

## MINUTES OF THE REGULAR MEETING OF JULY 9, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 9, 1998, at 7:30 p.m., in the County Council Chambers, Sussex County Administrative Building, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Hastings, Mr. Lynch, Mr. Phillips, Mr. Wheatley, Mr. Schrader – Assistant County Attorney, Mr. Lank – Director, and Mr. Abbott – Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve the minutes of June 25, 1998 as corrected.

Mr. Schrader explained the meeting process.

### II. PUBLIC HEARINGS

C/Z #1340 – application of IPM EQUITIES, INC. & IPM EQUITIES BETHANY, L.L.C. to amend the comprehensive zoning map from MR Medium Density Residential District to a C-1 General Commercial District in Baltimore Hundred, Sussex County, located west of Delaware Route One, approximately 350 feet more or less south of Road 361-A, to be located on a parcel containing 0.60 acres, more or less.

The Commission found, based on comments received from the Delaware Department of Transportation (DelDOT), that a traffic impact study was not recommended; that the level of service "C" of Route One will not change as a result of this application; that the Department will not allow a new entrance to this parcel on Route One; and that the Department has reviewed a revised entrance plan and requested additional information.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Fallsington sandy loam and Pocomoke sandy loam; that both soil types have severe limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that both soil types are considered Prime Farmland and of Statewide Importance; that the soils have a seasonally high water table and are at a low elevation; that no tax ditch is affected; that it may be necessary for some off-site drainage improvements due to the increase in impervious area (i.e. parking lot); that it may be necessary for some on-site drainage improvements due to the wet soils; and that the site may contain wetlands regulated by the U.S. Army Corps. of Engineers.

The Commission found that Pret Dyer, a principal in the corporations, was present on behalf of the application, and stated in his presentation and in response to questions raised by the Commission that the site contains 0.6 acres of land surrounded by C-1 General Commercial parcels; that the immediately adjacent parcel, already zoned C-1 General Commercial, is proposed to be developed with a motel and restaurant; that this site is proposed to be used for expansion of the parking area for the motel; that access to the site has been denied by DelDOT; that the entrance to the motel site will also serve this site; that a ditch relocation and widening has been approved by DelDOT; that the stormwater management pond will be built prior to any activities on either site; that the ditch improvements are proposed to create positive outfall; that trees in the low area will be cut down; that the stumps cannot be mechanically altered; and that the parcel, a portion of a larger tract left over after creation of Route One, was purchased from the State of Delaware.

The Commission found that Elaine Gillespie, a resident of Ashwood Court within Bethany Beach, questioned the drainage improvements.

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 made 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 since the rezoning will be an extension to an existing C-1 General Commercial District.

C/U #1341 – application of Judith Taggart Bullis to amend the comprehensive zoning map from MR Medium Density Residential District to a B-1 Neighborhood Business District in Baltimore Hundred, located east of Route One and 300 feet north of Road 361-A, to be located on a parcel containing 1.16 acres, more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the level of service “C” of Route One will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Fallsington sandy loam which have severe limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that that farmland rating of the soil type is considered Prime Farmland, of Statewide Importance, and a Hydric soil; that no storm flood hazard area or tax ditch is affected; and that it may be necessary for some off-site and on-site drainage improvements.

The Commission found that Judith Taggart Bullis, David Taggart, James Fuqua, Attorney, and Jeff Clark of Land Tech, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the property has been owned by the family since 1952; that the parcel is adjacent to the Town of Bethany Beach; that central water will be provided by the Town of Bethany Beach or a private franchise; that central sewer will be provided by the County; that stormwater management will be provided on the site; that DelDOT anticipates no negative impacts on traffic; that fire and police protection will be provided locally; that the Comprehensive Plan has designated this site as a part of a Development District; that professional offices are proposed and are an appropriate use in a Development District; that the site is surrounded by a mix of residential single family, commercial, and high density residential uses; that the residential cottage located on the site will continue to be utilized as a family cottage; that the County, in the past, has recognized high density and commercial uses as appropriate in the area by the history of rezonings; that the application was filed for B-1 Neighborhood Business District due to the intended use, professional offices, since the use will provide a service to the area and since the District is more restrictive; that the only access to the site is from Route One; that a 20 feet wide landscaping buffer will be provided between the improvements and the neighboring residential lots; that the office building should accommodate six doctors; that the cottage is a summer residence for family members; that the trees around the cottage will remain; that stormwater management is proposed to be placed in the front yard area to access a positive outfall; and that a fire hydrant exists at the Pepper site south of the site.

The Commission found that Fred Gillespie, Dr. Veneable, Eugene Muskus, Deanne Williams, Elaine Gillespie, and Mike Morested, of the 13 people present in opposition, stated that the rezoning increases property values for the applicant; that the rezoning decreases property values for the neighbors; that traffic and traffic movement should be a concern; that the use will impact the streets of Bethany Beach; that drainage and flooding should be a concern; that the improvements will block any breezes; that the construction activities and improvements will cause a loss of wildlife; that the rezoning will disrupt the single family character of the immediately area to the north; that drainage in the area is presently poor; and expressed concerns relating to dumpster locations, deep drainage pits, children safety commercial fencing, and run-off from the impervious surfaces (i.e. the building and parking area).

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

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



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

### III. OTHER BUSINESS

#### 1. Beneficial National Bank Multi-Family Site Plan – Route One

John Sergovic, Attorney, and Jeff Clark of Land Tech, Inc. were present as the Commission reviewed a revised preliminary site plan for 19 multi-family dwelling units on the west side of Delaware Route One north of Fenwick Island.

Mr. Abbott advised the Commission that the plan was originally approved on September 27, 1994 and February 8, 1996; that the approved site plan had 836 square feet of building encroaching into the 50 foot buffer from State Wetlands; that now 803 square feet encroaches into the buffer; that three (3) rights-in and rights-out are proposed; that 38 parking spaces are required and that 57 are proposed; and that the staff has not received any agency approvals.

Mr. Sergovic and Mr. Clark advised the Commission that the previous developers have lost the property; that the new owner wishes to activate the plan; that there is a contract purchaser of the property; and that they believe that the development plan to be viable.

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

#### 2. Flames of Fire Holy Ghost Ministry, Inc. Site Plan – Road 213

Soheil Gharebaghi, Engineer, was present as the Commission reviewed the site plan for a church on the west side of Road 213, south of Road 565 near Redden.

Mr. Abbott advised the Commission that the proposed church is 5,000 square feet; that 300 seats are proposed and that 75 parking spaces are required and provided; that the setbacks meet the requirements of the zoning code; and that the staff has received approvals from DelDOT and DNREC.

Mr. Gharebaghi advised the Commission that he has received approval from the Office of the State Fire Marshal; and that the Sussex Conservation District has given verbal approval.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of all required agency approvals.

#### 3. B & M Builders, Inc. C/U #1230 Site Plan – Route 5

The Commission reviewed the final site plan for C/U #1230, for a manufactured home sales lot on Route 5.

Mr. Abbott advised the Commission that the site plan proposes 9 manufactured homes for display, a sales office, 10 parking spaces which are proposed to be stoned; and 5' sidewalks throughout the display area; that the setbacks meet the requirements of the zoning code; and that all agency approvals have been obtained.

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

4. Mary A. Bensinger  
C/U #1204 Site Plan – Road 275-A

The Commission reviewed the final site plan for C/U #1204, for four (4) multi-family units on Road 275-A.

Mr. Abbott advised the Commission that the site plan is the same plan submitted for the public hearing; that four (4) units are proposed in one building; that 8 parking spaces are required and provided; that the parking is located within the front yard setback; that the Board of Adjustment granted a variance for the side yard setbacks; and that the staff has received all agency approvals.

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

5. Harold C. Shaffer  
3 Parcels – Route One

The Commission reviewed a concept to create three (3) lots off of Route One near Red Mill Pond.

Mr. Abbott advised the Commission that the Commission has to approve the lots since Route One is a major arterial highway; and that DelDOT has approved the entrance locations.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the three (3) lots as a concept.

6. Lewis O. Phillips, Bette R. Phillips & Sara Reed  
3 Parcels & 50' Right of Way – Road 283

The Commission reviewed a concept to relocate an existing 50' right of way and to create a lot off of Road 283.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approved the right of way and lot as a concept.

7. Eugene D. Bookhammer  
2 lots – Private Road – Route 24

The Commission reviewed a concept to create 2 lots and to extend an existing private road.

Mr. Abbott advised the Commission that Parcel A, improved by an existing dwelling, has access to the existing right of way; that the right of way would have to be extended to create Parcel B; and questioned if a public hearing should be required.

Mr. Schrader advised the Commission that a public hearing would be required if the road is extended.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve Parcel A in concept; and to deny Parcel B as submitted.

#### IV. OLD BUSINESS



C/U #1251—application of DALE J. AND MARY GRAY, T/A GRAY'S PAVING, INC. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a paving business with equipment storage to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 0.98 acres, more or less, east of U.S. Route 113 and 200 feet south of Road 432.

The Chairman referred back to this application which was deferred on June 25, 1998.

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

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

1. Stockade fencing installed along the property lines shall include a solid gate to screen the equipment storage area from Route 113.
2. The applicants shall be permitted to store trucks and equipment relating to the paving business to the rear of the site. Mechanical service of the vehicles and equipment may be performed on the site.
3. Paving materials, such as crusher run and recycled asphalt (millings), may be stored on the site.
4. Business hours shall be from 7:00 a.m. to 7:00 p.m. with no Sunday hours.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

C/Z #1338—application of KINGS CREEK ASSOCIATES, INC. to amend the comprehensive zoning map from an AR-1 Agricultural Residential District to a MR Medium Density Residential District in Lewes and Rehoboth Hundred, located west of Road 273 and south of Patriots Way (Kings Creek Country Club Entrance) 700 feet southwest of Route One, to be located on 1.98 acres, more or less.

The Chairman referred back to this application which was deferred on May 11, 1998.

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

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.

C/U #1247—application of Kings Creek Associates, Inc. to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (16 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.98 acres, more or less, west of Road 273 and south of Patriots Way (Kings Creek Country Club Entrance) 700 feet southwest of Route One.

The Chairman referred back to this application which was deferred on May 11, 1998.

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

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 with the following stipulations:

1. The maximum number of units shall not exceed eight (8).
2. A 50' wide undisturbed buffer shall be provided from the property line with the Rehoboth Golf Park.

3. A 30' wide undisturbed buffer shall be provided from Patriots Way.
4. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

#### V. ADDITIONAL BUSINESS

At the conclusion of the meeting, the Commission met to reorganize.

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

Mr. Lank opened nominations for Chairman.

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

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

Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Allen as Chairman; 4 yea, 1 not voting.

Vote by roll call:

Mr. Hastings	- yea
Mr. Wheatley	- yea
Mr. Phillips	- yea
Mr. Lynch	- yea
Mr. Allen	- not voting

Mr. Lank opened nominations for Vice Chairman.

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

Motion made by Mr. Allen, seconded by Mr. Lynch, that nominations for vice Chairman be closed.

Nominations for Vice Chairman were closed.

Motion was adopted to nominate Mr. Wheatley as Vice Chairman: 5 yea.

Vote by roll call:

Mr. Hastings	- yea
Mr. Allen	- yea
Mr. Phillips	- yea
Mr. Lynch	- yea
Mr. Wheatley	- 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. Brady – Environmental Planner, to sign record plats for recordation on behalf of the Commission.

Meeting adjourned at 9:40 p.m.