

## MINUTES OF THE REGULAR MEETING OF MARCH 21, 2013

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 21, 2013, 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, Mr. I.G. Burton, III, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

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

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to approve the Minutes of March 14, 2013 as amended. Motion carried 5 – 0.

### PUBLIC HEARINGS

**Change of Zone No. 1727** – application of **LOUIS D. O'NEAL** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to a CR-1 Commercial Residential District, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 1.10 acres, more or less, lying north of Road 466 (Sycamore Road) and east of U.S. Route 13 (Tax Map I.D. 2-32-12.00-107.00 and 106.02 (part of)).

The Commission found that the Applicant submitted copies of his deeds and surveys with his application. The application includes two parcel extensions, one containing 23,436 square feet on the north side of the existing parcel on U.S. Route 13, and one containing 24,986 square feet between the existing parcel and the Sussex County Paramedic Station on Sycamore Road.

The Commission found that DelDOT submitted comments in the form of a letter, dated January 23, 2013, which advises that the Applicant is only requesting rezoning for approximately one acre; that the rezoning is for an antique store; that the Department expects that an antique store would generate less than 400 trips per day or 50 trips during the p.m. peak hour; and that therefore a traffic impact study is not necessary for this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments on March 14, 2013 which reference that the site is not located in a proposed or current County operated and maintained sanitary sewer and/or water district; that the site is located in the Western Sussex – Laurel Growth Area; that use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study is required; that the site is not in an area where the County expects to provide sewer service; that the Applicant can contact the Town of Laurel for information regarding potential sewer service; and that a concept plan is not required.

The Commission found that Louis D. O'Neal was present and stated in his presentation and in response to questions from the Commission that he has an antique store on the existing C-I commercial parcel and is requesting approval to expand the size of the commercial space; that there are other commercial activities in close proximity; that he does not intend to sell the property; that he may lease a portion of the property; that he does not anticipate any adverse impact on traffic or property values; that there will be no change in the neighborhood or the community by the granting of this application.

Mr. Lank advised the Commission that there are commercial activities on all four corners of the intersection of U.S. Route 13 and Sycamore Road, along U.S. Route 13, and at the intersection of U.S. Route 13 and Route 9; that the commercial activities include the antique store, Laurel Junction, formerly Bargain Bill's, convenience stores, a restaurant; etc.

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

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

Mr. Ross stated that he would move that the Commission recommend approval of C/Z #1727 for Louis D. O'Neal for a change of zone from AR-1 to CR-1 based on the record made at the public hearing and for the following reasons:

- 1) This application is an extension of existing commercially zoned property. It is also adjacent to the Sussex County Paramedic Station. CR-1 zoning is appropriate for this site.
- 2) This site is at an intersection of Sycamore Road and U.S. Route 13 where all four corners have commercial zoning. It is also along a commercially zoned corridor of U.S. Route 13.
- 3) DelDOT has not objected to the rezoning, and it will not adversely affect traffic on area roadways.
- 4) This is a reasonable extension of the Applicant's business on adjacent property.
- 5) No parties appeared in opposition to the application.
- 6) The rezoning will not adversely affect neighboring properties or the community.

Motion by Mr. Ross, seconded by Mr. Smith, 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 5 – 0.

## OTHER BUSINESS

Americana Bayside MR/RPC  
Preliminary Site Plan – Village G – Route 54

Mr. Abbott advised the Commission that this is a preliminary site plan for 55 units located on 12.67 acres; that 27 single-family detached homes and 28 single-family duplex units are proposed for this phase; that the previously approved master plan was for 29 single-family lots, 3 townhome units and 22 single-family duplex units; that the proposed setbacks for both types of units is 20 foot front yard, 5 foot side yard and 10 foot rear yards, which the Commission

approved on March 22, 2012; that 110 parking spaces are required and provided; that this phase is located in an AE 6 flood plain; that there are not any wetlands on this phase; that the site plan is suitable for preliminary approval; that final site plan approval shall be subject to the review and approval of the Commission since the project is a residential planned community; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the site plan as a preliminary. Motion carried 5 – 0.

Ronald H. Sharp  
3 Lots and 50' Right of Way – Road 210

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from a 50 foot right of way; that the proposed lots would contain 0.79 acres, 0.88 acres and 2.14 acres; that the owner is proposing to create the 50 foot right of way over an existing private road; that the existing road is aggregate material; that the applicant created 2 strip lots with 150 feet of road frontage and retained 150 feet of frontage for the subject parcel; that 50 feet of frontage on either side of the right of way will be extensions to the 2 existing strip lots; that this site was the subject of a major subdivision application which the Commission granted preliminary approval for 3 lots on October 9, 2008; that at that time, the existing road did not exist and was therefore required to go through the major subdivision proves; that on January 14, 2009 the Commission agreed to permit the forested buffer to encroach onto the individual lots; that a landscape plan was submitted which the Commission based their approval on; that this is the same plan that was submitted for the public hearing but there is now a different engineering firm; that it seems as if the applicant is trying to circumvent the requirement of obtaining all agency approvals for the preliminary subdivision approval; and that the Commission was previously provided a sketch drawing on the request.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to deny this request as a minor subdivision. The preliminary approval for Subdivision #2007 – 12 is valid until January 1, 2016. Motion carried 5 – 0.

Helen Cameron  
2 Parcels and 50' Easement – Road 594

Mr. Abbott advised the Commission that this is a request to subdivide a 14.29 acre parcel into 2 lots and to create a 50-foot easement over an existing driveway; that Parcel A would contain a minimum of 0.75 acre and Parcel B would be approximately 13.50 acres; that both parcels have existing dwellings located on them; that Parcel B also contains 4 poultry houses; 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.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve this request as a concept. Motion carried 5 – 0.

Robert Atallian  
CU #1130 Amended Condition – Route 9

Mr. Abbott advised the Commission that this is a request to delete a condition of approval for this conditional use application that was approved on September 12, 1995; that this conditional use is for display and sale of antiques with related storage; that condition 3 states “No outdoor display of sale items shall be permitted between the parking area and Route 9”; that the owner is requesting that this condition be deleted to permit a seasonal produce stand on the site; that the proposed stand would be located in the area between Route 9 and the parking area; that temporary produce stands are a permitted use for a period not to exceed 6 months; that since the condition of approval originated with the Commission, the Commission has the authority to amend the condition; and that the Commission was previously provided a letter from the owner’s representative, a copy of the approved Ordinance and copies of the Minutes from the August 24, 1995 P & Z Meeting.

Bill Massy was present and advised the Commission that there are not any displays between Route 9 and the parking area approved for the conditional use.

It was the consensus of the Commission that the produce stand is a permitted use in the underlying AR-1 Agricultural Residential Zoning District; that the area between Route 9 and the parking area prohibits any displays for the approved conditional use and that there is not a need to delete the condition of approval since it does not apply to the proposed permitted use.

Meeting adjourned at 6:30 p.m.