

MINUTES OF THE REGULAR MEETING OF JULY 25, 2013

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 25, 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. Rodney Smith, and Mr. I.G. Burton, with Mr. Vincent Robertson – Assistant County Attorney, and Mr. Lawrence Lank – Director.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Agenda as circulated. Motion carried 3 – 0.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Minutes of July 11, 2013 as amended. Motion carried 3 – 0.

OLD BUSINESS

Conditional Use #1966

Application of **STEVEN T. JAMES, dba PRECISION PAINTBALL** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a paintball facility and other sports related activities, to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 12.9 acres, more or less, lying north of Asketum Branch Road (Road 422) 1.0 mile west of Bryan's Store Road (Road 435)(Tax Map I.D. 1-33-8.00-1.00).

The Commission discussed this application which has been deferred for further consideration since July 11, 2013.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1966 for Steven T. James, dba Precision Paintball for a conditional use for a paintball facility and other sports related activities based on the record made at the public hearing and for the following reasons:

- 1) The use as a paintball facility will occur on a very limited basis and will not have an adverse effect on neighboring properties, roadways, or the community.
- 2) When not in use, the operation's netting is lowered to the ground and the obstacles are removed. As a result, the property will have the appearance of an open field when not in use.
- 3) There are currently no paintball facilities in Sussex County. This will serve a need for such a facility in Sussex County for County residents who participate in the sport.
- 4) The use will occur on only a small part of a 12.9 acre site, and the playing field is set back approximately 300 feet from the front property line.
- 5) There are no dwellings in close proximity to the site.

- 6) No parties appeared in opposition to the application.
- 7) This recommendation is subject to the following conditions:
 - a. The use shall be limited to paintball and other sports related activities. As stated by the applicant, the other activities shall include soccer, lacrosse or other sports or games that can occur within the confines of the paintball playing fields and the netting.
 - b. As stated by the applicant, the facility shall only be open on Fridays, Saturdays, Sundays and legal holidays.
 - c. One unlighted sign shall be permitted, not to exceed 32 square feet in size per side.
 - d. As stated by the applicant, the use will only occur on the front portion of the property. As a result, the area of the conditional use shall run from the frontage of the property along Route 442 to a parallel line 1,200 feet north of Route 442. Said line starts at an iron pipe set that same distance from Route 442 along the westerly boundary of the subject property. The Final Site Plan shall show the location of this line and the area of Conditional Use No. 1966.
 - e. The Final Site Plan shall be subject to the review and approval of the County Planning and Zoning Commission.

Motion by Mr. Smith, 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 3 – 0.

PUBLIC HEARING

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, VI, X, XI, XIA, AND XII OF THE CODE OF SUSSEX COUNTY BY DELETING THE CONDITIONAL USE LANGUAGE FOR CIRCUS AND CARNIVAL GROUNDS, AMUSEMENT PARK OR MIDWAYS, INSERTING A BROADER DEFINITION OF SPECIAL EVENTS TO BE DEFINED AS CONDITIONAL USES IN AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS, GR GENERAL RESIDENTIAL DISTRICT, B-1 NEIGHBORHOOD BUSINESS DISTRICT, C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND M MARINE DISTRICT, AND TO SUBJECT ALL SPECIAL EVENTS, REGARDLESS OF DURATION, TO THE SUSSEX COUNTY SPECIAL EVENT POLICY

Mr. Lank advised the Commission that they had previously been provided with a copy of the proposed Ordinance.

Mr. Lank read the Synopsis of the Ordinance which references that the Ordinance amends Chapter 115, Article IV Section 115-22, Article VI Section 115-39, Article X Section 115-79, Article XI Section 115-79, Article XIA Section 115-83.5, and Article XII Section 115-87, Conditional Uses, by deleting in their entirety the definitional paragraphs pertaining to “Circus or carnival grounds, amusement park or midways...” in each of the forgoing provisions and inserts a broader new definition of “Special Events” in each of the foregoing sections. The Ordinance

further provides that: (1) all Special Events lasting no more than three (3) days shall be subject to the conditional use process; (2) Special Events, as defined in the Ordinance and lasting more than three (3) days, are not subject to the conditional use process and, upon application, may be approved by the Director or his designee; (3) and all Special Events, regardless of duration, shall be subject to the Sussex County Special Event Policy.

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

The Commission discussed this Ordinance.

Mr. Robertson advised that Commission that the Special Event Policy has already been adopted.

There was a consensus understanding of the Commission that this Ordinance will clarify and update the 3-day event rule that was previously in the Code.

Mr. Burton stated that he would move that the Commission recommend approval of this Ordinance to amend Chapter 115, Articles IV, V, X, XI, XIA, and XII of the Code of Sussex County as described during the public hearing.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that the Ordinance be approved as circulated. Motion carried 3 – 0.

OTHER BUSINESS

Dorothy Arlene Sammons & Others Parcel & 50' Easement – Road 551

Mr. Lank advised the Commission that this is a request to create a 6.715 acre parcel with access from an existing 50-foot wide easement; that this would be the second parcel having access from the easement; that this request may be approved as submitted, or an application for a major subdivision can be required; that the residual acreage has over 1,300 feet of road frontage; that a sketch had previously been provided; and that on July 16, 2013 DelDOT approved the entrance location.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve this request as submitted. Motion carried 3 – 0.

Stephen Tyndall & Matthew Tyndall Lot & 50' Easement – Road 62

Mr. Lank advised the Commission that this is a request to subdivide a 9.001 acre parcel into 3 lots with access from a 50-foot right-of-way; that Lot 1 will contain 2.639 acres, Lot 2 will

contain 2.375 acres, and Lot 3 will contain 3.987 acres; that the 50-foot easement will be created over an existing 15-foot wide gravel driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; that a sketch drawing had previously been provided; and that on July 16, 2013 DelDOT approved the entrance location.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve this request as submitted. Motion carried 3 – 0.

**Baywoods GR/RPC
Sales Office Site Plan – Route 24**

Mr. Lank advised the Commission that this item was deferred at the July 11, 2013 meeting; that this is a preliminary site plan for a 4,900 square foot sales center, parking and outdoor gathering area located on 3.20 acres within the Baywoods Residential Planned Community; that 28 parking spaces are in front of the proposed building with an additional 105 spaces for overflow parking; that the building setbacks meet the requirements of the Zoning Code; that the building will be utilized as a new home sales center; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; that the Commission was previously provided a copy of the site plan; and that the location of the parking area is across from and in close proximity to the existing parking areas serving the clubhouse and pro shop for the Baywoods golf course.

The Commission found that Robert Tunnell III was present on behalf of Baywoods with Jason Palkewicz, Professional Engineer with Solutions IPeM, LLC and stated that the parking area has been used for several years as an overflow gravel parking area for tournaments or special functions at the clubhouse; that they are in the process of changing builders and are proposing this sales center; that the only gathering intended is for real estate functions (sales events and display area, i.e. landscaping, pavers, etc.); that erosion and sediment control approvals have been obtained; that the Office of the State Fire Marshal has granted approvals; and that the entrance will be through an existing curb-cut on Greens Way, the entrance off of Route 24 to the project; and that there will be no additional entrances off of Route 24.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve this site plan as a preliminary, and that the Final Site Plan shall be subject to the staff receiving all agency approvals. Motion carried 3 – 0.

Meeting adjourned at 6:26 p.m.