

## MINUTES OF THE REGULAR MEETING OF APRIL 11, 2002

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 11, 2002 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Lynch, and Mr. Wheatley with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as amended with the deletion of item #2 under Other Business.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of March 14, 2002 as corrected.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of March 21, 2002 as corrected.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of April 4, 2002 as circulated.

Mr. Schrader described how the public hearings would be conducted.

## PUBLIC HEARINGS

**SUBDIVISION #2002-5** -- application of **LARSEN ENT., INC.** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 14,612 square feet into 2 lots, located west of Hassell Avenue, 60 feet southeast of Todd Drive within Bay View Park Subdivision.

Mr. Lank advised the Commission that the Board of Adjustment granted a variance from the square footage requirement for the lots on January 28, 2002.

Mr. Abbott advised the Commission that the staff has received letters of no objection to the proposed subdivision from 51 percent of the lot owners within the subdivision.

The Commission found that Beth Webb was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that the boat ramp will be kept for the new owner; that the boat slips will remain; that she and her husband reside on one of the lots; that they are doing away with the marina; that the entire marina building will be removed if the application is approved; and that if the application is denied, the marina will remain open.

The Commission found that Wynona Dawson and Joan Cartwright were present in support of this application and stated that the proposed subdivision will be an enhancement to the community and that the subdivision will get rid of the non-conforming marina.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the hearing.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the subdivision as a final.

Motion carried 5 to 0.

**SUBDIVISION #2002-6** -- application of **MARSHALL LEWIS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 36.8 acres into 4 lots, located south of Road 410, 808 feet west of Road 409.

The Commission found that Jim Parker was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the application is for 4 one-acre lots; that the homes will be stick built on site with a minimum square footage of 1,900 square feet; that the restrictions will be the same as Parker's Point subdivision; that he is purchasing the lots from Mr. Lewis; and that he is not aware of any objections from surrounding property owners.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the hearing.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the application as a final.

Motion carried 5 to 0.

**C/U #1449** -- application of **DONALD W. IRELAN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a contractor's yard and storage of materials to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.297 acres, more or less, lying south of a private road 550 feet northwest of Route 48 and 160 feet southwest of Road 290.



The Commission found, based on comments received from the Department of Transportation (DelDOT), that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State has no technical objections to the proposal; that the State is concerned about the placement of a contractor's yard on this site since it is located in the Rural Area of the Strategies for State Policies and Spending document; that allowing this use would place a commercial type establishment within a residential area, which could be negatively affected by noise and dust from the operation, not to mention the visual effect it could have on the L.W. McIlvain agricultural complex located within sight of the parcel; that the State hopes that if the County Council is inclined to approve the use, conditions are placed on the applicant, such as hours of operation, visual screenings, etc. so that the residents around the parcel are not adversely affected.

The Commission found that Donald W. Irelan was present and stated in his presentation and in response to questions raised by the Commission that he has five employees; that the business has one backhoe and one dumptruck; that the site will be fenced with a 6-foot high chain-link type fencing; that equipment will be stored in the maintenance building; that business hours are from 7:00 a.m. to 5:00 p.m. weekdays, with no Saturday or Sunday hours; that an office will be located within the building; that he has no plans for any signs; that the driveway and parking area will be surfaced with crusher run; that there will be nothing stored outside of the fence; that a lean-to addition is proposed for the building for the storage of materials; that he will have a bin on the site for the storage of masonry sand; and that he has started cleaning up the site and started a driveway and dirt pad for the building.

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

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following conditions:

- 1) The site will be fenced with a 6-foot high chain-link type fencing.
- 2) Equipment shall be stored in the maintenance building.
- 3) Business hours shall be from 7:00 a.m. to 5:00 p.m. weekdays, with no Saturday or Sunday hours.
- 4) The driveway and parking area will be surfaced with crusher run.
- 5) There shall be nothing stored outside of the fence.

- 6) Material shall be stored within the building or under the proposed lean-to addition to the building.
- 7) Masonry sand may be stored within a bin on the site.
- 8) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 5 - 0.

**C/U #1450** -- application of **RICHARD MARK MILLER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a used car sales lot to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 4.912 acres, more or less, lying at the northwest corner of Route 46 and Route 9.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is within the Western Sussex Water and Sewer Plan Area; that the Plan indicates that the site is in the Blades Service Area; and that the applicant should contact the Town of Blades concerning the availability of water service and the County Engineering Department concerning the availability of central sewer service.

The Commission found that a letter was received from Jeffrey Clausen voicing objections to the application and expressing concerns about the possibility of decreasing property values of his home and surrounding properties by the approval of this type of use in the area; the dangerous intersection of Route 9 and Route 46; the number of accidents at the intersection; that the angle of the intersection reduces the ability of motorists to clearly see highway traffic; vehicles parked along the edge of the road hindering visibility for turning traffic; and the difficulty of entering and exiting his driveway because of traffic.

The Commission found that Richard Mark Miller was present with David Rutt, Attorney, and stated in their presentations and in response to questions raised by the Commission that the area around the building on the site is zoned B-1 Neighborhood Business; that the remainder of the site is zoned AR-1 Agricultural Residential and that Mr. Miller proposes to operate a used car sales lot on the AR-1 portion of the site; that he will be leasing the site; that he has approximately 10 years of experience in auto sales; that he has applied for a dealers license from the State Department of Motor Vehicles and that the license is pending a decision on this application; that he plans on buying and selling vehicles; that he does not propose to provide any consignment sales; that there will be no auto parts sales; that there will be no vehicle repairs performed on the site; that all vehicles will be



in running condition; that he plans on selling automobiles and pickup trucks around the years of 1985 through 1995; that he proposes to display no more than 20 vehicles at any one time; that vehicles displayed for sale shall be setback a minimum of 25-feet from the front property line; that the vehicles displayed will not block any visibility; that the parking lot and driveway will be surfaced with crush and run; that there will be no more than 2 employees on the site; that a manufactured home type structure is proposed to be used for an office; that the unit will be skirted and shrubbery will be planted around the unit; that he may build a permanent building in the future; that septic and well water will be provided; that security lighting will be provided and that the lights will be directed toward the lot; that he does not plan on installing any lighted signs, but would like to install a 4' by 8' sign on the site to advertise the business; that business hours will be from 9:00 a.m. to 5:00 p.m. Monday through Saturday; that there will be no Sunday hours; that there seems to be a need for auto sales lots in the area to serve those people that cannot afford new vehicles; that he anticipates that there will be approximately 3 to 5 customers per day; that the existing entrance serving the B-1 portion of the site will be utilized for the auto sales lot; that there is no access from the site to Route 46; that he does not feel that there will be a negative impact on property values or the neighborhood; that the AR-1 portion of the site is not suitable for farming due to the wetlands on the site; that vehicles that need servicing or towing will be picked up and/or taken to Milford; that vehicles will be purchased from auto auctions and dealers; that he may provide some financing; that customer parking will be provided; and that he only intends to lease the area in line with the rear of the B-1 Neighborhood Business District.

The Commission found that Frank Perdue, Kathryn Cummings, and Jeffrey Clausen of the 16 people present in opposition to this application expressed concerns about the maintenance of the lot; the use of a manufactured home type unit for an office; visibility at the intersection of Route 9 and Route 46; cars pulling off and parking along Route 9 to look at vehicles for sale and causing visibility problems for vehicles pulling out from Route 46 onto Route 9; the number of accidents that occur at the intersection of Route 9 and Route 46; that the sales lot should be in an area where automotive sales is a permitted use; questioning the years of the vehicles that will be sold since the applicant stated that he will be selling vehicles of the years 1985 through 1995 and then added that he may sell a 1982 Porsche; concerned that vehicles may be stored behind the proposed fence next to the office; and that a craft shop has been opened in the building on the B-1 Neighborhood Business portion of the site and that customers have stopped on the shoulder of Route 9 and backed up along Route 9 to get to the entrance to the shop.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

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



Motion carried 5 - 0.

**C/Z #1465** -- application of **ESTRELLA P. ACOSTA** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying north of Route 22 (Long Neck Road) and 1,280 feet east of Road 298, to be located on 20,071 square feet, more or less.

The Commission found, based on comments received from DelDOT, that the Department does not recommend a traffic impact study due to the size of the parcel; that the Department is concerned about the rezoning because they see it as encouraging more traffic in an area that has been identified as operating with existing poor levels of service (E) during the summer peak hour, that according to the Statewide Long Range Transportation Plan draft the site is located in a Multimodal Investment Area where the State intends to support development with a more comprehensive menu of transportation facilities and services; that in these areas the State plans to make investments to diversify the transportation system by adding capacity and supporting development that is consistent with that goal; that investments in transit, bicycling, and walking facilities are the focus so the State can support these alternative modes as supplements to the automobile; that the Strategies for State Policies and Spending map depicts the site in an Environmentally Sensitive Developing Area where the State seeks a balance between resource protection and sustainable growth; that the Department seeks to meet the transportation needs of existing developments without encouraging new ones; and that consequently the Department is unlikely to make highway capacity improvements there if there is not an existing need for them.

The Commission found that Dr. Estrella P. Acosta was present with Vince Robertson, Attorney, and Janice Timmons, a real estate agent, and stated in their presentations and in response to questions raised by the Commission that the existing home on the premises will be converted into office space for Dr. Acosta; that the neighborhood is primarily commercial; that rezoning the site would be consistent with other zonings in the area; that the location is no longer appropriate for residential use due to the amount of commercial activity surrounding the site; that the office should not create any more traffic than the home; that there should be no negative impact on the neighborhood or property values; that Dr. Acosta presently has office space in Seaford and Lewes; that this office will replace the office in Lewes; that parking will be provided to the rear of the building; that an addition may be built on the rear of the building; that the rezoning and use will be in compliance with the 1997 Comprehensive Plan since the site is in a Development District where central water and sewer are available; that the office will be open Monday through Friday; that there are no planned weekend hours; and that all improvements that will be made to the site will be in compliance with all codes and regulations.

The Commission found that Mr. Robertson submitted pictures of the site and commercial uses in the area and a letter from the present landowners voicing approval of the application.

The Commission found that Kathy Loughheed, a real estate agent that works in the area, spoke in support of the application and stated that the site is surrounded by commercial uses; that there is a need for Dr. Acosta's profession for the children living on the easterly side of the County; and that the site is not appropriate for residential use due to all of the commercial activities in the area surrounding the site.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved since the site is located in a Development District according to the 1997 Comprehensive Plan, and since the site is surrounded by commercial activities and C-1 General Commercial Districts.

Motion carried 5 - 0.

#### OTHER BUSINESS

Houston Ventures, LLC  
C/U #1440 Revised Stipulations - Silver Lake Drive

Mr. Abbott advised the Commission that a letter has been received from the contract purchaser requesting that the Commission reconsider the stipulation that an ingress/egress not be permitted off of Lake Drive; that DelDOT has issued a letter of no objection to an entrance being off of Lake Drive; that the Fire Marshal's Office would like to see an entrance off of Lake Drive; and that since the stipulation originated from the Commission, the Commission has the authority to remove the stipulation.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to remove the stipulation and allow an entrance off of Lake Drive.

Motion carried 5 to 0.

D. Kerry Monigle  
4 Lots - Road 273

This item was removed from the agenda on April 11, 2002.



Doyle Office Complex  
Commercial Site Plan - Road 319

Mr. Abbott advised the Commission that the preliminary site plan is for an office complex; that the site is zoned B-1 Neighborhood Business; that 2 40-foot by 200-foot one story office buildings are proposed; that a 40-foot by 60-foot model home with a 30-foot by 30-foot attached garage is also proposed; that the setbacks meet the requirements of the zoning code; that 92 parking spaces are required and that 95 spaces are proposed; that approvals have been received from DelDOT and the Sussex Conservation District; that approvals are needed from DNREC and the Fire Marshal; that the site plan meets the requirements for preliminary approval; and that final approval could be subject to receipt of all agency approvals.

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

Motion carried 5 to 0.

Meeting adjourned at 8:40 P.M.