

**MINUTES
BRIDGEVILLE PLANNING AND ZONING COMMISSION
JUNE 19, 2013 – 7:00 P.M.**

I. CALL TO ORDER

The meeting was called to order by Planning and Zoning Commission (P&Z) Chairman Bill Atwood at 7:03 P.M. Present: P&Z members Jack Cannon, Steve Dell, Ed Lewandowski, John Shockley, Ruth Ann Tull and ex-officio member Code Enforcement Officer (CEO) Jerry Butler. The Town was represented by Solicitor David Hutt and Secretary Peggy Smith. The Heritage Shores (H.S.) developer was represented by Solicitor Ryan Showalter.

II. QUORUM PRESENT

Chairman Atwood advised a quorum was present to conduct the business of the P&Z; six of eight members were in attendance. He introduced new member, Mr. Ed Lewandowski and re-introduced Mr. Steve Dell, who joined P&Z at the May meeting.

Chairman Atwood advised notice of this meeting and public hearings were advertised in the Seaford Star.

III. REVIEW AND POSSIBLE RECOMMENDATION OF THE HERITAGE SHORES LANDSCAPING AND MAINTENANCE PLAN

A. Discussion of Application

Chairman Atwood advised the P&Z formally reviewed this plan at their May 15th meeting and will make a recommendation to the Commissioners of Bridgeville concerning the plan. On May 15th the members approved a mowing height of 18” (yellow area) and 12” (pink area) for the property. The H.S. developer was asked to return tonight with the revised plan including the height modification, as well as other details and map improvements.

Solicitor Showalter reported that he has distributed two versions of the landscaping and maintenance plan tonight. The May 29th version is revised according to the specific requests of the P&Z members at their May 15th meeting. It reads that the property will be transitioned from this management plan to a landscaping plan on a phase by phase basis. He also noted all areas in green are maintained by the individual homeowners in H.S.

Solicitor Showalter participated in an H.S. Homeowner’s Association (HOA) meeting subsequent to the May 15th P&Z meeting, along with a series of community listening sessions, to update residents on the issues that were pending before the Town. During those meetings there were a number of residents who expressed a willingness to allow a taller grass height in the community (24” – yellow area; 18” – pink area) so the cost of mowing could be invested in the community in a different way. Based on those discussions, he is submitting a second plan dated June 18th which includes all of the requested revisions, but reverts to the original plan of 24” and 18” for the mowing plan. He wanted to present both mowing plan heights in the event the comments from homeowners tonight might sway the P&Z to return to the original 24” and 18” mowing plan.

Chairman Atwood questioned the delineation of phases that he had asked for on this revised plan. Solicitor Showalter reported there have been many phasing concepts considered; however, the development does not have a sequential phasing plan in place at this time. The original plan had some squares drawn in for phasing; however, phasing must ultimately depend on market demand and sequential infrastructure development.

Chairman Atwood advised the original RPC Plan approved by the Town Commission had those phases laid out. It is important to go back to that baseline and understand how the developer wants to revise its original plan.

Chairman Atwood questioned the bike path. Solicitor Showalter advised they don't have an alignment for the bike path yet and can't anticipate how the maintenance plan will be affected in that area. Chairman Atwood has also been concerned about noxious weeds. He has discovered the state requires that you simply keep them from growing tall, while other Towns prohibit them. He believes we should follow the state and keep the weeds at a level where they don't re-seed. Solicitor Showalter pointed out a note on the Property Management Plan concerning H.S.'s intention to follow all applicable laws and regulations regarding management of noxious weeds.

In response to a question by Chairman Atwood, Solicitor Showalter advised there are a few infrastructure elements already stubbed out in future areas of the property. He also advised the tallest "rough" areas of the golf course might reach 24" or a little higher after recent rains. Chairman Atwood expressed concern about the height of the golf course rough around Ruddy Duck Ln., as residents had approached him about seeing foxes in that area.

B. Public Comments

Chairman Atwood opened the floor for public comments, advising there would be another opportunity for public comment when this application is heard before the Commissioners of Bridgeville

Mrs. Vicky Gray from 1 Amanda's Teal Dr. reported that she lives on the 11th hole. She prefers the taller heights because of a mother turkey and 4 babies who live in the vicinity. This is a habitat for animals that she does not want to disturb.

Mr. Herbert Gray from 1 Amanda's Teal Dr. reported he took part in an Advisory Committee walk on the golf course. They discovered a number of things they could do to enhance the appearance of the course and thus the marketability of the development (i.e. cracked sidewalks, mulch for trees, etc.). He would rather see the development spend money on these enhancements than mowing the grass. He believes 24" is acceptable.

Chairman Atwood asked for comments from CEO Jerry Butler. He advised the height of the grass was less important than getting the developer motivated to cut the grass at all; there has been limited response from them. Currently Mr. Walls is bush-hogging grass at Heritage Shores and his mower can cut to no lower than 8". When he cuts grass that is higher than 18" he has to drop down a gear on the tractor and go slower, which increases the price. CEO Butler personally believes 18" is a realistic height limit; however, the H.S. homeowners are the ones who have to live with the decision. CEO Butler advised he

will enforce whatever height limit is approved. Fines are a last resort; however, he will fine the developer when necessary to protect the Town.

Mrs. Vicky Gray added that she doesn't believe anyone is in disagreement with the 8" grass height, where designated on the plan, only the 18" vs. 24" where ecological implications are significant for animal habitat. She compared the number of people at H. S. with the number of people in the older portion of Bridgeville and believes H.S. should be heard and respected. Commissioner Shockley interjected that H.S. is heard and respected and there is only one Town. Chairman Atwood stated we are all from Bridgeville. Everyone knew about the May 15th P&Z meeting; only a handful of people showed up and Commissioner Shockley commented at that meeting about the lack of H.S. people in attendance, the ones who would be impacted by the decision, and stated he would like to know what they think. The Town is interested in doing what is best for everyone.

Commissioner Shockley asked the attendees if they like the 24" height for undeveloped property rather than the 18" height. A number of people expressed a vocal "yes".

Mr. Harvey Lieberman of 144 Widgeon Way questioned where the extra money would be used if the community accepted the higher grass height. He wasn't certain if the money usage was determined at the developer or HOA level. He would like some answers from H.S.

C. Recommendation of Planning and Zoning Commission

Commissioner Dell advised since he made the original motion to reduce the grass height to 18" and 12" at the May 15th P&Z meeting, and because the area of lower height at the front entrance has been expanded, based on earlier testimony, he would like to rescind his motion of May 15th and make a new motion to return to the 18" and 24" heights, per the June 18, 2013 H.S. Property Management Plan map. Commissioner Lewandowski seconded the motion. Chairman Atwood asked for additional comments.

Mr. Roland Stroup from 88 Emily's Pintail Dr. asked CEO Butler about the constant wind at H.S. and whether or not there was any difference between 18" and 24" in the event of a range fire. CEO Butler deferred to P&Z member Jack Cannon, who is the Town Fire Chief. Commissioner Cannon advised there wasn't a difference that you could see.

Chairman Atwood returned to the motion on the floor (1st – Dell, 2nd – Lewandowski) to rescind the 18" and 12" height motion and replace it with a motion to allow the 18" and 24" grass heights at Heritage Shores, per the June 18, 2013 Heritage Shores Property Management Plan map. The motion carried 6 to 0. The votes were recorded as follows:

Commissioner Cannon	Aye
Commissioner Dell	Aye
Commissioner Lewandowski	Aye
Commissioner Shockley	Aye
Commissioner Tull	Aye
Chairman Atwood	Aye

Chairman Atwood advised P&Z will prepare a letter to the Commissioners of Bridgeville recommending the approval of the H.S. Landscaping and Maintenance Plan dated June 18, 2013. The

Commission meeting is scheduled for Monday, July 8, 2013 and will take place at the Bridgeville Public Library.

IV. Review and Possible Recommendation of Ordinance 2013-D AN ORDINANCE AMENDING THE LAND USE AND DEVELOPMENT CODE OF BRIDGEVILLE TO INCREASE THE MAXIMUM HEIGHT LIMIT FOR ACCESSORY BUILDINGS

A. Discussion of Application

Solicitor Showalter advised the actual Ordinance was written by the Town's Attorney, Dennis Schrader at the request of the H.S. developer and would change the maximum height of detached accessory buildings from 12 feet to 15 feet throughout Town. The motivation for this change is a desire by the H.S. developer to allow accessory buildings known as "casitas". They are not intended to be dwelling units; they could possibly have a restroom and wet bar in them, but could not have cooking, sleeping and bathing facilities. The Town can currently approve these units, but only with a 12' height. The casita has a wider footprint and it would not be possible to have the pitch of the roof match the architecture of the homes within the current code. H.S. would like to offer this type of structure and is requesting a 15' height for accessory buildings.

Solicitor Showalter understands this text amendment would be Town-wide; therefore he suggested creating a new type of accessory structure so that the 15' height applies only to this structure. H.S. is open to a change in wording for clarification, etc., if that would be helpful. These types of buildings would only be allowed in phases 3 and forward, not in phases 1 or 2. Restrictions would be implemented through the development's Covenants, not by the Town Zoning Ordinance. These accessory buildings could not be converted or rented by others. Even if the Town Code changed, the casitas could not be modified to become a housing unit.

The Commissioners were asked for their comments. Commissioner Shockley questioned everyone wanting to build a casita on their property in future phases. Solicitor Showalter does not believe everyone will want to build one. Commissioner Shockley advised if everyone would not want to build one, why would you add to the Code a building the people don't need. Solicitor Showalter responded this is an option they would like to offer. Commissioner Shockley asked whether it would interfere with the structures or appearance of the Phase 1 homes. Solicitor Showalter replied "no". Commissioner Shockley doesn't believe it is fair to the established residents and does not believe it is needed in Sussex County. Solicitor Showalter suggested a compromise of permitting the casitas only in areas of future phases that are not directly adjoining Phase 1 or 2 homes.

Chairman Atwood questioned the need for water/sewer services. Solicitor Showalter suggested that water/sewer would be helpful for a sink in an art studio or a bathroom in a game room. Permission for water/sewer would be subject to Town approval.

CEO Butler questioned enforcement; i.e. making sure it doesn't become a mother-in-law/college student apartment. He believes this is where the idea is ultimately headed. A bathroom would not be essential; it would be easy to go into the house. From a bathroom you would likely add a hot plate and then a bed. He believes this will open a can of worms. He added that water/sewer would necessitate another impact fee.

Solicitor Showalter advised the above-mentioned possibilities are not the intent of approving a casita. He believes the developer would rather have approval for a dwelling without water and sewer, rather than no approval at all. He would need to confer with Passwaters LLC about their parameters; however, the intent is not a second dwelling unit.

B. Public Hearing

A Public Hearing was opened at 7:46 P.M. Mr. Ron Maas from 112 Widgeon Way advised they built their house in 2007 according to the original development concept. He is a Planning Board/Developer Attorney and has never seen a planned use developed in this manner – starting with a building concept and changing in mid-stream to build smaller homes, casitas, smaller roads, etc. Ryan Homes is currently successfully building and selling their larger houses, not their smaller ones. He suggested standing on the 15th green of the golf course and looking at the new, small homes on Whistling Duck Dr. to see where these Ordinances will lead. Apparently there isn't enough space between the homes to put up a ladder on the side of a home, due to the small easement. He added that these houses don't have fire-protected walls despite their proximity to each other, which is a terrible fire risk with the high winds in the community. Regarding casitas, Mr. Maas expressed concern that someone could build a carpentry shop and run noisy equipment at all hours. He recommended that the developer submit a concept plan to the Town, as there is currently nothing concrete.

Mrs. Vicky Gray added they have a hard enough time already reaching agreement with the current covenants (lawn, house, landscaping, etc.). She is not in favor of adding another issue to the dis-unity.

Mrs. Jacqueline Vogle from 124 Widgeon Way owns a home in a development in the southwest where casitas are prevalent. Structures she has seen have bedrooms/lavatories/small kitchens. The city approved them in the original plan and they were set at the side of the garage and didn't look like a separate building. She expressed concern that if the developer's vision does not pan out, H.S. will end up with a helter skelter community, not a planned community that will lower the values of present homes. She also asked, if these Ordinances are passed and the developer submits plans that the P&Z do not want, would the developer have a better legal standing in court if these Ordinances are passed. Solicitor Hutt advised the passage of these Ordinances would give the developer better "ammunition". Passing these Ordinances would make it harder for P&Z to reject a plan from the developer in the future; the developer would have a better legal standing in court.

Mr. Frank Mills from 64 Emily's Pintail advised if these Ordinances were approved, the HOA would have to change their rules because an outbuilding is not currently allowed. That could lead to a porch, a hot tub beside it, landscape pavers all around it leaving less permeable surface, etc. He believes this opens Pandora's Box or begins a slippery slope.

Mr. Sid Stein from 47 Whistling Duck Dr. reported he also has lived in an area that allowed casitas, (which in Spanish means "little house"). Within two-three years they had bathrooms and kitchens installed and were all rented out. Mr. Stein also expressed concern about the small easements between the houses on a portion of Whistling Duck Dr.

There being no further comments, Chairman Atwood closed the Public Hearing at 7:58 P.M. and admitted he isn't sure if casitas are a good idea or a bad idea. He is uncomfortable because he doesn't

know the design, location, possible drainage issues, size, etc. He advised casitas were considered approximately two years ago in phase 2 with the stipulation that they would have been allowed on 28-29 lots and couldn't be on lots on the golf course. He believes that everyone wants H.S. to succeed; however, he doesn't believe the homeowners know enough about this issue and the cart is being put before the horse. He believes the proper way to pursue this would have been for the developer to submit a Preliminary Development Plan for the next phase and get community input. He understands that it is more work than pursuing these Ordinances. If it had been approached differently he believes he would have been more comfortable with it.

C. Recommendation of Planning and Zoning Commission

Commissioner Shockley made a motion to deny Ordinance #2013-D. Commissioner Lewandowski seconded the motion; motion denied with a vote of 6 to 0. The votes were recorded as follows:

Commissioner Cannon	Aye
Commissioner Dell	Aye
Commissioner Lewandowski	Aye
Commissioner Shockley	Aye
Commissioner Tull	Aye
Chairman Atwood	Aye

Chairman Atwood advised a letter of recommendation for denial will be prepared and sent to the Commissioners of Bridgeville concerning this Ordinance to increase the maximum height limit for accessory buildings.

V. Review and Possible Recommendation of Ordinance #2013-E AN ORDINANCE AMENDING THE LAND USE AND DEVELOPMENT CODE OF BRIDGEVILLE AS IT RELATES TO LOT ACCESS, STREET STANDARDS, OFF-STREET PARKING AND SHARED PARKING IN RESIDENTIAL PLANNED COMMUNITIES

A. Discussion of Application

Solicitor Showalter advised the first part of this Ordinance pertains to road/street construction standards. The Town established street cross-sections for H.S. when the RPC District was originally approved. Subsequently, the Town adopted a uniform set of Public Works (street/sidewalk) standards. None of these new standards are consistent with the already approved cross-sections for H.S. This Ordinance is not designed for approval of a specific street/parking design proposal; it is more a "clean-up" Ordinance to allow the Town the ability to consider and approve specific standards. Subsection 4 is proposed to be added to Town Code Chapter 234-62 to say that streets within an RPC District shall be constructed in accordance with Town standards or alternative standards and/or cross-sections approved by the Town Commissioners as part of an RPC final site plan. This doesn't propose a specific street standard; it gives the Town the ability to consider alternative standards and approve them. Additionally, planned communities typically have a street hierarchy. Predominant transportation routes in the community are typically wider streets. They may have different cross-sections or curb styles and permit less on-street parking. Smaller neighborhood streets have a street hierarchy with more on-street parking

and different curbing and pedestrian crossings. On-street parking has the effect of calming traffic. This is not intended to obligate the Town to any specific proposal; it just gives the Commissioners the flexibility to consider various options.

In the second part of Ordinance #2013-E the H.S. developer is requesting two changes to Town Code section 234-87-B Off-Street Parking – Minimum Required Spaces. The parking standard table establishes uses and parking standards for those uses. The current Town Code requires 3 parking spaces per unit for multi-family dwellings and townhouses. The developer is proposing an amendment that reads, “except 2 permitted per unit for age-restricted units.” (2 parking spaces are currently required for single-family homes.)

The second revision requested in 234-87-B concerns Retail Parking. The Town currently requires 1 parking space per 200 sq. ft. Current planning standards require 1 space per 250 sq. ft. The developer would like to build small retail spaces and not provide excessive parking, which promotes additional environmental impact with run-off.

The next revision, 234-87-C, involves Computing Parking Spaces. Currently the Town allows shared parking in very few circumstances. Houses of Worship, auditoriums, or educational institutions may make arrangements with business establishments which normally have different days or hours of operation, for sharing up to 100% of their required parking facilities. This is advantageous among businesses that have dis-similar parking peaks or needs (i.e. banks and restaurants). This Ordinance would allow P&Z to consider requests for shared parking. Owners would need to sign and submit a shared parking agreement. There would be no obligation that the Town approves shared parking, just an opportunity to consider it. Chairman Atwood asked if the developer sees a need for this in the future, or whether it is an effort to modernize our codes. It was clarified it is driven by the potential that shared parking might be appropriate in future phases; however, not in large scale.

The next revision, #234-87-D, concerns Location and currently requires that parking facilities be located within 300 ft. of the building or use. This Ordinance change would allow the parking space to be up to 400 ft. from the use it serves. The purpose is to accommodate a “Town Center” design where parking is located behind and to the sides of commercial entities, instead of in front of the retail establishments.

The last revision, #234-87-E, concerns Design Standards. Solicitor Showalter advised in many jurisdictions the parking exceeds the actual demands of a particular use. This provision would authorize P&Z to review and approve all of the parking required, but to defer construction of a portion of it, if it is demonstrated that it is not likely to be needed immediately. It allows additional green space on the site and insures adequate space and a design for all the parking required to service the retail entities. Commissioner Shockley commented that it looks like the developer intends to put retail entities in the middle of the development and he is not going to let that happen.

Solicitor Showalter clarified the H.S. streets are constructed by Town standards which were created for the development when the Town approved the H.S. site plan. The developer will either continue to use the same street cross-sections or bring alternate ideas to the Town for approval.

Solicitor Showalter reported after the Heritage Shores street standards were approved by the Town and constructed, the Town adopted street standards that don't match H.S. standards. He added there is no desire to diminish the quality of construction; changes might include street and sidewalk width. It was clarified that Town street standards were adopted in February 2008. CEO Butler noted the Town engineers must be involved in any discussion concerning street widths, etc. Chairman Atwood added that any alternate standard must be approved by the P&Z and Town Commission. He added Phases 1 & 2 of the development are "grandfathered in," as they are already developed or being developed.

B. Public Hearing

Chairman Atwood opened the Public Hearing at 8:20 P.M.

A member of the public asked how the Fire Company feels about narrower streets. Fire Chief Cannon admitted they don't feel very good about them.

A member of the audience assumed that if the developer presented a proposal for streets similar to Phases 1 and 2, the Commission would require that the State Fire Marshall approve the design. The road width would have to go through the State Fire Marshall, the real test for fire safety.

Mr. Kevin Fallon from 104 Emily's Pintail Dr. expressed concern that the developer is bringing up a lot of options "in case they want to...." He recommended waiting until a plan is conceived and written up by the developer and then voting on an actual plan.

Mrs. Vogle advised she has asked Passwater Farms LLC why they could not come to one of the HOA meetings with a complete plan. She was told it would cost too much money. She understands engineering plans are costly; however, an artist's rendition of their plans would go a long way in making everyone more comfortable. She is familiar with other Town Center areas that have narrow streets with no on-street parking; it is not uncommon. She does not believe approval is possible if there is no specific plan.

Chairman Atwood asked for comments from P & Z. Commissioner Dell believes this particular Ordinance has merit due to language included, such as "may be approved, based on final plan," which would allow for further comment and revision. He does believe problems arise with narrower streets during construction when there are people already living in the area. The ongoing construction vehicles, dumpsters, etc. would make it very difficult to move around. He believes it is good planning to have this street width flexibility that the developer is proposing. He also shared his previous experience living in Lancaster County, Pennsylvania; a study was done counting all the parking spaces at churches, movie theaters, parking garages, apartment buildings, etc. They found that for every car in Lancaster County, there were 7 parking spaces. He added there are environmental problems with excessive parking spaces. He believes that (234-87-B) the proposed minimum off-street parking required spaces for multi-family dwellings of 2 per family unit for age-restricted units and the retail sq. ft. changing to 1 per 250 sq. ft. are reasonable changes to make. Personally, he is very much in favor of permitting shared parking. He believes (234-87-D) increasing the distance of required parking facilities from 300 ft. to 400 ft. from the retail entity is reasonable. He is also in favor of (234-87-E) deferred parking area construction. He would agree to that provision, as long as the excess space was bonded so there would be incentive to finish the parking, if deemed necessary.

CEO Butler advised 30 parking spaces are currently required for a 6,000 sq. ft. retail building and the developer is requesting to change that to 24 parking spaces. At the same time, the developer is asking to reduce the size of the roads. CEO Butler believes we already pay a lot of money to the Town engineer to design roads and it would be unreasonable to throw those design standards away and go with a developer's ideas. He does not support the Ordinance's passage.

Chairman Atwood advised he found aspects of this Ordinance that he likes, such as shared parking. He also believes some of the legal/liability details concerning shared parking to be unnecessary in the Ordinance itself, although not unimportant. Solicitor Showalter advised it is common to include all of the legal language in the Ordinance. It establishes the minimum thresholds of acceptability for a shared parking agreement.

Solicitor Showalter also responded to the street width issue. He advised there is no specific provision to reduce street widths. It may be part of what the developer proposes. The language in the Ordinance is not intended to request permission for smaller streets; it is merely requesting the permission to give the Town flexibility to consider alternative standards.

A member of the audience asked for an explanation of shared parking. Solicitor Showalter advised shared parking is only used in a commercial context and gave the example of a spa that is open during the day and a restaurant that is primarily active in the evening; these 2 entities could successfully share parking, rather than constructing separate parking for each business.

Concerning planning, Solicitor Showalter advised the RPC process requires that final site plans for the next phase be reviewed by P&Z/engineers and recommendations be made to the Town Commission for their consideration and final review/decision. There is often a several month time lapse before the amendments are actually presented before the Commissioners of Bridgeville. Drawings (artist renditions) would certainly be helpful; however, they would need to take into consideration the entire gamut of land planning, including environmental issues, topography, utilities, infrastructure, draining, etc. Drawings and sketches may or may not be helpful. The traditional process is to work through concept plans and refine them along the way. Until the developer knows what the Town would consider approving, it is very costly to spend time and effort on something that is not currently permitted. These Ordinances are proposed to increase authority/discretion/flexibility to the P&Z and Town Commissions' tool box. These Ordinances cover "possibilities" the developer would like to include in the next phase. If they are not a possibility, it doesn't make sense to prepare designs for ideas that won't be acceptable.

Chairman Atwood suggested the developer needs to consider that these are substantial changes to what the current residents "bought into" and that breeds additional concern.

Mr. Steve Kendall from 120 Emily's Pintail Dr. stated whatever the developer chooses to do; it must be aligned with State Code and obtain Fire Marshall approval. He understands that the community must continue to sell homes, but he wants it to be safe.

Mr. Ron Maas believes the developer has performed a sneak attack and is not being open about their intentions. A project of this size is managed by phases and usually what will be included in the phases is designated. In this case the developer is asking for permissions without designating what and where; i.e. demanding a blank check. The current homeowners have a vested interest in making sure new

development does not negatively impact their property or the original concept of the community. Not being open with the current residents makes them all the more suspicious.

Mrs. Tina Hill from 124 Emily's Pintail Dr. understands this is an emotional topic for everyone. She believes the P&Z members must diffuse the emotion and look at the facts. She has researched the development's website and found that they do not intend to increase the number of lots, nor decrease square footage from the current designs. All future phases must go through the governmental approval process. She doesn't believe the developer is trying to slip anything past the residents. She doesn't believe anyone, including the developer, is satisfied with what has happened on Whistling Duck Dr. She believes they are trying to avoid that. They need to be able to provide a diverse product offering to the market. If they cannot, they will not sell. If they don't sell, the developer won't reach build-out and all residents will carry tremendous financial burdens. She reminded everyone that Brookfield didn't have to pick up the pieces when Lennar left; they chose to do so.

Chairman Atwood advised P&Z had received a written letter before tonight's meeting from Mr. Rick Schiesz from 8 Blue Heron Ct. He read the letter, which registered support of the Ordinance changes for continued growth and timely completion of the development. The Public Hearing was closed at 8:44 P.M.

C. Recommendation of Planning and Zoning Commission

Solicitor David Hutt, representing the Town of Bridgeville, reiterated that these Ordinances do not apply to a specific plan from the developer. He reminded P&Z that these Ordinances apply to the Town as a whole and must be considered in that light. There may be additional RPC's in the future, which would also be submissive to these regulations. RPC's are currently a common tool for developers.

Commissioner Lewandowski advised narrower streets and shared use parking are consistent with sustainable design standards. We live in a watershed and need to reduce run-off from impervious surfaces (parking areas) as a regulatory requirement. It is something we are going to struggle with in this community. We need to consider these issues not only for H.S, but for future RPC's. He supports this Ordinance because it gives us the flexibility to consider those types of decisions.

Commissioner Lewandowski made a motion to approve Ordinance #2013-E. Commissioner Dell seconded the motion, with the inclusion of an amendment requiring bonding for any parking spaces that are deferred. Commissioner Lewandowski accepted Commissioner Dell's amendment and included the amendment in his motion to approve Ordinance #2013-E. Commissioner Dell seconded the motion with his amendment attached. The vote was tied, and therefore failed. The votes were recorded as follows:

Commissioner Cannon	Aye
Commissioner Dell	Aye
Commissioner Lewandowski	Aye
Commissioner Shockley	Nay
Commissioner Tull	Nay
Chairman Atwood	Nay

The Planning and Zoning Commission will send a letter to the Commissioners of Bridgeville advising that the Planning and Zoning Commission neither recommends approval or denial of this Ordinance concerning lot access, street standards, off-street parking and shared parking in Residential Planned Communities.

VI. Review and Possible Recommendation of Ordinance #2013-F AN ORDINANCE AMENDING THE CODE OF BRIDGEVILLE AS IT RELATES TO LAND USE AND DEVELOPMENT TO PERMIT RECREATIONAL FACILITIES, SPAS, SWIMMING POOLS AND TENNIS CLUBS IN RESIDENTIAL PLANNED COMMUNITIES AND TO DECREASE THE MINIMUM LOT SIZE AND WIDTH IN RESIDENTIAL PLANNED COMMUNITIES

A. Discussion of Application

Solicitor Showalter advised this Ordinance applies only to RPC's. The first section involves an amendment to Bridgeville Code Chapter 234-36 Permitted Uses and Structures. The Ordinance would add recreational facilities, private or commercial, spas and swimming and tennis clubs as permitted uses and structures. There are no specific plans at this time to build these facilities; however, since the developer is coming before the Town government, it seemed prudent to include these potential amenities for approval.

The second is an amendment to Bridgeville Code Chapter 234-37 Property Development Standards for RPC Districts. As currently drafted, the Town Code establishes a minimum lot size of 5,000 sq. ft. for RPC's; however, there is a market demand for a different type of product and land plan. Per this Ordinance, a maximum of 10% of the lots in the RPC would be allowed to have a minimum lot size of 2,300 sq. ft. There is also a requirement that the total lot coverage of structures on a smaller lot would not exceed 75%. This is a desire to diversify the product type in the community in order to address additional market needs and to provide flexibility for a different type of land plan. This does not mean the character of H.S. would change, but a small percentage of the lots could have a more compact development pattern featuring smaller lots with an emphasis on a greater defined streetscape and more formalized community open space as opposed larger areas of private open space in the rear of homes. Solicitor Showalter reported the public reaction was a desire not to enlarge community open space, which would add to the community maintenance cost. This Ordinance also revises the minimum lot width from 50 ft. to 40 ft. to allow for the change in streetscape. This information was presented to the public at H.S. Some concerns were voiced concerning the smaller lot sizes. It was suggested that 2,300 sq. ft. was too small and having 10% of the lots this size may be too many. Solicitor Showalter would like to amend the Ordinance by increasing the minimum lot size to 2,400 sq. ft. and the maximum percentage of lots allowed amended to 5% of total lots. (Amendment attached. Please note, these amendments were not a part of the Ordinance as referred by the Commissioners of Bridgeville to the Planning and Zoning Commission and therefore, could not be addressed.)

Solicitor Showalter advised H.S. would like to add another standard: up to 20% of the total number of units approved for an RPC may have lots sized between 4,999 sq. ft. and 4,400 sq. ft. He understands that these figures are somewhat abstract until they are seen on paper. They fully expect to return to the Town with specific plans and will continue their communications with the H.S. community for their support. This text amendment is intended to establish the minimum design parameters that could be proposed to the Town Commission.

Chairman Atwood asked for comments or questions from the Commissioners. Commissioner Shockley asked what happened to the dream. They originally came to Bridgeville and were annexed into Town limits with the intent to build 2,000 homes of a certain lot size. Now everything is changed – lot, home sizes, etc.

Solicitor Showalter advised Brookfield was not a part of the original annexation, approvals and land plans; they took over when Lennar left and they are a totally different land planner. Another factor is the reality that the market has changed dramatically and they must change to survive. The 3rd change concerns the original RPC approval; it established 5,000 sq. ft. as the minimum lot size for a single-family detached lot. The Town later codified that Ordinance leaving off the designation of single-family detached lots; therefore, making every lot 5,000 sq. ft. He added most of what they are proposing in future phases has 40-45 ft. wide lots for duplexes and triplexes. They would like to put this product on the current sized single-family lots.

Chairman Atwood made a rough computation of lot and structure coverage of 75% on a 2,300 sq. ft. lot and found that it would be almost impossible to meet front, rear and side setback requirements. Solicitor Showalter reported the 75% coverage is not a requirement, it is a maximum. He advised they clearly heard the concerns about the setbacks on the Ryan Homes structures. The RPC District does not currently establish a minimum side yard; the side yard established by the Town is 3 feet. They intend to recommend that all future phases of Heritage Shores have a 4 ft. minimum side yard. The 75% maximum coverage would be predicated upon being able to meet the setback requirements. Chairman Atwood's calculations indicate H.S. would have to build a substantially smaller house (i.e. 1,700 sq. ft.) to meet the setbacks.

B. Public Hearing

Chairman Atwood opened the Public Hearing at 9:01 P.M. Mr. Carlos Alvarez from 99 Emily's Pintail Dr. questioned the setbacks. Chairman Atwood advised the RPC side yard setback is 3 ft., the front is 10 ft. and the rear is 15 ft. Mr. Alvarez asked if the Fire Company is happy with that. Chief Cannon advised the Fire Marshall takes care of approving setbacks (county/state); the local Fire Chief doesn't like it, but that's how it is.

Mr. Frank Mills from 64 Emily's Pintail Dr. questioned how we know if these setbacks are in compliance with the state/county Fire Marshall's rules. CEO Butler advised they are approved by Sussex County, who goes through the Fire Marshall's office. There are no firewalls on the houses. Mr. Mills asked if the houses that are being built on Whistling Duck Dr. by Ryan Homes meet code. CEO Butler advised they do meet code.

Solicitor Hutt reported the original RPC Plan is subject to approval by various agencies, such as Sussex Conservation District, State Fire Marshall, etc. It is his understanding that the code is based on proximity of the house to fire stations, water pressure, water suppression systems, etc. With this information, the Fire Marshall chooses the setbacks and approves the plan.

Mrs. Dorothy Reinitz from 150 Widgeon Way advised her husband has sent his comments with her this evening to be read aloud. He believes this Ordinance is likely designed to increase current profits, with a plan to reach out to a greater pool of potential buyers. It may have less appeal and diminish the

character of the neighborhood. By reducing the lot sizes, and most likely the home sizes, it will alter the look, feel and character that have attracted buyers up until now and may affect the development in a negative way. He believes the current formula is successful and there is no need to change the parameters of the development. He doesn't believe it is fair to see building plans until after they have been approved. He likened this to Nancy Pelosi's comments concerning the Health Care Act – you have to pass the bill to find out what's in it.

Mr. Brian George from 2 Ruddy Duck Ln. questioned where these new units will be located. He understands a new road will be developed around the 17th and 18th fairways and wonders if this is the location for these smaller lots. Solicitor Showalter understands that Phase 3 will be east of the 17th and 18th fairways. There is no exact land plan design at this time; however, the intent is that will be compatible. He does not anticipate 40 ft. lots lining the fairways, but they might be separated from the larger lots. Mr. George believes that is very vague and reiterated the comment that we have to pass it to know what's in it. P&Z is being asked to approve something that is not tangible. He wouldn't want to be sitting in their seats.

Solicitor Showalter reiterated H.S. is not asking P&Z to approve any specific plan. All they are asking is for some lot size parameters to guide the upcoming plan. They are aware that they will need to come back to these governmental bodies with specific plans and satisfy the powers that be that the plans are a good design.

Chairman Atwood closed the Public Hearing at 9:11 P.M.

C. Recommendation of the Planning and Zoning Commission

CEO Butler advised he had questions about shrinking the lot sizes. Placing a 1,700 sq. ft. house on a 2,300 sq. ft. lot leaves only 600 sq. ft of ground space for run-off. The developer expressed concern about the run-off issue with large parking lots earlier, but does not seem to be concerned about this run-off due to the amount of impervious surface on a smaller lot.

CEO Butler also reported that he has communicated with Brookfield and Ryan Homes that they will need to bring in 6 inches of topsoil for Phase 3 of the project. Phases 1 and 2 should have had 6" of topsoil added; however, the topsoil was taken off of the properties for the golf course and is the reason residents have to irrigate often. This was a decision made by Lennar and did not include Brookfield or Ryan as developers. Looking at the development from an economic standpoint, when you reduce the size of the lots, you are reducing the amount of sod needed. He believes it all comes down to money/economics. A 5,000 sq. ft. lot would need more topsoil and sod.

Solicitor Showalter advised CEO Butler's comments did come across as a reflection on Brookfield, although it may not have been intended. The attorney suggested that 1-1/2 story homes might be considered; therefore, if you don't increase the number of units, but you decrease the lot size and footprint, you will actually increase the amount of open space which requires the topsoil, rather than the opposite of decreasing the amount of topsoil necessary. He added this is not an effort to reduce cost to the builder.

Commissioner Dell believes a variety of home and lot sizes are good planning; however, it is clear that there is a trust deficit. In this case he wouldn't ask the developers to do a preliminary plan with engineering, etc.; however, he does recommend that P&Z ask for a concept plan so they have something tangible to review.

Chairman Atwood believes a concept plan has been submitted for the entire RPC and the next step would be a Preliminary Development Plan.

Commissioner Dell clarified he was proposing a concept plan for Phase 3 that would include the smaller lots and the areas of extra common space so the Commissions and residents had a better feel for what the developer's intentions are.

Solicitor Hutt advised in the context of tonight's hearing, the question is what is the P&Z's recommendation for the proposed changes to the code? How could Commissioner Dell's comments be formed into a motion to send to the Town Commission? Commissioner Dell's thought would be to table this particular Ordinance until they have a concept plan to review.

Commissioner Shockley made a motion to deny Ordinance #2013-F. The motion died for lack of a second. He doesn't believe this particular Ordinance should go before the Town Commission.

After additional discussion, Commissioner Shockley's motion to deny Ordinance #2013-F was again entered and seconded by Commissioner Lewandowski. Further discussion ensued. Chairman Atwood suggested requiring Brookfield to expedite a Concept or Preliminary Development Plan and request that the Commissioners not rule on this Ordinance until the plan has been submitted and reviewed.

Solicitor Hutt believes there are competing ideas being expressed. Brookfield has introduced amendments to this Ordinance, voiding the original content. Should they make a motion on this Ordinance, it would be appropriate for P&Z to attach a list of reasons for their votes to their recommendation for the Town Commission's benefit.

Solicitor Showalter advised the reason moving forward quickly is that the new phase must be under construction next summer. The process is very time consuming; therefore, if this Ordinance is denied, there will not be time for another Ordinance to go through the process and for the developer to remain on the necessary timetable. He recommended instead of denying the Ordinance that the P&Z table the Ordinance. If there are specific land planning or feedback comments that they could give the developer, they would be welcome.

It was clarified that this Ordinance would affect H.S. and any future RPC's in Bridgeville.

Chairman Atwood advised there is a motion on the floor by Commissioner Shockley to deny/not adopt Ordinance #2013-F and a second by Commissioner Lewandowski. Chairman Atwood called for the vote. The motion to deny/not adopt this Ordinance passed with a vote of 5 to 1. The votes are recorded as follows:

Commissioner Cannon	Aye
Commissioner Dell	Nay
Commissioner Lewandowski	Aye
Commissioner Shockley	Aye
Commissioner Tull	Aye
Chairman Atwood	Aye

Chairman Atwood advised the P&Z will prepare a letter to the Commissioners of Bridgeville recommending denial of this Ordinance to permit recreational facilities, spas, swimming and tennis clubs in Residential Planned Communities and to decrease the minimum lot size and width in Residential Planned Communities.

Chairman Atwood appreciated all those who came to the meeting tonight and the comments that were made.

VII. ADJOURNMENT

Commissioner Lewandowski made a motion to adjourn. Commissioner Shockley seconded the motion. Motion carried. The meeting was adjourned at 9:29 P.M.

Respectfully submitted,

Bill Atwood

Bill Atwood, Chairman

Peggy Smith

Peggy Smith, Transcriptionist