

MINUTES OF THE REGULAR MEETING OF May 26, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 26, 2005 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Smith, and Mr. Wheatley with Mr. Robertson – Assistant County Attorney, Mr. Lank – Director and Mr. Abbott – Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Johnson and carried unanimously to approve the Agenda as amended by removal of C/Z #1576 listed under Old Business.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of May 12, 2005 as amended.

OLD BUSINESS

C/Z #1576 – Reynolds Pond, L.L.C.

Mr. Robertson had advised the Commission during review of the agenda that this application could not be acted on since the Commission had deferred action and that the record was left open for receipt of comments from P.L.U.S. and then for 15 days after receipt of the P.L.U.S. comments for any additional written comments.

Subdivision #2003-22 – application of **R & B INVESTMENT** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 14.20 acres into 14 lots, located north of Road 462, 380 feet northeast of Route 70.

Mr. Abbott advised the Commission that this is the final record plan for a 14-lot subdivision; that preliminary approval was granted on November 13, 2003; that the record plan meets the requirements of the subdivision code; and that all agency approvals have been received.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve the record plan as a final.

Motion carried 5 – 0.

Subdivision #2003-32 – application of **HM PROPERTIES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 136.20 acres into 201 lots, located south of Road 301, 1,820 feet east of Road 302.

Mr. Abbott advised the Commission that this is the final record plan for a 201 lot subdivision; that preliminary approval was granted on March 11, 2004; that a time extension was granted on February 10, 2005; that the record plan meets the requirements of the subdivision code; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the record plan as a final.

Motion carried 5 – 0.

Subdivision #2003-47 – application of **CANNON ROAD INVESTMENTS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 176.67 acres into 215 lots, located east and west of Road 307, and southwest of Route 5.

Mr. Abbott advised the Commission that this is the final record plan for a 215-lot subdivision; that preliminary approval was granted on July 22, 2004; that the final record plan meets the requirements of the subdivision code; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the record plan as a final.

Motion carried 5 – 0.

Subdivision #2003-49 – application of **GREEN TREE FARMS, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 54.70 acres into 50 lots, located north of Road 207, approximately 400 feet east of Road 214.

Mr. Abbott advised the Commission that this is the final record plan for a 50-lot subdivision; that preliminary approval was granted on August 12, 2005; that the final record plan meets the requirements of the subdivision code; and that all agency approvals have been received.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to approve the record plan as a final.

Motion carried 5 – 0.

Subdivision #2004-27 – application of **TIMOTHY S. ELDER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred,

Sussex County, by dividing 10.94 acres into 3 lots, located south of Road 367-B, ½ mile west of Road 365.

Mr. Abbott advised the Commission that this application has been deferred since April 14, 2005; that DNREC has issued septic approvals for the 3 lots; and that the septic systems will be sand mounds.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve this application as a preliminary.

Motion carried 5 – 0.

PUBLIC HEARINGS

C/U #1610 – application of **MICHAEL P. AND SHARON L. CORDREY** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a produce and garden center to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 5.0879 acres, more or less, lying at the northwest corner of the intersection of Old Stage Road (Route 68) and Iron Hill Road (Road 454A).

Mr. Lank provided the Commission with a copy of the site plan for this application.

The Commission found, based on comments from DelDOT, that a traffic impact study was not recommended and that the level of service will not change as a result of this application.

The Commission found that Scott Shubert was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he is the son of the Applicants; that the landscaping business has been operational for ten (10) years; that the area is in need of a garden center; that the building has been erected; that the greenhouses have been erected; that the entrance has been approved by DelDOT and installed; that they started the public hearing process and were told that they could proceed; that 50% of the products (annuals and perennials) to be sold are grown in the greenhouses; that the garden center is open from 9:00 a.m. to 6:00 p.m. Monday through Saturday; that the landscaping business is open from 7:00 a.m. to 6:00 p.m.; that they have 7 employees of which 2 staff the garden center; that they plan on hiring 4 additional employees; that they will be selling mulch and stone for landscaping; that they have 3 mulch bins on the site; that the business opened on April 1, 2005; that there is not any septic on the site; and that they utilize portable toilets.

The Commission found that there were no parties present in support of or in opposition to this application.

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

Mr. Gordy stated that he would move that the Commission grant approval of Conditional Use #1610 for Michael P. and Sharon L. Cordrey based upon the record and for the following reasons:

- 1) The use would not have an adverse effect on the area.
- 2) The site is located in an AR-1 area and the proposed application is agricultural related.
- 3) This recommendation is subject to the following conditions:
 - 1) Business hours shall be from 9:00 a.m. to 6:00 p.m. Monday through Saturday.
 - 2) One (1) non-lighted ground sign, not exceeding 32 square feet per side of facing, may be permitted.
 - 3) All security lighting shall be installed with downward illumination so they are not directed toward neighboring properties or public roads.
 - 4) The site plan, prepared by the licensed Delaware land surveyor, shall be subject to review and approval by the Planning and Zoning Commission.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated.

Motion carried 5 – 0.

C/U #1627 – application of **WOODBIDGE SCHOOL DISTRICT** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for athletic fields and future school and pole barn for agriculture program to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 128.5 acres, more or less, lying at the southwest corner of the intersection of Road 585 (Woodbridge Road) and Road 583 (Adams Road).

Mr. Lank provided the Commission with a site plan for this application.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service will not change as a result of this application.

The Commission found that Kevin Carson, Superintendent for Woodbridge School District, and Edwin Tennefoss of Davis, Bowen & Friedel, Inc. were present and stated in their presentations and in response to questions raised by the Commission that they are requesting approval of their athletic fields, future school location, and area for agricultural programs; that they propose to start as soon as possible with construction of

2 baseball fields, 2 softball fields, 1 soccer field, 2 field hockey fields with related parking and associated stormwater management facilities; that they have designated the future school location; that they have also designated a pole barn, pastures, and crop planting areas on the site plan to show the area planned for agricultural activities; that They have also shown the future track and football field; that fencing is proposed around the athletic fields, but not intended to be erected around the perimeter of the site; that the school district has run out of room for their athletic fields due to expansion of other school facilities; that the Office of the State Fire Marshall has approved the site plan; that the District does provide for liability insurance; that the District will provide for a shuttle service to take students to and from the athletic fields; that no sanitary facilities are planned for the athletic fields area since portable toilets will be provided; that the site plan design is the 1st phase of the Master Plan for the site; that the stormwater management pond will not be fenced since stormwater management ponds tend to become overgrown in age and since the pond may be utilized for environmental learning classes in the future.

The Commission found that there were no parties present in support of or in opposition to this application.

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

Mr. Wheatley stated that he would move that the Commission recommend approval of this application since it provides for recreational facilities for a school district; since it is an appropriate location for a public use; since it allows for greater flexibility since it serves a public school; and with the following conditions:

- 1) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion by Mr. Wheatley, seconded by Mr. Gordy and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the condition stated.

Motion carried 5 – 0.

C/U #1628 – application of **STATE OF DELAWARE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a governmental building to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 4.0 acres, more or less, of an 861.16 acre tract, located on the easterly side of Waples Way, 1,300 feet east of Road 318 (Patriots Way), and being within the Stockley Center campus area.

Mr. Lank provided the Commission with a copy of the site plan for this application.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "A" may change to a level of service "B" as a result of this application.

The Commission found, based on comments received from the Town of Millsboro, that the Town has no comments on this application at this time.

The Commission found that Robert Lane of the Becker Morgan Group was present on behalf of the State Medical Examiner's Office and stated in his presentation and in response to questions raised by the Commission that they propose a small 4,200 square foot mortuary for the State Medical Examiner; that there will be 3 or 4 employees; that deliveries and pickups will be by ambulances, state vehicles or funeral home vehicles; that the facility is proposed to serve Sussex County; that they presently lease a facility in Seaford; that the site will be served by central water from the Stockley Center facility; and that he was not sure whether the site would be served by central sewer from the Town of Georgetown or a septic system.

The Commission found that there were no parties present in support of or in opposition to this application.

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

Mr. Johnson stated that he would move that the Commission recommend approval of this application for the Medical Examiners Office since it will serve Sussex County; since it is in the public's interest to have such a facility; since it is located in an appropriate location; and with the following condition:

- 1) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the condition stated.

Motion carried 5 – 0.

Subdivision #2004-31 – application of **DONALD K. MILLER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 3.12 acres into 4 lots, located southwest corner of the intersection of Road 480 and Road 489.

No one was present on behalf of this application.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to deny this application since there was no record made in support of this application.

Motion carried 5 – 0.

Subdivision #2004-32 – application of **BENNETT-ROE-PARSONS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 9.85 acres into 10 lots, located north of Road 84, 250 feet northwest of Road 363.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on October 20, 2004 and that the report will be made a part of the record for this application.

The Commission found that Steve Parsons and Durwood Bennett, partners, and Ted Simpler, surveyor, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the application is for 10 lots; that there is a need for lots in the area; that the septic approval has not been issued by DNREC yet; that the soils work has been completed and sent to DNREC; that a community septic system will be located on lots 1 and 10 and that these lots have been relocated; and that the plot has been revised deleting the storm water management area.

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

Motion by Mr. Smith, seconded by Mr. Wheatley, and carried unanimously to deny this application due to a lack of record established by the applicants and since the applicants did not address the items referenced in Chapter 99, Subsection 99-9(C).

Motion carried 5 – 0.

OTHER BUSINESS

Subdivision #2002-43 – Boca East
Revised Record Plan – Road 279

Drew Hayes, Engineer with River Basin Engineering was present as the Commission reviewed a revised record plan.

Mr. Hayes advised the Commission that the revisions include the reconfiguration of lots; the relocation of 5 lots and streets being lengthened and shortened; the addition of

recreational facilities; the addition of a clubhouse and pool and pool house; that the revisions are the result of a different type of septic system than what was originally planned; that the septic area has been reduced; that DNREC has approved the septic system; and that the revised plan creates more open space.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action.

Motion carried 5 – 0.

National Concrete Products

C/U #1455 – Revised Site Plan – Route 16

Mr. Abbott advised the Commission that this is a revised site plan for a 10,725 square foot metal building and a 300 square foot office addition; that the setbacks meet the requirements of the zoning code; and that all agency approvals have been received.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a final.

Motion carried 5 – 0.

Ray Ellis

C/U #1575 – Site Plan – Road 445A

Mr. Abbott advised the Commission that this is a site plan for a mud bog and truck pull operation; that there are 3 pits, bleachers and a concession stand proposed; that the 4 conditions of approval are referenced on the site plan; and that final approval could be subject to the staff receiving an entrance approval from DelDOT.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving an entrance approval from DelDOT.

Motion carried 5 – 0.

State Line Auto and Trailer Sales

Commercial Site Plan – U.S. Route 13

Mr. Abbott advised the Commission that this is a site plan for a 3,600 square foot garage/warehouse on 14.10 acres; that the site is zoned LI-2; that the setbacks meet the

requirements of the zoning code; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 5 – 0.

DMR Centre

Commercial Site Plan – Route 24

Mr. Abbott advised the Commission that this is a site plan for a 6,240 square foot retail building on 0.78 acres; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 32 parking spaces are required and proposed; that 13 spaces are located within the front yard setback and need a waiver from the Commission; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that there are not any wetlands located on the site and the site is not located in a flood zone; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the waiver for the parking within the front yard setback, and with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 5 – 0.

It was the consensus of the Commission that the staff advised applicants that it may be difficult to obtain waivers for parking in the front yard setback for future site plans.

Victor Davis

Revised Site Plan – Route One

Mr. Abbott advised the Commission that the revised site plan is for the reduction in width for an interior driveway; that the owner proposes to add an addition to the rear of an existing business thus making the driveway 20 feet in width; that the driveway is one way and that the interior driveway located in the front is also 20 feet.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as revised.

Motion carried 5 – 0.

Steamboat Landing
Revised Site Plan – Road 258

Mr. Abbott advised the Commission that this is a request to add a 14 foot by 20 foot cabin with a 6 foot by 20 foot porch on lot 1 within Steamboat Landing Campground; that the cabin will not have a kitchen; that the request is the same as the one in Holly Lake Campground; and that the setbacks are 5 feet from the lot lines.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to approve the request.

Motion carried 5 – 0.

Ocean Atlantic Associates, V, L.L.C.
C/Z #1461 – Amended Conditions – Route 88

Mr. Abbott advised the Commission that this is a request to amend a condition of approval; the stipulation being that 3 trees shall be planted per unit; that the developer's landscaper has advised that the 3 trees per unit are creating overcrowding; that the applicants are requesting to eliminate 81 cherry trees and 8 maple trees; that the revised plan will provide for 58 more trees than originally planned but in another location; and that since the condition of approval originated at the Commission's recommendation, the condition may be amended.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to amend the condition.

Motion carried 5 – 0.

Subdivision #2003-37 – Gary Watson
Time Extension

Mr. Abbott advised the Commission that this is a request for a one year time extension; that the application received preliminary approval on May 27, 2004; that approvals have been received from DelDOT, DNREC, and the Office of the State Fire Marshal; that approvals are needed from Sussex Conservation District and Sussex County Engineering; and that this is the first request for an extension for this application.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to grant a one-year time extension.

Motion carried 5 – 0.

Subdivision #2003-39 – James D. and Mary Beth Parker
Time Extension

Mr. Abbott advised the Commission that this is a request for a one year time extension; that the application received preliminary approval on May 27, 2004; that approvals have been received from DelDOT, DNREC, and the Office of the State Fire Marshal; that approvals are needed from Sussex Conservation District and Sussex County Engineering; and that this is the first request for an extension.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to grant a one-year extension.

Motion carried 5 – 0.

Subdivision # 2004-17 – Natelli Communities, Ltd.
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the application received preliminary approval on June 10, 2004; and that this is the first request for a time extension.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to grant a one-year time extension.

Motion carried 5 – 0.

C/U #1524 – Rehoboth Beach Associates, L.L.C.
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the application for 140 units was approved on June 8, 2004; and that this is the first request for a time extension.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to grant a one-year time extension.

Motion carried 5 – 0.

Zoar Estates
Hearing Request – Route 30

Mr. Abbott advised the Commission that this application received preliminary approval on February 12, 2004 for 78 lots; that the applicant has redesigned the plan using the cluster option ordinance; that the engineers have been advised that the plan will require another public hearing since the design has changed; that the engineers are requesting that the application process be expedited instead of having to wait; that a time extension is needed and if an extension is granted, it should be retroactive to the anniversary date of approval.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to deny the request to have the application process be expedited, and to grant a one year time extension retroactive to the anniversary date of approval.

Motion carried 5 – 0.

Meeting adjourned at 9:05 p.m.