



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE SPECIAL MEETING OF MARCH 5, 2008

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, March 5, 2008 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. I. G. Burton III with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Mr. C. Shane Abbott and Mr. Richard Kautz – Land Use Planner.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of February 20, 2008 as amended. Motion carried 5 – 0.

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

PUBLIC HEARINGS

C/U #1728 – application of **MTC PROPERTIES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office, storage and steel truss manufacturing to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 24.83 acres, more or less, lying east of U.S. Route 13, 1,250 feet south of Road 583 (Adams Road).

Mr. Lank provided the Commission with copies of a packet of information provided by the Applicants. The packet included a cover letter, an aerial overview of the site, a Fire Marshall approval letter, a Sussex Conservation District approval letter, a copy of a filed notice of intent, a DelDOT approval letter, a DelDOT approval time extension, the DelDOT Support Facilities Report, a proposed office building layout, and copies of a revised site plan, approved entrance and stormwater management plans.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is not located in a County operated and maintained sanitary sewer district and/or water district; that the project proposes to use an on-site septic system; that the proposed project is not in an area where the County currently has plans to provide sewer service; that part of the project is in the Town of

Greenwood's Annexation Area; that the Department recommends that the applicant contact the Town of Greenwood for information regarding future water and sewer service to the parcels; and that a concept plan is not required.

The Commission found, based on comments received from the Sussex Conservation District, that the site contains 7 soil types; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that a portion of the site is located in a Flood Zone A; that a Tax Ditch may be affected; that it may not be necessary for any off-site drainage improvements; and that the Applicant shall have to follow all State Sediment and Stormwater guidelines.

The Commission found that David Miller, President of All-Span, was present with Matthew Metz of Charles D. Murphy Associates, and that they stated in their presentations and in response to questions raised by the Commission that this proposal is for expansion of the All-Span truss manufacturing facility; that they are planning on expanding the facility in two phases; that phase one will include the offices and the smaller warehouse, related parking, fire lanes, and stormwater management facilities; that phase two will include the warehousing and related stormwater management facilities expansions; that wetlands have been delineated; that no improvements are planned within 161-feet of the closest wetlands; that the existing dwelling structure to the southwest of the site will be utilized for a temporary office building; that the existing entrance is to be removed, seeded, and mulched upon completion of the proposed entrance; that DelDOT has required them to provide a cross access easement along their entire frontage for future access to neighboring parcels; that they presently have 70 employees and proposed to expand to 100 employees in the future; that operations hours are from 7:00 a.m. to 4:30 p.m.; that there are occasionally off-hour deliveries; that there are similar uses to the north; that the dwelling was formerly used as a day care center; that all fabrication is performed inside, none outside; and that raw materials and finished products (trusses) are stored outside.

Mr. Kautz stated that the site may be located in a well head protection area, due to the site previously being used as a day care center, and that the site is within an excellent recharge area.

The Commission found that George Isaacs was present in support and stated that the business is an asset to the community, the neighborhood and the County, and that the Applicants have been good neighbors.

The Commission found that there were no parties present in opposition.

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

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

C/U #1729 – application of **PAGE MELSON** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (2 units) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 43,558 square feet, more or less, lying west of Route 5, 700 feet south of Route 9.

Mr. Lank provided the Commission with a site plan for this application.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not required and that the existing Level of Service “C” of Route 5 will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is not located in a current County operated and maintained sanitary sewer and/or water district; that the site is located in the North Coastal Planning Area; that an individual on-site septic system is proposed to serve the 2-unit dwelling structure; that the proposed project is not in an area where the County currently has plans to provide sewer service; and that a concept plan is not required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Pepperbox-Rosedale complex; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any off-site drainage improvements; and that the Applicant will be required to follow all State sediment and stormwater guidelines.

The Commission found that Page Melson was present with Tim Willard, Attorney, and asked to present a packet of exhibits.

Mr. Robertson stated that the packet could be accepted since the exhibits relate to the presentation being presented.

The Commission found that the packet of exhibits included 2 photographs of the site, a copy of the survey of the site, a sketch of the garage as permitted, a tax map of the Harbeson area, a copy of Harbeson area from the proposed Comprehensive Plan Update, a copy of the listing of permitted uses, densities, and infrastructure referenced in the proposed Comprehensive Plan Update, a copy of a petition, and a copy of proposed conditions.

Mr. Melson and Mr. Willard stated in their presentation and in response to questions raised by the Commission that this application is for a 2-bedroom garage apartment; that the site is zoned MR Medium Density Residential; that the Harbeson area has a mixture of uses and zonings; that it is clear in the Comprehensive Plan Update that this type of use is appropriate; that Harbeson is in a proposed Developing Area according to the Comprehensive Plan Update; that that have received a petition with 11 signatures of area

residents in support of this application; that the garage was built 4 years ago and remodeled recently; that the garage structure was enlarged in length; that Mr. Melson lives in the dwelling; that a friend lives upstairs; that the garage apartment will have 2-bedrooms and a kitchen on the second floor; that Mr. Melson will still utilize the garage; that they are not aware of any other multi-family uses in Harbeson; that a 2-family unit did exist within ½ mile of the site; that Mr. Melson intends to continue to live in the dwelling; that his primary intent is to provide living space for his family; that a new well was drilled to serve the garage and the dwelling; that a septic system serves both the garage and the dwelling; that access to the garage apartment is from an outside stairs; that Mr. Melson will continue to maintain the property; that the living space in the garage is approximately 700 square feet; that separate utilities exist for the house and the garage; that they do not have proof of a DNREC permit; that the two units in the house existed when he purchased the property approximately 8 years ago; and that the proposed parking and driveway extension are solely for the use of the garage apartment tenant.

Mr. Lank advised the Commission that variances will be needed from the Board of Adjustment due to the setbacks of the garage.

The Commission found that Maida Graves was present in opposition and stated that she has lived in Harbeson for over 25 years; that multi-family use is not the nature of Harbeson; that there are no multi-family structures in the Harbeson area; that this dwelling was never used for multi-family; that this dwelling was a two story single family dwelling; that there was never a bathroom in the garage; and that she had contacted the DNREC and was provided with a letter that referenced that the Applicant has not applied for an authorization to utilize an existing septic system to serve both the dwelling and the garage and that no permit has been approved; and that it is the position of the Ground Water Discharges Section of DNREC that any request to allow greater flow to the existing system by adding onto the existing dwelling or allowing additional living space to be created by converting the use of existing non-living space be denied.

Ms. Graves provided a copy of the March 4, 2008 letter from the Ground Water Discharges Section of DNREC for the record.

The Commission found that Bob Lawson, President of the Harbeson Improvement Association, was present in opposition and stated that some of the members of the Association met with Mr. Melson on February 21, 2008 to discuss his applications; that 12 parties were present at the meeting, including Mr. Melson; that at the conclusion of the meeting the members voted to oppose the applications; that there are no multi-family uses in the Harbeson area; that this application does not depict the living space proposed; that he questions why DelDOT comments relate to Indian Mission Road; that if the Applicant lives on the first floor of the dwelling, and someone lives in the apartment on the second floor; and someone lives in the garage apartment there must be three units proposed, not two; that there was never an apartment on the second floor of the dwelling; and that he request notice of any action on this application.

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

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

C/U #1730 – application of **PAGE MELSON** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (2 units) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 20,000 square feet, more or less, lying east of Route 5, 900 feet south of Route 9.

Mr. Lank provided the Commission with a site plan for this application.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not required and that the existing Level of Service “C” of Route 5 will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is not located in a current County operated and maintained sanitary sewer and/or water district; that the site is located in the North Coastal Planning Area; that an individual on-site septic system is proposed to serve the 2-unit dwelling structure; that the proposed project is not in an area where the County currently has plans to provide sewer service; and that a concept plan is not required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Pepperbox-Rosedale complex; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any off-site drainage improvements; and that the Applicant will be required to follow all State sediment and stormwater guidelines.

The Commission found that Page Melson was present with Tim Willard, Attorney, and asked to present a packet of exhibits.

Mr. Robertson stated that the packet could be accepted since the exhibits relate to the presentation being presented.

The Commission found that the packet of exhibits included 2 photographs of the site, a copy of the survey of the site, a sketch of the garage as permitted, a tax map of the Harbeson area, a copy of Harbeson area from the proposed Comprehensive Plan Update, a copy of the listing of permitted uses, densities, and infrastructure referenced in the proposed Comprehensive Plan Update, a copy of a petition, and a copy of proposed conditions.

Mr. Melson and Mr. Willard stated in their presentation and in response to questions raised by the Commission that this application is for a 2-bedroom garage apartment; that the site is zoned MR Medium Density Residential; that the Harbeson area has a mixture of uses and zonings; that it is clear in the Comprehensive Plan Update that this type of use is appropriate; that Harbeson is in a proposed Developing Area according to the Comprehensive Plan Update; that they have received a petition with 11 signatures of area residents in support of this application; that the garage was built 4 years ago and remodeled recently; that the garage contains 900 square feet of floor area and approximately 700 square feet on the second floor; that a couple lives in the dwelling; that the garage apartment will have 2-bedrooms downstairs, a kitchen on the second floor, a deck and outside entry, and interior access to the second floor; that a new well was drilled to serve the garage; that a septic system serves both the garage and the dwelling; that Mr. Melson will continue to maintain the property; that separate utilities exist for the house and the garage; that they do not have proof of a DNREC permit; that the original garage had termite and carpenter bee damage and was torn down; that he rebuilt the garage on the same foundation; and that the original garage was approximately 40 to 50 years old.

Mr. Lank advised the Commission that variances will be needed from the Board of Adjustment due to the setbacks of the garage.

The Commission found that Maida Graves was present in opposition and stated that she has lived in Harbeson for over 25 years; that multi-family use is not the nature of Harbeson; that there are no multi-family structures in the Harbeson area; that she does believe that there was ever a bathroom in the garage; that someone is already living in the garage since lights are on at all hours; that she had contacted the DNREC and was provided with a letter that referenced that the Applicant has not applied for an authorization to utilize an existing septic system to serve both the dwelling and the garage and that no permit has been approved; and that it is the position of the Ground Water Discharges Section of DNREC that any request to allow greater flow to the existing system by adding onto the existing dwelling or allowing additional living space to be created by converting the use of existing non-living space be denied. Ms. Graves added that the letter submitted with Conditional Use No. 1729 included references to both sites.

Mr. Melson stated that his son lives in the garage apartment on occasion.

The Commission found that Bob Lawson, President of the Harbeson Improvement Association, was present in opposition and stated that his comments are the same as his comments in reference to Conditional Use No. 1729 and added that he stores equipment on his farm next to the garage building; that the original building was a pole building, with no bathroom and no doors when it was owned by the Veasey family; that he questions if permits were issued for the well and the septic; and that he opposes multi-family use in the Harbeson area.

Mr. Melson provided a copy of the invoice for the well.

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

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Subdivision #2006-58 – application of **WRIGHT H. PARKER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 20.09 acres into 19 lots, and a waiver from the forested buffer requirements, located north of Road 38, 1,700 feet east of Road 225.

Mr. Burton abstained from participating in this public hearing.

Mr. Abbott advised the Commission that this application was reviewed through the Technical Advisory Committee on April 18, 2007 and that he has not received any additional comments or correspondence.

The Commission found that Matthew Metz of Charles D. Murphy Associates was present on behalf of the application and stated in his presentation and in response to questions raised by the Commission that they are proposing 19 standard lots; that site built homes are proposed; that the developer lives adjacent to the site; that they are working with the Sussex Conservation District to limit forest removal; that they withdrawing their request for a waiver from the forested buffer requirements; that they will provide the buffers; that providing the buffers will probably eliminate 2 lots; that lots will not extend into buffer areas; that bio-swales are being proposed to avoid ponding; that the cul-de-sacs will be shortened; that they have not yet received septic feasibility; that space for a school bus shelter can be provided if required by the school district; that the area is basically strip lots along public roads; that they have not planned on providing sidewalks or street lighting; that the streets will be built to County specifications; that silt fencing will be removed upon completion of construction; and that the existing dwelling will be removed.

Mr. Kautz suggested that the Applicant should contact the State Historic Preservation Office and/or the County Historic Planner to inspect the dwelling for historic significance; and that the Applicant should submit a landscape plan and bonding to guarantee the plan.

The Commission found that there were no parties present in support of or in opposition to this application.

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action pending receipt of septic feasibility from DNREC. Motion carried 5 – 0.

Subdivision #2006-59 – application of **CLEMENT S. AND KRISTIE M. LEGATES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 5.66 acres into 5 lots, located at the northeast corner of the intersection of Road 319 and Road 250.

Mr. Abbott advised the Commission that this subdivision was not processed through the Technical Advisory Committee since it is a minor subdivision.

Mr. Abbott advised the Commission that DelDOT has voiced no objections to this application.

The Commission found that Clement S. LeGates was present and stated in his presentation and in response to questions raised by the Commission that he proposes to sell the lots for single family homes similar to the 3 homes that have already been built near the lots; that he had already create 4 lots and proposes these 5 additional lots; that all of the lots have been site evaluated for septic systems; that the existing lots have been improved with gravity septic systems; that he wants to maintain the same character of the area which includes Su-Sax Acres and Wagamons West Shores developments; and that he will probably only sell one lot per year.

The Commission found that there were no parties present in support of or in opposition to this Subdivision.

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

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant preliminary and final approval of this subdivision since it only involves strip lots; since there should be no negative impact on the neighboring properties or community; and since the lot sizes are appropriate and in character with the lots in this AR-1 area. Motion carried 5 – 0.

Meeting adjourned at 5:20 p.m.