



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE SPECIAL MEETING OF APRIL 30, 2008

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, April 30, 2008 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:05 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, and Richard Kautz – Land Use Planner.

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

OLD BUSINESS

2007 LAND USE PLAN UPDATE – AN ORDINANCE ADOPTING THE 2007 UPDATE OF THE COMPREHENSIVE PLAN FOR SUSSEX COUNTY AND REPEALING ORDINANCE NO. 1574, THE COMPREHENSIVE PLAN UPDATE, ADOPTED DECEMBER 10, 2002.

Mr. Lank provided the Commission with copies of letter from the Office of State Planning Coordination, dated April 23, 2008, in reference to PLUS 2007-11-11, the Sussex County Comprehensive Plan.

Mr. Lank also provided the Commission with a listing of suggested addendums for consideration from County Administration and the staff, which references State Resource Area maps; Energy Star certification building permit incentive; Additional height and density allowance for LEED certification; Density bonus for cluster developments; Green Community certification; Wastewater treatment overview language; and Map changes for consideration.

There was a consensus of the Commission to review the map changes requested by individuals first.

Mr. Lank referred to the set of maps that he submitted to the Commission for today's consideration at the regular meeting of April 24, 2008.

Mr. Lank advised the Commission that there have been 21 requests made for inclusion into Development Areas since the review process began; that of those 21 requests 8 of the areas have already been incorporated into the Future Land Use Plan Map; that those 8 areas, depicted with

yellow shading, include: Map #1- an area southeast of Road 585, northeast of Route 34 and west of Road 583 as extension to a Developing Area north of Bridgeville; Map #4 – an area east of Road 509, south of Road 508, on both sides of Route 54, on both sides of Road 504 and west of Delmar, which is an area being considered for a Sub-Area Planning Study area, as a Developing Area; Map #6 – an area west of U.S. Route 113 and on both sides of Route 16 west of Ellendale as a Developing Area; Map #7 – an area southwest of Route One, south of Road 234, east of Road 233, northeast of Road 235 and north of Route 16 in the vicinity of the Eagle's Nest Church and School as a Developing Area; Map #9 – an area on both sides of Route 9, both sides of Route 5, south of Road 259, north of Road 291 and west of Road 258 in the Harbeson area as a Developing Area; Map #10 – an area southwest of Road 261 at Road 261A and Pine Town, and west of Red Mill Pond as extension to the Environmentally Sensitive Developing Area; Map #13 – an area northwest of Route 17, southwest of Route 84 and on both sides of Road 373 as extension to the Environmentally Sensitive Developing Area; and Map #14 – the Johnson Corner Sanitary Sewer District boundary as extension to the Environmentally Sensitive Developing Area.

There was a consensus of the Commission that the 8 areas already included on the Future Land Use Plan Map be approved.

In reference to Map #2 (Area with Blue Shading) – an area on both sides of Route 78, on both sides of Road 487A, both sides of Road 485, both sides of Road 487, north of Broad Creek and northwest of Bethel.

Mr. Lank advised the Commission that there is no infrastructure serving this area and that the Town of Bethel has not yet completed its Comprehensive Plan.

Mr. Johnson stated that there have been reported environmental issues in this area.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to reject the inclusion of this area into the Map update. Motion carried 5 – 0.

In reference to Map #3 (Area with Blue Shading) – an area northwest of Route 24 and south of Road 494 east of the Sussex County Laurel Landfill.

Mr. Lank advised the Commission that there is not a Developing Area or a Town Center west of Laurel in close proximity to this area.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to reject the inclusion of this area into the Map update since the area is not near a Town Center or Developing Area of Laurel. Motion carried 5 – 0.

In reference to Map #4 (Area with Blue Shading) – an area north of Route 54, both sides of Road 509, both sides of Road 508, both sides of Road 504 and south of Road 503 and proposed as a extension to the area already incorporated on the Map and referenced above as an area being considered as a Sub-Area Planning Study Area.

Mr. Lank advised the Commission that this area is being requested as an extension to the already mapped Developing Area; that a Sub-Area Planning Study committee is being setup to study the area; that the committee includes representatives from the development community, DeIDOT, County staff, the Town of Delmar, Wicomico County, the Delmar School Districts, the Office of State Planning Coordination, etc.

Mr. Kautz stated that the committee has met once and will continue to meet, and that the study process should follow its course and then the Developing Area determined.

Mr. Wheatley recognized Brain Hall of the Office of State Planning Coordination.

Mr. Hall advised the Commission that the first step of the committee is to establish the boundaries of the Study Area and that it is their hope to have the Study completed within 6 to 9 months.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to reject the inclusion of this request and to revisit the area after the Sub-Area Planning Study is completed. Motion carried 5 – 0.

In reference to Map #5 (Area with Blue Shading) – an area north of Route 24 and being west of Road 449A and east of Laurel.

Mr. Lank advised the Commission that this area is not in close proximity to a Developing Area or a Town Center east of Laurel, and that no infrastructure is presently available.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to reject this request since it is not in close proximity to a Developing Area or a Town Center. Motion carried 5 – 0.

In reference to Map #6 (Area with Blue Shading) – an area east of Road 213, west of the Railroad and south of the Town of Ellendale.

Mr. Lank advised the Commission that this area is not within a growth area for the Town of Ellendale and is not within the Ellendale Sanitary Sewer District, and noted that the area is surrounded by both the adopted growth area of the Town of Ellendale and the Sewer District.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously that the area should be included as a Developing Area on the Future Land Use Plan Map since it is surrounded by the Town growth area and the Sewer District. Motion carried 5 – 0.

In reference to Map #7 (Area with Blue Shading) – an area north of Route 16, west of Road 233 and south of Road 235A.

Mr. Lank advised the Commission that this area was included as a part of a Developing Area in the 2002 Future Land Use Map, and that the Town of Milton revised their growth area in their most recent plans and deleted this area from their growth area.

Mr. Johnson stated that given the location on Route 16 and since commercial uses already exists across from the site, this area may be an appropriate extension to the Developing Area already mapped for the Eagles Nest area.

Mr. Lank advised the Commission that inclusion of this site with the Eagles Nest area could include this parcel and the triangular area between Route 16, Road 233 and Road 235 to tie into the Eagles Nest area.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously that this area and the triangular area between Route 16, Road 233 and Road 235 should be included as an extension to the Developing Area already mapped for the Eagles Nest area since it is close to the Town of Milton. Motion carried 5 – 0.

In reference to Map #8 (Area with Blue Shading) – an area east of Route 30 across from Road 251.

Mr. Lank advised the Commission that this area has already been approved as a cluster subdivision in the AR-1 District and that the project is titled “Hastings Hollow”.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to reject this request since it has already been approved for a cluster subdivision. Motion carried 5 – 0.

In reference to Map #9 (Area with Blue Shading) – an area east of Road 290 and south of Road 262.

Mr. Lank advised the Commission that this area was recently removed from the Agricultural Preservation District program and is being requested as an extension to the Harbeson area Developing Area discussed earlier; and that inclusion of this area would required incorporating other parcels to tie-in to the Harbeson area Developing Area.

Mr. Johnson stated that this area should be incorporated into the Harbeson area Developing Area and should include the area east of Road 258 south of Route 9 to Road 290, west of Road 290, then south along Road 290 across Road 262 to include this site and the adjoining parcels to the south of this site to Road 290 and then north to Road 291 to connect to the Harbeson area Developing Area.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously that this area should be included in the Future Land Use Plan Map as an extension to the Harbeson area Developing Area since existing subdivisions, preliminarily approved subdivisions, and existing commercial zoning already exists within this area. Motion carried 5 – 0.

In reference to Map #10 (Area with Blue Shading) – an area northwest of Route 88 and on both sides of Route One.

Mr. Lank advised the Commission that this area requested includes 3 parcels; that the parcels contain 600-foot of the Environmentally Sensitive Developing Area along Route 88 and Route One; and that the general area includes subdivisions, an RPC, commercial and business zoning.

Mr. Johnson stated that it seems reasonable to accept this area due to the close proximity to the RPC, the existing commercial and business zoning in the area, and that the parcels already include 600-foot of the Environmentally Sensitive Developing Area.

Mr. Lank suggested that if the Commission is receptive to inclusion of this area that the adjacent subdivision, residential parcels and commercial parcels to the southeast of the parcels be incorporated into the area since those parcels are adjacent to the existing boundary of the Environmentally Sensitive Developing Area at Old Mill Creek across from Red Mill Pond.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously that this area should be included in the Future Land Use Plan Map as an extension to the Environmentally Sensitive Developing Area and that the adjacent subdivision, the residential and commercial parcels to the southeast also be included since those parcels are adjacent to the existing boundary at Old Mill Creek across from Red Mill Pond. Motion carried 5 – 0.

In reference to Map #11 (Area circled in Yellow) – an area southwest of Route 5 between Route 47 and Route 48.

Mr. Lank advised the Commission that this area was the site of a rezoning to B-1 several years ago and is adjacent to several C-1 zoned parcels and that the owner is really asking for consideration of a rezoning, not inclusion in a Developing Area.

Motion by Mr. Johnson, seconded by Mr. Burton to reject this request of inclusion into a Developing Area since there are no nearby Developing Areas, and since this request would be more appropriate as a rezoning request. Motion carried 5 – 0.

In reference to Map #12 (Area with Blue Shading) – an area on both sides of Route 20, east of Road 432, north of Road 433, northwest of the Town of Millsboro, and also east and south of a Sussex County Landfill.

Mr. Lank advised the Commission that this area has been the subject of several discussions between the owners and the Town of Millsboro, and the owners and the County Engineering Department; that the area is immediately adjacent to the now closed Sussex County Landfill; that County Engineering is concerned about the area north of Route 20 due to the Landfill; that it has been reported that the Town of Millsboro does not want to consider the area until it begins its update of the Millsboro Comprehensive Plan scheduled for completion by 2009; that the Commission could reject the entire area, approve the area for inclusion, or reduce the size of the area; that if the Commission decides to reduce the area it should be limited to the area south of Route 20 and should also include the area around the three subdivisions already developing on both sides of Road 410.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to reject the inclusion of this request and to revisit the area after the Town of Millsboro reviews and adopts its Comprehensive Plan Update. Motion carried 5 – 0.

The Commission recessed for 20 minutes to allow the Commission time to review the suggested addendums and the letter from the Office of State Planning Coordination.

In reference to the Suggested Addendums:

The Commission was advised by Mr. Lank and Mr. Kautz that the Addendums are incentives in response to concerns expressed by the State in the review of the Comprehensive Plan Update; that the addendums can be incorporated into the Update as suggested Addendums; that editorial changes need to be made to incorporate the Addendums; that other editorial changes have already be found in the text of the document; that the SRA maps and references are being deleted from the Update; that Paul Driscoll of URDC is working on a Natural Areas Map to be incorporated into the Update; that all incentives are subject to possible Ordinances that will establish criteria for consideration of the Addendums; and that the Energy Star certification, the additional height and density allowance for LEED certification, and the Green Community certifications provide for incentives to encourage development in growth areas.

Mr. Wheatley stated that some of the LEED projects that he has been involved in may not go for certification, but are trying to meet the required criteria for certification due to the cost of becoming certified.

Brain Hall advised the Commission that the State DNREC is reviewing their regulations to streamline their processes; that the Department may create a tier or scoring system (checklist) for establishment of a Green Community; and that the checklist may include tree preservation, preservation of open space, preservation of wetlands, protection of the environment, setbacks and buffers, etc. to expedite the agency review process.

Mr. Johnson expressed concerns about density bonus and referenced that some projects are not supported now and may get less support if a density bonus is granted, and that he has major concerns about bonus density in the Environmentally Sensitive Developing Area.

Mr. Wheatley stated that a density bonus provides for an incentive for growth in Town Centers and Developing Areas and less incentive for developing in Agricultural Areas.

Mr. Gordy stated that he is opposed to the cookie cutter design of standard subdivisions.

Mr. Wheatley asked Michael Tyler if he would address the Commission on cluster development.

Mr. Tyler stated that cluster development is a bonus in itself since developers have to put in less streets, sewer lines and other infrastructure; that intergovernmental cooperation is necessary to make the Plan work; that an Adequate Public Facilities Ordinances should be established, and

that the Conditional Use concept helps since the Commission and County Council can impose conditions of approval.

Mr. Robertson suggested that a title be provided over the listing of Ordinances on Page 2-10 of the Update.

There was a consensus of the Commission that items 2 through 6 of the Suggested Addendums be incorporated into the Update.

Mr. Johnson stated that he is still concerned about density bonus.

There was a consensus of the Commission that the density bonus process should require a Conditional Use.

Mr. Robertson stated that it would be beneficial that a revised and marked-up Plan Update document be resubmitted for the Commission's review showing the corrections and changes.

Mr. Johnson stated that he is concerned about the timing of the public hearings and that the County Council should not have held its public hearings until after the Commission has made a formal recommendation.

Mr. Lank advised the Commission that the public hearings were scheduled the same way that Change of Zone and Conditional Use hearings are scheduled. An application is received; an ordinance is prepared; the County Council introduces the ordinance; public hearings are scheduled; a public hearing is held by the Commission; the Commission makes a recommendation or defers action; the Commission has 45 days to make a recommendation; the County Council holds a public hearing with or without a recommendation; if the Commission did not make a recommendation, the County Council defers action until the Commission makes a recommendation; and then the County Council makes a decision upon receipt of a recommendation.

Meeting adjourned at 5:50 p.m.