

MINUTES OF THE REGULAR MEETING OF NOVEMBER 13, 2003

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 13, 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. Robertson – Assistant County Attorney, and Mr. Abbott – Assistant Director.

Mr. Abbott advised the Commission that Subdivision #2003 – 20 - - William B. Warrington was withdrawn on November 11, 2003.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the minutes of October 23, 2003 as amended.

The Commission took no action on the minutes of November 6, 2003 since they are not completed.

PUBLIC HEARINGS

Mr. Robertson read a statement explaining how the public hearings are conducted and the procedures for hearing the applications.

Subdivision #2003 – 20 – application of **WILLIAM B. WARRINGTON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 16.36 into 16 lots, located north of Route 26, 1,222 feet west of Road 345.

Application was withdrawn on November 11, 2003.

Subdivision #2003 – 21 – application of **PAF, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 15.71 acres into 2 lots, located east of Road 484, approximately 0.7 mile north of Road 46.

The Commission found that Paul Kruger, one of the owners, Dean Campbell, Attorney, and Steve Cooper, Real Estate Agent, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the subject property is 15 acres of residual land from a previous subdivision; that the proposed lots are 7.51 acres and 8.12 acres; that the reason for the public hearing is that the owners have already created the maximum number of lots permitted by the subdivision code; that DelDOT has indicated that additional right of way will be required to be dedicated to public use; that the additional right of way dedication will require a variance of 3.43 feet in road frontage for lot A; that the subdivision will not alter the area; that the 2 lots will have a combined entrance; and that the existing entrances are already in place.

Mr. Robertson advised the applicants that the Commission does not have the authority to grant a variance for the road frontage and that it will be necessary for the applicants to apply for a variance from the Sussex County Board of Adjustment.

The Commission found that no one was present 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 defer action pending the outcome of the variance that is needed from the Board of Adjustment.

Motion carried 5 – 0.

Subdivision #2003 – 22 – application of **R & B INVESTMENT** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 14.20 acres into 14 lots, located north of Road 462, 380 feet northeast of Road 70.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on July 16, 2003 and that the report will be made a part of the record for this application; and that the applicants submitted a booklet that contained a letter of introduction, letters from adjoining property owners, a copy of the proposed record plan, and photographs of example homes.

The Commission found that Debbie Brittingham was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that she and a partner have purchased the property; that the soils on site are well drained soils; that the site is close to the Town Limits of Laurel; that future home owners will be close to the Town of Laurel but will not be in town limits; that there is a ditch to the rear of the

site; that the site is partially wooded; that the applicants will preserve as many trees as possible; that the dwellings will be on site stick built homes; that the adjoining property to the west is where the Town Limits of Laurel begins; and that the applicants will include the wetlands disclosure notice in the deed restrictions.

The Commission found that no one was present in support of this application.

The Commission found that Travis Sirman, an adjoining property owner, was present and raised questions about the type of homes proposed; the types of septic and wells proposed; whether the sales will be land package deals; if the proposed septic design has been approved; the price range of the homes; the size of the homes; and possible annexation by the Town of Laurel.

Mrs. Brittingham responded that the dwellings will be stick built; that on site wells and septic are proposed; that the dwellings will be sold as lot and home packages; that according to DNREC, standard septic systems will be permitted; that the minimum price range will begin at \$120,000; that the minimum square footage for the dwellings will be 1,000 square feet; that any possible annexation is up to the Town of Laurel; and that there will be a homeowners association.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary based on the record made during the public hearing and for the following reasons:

1. The proposed subdivision is in accordance with the Sussex County Comprehensive Land Use Plan.
2. The proposed subdivision is in character with the surrounding area in that the proposed subdivision is for single-family dwellings.
3. The proposed subdivision is near a Town Center, which is in accordance with Livable Delaware regulations.
4. This recommendation is subject to the following conditions:
 - Agricultural buffers shall be provided in accordance with the Subdivision Ordinance, if necessary.
 - All lots shall only have access via Katum Drive, not County Road 462.
 - The Restrictive Covenants shall contain the Wetlands Disclosure Notice required by the Subdivision Ordinance.
 - The Restrictive Covenants shall provide for the maintenance of surface drainage facilities and any buffer areas.

Motion carried 5 – 0.

C/Z #1522 – application of **ROBERT SANDO** to amend the Comprehensive Zoning Map from a GR General Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying northeast of Route One, 150 feet southeast of Road 234 (Deep Branch Road), to be located on 19,500 square feet, more or less.

Kevin Burdette of McCrone, Inc. was present on behalf of this application and advised the Commission that the applicant would like to withdraw this application and that the applicant will reapply for a down zoning application to AR-1 and a Conditional Use for the proposed use.

C/Z #1523 – application of **CARD, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR Medium Density Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying east of Road 274 (Old Landing Road) and 0.7 mile south of Road 275 (Warrington Road), to be located on 115.30 acres, more or less.

Mr. Abbott advised the Commission that the applicants submitted a booklet and that each member has received the booklet.

The Commission found, based on comments received from DelDOT, that they have completed their review of the Traffic Impact Study; that the property is zoned AR-1 Agricultural Residential and the developer is applying for MR Medium Density Residential; that their review of the TIS indicates that of the seven existing intersections studied, by 2008, motorists would experience poor levels of service at four and during the weekday evening and summer Saturday peak hours; that traffic from this development would worsen those conditions and cause poor levels of service at a fifth intersection; that should the County choose to approve this rezoning, they recommend the County require certain improvements from the developer as part of the plan approval process.

The Commission found, based on comments received from the Office of State Planning Coordination, that other than being in the Environmentally Sensitive Developing Area, the State Agencies had no comment regarding the rezoning of this parcel; that those comments and concerns were directly related to the pending subdivision application; that the developer has contacted their office and intends to work with State agencies to address the concerns noted in a separate letter; and that there may be additional correspondence regarding the subdivision plan.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on site are Fallsington loam, Johnston loam or silt loam,

Rumford loamy sand, Sassafras sandy loam, Sassafras loam, and Woodstown sandy loam; that the suitability of the soils for the intended uses range from severe to slight and slight – moderate; that with respect to erosion and sedimentation control, it will be necessary to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction; that the farmland rating of the soils is Statewide Importance, Prime Farmland, Hydric Soil for the Fallsington soils, Hydric Soil for the Johnston soils, Statewide Importance for the Rumford soils, and Prime Farmland for the Sassafras soils, and Prime Farmland, Hydric Soil in depression for the Woodstown soils; that no storm flood hazard area is affected; that it may be necessary for off site and on site drainage improvements because of the presence of poorly drained and very poorly drained soils and the increase in impervious area, storm run off will increase; that no tax ditch is affected; that all landowners, developers, and site designers are strongly encouraged to thoroughly investigate the presence of easements or right of ways along tax ditches; that if a stormwater management facility is proposed along a stream or ditch, the Sussex Conservation District will require verification of any easements; that there may regulated wetlands present; and that the developers need to secure necessary permits from the Army Corps of Engineers.

Mr. Abbott advised the Commission that there is also a pending subdivision application for this site but cannot be scheduled for a public hearing until a decision is made on this application.

The Commission found that David Rutt, Attorney, Jeff Clark of Land Tech, LLC, Ross Harris of ECI Corporation and James McCulley of Environmental Consulting Services were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site is for 115 acres on Old Landing Road; that the application is for infill to MR in the surrounding area; that a booklet has been submitted as a part of the record; that the pending subdivision application is subject to a decision being made on this rezoning application; that the site is located in a development district based on the Comprehensive Land Use Plan; that the site is located in the West Rehoboth Expansion Area of the Sanitary Sewer District; that Tidewater Utilities provides central water to the area; that the County Engineering Department has indicated that sewer is available to the site for 4 units per acre; that there are other MR districts in the immediate area; that the proposed rezoning will not have any negative impacts on the area; that approximately 20 acres of the site consists of wetlands; that 379 units would be permitted by the subdivision code and that the pending subdivision application is proposed to be 234 lots; that the traffic impact study reviewed by DelDOT was for 420 lots; that the developers will comply with the recommendations made by DelDOT; that the Office of State Planning Coordination is not opposed to this application; that at the time an application for a change of zone from AR to MR was filed, a second application

was also filed for a MR subdivision to be called Oak Creek; that some data has been included in the booklet submitted; that it makes sense for the County to act upon the rezoning application and to hear testimony as to the change of zone as a totally separate issue from any proposed land use that will be put on the land; that based upon the Comprehensive Land Use Plan of 1997 and the Land Use Plan Update of 2002 the land is located in a designated development district where future growth is directed; that the site is located in a Sussex County Sanitary Sewer District known as the West Rehoboth Expansion Area; that the property lies within the franchised water service area of the Tidewater Utility Company; that the development of this property as an MR zoned tract is consistent with the historical trend of development in this area and therefore will not have a significant impact on the uses or values of surrounding properties; that with regard to sanitary sewer infrastructure, parcels 416, 417 and 418 are included within the boundaries of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District and sewer capacity is available on the basis of 4 units per net acre; that Tidewater Utilities, Inc. has issued a letter that they are willing and able to serve public water, including fire protection to the site; that Tidewater has an existing water line on Old Landing Road in front of the site; that all entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determinations, including the recommendations set forth in DelDOT's Letter to Lawrence B. Lank, dated June 12, 2003, or any further modifications required by DelDOT; that DelDOT is not opposed to this application; that the Office of State Planning Coordination is not opposed to the application; that the immediate area to the north is a community of single family detached homes known as The Villages of Old Landing situated on a MR zoned property; that other communities to the north include Breezewood and Cedar Valley which are both zoned MR and Arnell Creek and The Landing; that the area immediately to the east of the site is Kings Creek Country Club Subdivision and Golf Course and in that same direction other MR communities have been developed named Kinsale Glen, Rehoboth Beach Yacht and Country Club and Stable Farm; that the area to the south of the site is a part of the Warrington family farm and was recently rezoned to MR/RPC and has master plan approval for single family detached dwellings and townhomes and is known as Warrington Creek; that the area to the west and south is the Old Landing Golf Course and immediately west of the site is The Villages of Old Landing which is on MR zoned land; and that the land is totally consistent with the zoning of adjacent properties on all four sides.

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

The Commission found that Dennis Finnerty of the Villages of Old Landing, William Winkler, Bill Bachman of Arnell Creek, Mabel Granke of the Citizens Coalition, Mr. Maxwell, and Mike Tyler of the Citizens Coalition were present in opposition to this application and stated that the subdivision application should be heard at the same time as the rezoning application is heard; that the State Historic Preservation Office wants to

inspect the site; that DelDOT has indicated that no interconnection is available to the property to the north; that a stormwater management plan needs to be approved prior to site disturbance beginning; that there are wetlands on the site; that the trees on the site will not be preserved; that all of the development in the area is leading to a deterioration of lifestyles; that development is negatively impacting the area; that no infrastructure is in place or scheduled along Old Landing Road; that traffic will negatively impact the area; and that no further development should occur until the funds that have been set aside for improvements are actually used.

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

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

Motion carried 5 – 0.

Meeting adjourned at 8:25 P.M.



Planning & Zoning

Agendas & Minutes

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2. The proposed subdivision is in character with the surrounding area in that the proposed subdivision is for single-family dwellings.

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

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