

WORKSHOP

SEPTEMBER 22, 1999

SUSSEX COUNTY COUNCIL
PLANNING & ZONING COMMISSION
BOARD OF ADJUSTMENT

A Workshop of the Sussex County Council, Planning & Zoning Commission, and the Board of Adjustment was held Wednesday, September 22, 1999, at 6:55 p.m., in the Sussex County West Complex Building, Georgetown, Delaware. A dinner preceded the Public Workshop at 6:00 p.m.

The following were in attendance:

Finley B. Jones, Jr., Sussex County Council
Lynn J. Rogers, Sussex County Council
George B. Cole, Sussex County Council
Dale R. Dukes, Sussex County Council
Vance Phillips, Sussex County Council
John L. Allen, Planning & Zoning Commission
John Hastings, Planning & Zoning Commission
W. Layton Johnson, Planning & Zoning Commission
Ronald P. Lynch, Planning & Zoning Commission
Robert C. Wheatley, Planning & Zoning Commission
Dale Callaway, Board of Adjustment
Jeffrey Hudson, Board of Adjustment
John Mills, Board of Adjustment
Ronald McCabe, Board of Adjustment
L. William Wheatley, Board of Adjustment
Eugene Bayard, County Attorney
Dennis Schrader, Assistant County Attorney
Richard Berl, Assistant County Attorney
Lawrence Lank, Director of Planning & Zoning
Shane Abbott, Assistant Director of Planning & Zoning
Bud Rickard, Chief Zoning Inspector

Mr. Bayard, County Attorney, advised that the general purpose of the Workshop is to bring the members of the Sussex County Council, the Planning & Zoning Commission, and the Board of Adjustment together to (1) exchange thoughts and ideas about the processes of each of the government bodies and how the processes can be improved, (2) discuss possible legislation that might improve the process, (3) discuss technical improvements that might improve the way hearings are conducted, and (4) discuss any additional business.

The following issues were discussed:

1. Status of Pending Ordinances

Presently, there are four pending ordinances that are prepared and in the public hearing process, as follows:

“AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ENTITLED “ZONING”, TO AMEND PROVISIONS RELATIVE TO THE CONSERVATION ZONE, TO AMEND PROVISIONS RELATING TO THE MINIMUM LOT SIZE WITHIN THE CONSERVATION ZONE, TO AMEND PROVISIONS RELATING TO REVISING AND CLARIFYING THE LOCATION OF THE CONSERVATION ZONE, AND TO GENERALLY CLARIFY THE ORDINANCE”

This ordinance amends existing provisions relating to the conservation zone and provides a means of utilizing prepared maps to locate boundaries of the zone and increases the lot size from 1 acre to 2 acres in a conservation zone and will generally clarify parts of the ordinance.

“AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ENTITLED “ZONING”, TO AMEND PROVISIONS RELATING TO PLACEMENT OF MOBILE HOMES FOR EMERGENCY OR HARDSHIP SITUATIONS”

This ordinance will allow the Director to grant extensions to special use exceptions granted for placement of mobile homes for hardship or emergency situations, if the applicant can show evidence from a doctor that the hardship or emergency situation still exists.

“AN ORDINANCE TO AMEND CHAPTER 99, THE CODE OF SUSSEX COUNTY, RELATING TO STREET DESIGN STANDARDS”

This ordinance allows for a lesser street design standard for major subdivisions of four (4) lots or less involving new streets.

“AN ORDINANCE AMENDING CHAPTER 99, SECTION 13, OF SUSSEX COUNTY, RELATING TO THE NOTICE REQUIREMENTS TO BE GIVEN OWNERS WITHIN SUBDIVISIONS PRIOR TO ALTERATION OR ADDITION”

This proposed amendment to the subdivision ordinance provides for these changes:

- (A) Corrects a grammatical error in Subsection A.
- (B) Deletes the requirements that all owners in the previously subdivided and recorded plats consent to proposed alterations or changes.

The Sussex County Council introduced these four ordinances on August 3, 1999. The Planning & Zoning Commission will hold Public Hearings on September 23, 1999. The Sussex County Council will hold Public Hearings on October 12, 1999.

2. Intergovernmental Coordination

The Sussex County Council has endorsed the development of a Regional Planning Concept for Intergovernmental Coordination. A Policy creating an Intergovernmental Coordination Agreement has been distributed to all municipalities for their consideration. The Concept has been endorsed by the SCAT Steering Committee. Some municipalities have accepted the Regional Planning Concept and a signed Agreement has been returned to the County.

3. Scheduling of Public Hearings and Application Process – Planning & Zoning Commission Procedural Changes

Mr. Allen, Chairman of the Planning & Zoning Commission expressed concern over the increasing volume of applications requiring public hearings before the Planning & Zoning Commission, applications where public hearings are not required but public comments has been heard (commercial site plans), and the increasingly adversarial nature of land use planning.

The guidelines currently followed by the Planning & Zoning Commission were adopted in 1970. Since then, the complexity of zoning applications, LUPA reviews, permitting processes, and overlapping regulatory requirements have increased and the hearing and scheduling procedures are no longer adequate to handle the case load. It is increasingly difficult to give full attention to applications and to the public under current procedures.

Mr. Lank advised that one of the difficulties relating to the zoning hearing process is that applications (C/U and C/Z) are scheduled based on when the applicant applies. In the ordinance for subdivision regulations, a deadline of 45 days is stipulated, and therefore; at times, subdivision applications delay C/U and C/Z applications. Also received by the Planning & Zoning Department for review are many commercial site plans. These three processes that ultimately go before the Commission result in the lengthy Commission meetings. Mr. Lank also noted that, in the scheduling process, it is difficult to determine what applications will be controversial and sometimes more than one controversial application will be placed on the agenda at the same time.

Mr. Schrader, Assistant County Attorney for the Planning & Zoning Commission, recommended the following changes to the Commission's procedures:

- A. Schedule one extra meeting per month or other regular basis for the disposition of Old Business (cases heard, but not deliberated or decided) and Other Business (site plan reviews, minor subdivisions, time extensions, etc.)

- B. Change SCZO to increase the time period relating to site plan review to eliminate or extend the 20 day period.
- C. Change SCSUBO to increase the time period relating to site plan review to eliminate or extend the 45 day period.
- D. Require that all exhibits to be used by any applicant for a hearing or site plan review be submitted and filed 72 hours in advance of the hearing date.
- E. No site plan review of subdivisions unless the applicant or its representative attends the TAC meeting and demonstrates a good faith effort to incorporate committee comments into plan or give a reason why not.
- F. Limitation on number of public hearings scheduled for one night.

Mr. Schrader requested that these recommendations be reviewed and suggestions made. A decision making process will be initiated to determine whether to change ordinances or to change the Commission's rules to make the process smoother.

Mr. Schrader noted that Commission members want to give each application thoughtful consideration, and they would like to be able to do it with information and knowledge.

Mr. Bayard suggested that the application process be updated to provide more information – to make the applicant do a better job in providing as much information as possible before the application is actually filed.

Mr. Bayard recommended that a new application form (envelope) be designed to require more information, i.e. including a place for TAC review and comments, DelDOT information, applicant's responses, etc. It was noted that the Public Hearing process would improve if this information were available prior to the Public Hearing.

A discussion ensued as to what is required by Ordinance to go to the TAC Committee. Currently, subdivisions and some RPC's are required to receive TAC Committee review. It was noted that TAC review provides useful information and some applicants seek this information voluntarily. It was recommended that the TAC review requirement be broadened. (It was noted that an applicant is not bound to follow TAC's recommendations; the County Council is ultimately the decision-maker.)

The County's attorneys will, along with input from the Planning & Zoning Department, Planning & Zoning Commission, and Board of Adjustment, prepare draft application forms for review by the respective Commission/Board.

For informational purposes, Mr. Lank advised that change of zone and conditional use applications take approximately 10 – 12 weeks for the approval process; Board of Adjustment cases take approximately 6 1/2 - 8 weeks.

Mr. Phillips suggested that the County consider an online application on the County's web-site. It was noted that the public needs the assistance of staff in filling out the application, and; in addition, the application requires a live signature. Also, fraud and security would be issues that would need to be considered. Mr. Berl suggested that the application could be put on the web-site for the purpose of information only.

4. Representation of State Agencies at County Meetings

Years ago, State agencies were better represented at County meetings/public hearings. For several years, representatives have been in attendance less and less.

It was noted that the purpose of them being in attendance is to provide information; however, today these representatives do not want to be put on the spot to answer questions.

Members of each governing body were asked if they had any questions/comments:

Mr. Hastings – An application should not be presented to the governing body until it is accurate and complete. A large information packet should not be received the night of the Public Hearing with the Commission being expected to take action that same night.

Mr. Lynch – The 45-day window to make a decision should be changed. Also, many times the applicant does not receive approval from a State Agency prior to the Public Hearing (i.e. DelDOT) and the State Agency's decision would be helpful to the Commission. Applicants do not seem to start the regulatory approval process until the Commission has acted.

Mr. Johnson – Signs posted by the County come off the stake too easily. The County needs to improve the quality of the sign. Years ago, metal signs and frames were used; however, they disappeared quite frequently. A suggestion was made to use plastic signs.

The County is in the process of changing road names and signs. New posts are being put up as the new signs go up. The old posts had the road numbers on them; the new posts do not have the road numbers. It was noted that these road numbers should be going back up, and Alan Redden of DelDOT should be notified.

Mr. Wheatley - RPC's should go through TAC review process. (This will require an amendment to the Ordinance.)

A discussion ensued on RPC's and whether they should be subject to TAC review. Mr. Allen stated that initially the basis for RPC's was to encourage cluster housing and not to permit smaller lots for the purpose of increasing density. Mr. Schrader noted that the idea behind RPC's is high quality land development with open space.

Mr. Mills – No comments.

Mr. Hudson – No comments.

Mr. McCabe – No comments.

Mr. Wheatley – No comments.

Mr. Rickard discussed the increase in workload that the Planning & Zoning Department is experiencing. Mr. Rickard noted that a large part of the increase involves billboards.

Additional Business – Update from February 4, 1999 Workshop

1. Wall Signs and Billboards – The Board of Adjustment held a special meeting to try to come up with a square footage that is fair and reasonable. Regulations today provide for a certain signage for ground signs and a certain signage permitted per unit for retail shops (100 square feet per unit). The Board discussed what type/size of signage to allow for a solid wall (large department store/grocery store).

2. Commercial Setback Requirements

The Board of Adjustment considered setback requirements in the commercial zone. The Board receives a lot of requests for variances, especially from used car sales, boat sales, truck cap sales, etc.

No direction has been given.

3. Minor and Major Subdivision Revisions and Alterations

Public Hearings have been scheduled.

3. Commercial Feed Lot and Structures

This issue resulted from complaints received on a hog operation. Questions related to where the buildings, hogs, and fencing should be. Seems to be a major issue in the one neighborhood but nowhere else.

No action has been taken.

4. Conservation Zone

Public Hearings have been scheduled.

5. Subdivision Ordinance

The fees of New Castle and Kent Counties were compared to those of Sussex County.

A draft ordinance still needs to be prepared.

6. RPC Residential Planned Communities

It was the general consensus at this meeting that the TAC review should be a part of the RPC process. This will require that an ordinance be drafted.

7. TAC Advisory Committee

It was discussed that agencies are not participating in the meetings of this committee and that their input is essential to the review of an application. This concern was addressed to David Hugg, State Planning Coordinator, who has stated that he will try to get the agencies to participate more.

8. Transfer Development Rights

The TDR Committee met and gave a report to Council that they thought it would be beneficial if a representative from Whitman, Requardt & Associates or the Department of Agriculture come in and give a presentation to the County Council.

9. Mobile Home Placement/Medical Hardship

Public Hearings have been scheduled.

Mr. Rogers expressed his support of updating the application form.

Mr. Dukes questioned why the Planning & Zoning Commission does all of their voting at the end of the meeting instead of after each Public Hearing. Mr. Allen responded that the Planning & Zoning Commission has followed this practice for many years; primarily for the purpose of expediting the public hearing process and as a matter of public convenience.

Mr. Dukes reported on the positive remarks that he has received since Planning & Zoning, Assessment, and Building Code services have been centralized.

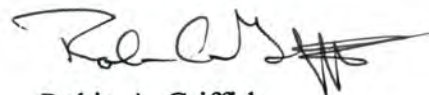
Mr. Dukes suggested that the County have representatives of agencies (i.e. Fire Marshals Office, DeIDOT, etc.) meet at the Administration Building on a particular day once a month to expedite the approval process of small (building code) projects, for example -- 5,000 square feet or less. Mr. Jones advised that this service is being investigated.

Mr. Cole advised that concern has been expressed over the parking formula applied to apartments in a recently adopted Ordinance. The concern focused on the fact that parking requirements for apartments and townhouses should not be the same. Mr. Cole asked that an ordinance be drafted to correct this problem.

Mr. Cole suggested that satellite County locations be considered as a convenience to taxpayers.

The Workshop concluded at 8:35 p.m.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council