



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF JULY 10, 2008

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 10, 2008 in the County Council Chambers, County Administrative Office Building, 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. Benjamin Gordy, Mr. I. G. Burton III, Mr. Michael Johnson, Mr. Rodney Smith with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Richard Kautz – Land Use Planner.

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

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the Minutes of June 18, 2008 and June 26, 2008 as corrected. Motion carried 5 – 0.

### PUBLIC HEARINGS

Mr. Robertson described the process for holding the public hearings.

**C/Z #1651** – application of **CALDERA PROPERTIES – INDIAN RIVER V, LLC** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying southeast of Road 346A and 3,100 feet east of Road 346, to be located on 78.228 acres, more or less.

Mr. Robertson described the public hearing held on April 24, 2008 and reminded the Commission that this is a continuation of the April 24, 2008 hearings.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to reopen the public hearing for Change of Zone No. 1651. Motion carried 5 – 0.

Mr. Lank advised the Commission that the Applicants had submitted an Exhibit Booklet for the April 24, 2008 public hearings and that the Applicants had also submitted a larger Exhibit Booklet on June 30, 2008 for this continuation, and that the larger Exhibit Booklet contains references to the Project Team, an Executive Summary, references to conformance with the Zoning Ordinance, the Comprehensive Plan, Section 99-9C of the Subdivision Ordinance, a Nutrient Loading Assessment Protocol Work Sheet, and a narrative on Open Space.

The Commission found that Richard Polk was present on behalf of Caldera Properties – Indian River V, LLC with James Fuqua, Attorney, Jason Palkewicz of McCrone, Inc. and Edward Launay of Environmental Services, Inc. and that they stated in their presentations and in response to questions raised by the Commission that expressed thanks to the Commission and Ms. Barbara Murray and Mr. Michael J. Malkiewicz, Attorney, for allowing the continuation; and that they are very close to getting to an agreement with Ms. Murray on the location of the access easement to the site.

The Commission found that Mr. Malkiewicz agreed that they are close to agreement.

The Commission found that the representatives of the Applicants continued by stating that they are proposing a RPC overlay to allow for the construction of 71 single family detached condominium units with recreational facilities; that originally in the 1970s the site and some additional lands were approved as a MR-RPC titled Walter's Bluff; that the MR-RPC was voided for lack of construction; that in 2004 an application was filed for this site to be MR-RPC; the Commission recommended denial of that application; that the County Council approved the overlay with conditions; that the County Council decision was appealed to Chancery Court; that the Chancery Court decided that the County Council failed to state their reasons for granting approval; therefore, the Applicants have reapplied; that water will be provided by Tidewater Utilities, Inc.; that public sewer will be provided by Sussex County; that all cost for the sewer will be paid by the developer; that DelDOT did not require a traffic impact study; that they had a Cultural Resources survey performed and found a small cemetery on the site; that the cemetery will be delineated and maintained; that an Environmental Assessment was performed; that the wetlands have been delineated; that the site is located in an Investment Level 3 according to the State Strategies; that the site is located in the Environmentally Sensitive Developing Area according to the Comprehensive Plan; that the RPC calculation method equals a maximum of 77 units and that only 71 units are proposed; that the site and development proposed is in character with the area being developed; that the site is in close proximity to Tuckahoe Acres Campground, Holts Landing State Park; Ellis Point RPC, and other developments around Cripple Creek Golf and Country Club; that there is extensive residential use in the area; that there are some differences in this application and the application filed in 2004; that the cemetery will be delineated and maintained; that State wetlands have been re-delineated and that they have received approval of the boundary from the State DNREC; that the 50-foot wide buffer line has been corrected to match the new line; that some of the building sites have been relocated on the site plan; that in response to the PLUS comments all boat docks, piers and boardwalks have been deleted; that they are still trying to resolve the access issues with Ms. Murray; that this application relates to the access easement resulting in no encroachment into wetlands by the proposed access road; that they are proposing to use sand filters for storm water management facilities maintained with Best Management Practices, rather than ponding; that sidewalks are proposed on one-side of the streets; that a clubhouse and pool will be provided; that landscaping will be installed along the Murray property; that the only access to the project will be through the Murray property; that the Applicants have no problem with the Commission leaving the record open until a decision is rendered on the access easement location; that all of the units have a view of the water, except for the units along the Murray property; that the units will be condominium units and no lots are being created; that a upland roadway eliminates the disturbance of wetlands; that the units will have two-car garages; that the State DNREC was opposed to the original plans; that the application for the original wetlands crossing has been withdrawn from DNREC

consideration since it could take a minimum of 6 to 9 months to satisfy DNREC; that there are 16 acres of uplands; that the overall boundary has changed since the previous boundary went out into the water; that a 50-foot setback is proposed from all tidal wetlands; that the sidewalks are proposed on one side of the streets to reduce impervious surface; that additional parking spaces are proposed throughout the project; that the sewer pump station is proposed to be located near the clubhouse and that the location shall be subject to approval of the County Engineer; that the access entrance will be gated; that that access road is proposed to have a landscaped median; that all wetlands and the original accessway are proposed to be dedicated to a conservation easement; that the Applicants have no objection to a requirement that silt fencing be placed at the 50-foot buffer setback from tidal wetlands; and that when a property owner owns all of the lands along a right-of-way an administrative abandonment may be approved by DelDOT to abandon a portion of State road right-of-way.

The Commission found that Mr. Fuqua provided copies of suggested proposed Findings of Fact and Conditions of Approval.

The Commission found that Michael Malkiewicz spoke on behalf of Ms. Murray and stated that Ms. Murray's mother purchased the property in 1936; that the official site plan of the access road location being considered is the access road plot titled "Concept Plan A" dated July 9, 2008; that Mr. Fuqua has accurately described the application; that they have had several meetings, phone calls, and E-mails addressing the access road; that Ms. Murray's reasons include protection of the wetlands and the safety of the residents in the project; and that they are very close to resolution of an agreement.

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

The Commission found that Mr. Polk responded that the silt fencing will remain on the site until the site is fully stabilized and released by the Sussex Conservation District, and that they are willing to incorporate markers designating the wetlands line.

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

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to defer action for further consideration and to leave the record open for 30-days for submission of an agreement to the location of the access easement. Motion carried 5 – 0.

**C/Z #1657** – An ordinance to modify Condition No. 10 imposed on Ordinance No. 1573 for Change of Zone No. 1475, the application of Ribera-Odyssey, LLC for "The Peninsula", a MR-RPC Medium Density Residential District – Residential Planned Community, to extend the time to construct and open for use the golf clubhouse and nature center facilities.

The Commission found based on comments received from the Sussex County Engineering Department Utility Planning Division that the site is located in the Long Neck Sanitary Sewer District; that the current system connection charge rate is \$3,252.00; that conformity to the North Coastal Planning Study will be required; that sanitary sewer is supplied by the County; that the

County Engineering Department has no objections to the proposed date change; and that a concept plan is not required.

The Commission found that comments were submitted on the soil types and suitability for entire "The Peninsula" project from the Sussex Conservation District.

The Commission found that letters in support of the time extension were received from Roger E. Zuckerman, Bruce Goldstein, David M. Kanter, John T. Stovall, Joseph Tropiano and Stan Jensen, Doug and Terri Pauls, Steven G. Friedman, Robert and Jacqueline Krauss, Diep Lavu, John and Susan Gee, Neal M. Mayer, Jerry and Ann Norton, Rhoda Sherman, Betsy and David Bruning, John W. Sroka, Nancy and Jim Pierce, Ellen and Chuck Shmelzer, Ken Truitt, Merrill Cohen, Bruce Vinik, Jack and Alice Blanett, Isabelle and Jim O'Donnell, and Ian Hume.

The Commission found that two (2) letters were received in opposition to this application from Richard L. Abbott, Esquire, of the Abbott Law Firm, LLC, representing Dennis and Carolyn Silicato, and Dennis Baxter expressing concerns about the lack of a clubhouse for the development; that the County Council approved the project with a schedule of construction items; that the schedule of construction was imposed to insure a timely completion of amenities; that the developer failed to build the clubhouse before the real estate market went bad; that the developer's reasoning for requesting more time is that it miscalculated when it agreed to the deadline for construction; that this is not an adequate basis to delay any longer; that hundreds of homeowners relied on a clubhouse within 2-years; that no guarantee of clubhouse completion is provided, i.e. no bonding; that the request comes too late since the 2-year deadline for completion of the clubhouse ran a number of years ago; and questioning if the request is granted, will the developer be in violation of the Full Disclosure Act of the Housing and Community Development Act since Title XIV of the Interstate Lands Sales Full Disclosure Act Section 1404 addresses the requirements relating to the sale of lots and certain representations.

The Commission found that Larry Goldstein of Peninsula at Long Neck, LLC was present with Jim Fuqua, Attorney, and that they stated in their presentations and in response to questions raised by the Commission that they are requesting to modify existing Condition No. 10 of the Conditions imposed on Change of Zone No. 1475 for the project; that the project contains 1404 units of a mixture of residential types of structures; that the rezoning was approved by the Sussex County Council in November 2002 with 21 Conditions of Approval; that they are requesting a modification to extend the time based on the number of units sold; that extensive recreational and other amenities have already been constructed; that the golf course was open to play in April 2006 along with the golf shop, post office, Terrace Grille Restaurant, and fishing pier; that the aquatic center (outdoor pool and Spa A) opened in May 2006 and Spa B and the wave lagoon and beach opened in May 2007; that the athletic center opened in October 2006 with the fitness center, aerobic room, indoor pool and spa, youth activities room, men and women's massage and locker rooms, and men and women's showers and saunas; that the water taxi pier and Bay beach opened in May 2006; that the Nature Center boardwalks opened in May 2007; that the community pathways are 75% complete and open; and that the nature trails opened in May 2007; that the clubhouse and nature center have not yet been built; that County staff have inspected the site and found the amenities to be substantially completed except for the clubhouse and nature center; that the reasons for their requests is economics since we are in a possible recession which

has caused a downturn in the housing market and since the downturn is not yet over; that Condition No. 2 of the Conditions of Approval referenced that "Residential Certificates of Occupancy shall not exceed 300 per year" and that if the market continues as it had there would have been 1,200 units on the site by now; that approximately 400 units have been completed; that the facilities are not needed at this time since residents are not yet there to support the facility; that a second economic impact could be on the residents of the project; that in November 2007 they held a meeting with the Homeowners to consider when to build the clubhouse; that the E-mails received are in support of a continuation of time to stay building the clubhouse; that the developer and the residents would all like to see the clubhouse built, if feasible; that they request a modification that the clubhouse construction begin upon a total of 500 members of the project and that the Nature Center be built upon completion of the clubhouse; that they anticipate that it will take 18 months to complete the clubhouse; that the golf course is a private country club with 400 members; that it cost the developer approximately \$3,000,000 to maintain the golf course annually; that all landowners/unit owners become members of the club; that they have three (3) types of memberships; that presently there are 60 golf members of the 400 members of the club; that the first resident moved into the project in August 2005; that the Nature Center can be constructed in 5 to 7 months; that the Nature Center building will be an environmentally designed building; and that the proposed modification of Condition No. 10 is intended to be modified by adding "Except that the golf clubhouse shall commence construction when 500 memberships have been attained and the nature center shall commence construction upon completion of the golf clubhouse".

The Commission found that Mr. Fuqua submitted 22 photographs of the amenities and an aerial photograph of the site and surrounding area.

The Commission found that John Kurpuweit, a permanent resident in The Peninsula spoke in support of the request and stated that he is in support of all of the amenities; that the development is a great place to live; that he can't wait for the clubhouse; and that he is willing to wait for the clubhouse due to the economic impact and would prefer to pay his fair share with 1,400 members, not 400 members.

The Commission found that there were no parties present in opposition to 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 #1739** – application of **ERIC SUGRUE, BIG TRIPS, LLC** to consider the Conditional Use of land in a GR General Residential District for multi-family dwelling structures (6 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.66 acres, more or less, lying northeast of Road 270A (Munchy Branch Road), 3,000 feet northeast of Route One.

The Commission found that prior to the meeting the Applicants provided an Exhibit Booklet and that the Booklet contained a listing of the project team, site maps, a site data sheet, a site layout, photographs, and supporting information.

The Commission found based on comments received from the County Engineering Department Utility Planning Division that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that Ordinance No. 38 construction will be required; that the current system connection charge rate is \$4,132 per EDU; that the parcel has been served with one 6-inch lateral which is not adequate for the proposed use; that installation of additional laterals or extensions of mainline sewer onto the site is required; that conformity to the North Coastal Planning Study 2005 Update will be required; that the proposed project is within system design assumptions for sewer service; that the proposed development will require a developer installed collection system in accordance with County standard requirements and procedures; that the County Engineer must approve the connection point; that depending on the project's design and site-specific details that are unknown at this time, it may be possible for the project to utilize additional laterals to be installed by the developer; that the Engineering Department requires that a sewer concept plan be submitted for review and approval; that the existing dwelling on the parcel must be properly disconnected and inspected by the County prior to removal, demolition, site work or issuance of a building permit; and that one-time system connection charges will apply.

The Commission found based on comments received from the Sussex Conservation District that the soils on the site are mapped as Downer loamy sand and Longmarsh and Indiantown soils; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that the site is located on Munchy Branch; that the Applicant will be required to follow all State and Federal Wetlands Guidelines; that the Longmarsh soils are considered to be hydric soils; that no storm flood hazard areas are affected; that it may not be necessary for any off-site drainage improvements; that the Downer soils have a high run-off potential; and that there are no tax ditches affected.

The Commission found that eight (8) letters in opposition and a petition containing 109 signatures in opposition had been received prior to the public hearing expressing concerns about development of more than one dwelling on the site; that the proposed construction is inconsistent with the character of the neighborhood; that public safety issues involving Munchy Branch Road need to be addressed; that environmental hazards given the proximity of the wetlands/flood plain area need to be considered; that the site is surrounded by single family developments of one and two story dwellings; that buildings of 42-feet in height will be inconsistent with the surrounding area and could depreciate property values; that Munchy Branch Road is a narrow two lane road with no room for pedestrians or bicyclists; that traffic is very heavy on Munchy Branch Road; that the site contains and is adjacent to wetlands and is also in a floodplain; that a precedent could be established by the approval of this project; questioning the impact on the private wells in the area; that the impact by runoff onto the wetlands and floodplain should be a concern; questioning if capacity is available for additional units on the sewer system; that the developer has not properly maintained the property since it's purchase; that the project will impact the wildlife in the area. Letters were received from Lucia Gomez and Ellan R. Hylton, Mabel E. Holley, Vice-President of Fieldwood Owners Association, John Howard, D. Fay Marsh, Jennifer

Flinchbaugh, Kenneth Walz, President of Shady Ridge Homeowners' Association, Randy Gross, and Diana and Michael Robertson.

The Commission found that Doug Warner of Element Design Group was present on behalf of the application and stated in his presentation and in response to questions raised by the Commission that the Applicant proposes to build 6 residential dwelling units within 3 – 2-story buildings; that the site contains 1.66 acres in the GR General Residential District; that central sewer will be provided by the County; that central water will be provided by Tidewater Utilities, Inc.; that the cost of construction will be less by creating 3 buildings than creating a subdivision with individual dwellings on lots; that 0.6 acre of forest land exists and 0.4 acre of wetlands exists on the site; that the wetlands on the site are non-tidal; that no wetland disturbance is intended; that the proposed density equals 3.6 units per acre; that GR General Residential Zoning allows for up to 4 units per acre; that the units are proposed to contain 1,800 square foot of living space; that the parcel could be subdivided into 5 lots; that they are proposing a 50-foot wide buffer setback from the centerline of Munchy Branch, a 40-foot building setback from Munchy Branch Road, and 40-foot separation between the buildings; that they are proposing a 24-foot wide pavement with curbing for access; that small storm water management features are proposed between the buildings; that the driveways will be built in compliance with County standards; that parking will be provided with 2 spaces per unit and 1 space in each garage; that the storm water management features will not contain water; that according to the County Engineering Department 6.64 EDUs have been allotted to this site; that C-1 General Commercial and B-1 Neighborhood Business Districts exists in close proximity and include a truck salvage yard, auto parts sales, a roofing company, and a graphics shop; that there are several multi-family projects in the general area and include Beach Haven, Sea Bright, and Creekwood; that there are no flood plain issues; that the site can be prepared to comply with the requirements for 99-9C of the Subdivision Code; that silt fencing will be provided per the requirements of the Sussex Conservation District; that no by-pass lanes are normally required for this number of units by DelDOT; that DelDOT has stated that a 5-foot wide dedication will be required along Munchy Branch Road; that a multi-modal path may be required and is intended; that the units will have similar construction as the units in the Sea Bright project; that an outfall will be established from the storm water management features by swale or pipes to the Branch; that Best Management Practices will reduce the Nitrogen and Phosphorus on the site; and that a Condominium Association will be established to control and maintain the site.

The Commission found that no parties were present in support of the application.

The Commission found that Mike Robertson, Kathleen Steighner, Fay Marsh, Joan Deaver and Helena Dove were present in opposition and expressed concerns that Shady Ridge Subdivision, which is across Munchy Branch from the site is at a lower elevation than the site creating concerns about runoff; that the site is surrounded by single-family projects; that there are no sidewalks or bikepaths along Munchy Branch Road; that the Shady Ridge Subdivision is a single-family development that does not permit multi-family use; that a precedent may be set if the use is approved; that the use could negatively impact the sewer system; that they are concerned about the slope and curve of Munchy Branch Road at the Branch; that traffic is a major concern; that if the Applicant had maintained his property prior to this application there may not have been as much opposition; that traffic accidents are a concern; that it does not

appear that there will be adequate parking on site; that front doors and garage doors face the neighboring property, not Munchy Branch Road; that the view from Munchy Branch Road will be the side of the buildings; that the number of units on such a small parcel is excessive; that they are concerned about the safety at the entrance to the site; that there is no turn around proposed on the site; that the safety of children is a major concern; and that they would prefer single family use of the property.

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

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

**C/U #1740** – application of **CYNTHIA A. BRITTINGHAM AND MONROE E. BRITTINGHAM, JR.** to consider the Conditional Use of land in a GR General Residential District for a community center to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 41,651 square feet, more or less, lying northwest of Road 291 (Martin Farm Road) and northeast of West Meadowview Drive within Cool Spring Farms Subdivision, and 200 feet southwest of Road 262 (Fisher Road).

The Commission found that prior to the meeting the Applicant submitted an Exhibit Booklet and that the Booklet contained referenced to the purpose of a Conditional Use, the Comprehensive Plan, the tax maps, a site plan and survey, photographs, a DelDOT letter of no objection to the entrance, a copy of the State Fire Marshals License for public assembly, a copy of the Certificate of Occupancy for the building, copies of the Community Civic Center, Inc. Certificate of Incorporation, Organization chart, and by-laws, a memo signed by Joseph R. Hudson and Stanley Thompson, the original developers of Cool Spring Farms, a copy of a community petition in support of the application, and suggested proposed Conditions of Approval.

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; that an individual on-site septic system is proposed; that conformity to the North Coastal Planning Area Study will be required; that the County is currently conducting a planning study for the North Coastal Area; that the study is scheduled to be completed in 2008; that the County currently has no schedule to provide service to this project; and that a concept plan is not required.

The Commission found based on comments received from the Sussex Conservation District that there are 3 soil types on this parcel; 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; and that it may not be necessary for any off-site drainage improvements.

The Commission found based on comments received from DelDOT that this site shall have access from the existing entrance along West Meadow Drive, as shown on the site plan; and that the lot will not be permitted direct access to Road 291.



The Commission found that Monroe Brittingham was present with Tim Willard, Attorney, and Dwayne Powell of First State Community Action Agency and that they stated in their presentations and in response to questions raised by the Commission that the building has been built on the site; that the building is not yet being utilized for a community center; that the area does not have any recreational facilities; that the use is of a public or semi-public character and is essential and desirable for the general convenience and welfare of the community; that a private club is a listed Conditional Use; that according to the Comprehensive Plan single-family residential housing is appropriate, together with such churches, commercial, recreational facilities and accessory uses are may be necessary or are normally compatible with residential surroundings; that DelDOT has reviewed the expansion to the site for the community building and advised that a traffic impact study is not required and that no additional entrance improvements will be required; that the building has a seating capacity for 96 seats; that according to the State Fire Marshal the building has a capacity for 131 people; that the site has been fenced with chain-link fencing; that the building can be utilized for after school programs, youth programs, computer use and tutoring; that the use could also serve the residents of Pinetown, Jintown and Belltown; that the building could also be utilized for weddings, receptions, neighborhood meetings, and senior citizen functions; that the Applicants envisioned building the center to serve the community; that a small snack kitchen exists in the building with no cooking facilities; and that the petition in support contains 157 signatures.

The Commission found that Mr. Willard submitted letters in support from Betty K. Trammell and Sonia L. Johnson.

The Commission found that Virginia Harmon, Peter Cox, Joan Deaver, and Monroe Davis were present and spoke in support of the application and referenced that the use will have a positive impact on the young people in the community; that the use can provide an extension to their education; that a need exists in the community for a center; that counseling can be provided; that the use will provide activities and services to the community; that the building is an enhancement for the children in the area; that children need something to look up to and be active; that the use should create a positive change in the area and should improve the future of the youth in the area.

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

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

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1740 for Cynthia A. Brittingham and Monroe E. Brittingham, Jr. for a community center based upon the record and for the following reasons:

- 1) The proposed uses are generally of a public or semi-public character and are essential and desirable for the general convenience and welfare of the community.
- 2) The proposed uses should have a positive impact on the neighborhood, community and County at large.
- 3) This recommendation for approval is subject to the following conditions:
  - a. The Conditional Use shall be known as the Cool Spring Community Center ("Center").

- b. The Center shall be a facility available for public use by non-profit organizations, youth organizations or privately for community events.
- c. All government regulations, licensing and permitting including the Fire Marshal, Division of Public Health, DNREC, DelDOT and State Child Care Licensing shall be adhered to and obtained as necessary.
- d. Gatherings at the Center shall only occur between the hours of 7:00 a.m. until 12:00 p.m.
- e. All tenants of the Center shall be required to sign a lease, the terms of which will require a Director of the Community Civic Center, Inc. or his or her designee to be present during any gatherings and to be responsible for monitoring the event to ensure that the terms of this Conditional Use permit are met.
- f. There shall be one sign identifying the building located at the entrance and one on the building with directional lighting.
- g. A dumpster shall be located in the rear of the property and shall be fenced and landscaped accordingly.
- h. The Center shall not be rented or used for dance parties or night club activities with loud music and alcohol sales.
- i. There shall be no parking on Martin Farm Road or Fisher Road.
- j. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

**Subdivision #206-73** – application of **ANTHONY SPASATO** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Georgetown Hundred, Sussex County, by dividing 261.99 acres into 400 lots, (Cluster Subdivision), located south of Road 252 (Huff Road), 2,500 feet east of Road 319 (Sandhill Road).

The Commission found that prior to the meeting the Applicant had provided an Exhibit Booklet which contains references to the Project Team, an introduction, an Executive Summary, references to compliance with 99-9C of the Subdivision Code, a copy of the response to the PLUS comments, an Envirotech report on existing conditions, a copy of the proposed Comprehensive Stormwater Ponds and Riparian Buffers Management and Maintenance Program for the project, a copy of a letter from Artesian Resources, a Wetlands Delineation Report from Ten Bears Environmental, LLC, and a Traffic Impact Analysis from The Traffic Group.

Mr. Lank advised the Commission that the Technical Advisory Committee comments were received before or on June 20, 2007, the cut-off date for receipt of comments.

Mr. Lank summarized two letters that were received in support of the application from Doug Brown, Director of Development for The Carl M. Freeman Companies, and Rick Huff.

The Commission found that Anthony Sposato and family were present with Dennis Schrader, Attorney, Jessica Nichols, P.E., and Tom Bartosiewicz, P.E., of Meridian Architects and Engineers, and Todd Fritchman of Envirotech and that they stated in their presentations and in response to questions raised by the Commission that the site is zoned AR-1 Agricultural Residential and permits 2.0 dwelling units per acre under the Cluster Concept; that they are proposing 1.5 dwelling units per acre; that the site is partially tilled and partially wooded; that 393 lots are now proposed with a typical lot square footage of 10,000 square feet; that the Comprehensive Plan depicts the site in a Low Density Area; that according to the State Strategies the site is located in an Investment Level 4 area; that streets are proposed to be built to County specifications and maintained privately; that Artesian Resources will provide central water and central sewer; that the traffic impact study indicated that there are adequate roads to serve the project; that there are 22.32 acres of wetlands on the site and that the wetlands will not be disturbed; that the revised plans indicate that they have reduced sidewalks from both sides of the streets to one side to reduce impervious cover; that they are proposing a nice environmentally designed project; that they have been discussing plans to develop this site for over 4-years; that the pond along Huff Road will have landscaping around it that should eliminate trash accumulation in the pond; that DelDOT is requiring widening of Huff Road with shoulders; that sidewalks can be provided on both sides of the streets if required; and that they have no objection to a condition that a "hunting notice" be incorporated into the deed restrictions.

The Commission found that no parties were present in support of the application.

The Commission found that Bonnie Steele, an adjacent property owner, was present in opposition to the application and expressed concerns about the impact of central sewer on her private well, buffer maintenance, the impact on the wildlife in the area, road improvements, questioning if the storm water management ponds would be fenced; that a gated community would be preferred; that other developments already exists along Huff Road, questioning if monitoring wells can be installed, and that the site is located in a flight path for the Georgetown Industrial Airpark.

The Commission found that Mr. Schrader responded that sanitary sewer will not be treated or disposed of on this site and that it will be treated and disposed of near Milton at the Artesian site already approved through the Conditional Use process.

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

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

## REORGANIZATION

Mr. Wheatley appointed Mr. Lank as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Lank opened nominations for Chairman.

Motion by Mr. Johnson, seconded by Mr. Gordy to nominate Mr. Wheatley as Chairman.

Motion by Mr. Smith, seconded by Mr. Gordy that the nominations for Chairman be closed.  
Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Wheatley as Chairman with 5 Yea.

Vote by roll call:

Mr. Burton: Yea  
Mr. Johnson: Yea  
Mr. Gordy: Yea  
Mr. Smith: Yea  
Mr. Wheatley: Yea

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Smith, seconded by Mr. Johnson to nominate Mr. Gordy as Vice-Chairman.

Motion by Mr. Wheatley, seconded by Mr. Smith that the nominations for Vice-Chairman be closed. Nominations for Vice-Chairman were closed.

Motion was adopted to nominate Mr. Gordy as Vice-Chairman with 4 Yea and 1 abstaining.

Vote by roll call:

Mr. Burton: Yea  
Mr. Johnson: Yea  
Mr. Wheatley: Yea  
Mr. Smith: Yea  
Mr. Gordy: abstaining

The meeting was turned over to Mr. Wheatley, the re-elected Chairman.

Mr. Wheatley appointed Mr. Lank as Secretary for the Commission.

Mr. Wheatley authorized Mr. Lank – Director, Mr. Abbott – Assistant Director, Mr. Shockley – Environmental Planner, and Mrs. Shari Collins – Clerk III Technician to sign record plots for recordation on behalf of the Commission.

Meeting adjourned at 11:35 p.m.