

## MINUTES OF THE REGULAR MEETING OF AUGUST 27, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 27, 1998, at 7:30 P.M., in the County Council Chambers, Sussex County Administrative Building, Georgetown, Delaware, with Mr. Wheatley, Vice-Chairman, presiding;

The following members were present: Mr. Hastings, Mr. Lynch, Mr. Phillips, Mr. Wheatley, Mr. Schrader – Assistant County Attorney, Mr. Lank – Director, and Mr. Abbott – Assistant Director.

Motion made by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to approve the minutes of August 13, 1998 as amended.

Mr. Schrader explained how the meeting would be conducted.

### II. PUBLIC HEARINGS

Subdiv. #98-3-application of MIKE MOCK to consider the Subdivision of land in a C-1 General Commercial and AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 5.68 acres into eleven (11) lots, located northeast of Road 268, 500 feet north of Delaware Route One.

The Vice-Chairman referred back to this application which was continued from the July 23, 1998 meeting.

Mike Mock was present on behalf of Edna Holston and advised the Commission that the subdivision plan meets the minimum requirements of the Subdivision Code; that the entrance should be approved; that the plan as submitted is the best use of the property; that the proposed uses are irrelevant at this time; and that DelDOT has approved the entrance locations.

George Shaw from DelDOT was present and advised the Commission that this site and the Parsells' Funeral Home are to share the same entrance with perpetual cross access easements; that the entrance plan that Mr. Parsells recorded is not what DelDOT approved; that an entrance location has been approved for Mr. Mock's site; that Mr. Mock shall be required to submit an entrance plan for review and approval; that a joint entrance was approved for the two parcels; that Mr. Parsells needs to re-record the cross access

easement agreement; that Mr. Mock will be required to pay for any modifications to the entrance; and that Mrs. Holston would not agree to the cross access easement.

Mr. Mock advised the Commission that the entrance location and approval is subject to DelDOT.

Mr. Phillips questioned the proposed uses of each lot.

Mr. Schrader questioned whether entrance plans have been submitted to DelDOT.

Mr. Mock advised the Commission that the entrance locations have been agreed to by DelDOT but that formal plans have not been submitted for approval.

There were no parties present in support of this application.

Don Rosseler of Gosling Creek Subdivision was present in opposition to this application and advised the Commission that he is opposed to anymore commercial development along the Route One Corridor that will create any additional traffic.

Mike Tyler, a resident along Kings Highway, was present in opposition to this application and advised the Commission that the proposed site is a busy area; that there is no need to create anymore heavy traffic in the area; that there is heavy traffic that uses Kings Highway to reach the Cape May Lewes Ferry; and that commercial uses would be encroaching towards Lewes and create more sprawl.

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



The Commission discussed the points and issues raised during the Public Hearing.

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

C/U # 1254-application of BETHANY BEACH KENNELS to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a pet crematory to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 19.49 acres, more or less, lying 703 feet south of Road 368 and 0.38 mile west of Road 366.

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 368 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 Evesboro loamy sand, Osier loamy sand, and Pocomoke sandy loam; that the Evesboro soils have slight limitations; that the Osier and Pocomoke soils have severe limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation; that the farmland rating of all of the soil types are of Statewide Importance, and that the Pocomoke soils are considered Prime Farmland, where drained; that no storm flood hazard area or tax ditch is affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that George Baldwin was present on behalf of Bethany Beach Kennels and stated in his presentation and in response to questions raised by the Commission that the crematory creates no smoke or odor; that the unit creates heat; that no water is utilized in the unit except for wash downs; that it will be necessary to have electric and propane with the unit; that he plans no advertising; that he or an assistant will pickup animals at a veterinary clinic or at the S.P.C.A.; that traffic will be at a minimum; that the crematory will be utilized once a week; that the ashes may be placed

in gardens or carried to a landfill; that the ashes are carbon; that the nearest facility is located at the Henlopen Memorial Park off of Route One; that the animals will be kept in freezers until enough volume exist to utilize the unit; that the unit will be placed inside of the end of an existing poultry house; that the proposed unit has a capacity of 100 to 150 pounds per hour; and that the State does not regulate the business, only the use of the equipment.

The Commission found that Mr. Baldwin submitted a letter from Crawford Equipment & Engineering Co.; an overview of the specifications for a Crawford Model C500P, the proposed unit; and a source test report from Air Consulting and Engineering, Inc.

The Commission found that Mr. Baldwin added that he has commercial kennels on the farm; and that the crematory unit will be located approximately 700 feet from any property lines and 900 feet from the nearest dwelling.

The Commission found that Michele Ruhl, Dixie Soukas, Robert West, and Sherry Biddel were present and expressed concerns relating to the possible impact on property values; the possible impact on the quality of life; the volume of animals being cremated; that approximately ten (10) residential homes exist in the immediate area; the possible impact on drinking water wells; the possible smoke and odors; the amount of time that animal carcasses are stored; that hazardous waste may be burned; questioning what agency has jurisdiction over the business operation; expressing concerns relating to future expansion; and noting that both the Parsell Funeral Homes & Crematorium, Inc. and Melson's Funeral Services and Crematory offer pet cremation.

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

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



Motion made by Mr. Lynch, seconded by Mr. Phillips, 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 business operation shall comply with all environmental laws.
2. The use shall be limited to small animals, not exceeding 150 pounds.
3. All animals shall be frozen when delivered.
4. All animals shall be stored in freezers until cremated.
5. There shall be no incineration of any medical waste or other hazardous waste.
6. The crematory unit shall be limited to one (1) unit, not to exceed the capacity of 150 pounds.
7. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Carried 4-0.

C/U #1254—application of PEPPER FARMS, INC. 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 9.0 acres, more or less of a 15.02 acre tract, lying southeast of Route 24 at westerly intersection with Road 463.

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 Route 24 and the level of service “A” of Road 463 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 Evesboro loamy sand which have slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the farmland rating of the soils are of Statewide Importance;

that no storm flood hazard area or tax ditch is affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Roland Pepper was present on behalf of Pepper Farms, Inc. and stated in his presentation and in response to questions raised by the Commission that the use is seasonal and is operated with his pumpkin patch from September 15, 1998 to October 31, 1998; that the parking area near Route 24 is adequate for 30 vehicles; that the maze will be open from 10:00am to dark Monday through Saturday, and from noon to dark on Sunday; that during the last two (2) weeks of October school groups will walk the maze; that the crop is foliage sorghum which grows to seven (7) feet in height; that the maze is accessed over a walking bridge; that a fee will be charged to walk the maze; and that the crops are rotated with the adjoining farm.

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

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

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

Motion made 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 following stipulations:

1. Business hours for the maze shall be from 10:00am to dark Monday through Saturday, and from noon to dark on Sunday.
2. The maze shall be open for business from September 15 through October 31.
3. One (1) non-lighted sign, not exceeding 32 square feet per side or facing, may be permitted.
4. No parking shall be permitted along the right of way of Route 24.



5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Carried 4-0.

C/U #1256—application of DELAWARE ELECTRIC COOPERATIVE, INC. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an extension to an existing substation (Conditional Use No. 17) for storage of a truck and repair supplies to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 34,800 square feet, more or less, lying 210 feet southwest of Long Neck Road (Route 23) 3.1 miles east of Route 24.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Rumford loamy sand, which has slight to moderate limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation; that the farmland rating of the soil type is of Statewide Importance; that no storm flood hazard area or tax ditch is affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Daniel Meyers, Attorney, and William Andrews of Delaware Electric Cooperative, Inc. were present on behalf of the Cooperative and stated in their presentations and in response to questions raised by the Commission that the Cooperative proposes to place a repair truck at the substation; that placement of a repair truck at the site will benefit the entire service area; that the site is across from the Pot Nets maintenance shop and storage yard; that the parcel is being obtained from Tunnell Companies and will be combined with the substation parcel; that the building will create a garage for the repair truck and a satellite office for the Cooperative; that the use will help expedite service and repairs; that materials stored will include some transformers, nuts, bolts, cross-arms, etc...; and that the building will be behind the substation and away from Route 23.

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

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

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

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since it is an expansion of an existing facility and with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

Motion Carried 4-0.

C/U #1257—application of HOWARD V. TOWLE to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an antique shop within an existing shed to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 1.26 acres, more or less, lying north of Route 18 and east of Collins Pond.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service “E” of Route 18 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 Evesboro loamy sand, which has slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation; that the farmland rating of the soil type is considered of Statewide Importance; that no storm flood hazard area or tax ditch is affected; and that it may not be necessary for any on-site or off-site drainage improvements.



The Commission found that Howard V. Towle and James A. Fuqua, Jr., Attorney, were present and stated in their presentations and in response to questions raised by the Commission that the application is for an antique shop within an existing shed; that Mr. Towle resides on the site; that the site is well maintained; that the house was built in 1770's; that a well and septic exist on the site; that the shed may have been used historically for servants quarters; that the shed, which measures approximately 36' by 17', is split into 3 sections; that no negative impact is anticipated on Route 18 or the neighborhood; that Route 18 is a tourist route to and from the seashore; that the existing driveway and parking area should be adequate to serve the small business; that the business may be open from 9:00am to 6:00pm during the tourist season; that a small business sign, no larger than 32 square feet, may be erected on the site; that the house is not registered on the Historical Registry; and that there will be no outside storage or display.

The Commission found that photographs of the shed and the pond were submitted.

The Commission found that a letter was submitted from area residents voicing no objection to the application.

The Commission found that no parties appeared in opposition.

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

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

Motion made by Mr. Phillips, 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 following stipulations:

1. Business hours shall be from 9:00am to 6:00pm.
2. One (1) non-lighted sign, not exceeding 32 square feet per side or facing, may be permitted.
3. Ingress/egress shall be limited to the easterly driveway only.

4. No outside storage or display shall be permitted.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

ORDINANCE/PRODUCE STANDS – An ordinance to amend Chapter 115 of the Code of Sussex County, to include products raised on other lands owned by the owner of the premises on which the stand is located as items permitted to be sold in a temporary removable stand in the AR-1 Agricultural Residential District.

Mr. Lank summarized the Ordinance.

The Commission discussed the Ordinance. There was a consensus of the Commission that the Ordinance should include reference to lands leased by the owner of the premises on which the stand is located.

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

Mr. Schrader stated that he would revise the wording of the Ordinance and submit the revisions for the Commission's review.

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

Motion Carried 4-0.

### III. OTHER BUSINESS

#### 1. Sea Colony West HR/RPC

The Commission reviewed a revised multi-family site plan for Phase 19 of the Sea Colony West Residential Planned Community.



Mr. Abbott advised the Commission that this phase was originally approved for townhouse units; that the developers now propose 22 single family detached dwellings; that there is a ten foot separation between the units; that there is still the seventy foot non-disturbance along the Wilgus and Bethany West Subdivisions; and that only preliminary approval should be considered since the staff has not received any agency approvals or permits for this phase.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the revised site plan as a preliminary. Final approval shall be subject to receipt of all required agency approvals by the staff unless there are major changes to the site plan.

2. P. Gary Hastings

The Commission reviewed a concept to create a lot off of an existing farm access road off of Road 527.

Mr. Abbott advised the Commission that the farm access road exist; that the proposed new lot has an improvement on it; and that the farm access road should be widened to a minimum of fifty feet in width.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the lot as a concept with the stipulation that the farm access road be widened to fifty feet.

3. Jack Parker

The Commission reviewed a concept to create a lot with access from a fifty foot right of way off of Road 82.

Mr. Abbott advised the Commission that the owner proposes to create a fifty foot right of way to serve as access for a new lot; that the proposed right of way does not exist; and that the developer should be required to go through the major subdivision process.

Motion made by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to deny the proposed concept as submitted, and that the staff advise the developer that a public hearing shall be necessary.

4. Jodi Thompson

The Commission reviewed a concept to create two lots with access from an existing 100-foot right of way off of Road 58B.

Mr. Abbott advised the Commission that there is currently a dwelling on the property; that the owners propose to build another dwelling and in order to obtain financing from their lending institution, the property needs to be subdivided.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the two lots as a concept.

5. Eschol Mariner and Dennett Pridgeon

Eschol Mariner and Denny Pridgeon were present as the Commission reviewed a concept to abandon an existing fifty-foot right of way and to create two new rights of ways off of Road 70 and Road 72 near Trussum Pond.

Mr. Abbott advised the Commission that the right of way that is to be abandoned currently serves both Mr. Mariner and Mr. Pridgeon and lots that they own on the pond; that they would like to abandon this right of way and to straighten out the existing property line; that Mr. Mariner would create a right of way off of Road 72; that Mr. Pridgeon would create a right of way off of Road 70; and that there would not be any new lots created off of the proposed right of ways.

Motion made by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the right of ways as a concept.



## 6. Site Plan Requirements

Mr. Lank advised the Commission that there have been complaints recently made about the locations of dumpsters for commercial projects; that the County Council would like for the Commission to consider some type of ordinance that deals with dumpster locations; and stated that the entire Commission should participate in this discussion.

Motion made by Mr. Hastings, seconded by Mr. Phillips, and carried unanimously to defer action so that the entire Commission can participate in the discussion.

## IV. OLD BUSINESS

C/Z #1342-application of NORTH BEACH, L.L.C. to consider a proposal to amend the zoning map from a MR Medium Density Residential District to a M Marine District in Baltimore Hundred, located south of Road 360, ¼ mile west of Route One, to be located on a parcel containing 13.07 acres, more or less.

The Vice-Chairman referred back to this application which was deferred at the August 13, 1998 meeting.

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

Subdiv. #98-5-application of CHARLES E. TURNER, JR. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 14.34 acres into 4 lots, located east of Road 279-A, 2,480 feet northeast of Road 279-B.

Mr. Abbott advised the Commission that the final plan is the same as what was submitted for preliminary approval; that the plan complies with the requirements of the Subdivision Code; that the staff has received all agency approvals except the Sussex County Engineering Office; and that the plan

should not be recorded until the Engineering Office approval has been received.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the plan as a final with the stipulation that the record plan not be recorded until the staff has received the final approval from the Sussex County Engineering Office.

Meeting adjourned at 10:00 P.M.