

## MINUTES OF THE REGULAR MEETING OF JANUARY 14, 1999

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 14, 1999, at 7:30 P.M. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware, with the following present: Mr. Allen, Mr. Hastings, Mr. Lynch, Mr. Phillips, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to adopt the agenda as presented.

Motion made by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve the minutes of December 10, 1998 as corrected.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the minutes of December 17, 1998 as circulated.

Mr. Schrader explained how the meeting would be conducted.

### II. PUBLIC HEARINGS

APD #99-1 -- application of ELAINE M. TOBIN, HOWARD L. RITTER, FRANKLIN M. RITTER, JANET L. RITTER AND JACQUELYN RITTER to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Indian River Hundred for four (4) parcels of land totaling 340.24 acres, more or less, located east of Road 290, west of Road 285 and on both sides of Road 48, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

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

The Commission found, based on a summary of a fact sheet prepared by the staff of the Delaware Agricultural Lands Preservation Foundation, that the site meets the minimum criteria to be a district.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to forward a recommendation to the Delaware Agricultural Lands Preservation Foundation that this application be granted.

C/U #1226 -- application of EAGLE'S NEST FELLOWSHIP CHURCH, INC. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a private school to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 57.14 acres, more or less, lying north of Road 235, 850 feet northwest of Route 16.

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

The Commission found that Pastor William Sammons and Ken Christenbury were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that they propose to build a new private school facility for grades Kindergarten through eight; that they originally thought that they would limit the number of students to 200, but do not want to be restricted to a number; that they may, in the future, expand the facility to include grades nine through twelve; that all education facilities will be within the new building; and that future expansion may include a gymnasium.

The Commission found that fourteen (14) people were present in support.

The Commission found that no parties appeared in opposition.

Motion made by Mr. Wheatley, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO OFF-STREET PARKING FOR MULTI-FAMILY RESIDENTIAL DWELLINGS AND TOWNHOUSES.

Mr. Lank summarized the Ordinance.

Mr. Wheatley stated that a parking problem may exist in the eastern portion of the County; questioned if the Ordinance causes an impact on the western portions of the County; questioned if the Ordinance impacts elderly housing projects; and stated that he does not agree with the amended Section 3, which does not calculate under-residence, under-unit or stand-alone garage parking, and that garages should be calculated as part of the required parking.

Mr. Hastings agreed with Mr. Wheatley.

The Commission found that no parties appeared in support of the Ordinance.



The Commission found that Rich Collins, of Lewes, was present in opposition and stated that approximately 35% of the residents in Sussex County are retirees; that the Ordinance may cause increased cost; that the Ordinance may cause a loss of open space; and that the Ordinance should be restudied.

At the conclusion of the public hearings, the Chairman referred back to this Ordinance.

The Commission discussed the points and issues raised during the public hearing.

Motion made by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be approved with the exception of the amended Section 3.

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO AQUACULTURE.

Mr. Lank summarized the Ordinance.

The Commission found that Harry Isaacs, Jr. was present in support of the Ordinance and stated that he created the first fish farm in the area; that he went through a lot of hoops and red tape from various agencies to get his approvals; that fish do create odors, especially when confined to buildings; that the setbacks should be comparable to other agricultural uses, i.e. commercial poultry operations; and that he supports the Ordinance as presented.

The Commission found that no parties appeared in opposition to the Ordinance.

Motion made by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the Ordinance as circulated.

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO DEVELOPMENT IN THE C-1 GENERAL COMMERCIAL ZONING DISTRICT, AND THE B-1 NEIGHBORHOOD BUSINESS ZONING DISTRICT, TO ADD A NEW PROVISION RELATING TO LARGE SCALE COMMERCIAL USES, TO AMEND THE PROVISIONS RELATING TO OFF-STREET PARKING AND OFF-STREET LOADING, TO AMEND SETBACK PROVISIONS, AND TO BRING OTHER PROVISIONS OF CHAPTER 115 IN CONFORMITY WITH THESE AMENDMENTS.

Mr. Lank summarized the Ordinance.

Mr. Lank read a letter in opposition to the Ordinance from Richard Anthony referencing the need for open dialogue for public input; that an Ordinance should be considered that creates a new zoning district for the uses intended so that public input can be generated; that the Ordinance should reference "major arterial roadway", not "principal highway"; that the use should only be considered where adequate infrastructure is existing, not where it may be planned in the future; that any development resulting in the lessening of the minimum acceptable level of service "D" should serve as an automatic bar to approval; that all references to "should" be changed to "shall"; that the Ordinance should be amended to contain specific language which requires mandatory compliance when the expansion and/or redevelopment of existing commercial sites is considered by the Commission and/or Council for rezoning and/or site plan review; and that considering the area's environmental sensitivity, the ever present need to preserve highway capacity for possible evacuation, the failure of existing roadway infrastructure and the lack of any meaningful state assistance and/or substantive corrective action to alleviate the existing problems in the foreseeable future [five year budgetary plan], future development of this nature and size should be banned in the Coastal Development District.

Mr. Allen questioned how the 75,000 square footage was established; stated that the word "planned", relating to infrastructure, may be dangerous wording; questioned transit accommodations; and questioned dumpster setbacks.

Mr. Hastings also questioned the word "planned", relating to infrastructure.

Mr. Wheatley questioned if the 60' setback only related to 75,000 square foot buildings; questioned the reference to infrastructure; and questioned access roads.

Mr. Schrader offered to send the Commissioners a copy of a planning newsletter with an article on big box stores.

Rich Collins, of Lewes, stated that he is a member of the Land Use Advisory Committee established by the County Council and expressed concerns that the Ordinance is more restrictive than the Ordinance the committee recommended; and that, in reference to parking island requirements, the committee recommended one (1) island for every 60 spaces, not 20 spaces.

Rich Collins, representing himself, questioned the reference to "principal highway", since it is not a typical DelDOT reference; questioned why the Ordinance references entrances, when DelDOT has total jurisdiction over the location of entrances for ingress/egress; stated that DelDOT never approves an entrance on a major highway when access is available to a minor road; questioned the 6' height for landscape screening; stated that the screening will add extra cost to developers; stated that the Commission should be permitted to negotiate with designers of site plans for a landscaping plan for a site



specific project; stated that the Commission should reconsider the requirement for islands, since islands could create a maintenance problem, i.e. snow removal, and suggested that the Ordinance should be returned to the Land Use Advisory Committee for more input.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to defer action. The Commission asked Mr. Schrader to send them copies of the referenced planning newsletters.

### III. OLD BUSINESS

1. SUBDIVISION #96-16 -- application of DALE WHEATLEY to consider the subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred by dividing 47.66 acres into 48 lots, located on the north side of Road 483, 1,360 feet southeast of Road 484.

The Commission reviewed the final record plan for Fleetwood Estates.

Mr. Abbott advised the Commission that the final plan has been reduced to 47 lots; that the plan complies with the requirements of the Subdivision and Zoning Codes; that all required agency approvals have been received; and that the restrictive covenants have been approved.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the record plan as a final.

2. SUBDIVISION #98-9 -- application of GARY WATSON to consider the subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred by dividing 41.86 acres into 37 lots, located north of Road 465, approximately 2,318 feet west of Road 479.

The Chairman referred back to this application which was deferred at the November 19, 1998 and the December 10, 1998 meetings.

Mr. Abbott advised the Commission that a septic feasibility statement has been received from DNREC; that the DNREC stated that the site is suitable for individual septic systems, however, they recommend that the developer consider a community wastewater disposal system since a majority of the lots will require pressurization systems, and reminded the Commission that this is a recommendation only.

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

#### IV. OTHER BUSINESS

1. LOST LANDS RV PARK  
C/U #1232 - Site Plan - Road 390A

The Commission reviewed the final site plan for C/U #1232 for a campground.

Mr. Abbott advised the Commission that 172 lots are proposed for recreational vehicles; that the site plan complies with the Zoning Code and the conditions of Ordinance Bo. 1222; that all agency approvals have been received, except for DNREC which is in the process of being approved; and that the developer has submitted the restrictions for the campground.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a final subject to receipt of the DNREC approval.

2. BENCHMARK CONDOMINIUMS  
Final Multi-Family Site Plan - Road 272

The Commission reviewed the final site plan for 5 multi-family dwelling units.

Mr. Abbott advised the Commission that the final plan is the same as the plan that received preliminary approval; that the site plan complies with the Zoning Code; and that all agency approvals have been received.

Motion made by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a final.

3. LLOYD T. AND LAURA D. MORRIS  
2 Lots on existing 50' right-of-way - Road 277

The Commission reviewed a concept to create 2 lots with access off of an existing 50' right-of-way off of Road 277.

Mr. Abbott advised the Commission that if approved, there would be 3 lots with access from the existing right-of-way.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the 2 lots in concept.

4. VIRGINIA M. STEELE  
Lot on existing 50' right-of-way - Road 357

The Commission reviewed a concept to create a parcel off of Maryland Street off of Road 357.

Mr. Abbott advised the Commission that if approved, there would be 3 lots with access from the existing right-of-way.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the lot in concept.

5. BERNICE LEWIS  
2 Lots - Road 261A

Bernice Lewis and Larry Steele, Attorney, were present as the Commission reviewed a concept to create 2 lots and a 50' right-of-way at the end of Road 261A.

Mr. Abbott advised the Commission that Mrs. Lewis is one of five owners of the property; that the heirs have signed off giving Mrs. Lewis 2/5 interest in the property; that a new lot is proposed so that Mrs. Lewis can replace her manufactured home with a multi-sectional home; and that a 50' right-of-way will be recorded for the 2 parcels.

Mr. Steele advised the Commission that the statements made by Mr. Abbott are correct.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the lots in concept.

6. JOSEPH HUDSON  
Parcel on 50' right-of-way - Road 236A

The Commission reviewed a concept to create a parcel with access from an existing 50' right-of-way off of Road 236A.

Mr. Abbott advised the Commission that if approved, this would be the second parcel with access from the right-of-way.

Motion made by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the parcel in concept.



7. CHRIS AND DAYNA QUILLEN  
Commercial Site Plan - Road 275A

Mr. Wheatley advised the Commission that he would not be participating on this site plan and left the room.

The Commission reviewed a commercial site plan for a warehouse and 4 apartment units on Road 275A.

Mr. Abbott advised the Commission that there is parking within the front yard setback and that a waiver is needed; that the setbacks meet the requirements of the Zoning Code; and that the contractor has obtained all necessary agency approvals.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried with 4 votes to approve the site plan as submitted. Mr. Wheatley was not present.

Meeting adjourned at 9:40 P.M.