

## MINUTES OF THE REGULAR MEETING OF APRIL 10, 1997

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 10, 1997, at 7:30 P.M., in the County Council Chambers, Sussex County Administrative Building, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the minutes of March 13, 1997 as amended.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the minutes of March 20, 1997 as circulated.

## II. PUBLIC HEARINGS

1. RE: C/U #1177--Bertie E. Dawson  
c/o Richard A. Dawson

Richard Dawson and Steve Parsons, Attorney, were present on behalf of this application to consider the Conditional Use of land in a MR Medium Density Residential Zoning District in Baltimore Hundred for Multi-Family Dwelling Structures not Exceeding 25 units on the west side of Road 361 and southwest of Road 361A, located on a parcel containing 3.08 acres more or less.

Mr. Lank summarized comments received from DelDOT, Sussex Conservation District, Office of State Planning Coordination, and a letter of opposition from Terrance H. Bartley.

Mr. Parsons advised the Commission that this is an application for a Conditional Use in a MR Medium Density Residential Zoning District for twenty four multi-family units.

Mr. Dawson advised the Commission that he resides in Fredericksburg, Virginia, that he is the Power of Attorney for Bertie Dawson, his aunt, that he has been power of Attorney for Mrs. Dawson for eleven years, that Mrs. Dawson has owned the property since 1956, that multi-family condominium units are proposed, that Land Design, Inc. has been hired to design the project, that Sea Colony Development is immediately adjacent to this site, that there is a condominium project across from Road 361, that there would be no negative impacts on property values due to the similarity of use to Sea Colony, that there would be no substantial increases in traffic, that the sewer would be provided by the County, that water would be provided by either the Town of Bethany Beach or private on-site wells, that the



project will be phased, that the site would not exceed twenty four units, that on site recreation will be provided, that there will be a twenty foot buffer from the Wilgus Subdivision, and that they will adhere to all agency comments and requirements.

Sarah Ford, Surveyor from Land Design, Inc., advised the Commission that each unit will be 25' x 50', that the site plan will be amended to provide a twenty foot buffer from the Wilgus Subdivision, that stormwater management will be handled on site, that one entrance is proposed, that Federal wetlands exist on site and that Nationwide Permit 26 allows wetlands to be filled, that there are no State Wetlands on site, that the water supply will be either from the Town of Bethany or private wells with 1 well for two units, and that the structures are proposed to be two stories with a loft.

Mr. Parsons advised the Commission that the existing dwelling on site will be demolished, and submitted copies of the traffic summary report from DelDOT, deed, and power of attorney into the record.

Matthew Kasner, representing Sea Colony West Homeowners Association Phase 14, requested that the record be left open since the Homeowners Association was just made aware of this application.

At the conclusion of the Public Hearings, the Chairman referred back to this application.

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

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" will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped as Fallsington sandy loam and Pocomoke sandy loam, that the suitability of the soils for the intended use are severe, that the limitations are severe enough to make the use questionable, that careful planning and design and/or very special construction measures are needed, that with respect to erosion and sedimentation control the applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of construction, that the farmland rating of the Fallsington soils are of Statewide importance, Prime Farmland, and Hydric Soils, that the Pocomoke soils are Prime Farmland (where drained),



Statewide Importance (not drained), and Hydric Soils, that no storm flood hazard area is affected, that it may be possibly necessary for off-site drainage improvements due to the soils having high water tables and becoming saturated would produce run-off, that it will be necessary for on-site drainage improvements due to the high water table for the soils, that no tax ditch is affected, and that the soils are wet and may require extensive drainage to make the site usable.

The Commission found, based on comments received from the Office of State Planning Coordination, that the office has reviewed the conditional use application, that wastewater infrastructure will be provided by Sussex County, that the developer hopes to obtain central water through the Town of Bethany Beach, that the proposal fits the Sussex County Comprehensive Plan's multi-family, development and conservation districts, that multi-family housing helps meet the affordable housing needs of low and moderate income families, that DelDOT did not require a traffic impact study, that this project falls into a Multimodal Investment Area, that DelDOT intends to provide transportation options, that DelDOT has striped Jefferson Bridge Road with 8 foot lanes and 2 to 4 foot paved shoulders which function as bicycle and pedestrian paths, that the entrance design should provide for these paths, that DelDOT does not recommend that the road be widened except as necessary for the entrance, that although DelDOT has not yet established a transit plan for Bethany, Ocean View, and Millville area, Jefferson Bridge Road is a good candidate for transit service because it forms a loop off of Route 26, that if this project is approved, DelDOT recommends that sufficient space along the site frontage be provided to provide for a bus stop when service is established, that if this project is for year round occupants with school age children, the Department of Public Instruction asks that appropriate bus accommodations be included in the development of this site, and that the DNREC reminds the Town of Bethany Beach that it must apply for a Certificate of Public Convenience and Necessity to serve public water in this area.

The Commission found, based on a letter received in opposition, that this application is in violation of the South Coastal Land Use Plan, the Sussex County Zoning Code, and the Delaware Code, and that this application should be a special use exception application to the Board of Adjustment.

The Commission found, based on comments made by representatives of the application, that this application is for a Conditional Use in a MR Medium Density Residential Zoning District for twenty four multi-family units, that Mr. Dawson is the power of attorney for the applicant, that he has represented the applicant for eleven years, that the applicant has owned the



property since 1956, that multi-family condominium units are proposed, that Land Design, Inc. has been hired to design the project, that Sea Colony development is immediately adjacent to this site, that there is a condominium project across from Road 361, that there would be no negative impacts on property values due to the similarity of use to Sea Colony, that there would be no substantial increases in traffic, that sewer would be provided by the County, that water would be provided by either the Town of Bethany Beach or private on-site wells, that the project will be phased, that the site would not exceed twenty four units, that on site recreation will be provided, that there will be a twenty foot buffer from the Wilgus Subdivision, that the developer will adhere to all agency comments and requirements, that each unit will be 25' x 50', that the site plan will be amended to provide a twenty foot buffer from the Wilgus Subdivision, that stormwater management will be handled on site, that one entrance is proposed, that Federal wetlands exist on site and that Nationwide Permit 26 allows wetlands to be filled, that there are no State wetlands on site, that the water supply will be either from the Town of Bethany Beach or private wells with one well serving each two units, and that the structures are proposed to be two stories with a loft.

The Commission found that the attorney submitted copies of the traffic summary report, deed, and power of attorney into the record and stated that the existing dwelling on site will be demolished.

The Commission found that an area resident requested that the record be left open so that the file may be examined.

Motion made 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 stipulations:

1. The maximum number of units shall not exceed twenty four.
2. On site recreation shall be provided.
3. A twenty foot buffer shall be required from the Wilgus Subdivision.
4. Applicant will follow all Federal, State and County regulations.
5. Site plan shall be subject to review and approval of the Planning and Zoning Commission.



2. RE: C/Z #1294--Robert J. Ames

Robert Ames was present on behalf of this application to amend the zoning map from C-1 General Commercial to GR General Residential in Lewes and Rehoboth Hundred, located on the west side of Central Avenue, east of Hebron Road, 350 feet northeast of Harmon Street, to be located on a parcel containing 20,000 square feet more or less.

Mr. Lank summarized comments received from the Sussex County Engineering Department and the Sussex Conservation District.

Mr. Ames advised the Commission that he is seeking the rezoning because he placed manufactured homes on two lots without permits, at this time he cannot obtain placement permits because of the zoning, that he was violated by the office and is trying to correct the violations, that the units are served by sewer and water, that he has cleaned up the lot, that he would like to add two additional manufactured homes on the other two lots, that the manufactured homes are rentals, and that he would like to eventually replace the manufactured homes with dwellings.

There were no parties present with interest to this application.

At the conclusion of the Public Hearings, the Chairman referred back to this application.

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

The Commission found, based on comments received from the Sussex County Engineering Department, that the proposed rezoning is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that wastewater capacity is available for four single family homes, that there are four sanitary sewer laterals available for the connection of the four proposed units, that there will be connection charges required for the additional units, that fees were previously paid for two units, that any additional units will be required to pay the connection fee before placement permits are issued, and that the current connection fee charge for the West Rehoboth Expansion Area is, \$2,808 per EDU.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras sandy loam, that the suitability of the soils for the intended use have slight limitations and that these limitations are easily overcome, that with respect to erosion and sedimentation control, the applicant shall be required to follow



recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil is Prime Farmland, that no storm flood hazard area is affected, that it may not be necessary for any off-site or on-site drainage improvements, and that no tax ditch is affected.

The Commission found, based on comments made by the applicant, that he is seeking the rezoning because he placed manufactured homes on two lots without permits, that at this time he cannot obtain the permits because of the zoning district, that he was violated by the zoning office and is trying to correct the violations, that the units are served by sewer and water, that he has cleared up the lots, that he proposes to place units on the other two lots, that the units are rentals, and that he would eventually like to replace the units with dwellings.

The Commission found no parties were present with any interest to this application.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since other General Residential lands exist in the immediate area across Hebron Road.

3. RE: ORDINANCE TO AMEND CHAPTER 115 ( 1 acre lots )

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO INCREASE IN CERTAIN ZONING DISTRICTS THE MINIMUM LOT SIZE TO ONE (1) ACRE WHERE A CENTRAL SEWER SYSTEM IS NOT PRESENT.

Mr. Lank read the proposed Ordinance.

There were no parties present interested in this Ordinance.

Mr. Wheatley advised the Commission that he feels that the Ordinance is in conflict with the Comprehensive Land Use Plan which references a 3/4 acre lot size.

Mr. Schrader advised the Commission that the Ordinance cannot be amended due to the language in the title.

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 denied.

4. RE: ORDINANCE TO AMEND CHAPTER 99 ( Sunsetting )

AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX

COUNTY, ENTITLED "SUBDIVISION OF LAND", TO ADD PROVISIONS RELATING TO THE SUNSETTING OF SUBDIVISION APPROVAL.

Mr. Lank read the proposed Ordinance.

There were no parties present interested in this Ordinance.

Mr. Allen questioned the definition of substantial construction.

It was the consensus of the Commission that substantial construction needs to be defined.

Mr. Schrader advised the Commission that presently the staff would have to decide what substantial construction is.

Mr. Ralph raised questions about the wording "as well as past approvals" that is referenced in the synopsis of the proposed Ordinance.

Mr. Lank advised the Commission that the text of the Ordinance does not reference past subdivisions that were created prior to the adoption of the Subdivision Ordinance.

Mr. Schrader advised the Commission that sunseting is referenced in the Comprehensive Land Use Plan.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be approved as amended, as follows:

Subsection 99-40 Sunseting of Major Subdivision Approval.

Any major subdivision approval granted by the Commission, either prior to or subsequent to the effective date of this section, shall be rendered null and void if substantial construction is not commenced thereon within five (5) years of the date of recordation of the Final Plat pursuant to Subsection 99-11.

### III. OTHER BUSINESS

#### 1. RE: County Development Associates

Mr. Abbott advised the Commission that this item was removed from the agenda on April 9, 1997.

#### 2. RE: Donald Derrickson



Mr. Abbott advised the Commission that this item was removed from the agenda on April 10, 1997.

3. RE: Bethany Bay Phase 3, Section 3.3, " Harbour Watch"

Jeff Clark of Land Tech Inc. and Dave Baldo of Pettinaro Construction were present as the Commission reviewed a revised site plan for multi family dwellings for Phase 3, Section 3.3, of Bethany Bay AR-1/RPC.

Mr. Abbott advised the Commission that the revised site plan is for four additional multi-family dwelling structures with 54 units and twenty 20' x 22' detached garages to be utilized as parking for some of the units, that the setbacks meet the requirements of the zoning code, and that as of this date, the staff has not received any agency approvals for the revised site plan.

The Commission raised questions and concerns about the proposed detached garages.

Mr. Clark and Mr. Baldo advised the Commission that the site presently does not need the requirement of two parking spaces per unit as required by the zoning code, and that the garages would probably be used for storage areas by the tenants.

It was the consensus of the Commission that the garages would be too small for parking purposes.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to deny the site plan as submitted.

Mr. Clark questioned if the Commission would consider preliminary approval if the garages were to be deleted and adequate parking were provided.

Mr. Lynch retracted his motion and Mr. Phillips retracted his second.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary with the stipulation that the garages be deleted and that the parking requirements be met as required by the zoning code.

4. RE: Richard P. Williams

The Commission reviewed a concept to create two parcels with access from a fifty foot right of way off of Road 422A.

Mr. Abbott advised the Commission that the Board of



Adjustment granted a variance from the minimum lot width requirement of 150 feet, that the owner has fifty five feet of road frontage serving his parcel, that he would like to create a fifty foot right of way to serve two parcels, and questioned if this request would require a public hearing for a major subdivision.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve the two parcels and fifty foot right of way as a concept.

5. RE: Barbara J. Huffman and Teresa Ann Huffman

The Commission reviewed a concept to create two parcels with access from a fifty foot right of way off of Road 431.

Mr. Abbott advised the Commission that the Commission approved the fifty foot right of way in 1992 to serve an eleven acre parcel, that the owners would like to subdivide the parcel into a five acre and six acre tract and to extend the fifty foot right of way.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the two parcels and fifty foot right of way as a concept.

6. RE: Paul F. Hinson

Mr. Abbott advised the Commission that a request for a one year time extension to obtain final approval for Subdivision #95-11--Paul F. Hinson "Collins Pond Estates" has been received.

Mr. Abbott advised the Commission that this is the first request for this project.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to grant a one year time extension.

#### IV. OLD BUSINESS

1. ORDINANCE TO AMEND CHAPTER 115 ( C-2 Zoning )

The Chairman referred back to this application which was deferred at the March 13, 1997 meeting.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be denied since there already exist a General Commercial Zoning District.



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Meeting adjourned at 9:50 P.M.