



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF SEPTEMBER 13, 2012

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 13, 2012, 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. Martin Ross and Mr. Rodney Smith, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

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

### OLD BUSINESS

C/U #1942 – application of **DOUGLAS L. BOOZER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for storage, maintenance and general office for contracting/excavating services, to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 10.56 acres more or less, lying south of Huff Road (Road 252) 2,000 feet west of Route 30 (Tax Map I.D. 2-35-24.00-39.13).

The Commission discussed this application which has been deferred since August 23, 2012.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1942 for Douglas Boozer for storage, maintenance and a general office for contracting and excavating services based upon the record made at the public hearing and for the following reasons:

- 1) The proposed Conditional Use will provide a service to Sussex County residents and businesses. In addition to contracting and excavating, the Applicant is a licensed septic installer. He also provides snow removal services for County businesses and residents.
- 2) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community. It is in the center of a predominantly wooded area and there are no houses in close proximity to the use.
- 3) The operation of the business will not generate a significant increase in traffic or noise, since the majority of the work will be conducted off-site.

- 4) No parties appeared in opposition to the Application, and there were actually several letters in support of it.
- 5) This recommendation for approval is subject, however, to the following conditions and stipulations:
  - A. There will only be one unlighted sign on the premises that shall not exceed 32 square feet on each side.
  - B. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties.
  - C. The hours of operation shall be 6:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 2:00 p.m. on Saturday.
  - D. All loading areas, storage areas and trash container areas shall be screened by the existing wooded vegetation currently located on the site, with a minimum vegetated buffer of at least 50 feet from all property lines. The buffer area shall be shown on the Final Site Plan.
  - E. As stated by the Applicant, all repair work shall be performed inside of the building.
  - F. All entrances and roadway improvements required by DelDOT shall be completed by the Developer as required by DelDOT.
  - G. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with all applicable State and County requirements and shall be maintained utilizing best management practices.
  - H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Ross, 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 and stipulations stated. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

C/U #1943 – application of **CHARLES L. WILLIAMS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an automotive repair shop/garage, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.565 acres, more or less, lying north end of Summer Place, a private road, 265 feet north of Road 291 (Martins Farm Road) and being approximately 3,000 feet east of Route 5 (Tax Map I.D. 2-35-24.00-39.13).

The Commission discussed this application which has been deferred since August 23, 2012.

Mr. Smith stated that the Commission had received a lot of information and testimony both for and against this application.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

#### OTHER BUSINESS

CU #1716 – Andrew Lubin  
Determination of Substantially Underway – Route 24

Mr. Wheatley advised the Commission that this is a discussion item that should include all Commission members and that this item should be deferred.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to defer action. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

CU #1897 – Russell V. Banks  
Easement Location Discussion – Road 348 (Irons Lane)

Mr. Abbott advised the Commission that this item was deferred at the August 9, 2012 meeting to allow Mr. Robertson time to review the application and the approved ordinance; that this Conditional Use application for a borrow pit was approved on June 12, 2012; that when the application was applied for, there was an access easement to the site that was described in the approved ordinance; that the easement contained 2.04 acres; that there is a proposed relocated easement which the location has been relocated due to DelDOT's entrance location and field verification of the existing farm road; that the proposed relocated easement contains 2.15 acres; that the staff is questioning if an amended Conditional Use application is required since the original easement was described in the approved ordinance; and that the Commission was previously provided a copy of the relocated easement location.

Mr. Robertson advised the Commission that he has reviewed the original plans and ordinance; that the easement was adopted in an approved ordinance; that the relocated easement location is not in the approved ordinance; that an amended Conditional Use application should be heard for the revised easement location; that this would resolve any problems in the future if the property were ever sold; and that the amended application would be for the easement location only and not the borrow pit.

Frank Kea advised the Commission that the easement location has been moved since there was a utility pole that was in the original easement location and that the farm lane was actually surveyed.

It was the consensus of the Commission that an amended Conditional Use application is required for the relocated easement.

Subdivision #2005 – 78 – Delmarva Woodlands Alliance  
Cool Spring Meadows – Amended Conditions

Mr. Abbott advised the Commission that this is a request to amend 2 conditions of the preliminary approval that was granted by the Planning and Zoning Commission on November 14, 2007; that this request was deferred at the April 26, 2012 Planning and Zoning Commission meeting; that the developers are requesting to amend the condition requiring sidewalks on both sides of all streets to requiring them on one side only; that the developers are also requesting that the required trails throughout the project be deleted since there would be sidewalks on one side

of all streets; that the developers feel that by eliminating the trails, this will protect the natural areas that border the project; that this application has not received final approval therefore no lots have been transferred or conveyed; and that the Commission was previously provided a copy of a letter from the applicant's engineer explaining this request.

Mr. Wheatley advised the Commission that this is a discussion item that should include all Commission members and that this item should be deferred.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to defer action for further consideration. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

Subdivision #2005 – 74 – Delmarva Woodlands Alliance IV, LLC  
Welsh Run – Amended Conditions

Mr. Abbott advised the Commission that this is the same type of request as the previous item, and that it should include all Commission members.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to defer action for further consideration. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

Mr. Robertson advised the Commission that these two items should be placed on the next available agenda for the Commission's consideration.

These items will appear on the October 11, 2012 meeting agenda.

The Overlook (Bayville Point) MR/RPC  
CZ #1611 Preliminary Site Plan – Road 58B (Bayville Road)

Mr. Abbott advised the Commission that this is a preliminary site plan for a 173-unit residential planned community; that the site is zoned MR/RPC; that the applicants are requesting to amend condition of approval #1 from "The maximum number of residential lots shall not exceed 173 units, consisting of 74 townhome units and 99 single-family lots" to "The maximum number of residential units shall not exceed 173 units, consisting of 74 townhome units with the remaining units to be single-family units or lots"; that the 19 conditions of approval are noted on the site plan; that 173 total units are proposed consisting of 40 townhome units, 79 single-family detached units and 54 single-family lots; that the proposed setbacks for the single-family lots are 20 feet front yard, 5 feet side yard and 10 feet rear yard; that the setbacks for the townhome units are 20 feet front yard, 20 feet side yard for end units and 15 feet rear yard; that there is a 40-foot building separation between the buildings; that the project will be served by central sewer and water; that a clubhouse, pool and pier are proposed; that a 50-foot buffer from State Tidal wetlands is provided; that the site plan is suitable for preliminary approval; that since the project is a RPC, final site plan approval shall be subject to the review and approval of the Planning and Zoning Commission; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to amend condition of approval #1 as submitted. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the site plan as a preliminary. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

Horsey Family, LLC  
CU #1741 Site Plan – Route 20

Mr. Abbott advised the Commission that this is a preliminary site plan for a 135 acre borrow pit located on 199.50 acres; that this Conditional Use was approved on December 16, 2008 with 21 conditions of approval; that the conditions of approval are noted on the site plan; that the approval is valid until January 1, 2013 by Ordinance No. 2208 adopted by the County Council on August 9, 2011; that three phases are proposed and that each phase cannot exceed 45 acres; that there is a minimum 200 foot buffer from Route 20 and a 100-foot buffer from the remaining boundary lines; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals and the inclusion of a landscaping plan; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Ross, seconded by Mr. Smith and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals and a copy of the landscaping plan. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

Sports at the Beach  
CU #1421 Revised Site Plan – Route 9

Mr. Abbott advised the Commission that this is a revised site plan for the inclusion of a corn maze, playground area, petting zoo and a kid's train and picnic area; that the location of these items are located in the area where the Board of Adjustment granted an approval for special events i.e., Christmas and Halloween events; that the staff is questioning if an amended Conditional Use application is required; and that the Commission was previously provided a copy of the site plan.

The Commission discussed the area that the Board of Adjustment approved and considered these items as an accessory to the approval.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the revised site plan as submitted. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

Harry H. Isaacs, Jr.  
Lot & 50' Right of Way – Road 231

Mr. Abbott advised the Commission that this is a request to create a 1.56-acre lot with access from a 50-foot right of way; that the owner is proposing to create the 50-foot right of way over

an existing entrance to an approved go-kart track; that the 1.56 acre lot is the site of approved Conditional Use #1699; that the request may be approved as submitted, or an application for a major subdivision can be required; that the intent of the subdivision is to have a separate lot and deed for liability purposes; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the request as submitted as a concept. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

Jeanne S. Reed  
Lot on 50' Right of Way – Road 565

Mr. Abbott advised the Commission that this is a request to create a 0.49 acre lots with access from an existing 50-foot right of way; that this lot was created prior to zoning and has a separate deed; that it was conveyed as an extension to another parcel and that the owner now wants it to be a separate lot; that this would be the third lot having access from the right of way; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the request as submitted as a concept. Motion carried 3 – 0. Mr. Burton and Mr. Johnson were absent.

#### ADDITIONAL BUSINESS

Mr. Lank advised the Commission that Barbara Vaughn would like to be scheduled for a few minutes on a short agenda to discuss The Greater Lewes Community Village concept.

There was a consensus of the Commission that they would welcome Ms. Vaughn at a future meeting and that the staff could schedule the presentation on a future agenda.

Meeting adjourned at 6:35 p.m.