

**Planning and Zoning Committee Meeting
November 22, 2016 @ 5:15pm**

In attendance were Town Manager Debbie Botchie, Town Code & Building Administrator Eric Evans, AECOM Representative Kyle Gulbranson, Committee Member Susan Brewer, Town Solicitor Seth Thompson and Code & Building Assistant Robin Caporaletti.

- 1. CALL TO ORDER:** Town Manager Debbie Botchie called the meeting to order at 5:15 p.m.
- 2. PLEDGE OF ALLEGIANCE**
- 3. NEW BUSINESS:**

A. Discuss and possible recommendation to Town Council on a submittal by George, Miles, and Buhr, LLC (GMB), on behalf of Beazer Homes, a revised concept plan on the previously approved final site plan of Dove Landing development. Synopsis: The previously submitted final plan received approval on December 11, 2007, and was granted two extensions: on February 8, 2011, and January 14, 2014. The approved plan consisted of single-family homes, townhomes, and condominiums for a total of four-hundred-two (402) units. The applicant has submitted tonight a revised concept plan for Dove Landing, which will consist of one-hundred-seventy-one (171) single-family units and one-hundred-forty-five (145) townhome units for a total of three-hundred-sixteen (316) units and a density of three-point-three (3.3) units per acre.

Mr. Steve Marsh, of GMB, representing Beazer Homes, stated tonight's submittal is a revision to the concept plan for Dove Landing, which Beazer and GMB wanted to get into before they got further into the approvals from Town Council. Town Manager Debbie Botchie asked, since Mr. Marsh's letter stated this was a concept/preliminary site plan, in AECOM representative Kyle Gulbranson's response, it says "our understanding is these plans are only to be reviewed as a concept," and is that confirmed? Mr. Marsh stated he is fine with that; in the past, with Bishop's Landing, GMB had done it all together, but Mr. Marsh is fine with saying this is just a concept plan. Mr. Marsh stated GMB is reducing the density by eighty-six (86) units, the road layout is substantially the same, except in the area where they were eliminating the condo buildings, but otherwise the road layout remains the same. Mr. Marsh stated GMB did receive comments in the November 7, 2016, letter from Mr. Gulbranson on their concept plan submittal and, all of them, GMB can work through, but the only one Mr. Marsh wants to talk about in a little more detail is comment number three (3) about the amenity. Mr. Marsh stated GMB did not have a detail on what Beazer wanted to do there, so GMB submitted some more detailed information to the Town on November 17, 2016, and Beazer's plan is to build a thirty-nine-hundred-fifty (3950) square-foot clubhouse, and that is consistent with several other communities Beazer has either built or is in the process of building on the western shore, which ranges in number of units from three-hundred-five (305) to five-hundred-twenty-one (521). Mr. Marsh further stated the plan will be developed more, in more detail, once GMB submits the full plan submittal. Mr. Marsh stated this amenity will have its own workout room, bathrooms, bonus room, but how that lays out internally, GMB is not sure yet; however, the size will be thirty-nine-hundred-fifty (3950) square feet because they are using the prototype which has worked so well in other communities. Mr. Marsh stated the pool size is about thirty-six-hundred-fifty (3650) square feet and the currently approved plan goes back to 2007, when

the pool size was twenty-two-hundred-fifty (2250) square feet, so GMB and Beazer are over one-and-a-half ($1\frac{1}{2}$) times what was on the original plan. Ms. Botchie asked about the original size of the amenity center. Mr. Marsh stated the original size of the center was about sixteen-hundred (1600) square feet, so with the new size of thirty-nine-hundred-fifty (3950) square feet, they are looking at over two-and-a-half ($2\frac{1}{2}$) times an increase, although one pool house was only about six-hundred-twenty-five (625) square feet, so under that consideration the new amenity center is six-and-a-half ($6\frac{1}{2}$) times the size. Mr. Marsh stated a majority of the other comments from Mr. Gulbranson will and can be worked through as the plans are being worked on so the Town can address them, but there is nothing there which concerns Mr. Marsh. Mr. Gulbranson stated a majority of the other comments were engineering issues which will be addressed at preliminary and final site plan reviews.

Ms. Botchie asked to talk about the parking for Dove Landing. Mr. Marsh stated yes. Ms. Botchie stated what Beazer had in their site data is two-point-two-five (2.25) parking spaces per unit per previous vista approval, but the Town's Code requires two (2) parking spaces per unit, as well as zero-point-five (0.5) parking spaces per unit for the overflow parking; that is not depicted on this concept plan. Mr. Marsh stated GMB has forty (40) parking spaces shown around the clubhouse, and an area where they can add about another forty (40) at the pocket parks, and GMB can go through this with the Town during the approval process, but GMB did not do this with Bishop's Landing, and Mr. Marsh doesn't think we need that many spaces. Mr. Marsh further stated what Ms. Botchie is saying is GMB and Beazer basically need one-hundred-sixty (160) spots, but, for aesthetics and environmentally, Mr. Marsh would not recommend that many spaces. Mr. Marsh stated he cannot imagine the development would need more than eighty (80) parking spaces, but GMB will submit it and they will see what the Town and Mr. Gulbranson say. Mr. Gulbranson asked Town Solicitor Seth Thompson if GMB and Beazer would need a variance for the amount of parking spaces. Mr. Thompson stated yes, that is one way to deal with it, and they would need to go to the Town's Board of Adjustment (BOA) to get the requirement down. Mr. Marsh stated how GMB and Beazer handles it is generally in a residential planned community (RPC) submittal, the document approved basically serves as the code for the community, and GMB is providing more parking on this per unit than what is approved for the previously-approved plan for Dove Landing. Ms. Botchie stated Dove Landing falls under the old Code, although Bishop's Landing did fall under the new Town Code because it was brought into Town in 2013. Mr. Marsh stated GMB made the same argument with Bishop's Landing, saying GMB and Beazer were providing more parking spaces per unit than what was on the previously-approved vista plan; and, in Mr. Marsh's opinion, once the original RPC document is approved, that document becomes the zoning overlay for the parcel. Mr. Thompson stated it is not an overlay in the traditional sense, because it's not like a historic preservation district. Mr. Marsh stated a RPC kind of has its own zoning condition, so there is an approved document which has a certain amount of parking spaces per unit, and Mr. Marsh is saying GMB and Beazer are providing more than that amount, which is how Mr. Marsh interprets it. Mr. Gulbranson stated he would not disagree with Mr. Marsh and, in a RPC, it is one of the reasons you develop an RPC, so as to allow for a better product, better planned community. Mr. Thompson asked a mix of products. Mr. Gulbranson stated yes, a mix of products, and if the Town believes a certain standard is appropriate based on whatever the circumstances may be, it allows the Council to modify the standard and establish the standard

as the guiding principle for that RPC project.

Mr. Thompson stated, regarding parking, when Mr. Thompson looks at the Code in one-fifty-five-point-eleven (155.11) on RPC, it does a good job in terms of identifying the purpose, where it talks about “encourages and permits variation in residential development by allowing deviation in lot size, bulk or type of dwelling, lot coverage and open space from that which is required in any one residential district. The RPC concept also encourages design flexibility and coordination or architectural style of buildings, streets, lighting, signage, landscaping and the existing neighborhood and historic land development patterns.” Mr. Thompson stated he thinks he’d want to “hang his hat on something” dealing specifically with parking because “streets” comes barely close but parking is not mentioned. Mr. Thompson stated he thinks of the more creative concepts where houses are on lanes and the like, and Mr. Thompson can double-check to see if the Town has flexibility in the RPC, specifically on parking. Ms. Botchie stated maybe Mr. Thompson could find something Ms. Botchie could not, because she could not find that Council could do a waiver on that. Town Code & Building Administrator Eric Evans asked if on-street parking is calculated. Mr. Marsh stated, generally, the Code states a person could get two (2) spaces per dwelling unit and then you are supposed to provide another half (1/2) space per each unit, and that is the RPC code. Ms. Botchie asked if that was for overflow parking. Mr. Marsh stated yes, but his thinking is the Town will not be happy with, and GMB and Beazer will not be happy with 160 extra parking spaces; and Mr. Marsh’s opinion is the Town has, in the past, approved less than the half per unit per standard based on a previously approved plan and as long as GMB and Beazer are providing more than that. Mr. Marsh stated he could make an argument and the Town could tell him he’s wrong, but they are happy to work through it with the Town. Mr. Marsh stated he would like show the Town what GMB and Beazer think, and in the review process, the Town can evaluate it and compare Mr. Marsh’s argument to the Town Code, and everyone can work through it. Ms. Botchie asked if the standard for a master planned community (MPC) is the same as with a RPC, as far as parking. Mr. Gulbranson stated the parking standard is slightly different. Mr. Thompson stated an RPC is different in the sense of residential versus commercial, and, looking at 155.11, in subsection “M5(a),” under one of the more flexible standards, it states “parking shall be provided at a rate of two (2) parking spaces per dwelling unit. Additional visitor/overflow parking shall be provided at a rate of .5 parking spaces per dwelling unit.” Mr. Thompson stated he does not see a lot of flexibility in that language but the only result would be that the BOA would have jurisdiction over it. Mr. Thompson stated if there isn’t flexibility built into the Code for RPC, the BOA has the ability because the BOA can give a variance based on it being a requirement of the Code.

Mr. Marsh stated he would like to submit what he thinks is appropriate and then GMB and Beazer can either add more to what is appropriate or go to the BOA. Mr. Thompson stated certainly the Town looks to reduce impervious surfaces and normally it’s through shared spacing, but the Town wants to make sure everything is Code-compliant. Mr. Gulbranson stated to add the additional parking spaces, it’s an additional acre of paved surface. Mr. Marsh stated in a RPC like this, ideally, with pocket parks and a centralized amenity, you want people out and walking, and Mr. Marsh knows that doesn’t always happen, but if you provide tons of parking all over the place, it’s not going to happen. Mr. Thompson stated subsection “N” does

talk about modification of development standards including “required number of off-street and on-site parking spaces.” Mr. Thompson stated it doesn’t look like it would have to go the BOA, you’d just make your case to Council.

Ms. Botchie stated under item six (6) on Mr. Gulbranson’s letter, “the applicant should review the layout of the first three (3) homes from the Burbage entrance, the current layout would make it difficult for those homeowners to access their driveways.” Mr. Marsh stated yes, so GMB will modify the entrance road so there is no island blocking those driveways, and that is not a problem. Mr. Evans asked if the Town knows what the right-of-ways are on the ditches. Mr. Marsh stated GMB has a quarter-of-a-page document which shows a reduction in the tax ditch right-of-way, and the website never got updated, so GMB will take care of that. Mr. Evans stated GMB has an access road going into – what he will call – the Banks property, and the Town has a RPC to the north of that, so the Town is asking for maybe splitting the pond shown in half and doing an access road in there so Mr. Evans can keep the interconnectivity within the Town. Mr. Marsh stated he can look at it, but GMB prefers to provide right-of-way that can be developed versus putting in a road. Mr. Evans stated he can deal with that, but if the pond is there, then there is no real right-of-way. Mr. Marsh stated if the pond is there, then GMB can look at maybe an easement. Mr. Evans asked if there are culvert bridges throughout the entire development. Mr. Marsh stated, as permitted as of now, they were bridge spans, but, at some point, GMB looked at whether the Delaware Department of Natural Resources and Environmental Control (DNREC) or the Army Corps of Engineers would let GMB put culverts in; and, as it sits right now, those road plans show bridge spans that span the ditch, so the spans are being replaced with culverts. Mr. Evans stated that is also what’s being done at Millville by the Sea (MBTS).

Ms. Botchie asked if the preliminary plan will show where the new location of the tank farm will be. Mr. Marsh stated yes, that tank farm was placed there to service both Bishop’s Landing and Dove Landing. Mr. Evans asked if the entrance will have to be changed because the double roads going in will have to narrow going in due to the tank farm location. Mr. Marsh stated no, because the tank farm fits, but GMB will narrow it down anyway for the shown driveways and there will be an access road coming out of the tank farm; so the tank farm was all taken into consideration in the conceptual planning.

Committee member Susan Brewer asked to hear more about the Oakwood property and why they want connectivity. Mr. Evans stated the Oakwood property to the north is a RPC, so if the Town allows or has a right-of-way access into that property, when it is developed, the Town can continue the interconnectivity within the Town and have developments connect to developments. Mr. Marsh stated he assumes Oakwood would have its own entrance on Route 17, but he can look into it. Mr. Gulbranson stated one of the goals in the Town comprehensive plan is to have interconnectivity with developments, which is why Bishop’s Landing has interconnectivity available to Coventry.

Mr. Marsh asked, as GMB, goes through the approval process, Dove Landing’s approval is running out as the last extension expires on January 14, 2017. Ms. Botchie stated what is going to happen is the Town is going to put Mr. Marsh’s request for an eighteen (18)-month

extension on the December 13, 2016, Town Council meeting agenda. Ms. Botchie stated the preliminary plan for Dove Landing will first go to P&Z, then to Council; and the final site plan will only go before Council at a public hearing. Ms. Botchie stated she wanted to address number nine (9) on the GMB letter, regarding amenities, which the Town has addressed in size, but it says, "in addition, the residents of Dove Landing will have access to the Bishop's Landing clubhouse and amenities," to which GMB's attorney sent Ms. Botchie a memo trying to clarify some of the questions the Town had but Ms. Botchie did not understand the clarification. Ms. Botchie stated she is going to call this attorney because, in essence, the attorney is telling Ms. Botchie the Bishop's Landing declarations have not by amendment to Bishop's Landing actually annexed the community into Bishop's Landing. Ms. Botchie asked if the previously-approved Dove Landing homeowners association (HOA) documents stand or where will this go when GMB/Beazer comes in for its extension. Mr. Marsh asked Ms. Botchie if she's asking to amend the HOA documents. Ms. Botchie stated yes, that is what she's asking. Mr. Thompson stated his perspective on it is that Dove Landing and Bishop's Landing have been approved by the Town as two (2) separate subdivisions, and Mr. Thompson recognizes that GMB/Beazer reserves its contractual rights to annex the one in, but the notion is to be prepared for addressing people's concerns; but, from the Town's perspective, it doesn't meet the Code (to make them one). Ms. Botchie stated right now, the Dove Landing HOA documents which came along with the approval is what stands. Ms. Evans asked if Dove Landing is allowed to use Bishop's Landing's amenities, does that mean Bishop's Landing is permitted to use Dove Landing's amenities? Mr. Marsh stated yes. Mr. Thompson stated the communities would be two separate subdivisions but share an HOA, which is why the Town considers such a situation as not following Code. Ms. Botchie stated what happens with the HOA documents is not really the Town's concern, as long as the homeowner knows what's going on; but in the memo the attorney sent Ms. Botchie, the memo states an adjacent property (Dove Landing) can utilize a community's recreation facilities for a fee, but it doesn't say anything about Bishop's Landing paying anything to use Dove Landing's amenities. Ms. Botchie stated because of all of this, it is why the Town needs to make sure the amenities being proposed for Dove Landing can accommodate residents.

Mr. Evans motioned to recommend to move on to a preliminary site plan submitted by George, Miles, and Buhr, LLC, on behalf of Beazer Homes, of a revised concept plan with the conditions of correcting Mr. Gulbranson's comments and addressing the parking, on the previously approved final site plan of Dove Landing development. Ms. Brewer seconded the motion. Motion carried 4-0.

Mr. Marsh asked if it is OK to submit the preliminary land plan before the roads are all rated or would the Town like the whole packet now? Mr. Gulbranson stated he thinks submitting them before that point. Mr. Marsh stated he thinks it will all come out at the December 13 Town Council meeting anyway, as part of the discussion of the extension request, but Mr. Marsh just wanted to get something in front of Council on record as quickly as Mr. Marsh can.

4. PROPERTY OWNERS COMMENTS:

Mr. Peter Michel, of Longs Chapel Lane, stated the homeowners of Bishop's Landing – about ninety percent (90%) does not want Dove Landing to use their (Bishop's Landing) amenities and

they do not want to use Dove Landing's amenities. Mr. Michel stated, in the summertime, at the Bishop's Landing pool and the facilities, it is already jammed full of people and the community is not even half-way built out yet. Mr. Michel stated they have 220 houses sold right now and there will be 434 houses. Mr. Michel stated when Beazer is building Dove Landing and they let the people over there come to Bishop's Landing, it is going to be a nightmare. Mr. Michel stated Bishop's Landing residents cannot get another member on the HOA committee because Beazer has 316 votes across the street, and as long as they are entangled in all of that, Bishop's Landing residents are going to be left out for however many years Beazer is going to decide they're going to build over there. Mr. Michel stated whatever extension Beazer gets this time – whether or not its eighteen (18) months – it doesn't matter to the Bishop's Landing residents because they are kind of "held hostage" because of all the empty votes across the street. Mr. Michel stated to please consider having the two communities being separated. Mr. Marsh stated there is another amenity – another pool – at Bishop's Landing which has not yet been built. Ms. Botchie asked how big the pool is at Bishop's Landing. Mr. Marsh stated the pool is fifty-three-hundred-thirty-eight (5338) square feet, and per the handout provided, what's at Bishop's Landing is significantly larger and provides a lot more than what Beazer does at its other communities. Ms. Botchie asked if the information has ever been shared with or discussed with the residents of Bishop's Landing. Mr. Marsh stated he does not know. Ms. Botchie stated to Mr. Michel that the Town has approved these communities of Bishop's Landing and Dove Landing as two (2) separate communities, but when it comes to the HOA documents, the Town's leverage is not so good. Mr. Thompson stated the HOA is a product of contract so by buying a house in a certain neighborhood, you're signing up for that contract. Mr. Thompson stated the Town is charged with enforcing its Code and not necessarily interfering with contract. Ms. Botchie stated she understands Mr. Michel's concern of the number of residents already in the Bishop's Landing development, and Mr. Michel's thinking that what's already at Bishop's Landing will not accommodate the buildout; but Bishop's Landing is getting another pool amenity. Ms. Botchie stated she does think it was wise to meet with GMB and increasing the size of the pool and clubhouse for Dove Landing. Mr. Marsh stated he agrees, and with the larger size of Dove Landing, and adding the pocket parks which will be consistent with what Bishop's Landing has on the preliminary plan, once that all starts to develop, Mr. Marsh thinks people will not be "going across the street that much" because the amenity will be nice at Dove Landing too and people will want to stay close to home. Ms. Botchie stated she wants to know why Beazer wants one (1) HOA for two (2) communities, but she understands that an issue best left for a Town Council meeting.

5. ADJOURNMENT:

Mr. Evans motioned to adjourn the meeting at 6:03 p.m. Ms. Brewer seconded the motion. Motion passed 4-0.

Respectfully submitted and transcribed
by Matt Amerling, Executive Assistant