



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE SPECIAL MEETING OF AUGUST 6, 2008

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, August 6, 2008 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: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. I. G. Burton III with Ms. Rebecca Trifillis – Assistant County Attorney, Mr. Lawrence Lank – Director, Mr. C. Shane Abbott – Assistant Director, and Mr. Richard Kautz – Land Use Planner.

The purpose of this special meeting is for the Commission to consider suggested proposals of possible future ordinances relating to: a) Revised Open Space Definition; b) Superior Design Criteria Proposal; and c) “Supergreen” Criteria Proposal.

Mr. Lank advised the Commission that the County Council is going to hear a report on the DNREC “Super Green” criteria at the County Council meeting of August 19, 2008.

In reference to a Revision Open Space Definition.

Mr. Kautz advised the Commission that representatives of the State DNREC suggested that the County might want to consider the definition for “Open Space” referenced on page 25 of the Super Green Report.

The Commission discussed Open Space in general.

Mr. Lank stated that the DNREC definition is similar to the definition offered by URDC and includes references to passive and active recreational definitions.

Mr. Wheatley stated that storm water management ponds are normally larger than needed for materials to be used on-site; that the DNREC criteria does not include storm water management ponds as open space; that existing ponds could be considered as open space; and questioned if storm water management ponds with recreational features could be considered as open space, i.e. fountains, fishing, boating, etc.

Mr. Johnson stated that some ponds need aeration and that fountains may provide aeration.

Mr. Gordy stated that ponds with fishing and boating capabilities should be considered as open space.

Mr. Burton questioned if the size of the ponds could be a consideration.

Mr. Wheatley stated that natural ponds are not a problem if establish as open space; that developers will not oversize the storm water management ponds if they cannot calculate them as open space; and that “active” open space or recreation should be defined, not “passive” open space or recreation.

Mr. Kautz stated that we may need performance criteria and that the open space ordinance should include areas to be used for recreation, whether passive or active; referenced rain gardens; and referenced #7 of the criteria from URDC, which references that “portions of land less than 30-feet wide” should not be used to meet minimum open space requirements, and that the Comprehensive Plan Update references 75-feet width.

Mr. Wheatley stated that rain gardens have visual qualities and could still be left out of open space calculations.

Mr. Wheatley stated that sidewalks should be a part of open space calculations.

Mr. Burton agreed that they help calculations for open space.

Mr. Johnson stated that the Comprehensive Plan Update and the proposed ordinance contradict one another; that if a definite open space use is intended a pond should be considered as open space; and that ponds allowing non-motorized boats, fishing, etc. and/or improved with fountains should be acceptable.

Mr. Lank stated that Chapter 115 and Chapter 99 need to be amended with the same criteria.

Mr. Gordy stated that if a pond has a definite recreational use it should be considered as open space, and that ponds should be developed to look natural.

Mr. Smith expressed a concern about nuisance waterfowl, and that some storm water management ponds are not practical to be used for recreation.

Mr. Wheatley stated that more than likely every pond will be developed for recreation if it is allowed to be calculated as open space, and that open space affects density.

There was a consensus of the Commission that storm water ponds not be allowed to be calculated as open space.

The Commission discussed wetlands, whether isolated, tidal or non-tidal.

Mr. Johnson stated that all wetlands can be a part of calculations for open space, but not density.

There was a consensus of the Commission that wetlands should not be used for calculation of density.

There was a consensus of the Commission that some of the Super Green criteria should be consolidated with the open space definition from URDC; to not define passive recreation or active recreation; and that utility facilities are not appropriate as open space or for calculation.

Mr. Lank reminded the Commission that tidal wetlands are not calculated for density in RPCs.

Mr. Lank summarized Chapter 115 Article IV Section 115-20 A (7) & (10) which reference recreational uses.

There was a consensus of the Commission that sidewalks could be a part of an open space calculation if the sidewalks are outside of a right-of-way.

Mr. Smith questioned if open space should be permanently preserved by deed restriction or conservation easements.

In reference to Superior Design Criteria

Mr. Lank stated that he expected to see a much larger document relating to superior design based on the Comprehensive Plan Update, and acknowledged that the document prepared by URDC was designed for thought.

Mr. Kautz agreed that the Comprehensive Plan Update has more language than this document.

Mr. Gordy stated that he is concerned about the lack of reference to open space and size.

Mr. Lank questioned if the many references to 40% is a national standard.

Mr. Wheatley questioned who establishes what minimizes disturbance to highly important wildlife corridors/habitats; that picking 4 criteria may be difficult to determine if a project is superior in design; and that picking 6 out of 11 criteria may be more appropriate.

Mr. Kautz stated that the criteria are not similar to the Comprehensive Plan Update criteria and that the Update referenced that a yield plan is necessary.

Mr. Wheatley stated that a yield plan should be required.

There was a consensus of the Commission to oppose the “pick four” concept.

There was a consensus of the Commission that a checklist would be beneficial for minimum standards for superior design; that the concept is good as a minimum; and that mandatory requirements need to be established.

There was a consensus of the Commission that mandatory requirements should include, but not be limited to: 1) that 40% of required open space shall be contiguous open space; 2) that a yield plan should be required that accurately shows the number of homes that would actually be

possible on the same tract under conventional development regulations; and 3) that buffer requirements from wetlands need to be established; and 4) that pages 3-33 through 3-35 of the Comprehensive Plan Update should be incorporated into the criteria for further consideration.

Mr. Kautz suggested that it may be beneficial for the Commission to have representatives of the Center for the Inland Bays to come in and make a presentation on buffers at some future special meeting.

In reference to “Supergreen” criteria:

Mr. Kautz advised the Commission that the Super Green Criteria is not a proposed ordinance at this time, it is a State program for discussion; that it could create a review agency for the establishment of a scoring system in the review of projects; that the criteria is site oriented; that the criteria could be a part of superior design; that it could create a DNREC/County partnership program; that it is a voluntary program; that an application using the Super Green criteria may be expedited; and that we could see more applications.

Mr. Lank stated that a scoring process would be similar to the Department of Agriculture’s LESA (Land Evaluation/Site Assessment) procedure used for the review of applications for Agriculture Preservation Districts.

Mr. Lank added that John Hughes, Secretary of DNREC, will be giving a presentation on Super Green to the County Council on August 19, 2008.

Meeting adjourned at 5:15 p.m.