



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE SPECIAL MEETING OF MAY 31, 2006

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, May 31, 2006 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: Robert Wheatley, Benjamin Gordy, Rodney Smith, Michael Johnson and I.G. Burton with Rebecca Trifillis – Assistant County Attorney, Lawrence Lank – Director, and Shane Abbott – Assistant Director.

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

### OLD BUSINESS

**Subdivision #2003-2** – application of **WOLFE PROPERTIES, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 50.04 acres into 10 lots, located west of Road 453, 290 feet south of Road 454.

Mr. Abbott advised the Commission that this is a final record plan for Holly Branch II for 10 lots; that the Commission granted preliminary approval for 10 lots on June 26, 2003 and granted a one-year time extension on June 10, 2004; that the preliminary approval expired on June 26, 2005; that during this period, the project was sold to another developer; that the new developer was under the impression that the project had received final approval and was recorded; that the Engineering Department let construction begin; that the original developer was advised that the project had not received final approval and that the preliminary approval had expired; that an inspection of the site on April 28, 2006 confirmed that construction had begun; that the streets were cut in and staked, two large dirt piles were on site; and silt fencing had been installed; that the original developer has submitted all agency approvals that he thought he had submitted in 2005; and that the final record plan meets the requirements of the Subdivision Ordinance.

Mr. Lank added that upon receipt of a letter from the Engineering Department that bonding had been provided he forwarded a letter to the developer that lots may now be sold and building permits applications could be filed.

There was a consensus of the Commission that the project could be approved since all agency approvals had been granted.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously that the 10-lot subdivision be approved as a final. Motion carried 5 – 0.

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**Subdivision #2005-32** – application of **ERNEST DEANGELIS, JR.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 11.64 acres into 10 lots, located east of Route 30, 1,760 feet north of Road 319.

Mr. Abbott advised the Commission that this application for 10-lots has been deferred since April 27, 2006 pending receipt of the restrictive covenants; that the restrictive covenants have been received and reviewed by Mr. Robertson; and that the State DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision #2005-32 for Ernest Deangelis, Jr. based on the record and for the following reasons:

- 1) The subdivision is in accordance with the purposes of the Subdivision Ordinance including specifically Section 99-9( c ) of the Ordinance.
- 2) The restrictive covenants have been reviewed and approved.
- 3) DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.
- 4) The proposed subdivision will not adversely impact any neighboring or adjacent properties.
- 5) This recommendation for preliminary approval is subject to the following conditions:
  1. The entrance shall be subject to DelDOT approval.
  2. A Home Owners' Association shall be formed for the maintenance of all roadways, common areas, storm water management areas, erosion and sedimentation control facilities, and any buffer areas.
  3. The well on lot #8 must be moved.
  4. The restrictive covenants shall contain a notice that the property is adjacent to an active railroad right-of-way and existing or permitted commercial and industrial uses.
  5. No more than 10 lots shall be permitted in this subdivision.
  6. Road naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.

7. Final site plan approval shall be subject to the approval of the Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve this subdivision as a preliminary, for the reasons and with the conditions stated. Motion carried 5 – 0.

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**Subdivision #2005-34** – application of **POT-NETS LAKESIDE, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 38.00 acres into 82 lots, (Environmentally Sensitive Development District Overlay Zone), located northeast of Road 299 (Bay Farm Road), 125 feet northwest of Road 299A.

Mr. Abbott advised the Commission that this application for 82 lots has been deferred since April 27, 2006 so that the types of dwellings to be permitted in the project may be reviewed; that Mr. Bayard, the Applicant's attorney, sent a letter indicating that modular or sectional housing will be required and that manufactured homes are not permitted by the Zoning Ordinance; that central sewer and water will be provided; and that the number of lots has been reduced from 82 to 76.

Mr. Johnson stated that he was not present during the public hearing, but he did listen to the tape recording, visited the site and reviewed the file of record.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005-34, the application of Pot-Nets Lakeside, L.L.C., based upon the record and for the following reasons:

- 1) The proposed subdivision, a.k.a. Phase 6 of Lakeside, has been designed utilizing the Environmentally Sensitive Developing District Overlay Zone (ESDDOZ) Ordinance.
- 2) The project has been reviewed by PLUS; revised to incorporate some recommended changes and then again reviewed by PLUS. Improvements/enhancements such as additional interconnection roads to the existing Lakeside Park were made as well as a development concept, which is more environmentally friendly.
- 3) The proposed plan is superior to a standard development allowed under AR-1. The clustering of lots in an ESDDOZ allows the subdivision to incorporate smaller, more compact lots while maintaining a large amount of open space (45%), and preserving almost ½ of the forested areas, including the natural buffer to the wetlands.

- 4) The proposed development has favorably addressed all items listed in Chapter 99 Section 99-9( c ) of the Subdivision Ordinance.
- 5) The proposed subdivision is integrated into the existing terrain and surroundings.
- 6) The proposed subdivision will not adversely impacts schools, public buildings, and community facilities or area road ways and public transportation.
- 7) Private central sewer will be provided by Inland Bays Preservation Society.  
Central water will be provided by Long Neck Water Company.

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- 8) This recommendation is subject to the following conditions:
  1. No more than 76 lots shall be permitted within this subdivision.
  2. The Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the final plan.
  3. The stormwater management system shall meet or exceed the requirements of the State and County.
  4. No wetlands shall be included within any lot lines.
  5. All entrances and roadway improvements shall be constructed or funded in accordance with all of DelDOT's present and future requirements.
  6. A system of street lighting shall be provided throughout the project. The location of all streetlights shall be shown on the final site plan.
  7. Although not provided in older sections of the development, multi-modal paved pathways shall be provided on at least one side of the streets in this proposed development including the connector street to Bay Farm Road.
  8. Addressing and road naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
  9. The final site plan shall be subject to the review and approval of the Planning and Zoning Commission.
  10. Modular and sectional housing may be permitted. Manufactured housing shall not be permitted.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve this subdivision as a preliminary, for the reasons and with the conditions stated. Motion carried 5 – 0.

#### OTHER BUSINESS

##### **Royal Farms Market #123**

Revised Commercial Site Plan – Route 24 and Road 297

Mr. Abbott advised the Commission that this is a revised site plan for the inclusion of a 1,258 square foot automatic carwash; that the site plan was originally approved for a convenience store with gas pumps; that the carwash will replace three diesel gas pumps;

that the convenience store will remain; that the setbacks meet the requirements of the Zoning Ordinance; that all of the parking will remain the same as the previously approved plan; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

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**Conley's United Methodist Church**  
Preliminary Site Plan – Road 289

Mr. Abbott advised the Commission that this is a preliminary site plan for a 1-story 20,670 square foot church located on 20.93 acres; that the site is zoned AR-1; that there is an existing dwelling located on the site that will remain; that the setbacks meet the requirements of the Zoning Ordinance; that there are 400 seats proposed in the church; that 100 parking spaces are required and that 125 spaces are provided; that individual on-site septic and well will be utilized; that there is also an out building proposed that will be used to house church retreat attendees, which may require a Conditional Use application; that there are not any wetlands on the site and that the site is not located in a flood zone; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

The Commission found that Roger Gross of Merestone was present and stated that the site is unique and that the design meets the accessibility requirements of the fire regulations.

Mr. Lank advised the Commission that the out building may be utilized as a guest house and be permitted, and that a guest house cannot have any cooking facilities.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously that the site plan be approved as a preliminary, and that final approval shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals. Motion carried 5 – 0.

**Community Bank of Delaware**  
Preliminary Commercial Site Plan – Delaware Route One and Road 268

Mr. Abbott advised the Commission that this is a preliminary site plan for a 1-story 2,595 square foot bank located on 1.0 acre; that the site is zoned C-1; that DelDOT has issued a letter of “No Objection” for the entrance location; that ingress/egress to the site will be off of Road 268 (Kings Highway) and an existing egress off of Route One will remain;

that Sussex County will provide central sewer and central water will be provided; that the setbacks meet the requirements of the Zoning Ordinance; that 13 parking spaces are required and that 28 are provided; that all of the spaces are located within the front yard setbacks and need a waiver from the Commission; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

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Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously that the site plan be approved as a preliminary with a waiver in the parking, and that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

#### **Marathon Motel**

Preliminary Commercial Site Plan – U.S. Route 13 and Roads 46 and 532

Mr. Abbott advised the Commission that this is a preliminary site plan for a 50-room motel located on 4.92 acres; that the site is zoned C-1; that the setbacks meet the requirements of the Zoning Ordinance; that 75 parking spaces are required and provided; that 26 spaces are located within the front yard setback and need a waiver from the Commission; that ingress/egress to the site is off of Road 532 and Route 46; that there is not any direct access to U.S. Route 13; that an on-site septic and a well will be utilized; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously that the site plan be approved as a preliminary with a waiver in the parking, and that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

#### **Paynter's Mill MR-RPC**

Commercial Site Plan – Route 88

Mr. Abbott advised the Commission that this is a revised commercial site plan for the commercial area for the residential planned community; that the setbacks meet the requirements of the Zoning Ordinance; that the parking layout meets the Zoning Ordinance, and includes compact spaces per the recently adopted Ordinance Amendment; that the Sussex Conservation District, County Engineering and DelDOT had previously granted approvals; and that if preliminary approval is granted, final approval could be subject to the staff receiving approval from the Office of the State Fire Marshal.

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously that the site plan be approved as a preliminary and that final approval shall be subject to the staff receiving the approval from the Office of the State Fire Marshal. Motion carried 5 – 0.

**Rehoboth Beach Associates, L.L.C.**

C/U #1524 – Time Extension – Road 274

Mr. Abbott advised the Commission that this is the second request for a one-year time extension; that the County Council approved this Conditional Use on June 8, 2004; that the Commission granted a one-year time extension on May 26, 2005 and granted preliminary site plan approval on July 14, 2005; that the staff granted final site plan

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approval on May 19, 2006, however the use will not be substantially under construction by June 8, 2006; and that this is the last request that the Commission has the authority to grant.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension. The record shall show that this is the last time extension that the Commission can grant. Motion carried 5 – 0.

**Kevin Davis**

C/U #1534 – Time Extension – Road 473

Mr. Abbott advised the Commission that this is the second request for a one-year time extension; that the County Council approved the Conditional Use on May 18, 2004; that the Commission granted preliminary site plan approval on October 21, 2004 and granted a one-year time extension on June 9, 2005; and that this is the last request that the Commission has the authority to grant.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to grant a one-year time extension. The record shall show that this is the last time extension that the Commission can grant. Motion carried 5 – 0.

**Kaylor Property**

Lot and 50' Right-of-Way – Gills Neck Road

Mr. Abbott advised the Commission that this is a request to create a lot with access from a 50-foot right-of-way; that the owner proposes to create the right-of-way over an existing driveway; that a variance would be needed for the dwelling to meet the setback from the proposed right-of-way; and that if the Commission approves the proposal it should only be in concept or require an application for a major subdivision. Conceptual approval would be necessary since the dwelling will be too close to the right-of-way unless a variance is considered and granted by the Board of Adjustment.

Mr. Johnson stated that he feels that there is no need for a major subdivision application.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously that the request be approved conceptually and shall be subject to review and approval by the Board of Adjustment since a variance will be necessary for the setback from the proposed right-of-way. Motion carried 5 – 0

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**William Lee Wise**

2 lots and a Right-of-Way – U.S. Route 13A

Mr. Abbott advised the Commission that this is a request to subdivide a 1.0 acre parcel into 2 lots with access from an existing 24.8-foot wide right-of-way; that this proposal should be denied as submitted since the minimum right-of-way width requires 50-feet, that an additional 25.2-foot of right-of-way will need to be dedicated, and that if right-of-way can be dedicated, variances will be needed for the minimum lot depth and minimum square footage of the lots.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to deny the request as submitted. Motion carried 5 – 0.

Meeting adjourned at 3:32 p.m.