



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF MARCH 8, 2012

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 8, 2012, 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, Mr. Rodney Smith, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, and Mr. Lawrence Lank – Director.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Agenda as amended by moving Old Business items to the end of the agenda. Motion carried 4 – 0.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to approve the Minutes of February 23, 2012 as amended. Motion carried 4 - 0.

PUBLIC HEARINGS

C/U #1924 – application of **COLONY POOL SERVICE** to consider the Conditional Use of land in an MR Medium Density Residential District for a public utility (above ground storage tank) to be located on a certain parcel of land and being in Baltimore Hundred, Sussex County, containing 2.19 acres, more or less, lying at the northwest corner of the intersection of Sanctuary Court within the Sanctuary Subdivision and Delaware Route One.

Mr. Lank reminded the Commission that the Commission had reviewed a revised site plan under Other Business on May 12, 2011 and again on June 9, 2011, at which time it was determined that the request needs to be the subject of an amended Conditional Use application; and that an Exhibit Booklet has not been provided.

The Commission found that DelDOT comments were not requested since this use is an accessory service use to an existing utility with access from an interior drive.

The Commission found that the Sussex Conservation District provided comments on February 23, 2012 in the form of a memorandum which references that there are two soil types on this parcel; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that it is possible that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments on March 2, 2012 in the form of a memorandum which references that the site is located in the North Bethany Expansion of the Bethany Beach Sanitary Sewer District; that an 8-inch lateral is located along the parcels frontage on Route One; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the proposal is to install an above ground chlorine storage tank; and that a concept plan is not required.

The Commission found that Josiah Wolcott, Attorney, and Timothy Kelly of Colony Pool Service were present on behalf of Colony Pool Service, submitted specification drawings of the proposed 6,250 gallon vertical tank, and stated in their presentation and in response to questions raised by the Commission that the tank is built like a thermos with a tank inside of another tank; that the tank will be above grade; that the product contained in the tank will be chlorine, basically common household bleach mixed with 90% water; that the product will allow Colony Pool Service and Sussex Shores Water Company to serve clients in the area, i.e. Sea Colony and others; that they have a similar tank in Wilmington to currently is the supply for the product and has to be trucked from Wilmington to the sites in Sussex County; that the company has a policy/procedure on safety and handling of the product; that the State performs regular inspections and testing of the sites, the drivers, and handlers of the product; that days and hours are seasonal from April 15 to October 15 typically five (5) days per week, Monday through Friday, with hours from 8:00 a.m. to 4:00 p.m.; that they serve and supply wastewater treatment facilities, municipalities, water utilities, and public and private swimming pool facilities; that the tank area will be enclosed with fencing; that truck deliveries to the site will occur approximately 3 to 4 times per season; that signage will be posted on the fencing to announce emergency contacts; and that the chlorine is acquired at Delaware City.

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. Smith, seconded by Mr. Ross, and carried with three votes to defer action for further consideration and to allow Mr. Wheatley to participate in the discussion. Motion carried 3 – 0.

C/U #1925 – application of **PIEDMONT LEASING** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office and trucking storage to be located on a certain parcel of land and being in Gumboro Hundred, Sussex County, containing 10.54 acres, more or less, lying at the northeast corner of Bethel Road (Road 54 and Road 414) and Parker Road (Road 415).

Mr. Lank advised the Commission that an Exhibit Booklet has not been provided.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report on October 13, 2011 which references that a traffic impact study was not required; that the current Level of Service “A” of Parker Road will not change as a result of this application; and that the current Level of Service “A” of Road 419 will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments on February 23, 2012 in the form of a memorandum which references that there are three soil types on this parcel; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that it is possible that on-site drainage improvements will be required; and that it is not likely that any tax ditches are affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments on March 2, 2012 in the form of a memorandum which references that the site is located in the Western Sussex Planning Area #5; that an on-site septic system is proposed; that conformity to the Western Sussex 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.

Mr. Lank advised the Commission that this site has a history of conditional use applications; that in 1984 the site was approved for a livestock market and that it was stipulated that all livestock pens be a minimum of 100 feet from all boundary lines; that in 1999 the site was approved for a stockyard and slaughter house and processing of livestock and that it was stipulated that all construction relating to the slaughter house operations shall be within the existing building; that no truck traffic shall utilize Road 415A; that the maximum number of animals processed in the slaughter house shall not exceed 26,000 per year; and that there shall be no Sunday business hours.

The Commission found that Howard Hudson, Attorney with Haller and Hudson, P.A., was present with Don Hayes, Operations Manager with Piedmont Leasing, submitted a summary of their testimony, and that they stated in their presentation and in response to questions raised by the Commission that Piedmont Leasing is a contractor that does the chicken catching for Perdue Farms; that they have approximately 450 employees in Sussex County; that they have 18 crews and three (3) members of management; that they use forklifts and have trailers that the forklifts are hauled on to and from the farms; that they propose to store 10 low boy trailers on the site for hauling forklifts; that they propose to store 30 forklifts in the existing buildings on the site on the weekend after the work week is over so that the forklifts will be out of the weather; that they will perform minor repairs and service work on the forklifts indoors during the work week and on weekends; that they will store no more than two (2) vans on the site for picking up crews if needed; that there will be no poultry storage or processing on the site; that no live animals or live animal products will be stored at the facility; that they are not for hire for maintenance or repairs for others since they only work, clean and repair their own equipment; that major repairs and or cleaning is sent to Eastern Shore Poultry since they are better suited for larger repairs; that the intended office space is for the use of the mechanics on site to store gloves, masks, and paperwork that crew leaders pick up weekly for the upcoming weeks; they there will be a FAX machine/copier to relay messages and updates to the manager that will oversee the facility; that a contract trucking service picks up the trailers with the forklifts and takes them out to a farm to catch the chickens; that the trucks are in and out of the facility approximately 15 times daily depending on breakdowns and distances to the contract farms; that normal catching hours are

from 2:00 p.m. to 9:00 p.m. Monday through Saturday; that there should be no more than 2 trucks parked on the site at any one time; that security lighting will be downward illuminated; that they have discussed fencing and landscaping, but have not yet made a decision; that a dumpster will be installed on an existing concrete pad; that the only regular employees on the site will be the three (3) mechanics; that restroom facilities already exist; that they are willing to create a landscape buffer along adjoining residential properties; and that the existing Conditional Uses will become void if this use is approved and established;

The Commission found that Sam Villari of S & J Villari Livestock, the sellers, was present and spoke in support of the application and stated that when the livestock company was active there were as many as 30 to 40 trucks per day handling the livestock.

The Commission found that Michael Famiglietta was present and spoke in opposition to this application and stated that he has concerns about the maintenance of the forklifts and the containment of oils and other fluids so that residential wells in the area are not impacted; traffic patterns and the maintenance of local roads, if impacted by the heavy truck traffic; security procedures, and the safety of children in the area.

The Commission found that Mr. Hudson and Mr. Hayes responded that they work with a licensed waste handling service for the disposal of all oils and fluids in the maintenance of the forklifts; that they perform primarily preventative maintenance on the forklifts; that the majority of the truck traffic will utilize Bethel Road; and that minimal traffic will utilize Road 415A to serve two existing poultry farms located on Road 415A.

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

Motion by Mr. Ross, seconded by Mr. Smith, and carried with three votes to defer action for further consideration and to allow the other Commission members to participate in the discussion if they so choice to participate. Motion carried 3 – 0.

OTHER BUSINESS

Lopez Vehicle Repair Facility
C/U #1901 Site Plan – U.S. Route 113

Mr. Lank advised the Commission that this is a site plan for a 2,269 square foot auto repair shop located on 14,613 square feet; that the Conditional Use was approved with 9 conditions on September 13, 2011; that the 9 conditions of approval are referenced on the site plan; that 6 parking spaces are required and provided; that the Sussex County Board of Adjustment granted an 8.43 foot variance for the side yard setback and a 32.22 foot variance from the front yard setback for building extensions on February 6, 2012; that on-site septic and well are proposed; that the site plan complies with the conditions of approval and the approved variances; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; and that the Commission had previously been provided with a copy of the site plan.

The Commission found that Mark Davidson of Pennoni Associates was present and advised the Commission that the Sussex Conservation District has approved the design of the underground stormwater management system, and that the northerly driveway is to be removed.

Motion by Mr. Smith, seconded by Mr. Ross, and carried with three votes to grant preliminary approval of the site plan with the stipulation that final site plan approval shall be subject to the staff receiving all appropriate agency approvals. Motion carried 3 – 0.

Life Church, Inc.
Preliminary Site Plan – Road 431 (Shortly Road)

Mr. Lank advised the Commission that this is a preliminary site plan for a 4,960 square foot church and a 1,200 square foot shed located on 3.0 acres; that the site is zoned AR-1 Agricultural Residential; that the church includes a 144-fixed seat sanctuary, an 80-seat fellowship hall and classrooms, office space, a nursery, and a kitchen area; that 36 parking spaces are required and 47 spaces are provided; that the setbacks meet the minimum requirements of the Zoning Code; that on-site septic and well are proposed; that no wetlands are being impacted; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; and that the Commission had previously been provided with a copy of the site plan .

Motion by Mr. Ross, seconded by Mr. Smith, and carried with three votes to grant preliminary approval of the site plan with the stipulation that final site plan approval shall be subject to the staff receiving all appropriate agency approvals. Motion carried 3 – 0.

OLD BUSINESS

Subdivision #2005-60 – application of **MANDRIN HOMES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 27.34 acres into 56 lots, (Environmentally Sensitive Development District Overlay Zone), located west of Road 381, 3,860 feet north of Route 54, and south of Dirickson Creek.

Mr. Lank advised the Commission that this is the final record plan for a 56-lot Environmentally Sensitive Developing District Overlay Zone subdivision application; that the Commission granted preliminary approval for 56 lots on October 17, 2007; that time extensions were granted on September 17, 2008, October 14, 2009, October 14, 2010, and August 9, 2011; that the final record plan complies with the Subdivision and Zoning Codes, and the conditions of preliminary approval; and that all agency approvals have been received.

Mr. Smith referenced Condition of Approval “Q” of the preliminary approval conditions which references that “the Environmental Review Coordinator from DNREC Natural Heritage and Endangered Species Section shall be allowed an opportunity to visit the site to update the May 2005 project review. The updated review report shall be submitted to the staff and members of the Sussex County Planning and Zoning Commission prior to approval of the final site plan. Additionally, the developer, as stated by the Applicant, will address issues involving the Assawoman Delmarva Fox Squirrel population in accordance with provisions of Section 7 of the Endangered Species Act, as part of obtaining a Corps of Engineers permit”.

Mr. Lank advised the Commission that he has not seen a report from the Environmental Review Coordinator.

Motion by Mr. Smith, seconded by Mr. Ross, and carried with three votes to defer action for further consideration by all Commission members. Motion carried 3 – 0.

C/U #1923 – application of **DONNA MASSEY** to consider Conditional Use of land in AR-1 Agricultural Residential District for a multi-family dwelling structure (2 Units) to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 35,000 square feet, more or less, lying at the west of Road 552 (Shufelt Road) ½ mile north of Route 20 (Stein Highway).

The Commission discussed this application, which has been deferred since February 9, 2012 pending Mr. Robertson's review of the restrictive covenants.

Mr. Robertson stated that he has reviewed the record and the deed restrictions, and that the deed restrictions do apply to the lots along Shufelt Road.

Mr. Ross suggested that since Mr. Wheatley and Mr. Burton were not present the application should be deferred for consideration by all Commission members.

Motion by Mr. Smith, seconded by Mr. Ross, and carried with three votes to defer action for further consideration by all Commission members. Motion carried 3 – 0.

Additional Business

Mr. Smith provided a website reference for all interested parties to read all documents entered by DNREC into the record at the March 1, 2012 public hearing presentation on proposed sediment and stormwater regulation revisions. The referenced website link is: <http://www.dnrec.delaware.gov/swc/pages/sedimentstormwater.aspx> and was acquired from DNREC.

Mr. Robertson stated that it may be necessary that all conditions of approval on subdivisions, residential planned communities, and conditional uses be incorporated into the final plats to clarify what conditions/stipulations were adopted when a project was approved.

Meeting adjourned at 7:25 P.M.