



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF OCTOBER 13, 2011

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 13, 2011, 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. Michael Johnson, Mr. Rodney Smith, Mr. I. G. Burton III, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

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

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to approve the Minutes of September 22, 2011 as amended. Motion carried 5 - 0.

OLD BUSINESS

C/Z #1710 – application of **ROBERT BROWNING AND BRADLEY DAVIS** to amend comprehensive Zoning Map from MR Medium Density Residential District to B-1 Neighborhood Business District to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.38 acres, more or less, lying northeast corner of Cedar Neck Road (Road 357) and Fred Hudson Road (Road 360).

The Commission discussed this application which has been deferred since September 8, 2011.

Mr. Smith stated that he is prepared to make a motion; that there was no evidence provided by the Applicants to verify that financing could not be obtained for a Conditional Use; that the current zoning is MR Medium Density Residential; and that a lot of the opposition referenced that the properties should remain MR Medium Density Residential.

Mr. Smith stated that he would move that the Commission recommended denial of C/Z #1710 for Robert Browning and Bradley Davis for a change in zone from MR Medium Density Residential to B-1 Neighborhood Business based upon the record made at the public hearing and for the following reasons:

1. I am not satisfied that the site is suitable for B-1 zoning. Although there is a Harris Teeter grocery store across the street, that parcel has been in existence and designated for commercial/business use as part of a Residential Planned Community in excess of 20 years. Aside from that, all corners of this intersection have developed in primarily residential uses based upon their MR zoning.
2. The proposed use of this particular parcel is speculative at this point, according to the Applicants. If the property is zoned to B-1, some of the permitted uses, including a gas station, would be incompatible with the residential uses that are directly adjacent to this property or across Cedar Neck Road from it.
3. This parcel can be developed under its current MR zoning at a density of several dwelling units per acre, and there was no evidence that the existing residential zoning is no longer viable for the property. The use under the current MR zoning is also more compatible with the surrounding properties and neighborhood than the potential B-1 uses.
4. Multiple parties appeared in opposition to the application, expressing concerns that: its incompatible with the surrounding residential uses; that existing traffic concerns on Fred Hudson Road and Cedar Neck Road would be adversely impacted by the business uses and the entrances required to access the property; and that their expectation that the property would be developed residential under the current zoning.

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

C/U #1911 – application of **FORREST WEBSTER** to consider the Conditional Use of land in AR-1 Agricultural Residential District for mini storage locker units to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.996 acres, more or less, lying north of Route 16 (Broadkill Road) east of Milton, Delaware, and across from Route 22A (Country Road).

The Commission discussed this application which has been deferred since September 22, 2011.

Mr. Burton stated that he would move that the Commission recommend approval of C/U #1911 for Forrest Webster for mini storage locker units based upon the record made at the public hearing for the following reasons:

1. The mini storage facility is located on a property where the Applicant will reside. The Applicant will be able to maintain and control access and use of the mini storage facility.
2. The proposed use will not have any impact on the neighboring property or community.
3. The use as a mini storage facility is a benefit to the residents of Sussex County and has a public or semi-public character.
4. No parties appeared in opposition to the application.
5. This recommendation is subject to the following conditions:
 - a. Any security lighting shall be screened so that they do not shine on neighboring properties or roadways.
 - b. There shall be no outside storage and no outside storage of boats or RVs shall be permitted on the site.

- c. One lighted sign, not to exceed 32 square feet per side, shall be permitted on the premises.
- d. The Final Site Plan shall indicate all parking and driveway areas.
- e. The Final Site Plan shall confirm that the Applicant and his customers have the right to use the gravel drive shared with the neighboring property owner for purposes of this Conditional Use.
- f. Access to the storage area shall be controlled by a gate or similar method.
- g. There shall be a curb, fence, landscaping or some other barrier between the road and the storage building so that vehicles loading and unloading do not back directly onto the access road. This shall be shown on the Final Site Plan.
- h. Any dumpsters or trash receptacles associated with the storage facility shall be screened from neighboring properties or roadways.
- i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson, 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.

C/U #1912 – application of **WILLIAM A. BELL AND KATHLEEN M. SPERL-BELL** to consider Conditional Use of land in AR-1 Agricultural Residential District for a professional office to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 16,025 square feet, more or less, lying southeast of Savannah Road, 250 feet northeast of Quaker Road and 160 feet southwest of Woodland Avenue.

The Commission discussed this application which has been deferred since September 22, 2011.

Mr. Burton stated that he would move that the Commission recommend approval of C/U #1912 for William A. Bell and Kathleen M. Sperl-Bell for a professional office based upon the record made at the public hearing for the following reasons:

- 1. The use is limited to the Applicant's office within their home, plus one employee. It is very nearly a home occupation.
- 2. The use will not require any substantial change to the property, which resembles a single family residence.
- 3. The use will not generate substantial traffic to the property or along Savannah Road.
- 4. The use is compatible with the mix of residential properties and the few small businesses that exist in residential structures along this section of Savannah Road.
- 5. No parties appeared in opposition to the application.
- 6. This recommendation is subject to the following conditions:
 - a. As stated by the Applicants, there shall be no more than one employee on the site, in addition to the Applicants.
 - b. Parking shall be in accordance with the parking requirements set forth in the Sussex County Zoning Code.
 - c. The property shall maintain its residential character and appearance.
 - d. One lighted sign shall be permitted. The sign shall not exceed 32 square feet per side.

- e. The hours of operation shall be from 8:00 a.m. to 6:00 p.m. Monday through Saturday.
- f. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson, 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 #2007-9 – application of **THOMPSON SCHELL, LLC** to consider the Subdivision of land in AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 196.20 acres into 256 lots, (Cluster Development) located south of Route 16, 2,500 feet east of Route One.

Mr. Abbott advised the Commission that this is a final record plan for a 254-lot cluster subdivision application in an AR-1 Agricultural Residential District; that the Commission granted preliminary approval on October 9, 2008 and granted one-year time extensions on November 12, 2009 and October 28, 2010; that the final record plan complies with the Subdivision Code and Zoning Code and the conditions of preliminary approval; and that all agency approvals have been received.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to grant final approval of the 254-lot cluster subdivision. Motion carried 5 – 0.

PUBLIC HEARINGS

Subdivision #2011-6 – application of **ROY F. ROGERS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 31.80 acres into 5 lots, and a waiver from street design and forested buffer requirements, located on the east side of Walt Carmean Lane (a private 50' Road) 516 feet north of Route 24.

Mr. Abbott advised the Commission that this application was not subject to the review of the Technical Advisory Committee since the proposed subdivision is located off of an existing street; and that on March 24, 2011 the Commission reviewed this request as an Other Business item and determined that a public hearing would be necessary.

Roy Rogers was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he is proposing to create 4 lots this year; that there are not any homes on the proposed lots at this time; that there are two homes located on lots on the eastern side of Walt Carmean Lane; that he would like to create seven to eight more lots in the future; that the property owners along Walt Carmean Lane maintain the street; that he is presently trying to obtain funding from a State Representative to improve the street; that he has been advised that the funding is available; that the proposed lots are for family members; that he has obtained a septic approval for one of the lots; that the system has been

approved for a standard system; and that there is one property owner along Walt Carmean Lane who is not a family member.

Mr. Robertson advised the applicant that he should have some type of a written maintenance agreement for the street.

The Commission found that no parties appeared in support of or in opposition to this application.

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

Mr. Johnson stated that he would move that the Commission grant preliminary and final approval of Subdivision #2011 – 6 for Roy F. Rogers, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County. The applicant has stated that the lots are for family members, like the other existing lots.
2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 5 lots on 31.8 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways. The applicant and his family currently maintain the roadway providing access to these lots.
6. Given the configuration of the existing roadway and the fact that these are essentially 4 strip lots, a waiver from the street design and forested buffer requirements is appropriate.
7. This motion is subject to the following condition:
 - A. There shall be no more than 5 lots within the subdivision. This consists of Lots G, H, I and J and the remaining acreage.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this application as a preliminary and as a final for the reasons and with the condition stated. Motion carried 5 – 0.

OTHER BUSINESS

Subdivision #2011 – 4 - - Branson S. Smith
Discussion

Mr. Abbott advised the Commission that this application has been deferred since June 9, 2011 pending receipt of a septic feasibility statement from DNREC; that as of this date, the staff has

not received any correspondence from the applicant; and that the staff is questioning how long the application should be deferred for this information.

The Commission decided that this application should be placed on the next available agenda for consideration.

Tony Lindale
2 Lots and 50' Easement – Road 620 (Abbott's Pond Road)

Mr. Abbott advised the Commission that this is a request to subdivide a 2.57-acre parcel into 2 lots with access from a 50-foot easement; that Lot 2 has an existing dwelling located on it; that a new dwelling is proposed to be built on Lot 1; that the owner is proposing to create the 50-foot easement over an existing gravel driveway; and that the request may be approved as submitted, or an application for a major subdivision can be required.

Tony Lindale advised the Commission that the manufactured home located on the lot will remain and that it was originally placed on the lot as a hardship.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the request as a concept subject to receipt of a Letter of No Objection from DelDOT and Board of adjustment approval if necessary for the manufacture home. Motion carried 5 – 0.

Discussion of Proposed Ordinances for Recommendation to County Council

Mr. Robertson advised the Commission that he will forward them copies of proposed ordinances for discussion at the November 3, 2011 meeting.

Additional Business

Mr. Lank advised the Commission that recently several people have asked him about the signage limitations being imposed on Conditional Use application; i.e. signs not to exceed 32 square feet; that the Zoning Code has specific size limitations that are greater; and questioned if the limitation was intended for ground signs only or ground signs and wall signs.

There was a consensus of the Commission that the intended limitation relates to ground signage since the majority of the Conditional Uses are located in residential areas, and that wall signs were not intended to be permitted.

Mr. Lank informed the Commission about the number of public hearings that are coming up in the next few meetings; that there are no public hearings scheduled for November 3, 2011; and asked the Commission if they would like to meet at 3:00 p.m. on November 3, 2011 since there were no public hearings.

There was a consensus of the Commission that the scheduled meeting time for November 3, 2011 be posted for 3:00 p.m. since there are no public hearings.

Meeting adjourned at 6:57 p.m.