

## MINUTES OF THE REGULAR MEETING OF MAY 4, 2000

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 4, 2000 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:30 P.M. with Vice Chairman Wheatley presiding. The following members of the Commission were present: Mr. Hastings, Mr. Johnson, Mr. Lynch, Mr. Wheatley, and Mr. Schrader – Assistant County Attorney, Mr. Lank – Director, and Mr. Abbott – Assistant Director.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to adopt the agenda as circulated.

### III. PUBLIC HEARINGS

APD #2000-1—application of JOHN R. ANDREWS to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Northwest Fork Hundred for one (1) parcel of land totaling 200.00 acres, more or less, located on both sides of Route 16, northeast of Road 581, and northwest of Road 34, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank advised the Commission that the District is proposed to be called the Andrews Estate District; that the owner/operator is John R. Andrews; that the application was evaluated using the Sussex County Land Evaluation/Site Assessment (LESA) formula and scored 239.66 points out of a possible 300 points; that the parcel includes 180.00 acres of crop land; 10.00 acres of forest land; and 2.00 acres of residential land; that the parcel has been used for grain and lima crops; that the parcel has moderate potential for conversion since the parcel has significant road frontage and the soils are suitable for development; that the parcel has high potential for future APD expansions; that there are forested wetlands along Quarter Branch; that the site is zoned AR-1 Agricultural Residential; and that the parcel meets the minimum requirements to be a district.

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

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

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

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to forward a recommendation to the Delaware Agricultural Lands Preservation Foundation that the application be approved.

C/U #1333—application of ALBUN, INC., T/A SEA COAST SPEEDWAY to consider the Conditional Use of land in an AR-1 Agricultural Residential District for race tracks – horses and stock cars to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 81.84 acres, more or less, lying at the southeast intersection of U.S. Route 113 and Road 321, and the southwest intersection of Road 325 and Road 326.

The Commission found, based on comments received from DelDOT, that they are modifying their comments from an August 17, 1999 letter; that they were concerned about this application because of potential traffic impacts associated with the proposed uses, which at that time were horse racing and possibly slot machines; that because they had little data on the trip generation of horse racetracks and none on that of slot machine facilities, they recommended that the County defer action on this application until the applicant's engineer provided them with more trip generation information for the proposed development; that the information provided by the applicant's engineer, they believe that the proposed use would generate about 1,810 vehicles per day; that it is their understanding that the applicant is no longer proposing slot machines as a possible use for this property; that if slot machines are proposed, they could and might well require a Traffic Impact Study as a condition for site plan approval; and that they do not recommend that the County require a Traffic Impact Study for the proposed horse racetrack at this time.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on site are Evesboro loamy sand, Osier loamy sand, and Rumford loamy sand; that the suitability of the soils for the intended use for the Evesboro and Rumford soils have slight limitations in that they are relatively free of limitations or limitations are easily overcome and that the Osier soils have severe limitations in that the limitations are severe enough to make the use questionable and 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 sediment control practices during construction and maintain vegetation after completion; that the farmland rating of the Evesboro soils are Statewide Importance, Hydric Soil in Small Depressions, Osier soils are Statewide Importance, Hydric Soil, and Rumford soils are Statewide Importance; that no storm flood hazard area is affected; that it would 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 received from the Office of State Planning Coordination, that this application is for an expansion of the existing stock car racing facility and that this facility will continue the stock car racing as well as the harness racing if the application is approved; that according to the Strategies for State Policies and Spending document, this parcel is located in a rural area; that rural areas are areas



where state policies will be to encourage the preservation of a rural lifestyle and discourage new development; that since this site is an existing speedway, the State does not feel that by upgrading the current facility as proposed, it will encourage development in the area and therefore the State has no objections to this application as proposed; that the Department of Transportation has commented on this application and the State urges the County to work with DelDOT to determine if a Traffic Impact Study would be required; that the Department of Natural Resources and Environmental Control has noted that there are two inactive Leaking Underground Storage Tank (LUST) sites near this parcel, that should any petroleum-contaminated soil be discovered during construction the UST Branch should be notified as soon as possible; and that the State Historic Preservation Office recommends that the areas that are currently wooded along the Alms House Ditch be protected from development as they are areas with the most likelihood for prehistoric sites.

Mr. Lank advised the Commission that two letters from the Citizens of Sussex County Against Gambling Expansion, a letter from Bruce Rogers an attorney, a letter from State Senator George H. Bunting, Jr. and a letter from Boyd White have been received in opposition to this application.

Mr. Lank advised the Commission that 254 letters from area businesses and residents of the County have been received in support of this application.

The Commission found that Al and Bunny Williams and Robert Witsil, Attorney, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that Mr. Witsil submitted a booklet into the record; that this application is not for slot machines; that the Delaware Code only permits existing harness tracks to have slot machines; that Sussex Correctional Institute is with ½ mile of the site; that Delaware State Police Troop 4 is within 1 mile of the site; that the Georgetown Fire Company is with 1 ½ miles of the site; that there are other commercial uses in the area such as Kruger Trailers and Ad-Art sign company; that there are approximately 30 homes in the immediate area; that 254 letters in support have been submitted; that the existing stock car race track employs twenty-five people for more than twenty racing dates; that the existing track is open from 6:00 P.M. until 11:00 P.M.; that if the harness track is permitted, there would be 300 to 600 customers; that this number compares to Harrington and Ocean Downs; that they have contacted the Harness Racing Commission and they are in support of this application since they would like to see harness racing in other parts of Delaware especially in July and August; that close to seventy-five residents would have jobs selling tickets, waiters, snack bar, security; that alcohol will be served if approved by the State; that horseman would gain training; that the use will have a trickle down effect on the economy; that there would be ten races per night so that larger purses can be paid; that the horses would be shipped in and there will not be any overnight boarding; that the existing stock car track would become the harness



track and a new stock car track will be built inside the horse track; that a proposed 600 seat grandstand with glass windows is proposed; that the grandstand would have betting windows, a restaurant and simulcasting; that the simulcasting is contracted with other tracks; that the existing grandstands for stock car racing will be replaced; that there will be a paddock for the horses that are brought in; that most horses leave soon after a race; that the use will promote tourism for central Sussex County; that simulcasting is regulated by the Harness Racing Commission; that the operation would be year round except for Good Friday and Easter Sunday since the State does not permit those two days; that a more modern facility will produce more and larger purses; that the horses would only race three to four nights per week; that the stock car races could be switched to Wednesday evenings; that horse racing would be better on Friday and Saturday nights; that no Sunday hours are proposed but this is subject to the Harness Racing Commission; that they may have matinees for young horses without betting; that there are no leaking underground storage tanks on the site; that there would probably be a corporate partner or sponsor; that the use would be good for the agricultural industry of Sussex County; that the use will be a benefit to the horsemen since larger purses will be offered; that it would be a benefit to blacksmiths and veterinarians; that reference was made to a Board of Adjustment approval in 1989; and that the use will be an upgrade to the existing facility.

The Commission found that Alton Stack an adjoining property owner on U.S. Route 113, was present and stated in his presentation and in response to questions raised by the Commission that he owns a one acre parcel directly south of the property and that he has no objections to the proposed use; that the use would be a benefit to all; that everyone goes to the beach and that there is a need for something besides the beach; that the noise level would be minimal; that horse racing is more environmentally safer than stock car racing; that gambling exists in almost every convenience store; that the area is more business oriented than residential; that the perimeter of the track has been improved and that this improves the quality of life for residents in the area.

The Commission found that Russell McKinnon, a District Representative for the National Trotters Association and Standardbred Association, was present and stated in his presentation and in response to questions raised by the Commission that he raises and breeds race horses; that the use would benefit all service uses in the County; and that the facility could be a benefit to the horsemen in Sussex County and Delaware

The Commission found that Keith Rosity from Breasure, Pennsylvania, Michelle Casey from Seaford, Linda Long from Georgetown, Vincent Street from Orlando Florida formerly from Sussex County, Ray Adkins from Laurel, Ralph Scott from Seaford were present in support of this application and advised the Commission that they have raced at the track in the past and that the developers run a good business; that harness racing is a



positive recreational activity; that the use would benefit farmers, service uses, haulers, vets; and that the heritage of Sussex County includes racing, especially horse racing.

The Commission found that Bruce Rogers, Attorney, was present representing residents in the neighborhood and himself as a resident of the area and stated in his presentation and in response to questions raised by the Commission that the residents in the area never envisioned that a conditional use application would be filed; that there are three-hundred sixty-five days per year and questioned the number of races per year; that the applicants have a history of not paying employees; that the residents in the area purchased their property next to a part time stock car track; that if stock car races are changed to a Wednesday night, this would have an impact on the neighbors; that horse racing at other tracks in the area does not generate money, slot machines generate money; that the horse track east of Georgetown has been closed for about thirty years; that if the Harness Racing Commission approves Sunday races, the applicants will hold races on Sundays; that a major corporate sponsor or corporate management would be required; that the use is not desirable or beneficial to the residents of the area; that the proposed use is not in keeping with the neighborhood, and submitted comments from the LUPA process that were not a part of the letter from the Office of State Planning Coordination.

The Commission found that Eric Sackett, Dennis and Elizabeth Johnson, Linda Thompson, Pastor Richard Blades, Alva Cash, Ken Beets, Eric James, Linda Betts, Richard Wilson, Scott Thompson, Becky Breasure, Karen Westbrook, Vincent Bianco, all from Georgetown, Kim Nuric from Millsboro, Representative Charles West from Gumboro, Jack Louchia from Seaford, and Art Decker from Ocean View were present and advised the Commission in their statements that they are opposed to this application; that they have concerns about the Harness Racing Commission; that there are mixed uses in the immediate area; that the land should remain as the Ar-1 Agricultural Residential District is meant to be; that gambling is not suitable for the area; that they are opposed to horse racing and any proposed slot machines; that there is no need for this type of use in Sussex County; gambling is not good for young children to learn; that the area is a quiet peaceful area; that there are enough race tracks in the region; that gambling causes problems in families; that the use would only weaken the community; that alcohol and gambling do not mix; that the businesses in the area are small establishments; that Correction Officers are not permitted to respond to criminal activities outside of their facilities; that the Delaware State Police are already too busy; that property values in the area will be negatively impacted; that if the use does not work, the property would decay and become an eyesore; that there are too many gambling addicts in the County now; that horse racing should not be compared to other sports; that senior citizens and Hispanics would blow their paychecks; that if the use were approved, slot machines would be next; that the proposed use will only add more crime in the area and County; that no one would benefit from the use; that monies in homes would be misapplied; that the track should be

closed altogether; that there would be noise problems; that traffic problems will only increase in the area; that there are already two bad intersections around the track; that DelDOT's traffic counts are over ten years old; and questioned who will pay for the road improvements.

The Commission found by a show of hands that there were four people present in support of this application and eighty-nine people present in opposition.

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

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

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to defer action so that Mr. Allen can review the record of the public hearing.

#### IV. OTHER BUSINESS

C/U #1236 – Beebe Medical Facility  
Time Extension – Route 24

Jim Monohan from Beebe Medical and Keith Cooker from Landmark Engineering were present as the Commission considered a time extension and reviewed the preliminary site plan for a medical facility on the south side of Route 24, west of Delaware Route One.

Mr. Abbott advised the Commission that this is the second request for a one year time extension; that this is the last request the Commission may grant; that the site plan is for a one story 13,000 square foot surgical center and a two story 68,000 square foot care center; that 186 parking spaces are required and that 253 have been provided; that the setbacks meet the requirements of the zoning code; that a letter of no objection has been received from DelDOT; and that the site plan is suitable for preliminary approval only.

Motion by Mr. Lynch, seconded by Mr. Johnson and carried unanimously to grant a one-year time extension retroactive to the original approval date. Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the review and approval of the Commission upon receipt of all required agency approvals.

Russell Palmer  
Commercial Site Plan – Road 268 and Road 269



The Commission reviewed the final site plan for an office complex at the intersection of Road 268 and Road 269 near Lewes.

Mr. Abbott advised the Commission that the Commission granted preliminary approval for this project on December 9, 1999; that the final site plan is the same as the preliminary site plan; and that all required agency approvals have been received.

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

Douglas and Janet Hitchens  
One Lot – Route 404

The Commission reviewed a one-lot subdivision off of Route 404 east of Collins Pond.

Mr. Abbott advised the Commission that the lot needs to be approved by the Commission since Route 404 is a major arterial roadway; that the lot is one acre; and that DelDOT has issued a letter of no objection for the entrance location.

Motion by Mr. Johnson, seconded by Mr. Hastings, and carried unanimously to approve the one lot subdivision.

Captiva Sands Revised (Part of Eagle's Landing)  
Revised Site Plan (+2 Units) – Road 273-A

The Commission reviewed a revised site plan for Captiva Sands, a multi-family project, off of Road 273-A near Rehoboth Beach.

Mr. Abbott advised the Commission that 85 units were originally approved for this phase in 1983; that on January 11, 2000 the Commission approved a revised site plan for 84 units; that the revised plan now has 86 units proposed; that the setbacks and parking meets the requirements of the zoning code; that the proposed density is still under what is permitted by the zoning code; and that all required agency approvals have been received.

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

St. George's Chapel  
Overflow Parking Lot – Road 285

The Commission reviewed a site plan for overflow parking for St. George's Chapel off of Road 285.

Mr. Abbott advised the Commission that the site plan is for overflow parking for the church; that 71 parking spaces are proposed; that the parking area is to be paved; that the site plan has been submitted to DelDOT, Sussex Conservation District and the Office of the State Fire Marshal; and that the site plan is suitable for preliminary approval.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals.

Byron Jefferson's Engineering Services  
Commercial Site Plan – Road 38

The Commission reviewed a commercial site plan for an engineer's office building off of Road 38 near Lincoln.

Mr. Abbott advised the Commission that a 30' by 30' office building is proposed; that there are ten parking spaces proposed; that the parking and interior drive is referenced to be crusher run; that the setbacks meet the requirements of the zoning code; that the site plan has been submitted to all agencies for approval; and that the site plan is suitable for preliminary approval.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals.

Homework's Carpet Warehouse  
Final Site Plan Road 390 and Route 54

Paul West and Steve Engel from Vista Design Group, Inc. were present as the Commission reviewed the final commercial site plan for a warehouse located at the intersection of Road 390 and Route 54.

Mr. Abbott advised the Commission that this project received preliminary approval by the Commission on January 27, 2000; that the warehouse is 6,000 square feet; that the setbacks meet the requirements of the zoning code; that the ingress/egress is off of Road 390; that DelDOT did not permit an entrance off of Route 54; that all agency approvals have been received; and that the site plan is suitable for final approval.

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

Meeting adjourned at 10:15 P.M.