



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF APRIL 21, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 21, 2005 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. Smith, and Mr. Wheatley with Mr. Robertson – Assistant County Attorney, Mr. Lank – Director, and Mr. Abbott – Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Gordy and carried unanimously to approve the Agenda as circulated.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of April 7, 2005 as amended.

Mr. Robertson read a statement explaining how the public hearings will be conducted.

PUBLIC HEARINGS

C/U #1607 – application of **MYRA MITCHELL AND CLIFF BURRIS** to consider the Conditional Use of land in a GR General Residential District for a painting contractor's business to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 20,322 square feet, more or less, lying southwest of Argo's Corner Road (Route 14), 300 feet northwest of Route One, and being more particularly described as Lot 7 of the John Farens Subdivision.

The Commission found, based on comments received from DelDOT, that the Department does not recommend that a traffic impact study be required; that the Department reviewed this application as a rezoning to C-1 General Commercial; that the Department is concerned regarding access to the property; that rezoning would be inconsistent with the State Strategies; and that, based on the Strategies, the Department recommends that the application be denied.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Sassafras sandy loam and Woodstown sandy loam; that the Evesboro and Sassafras soils have slight limitations for development; that the Woodstown soils have slight to moderate limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that the Sassafras and Woodstown soils are considered Prime Farmland; that there are no storm flood hazard areas or tax ditches affected; and that it may not be necessary for any on-site or off-site drainage improvements.

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The Commission found that letters were received from Frank and Helen Speilman and Wayne and Shelvor Strayer in opposition to this application.

The Commission found that Myra and Randy Mitchell were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they propose to use an existing 20' by 30' building on the site for painting and staining trim packages and shutters for new construction jobs; that there would be two employees on the site on a part-time basis; that Mr. Mitchell is a painter; that the only other business in the area is Taylor's Marine; that the dwelling on the site is a rental unit; that they own the property jointly with Cliff Burris; that the building will only be used on a part-time basis; that the use will be an extension of their business in Milford; that there will be no outside storage of materials; that they have not yet used the building for any business; and that there will be no sandblasting performed on the site.

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. Wheatley, seconded by Mr. Gordy, and carried unanimously to defer action to allow the Commission more time to consider the record.

Motion carried 4 – 0.

C/U #1608 – application of **LESLIE CARTER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a dog grooming business to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 1.39 acres, more or less, lying northwest of Road 468, 210 feet northeast of Road 489.

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Pocomoke sandy loam and Rumford loamy sand; that the Evesboro and Rumford soils have slight limitations for development; that the Pocomoke soils have severe limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that all three soil types are considered of Statewide Importance; that the Pocomoke soils are also considered Prime Farmland; that there are no storm flood hazard areas or tax ditches affected; and that it may not be necessary for any on-site or off-site drainage improvements.

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The Commission found that Leslie Carter was present and stated in her presentation and in response to questions raised by the Commission that she proposes to perform pet grooming; that she will groom 3 or 4 dogs per day; that there will be no boarding of animals over night; that the garage will be converted into a grooming area; that she proposes to be open 6 days per week from 9:00 a.m. to 5:00 p.m.; that there will be no Sunday hours; that there will be no employees; that she has been in business at this location for 1 and ½ years; that she would like to erect a small sign to advertise the business; that she has groomed most of the pets in the neighborhood; that she has not received any complaints about noise; that an area will be gated within the garage to keep the animals from running outside; and that there is minimal water usage.

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.

Mr. Gordy stated that he would move that the Commission recommend approval of C/U #1608 for Leslie Carter since the application would not have an adverse effect on the neighborhood and with the following conditions:

- 1) Business hours shall be from 7:00 a.m. to 9:00 p.m. Monday through Friday. There shall be no weekend hours.
- 2) One non-lighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.
- 3) There shall be no employees.
- 4) There shall be no outside kennels.
- 5) There shall be no over-night boarding of animals.
- 6) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated.

Motion carried 4 – 0.

C/U #1609 – application of **ROBERT RUTKOWSKI, JR.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for the sales of produce, nursery stock, flowers, and seafood to be located on a certain parcel of land lying and being in Gumboro Hundred, Sussex County, containing 11.7458 acres, more or less, lying north of Road 419, 900 feet east of Route 62.

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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 Sussex Conservation District, that the soils are mapped as Fallsington sandy loam, Pocomoke sandy loam and Woodstown sandy loam; that the Fallsington and Pocomoke soils have severe limitations for development; that the Woodstown soils have slight to moderate limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Fallsington and Pocomoke soils are considered of Statewide Importance and Prime Farmland; that the Woodstown soils are also considered Prime Farmland; that there are no storm flood hazard areas or tax ditches affected; that it may be necessary for some on-site or off-site drainage improvements due to the presence of Hydric soils with seasonally high water tables and increased impervious area; and that there may be regulated wetlands on site.

The Commission found that Robert Rutkowski, Jr. was present and stated in his presentation and in response to questions raised by the Commission that he sells produce and seafood from the site; that he plans on creating a u-pick area on the farm; that he has been in business for 3 years; that he has lived on the site for 4 years; that the existing building will be removed and replaced with a pole building; that the pole building will be located to the rear of the existing building; that his normal business hours during winter months are from 9:00 a.m. to 6:00 p.m.; that during summer months the hours are from 9:00 a.m. to 8:00 p.m.; that he is open 7 days per week; that he and his wife operate the business; that 99% of the seafood is received by delivery; that he has 2 signs on the property; that security lighting exists on the site; that he may install a motion detector light; that he has no plans on installing a septic system for the business; that they started the business by displaying produce on a table; that he does not have any permits or licenses from any agencies; that he has been inspected by the Health Department; and that his scales have been checked several times for weights and measures.

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

The Commission found that Ken Briggs was present, not opposed to a business, and expressed concerns about the condition of the site and the lack of maintenance; that he is concerned about safety issues, traffic, scrap lumber and pipes laying around on the site; that he is concerned about the quality of the building and questions the construction; and that the site is an eyesore.

The Commission found that Mr. Briggs submitted two photographs of the site.

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

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Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to defer action for further consideration of the record.

Motion carried 4 – 0.

Subdivision #2004-29 – application of **HARLEY W. TULL AND JERRY C. DUKES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 98.03 acres into 88 lots, located north of Road 46, 750 feet northwest of Road 517-A.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on October 20, 2004 and that the report will be made a part of the record for this application; that the applicants have met with the Office of State Planning Coordination through the P.L.U.S. process and that comments have been received; that a septic feasibility statement has been issued by DNREC and that the site is suitable for individual on site septic systems; that the restrictive covenants have been submitted; and that a revised plan has been submitted reducing the number of lots from 88 to 86.

The Commission found that Tim Willard, Attorney, Bill Chamberlain and Steve Engel of Vista Design Group, Wayne Tull and Jerry Dukes were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the applicants have met with the Office of State Planning Coordination and have received written comments; that they have not yet responded to the comments since they were just issued; that the plan has been reduced by 2 lots; that multi-modal paths have been provided throughout the project; that the subdivision is located in a country setting; that the site contains 1,600 feet of road frontage; that there are not any wetlands located on the site; that there are no forested areas on the site; that the area is mainly homes, farms and agricultural preservation lands; that there is no request for an increase of the density permitted; that the minimum lot size is $\frac{3}{4}$ acres; that the project

will be a low density single family development; that based on the Land Use Plan, the site is located in a low density area; that on-site septic and wells are proposed; that manufactured homes will not be permitted; that the proposed density is 0.87 lots/acre; that 21% of the site is open space; that a 30-foot forested buffer will surround the site; that sidewalks will be provided on at least one side of the streets; that there is one entrance proposed for the site; that the site is located between Georgetown and Seaford; that the development will provide for affordable housing in the area; that the project was reviewed by the Technical Advisory Committee; that the storm water management ponds have been designed smaller; that the project will utilize Best Management Practices; that the storm water management ponds will be planted with native vegetation and stocked with small fish to create wildlife and aquatic habitat; that the buffers will provide privacy from the adjoining surrounding properties; that a conceptual landscaping plan has been submitted as referenced on the preliminary plan; that the storm water ponds will be wet

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ponds and maintained by the homeowners' association; that the ponds will require low maintenance and act as a water feature; that street lights are not proposed at this time; that a homeowners' association will be established once 60% of the lots are sold; that the design of the project is sensitive to the area; that there will be a 30-foot buffer along Old Furnace Road; that a clubhouse and swimming pool are not proposed nor warranted due to the size of the lots; that there is adequate room to provide for a tot lot if required; that there will probably be a bus stop within the subdivision; that access to the existing McMullen site will be through this site; that the applicants will provide stub streets if required to do so; that the site is integrated into the area; that there are no flood plains located on the site; that there are not any historical or natural features on the site; that since there are not any trees on site, trees will be planted; that the topography of the site will not be altered; that there will not be any objectionable features located on the site; that safe pedestrian and vehicular movement has been provided for; that the project will increase property values to the area; that the deed restrictions are very strict; and that the project will not cause any negative effects to area waterways.

The Commission found that Frank Perdue, Pat Rowan, Dr. Brittany Hazzard, Sheldon Dennis, Mark Isaacs, and Jesse Robinson, all area residents, were present in opposition to this application and advised the Commission that they have concerns about negative impacts of the number of proposed septic and wells; that there is a grease pit located to the rear site and that the only access to this site is through the project; that the project will create additional traffic and that Old Furnance Road cannot handle the traffic that is on it now; that there are safety concerns along Old Furnance Road since there are motorists speeding along the road; that traffic will cause negative impacts to the intersection of Route 9 and Old Furnance Road; that the project is not needed due to the amount of available lots in the Georgetown and Seaford areas; that the proposed storm water management ponds could cause safety concerns for children in the area; raised concerns about the restrictive covenants proposed; that the subdivision would be out of character with the area since the area is mainly large farms and homes; that there is a shooting

range proposed for the area; that there are horse farms in the area and that the storm water management ponds will cause mosquito problems which could cause viruses for the equine in the area; that there are drainage problems in the area; that Route 46 does not have shoulders along the road; that the project may cause trespassing problems in the area; questioned who will maintain the buffer areas; that the project does not provide adequate recreational areas; that the storm water management ponds will not retain water during the dry months due to the amount of irrigation systems used in the area; that additional traffic will cause problems to an already bad situation; that there are many wildlife/vehicle accidents in the area; that the project should be similar to the Fox Subdivision which provides large parcels; that the area is hunted; and submitted written comments.

The Commission found, by a show of hands, that 7 people were present in support of this

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application.

The Commission found, by a show of hands, that 42 people were present in opposition to this application.

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

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to defer action and to leave the record open for 15 days so that the applicants may respond to the written comments received from the Office of State Planning Coordination and to leave the record open for both sides for 30 days after comments have been received from the Office of State Planning Coordination.

Motion carried 4 – 0.

Subdivision #2004-30 – application of **WILLIAM H. GRAVES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 3.44 acres into 2 lots, located east of Road 48, 1,500 feet northeast of Road 297.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on October 20, 2004 and that the report will be made a part of the record for this application.

The Commission found that Leroy Morris was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the applicant is out of town; that he proposes to create 2 lots and sell them; that the proposed street will be improved with crusher run; that individual on site septic systems will be utilized; and that the proposed street will be located on the east side of the site.

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

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

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

Motion carried 4 – 0.

OTHER BUSINESS

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Victor Davis
Revised Site Plan – Route 1

Mr. Abbott advised the Commission that the revised site plan is for the reduction of the driveway width, that the owner proposes to add an addition to the rear of an existing building; that the rear driveway width would be 20 feet; that the driveway would be one-way; and that the driveway located in the front of the building is existing at 20 feet which is also one-way.

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

Motion carried 4 – 0.

Alfred and Vaughn Melson
CU #1488 – Time Extension – Road 357

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Conditional Use was approved on June 3, 2003; that the Commission granted a one-year time extension on August 26, 2004 retro-active to the approval date; that this is the second request for an extension; and that this is the last extension that the Commission may grant.

Motion by Mr. Smith, seconded by Mr. Wheatley, and carried unanimously to approve a one-year time extension.

Motion carried 4 – 0.

Chip Brittingham

2 Lots and a 50' Right of Way – Road 266

Mr. Abbott advised the Commission that this is a request to create 2 lots with access from a 50-foot right of way; that the request was approved on October 14, 1987 and was never recorded; and that the request can be approved as submitted or an application for a major subdivision can be required.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to approve the request as submitted.

Motion carried 4 – 0.

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Elaine Moreland
Parcel and 50' Right of Way – Road 581

Mr. Abbott advised the Commission that this is a request to create a 3.68-acre parcel with access from a 50-foot right of way; that the owner proposes to widen an existing stone driveway to a 50-foot right of way and to extend the driveway to serve as access to the proposed parcel; and that the request can be approved as submitted or an application for a major subdivision can be required.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to approve the request as submitted.

Motion carried 4 – 0.

Meeting adjourned at 9:40 p.m.