a restaurant here in Milton. Matt Dotterer was the draftsman in drawing up the plans for this location. Mr. Dotterer proceeded to explain the site plan. Mr. Dotterer explained that the only additions or modifications to the existing building will be to the deck behind 105 Union and behind the garage to 107 Union will be the addition of a 16' x 22' area for the cooler units. The interior of the structure at 105 Union will be remodeled for a restaurant use. Mr. Dotterer explained that the developers will light Gov. Walk and the kitchen area will have access to Gov. Walk. The developers would like to brick or concrete the back area of their property and fence the area in for dining at a later date. Mr. Sherman asked if anyone else was here to speak on behalf of the application. Mr. Ellis stated there was a number of letters in favor of the Irish Eyes establishment and they were made part of the record. Mr. Sherman asked if there was anyone here to speak in opposition of the application. Mr. Charles Jones proceeded to state his view and his letter is part of the record. Mr. Norton stated he was in favor of the restaurant and is a viable part of the restoring of the downtown area.

Mr. Kernan stated he contacted Mr. Jones earlier today to get an agreement to have access across Mr. Jones property for deliveries. We currently operate a business in Rehoboth that does not have rear access. Mr. Kernan stated they did not find a easement across the back of their property. Mr. Ellis stated the Kernans are sophisticated business owners and are familiar with title searches. Mr. Jones stated he would like to work with the new property owners. After further discussion to the site plan i.e. doors, stairs, entrances it was determined to close the public hearing and review the site plan.

Planning and Zoning will review and act upon the following:

1. *Ballybunion L.L.C. – 2-35-20.07 77.00 & 2-35-20.07 76.00*

Site plan review for 105 & 107 Union Street. Proposed use is Restaurant in the Town Center District which is a Special Permitted Use

Mr. Sherman asked Bob Kerr to give his comments.

Mr. Kerr stated:

1. The door leading to the other property has been removed from the drawings and is corrected.
2. The survey marks wrong property owners.
3. 107 Union St shows only one entrance and Fire Marshall may have a problem with this. Mr. Dotterer stated that this has been corrected and submitted to the Fire Marshal.
4. No information provided for use of second floor to 105 Union St.
5. More information is required to determine parking requirements.
6. The need to determine the EDU's for the property cannot be done. Need additional information. Mr. Sherman asked is there EDU's available> Mr. Kerr stated he needed to review the numbers and Mayor and Council needs to determine how they should be allocated.
7. The location of the trash enclosure needs have additional information for review.
8. The vinyl fences shown to be placed needs additional information i.e. height, construction details. Mr. Dotterer stated the fence exists.
9. No information is provided on outside seating. Mr. Dotterer stated they are not doing outside seating at this time. That will be a phase 2 to the project. The rear outside area will be used for smoking at this time.
10. As a special permitted use P&Z can apply special conditions if they require.
11. Need data table as per Section 6.1.5
12. The location and size of the grease traps missing. Mr. Dotterer stated that grease traps will be determined by dept. of health.

Mr. Sherman asked Eric Evans to give his comments.

Eric Evans stated:

1. In considering outside dinning No Electric powered music should be permitted.
2. Outside dinning hours should be established.
3. Inside dinning no electronic live music should be considered.
4. Trash to be removed from property without crossing property
5. Deliveries should be through your property
6. No signage in the front windows (hanging in the window)
7. All signs to be reviewed by Historic Committee.
8. Exterior addition needs to be reviewed by Historic Committee
9. Fencing the same.
10. Parking required. P&Z has options here. T/C can determine parking requirement for T-C District along with others.
11. Prior to final approval show grease traps.
12. Note on approved plans that lets town inspect grease traps.
13. Construction needs to comply with Flood Ord.

It was stated from Mr. Kernan that he planned to have live music and it would be a burden to us if we could not.

Mr. Dotterer stated they wished to have their parking waived do to parking being available in the area and the theater did not have parking for their establishment.

Mike Filicko asked if the work on the building could be done without infringing on Mr. Jones property. Mr. Kernan stated that he is working with Mr. Jones to get permission to use his property while repairs are going on. Mr. Jones stated he had no objections to the use of the property in repairing their structure. Mr. Jones also stated he would grant them permission to access the side of the building and the roof. Mr. Dutt asked what a timely opening was. Mr. Kernan stated June 5, 2005. Mr. Dutt stated he had a concern with the parking issue.

Mr. Sherman stated it would be appropriate to ascertain a motion and table this to give Mr. Dotterer time to review the comments from Eric and Bob and think about the parking issue. Herb Dutt motioned to table the application. Eric Evans asked if maybe this should go before Town Council to receive guidance on the parking for the Town Center. Mr. Evans stated if he was make a motion he would forward this issue to Town Council to receive their recommendation on the Parking requirements for Town Center. Mr. Evans also asked that the deed recordation for the easement be investigated to determine if the easement exists. Mr. Dutt amended his motion as such, seconded by Denny Hughs all voted in favor.

2. *Heritage Creek – 2-35-20.00 56.00*

Subdivision site plan review for an LPD overlay subdivision in the R-1 Zoning District. The property is located south on route 5.

Dean Sherman introduced the application and asked if anyone was present to represent the application. Jeff Clark from Land Tech stated he was representing the application and proceeded to explain his site plan. He stated that what was before P&Z was the entire site and that he was asking for preliminary approval for the entire site vise phasing it. Mr. Clark also asked that P&Z give the site a 2-year preliminary approval, as the developer will be phasing in the final sites. P&Z granted the 2-year preliminary approval. Mr Clark stated that the only comments we have is we will comply with your comments except for the following:

From Bob Kerr:

Item 4. We had a color-coding error and we have corrected this error. Mr. Kerr asked if this change the master plan? Mr. Clark stated we make additional sets of plans and with your blessing I will make these changes to the color-code and have the town stamp them as master plan approval. Mr. Sherman stated please have these changes corrected.

Item 5. The retail area is not included in the calculations for residential use. Mr. Clark stated that 425 are the maximum number of residential on the Parcel.

Item 13. We are continuing to pursue the Rte.5 blvd concept but this is part of Deldot review.

Item 14. We will look at these lots and reconfigure them to the rest of the community. It was recommended by the Developer that when they come back and show the homes on the lots they be reviewed at that time. Mr. Kerr stated that once preliminary approval is given changes cannot be requested. Mr. Clark stated for the record that we remain flexible on these three lots for the design of the lots.

Item 15. Consideration should be given to eliminating breaks in the median on Governors Boulevard and Mariners Circle at alleys. Mr. Clark stated that this was a great idea and aesthetically this would be a great improvement.

Item 16. We are revisiting this and think we might be going to the RIB system. This area is missed labeled. Mr. Kerr stated if RIBS then the town would probably require fencing Mr. Clark concurred.

Item 20. Mr. Clark would like for the town to defer this to Deldot. Mr. Kerr stated he would prefer not to send it to Deldot because that is what was done at the Food Lion Site and folks are not happy with it. The site should have curbing along route 5 along the site and the sidewalk could meander along the site.

Item 21. Mr. Clark stated the plans would be noted stating these alleys are private drives.

Item 22. The pedestrian bridge on the original plans has been removed and the connection along route 5 connects the two areas. Dean Sherman asked was it only for pedestrians, Mr. Clark stated it was. P & Z stated they were o.k. with the removal of the foot bridge.

Item 23. Mr. Clark stated they had no problem with the comment but he would like the opportunity to re-look at the area a little closer with the individual site plans. Mr. Kerr stated an entrance to the commercial area from this area is not desirable.

Item 31. The lots at the end of the alleys in Phase I do meet the minimum front footage if you do not think as the alley's as being the road frontage. Mr. Clark stated we are at your mercy. These lots will not be clear-cut but restricted cut and the homes will be forced to be placed in the restricted area. Planning and Zoning agreed that the selective cutting of trees would be permitted.

Mr. Clark presented a picture of single-family homes being proposed for the development as per Item 20 of the conditions. These are not the units for phase 1 but for phase 2. The question came up as for the review time frame on the homes and it was discussed and determined by P&Z that the review of the homes for architecture details will be done prior to the final site plan review.

Eric Evans stated:

1. The homes on field's way back out of their lots on a road with dual traffic and cars parked along the road. He was not sure the correction but the road will have dual traffic.
2. Information was presented to the developer in regards to the standard park benches, trashcans and bike racks.
3. The location of the water lines and sewer lines would like to be relooked at and maybe relocated as per maint. request.
4. Locate a fire hydrant along 5 with fire marshal approval
5. During the construction phase have the street cleaned month. Mr. Clark stated conservation district requires weekly.

Mike Filicko asked if Deldot was o.k. with one entrance. Mr. Clark stated no one has raised an issue with that.

Herb Dutt motioned to grant preliminary approval with the 1 year extension and seconded by Mike Filicko all voted in favor.

3. The Orchards – 2-35-14.00 288.00

Letter from Kercher Engineering Inc. on behalf of Zonko Builders, Inc. requesting extension for preliminary site plan approval.

It was explained that Kercher submitted the letter in Nov. and due to not meeting in Dec. It was in advertly missed for the following month. They are asking for a 1 year extension due to the Mulberry street upgrades. Dean Sherman stated it just made sense to grant the

extension. Herb Dutt motioned to grant 1 year extension Denny Hughs seconded all voted in favor.

Attached are Bob Kerr's Notes for the record.

MEMORANDUM

December 20,

2011

To: Planning and Zoning Commission

From: Mr. Robert W. Kerr, P.E., DEE

Client: Town of Milton

Subject: Carey Communities, Inc.

As requested, we have reviewed the preliminary site plan for Heritage Creek located on the northeasterly side of Route 5 south of the Cape Henlopen Middle School. The drawings were prepared by Landtech, LLC and George Miles and Buhr, LLC and are dated February 2005. The following comments are offered:

1. The preliminary site plan is for 425 residential units. Five (5) areas identified as either commercial or community are identified. Separate site plans will be required for each of these areas. Although not part of this preliminary site plan, the Commission may desire to prohibit vehicle access both to and from the commercial areas onto Heritage Boulevard. Commercial Areas 1 and 5 should be prohibited from having direct access onto State Route 5. This will likely be a requirement of DelDOT. It is recommended that a note designating these restrictions be placed on the drawings.
2. Note Number 20 on the cover sheet needs to be placed at the bottom of the sheet after the lot area information.
3. North arrows should be provided on all sheets.
4. The breakdown of housing units on Sheet G2 does not agree with the cover sheet. There are only 70 single family duplex semi-detached shown. But there are 106 single family town homes shown.
5. Does the limit on residential units preclude using a portion of the commercial for live work or apartments over the commercial area?
6. The right-of-way to be dedicated to the Town between Governors Boulevard and Cannery Village should be shown.

7. Handicap accessible cross walks should be placed across Garden Street at Heritage Boulevard.
8. A cross walk should be placed at Fields Way and Governors Boulevard.
9. The walkway running parallel to Governors Boulevard (between Governors Boulevard and Garden Street) should be provided with handicap accessible crossings of the roads including the median of Heritage Boulevard.
10. Consideration should be given to requiring crosswalks in the middle of blocks to be perpendicular to the right-of-way.
11. Handicap accessible cross walks should be provided at Heritage Boulevard and Mariners Circle, also at the entrance to the development on Heritage Boulevard at Route 5 and at Woodland Avenue and Route 5.
12. Cross walks should be provided on Mariners Circle at its intersection with Fox Street, Prospect Street, Arch Street and Mill Pond Avenue.
13. Additional right-of-way may be required by DelDOT along Route 5.
14. Consideration should be given to reorienting Lots 176 and 177. They could be placed parallel to Lot 175 which would provide a more usable open space.
15. Consideration should be given to eliminating breaks in the median on Governors Boulevard and Mariners Circle at alleys. This would reduce traffic conflicts of people coming out of an alley and attempting to make a left turn, having to pull across a traffic lane and possibly stopping before proceeding.
16. On Sheet G3 a temporary spray irrigation field is identified. Will spray irrigation or drip irrigation be used on this area.
17. If spray irrigation is used, where is the required storage to be located?
18. Verify Lot 331 meets the minimum front footage of 50 feet at the building setback line off Mill Pond Avenue.
19. Verify the arc distance on Lot 388. One corner is 23.56 and the other corner is 25.00.
20. It is recommended that in addition to the sidewalk along State Route 5 that integral curb and gutter also be provided.

21. It is recommended that the alleys in Phase I not be dedicated to the Town for maintenance responsibilities. The alleys would remain private. An easement would be necessary for the water and sewer lines.
22. The pedestrian bridge shown on the master plan connecting Phase 1 to the remainder of the project has not been shown. Is a bridge to be provided?
23. Consideration should be given to requiring curbing along School Lane and Falcon Lane adjacent to commercial area 5.
24. The commercial area is shown to extend between Fields Way and the school property. This should be corrected.
25. On the cover sheet and on Sheet 12, should the corner lot side/front yard set back be changed to read corner lot side yard.
26. Why are the set backs different for Lot 411, 412, 413 and 414?
27. The walkway around the northern storm water pond is not shown to connect to Cannery Village.
28. What is the width of the walkways? What does the cross section look like?
29. Consideration should be given to deleting some of the walkways, such as in the area near Lot 267. The walkway could connect with the sidewalk along Mariners Circle.
30. No locations for trash corals are shown.
31. Do the lots at the end of the alleys in Phase I meet the minimum front footage?
32. The parcels around Elmwood Lane, Alder Lane, Laurel and Hickory Lane should be further discussed to determine what is defined as front yard, side yard, back yard, etc. As an example, Lot 410 has frontage on three (3) sides. The set back shown are not dimensioned but do not appear to be in agreement with the table on the cover sheet. Where will driveways be located?
33. Consideration should be given to moving the lot line closest to the wetlands area on lot 397 so there is a straight line between 400 and 397.
34. No required landscape buffers are identified and there are no notes limiting the amount of trees that could be removed from the wooded lots.

35. Lots 15, 16, 26, and 27 should be made slightly smaller to allow installation of the water main between Lots 16 and 17, 18, 19 and between Lots 26 and 22, 23, 24 and 25. The water main should be removed from Falcon Lane, Grays Lane and Tillers Lane.
36. A water valve shall be placed on the line serving each alley in Phase I at the water main.
37. The 12" water main that runs out to Route 5 from Cannery Village should be extended along Route 5 and connect with the water main at Heritage Boulevard and Woodland Avenue.
38. From the existing water main on school property, a 90 degree elbow shall be installed and a 12 inch line constructed along Governors Boulevard to Heritage Boulevard and along Heritage Boulevard to Route 5.
39. On Mariners Circle and Heritage Boulevard neither the water main nor sewer line should be beneath median.
40. Pumping station for Phase I should be moved closer to cul-de-sac. Rerouting of force main and water main behind Lots 408 and 409 should be considered.
41. Consideration should be given to relocating the storm water lines between 406, 407 and 402, 403. This location will require additional trees to be cleared and result in a 10 to 20 foot wide clear cut area from the road to the wetlands.
42. On Sheet 10 the road cross sections should be modified to show a 7 foot wide parking area on all cross sections. The total paving width is correct.
43. Adjustments in utility locations will need to be made. Separation between water main and storm sewer is minimal in several locations.
44. The pavement detail on Sheet 10 needs to be revised to be in agreement with the paving requirements of the Town's Subdivision Ordinance.

RWK/cjb
148-058