

## MINUTES OF THE REGULAR MEETING OF MAY 24, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 24, 2001, 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. Lynch, and Mr. Wheatley with Mr. Schrader – 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 circulated.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of May 17, 2001 as corrected.

Mr. Schrader explained how the Public Hearings would be conducted.

### IV. PUBLIC HEARINGS

**Subdivision #2001-7**—application of **GARY WATSON** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred, by dividing 41.86 acres into 37 lots, located north of Road 465, 2,340 feet west of Road 479.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on May 16, 2001 and that the report will be made a part of the record for this application.

Mr. Abbott read a letter in opposition received from Mrs. Fran Koch.

Mr. Abbott advised the Commission that this application originally received preliminary approval on January 28, 1999; that a revised preliminary approval was granted on February 25, 1999; that the Commission denied a six-month time extension on March 1, 2001; and that the application was voided.

The Commission found that Gary Watson and Don Miller, Surveyor, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this application is essentially the same as the previous application; that the stormwater design has been revised from the previous application; that the existing poultry houses on the site will be demolished; that 37-lots are still proposed; that stick built dwellings will be permitted; that the minimum dwelling size will be 2,000 square feet; that manufactured homes will not be permitted; that the property owners will have their homes built on-site; that the proposed entrance is located near the existing agricultural entrance; that the interior road curves have been made greater than the previously approved plan; that DelDOT decided that a deceleration lane

is not warranted for the development; that the absorption rate would be within a three to five year period depending on the economy; that the lands owned by Atkins have poultry houses located on it and that a forested buffer will be installed if required; and that individual on-site septic and wells are proposed.

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

The Commission found that Lacy Lafferty, Louis Atkins, Faye Collins, Burton Givens, Harry Koch, and Brian Farrelly were present and spoke in opposition to this application and stated in their presentations that they have concerns for children's safety in the area; that the development would cause an increase in traffic to the area; that property values would be adversely impacted; that the applicant does not reside in the area; that the development will not benefit the community; that residents farm the area and should have the right to continue farming; that there is no need for this type of development in the community; and expressed concerns about the development being completed.

The Commission found by a show of hands that there were 19 people present in opposition.

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.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to defer action.

Vote carried 5 – 0.

**Subdivision #2001-8**—application of **DAVID B. WEBB, JR.** to consider the Subdivision of land in a GR General Residential Zoning District in Nanticoke Hundred, by dividing 18.37 acres into 19 lots, located at the southwest corner of the intersection of Road 46 and Road 516.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on May 16, 2001 and that the report will be made a part of the record for this application.

Mr. Abbott read letters received in opposition to this application from Dosse Givens and Family and the First Baptist Church.

The Commission found that Don Miller, Surveyor, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the property is zoned to permit manufactured homes, modulars, or stick



built homes; that the restrictive covenants will not permit single wide manufactured homes; that the interior streets will be private and built to County specifications; that the minimum lot size is three-quarter of an acre; that the applicant will comply with the recommendations of the Technical Advisory Committee; that five lots have already been approved by a strip development plan; that no more subdivision of the property will be permitted; that access to the 19 lots will be from an internal street system; that a homeowners association will be formed; that the strip lots will not be subject to the homeowners association; that individual septic systems and wells are proposed; that DNREC has determined that the site is suitable for individual septic systems; that the entrance to the development will be off of Road 516; and that the developer will include the agricultural protection deed restriction in the restrictive covenants.

The Commission found that no one was present in support of this application.

The Commission found that that Dennis Lee, Monroe Givens, Paul Russell, Ingird Parker, Carolyn Kline, and Richard Osborne, area residents, were present in opposition to this application and advised the Commission in their presentations that they have concerns about the proposed density; that the area is predominately farmland and open space and should not be developed; that the proposed development is out of character to the area since the existing parcels are large acreage tracts; that the individual septic systems will contaminate the surrounding ditches and the Chesapeake Bay; that they have concerns about the homeowners association maintaining the infrastructure; that the development will cause heavy increases in traffic to Road 46 and Road 516; that there is a tax ditch to the rear of the property that drains the area; that low income housing is a nuisance to residents; that property values in the area will be adversely impacted if double wide manufactured homes are permitted; that the area is wetlands; that the developer should build quality homes and not a quantity of homes on the site; that the intersection of Road 46 and Road 516 is dangerous and there are many accidents there; that they have safety concerns for families and animals in the area; that there are not any other mobile home parks in the area; that property owners will trash the area; and that the tax ditch will be affected.

The Commission found that Mr. Miller responded that DNREC has held up the project for over a year since they required the applicant to install monitoring wells; that all lots except for three will have standard septic systems; that there will be a 30-foot forested buffer next to the tax ditch and submitted photographs of the existing area.

The Commission found by a show of hands that there were 24 people present in opposition 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.

Motion by Mr. Johnson, seconded Mr. Mr. Lynch, and carried unanimously to defer action so that the members may visit the site again.

Vote carried 5 – 0.

**Subdivision #2001-10**—application of **TEMPLE B. VELI** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 21.35 acres into 32 lots, located northeast of the intersection of Road 288 and Road 288-B and within Chapel Green Subdivision.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on May 16, 2001 and that the report will be made a part of the record for this application.

Mr. Abbott read a letter received from the Ground Water Discharges Section and a letter received from the Chapel Green Homeowners' Association, Inc.

The Commission found that Temple Veli, developer, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the plan was approved in 1989 for 207 lots; that they only recorded 202 lots; that the streets are built and have been dedicated to public use; that the wetlands area has been re-delineated and that a representative from the Army of Corps of Engineers visited the site; that the delineation has not yet been approved by the Corps of Engineers; that the outlot was for future development; that a community septic system will be utilized; that central water is provided by Tidewater Utilities; that 104 homes have been built; that Ryan Homes has just exercised an option to purchase the remaining 60 plus lots; that the existing streets will not change; that the proposed new lots are located in a wooded area; that this application is the reconfiguration of 25 lots into 31 lots and an outlot; that the Sussex Conservation District has been contacted about the maintenance of the ditch; and that the residents have been in contact with a State Representative and the Director of the Soil and Water Conservation in reference to drainage in the area.

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

The Commission found that Pam Blessinger, Carol Monte, Jack Hammond, and Joe Monte, all residents of Chapel Green, were present in opposition to this application and stated in their presentations that they purchased their lots because it was located next to a wooded area; that the ditch located to the rear of their lots floods during heavy rains; that they were lead to believe that there would only be 203 homes built in the development;



that the property owners jointly maintain the ditch when flooding occurs to eliminate possible blocking of drainage of the ditch; that the letter written from the homeowners' association is deceiving since they work for the developer; that outlots are for access to adjoining parcels and should not be developed; and raised concerns about the impact to the existing sewer system.

The Commission found by a show of hands that seven people were present in opposition 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.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action pending verification from the Army Corps of Engineers in reference to the wetland delineation. Mr. Schrader expressed concerns about Subsection 99-13 of the Code of Sussex County.

Vote carried 5 – 0.

**Subdivision #2001-11**—application of **DYER MCCREA VENTURES** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 58.70 acres into 67 lots, located south of Route 22, 600 feet east of Route 24.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on May 16, 2001 and that the report will be made a part of the record for this application.

The Commission found that Preston Dyer was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the development is for 67 lots; that sewer will be provided by Sussex County; that the minimum lot width and depth is 100-feet; that the development will be built in two phases; that the first phase will be for 34 lots and the second phase will be for 33 lots; that the minimum lot size is 20,000 square feet; that the amenity area will be built when 50 percent of the project is completed; that a putting green and clubhouse are proposed; that the setbacks will be the same as required by the County; that the development is not adjacent to any lands that are currently used for agriculture; that central water will be provided by Tidewater Utilities; that the streets are to be private and built to County specifications; that there are no State or Federal Wetlands on the site; that the development is located in the Development District based on the Comprehensive Land

Use Plan; that all common areas consist of stormwater management areas and recreation areas; that the homes will be stick built; that adequate off-site parking will be available; that the rear of the site adjoins the Long Neck Elementary School; and that the absorption rate for the project will be 2 to 5 years.

The Commission found that no one was present with any 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.

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

Vote carried 5 – 0.

**Subdivision #2001-12**—application of **DR. JAMES BEEBE** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 15.41 acres into 4 lots, located at the northeast corner of the intersection of Beebe Drive and Bundicks Drive within Beebe Farm Subdivision, on the east side of Road 285, 272 feet north of Road 287.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on May 16, 2001 and that the report will be made a part of the record for this application.

Mr. Abbott advised the Commission that this application received preliminary approval on January 22, 1998; that a one-year time extension was approved by the Commission on January 28, 1999; that this application was voided by the staff in February 2000; and that this application is the same as the previous application.

The Commission found that Jack Connor, Surveyor, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that this application is for 4 lots; that two cul-de-sacs are proposed; that all of the lots are greater than 3 acres; that individual septic and wells are proposed; that on the original subdivision plan of Beebe Farms, the proposed area was designated as future development; that there are 26 lots developed in the subdivision and that 6 lots are vacant.

The Commission found that Steve Calloway was present and advised the Commission that there are currently 12 homes built and 2 under construction and questioned if the streets are cul-de-sacs or interconnections.



Mr. Wheatley advised that the streets are cul-de-sacs.

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.

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

Vote carried 5 – 0.

**Subdivision #2001-13**—application of **PAUL AND DORIS BARRON** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred, by dividing 21.88 acres into 22 lots, located east of Road 465-A, 381 feet north of Route 24.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on May 16, 2001 and that the report will be made a part of the record for this application.

The Commission found that Don Miller, Surveyor, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that lots have been stripped off along the road; that this application will complete the subdivision; that individual wells and septic systems are proposed; that the streets will be built to County specifications; that 22 lots are proposed; that the homes will be stick built only and that manufactured homes will not be permitted; that the agricultural buffer can be extended; that some lots may be lost due to the buffer; that all lots are greater than 0.75 acre; that there is not any entrance onto Route 24; that the minimum dwelling size is 1,400 square feet; that the lots will be sold; and that a homeowners association will be established.

The Commission found that no parties appeared with any 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.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve this application as a preliminary with the stipulation that all areas adjacent to agricultural lands shall be buffered.

Vote carried 5 – 0.

**Subdivision #2001-14**—application of **BAYVILLE CAPITAL III, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 19.70 acres into 16 lots, located north of Road 298, 214 feet southeast of Route 24.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on May 16, 2001 and that the report will be made a part of the record for this application.

Mr. Abbott read a letter received from the DNREC Ground Water Discharges Section and a letter in opposition from William Oettel.

The Commission found that John Sergovic, Attorney, Jeff Clark from Land Tech LLC, and Mr. Vacelli, developer, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that a portion of some of the lots are located within the 1,000 foot conservation zone and that it will be noted on the record plan that no homes or septic systems will be placed within the 1,000 feet; that on-site septic and water are proposed; that the streets will be private and built to County specifications; that the developers will comply with the recommendations made by the Technical Advisory Committee; that the stormwater management area will be located near the entrance of the development; that the outlots will be dedicated to the homeowners' association; that the community open space joins the water and will be subject to the desires of the homeowners' association; that there are no formal plans for a marina or boat launch; that Creekview Drive is unpaved at this time and will be improved to the intersection of Creekview Drive and Austin Drive; that the developers have adequate room for the fifty-foot right of ways; that the wooded buffer will be undisturbed; that no mass clearing is proposed; that all of the proposed streets in this subdivision will be improved; that the existing Creekview Development is a private subdivision and that these lands are not a part of Creekview Development; that the existing development was created in 1960 by Virgil Banks; that plots were recorded referencing the private drives and easements; and that the original developer should be required to improve the remaining portion of Creekview Drive.

The Commission found that Paul Kercher was present in support of this application and stated that this plan has been redesigned from the previous application; that he is not opposed as long as the homes are stick built homes so that property values will increase; and requested assurances that the private roads will be maintained by the applicants.

The Commission found that Mr. Langshaw, Ken and Dorothy Parker, Mel James, Nancy Burbage, Bobbi Messick, Ed Messick, Mrs. Sekcienski, and Glen Hall, all area residents, were present in opposition to this application and stated in their presentations that they



have concerns about the use of the proposed outlots; that the proposed development is not mapped correctly; that there is not any land between Mr. Langshaw's land and Big Oak Lane; expressed concerns about the type and size of homes that will be permitted; that traffic is already bad in the area; and that by adding additional homes will only complicate matters.

The Commission found by a show of hands that 13 people were present in opposition 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.

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

Vote carried 5 – 0.

#### V. OLD BUSINESS

**C/Z #1432**—application of **DAVID A. RITTER** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying at the southwest corner of Route 22 (Long Neck Road) and Julia's Lane within Julia's Place Subdivision, to be located on 2.291 acres, more or less.

The Chairman referred back to this application, which was deferred at the April 19, 2001 meeting.

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

The Commission stated that the applicant acknowledged that he was in violation of the zoning code; that he left a commercial area and relocated his business in an AR-1 district and opened for business; that the applicant is not in compliance with the zoning code; that the applicant's conduct has some residents concerned; and that approving this application would create a precedent that others would attempt to develop projects without approval.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied based on the above.

Vote carried 5 – 0.

**C/U #1401**—application of **RANDY BURTON** to consider the Conditional Use of land in a GR General Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.61 acres, more or less, lying at the southwest end of Canal Road (a.k.a. Bay Road Extended), 1,400 feet southwest of Route One and east of the Lewes and Rehoboth Canal.

The Chairman referred back to this application, which was deferred at the May 17, 2001 meeting.

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

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since Bay Road is a narrow road and parking occurs on both sides of the road; that the majority of homes in the immediate area are single family dwellings; and that the use would be out of character with the neighborhood.

Vote carried 5 – 0.

Meeting adjourned at 11: 05 PM.