



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF OCTOBER 25, 2012

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 25, 2012, 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. Michael Johnson, Mr. I.G. Burton, III, 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. 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 October 11, 2012 as amended. Motion carried 5 – 0.

OLD BUSINESS

CU #1945 – application of **ALFONSO MATOS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a small storage facility, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 14,964 square feet, more or less, lying southwest of Route 20 (Concord Road) 392 feet southeast of Haven Drive, the entry into Broad Acres Subdivision, approximately 1.0 mile east of U.S. Route 13 (Tax Map I.D. 1-32-2.00-133.00).

The Chairman referred back to this application, which has been deferred since September 20, 2012.

Mr. Smith stated that he would move that the Commission recommend denial of CU #1945 for Alfonso Matos for a conditional use to operate a storage facility based upon the record made at the public hearing and for the following reasons:

1. Although advertised as a “small Storage Facility”, the proposed operation is really a sorting facility for the collection and shipment of clothing and other goods out of this country with regular tractor-trailer pickups and deliveries.
2. Mr. Smith is not satisfied that this property is configured in such a way that permits the safe entrance and exit of tractor trailers. For example, the applicants stated that they

would be using a private road for tractor trailer access, without providing any proof that such a use was permitted on this private road.

3. Although the property has been historically used for small-scale commercial purposes such as a grocery or a fish market, all of these have been in support of, or not detrimental to, the surrounding community. The proposed use as a warehouse, sorting, packing and shipping facility is not consistent with the surrounding properties and uses.
4. The size of the parcel, at 14,964 square feet, is too small for the proposed use and the tractor trailers that would serve it.
5. This is the type of use that is more suited to existing commercially or industrially zoned properties, where there is sufficient space for the proposed operation and the trucks that will serve it.
6. Several parties appeared in opposition to the proposed use, expressing concerns about the incompatibility of the use; the applicant's ongoing failure to maintain the property in a neat and orderly manner which raised concerns about the future use and maintenance of the property; safety concerns about truck traffic trying to get in and out of such a small parcel; and that it should be located somewhere else that is more appropriate for the use.

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

Subdivision #2007 – 33 - - application of **H & H INVESTMENTS, c/o THOMAS HEAD** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 27.45 acres into 25 lots, located northwest of Road 283, 1,300 feet northeast of Road 284.

Mr. Abbott advised the Commission that this is the final record plan for a 25-lot standard subdivision application; that the Commission granted preliminary approval on June 11, 2009 and that this application received a time extension under Ordinance No. 2208 adopted by the County Council on August 11, 2011; that the final record plan complies with the conditions of the preliminary approval and the subdivision and zoning codes; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this application as a final. Motion carried 5 – 0.

Subdivision #2012 – 1 - - application of **RALPH E. AND BETTY F. MARVEL** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 3.89 acres into 5 lots, and a waiver from the street design requirements and a waiver from the forested buffer requirements, located on the easterly side of Road 346 (Holt's Landing Road) 847 feet north of Route 26 (Vines Creek Road).

Mr. Abbott advised the Commission that this is the final record plan for a 5-lot standard subdivision application; that the Commission granted preliminary approval on June 21, 2012;

that the final record plan complies with the conditions of the preliminary approval and the subdivision and zoning codes; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve this application as a final. Motion carried 5 – 0.

PUBLIC HEARINGS

CU #1947 – application of **CHEER DELAWARE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a public service building/use, to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 4.35 acres, more or less, lying north of Broadkill Road (Route 16) 800 feet east of County Road (Road 22A) (Tax Map I.D. 2-35-14.00-122.02 and 122.04).

The Commission found that on October 15, 2012 the Applicants provided a Presentation Booklet for consideration that contains a presentation outline, with references to land use and zoning, land utilization, environmental, traffic, and civil engineering; a portion of the State Strategies map showing the site; a portion of the Future Land Use Map from the Comprehensive Plan showing the site; an aerial map labeled with other business and commercial uses in the area; a site plan; a portion of the Town of Milton Existing Zoning Map showing the site; a portion of a Flood Insurance Rate Map showing the site; and a DelDOT Support Facilities Report referencing that a traffic impact study is not recommended and that the current Level of Service “C” will not change as a result of this application.

The Commission found that on October 11, 2012 the Sussex Conservation District provided comments referencing that there are 2 soil types on this property; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas and no tax ditches are affected; that it may not be necessary for any off-site drainage improvements; and that it may be possible that on-site drainage improvements will be required.

The Commission found that on October 19, 2012 the Sussex County Engineering Department Utility Planning Division provided comments referencing that the site is located in the North Coastal Planning Area; that use of an on-site septic system is proposed; that the project is not capable of being annexed into a County operated Sanitary Sewer District; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Ken Bauch, Deputy Director of Cheer, was present on behalf of Cheer Delaware with Ring Lardner, Professional Engineer with Davis, Bowen and Friedel, Inc., and that they stated in their presentations and in response to questions raised by the Commission that they are submitting suggested proposed Findings of Fact and suggested proposed Conditions of Approval; that they are proposing a public use facility containing 6,000 square feet; that the two existing parcels will be combined into one parcel; that the site is located in a Level 3

according to the State Strategies; that the site is located in a Low-Density Area according to the County Comprehensive Land Use Plan; that maps in the Presentation Booklet depict other business and commercial uses in the area along Route 16; that Cheer Delaware has not yet purchased the site; that they are proposing to relocate the existing Cheer operation to this site from the current leased site at the intersection of Reynolds Pond Road and Broadkill Road; that the proposed 195 parking spaces may be reduced in number, if not needed; that the site is not located in a Flood Plain; that there are no wetlands identified on the site; that they have reviewed the site plan with DelDOT; that on-site well and on-site septic system are proposed; that a septic site evaluation has been completed and approved; that they are planning to use green technologies in designing the stormwater management facilities in cooperation with the Sussex Conservation District; that a lighted signage will not exceed 32 square feet per side; that they propose to serve the needs of the senior adults in the area; that the facility will have normal operating hours Monday through Friday from 8:00 a.m. to 4:00 p.m.; that they anticipate 3 to 4 full time employees; that there will be some evening activities, i.e. meals, bingo, conferences, occurring 1 or 2 times a month on weeknights; that they would like to provide space for weddings, banquets and conferences on weekends no more than once per month; that daily activities would include nutrient programs, games, crafts and similar activities for the senior population in the Milton area; that transportation will be made available when needed; that the facility will include a fitness center; that the current site is leased and does not have enough area for expansion; that a full commercial type kitchen will be provided to serve foods on site and to prepare foods for delivery to home bound seniors in the area; that the existing piped storm drain system was place near the rear of the site to correct a flooding issue several years ago in the area; that DelDOT did not require any turn lanes or by-pass lanes in the entrance design; that handicap spaces have been provided on the site plan; and that a dumpster location will be provided on the preliminary and final site plans if the use is approved.

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

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

Mr. Burton stated that he would move that the Commission recommend approval of C/U #1947 for Cheer Delaware for a public service building based upon the record made during the public hearing and for the following reasons:

- 1) The site will be used as a Cheer center, which is a non-profit organization providing services to mature Sussex County residents.
- 2) The site is appropriate for this type of use, since it is located along Route 16, and is just outside the boundary of the Town of Milton.
- 3) The use is consistent with nearby uses, which include various types of small scale commercial businesses. It will not have any adverse effects upon neighboring properties or area roadways.
- 4) The use is a public service that promotes the health, safety, and welfare of Sussex County residents.
- 5) No parties appeared in opposition to the project.

- 6) DelDOT has no objection to the project.
- 7) This recommendation is subject to the following conditions:
 - A. The regular hours of operation shall be Monday through Friday from 8:00 a.m. through 4:00 p.m., with extended hours for special activities.
 - B. Meals-On-Wheels, a meal delivery service, is a part of Cheer's regular operations and services. This type of service shall be permitted on the site.
 - C. Special events (such as weddings and receptions, banquets, conferences, etc.) are part of Cheer's regular operations, and shall be permitted on the site and outside of regular operating hours.
 - D. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - E. One lighted sign, not to exceed 32 square feet in size per side, shall be permitted.
 - F. There may be full kitchen facilities on the site.
 - G. The location of a dumpster shall be shown on the Final Site Plan. It shall be screened from view of neighboring properties and roadways.
 - H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously that this application be forwarded 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.

CZ #1722 – application of **ROBERT AND PATRICIA JOHNSON** to amend the Comprehensive Zoning Map from a LI-2 Light Industrial District to an AR-1 Agricultural Residential District to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 1.91 acres, more or less, lying west of Route 13A (Seaford Road), 1,300 feet north of Road 488 (Johnson Road) (Tax Map I.D. 1-32-6.00-186.01).

Mr. Lank advised the Commission that a Support Facilities Report was not requested from DelDOT since the application is a down zoning from Light Industrial to Agricultural Residential.

Mr. Lank added that this site was originally zoned AR-1 Agricultural Residential; and that the Applicants applied for rezoning to LI-2 Light Industrial (C/Z #854) and were approved so that the Applicants could erect a small store and warehousing for the sale and storage of dry and canned dog foods.

The Commission found that on October 11, 2012 the Sussex Conservation District provided comments referencing that there are 4 soil types on this property; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas and no tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that on October 19, 2012 the Sussex County Engineering Department Utility Planning Division provided comments referencing that the site is located in the Blades

Planning Area #2; that use of an on-site septic system is proposed; that the project is not capable of being annexed into a County operated Sanitary Sewer District; that the proposed project is located in the Blades Planning Area, but is not in an area where the County has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Robert Robinson was present and stated in his presentation that he no longer is operating a business on the site; that he has applied so that his taxes can be reduced; that there will be no adverse effects on traffic; and that there will be no adverse effect on property values.

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

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1722 for Robert and Patricia Robinson for a change in zone from LI-2 Light Industrial to AR-1 Agricultural Residential based on the record made at the public hearing and for the following reasons:

- 1) The application is for a downzoning that returns the property to its original AR-1 zoning.
- 2) The return to AR-1 zoning is consistent with surrounding uses and zonings.
- 3) The Applicant no longer intends to use the property for industrial purposes, so it is appropriate to eliminate the potential industrial uses that could occur there.
- 4) AR-1 zoning is appropriate, since the Applicant resides there, and the only use that occurs there is low-density residential use.
- 5) The downzoning will have no negative impact on neighboring properties or roadways.

Motion by Mr. Johnson, 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 stated. Motion carried 5 – 0.

OTHER BUSINESS

Warren C. Sumlin
CU #1722 Site Plan – Burton Avenue

Mr. Abbott advised the Commission that this is a conceptual site plan for a 2-story duplex located on 2 lots; that the site is zoned GR General Residential; that this Conditional Use was approved on January 30, 2007 and is now valid until January 1, 2013 by Ordinance No. 2208 which was adopted by the County Council on August 9, 2011; that condition of approval #1 states “Only four units shall be constructed upon the property. These units shall be in the form of two separate buildings with two units each.”; that condition of approval #4 states “the two buildings shall be designed to resemble single-family dwellings. An example of this would be a separation of the entrance so that no two entrances are on the same of the building.”; that the applicant is requesting to construct a two-story building with an unit on the first floor and an unit on the second floor; that both units would be accessed from a foyer; that each lot would contain

the same type of building; that since these conditions originated at the Commission level, the Commission has the authority to amend the conditions of you so choose; and that the Commission was previously provided a conceptual site plan and proposed elevations of the buildings.

Kevin Flemming was present on behalf of this request and advised the Commission that they have had houses donated to them, that the homes are currently being stored on the site; that the request should be for four homes on the two lots; that each home would have its' own entrance; and that it would not be cost effective to construct the modern duplexes as depicted in the submitted elevations.

It was the consensus of the Commission that a formal site plan be prepared and submitted for the Commission's consideration. The Commission took no action.

Clinton Hoffer
CU #1906 Site Plan – Tramway Road

Mr. Abbott advised the Commission that this is a site plan for a school bus parking and maintenance repair shop located on 42,370 square feet; that the site is zoned GR General Residential and this Conditional Use was approved on September 13, 2011 with 7 conditions; that the 7 conditions of approval are noted and depicted on the site plan; that no new improvements are proposed; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; 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. Motion carried 5 – 0.

Subdivision #2004 – 35 - - McRyan Properties, LLC
Crescent Shores – Amended Conditions

Mr. Abbott advised the Commission that this is a request to amend some of the conditions of the preliminary and final site plan approval; that this is a 38-lot cluster subdivision that received final record plan approval by the Commission on April 13, 2006; that the developers are in the process of turning the project over to the homeowners' association; that the HOA is requesting that the Commission determines that the existing buffer is sufficient and requests that no more plantings be required; that they are requesting that the buffer adjacent to the storm water management pond not be required to be planted and they are requesting that the tot lots not be required to be installed; that they are requesting these revisions due to the fact of extra maintenance costs and liability concerns; and that the Commission was previously provided a copy of a letter from the President of the HOA expressing these concerns.

The Commission discussed this request.

Mr. Burton advised the Commission that he would like to inspect the site.

The Commission took no action on this request.

Subdivision #2005 – 82 - - James and Mary Beth Parker
Stoney Ridge Estates – Amended Condition

Mr. Abbott advised the Commission that this is a request to amend the condition requiring sidewalks on one side of all streets within this subdivision; that this 41-lot subdivision received final record plan approval on July 18, 2007; that the developers are requesting that the condition requiring the sidewalks be deleted; that this project has not commenced construction and that no lots have been conveyed or transferred; and that the Commission was previously provided a copy of the letter from the developer explaining this request.

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

ADDITIONAL BUSINESS

Mr. Lank provided the Commission with a notice of a workshop for discussion of potential legislative changes scheduled for November 15, 2012 with the Delaware Board of Professional Land Surveyors.

Mr. Ross advised the Commission that he would not be present at the November 1, 2012 meeting.

Mr. Johnson advised the Commission that he would not be present at the November 15, 2012 meeting.

Mr. Smith advised the Commission that he may not be present at the November 15, 2012 meeting.

Meeting adjourned at 7:20 p.m.