

## MINUTES OF THE REGULAR MEETING OF JULY 8, 1999

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 8, 1999 at 7:30 PM, in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware, with the following present;

Mr. Allen, Mr. Hastings, Mr. Johnson, Mr. Lynch, 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 approve the agenda as circulated.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the minutes of June 24, 1999 as circulated.

Mr. Schrader explained how the meeting will be conducted.

### IV. PUBLIC HEARINGS

C/U #1291 -- application of ROLAND D. PEPPER to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a recreational maze to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 88.46 acres, more or less, lying south of Route 24, 1,000 feet west of Road 463.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the Town of Laurel's service area per the Western Sussex Water and Sewer Plan, and that the developer and/or property owner should contact the Town of Laurel for sewer and water availability.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Evesboro loamy sand, Rumford loamy sand, and Woodstown sandy loam; that the Evesboro, Rumford, and some of the Woodstown soils have slight limitations; that some of the Woodstown soils have moderate limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the Evesboro and Rumford soils are considered of Statewide Importance; and that the Woodstown soils are considered Prime Farmland.

The Commission found that Roland Pepper was present and stated in his presentation and in response to questions raised by the Commission that his application last year was for the adjoining farm owned by his brother; that he owns this parcel; that this is the third year for his maze which is associated to his pumpkin patch; that he proposes to utilize approximately 2.5 acres of a 10 acre area for the pumpkins and the maze; that the area



utilized for the maze is rotated each year to another area of the farm; that portable sanitary facilities are provided; that he proposes to increase his temporary parking area by 50% over last year; and that he charges a fee to tour the maze.

The Commission found that no parties appeared in support of or 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. Hastings, seconded by Mr. Lynch, 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 shall be subject to review and approval by the Planning and Zoning Commission.

C/U #1292 -- application of ROLAND V. FLEETWOOD to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a retail shop to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 35,988 square feet, more or less, lying west of U.S. Route 13, 296 feet north of Road 480.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the Blades Sanitary Sewer District planning area, per the Western Sussex Water and Sewer Plan; and that sewer service will not be available in the near future.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Fallsington sandy loam and Woodstown sandy loam; that the Fallsington soils have severe limitations; that the Woodstown soils have slight to moderate limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the Fallsington soils are considered of Statewide Importance and Prime Farmland; that the Woodstown soils are considered Prime Farmland.

The Commission found, based on comments received from DelDOT, that the Department does not recommend that a traffic impact study be done; that the Department is opposed to this application; that development of the proposed use would conflict with the goals of the Corridor Capacity Preservation Program; and that the Department ask that the County deny the application.



The Commission found that Roland Fleetwood, owner, and Jean Wells, proposed tenant, were present and stated in their presentations and in response to questions raised by the Commission that the home was built in 1954; that the entrance onto U.S. Route 13 has existed since the home was built; that a cross-over was removed from the median approximately 10 years ago; that the cross-over was directly in line with the entrance; that they propose to convert the home for the proposed business, a retail shop for the sale of antiques, furniture, and lamps, with some lamp repair; that the garage will not be used for the business; that the business will be open five days, with no Sunday hours, with business hours from 10:00 A.M. to 5:00 P.M.; that they anticipate that traffic will be less than a home; that the parking area will be stoned; that the maximum size sign should not exceed 32 square feet; and that the home will not be utilized for residential use.

The Commission found that no parties appeared in support of or 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. Hastings, and carried unanimously to defer action.

C/U #1293 -- application of HUGH AND TINA McBride to consider the Conditional Use of land in an AR-1 Agricultural Residential District for expansion of Conditional Use No. 1007 for the sale of crafts and similar items to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.93 acres, more or less, lying south of Route 54, 220 feet east of Salty Way Drive within Keenwick West.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the Fenwick Island Sanitary Sewer District; that a 6-inch sanitary sewer lateral serves the site; that the existing business was connected to the sewer system by permit #2067 on August 10, 1993; that the property owner should have a Sussex County licensed plumber verify that the existing connections are adequate for the expansion; that the proposed expansion will be subject to system connection charges prior to building permits being issued; and that the system connection charge for the District is \$2,389 per equivalent dwelling unit for July 1, 1999 through June 30, 2000.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Fallsington sandy loam and Woodstown sandy loam; that the Fallsington soils have severe limitations; that the Woodstown soils have slight to moderate limitations; that the



applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the Fallsington soils are considered of Statewide Importance and Prime Farmland; and that the Woodstown soils are considered Prime Farmland.

The Commission found that a letter of objection had been received from Bob and Judi Fulton which referenced manufacturing of articles at the business and the sale of food products, i.e. fudge and cheese; that the use should be located in a commercial area; that the approval of the use creates a spot zoning; that fire hazards exists on the site, i.e. piles of boxes next to a propane tank; that the comments from people in Keenwick West and Teaberry Woods should be given consideration to their concerns relating to depreciation of property values; and that the applicants propose to expand their building three times the size. The Fulton's letter had photographs attached.

The Commission found, based on documents filed with the application, that the proposed amendments to the application include the removal of the word "house" and replacement with the word "apartment"; increase the overall length of the main building from 96' to 124'; move the center section of the main building back 2' and increase the depth by 8' to allow a 12' deep front porch; add a 32' by 48' addition to the rear of the existing building; increase the size of the garage/storage building to 32' by 48'; and remove the condition "all statements made at the original hearings will be a condition of conditional use zoning".

The Commission found that Hugh and Tina McBride, Jason McBride, and James Fuqua, Attorney, were present and stated in their presentations and in response to questions raised by the Commission that they propose to amend the site plan per the revised site plan; that they propose to remain in compliance with the stipulations of Conditional Use No. 1007, except for condition #4 which referenced statements made by the applicant; that they sell nautical items, gourmet foods, gifts; that the rear 20' buffer is preserved; that they installed chain-link fencing and 7' high wooded fencing and trees along the east side for the neighbors; that they have planted trees along the church on the west side; that the improvements to the building are for additional work shop space and retail space; that the letter of opposition references "manufacturing"; that the manufacturing is the painting of the nautical floats; that the letter of opposition references sale of foods, which is permitted; that C-1 General Commercial and B-1 Neighborhood Business uses and zones exists in the general area; that the boxes referenced in the opposition letter are for storage of floats, until the expansion can be completed; that the lobster pots and old boats are display items to depict the nautical theme; that business hours, open to the public, are from 9:00 A.M. to 9:00 P.M. Monday through Saturday with Sunday hours from 12:00 Noon to 9:00 P.M.; that the business is open year-round; that adequate space exists on the site for parking; that family members and five employees operate the business; and that an apartment will be built above the 1,280 square foot westerly addition.



The Commission found that Anita Adkins and Mary Welsh, daughters of Mrs. Schab, the previous owner of the site, were present in support and stated that the applicants maintain a beautiful site; that the applicants have planted 300 or more trees and flowers with their nautical theme; and that the applicants have had to deal with some harassment from some of the neighbors since the business started.

The Commission found that no parties appeared in opposition to the 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 be Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following amended and expanded stipulations:

1. A twenty-foot wide non-disturbed buffer be retained along the rear property line.
2. One lighted ground sign, not exceeding 32 square feet per side or facing, shall be permitted.
3. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
4. The original stipulation "The applicant shall conform to all statements made by the applicant or their representative during the public hearing" shall be deleted.
5. Business hours, open to the public, shall be from 9:00 A.M. to 9:00 P.M. Monday through Saturday with Sunday hours from 12:00 Noon through 9:00 P.M.
6. An apartment shall be permitted above the 1,280 square foot addition (to replace the original apartment proposed with Conditional Use No. 1007).
7. No outside storage of refuse, trash, or waste shall be permitted except in an approved dumpster location. The dumpster location shall be subject to the site plan review and approval referenced in stipulation #3 above.

C/U #1294 -- application of DON DERRICKSON to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an apartment over a golf pro-shop to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 47.72 acres, more or less, lying southeast of Road 283 (Postal Lane) and 650 feet southwest of Route One.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is not located in the West Rehoboth Expansion service area; that annexation into the service area has been requested and will be presented to the County Council in the near future; that if the District boundary is extended to include the site, system connection charges will be due; and that the current



system connection charge rate for the period July 1, 1999 to June 30, 2000 is \$2,954 per Equivalent Dwelling Unit.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Sassafras loam which has slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; and that the soil type is considered Prime Farmland.

The Commission found that Don Derrickson was present and stated in his presentation and in response to questions raised by the Commission that they propose to build a 1,200 square foot apartment above the pro-shop for the golf course; and that the apartment will be occupied year-round by the main grounds keeper for the golf course.

The Commission found that no parties appeared in support of or in opposition to the 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. Hastings, and carried unanimously that this application be forwarded to the Sussex County Council with the recommendation that it be approved, and that the requirement for a site plan be waived since the site plan for the golf course, house, pro-shop, and parking lot has already been approved and since the footprint of the pro-shop building will not change.

C/Z #1384 -- application of VERNON R. MULLINS AND BOBBIE J. MULLINS to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, located south of Route 54, 1.0 miles west of the Ditch at Fenwick, to be located on 28,600 square feet, more or less.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in the Fenwick Island Sanitary Sewer District and was connected to the sewer system on July 16, 1981 by permit no. 234; that any change in the use will result in a change in the Equivalent Dwelling Unit (EDU) assessment on the property; that any increase in this assessment will result in the payment of impact fees; and that the current rate for July 1, 1999 to June 30, 2000 is \$2,389 per EDU.



The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Fallsington loam and Tidal Marsh (Salty) which have severe limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the Fallsington soils are considered Prime Farmland where drained and of Statewide Importance; and that both soil types are considered Hydric soils.

The Commission found, based on comments received from DelDOT, that the Department does not recommend a traffic impact study; that the Department is opposed to this rezoning because of the heavy summer traffic on this section of Route 54; that the Department feels that it is in the public interest to avoid the types of development that would increase turning traffic; and that the Department request that the County deny the application.

The Commission found that Ralph Mullins and Steve Parsons, Attorney, were present and stated in their presentations and in response to questions raised by the Commission that they are requesting B-1 Neighborhood Business zoning to conform to the other properties in the area; that the property is improved with a storage building, a restaurant, and a cigarette store; that the applicant purchased the site in 1971; that the site was improved by a restaurant at that time; that the majority of the business sites in the area have been rezoned in the last 5 years; that 7 restaurants exists in the area; that they disagree with the comments received from DelDOT; that the existing restaurant building was constructed close to Route 54; that adequate space is available on the site for parking; that DelDOT did not request a traffic impact study on the other parcels in the area; and that they do not feel that they should be treated any differently from other property owners in the area.

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 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. Hastings, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved.

V. OLD BUSINESS

C/Z #1381 -- application of WASTE MANAGEMENT OF DELAWARE, INC. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HI-1 Heavy Industrial District for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, lying west of Road 583 and northwest of Railroad and 0.8 mile south of Road 582, to be located on 40.00 acres, more or less.

The Chairman referred to this application which had been deferred since June 19, 1999.

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

C/Z #1382 -- application of PAUL D. SMITH to consider a proposal to amend the Comprehensive Zoning Map from a GR General Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, located north of Road 234, 353 feet northeast of Road 233, to be located on 31,983 square feet, more or less.

The Chairman referred to this application which had been deferred since June 24, 1999.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried with three votes, with Mr. Johnson abstaining, to forward this application to the Sussex County Council with the recommendation that it be approved.

C/Z #1383 -- application of CENTRAL STORAGE AT LONG NECK to consider a proposal 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, located south of Road 22, 0.2 mile southeast of Road 298 and across from Audrey Drive, to be located on 5.11 acres, more or less.

The Chairman referred to this application which had been deferred since June 24, 1999.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried with three votes, with Mr. Johnson abstaining, to forward this application to the Sussex County Council with the recommendation that it be denied since it appears that there are adequate storage facilities in the area.



## VI. OTHER BUSINESS

Deborah S. Appleby  
C/U #1283 Site Plan Route 24

The Commission reviewed the final site plan for C/U #1283, for an art studio and gallery, located on Route 24.

Mr. Abbott advised the Commission that a 50' x 75' building is proposed; that the gallery is 450 square feet; that 5 parking spaces are required and provided; summarized the stipulations of approval; and that all required agency approvals have been received.

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

Bell Atlantic Mobile  
C/U #1279 Site Plan Route 16

The Commission reviewed the final site plan for C/U #1279, for a 180' telecommunications tower, located on Route 16.

Mr. Abbott advised the Commission that the tower is located in a 100' x 100' compound; that there is an unmanned 12' x 30' equipment building; that an 8' chain link fence is proposed; that approval has been obtained from the FAA; and summarized the stipulations of approval.

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

The Jefferson School  
C/U #1234 Site Plan Road 244

Lynn O'Donnell, Board Member from The Jefferson School, Charles Adams, Surveyor, and Pat Ryan, Architect were present as the Commission reviewed the site plan for C/U #1234, for a private school, located on Road 244.

Mr. Abbott advised the Commission that the site plan is similar to the one submitted for the public hearing; that the site plan has future additions proposed; that a temporary construction entrance has been put in; that some site work has been performed; that the Fire Marshal Office has approved the site plan and building plans; that the other agencies are presently reviewing the plan; and that the site plan meets the requirements of the zoning code for preliminary approval.



Ms. O'Donnell, Mr. Adams, and Mr. Ryan discussed the site and building plans.

Motion by Mr. Johnson, 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 and permits.

River Soccer Club  
Site Plan Road 392

The Commission reviewed a site plan for soccer fields located on Road 392.

Mr. Abbott advised the Commission that the River Soccer Club is a non-profit club; that 4 soccer fields are proposed; that a storage shed is proposed for equipment; that all fields are setback a minimum of 50' from the adjoining property lines; that 68 parking spaces are proposed; that porta-johns are proposed for use during the season; that the property owner has sent a letter stating that they will lease the land to the club; and that DelDOT and the Sussex Conservation District will have to approve the site plan.

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.

Sprint PCS  
Site Plan - Route 9

The Commission reviewed a site plan for a 150' telecommunications tower located on Route 9 near Hardscrabble.

Mr. Abbott advised the Commission that the tower is a permitted use; that it will be located within a 40' x 40' compound area; that a 7' fence is proposed around the area; that a 10' x 25' control panel box is proposed and that the site plan meets the requirements of the zoning code.

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

Sprint PCS  
Site Plan - U.S. Route 13

The Commission reviewed a site plan for a 150' telecommunications tower located on U.S. Route 13 near Laurel.



Mr. Abbott advised the Commission that this site plan is identical to the previous site plan.

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

Charles Coursey and Diane Hudson  
3 Lots - Washington Street Extended

The Commission reviewed a concept to create 3 lots off of Washington Street near Millsboro.

Mr. Abbott advised the Commission that Washington Street is presently a 30' private road; that an additional 20' of right of way shall be required to make Washington Street a 50' road; that the proposed 2.98 acre lot has a dwelling and unattached garage on it; that the 1.75 acre lot has an accessory building on it; and that the 2.97 acre lot is vacant.

Motion by Mr. Lynch, seconded by Mr. Hastings and carried unanimously to approve the 3 lots as a concept.

Fulmer Enterprises, Inc.  
2 Lots - Private Road

Frank Fulmer was present as the Commission reviewed a concept to create an 11, 138 square foot lot out of a 1.38-acre parcel off of a private road south of Route One near Rehoboth.

Mr. Abbott advised the Commission that the proposed 11,138 square foot lot will be retained by the owner and that the 1-acre lot will be sold; and that the existing road is paved.

Mr. Fulmer advised the Commission that he is selling the 1 acre lot and that the proposed use for the lot will be an office building and that the 11,138 square foot lot will be used for parking for his restaurant.

Motion by Mr. Lynch, seconded by Mr. Johnson and carried unanimously to approve the lots.



Joe and Ann Stewart  
2 Lots - Route 26

The Commission reviewed a concept to subdivide an existing parcel into 2 lots on Route 26 near Clarksville.

Mr. Abbott advised the Commission that the parcel currently has 2 dwellings located on it; that the owners wish to create a new lot for the dwelling to the rear of the site and sell it; that the parcel to the front will be an extension to other lands owned by the Stewarts; that the access to the rear will have to be a 50' easement; and that if the Commission is receptive to the concept, the owners will have to obtain a variance in lot size from the Board of Adjustment.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to deny this request.

John Green  
Lot and 50' Right of Way - Road 224

The Commission reviewed a concept to create a lot with access from a 50' right of way off of Road 224.

Mr. Abbott advised the Commission that the owners propose to create a lot around a dwelling that has been on the property since the early 1900's and that the existing driveway will be increased to a 50' right of way.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve this request as a concept.

#### Reorganization

Mr. Allen appointed Mr. Lank as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Lank opened nominations for Chairman.

Motion by Mr. Johnson, seconded by Mr. Lynch, to nominate Mr. Allen as Chairman.

Motion by Mr. Hastings, seconded by Mr. Johnson that nominations for Chairman be closed.

Nominations for Chairman were closed.



Motion was adopted to nominate Mr. Allen as Chairman; 3 yea, 1 not voting.

Vote by roll call:

Mr. Hastings	- yea
Mr. Johnson	- yea
Mr. Lynch	- yea
Mr. Allen	- not voting

Mr. Lank opened nominations for Vice Chairman.

Motion by Mr. Lynch, seconded by Mr. Johnson to nominate Mr. Wheatley for Vice Chairman.

Motion by Mr. Hastings, seconded by Mr. Allen that nominations for Vice Chairman be closed.

Nominations for Vice Chairman were closed.

Motion was adopted to nominate Mr. Wheatley as Vice Chairman; 4 yea.

Vote by roll call:

Mr. Hastings	- yea
Mr. Johnson	- yea
Mr. Lynch	- yea
Mr. Allen	- yea

The meeting was turned over to Mr. Allen, the re-elected Chairman.

Mr. Allen appointed Mr. Lank as secretary for the Commission.

Mr. Allen authorized Mr. Lank - Director; Mr. Abbott - Assistant Director; and Mr. Shockley - Environmental Planner, to sign record plats for recordation on behalf of the Commission.

Meeting adjourned at 10:20 PM.