

MINUTES OF THE REGULAR MEETING OF AUGUST 12, 1999

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 12, 1999 at 7:30 P.M., in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Hastings, Mr. Johnson, Mr. Lynch, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray - Zoning Inspector III.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the agenda as amended since Item 5 of the Public Hearings was withdrawn, Item 1 of Old Business was withdrawn, Item 2 of Old Business was denied by County Council since the applicant was not present at the County Council meeting; and Items 4, 5, and 6 of Old Business were being delayed for decision until area residents have the opportunity to review the comments from County Engineering on the Sewer Study.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approved the minutes of July 22, 1999 as circulated.

Mr. Schrader explained how the meeting would be conducted.

IV. PUBLIC HEARINGS

C/U #1300 -- application of DEBORAH D. KEE to consider the Conditional Use of land in an AR-1 Agricultural Residential District for group music lessons to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 9.00 acres, more or less, lying south of Road 207, 1,775 feet east of Road 206 and 2,100 feet west of Road 214.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of Road 207 will not change as a result of this application.

The Commission found that Deborah D. Kee was present and stated in her presentation and in response to questions raised by the Commission that she proposes to offer music sessions that may include up to ten (10) children for lessons in music, singing, and instruments; that the children may be from the age of three (3) months to ten (10) years; that parents may or may not take part in the sessions; that the sessions typically will last approximately 1/2 hour; and that the students may attend two (2) sessions per week.

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 to this application.

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

Motion by Mr. Wheatley, seconded by Mr. Hastings, 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 #1301 -- application of INDEPENDENT ASSOCIATES, INC. to consider the Conditional Use of land in a C-1 General Commercial District for a crematorium to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 4.02 acres, more or less, lying northeast of U.S. Route 113, 600 feet southeast of Road 407.

The Commission found that comments were not requested from DelDOT since the improvements were within an existing structure in a commercial complex.

The Commission found, based on comments received from the Town of Millsboro, that the Mayor and Council reviewed the application and found no objection.

The Commission found that Gary Rice of Independent Associates, Inc. and James Griffin, Attorney, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that a one unit crematorium is proposed to be located within a building owned by Jack and Yvonne Parker; that the building is located within a commercial complex which includes offices and storage for MediaCom, a furniture store, and other commercial uses; that the site has access from U.S. Route 113 and Road 334; that the unit proposed is a factory built unit; that the only visible change in the structure will be an overhead door and a masonry stack on the outside of the building; that permits are required from the Office of the State Fire Marshal, the State DNREC, and the Sussex County Building Code Department; that they would like to be open for business by the end of September 1999; that they will be providing the service through Funeral Directors only; that all activities will be in-doors; that the proposed sign on the building will read Independent Associates, Inc. and will not reference that it is a crematorium; that the unit is fired by Propane fuel; that the unit creates no emissions, no dust, and no outside noise; that records indicate that 24% of the people select cremation; that they will be providing a service to the area; that the area is growing; that a need exists for the service; that the unit is approximately 8' high, 5.5' wide, and 12' in length, and weighs 24,000 pounds; that bodies will be delivered by Funeral Directors or picked up by the applicants from Funeral Directors; that a 1,000 gallon Propane storage tank will be located behind the building; that the factory stack will be mounted to the outside of the building, not out the roof; that the maximum number of employees will be four; that there are four other crematoriums in Sussex County; that business hours are normal working hours; that there may be some cremation of small household pets; that household pets will be obtained from veterinary clinics; and that they will not be cremating poultry.

The Commission found that there were no parties present in support of the application.

The Commission found that Marion Taylor and Mandy Talley were present in opposition to the application and stated that there is no need for this type of use in a residential area; that there no need for additional crematoriums in Sussex County; that an apartment exists in the building over the proposed location of the unit; that the site is not an appropriate location for a crematorium; and questioned why there were no emissions when a stack was needed.

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 with the following stipulations:

1. The facility will not be used for the disposal of farm animals, horses, or poultry, and shall be limited to the cremation of human beings, household pets and domestic animals.

There was a consensus of the Commission that the site plan shall not be required to be reviewed by the Commission since there are no changes in the footprint of the building or the layout of the site plan.

C/U #1302 -- application of RICK A. WILLMAN to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a bait and tackle shop in an accessory building to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 39,176 square feet, more or less, lying southeast corner of Road 22 and Julia's Lane, a private street within Julia's Place Subdivision.

The Commission found, based on comments received from DelDOT, that the Department is concerned about this application; that the Department sees it as encouraging more traffic in an area that has been identified as operating at unacceptable levels of service during the summer peak hours; that DelDOT feels that it is in the public interest to avoid the types of development that would increase turning traffic; and that since a bait and tackle shop is proposed, the Department does not recommend a traffic impact study.

The Commission found that Rick A. Willman and Tim Willard, Attorney, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that a small bait and tackle shop is proposed; that the site is between Grotto's Pizza and Short's Marine; that Mr. Willman has turned a hobby into a business; that the business is presently located at Palmer's Shopping Center; that he proposes to relocate the business in the garage to the rear of the residence; that the garage contains approximately 100 square feet of floor area more than the space he leases at Palmer's; that seasonal business hours would be from 5:00 A.M. to 9:30 P.M.; that a 32 square foot unlighted sign is proposed with a lighted portable sign noting specials; that the entrance to the site is from Julia's Lane; that there will be no outside storage; that the character of the area is commercial; that the business generates little traffic; that the average day may provide 10 to 15 customers; that on weekends there may be 20 to 25 customers per day; that the use supports the recreational and tourist community; that the site is located in a Development District in the Comprehensive Plan; that the applicant has spoken to the neighbors and heard no objections; that parking will be in front of the building; that adequate space exists on the site for parking; that the applicant will live in the dwelling on the premises; that one part-time employee is anticipated; that bait, tackle, sodas, snacks, and ice will be sold; that bait is delivered twice per week; that ice is delivered 3 or 4 times per week during the season; that some bait is packaged for sale when delivered; that some bait has to be separated and packaged for sale; that the waste from the bait is frozen until trash pick-up day; that a trash container will be placed on the site; that he would like to locate a walk-in freezer behind the building; and that he may display a few crab-pots and fishing rods in front of the building.

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. Wheatley, and carried 4 votes to 1, with Mr. Hastings opposed to the motion, to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. Business hours shall be from 5:00 A.M. to 9:00 P.M. seven days per week.
3. One unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.
4. Outdoor displays shall be restricted to the area in front of the shop and shall be depicted on the site plan.
5. One walk-in freezer may be placed behind the shop.
6. The trash container location shall be depicted on the site plan.

C/U #1303 -- application of DAVID R. BRIGGS to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a mini storage facility to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.04 acres of a 12.06 acre parcel, more or less, lying west of Road 310-A, 100 feet north of Road 313-A.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of Road 310-A will not change as a result of this application.

The Commission found that a letter of concern was received from Brandon and Dawn Hudson, adjoining property owners, that expressed concerns relating to a need for security and suggesting a limited access facility with fencing of the mini storage facility and the future use area; suggesting security lighting to protect the neighboring properties and the mini storage facility; and suggesting that there should be no outside storage, i.e. automobiles, boats, mobile homes, campers, etc...

The Commission found that David R Briggs and James Griffin, Attorney, were present and stated in their presentations and in response to questions raised by the Commission that the applicant proposes a mini storage facility; that the applicant has developed a mobile home park on the same property; that the site was previously used for small engine repair, and greenhouses; that the access road has existed since the previous uses were established; that the access road is stoned; that the access road is not located within the buffer of the mobile home park; that two buildings are proposed that measure 30' by 120'; that the buildings will be 8.5' high; that fencing will be installed around the storage area; that no boats will be stored outside; that recreational vehicles and campers may be parked within the storage area; that there shall be no storage of automobiles or mobile homes within the storage area; that four of his tenants in the mobile home park utilize other storage facilities; that a need exists for storage facilities; that tenants will have keys to the storage units; that access to the storage facility shall be from the access road, not the street within the mobile home park; that the cul-de-sac, serving the mobile home park, will not be blocked by the fencing for the storage facility; that access through the gate to the storage facility will be by

magnetic cards; that access to the facility will be allowed from daylight to dark; that security lighting will be provided; that no negative impact is anticipated on the neighboring properties; that the business will be operated by family members; that the proposed buildings are approximately 300 feet from any neighboring dwellings; that there should be no affect on traffic on Road 310-A according to DelDOT; that the storage area will be stoned; that the maximum number of recreational vehicles or campers stored will be 30; and that the fencing proposed will be 6' high chain-link.

The Commission found that Jack Welsh, the applicant's son-in-law, was present in support and stated that the population is growing; that most of the mobile home parks only permit one shed; that mobile homes and multi-family structures do not have enough storage area; and that storage facilities are needed to serve residents that live in mobile homes and multi-family structures.

The Commission found that Brandon Hudson, a neighboring property owner, was present in opposition and stated that, if the use is approved, the fence should surround the facility, and added that atleast two other storage facilities exists within two miles of the site.

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 with four (4) votes, with Mr. Wheatley not voting, to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. 8' high chain-link type fencing shall be installed around the perimeter of the storage area.
2. This approval is for a mini-storage facility only. There shall be no outside storage.
3. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
4. Security lighting shall be provided.
5. The cul-de-sac within the mobile home park shall not be blocked with fencing for the storage area.

C/Z #1385 -- application of DAVE BLACKWELL to consider a proposal to amend the Comprehensive Zoning Map from a GR General Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, located north of Road 462, 3,255.38 feet southeast of Road 461, to be located on 36,935 square feet, more or less.

Mr. Lank advised the Commission that the applicant withdrew the application on August 2, 1999.

V. OLD BUSINESS

C/U #1295 -- application of LAYTON'S RIVIERA, INC. AND BYARD AND PHYLLIS LAYTON to consider the Conditional Use of land in a GR General Residential District for a 50 lot expansion to an existing manufactured home park to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 25.05 acres, more or less, lying 450 feet southwest of Road 78, 1/4 mile west of Road 490A and east of Nanticoke River.

Mr. Lank advised the Commission that the applicant withdrew the application on August 2, 1999.

C/U #1297 -- application of J. DAVID LYNAM to consider the Conditional Use of land in a C-1 General Commercial District for outdoor retail sales (flea market) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.96 acres, more or less, lying southeast of Route 14A (1A), 130 feet southwest of Washington Street.

Mr. Lank advised the Commission that the County Council denied this application since the applicant did not appear at the public hearing, therefore there was no record of support for the application.

SUBDIVISION #96-2 -- application of SPRINGFIELD ENTERPRISES to consider the Subdivision of land in a GR General Residential Zoning District in Little Creek Hundred, by dividing 109.36 acres into 210 lots, located on the south side of Road 515, 125 feet west of Road 13A.

The Commission found that preliminary approval was granted on February 22, 1996 for 210 lots; that one year time extensions were granted on February 13, 1997 and February 12, 1998; that a six month time extension was granted on February 11, 1998; that the plans being reviewed are for Phase One for 113 lots; that central water and central sewer are proposed; that the streets are private; that the record plan for Phase One meets the requirements of the Subdivision Ordinance; that all agency approvals have been received for Phase One; and that the remaining phases will be submitted within 2 years.

Motion by Mr. Hastings, seconded by Mr. Wheatley, and carried unanimously to approve Phase One for 113 lots as a final.

C/Z # 1374 -- application of C.L.H. DESIGN to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-1/RPC High Density Residential District - Residential Planned Community in Lewes and Rehoboth Hundred, located 230 feet northeast of Road 275 and 1,600 feet north of Route 24, to be located on 23.01 acres, more or less.

C/Z # 1375 -- application of C.L.H. DESIGN to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District in Lewes and Rehoboth Hundred, located northeast of Road 275 and 1,600 feet north of Route 24, to be located on 3.90 acres, more or less.

C/Z # 1376 -- application of C.L.H. DESIGN to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District in Lewes and Rehoboth Hundred, located 1.390 feet northeast of Road 275 and 1,600 feet north of Route 24, to be located on 3.72 acres, more or less.

Mr. Lank advised the Commission that C/Z #1374, C/Z #1375, and C/Z #1376 have been removed from the agenda since the County Council has left the record open to these applications until August 31, 1999 to give the applicant and residents of the area the opportunity to review the comments from the County Engineering Department Planning and Permits Division on the Capacity Evaluation and Planning Study for the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District.

VI. OTHER BUSINESS

1. Nylon Capital Credit Union
Preliminary Commercial Site Plan - Route One and Road 283

The Commission found that Coleman Bunting of Bunting Construction was present on behalf of the applicants and submitted a landscape plan.

The Commission reviewed a preliminary commercial site plan for a banking institution at the corner of Route One and Road 283 and found that DelDOT approval was granted with the service road concept with the Derrickson Hotel and the Bob Evans Restaurant; that no access is allowed to Route One; that access shall be from the service road connecting Road 283 and Postage Lane; that the building proposed contains 4,075 square feet; that 21 parking spaces are provided; that the site plan meets the requirements of the Zoning Ordinance; and that agency approvals have been received from the Sussex Conservation District, DelDOT, County Engineering, the Office of the State Fire Marshal, and the Sussex County Building Code Department.

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

2. Robert F. Wright
Preliminary Commercial Site Plan - J.W. Shockley Subdivision - Lot 4

The Commission reviewed a preliminary commercial site plan for a furniture sales and dog grooming business within the J.W. Shockley Subdivision behind the Jiffy Lube northeast of Route One and found that a 4,180 square foot building was proposed; that 23 parking spaces are provided; that the site plan meets the requirements of the Zoning Ordinance; and that approvals are needed from the Office of the State Fire Marshal, the Sussex Conservation District, and the County Engineering Department.

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 receipt of all agency approvals by the staff.

3. Holiday Inn - Happy Harry's Pharmacy
Preliminary Commercial Site Plan - Route One
Road 361-A and Pennsylvania Avenue

The Commission reviewed a preliminary commercial site plan for a 100-bed hotel on 2.65 acres and a 12,000 square foot pharmacy on 1.45 acres.

The Commission found that Ken Christenbery, Professional Engineer, was present on behalf of the applicants; that parcel "A" would include the hotel and parcel "B" would include the pharmacy; that 153 parking spaces are proposed for the hotel; that one loading space is proposed for the hotel; that cross access easements will be necessary since the access drives serve both parcels; that 49 parking spaces are proposed for the pharmacy; that the pharmacy includes the sale of gasoline and that the gas pump islands are under a canopy; that interior drives need to be 25 feet in width; that 4 townhomes are depicted on the site plan and that the use of townhomes in a mixed commercial site plan is questionable since square footages for the townhomes are not depicted; that the applicants are requesting the use of porous pavement (GeoBlock) sections for some of the parking spaces; and that the Sussex Conservation District and the Division of Soil and Water Conservation of the State DNREC supports the use of porous pavement.

Mr. Christenbery submitted information on the GeoBlock porous pavement sections, a section of GeoBlock for examination by the Commission, and explained briefly how the porous pavement functions.

Mr. Lank advised the Commission that revised site plans were submitted to the office at 4:05 P.M. today, and that he advised Mr. Christenbery that neither he nor the staff would have time to review the revised plans for this meeting.

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

4. The Village of Old Landing
Recreational Amenities Site Plan - Selborne Lane

The Commission reviewed a site plan for the community center and pool for The Village of Old Landing and found that a paved parking area for ten vehicles will be provided and that an area is being provided for the storage of boats and campers for residents within the subdivision.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to grant approval of the site plan.

5. Today's Kustoms
C/U #1267 Site Plan - Road 44

The Commission reviewed a site plan for Conditional Use #1267, an auto body repair and paint shop, and found that that County Council stipulated that the applicant has to erect a minimum 6' high chain-link type fencing around the shop within 60 days of site plan approval, that no more than four (4) vehicles shall be stored outside, and that the use shall conform to State DNREC regulations. The Commission found that the Office of the State Fire Marshal has granted approval of the use.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to grant preliminary approval of the site plan. Final site plan approval shall be subject to receipt of all agency approvals by the staff.

6. David P. Hatfield
3 Lots - U.S. Route 13

The Commission reviewed a minor subdivision of three (3) lots east of U.S. Route 13 south of Greenwood and found that access to the 3 lots shall be from a cross access easement already established with a minor subdivision approved by the Commission on May 13, 1999, and that a letter of no objection was received from DelDOT on July 15, 1999.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve the subdivision concept.

7. Subdivision #97-4 -- Robin Beard
Time Extension

The Commission discussed the applicant's request for a time extension and found that a time extension had been granted on February 11, 1999 for six months; that the applicant is in the process of obtaining engineering plans and cost for the streets; and that a feasibility statement has been received from the State DNREC.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to grant a 6-month time extension. There was a consensus of the Commission that this is the last time extension that they will consider.

8. Ashley Manor
HR/PC Master Record Plan - Route 20 (Road 382)

The Commission found that Jeff Clark of Land Tech, Inc. was present on behalf of the applicant.

The Commission reviewed the master plan for C/Z #1357 and found that the County Council stipulated that a 30' setback shall be maintained from Mill Creek Acres as a landscaped buffer area, that the number of units shall not exceed 95, that a 30' setback shall be required from the Cobb property line, that the project shall be connected to the Fenwick Island Sanitary Sewer District, and that the site plan shall be subject to review and approval by the Commission; that all

five stipulations have been noted on the master plan for the proposed 95 units; that the master plan complies with the Zoning Ordinance in relation to parking and setbacks; and that each phase of the project will be submitted to the Commission for review and approval.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the master plan for recordation.

9. Ashley Manor
HR/RPC Phase I

The Commission found that Jeff Clark of Land Tech, Inc. was present on behalf of the applicant.

The Commission reviewed the site plan for Phase I for 35 units on 8.58 acres and found that the setbacks and stipulations of the County Council have been met; that no encroachments into wetlands are proposed; that buildings are separated by 40 feet; that no buildings exceed 165' in length; that 76 parking spaces are provided; that the Ordinance for this project was adopted prior to the parking ordinance changes; and that 8 buildings are proposed with 4 units and one building is proposed with 3 units.

Mr. Clark requested permission to build 4 model units, depicted on the site plan as four of the units within units numbered 25 through 32, once approvals have been received from DelDOT and the Sussex Conservation District.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to grant preliminary approval of Phase I. Building permits may be issued for no more than 4 model units upon receipt of approvals from DelDOT and the Sussex Conservation District. Final approval of Phase I shall be subject to receipt of all appropriate agency approvals by the staff.

10. Creek Falls Farm Extended
Revision Subdivision Layout

The Commission found that Ross Harris of E.C.I. Inc. was present on behalf of the applicants.

The Commission found that no additional lots are proposed and that the street design is proposed to be amended by providing two connections to the adjoining lands of James, Louise and Phyllis Hudson; that a temporary cul-de-sac will be provided where the original cul-de-sac was proposed; that one street connection will be located between the open space and lot 14 and the other street connection will be located between lots 26 and 27; and that the connection will eliminate a possible landlocked parcel.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the proposed street layout amendment subject to receipt of all appropriate agency approvals by the staff.

11. Peach Tree Acres
Multi-Family Site Plan - Route 9

The Commission found that Byron Jefferson was present on behalf of the applicants.

The Commission reviewed a preliminary site plan for an assisted living facility approved by the County Board of Adjustment as Case #6809 on March 15, 1999 and found that 20 beds are proposed; that an on-site well and septic system will be provided; that 20 parking spaces are proposed; that interior driveways shall be 25' in width; and that setbacks meet the requirements of the Zoning Ordinance.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously that the site plan be approved as a preliminary. Final approval shall be subject to receipt of all appropriate agency approvals by the staff.

Meeting adjourned at 10:35 P.M.