

MINUTES OF THE REGULAR MEETING OF MARCH 26, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 26, 1998, at 7:30 P.M., in the County Council Chambers, Sussex 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 approve the minutes of March 12, 1998 as corrected.

Mr. Schrader explained how the meeting will be conducted.

PUBLIC HEARINGS

C/U #1235--application of FIRST STATE MOBILE MECHANIC, INC. AND JESSE T. FLYNN to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an automotive repair shop to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 1.73 acres, more or less, south of Road 480, 1.2 miles east of U.S. Route 13 and 1,045 feet east of Road 489.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the level of service "A" of Road 480 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected; that it may be necessary for some on-site and off-site drainage improvements on the Fallsington and Pocomoke soils due to the seasonally high water table from November through March; that the soils are mapped as Fallsington sandy loam, Kenansville loamy sand, and Pocomoke sandy loam; that the Kenansville soils have slight limitations; that the Fallsington soils and Pocomoke soils have severe limitations; that the applicant shall be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that all three soil types are considered Prime Farmland; that the Kenansville and Pocomoke soils are also considered of Statewide Importance and Hydric soils.

The Commission found that Jesse T. Flynn was present and stated in his presentation and in response to questions raised by the Commission that he proposes a garage to operate his business; that his business has been primarily mobile; that he has been working outside; that he has been working on the site since 1994; that his business hours, during warmer weather, are from 7:00



a.m. to 4:00 p.m., and from 8:00 a.m. to 5:00 p.m. during colder weather; that the business will operate weekdays and 1/2 day on Saturdays, with no Sunday hours; that the tools used in the business that make noise are impact wrenches, cut-off tools, and compressors; that the compressors will be located in a separate room on the garage; that he normally does not have more than four (4) vehicles on the site at one time; that he proposes to have four (4) bays in the garage; that no junk vehicles will be stored on the site; that the only vehicles stored will be vehicles waiting for repair; that he may hire one mechanic; that minimal signage is needed; that the lot for the garage is wooded and will only be cleared for the area of the garage, parking and driveway; that the garage will appear to be similar to the dwelling; that lighting on the garage will be residential types of lighting; that waste oils and anti-freeze are stored in containers and taken to a recycler; that no wrecker service is proposed; that no body work is proposed; that the existing entrance beside the house will be utilized for the entrance to the garage; that the two (2) will be combined into one (1) deed; and that other business uses exist in the area, which include a welder, a millwright, and a home improvement contractor.

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

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The entrance to the garage shall be located as far from the curve of Road 480 as possible, subject to the review and approval of DelDOT.
2. The garage shall be built to conform to the appearance of the surrounding structures.
3. Lighting shall be directed away from any neighboring properties.
4. Business hours shall be limited to 8:00 a.m. to 5:00 p.m. six (6) days per week with no Sunday hours.
5. One (1) sign, not exceeding 16 square feet, per side or facing, may be permitted.
6. No outside storage of vehicles shall be permitted, except for vehicles proposed for maintenance during a given week.
7. Maintenance work shall be limited from automobiles to six (6) wheeled trucks.
8. The Site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals and/or permits.



C/U #1236--application of BEEBE MEDICAL CENTER to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an outpatient medical facility to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 9.1 acres, more or less, southeast of Route 24, west of Route 1.

The Commission found, based on comments received from DelDOT, that originally the Department requested a traffic impact study; that the Department has withdrawn it's request and instead recommend specific conditions that should be attached to any approval that the County might grant, which include that the use of the property shall be restricted to an outpatient medical facility; that during the months of June, July and August, the proposed facility shall be closed from 5:00 p.m. on Friday until Monday morning; and that a permanent access easement or right-of-way through the property, of a size, shape, and location acceptable to DelDOT's Subdivision Engineer, shall be granted to the owner of the adjacent lands east and south of the property prior to the development of the proposed facility.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Sassafras sandy loam and Sassafras loam which have slight limitations; that the applicants shall be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; and that the Sassafras soils are considered both Prime Farmland and of Statewide Importance.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is not within the area of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, but is adjacent to the boundary; that the property owners shall be required to apply for an extension to the boundaries of the district; that sewer service cannot be provided to the parcel until the County Council approves the extension to the boundaries; that a preliminary review has determined that capacity is available to serve the project; that there is an existing manhole approximately 185 feet northeast of the site; that it will be the responsibility of the owners to extend the sewer line in accordance with Ordinance No. 38 procedures; and that system connection charges will be required.

The Commission found, based on comments received from the Delaware Office of State Planning Coordination, that the State is not opposed to this project; however, it is hopeful that the County will redraft the whole of ~~it's~~ zoning regulations to better reflect current development pattern goals and ~~its~~ new



comprehensive plan; that Conditional Use approvals in the AR-1 District for uses which are completely unrelated to agricultural activities sets a bad precedent and is not appropriate zoning protocol; that the Delaware DNREC notes that the parcel appears to be in a water service area of the Tidewater Utilities, Inc.; that the Office of the State Fire Marshal notes that site plans and facility plans shall be required to be submitted for review and approval; and that DelDOT recommends that the County ask the applicant for voluntary assurances relating to use, hours, and access easements.

The Commission found that Jeffrey Fried and James Monihan were present on behalf of the Beebe Medical Center and stated in their presentation and in response to questions raised by the Commission that the Hospital has tried to meet the needs of the County for over 80 years; that they propose to construct a multi-purpose outpatient medical facility to accommodate the general area; that the facility will be utilized for radiology, laboratory, physical therapy, dialysis, and outpatient surgery; that no inpatient care is proposed; that the site is an accessible location; that they hope to provide cost effective services; that the growth of the Hospital in Lewes is limited due to space restrictions; that the site will have convenient parking; that the facility will be customer oriented; that the Hospital serves the Lewes, Rehoboth, Millsboro, Georgetown, and coastal areas; that a patient survey was taken and indicated that 61% of the patients supported a Route 24 location for a clinic facility; that the Center agrees with DelDOT comments, except for the limitations on business hours; that dialysis may be needed on weekends and that the Center would like to be able to provide the service; that the dialysis center will be included as a part of the first phase of the project; that the site plan is conceptual; that the facility will reduce the number of outpatient clients at the Hospital; that the facility is planned for opening early in the year 2000; and that the facility is needed to respond to the growth in population, insurance company cost, and medical technology.

The Commission found that Mr. Fried submitted letters from the Lewes Chamber of Commerce and Visitors Bureau, Inc. and the Greater Millsboro Chamber of Commerce in support of the project.

The Commission found that Earl Warrington was present in support of the project, which will be a benefit to the community as a whole. Mr. Warrington added that the farm equipment access to the farm is from Road 275, not Route 24.

The Commission found that Michael DeSanto of Hitchens Subdivision spoke in opposition and expressed concerns about traffic, noise, and the need for buffer landscaping if the project is approved.



Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved as an outpatient medical facility and with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals and/or permits.

#### OTHER BUSINESS

##### 1. Nextel Communications

Rob Witsil, Attorney, was present as the Commission reviewed a site plan for a cellular phone tower and control building off of Road 206 near Milford.

Mr. Abbott advised the Commission that the proposed tower will be one hundred forty eight feet tall, that the control building will be ten feet by twenty feet, that an eight foot fence will be erected around the area, and that all agency approvals have been received or waived by the agencies.

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

##### 2. Nextel Communications

Rob Witsil, Attorney, was present as the Commission reviewed a site plan for a cellular phone tower and control building on the west side of U.S. Route 13, south of Road 583 near Greenwood.

Mr. Abbott advised the Commission that the proposed tower will be one hundred forty eight feet tall, that the control building will be ten feet by twenty feet, that an eight foot fence will be erected around the area, and that all agency approvals have been received or waived by the agencies.

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

##### 3. Nextel Communications

Rob Witsil, Attorney, was present as the Commission reviewed a revised site plan for Conditional Use No. 1192 on the east side of U.S. Route 13 north of Road 46 near Seaford.

Mr. Abbott advised the Commission that the revised site plan is for control building that will be ten feet by twenty feet, that the control building is for the existing five hundred foot tower, and that all agency approvals have been received or waived by the



agencies.

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

#### 4. Nextel Communications

Rob Witsil, Attorney, was present as the Commission reviewed a site plan for a cellular phone tower and control building on the west side of U.S. Route 13 south of Road 70 near Laurel.

Mr. Abbott advised the Commission that the proposed tower will be one hundred forty eight feet tall, that the control building will be ten feet by twenty feet, that an eight foot fence will be erected around the area, and that all agency approvals have been received or waived by the agencies.

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

#### 5. Nextel Communications

Rob Witsil, Attorney, was present as the Commission reviewed a site plan for a cellular phone tower and control building on the south side of Delaware Route One near the Nassau Bridge.

Mr. Abbott advised the Commission that the proposed tower will be one hundred forty eight feet tall, that the control building will be ten feet by twenty feet, that an eight foot fence will be erected around the area, and that all agency approvals have been received or waived by the agencies.

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

#### 6. David Carroll

Jeff Clark of Land Tech Inc. was present as the Commission reviewed a concept to create two lots off of an existing fifty foot right of way at the end of Roads 341 and 342.

Mr. Abbott advised the Commission that the owner proposes to create two lots and enlarge an existing lot, that each lot will be more than 1.50 acres in size, and that each lot is suitable for a low pressure pipe or sand mound septic system.

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

#### 7. Stephen G. and Brenda L. Healy



The Commission reviewed a concept to create two lots with access from a fifty foot right of way off of Route 36 near Greenwood.

Mr. Abbott advised the Commission that the existing right of way is twenty five feet wide, that the right of way will be widened to fifty feet and that each lot will be over two acres in size.

Motion made by Wheatley, seconded by Mr. Hastings, and carried unanimously to approve the two lots and right of way as a concept.

8. Curtis J. and Diane R. Hudson

Curtis Hudson was present as the Commission reviewed a concept to create two lots off of Washington Street north of Route 24 near Millsboro.

Mr. Abbott advised the Commission that Washington Street is currently thirty feet wide, that an additional twenty feet will have to be dedicated to make Washington Street a fifty foot right of way, and that the smallest lot will be approximately two acres.

Mr. Hudson advised the Commission that the subdivision is a part of a divorce settlement and that he will dedicate the additional twenty feet to Washington Street.

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

9. Sussex County Association of Realtors, Inc.

The Commission reviewed the site plan for Conditional Use No. 1220 for an office on Route 321.

Mr. Abbott advised the Commission that the proposed office is forty feet by fifty feet, that there is adequate parking, and that the parking along U.S. Route 9 needs a waiver from the Commission.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a preliminary with the stipulation that the seven parking spaces along U.S. Route 9 be relocated out of the setback. Final approval shall be subject to receipt of all required agency approvals and permits.



OLD BUSINESS

C/U #1227--application of DANIEL W. MAGEE T/A MAGEE FARMS to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a corn maze recreational activity to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 5.1 acres, more or less, of a 63.75 acre parcel, on the northern side of Road 54, across from Road 394.

The Commission discussed the points and issues raised during the public hearing on February 26, 1998 and the requested conditions suggested by staff for consideration.

Motion by Mr. Lynch, 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 following conditions:

1. The business shall operate from July 1 through Labor Day;
2. Business hours shall be from 10:00 a.m. to 6:00 p.m. six days per week;
3. One (1) unlighted 32 square foot two (2) sided sign may be permitted on the site one (1) week before July 1 through one (1) week after Labor Day, at such time said sign shall be removed;
4. There shall be no permanent structures utilized with the business. All structures shall be portable and shall be removed from the site after the business is closed for the season;
5. "No Parking" signs shall be placed along Route 54, if permitted by DelDOT.
6. The parking area shall be maintained, and parking spaces shall be designed and marked in accordance with Chapter 115 of the Code of Sussex County. All parking shall be limited to the boundaries of the Conditional Use. Parking spaces shall be 10' by 20'. Driveways shall be a minimum of 25' in width;
7. The entrance shall be upgraded per the specifications of DelDOT, if required.
8. Portable toilets shall be provided for patrons.
9. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals and/or permits.

C/U #1229--application of FUN SPORT, INC. to consider the Conditional Use of land in an C-1 General Commercial District for expansion of existing recreational facilities to enlarge wading pool and to add a go-cart track to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex



County, containing 42,000 square feet, more or less, approximately 310 feet east of Route One and 270 feet south of Melson Road and behind the Midway Shopping Center.

The Commission discussed the points and issues raised during the public hearing on February 26, 1998 and suggested conditions prepared by the staff for consideration.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried three (3) votes to two (2) votes, to forward this application to the Sussex County Council with the recommendation to approve the enlargement of the wading pool, but deny the go-cart track expansion, and with the following conditions:

1. The proposed wading pool will not exceed the dimensions of 45' by 40' with 18" of depth. the wading pool shall be surrounded by chain-link type fencing with a height of 4' and sidewalks with a minimum width of 3'. The existing wading pool shall be removed.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all agency approvals.

C/U #1233--application of EDDIE FRENCH to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a plumbing and heating contractor business to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 4.47 acres, more or less, on the west side of U.S. Route 13, 2,015 feet south of Road 488.

The Commission discussed the points and issues raised during the public hearing on March 12, 1998.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried with four (4) votes, with Mr. Wheatley abstaining from voting, to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. Outside storage of materials shall be restricted to the area behind the building;
2. Business hours shall be from 7:30 a.m. to 5:00 p.m. six (6) days per week with no Sunday hours;
3. One (1) on-premise ground sign, not exceeding 100 square feet per side or facing, may be permitted;
4. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all agency approvals and/or permits.



Subdivision #98-3--Mike Mock

The Chairman referred back to this application which was deferred at the February 26, 1998 meeting.

The Commission discussed the points and issues raised during the public hearing. The Commission discussed Ordinance No. 1152.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to deny this application since there are still problems about the entrance.

Meeting adjourned at 9:50 P.M.