

MINUTES OF THE SPECIAL MEETING OF APRIL 17, 2003

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 17, 2003 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. Vincent Robertson – Assistant County Attorney, Mr. Lank – Director, Mr. Abbott – Assistant Director, and Richard Kautz - Planner.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as circulated.

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

PUBLIC HEARINGS

SUBDIVISION #2002-45 – application of **FRAN GONZON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 84.34 acres into 81 lots, located south of Road 251, 2,650 feet east of Road 319.

Mr. Lank advised the Commission that the Technical Advisory Committee Report of January 15, 2003 will be made a part of the record for this application.

Mr. Abbott read comments received from the Natural Resources Conservation Service and advised the Commission that letters have been received from David DeLuca and Richard Moore and James and Claire Porterfield in opposition to this application and that they will be made a part of the record.

The Commission found that Heidi Balliet, Attorney, and Jessica Nichols from Meridian Consulting Engineers were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the application is for 81 single family lots; that there were not any negative comments from any of the State agencies; that the site is located in a low density area based on the Land Use Plan; that $\frac{3}{4}$ acre lots are permitted in this area based on the zoning code and land use plan; that the construction of the homes will be subject to architectural review; that the minimum square footage of the dwellings will be 2,500 square feet; that landscaping and forested buffers are proposed; that the development will serve a need for affordable housing in the area; that the site is appropriate for housing; that the site is mostly open area with some woods and that the woods will not be destroyed; that the applicant will follow all recommendations made by the Technical Advisory Committee; that there is a small area of wetlands on the site and they will not be impacted; that there is not an outfall for stormwater management and that stormwater management will be handled on site through a series of ponds; that the septic work has been submitted to DNREC for a septic

feasibility statement and that they have not received the report back yet; that the soils work indicates that greater than 50% of the lots will have standard septic systems; that no area has been set aside for open space since the subdivision ordinance does not require open space; that once the design phase is initiated, it may be possible to provide some open space; that sidewalks and street lighting are not proposed; that a by-pass lane may be warranted at the entrance; that all homes will be stick-built homes; that manufactured homes will not be permitted; that at this time there are no interconnections proposed to adjacent parcels; and that a homeowner's association will be established for the maintenance of the streets, storm water management areas, and buffer areas.

The Commission found that Michael Powell, Steve Robinson, and Jeff Carroll of Neptune Road were present in opposition to this application and stated in their presentations that the proposed development is not in character with the existing area; that all of the lots are smaller than the existing lots in the area; that the woodlands on the site should be left intact; that Neptune Road is a narrow road and that it can not handle additional traffic; that traffic will worsen; that the number of lots should be reduced; and that the wetlands should not be impacted.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action pending receipt of a septic feasibility statement from DNREC.

Motion carried 5 – 0.

SUBDIVISION #2002-46 – application of **LEO DONOHOE AND THOMAS DONOHOE** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 1.87 acres into 5 lots, located south of Road 361, 600 feet southeast of Road 368.

Mr. Lank advised the Commission that the Technical Advisory Committee Report of January 15, 2003 will be made a part of the record for this application.

Mr. Abbott read comments received from the Natural Resources Conservation Service and advised the Commission that revised plans have been submitted complying with the recommendations of the Technical Advisory Committee.

The Commission found that Sally Ford, Surveyor, was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that the site is 1.87 acres; that 5 lots are proposed; that the site was recently accepted into the County sewer district; that Tidewater Utilities will provide central water; that the site is located in a Flood Zone X and that flood insurance is not required;

that the streets will be private and built to County specifications; that the homes will be stick built; that manufactured homes are not permitted by the zoning district; that the existing dwelling will remain on site; that all lots will have access from the internal subdivision street; that the existing driveway will be eliminated when the street is built; and that revised deed restrictions have been submitted addressing the concerns from the previous review.

The Commission found that Glen Prettyman was present in support of this application and stated in his presentation that the proposed use is the best and highest use of the property; and that the project is good for the area since the area has growth occurring.

At the conclusion of the public hearings, the Commission discussed this application.

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

Motion carried 5 – 0.

SUBDIVISION #2002-47 – application of **JAMES C. WELLS, JR.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 38.10 acres into 16 lots, located north of Road 214, 1,100 feet southeast of Route 30.

Mr. Lank advised the Commission that the Technical Advisory Committee Report of February 19, 2003 will be made a part of the record for this application.

Mr. Abbott advised the Commission that a revised plan has been submitted and that the revisions are based on the recommendations of the Technical Advisory Committee.

The Commission found that Byron Jefferson, Professional Engineer, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the proposed lots will have the same deed restrictions as the strip lots along the County Roads; that the street is less than 1,400 feet in length; that the street design was revised to meet the requirements of DelDOT; and that DelDOT will not permit a second entrance to the project.

Mr. Abbott advised the Commission that when the original plan was submitted, the street was less than 1,000 feet in length so a variance was not needed and that the design changed due to DelDOT recommendations.

Mr. Robertson advised the Commission that they could consider the variance since the revision was required by a regulatory agency and not created by the applicant.

The Commission found that no parties appeared with any interest to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary and to grant a variance for the cul-de-sac length.

Motion carried 5 – 0.

C/U #1491 – application of **QUAKERTOWN MEDICAL GROUP, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for medical offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.24 acres, more or less, lying on the northerly side of Route 9 (Savannah Road), 536 feet northeast of Ebenezer Branch.

The Commission found that the applicant had submitted a packet of information prior to the meeting and that the packet included a tax map of the area, five (5) photographs of the site and area, Minutes of the Planning and Zoning Commission for C/Z #1319, the application Quaker Medical Assoc., L.L.C., and suggested conditions for this application.

The Commission found, based on a letter from DelDOT, that the Department has no objection to the entrance location and that entrance plans are being developed per DelDOT regulations.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State is concerned about this project because they see it as encouraging more traffic in an area that has been identified by the Department as operating at unacceptable levels of service; that according to the State Historic Preservation Office there is a cemetery on or immediately southwest of the parcel; that the applicant should be required to provide ample space between the cemetery and any construction in their design plans; that the cemetery may not be appropriately marked and the applicant should be aware of the Delaware Unmarked Remains Act which requires anyone who finds unmarked human remains to contact the State Historic Preservation Office or the Medical Examiner; that there is a high probability for prehistoric and historic archaeological sites on the property; that the applicant should be required to contact the State Historic Preservation Office to determine ways to mitigate any disturbance to these sites; that DNREC has noted that they believe this parcel could be developed if appropriate and applicable pollution control strategies are employed to mitigate sediment and/or nutrient runoff into any adjoining streams and watercourses; that information provided indicates that an individual on-site well and septic disposal system; that public wells must maintain a minimum isolation distance of 150 feet from all sources of contamination, including septic tanks and sewage disposal fields; that the site

is not included in a public water service area; that a Water Supply Section permit will be required; that should dewatering be needed during any phase of the construction, dewatering permits must be obtained before construction of the dewatering points; that there is one inactive and one active Leaking Underground Storage Tank site located near the site; that should any petroleum contaminated soil be discovered during construction the Tank Management Branch must be notified as soon as possible; that it is not anticipated that any construction specifications would be needed to be changed due to petroleum contamination; and that should any unanticipated contamination be encountered and PVC pipe is being utilized it will need to be changed to ductile steel in the contaminated areas; and that the State asks that the County consider these comments as they review this application.

The Commission found that Tim Willard, Attorney, Darin Lockwood of Meridian Engineering, and Richard Caruso, M.D., were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the area is improved with medical offices; that a 10-foot wide strip is being dedicated to public use for road widening; that the entrance is proposed to be off of Route 9; that adequate space is available for parking on site; that the building will be improved with brick and cedar siding; that no parking is proposed in the front yard; that stormwater management is proposed to the rear; that B-1 Neighborhood Business zoning exist on the adjacent property also owned by the applicants; that the lot is being purchased from the Trustees of the Methodist Episcopal Church; that the Trustees also own the site where the cemetery is located; that a demand exists for doctors in the area; that that demand causes a need for additional space for doctors; that the cemetery will not be impacted by this application; that DelDOT has no objections to the proposed entrance location; that the 1997 Comprehensive Plan designates the site within a Development District; that the 2002 Comprehensive Plan Update designates the site within an Environmentally Sensitive Developing Area; that the existing office space adjoining the site is inadequate for the number of doctors and that they plan to relocate into the proposed building; that the site will have an on-site septic system and a private well since there are no available central systems; that interconnection may be available between the two offices to the rear of the existing garage; that they will attempt to save as many of the existing trees in the front yard as possible, except for the septic area; that the building will be one-story; and that condition #4 in the proposed conditions relates to medical related offices, not other types of professionals.

The Commission found that Mr. Willard provided the Commission with a letter from J.K. Beebe, M.D. referencing the need for additional space for the medical practices of the doctors, and a letter from Cathy Olenderski of Cape Appraisals referencing that the proposed medical building will not have a negative impact on the surrounding property values.

The Commission found that the proposed conditions of approval offered by Mr. Willard included: 1) The proposed structure shall not exceed 6,000 square feet as shown on the preliminary site plan. 2) Signage shall be limited to one ground sign not to exceed 32 square feet with directional lighting. 3) All trash containers shall be placed at the rear of the building and screened from view. 4) The use shall be limited to medical and professional offices. 5) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

The Commission found that Donald Mitchell of the Bethel Methodist Church was present on behalf of the owners of the site and advised the Commission that the cemetery is separated from the site by a 19-foot wide parcel of other ownership; that the area is developing with offices; and that the only visitors to the cemetery are maintaining the cemetery.

The Commission found that Terry Portmann and Mrs. Parks Madden, residents living across Route 9 from the site, spoke in opposition to the application and expressed concerns relating to traffic using the existing driveway to the existing garage next to the office on the adjacent site; that visitors do stop and read the grave markers in the cemetery; that central water is proposed to be available in the future; speeding traffic in a 40 MPH zone; children safety; that ambulances and school buses utilize this road segment; that the speed limit should be reduced; and that the billboard on the cemetery site should be removed.

The Commission found that Mr. Mitchell responded that the billboard is not on the cemetery site, but on the 19-foot wide parcel of other ownership.

At the conclusion of the public hearings, the Commission discussed this application.

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

Motion carried 5 – 0.

C/U #1492 – application of **RT. 54 HOOK & SLICE GOLF DRIVING RANGE, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for warehousing to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 14.13 acres, more or less, lying south of Route 54 and 2,076 feet west of Road 389.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that the annual average daily traffic calculates at 4,308 vehicles per day; that the summer average daily traffic calculates at 6,154 vehicles per

day; that the last traffic count utilized to calculate these figures was in 1998; and that the level of service of Route 54 in this road segment may change from "C" to "D".

The Commission found, based on comments received from the Office of State Planning Coordination, that this parcel is located in a "Rural Area" according to the Strategies for State Policies and Spending document and is located in the middle of the Williamsville Agricultural Preservation District; that the parcel is also in a "Low Density Area" of the 2002 Comprehensive Plan; that the State objects to this proposal because the State would prefer to see a warehousing facility closer to "Community" or "Developing" areas; that the State Historic Preservation Office has noted that there are some potential historic structures and properties along Route 54, east and west of the site, which will be visually affected by the project; that if any development is approved, the applicant should provide landscaping around the site to lessen the project's visual effects on these properties; and that the State would prefer to see a warehouse facility within the "Community" or "Developing" areas, instead of "Rural" areas.

The Commission found that Rick Tucker was present on behalf of the application and stated in his presentation and in response to questions raised by the Commission that he also owns the 1.0 acre parcel adjoining and has a Conditional Use for commercial and business storage and rental warehousing; that he built 9 storage units on the 1.0 acre site; that the area around the site is farmed by the County; that other warehousing, construction company offices and storage, and other commercial uses exists in the immediate area; that he proposed to locate the warehouses 300-feet from Route 54; that the fenced area on the 1.0 acre parcel is used by one of his tenants for the storage of tool vans and employee parking; that the golf driving range will be abandoned; that several other storage sites are located in the area; that a tax ditch crosses the site; that he proposes ten (10) 1-story steel buildings with concrete flooring; that the maximum number of storage units will not exceed 60; that each unit will have a bathroom; that the leases will restrict the units so that no auto repairs, boat storage or outside storage will be created; that he may fence a portion of the site; that he has no objections if the County should require landscaping; that security lighting will be provided on poles and on the buildings; and that he proposes to sell 30 of the units through condominium sales and rent 30 units.

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

At the conclusion of the public hearings, the Commission discussed this application.

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

Motion carried 5 – 0.

C/Z #1498 – application of **GERALD RICHARDSON** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-1 High Density Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying south of Road 368, 1,154 feet east of Route 361, to be located on 0.93 acres, more or less.

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 Office of State Planning Coordination, that the State has no objection to this application; that the State DNREC has noted that much of this area has soils that are hydric in nature; that the State recommends that a wetlands delineation be performed; and that an entrance permit is necessary prior to any construction.

The Commission found that Gerald and Cindy Richardson were present with Ray Blakeney of Land Design, Inc. and that Mr. Blakeney stated in his presentation and in response to questions raised by the Commission that they have proposed to rezone the site to HR High Density Residential due to the development trends in the area; that multi-family structures exist behind and across from the site; that they are proposing to develop 4 multi-family units; that the applicant is a builder and will be building the units; that 3 parking spaces per unit will be provided; that the building is proposed to be setback toward the rear of the site; that the building is proposed to be 2-story; that garages will be at the first floor level; and that a homeowners association will be created to enforce deed restrictions and maintenance upon completion of the project.

The Commission found that the applicants provided a packet of information which included a map of the surrounding zoning in the area, and photographs of Multi-family and single-family units in Bethany Meadows, Southampton RPC, Summerset, and Bethany Breeze.

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

At the conclusion of the public hearings, the Commission discussed this application.

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

Motion carried 5 – 0.

Meeting adjourned at 9:15 PM.