

MINUTES OF THE SPECIAL MEETING OF AUGUST 29, 2002

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 29, 2002 in the CHEER Community Center, Sand Hill Road, Georgetown, Delaware.

The meeting was called to order at 6:05 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, Mr. Abbott – Assistant Director, and Mr. Oates – Zoning Inspector II.

Also in attendance were Robert Stickels, County Administrator, and Tom Shafer of Shafer Consulting, Consultants to the County for preparation of the 2002 Update of the Comprehensive Plan for Sussex County.

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

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

PUBLIC HEARINGS

AN ORDINANCE ADOPTING THE 2002 UPDATE OF THE COMPREHENSIVE PLAN FOR SUSSEX COUNTY AND REPEALING THE 1997 COMPREHENSIVE PLAN.

Mr. Lank introduced the Ordinance.

Mr. Lank submitted written comments received from Jack V. Miller of NoUVIR RESEARCH, referencing the Goal of the Development District, and from Barbara T. Westfall for the Town of Greenwood, referencing map differences with the nearly finished Comprehensive Land Use Plan for the Town of Greenwood, to the Commission and stated that the correspondence was now a part of the record for this public hearing.

Mr. Lank read a letter received from James Roberts, President of the Board of Public Works for the City of Lewes, referencing that the City does not have excess capacity in any of their utility systems.

Mr. Shafer advised the Commission that they are trying to update the Comprehensive Plan, not create a new plan; that he and County staff have attended many meetings and have held public sessions with the Towns and Cities; that there were two series of public sessions held in each Councilmatic District; and that the Update is a draft document that may be subject to some changes after the Commission and the County Council hold their public hearings.

Mr. Shafer advised the Commission that the Goals of the Update include: direct and balance growth; provide housing opportunities and choice; build better communities; protect the environment; implement fair measures to pay for growth; ensure coordination between County and local municipalities; and to protect private property rights; that the required elements of the Update include: Future Land Use Plan; Transportation; Water and Wastewater; Conservation; Recreation and Open Space; Housing Strategies; Intergovernmental Coordination; Community Design; Historic Preservation; and Economic Development; that considerations for the Update include: reduce the size of the Developing Areas; use approved municipal plans and the State Investment Strategy Map to delineate Town Centers and Developing Areas; Grandfather existing zoning except for provisions for sunseting; limit density to four dwelling units per acre in commercial zones; create a new commercial zone and to revise permitted uses in C-1 and B-1 zones; retain existing 0.75 acre minimum lot size in AR-1 zones or allow clustering to 0.5 acre lots; use base density from present regulations, but reduce minimum lot size to 7,500 square feet in RPC, MR and GR zones; set minimum open space requirements for all residential zones; incorporate provisions from the State Long Range Transportation Plan in the mobility element; extend a corridor overlay zone to U.S. Route 13 and U.S. Route 113; consider the effects of Total Maximum Daily Loads (TMDLs) regulations; consider Air Quality standards; review existing permitted uses in the low density zones, and consider the Agricultural Industry and Bio-Tech Campuses; require sidewalks or pathways, streetlights, and street trees in moderate or high density residential zones and commercial areas; and to consider implementation of a Transfer of Development Rights program; that additional requirements for the Environmentally Sensitive Development District include: complete a detailed study of the Environmentally Sensitive Development District using data from State agencies, the Center for the Inland Bays, and the Planning and Zoning Commission with input from local landowners and residents; create an overlay zone and adopt a new ordinance which will include the following: a requirement for an environmental assessment report, a requirement of adequate public facilities evaluation, and a maximum density of two dwelling units per acre based on the gross acreage and a maximum density of four dwelling units per acre based on the net residential acres in AR-1 zone.

Mr. Shafer discussed the Existing Land Use map, a Chart on population projections, a Table on information on the 25 Towns and Cities to be used in reference to the Town Center Districts and the Developing Areas, a Table on recommended densities and uses for the Low Density Areas, Low and Medium Density Areas, Medium Density Areas, High Density Areas, Commercial Areas, and Industrial Areas, the Future Land Use map, and a comparison of a site plan for a project being developed under current guidelines and a site plan of the same project being developed under the proposed guidelines of the Update.

Mr. Shafer added that the highlights of the Update include: clustering development by right at two units per gross acre in an AR-1 zone; community design with sidewalks, pathways, street trees, street lights and curbing; a 20% open space requirement; reducing the Developing Areas by matching the State and Municipal plans; permitting Agricultural Industry and Bio-Tech Campuses in Low Density Zones; and creation of the Environmentally Sensitive Developing District (an Overlay Zone).

The Commission found that Ann Brees, present on behalf of Agnes Prendergast, President of the Village Improvement Association, read and submitted nine pages of written comments in reference to the Update that included an attached copy of a letter that was sent to Robert Stickels, County Administrator, from Samuel R. Cooper, Mayor of Rehoboth Beach.

The Commission found that Marty Ross, present on behalf of the Sussex County Farm Bureau, stated that the Farm Bureau feels that the County will do what is best for the County; that they agree with the goals of the Update; that they agree with the intended use of Agriculture Industries and Bio-Tech Campuses in agricultural areas; that they do not see any incentives to preserve resources or to prioritize open space; and that a program is needed to preserve open space.

The Commission found that Til Purnell read and submitted three pages of comments in reference to the Update and expressed concerns about text errors; the lack of substance; that current growth figures were not being used; the Environmentally Sensitive Developing District; that the guidelines for the Environmentally Sensitive Developing District are the same as the guidelines for the Developing Areas; that the size of lots in the Rural Community Areas are larger than the lot size in the Environmentally Sensitive Developing District; and questioned the proposed uses to be permitted without public input or public hearings.

The Commission found that Rich Collins, Executive Director of the Positive Growth Alliance, submitted written comments and added that the Update needs some corrections on technical errors; that higher standards may be needed in the Environmentally Sensitive Developing District; that the County needs to figure out a way to allow for higher densities in some areas to get more open space; that older people want less property to maintain; and that the State needs to address mobility since traffic needs have not kept up with development.

The Commission found that Shirley Price, State Representative for the 38th District, submitted written comments and stated that the Environmentally Sensitive Developing District needs to be increased in area; that buffer areas around tidal and non-tidal wetlands need to be increased; that open space needs to be required; that density should

not be increased unless adequate infrastructure is available; that density should be limited to no more than two units per acre; and that golf courses should not be calculated as open space.

The Commission found that Sally Callanan, Chairperson for the Sierra Club, Southern Delaware Group, read and submitted 6 pages of written comments and referenced wastewater; water; the age of the data used in the Update; news articles reporting that sprawl is the blame for any water shortage; and that the imperative term "shall" should be used in the text to provide better intent.

The Commission found that Steve Callanan stated that the Update is lacking in current data; that all data sources should be referenced so that readers can review the data; that the population and housing counts do not agree with the current Census data; that the 1999 Strategies for State Policies and Spending map references the an Environmentally Sensitive Area not an Environmentally Sensitive Developing Area; that you can't have both high-density and environmental protection; that the Environmentally Sensitive Area should include the entire watershed; and that wetlands need more protection. Mr. Callanan submitted copies of data on Wastewater Flow Projections, dated May 5, 1998, a report on new housing units in Sussex County based on a Census report dated August 29, 2002, a copy of the June 1995 Summary for the Delaware Inland Bays Comprehensive Conservation And Management Plan, a copy of a portion of "Projected Population Growth and the New Arithmetic of Development in Delaware 1990-2020" referencing "Sussex County: Demographic and Development Trends", dated May 1999, and a copy of "Demographia", a Census report.

The Commission found that Mable Granke read and submitted 3 pages of comments in reference to the Mobility Element of the Update.

The Commission found that Harry Haon read and submitted 3 pages of comments on behalf of the Association of Coastal Towns and stated that the recommendations that came out of the public sessions held in the Councilmatic Districts have not been incorporated into the Update, and referenced increasing buffers for tidal wetlands from 50-feet to 100-feet setback; 25-foot setback from non-tidal wetlands; two units per net residential acre, not per gross acre; the exclusion of non-tidal wetlands from net acreage calculations; the exclusion of commercial golf courses from net acreage calculations; and requiring a minimum of 15% of the net residential acreage to be open space.

The Commission found that Samuel Cooper, Mayor of Rehoboth Beach, stated that all of the Development District mapped in the 1997 Comprehensive Plan should be within the Environmentally Sensitive Developing District; that the impact on ground water is the use of the land; that some of the text in the Update directly conflicts with other text; that he questions why the Developing Area near Route One has been increased in area; and

that he is concerned about the Memorandum of Understanding between DelDOT and the County Council on the Route One Study.

The Commission found that Theresa P. Usuki, President of Save Our Coastal Communities, read and submitted 3 pages of comments and added that she is concerned about evacuation; that she is concerned about the proposal of development by right without public input; that the calculations show increases in density by 20 to 30 percent over the present plan; that no protection is proposed for the Environmentally Sensitive Developing Areas; that Maryland recently passed a requirement that there be setbacks of at least 100-feet from tidal wetlands; that the Comprehensive Conservation and Management Plan has not been endorsed by the County Council; and that the DNREC Whole Basin Plan has not been endorsed by the County Council.

The Commission found that Jack V. Miller of NoUVIR RESEARCH referenced his previously submitted comments and added that he prepared his comments on behalf of 135 petitioners who are asking for a clarification of language in the text and ordinances relating to multi-family housing, such as apartments, multi-story condominiums, and that ordinances should include reference to hotels, motels, etc., and that no multi-family housing units may be constructed without a public wastewater system.

The Commission found that Joseph Conaway, President of the Town Council of Bridgeville, stated that the Town has followed the lead of the County Council in the creation of Developing Areas and Town Centers; that the people speaking against the Update are from the resort area and should realize that they live in a resort area; questioned who decides who is the last person to come to the beach; and noted that Towns that do not have certified comprehensive plans should not criticize the Update.

Mr. Allen advised those present that the Commission will make a recommendation on the Update prior to the County Council hearing on October 1, 2002.

Mr. Stickels asked Mr. Shafer to make all corrections and clarifications of the text by September 10, 2002 for the Commission's review.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to defer action and to leave the record open, for written comments only, through September 10, 2002.

Meeting adjourned at 8:40 p.m.