

MINUTES OF THE REGULAR MEETING OF JANUARY 9, 2014

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 9, 2014, in the County Council Chambers, County Administrative Office Building in Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Michael Johnson (entered late), Mr. I.G. Burton, and Mr. Rodney Smith, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Agenda as circulated. Motion carried 3 – 0. Mr. Johnson was absent.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Minutes of December 12, 2013 as circulated. Motion carried 3 – 0. Mr. Johnson was absent.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Minutes of December 19, 2013 as circulated. Motion carried 3 – 0. Mr. Johnson was absent.

OLD BUSINESS

Change of Zone #1739 – Vance Phillips

Application of **VANCE PHILLIPS** to amend the Comprehensive Zoning Map of Sussex County from AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 16,150 square feet, more or less, lying northwest corner of U.S. Route 13 and Route 24 (Tax Map I.D. #3-32-1.08-39.00).

The Commission discussed this application which has been deferred since December 12, 2013.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1739 for Vance Phillips for a change of zone from AR-1 to CR-1 based upon the record made during the public hearing and for the following reasons:

- 1) The rezoning will bring this property into conformity with the other three (3) corners of the Route 13 and Route 24 intersection. The other three (3) corners have commercial zoning.
- 2) The location at the intersection of Route 13 and Route 24 is appropriate for CR-1 zoning. Route 13 is a major arterial roadway in Sussex County, and this intersection is one of the main access points to the Town of Laurel from the highway.

- 3) The rezoning will be consistent with the historically commercial use of the adjacent property. The next-door property has been used as an auto parts store for many decades, predating County zoning.
- 4) This site is located within a Town Center District according to the Sussex County Comprehensive Plan. CR-1 Zoning is an appropriate zoning for the Town Center District under the Plan.
- 5) The rezoning will not adversely affect neighboring properties, the community or area roadways.
- 6) No parties appeared in opposition to the application.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4 – 0.

PUBLIC HEARINGS

Conditional Use #1975 – Ronald and Susan Berwick

Application of **RONALD AND SUSAN BERWICK** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for auto repair and sales to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 1.06 acres, more or less, lying east of Road 225 (Marshall Street) 2,767 feet north of Road 207 (Johnson Road) and north of Jumping Jack Lane (Tax Map I.D. #3-30-15.00-20.01).

The Commission found that on October 4, 2013 DelDOT provided comments in the form of a Support Facilities Report referencing that a traffic impact study was not recommended, and that the current Level of Service “B” of Marshall Street will not change as a result of this application.

The Commission found that on January 6, 2014 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum referencing that the site is located in the North Coastal Planning Area; that the use of an on-site septic system is proposed; that conformity to the North Coast Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Ronald Berwick and Earl Rufflin were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that Mr. Berwick owns the property and Mr. Rufflin will be leasing the property for an auto repair and sales facility; that Mr. Berwick’s father started an automotive repair business on this site in 1944; that an automotive repair business existed on this site until approximately 2.5 years ago; that to be more specific the repair business was primarily a radiator shop; that Mr. Rufflin will be leasing the property to perform minor automotive mechanical repair work and offer vehicles for sale; that a security light already exists on the property and that they may

install additional security lighting on the building; that they anticipate that they will display 10 to 15 vehicles for sale, not to exceed 20 vehicles in the future; that Mr. Rufflin, his wife, and a part-time mechanic will work at the property; that proposed business hours are Monday through Saturday from 8:00 am to 6:00 pm, with no Sunday hours; that they will need a small sign since the Department of Motor Vehicles will required them to have a sign; that the mechanical work will include minor/light repairs, i.e. brakes, service, tune-ups, not major repairs or overhauls; that they anticipate that there may be 5 to 6 vehicles repaired per day; that a dumpster will be provided; that the smaller garage on the property will be used for storage only; that there are several other business and commercial uses in the area, i.e. oil company, construction company, rental company, another auto repair shop, a convenience store, a trucking/excavating company, etc.; that there is no intent to store junk vehicles; that a few inoperable vehicles can be stored behind the small garage within a fenced enclosure; that if any inoperable vehicles are stored on the site, it will only be temporarily; and that the primary intent is vehicles sales.

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

Motion carried 4 – 0.

OTHER BUSINESS

Nassau Feed & Grain

Preliminary Commercial Site Plan – Nassau Road

Mr. Abbott advised the Commission that this is a preliminary site plan for a 4-story, 60 foot tall office/retail and storage building located on 3.84 acres; that the building footprint contains 35,200 square feet and with 4 stories, the total square footage is 140,800 square feet; that 8,800 square feet is for office and retail space on the first floor; that the above floors will be used for storage; that the site is zoned C-1; that all setbacks have been increased by 1 foot for each foot over the height of 42 feet and meet the requirements of the zoning code; that 109 parking spaces are proposed; that 13 spaces are within the front yard setback and are subject to site plan review; that ingress/egress to the site is off of Nassau Road; that the project will be served by central sewer and water; that the site is not located in a flood zone and there are not any wetlands on the site; that the final site plan needs to contain a landscape plan for the 20-foot highway corridor overlay zone; that the site plan has been submitted to PLUS but has not been schedule for review yet; and that the Commission was previously provided a copy of the preliminary site plan.

The Commission discussed the site plan.

Mr. Johnson questioned the proposed 60-foot height.

Mr. Robertson advised the Commission that the proposed use is a public storage facility and is considered a public building, which is permitted to have a height of 60-feet.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to defer action until receipt of the PLUS comments. Motion carried 4 – 0.

**Atlantic Community Thrift Store
Preliminary Commercial Site Plan – Route 26**

Mr. Abbott advised the Commission that this is a preliminary site plan for an existing storage building and overflow parking for employee parking located on 1.43 acres; that the site is zoned B-1; that the existing block building will be used for storage for the adjoining thrift shop; that 16 parking spaces are proposed; that there are not any wetlands on the site and the site is not located in a flood zone; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the preliminary site plan.

The Commission discussed this site plan.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant preliminary and final site plan approval since all agency approvals have now been received. Motion carried 4 – 0.

**Green's Bus Service
CU #1908 Site Plan – Indian Branch Road**

Mr. Abbott advised the Commission that this is a site plan for storage and parking of transportation school vans located on 3.44 acres of land that is zoned GR; that this conditional use was approved on September 13, 2011 with 8 conditions; that the conditions are noted on the site plan; that the vans will be stored in the existing 2,090 square foot pole building; that 10 parking spaces are provided and marked for employee parking; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals and verification that the 2 parcels have been combined into one parcel, since 2 existing buildings cross the property lines; and that the Commission was previously provided a copy of the preliminary site plan.

The Commission discussed this site plan.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to grant preliminary approval of the site plan. Final approval shall be subject to the receipt of all appropriate agency approvals by the staff. Motion carried 4 – 0.

**White's Well Drilling
CU #1838 Site Plan – Road 279**

Mr. Abbott advised the Commission that this is a site plan for a well drilling business located on 6.0 acres of land that is zoned GR; that this conditional use was approved on December 14, 2010 with 6 conditions; that the conditions of approval are noted and depicted on the site plan; that 2 sand storage bins and 4 pipe racks are proposed, along with the existing building; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the preliminary site plan.

The Commission discussed this site plan.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to grant preliminary approval of the site plan. Final approval shall be subject to the receipt of all appropriate agency approvals by the staff. Motion carried 4 – 0.

**Stokely – Pettyjohn District
Agricultural Preservation District – Road 318**

Mr. Abbott advised the Commission that this is a site plan for an Agricultural Preservation District; that at the December 12, 2013 meeting, it was the consensus of the Commission that these applications be reviewed under other business items; that the site contains 395 acres total with 200 acres being crop lands and 195 acres of forested areas; that the crops are soybeans and corn; that the site is located on Country Club Road south of Road 321 and is zoned AR-1; that the Delaware Agricultural Lands Preservation Foundation approved this application on October 16, 2013; and that the Commission was previously provided a copy of the application from the Delaware Agricultural Lands Preservation Foundation.

The Commission discussed this Agricultural Preservation District proposal.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously that the Commission forward a recommendation to the Delaware Agricultural Lands Preservation Foundation that this application for an Agricultural Preservation District be approved. Motion carried 4 – 0.

**Apostolic Church of Jesus Christ
3 Lots and 50' Easement – Route 17**

Mr. Abbott advised the Commission that this is a request to subdivide a 2.90 acre parcel into 3 lots with access from a 50-foot easement; that the church is proposing to extend an existing 20-foot easement off of Route 17 and widen it across their lands to 50-feet to serve as access to the 3 lots; that an existing church is located on lot 1; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision; and that the Commission was previously provided a sketch drawing of the request.

The Commission discussed this minor subdivision.

The Commission found that Steve Atkins, Professional Land Surveyor, was present on behalf of the applicants and stated that he understands that the two rear lots are intended for residential use.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant approval of the concept to subdivide the property into 3 lots. It shall be noted that there shall be no further subdivision of the property unless an application is filed for a major subdivision. Motion carried 4 – 0.

**Grant Parker
Parcel and 50' Right of Way – Road 563**

Mr. Abbott advised the Commission that this is a request to create a 2.50 acre parcel with access from a 50-foot right of way; that the owner is proposing to create the right of way over an existing lane; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

The Commission discussed this minor subdivision.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the proposed subdivision concept as submitted. Motion carried 4 – 0.

**Faith Riale
2 Lots and 50' Easement – Road 303**

Mr. Abbott advised the Commission that this is a request to subdivide a 2.0 acre parcel into 2 lots with access from a 50-foot easement; that both of the lots will contain 1.0 acre and the owner is proposing to create the 50-foot easement over an existing driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

The Commission discussed this minor subdivision.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the proposed subdivision concept as submitted. Motion carried 4 – 0.

**Americana Bayside MR/RPC
Amended Phase 4 Site Plan**

Mr. Abbott advised the Commission that this is a revised site plan for an amenity area within Americana Bayside; that the Commission previously approved the site plan on March 6, 2013; that the revised site plan is for the removal of one volleyball court, the enlargement of an existing volleyball court and the addition of playground equipment; that since the project is a residential

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planned community, the Commission has to approve the site plan; and that the Commission was previously provided a copy of the revised site plan.

The Commission discussed this site plan.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve this amended site plan as submitted. Motion carried 4 – 0.

Meeting adjourned at 6:46 pm.