

MINUTES OF THE REGULAR MEETING OF OCTOBER 9, 2014

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 9, 2014 in the County Council Chambers, Sussex 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. Rodney Smith, Mr. I.G. Burton, III, Mr. Michael Johnson and Mr. Marty Ross with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence B. Lank – Director and Mr. C. Shane Abbott – Assistant County Attorney,

Mr. Lank advised the Commission that CZ #1760 TD Rehoboth, LLC was withdrawn on October 6, 2014 and that Americana Bayside MR/RPC, Mt. Calvary Pentecostal Church of Slaughter Neck, Inc. and Ocean Way Estates Subdivision under Other Business have been removed from the Agenda.

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

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of September 25, 2014 as circulated. Motion carried 5 – 0.

OLD BUSINESS

Change of Zone #1758 Dozer, LLC, c/o Hal Dukes

Application of **DOZER, LLC, c/o Hal Dukes** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR Medium Density Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 7.2035 acres, more or less, land lying north of Double Bridges Road (Road 363) east of Parker House Road (Road 362) (911 Address: None Available) (Tax Map I.D. # 1-34-19.00-19.00 part of).

The Chairman referred back to this application, which has been deferred since September 25, 2014.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1758 for Dozer, LLC for a rezoning from AR-1 Agricultural Residential to MR Medium Density Residential based upon the record made at the public hearing and for the following reasons:

1. The proposed rezoning is located in the Environmentally Sensitive Developing Area according to the Sussex County Land Use Plan.
2. The proposed rezoning is located in a “mixed residential area” according to the County Land Use Plan.

3. The proposed rezoning is consistent with neighboring and adjacent properties and uses and will not have an adverse impact on the neighboring properties or community. It is in close proximity to other lands that have a GR General Residential Zoning and is near the municipal boundary of the Town of Ocean View.
4. The proposed rezoning is located within the Sussex County Miller Creek Sanitary Sewer District and the Sussex County Engineering Department states that there is adequate capacity for the project as proposed.
5. The proposed rezoning is consistent with the stated purpose of the MR Zoning District.
6. No parties appeared in opposition.

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

Conditional Use #1996 Hector Patraca Carmona

Application of **HECTOR PATRACA CARMONA** to consider the Conditional Use of land in a C-1 General Commercial District for a food vendor to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 15,285 square feet, more or less, land lying west of U.S. Route 113 (DuPont Boulevard) 800 feet south of Road 380 (Parker Road) (911 Address: 34892 DuPont Boulevard, Frankford, DE) (Tax Map I.D. # 5-33-4.00-13.00).

The Chairman referred back to this application, which has been deferred since September 25, 2014.

Mr. Smith stated that he would move that the Commission recommend approval of Conditional Use #1996 for Hector Patraca Carmona for a food vendor to sell food and beverages based on the information contained in the record and for the following reasons:

1. There is room for the use on the site, including parking. There will also be room to pull off of U.S. Route 113 to access the food vendor.
2. The use will not adversely affect neighboring properties, the community or area roadways.
3. The use is appropriate in this location next to U.S. Route 113 and it is on property that is zoned C-1 Commercial.
4. This recommendation for approval is subject however to the following conditions:
 - A. The use shall comply with all setback and parking requirements, or obtaining appropriate approvals from the Sussex County Board of Adjustment.
 - B. The applicant shall comply with all DelDOT requirements, including entrances to and from U.S. Route 113.
 - C. Any trash containers associated with the use shall be screened from view of neighboring properties and roadways.
 - D. There shall be permitted one lighted sign, not to exceed 32 square feet in size.
 - E. Bathroom/sanitation facilities shall be provided on the site.
 - F. The applicant shall obtain all agency approvals for the food service operations prior to Final Site Plan approval.

- G. The Final Site Plan for this use including the location of the food truck, any bathroom/sanitation facilities, driveways, entrances and parking and picnic tables shall be subject to the review and approval of the Sussex County 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 it be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

PUBLIC HEARING

Change of Zone #1760 TD Rehoboth, LLC

Application of **TD REHOBOTH, LLC** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 114.4821 acres, more or less, land lying northeast side of Route One (Coastal Highway) across from Route 88 (Cave Neck Road) (911 Address: None Available) (Tax Map I.D. # 2-35-23.00-1.00)

This application was withdrawn on October 6, 2014.

OTHER BUSINESS

Americana Bayside MR/RPC Town Center Phase 1A & 1 B – Revised Preliminary – Route 54

This item was removed from the Agenda on October 6, 2014.

Mt. Calvary Pentecostal Church of Slaughter Neck, Inc. Preliminary Site Plan – Road 215

This item was removed from the Agenda on September 30, 2014.

Subdivision #2012 – 2 HKS 4, LLC The Marina at Pepper's Creek – Lot Revisions

Mr. Abbott advised the Commission that this is a request to revise Lots 115 through 119, Lots 112 and 113 and Lots 69 through 74; that Lots 115 through 119 are being increased by approximately 9 feet in depth and providing a 10 foot drainage easement along the rear of the lots; that an additional 10 feet of depth is being added to Lot 113 and the boundary with Lot 112 is being adjusted; that an additional 5 feet of depth is being added to Lots 69 through 74; that the Commission was previously provided a copy of the revised plan; and that if a revised preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve the revised plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Dominick A. Pulieri

Lot 1 Resubdivision – Silver Lake

Mr. Abbott advised the Commission that this is a request to subdivide a 1.28 acre parcel into 2 lots with access from an existing 50 foot easement; that the Commission approved 8 lots and the 50-foot easement in 1994; that Parcel B will contain 23,361 square feet, Parcel C will contain 25,024 square feet and Parcel A will contain 7,553.7 square feet and will be an extension to the adjoining parcel to the north; and that the Commission was previously provided a sketch drawing of the request and an email from the homeowners' association approving the subdivision request.

Mr. Johnson questioned the size of the other lots in the subdivision.

Mr. Robertson and Mr. Abbott advised the Commission that the other lots are similar and range in size from 26,000 square feet down to 24,000 square feet.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

John W. Conaway

Lot on 50' Easement – Road 610

Mr. Abbott advised the Commission that this is a request to create a 5.72 acre parcel with access from a 50-foot easement off of Road 610; that the adjoining neighbor is proposing to create the 50-foot easement over an existing farm lane to serve as access to the parcel; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

Savannah Road Professional Center

CU #1801 Amended Condition

Mr. Abbott advised the Commission that this item was deferred at the September 25, 2014 for further consideration; that this is a request to amend the condition limiting the size of the sign from 32 square feet per side to 80 square feet per side; and that the Commission was previously provided a sketch drawing of the proposed sign and a letter from the applicant's sign company.

The Commission discussed the size of different signs along Savannah Road.

Mr. Robertson advised the Commission that the approval of this Conditional Use was ordered by the Courts and that he does not feel that the Commission can amend the size of the sign; that the

applicant does not agree with his findings; and that since this is a legal question, it may be appropriate for a deferral so that the attorney for the applicant can discuss the issue further.

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

**Ocean Way Estates Subdivision
Request to Install Gates**

This item was removed from the Agenda on October 1, 2014.

Meeting adjourned at 6:35 p.m.