



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF SEPTEMBER 22, 2011

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 22, 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. I.G. Burton, III, Mr. Martin Ross and Mr. Rodney Smith, with Mr. Vincent Robertson – Assistant County Attorney 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 8, 2011 as amended. Motion carried 5 – 0.

### OLD BUSINESS

**C/Z #1709** – application of **DANIEL T. AND DALE S. BOINES** to amend the Comprehensive Zoning Map from AR-1, Agricultural Residential District to B-1, Neighborhood Business District to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.13 acres, more or less, lying southwest of Route One and northwest of Pondview Drive, northwest of Red Mill Pond, and 170 feet southeast of Best Lane and being Lots 1A, 2, 3, and 4 of Red Mill Manor.

The Chairman referred back to this application, which has been deferred since September 8, 2011.

Mr. Burton stated that he would move that the Commission recommend approval of C/Z #1709 for Daniel T. and Dale S. Boines for a change of zone from AR-1 to B-1 Neighborhood Business District based upon the record made at the public hearing and for the following reasons:

1. The site is located on the West side of Route One. It is adjacent to existing B-1 zoning and this zoning would be integrated into that B-1 parcel with regard to the use and access.

2. This site is not appropriate for residential use, with its frontage directly onto Route One. There are traffic and safety concerns, but these can be more adequately addressed through a business use, which requires a formal Site Plan review and more intense review, by DelDOT. Traffic safety and entrance concerns would not receive the same oversight if this property were developed as individual residential strip lots, which is permissible under the current zoning.
3. The B-1 rezoning is consistent with the orderly growth of the County. There are a number of businesses and commercial uses located in this general area of Route One, including a B-1 zoned property next door.
4. B-1 zoning has limited permitted uses, which will limit the intensity of any development on the property. The Applicant has proposed a small office complex of the type that currently exists on his property that is zoned B-1 next door.
5. The site is in a Developing Area according to the current Sussex County Comprehensive Plan. According to the Plan, this area is appropriate for the B-1 zoning that is being requested.
6. The property will be served by central water and Sussex County sewer.
7. Site Plan approval for any use of the property will be subject to the review and approval of the Planning and Zoning Commission as well as relevant State agencies, including DelDOT.

Motion by Mr. Burton, 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.

**C/Z #1710** – application of **ROBERT BROWNING AND BRADLEY DAVIS** to amend the 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 Chairman referred back to this application, which has been deferred since September 8, 2011.

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

#### PUBLIC HEARINGS

**C/U #1911** – application of **FORREST WEBSTER** to consider the Conditional Use of land in an 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).

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The Commission found, based on comments received from DelDOT that a traffic impact study is not required and that the existing Level of Service C will not change as a result of this application.

The Commission found, based on comments received from the Sussex County Engineering Department Utility Planning Division that the project is not in a proposed or current County operated and maintained sanitary sewer district; that the site is in the North Coastal Planning Area; that 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 is required; that the proposed use is not in an area where Sussex County currently plans to provide sewer service; and that a concept plan is not required.

The Commission found that Larry Fifer, Attorney and Donald Webster were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the proposed mini storage is an appropriate use; that there is adequate access to the site; that originally 75 units were proposed but it has now been reduced to 60 units; that DelDOT has indicated that there are no concerns with the entrance; that the applicant and his family reside on the site; that the proposed use will not cause any impacts to the community; that there is a poultry operation to the east and two manufactured homes on the property to the west; that the proposed entrance will be from the existing gravel driveway that is located on the west side of the site; that the applicant and adjoining neighbor have a prescriptive easement agreement for the gravel drive; that the applicant has not talked with the adjoining owner about using the existing gravel drive; that there are no plans at this time for the entrance to be gated; that the storage units will be entered from the outside; that the proposed building will be thirty (30) feet from the adjoining property line; that normal security lighting on poles is proposed; that the site is not in the Town of Milton's future annexation plan; that they have not had any discussions with the Town of Milton; that the site is approximately 1.5 miles from the Milton Fire Department; that the project will have to be reviewed by the Office of the State Fire Marshal for fire prevention regulations; that no outside storage is proposed; that a dumpster will possibly be required; that the proposed size of the building is 40-feet by 300-feet; and that they would like to erect a sign.

Mr. Robertson advised the Commission that they might want to leave the record open for confirmation from the adjoining neighbor that they have no objection to the existing gravel drive being used for access to the site or that a condition of approval should include such confirmation at the time the Final Site Plan is presented to the Commission.

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

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

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

**C/U #1912** – application of **WILLIAM A. BELL AND KATHLEEN M. SPERL-BELL** to consider the Conditional Use of land in an 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 found that the Applicants provided an Exhibit Booklet on September 13, 2011 which contains a Table of Contents, Project Description, C/C Application/Site Data, a Copy of the Current Deed and Tax Summary, a copy of a Survey, a copy of the Tax Map, Current Zoning/P & Z Information Sheet, a Map showing the surrounding zoning, a copy of DelDOT's letter, Letters of Support and Proposed Findings of Fact.

The Commission found, based on comments received from DelDOT that a traffic impact study is not required and that the existing Level of Service E will not change as a result of this application.

The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Division that the System Design Assumption is 1.0 EDU per residential parcel less than 1.0 acre; that the site is located in the West Rehoboth Expansion Area Sanitary Sewer District; that wastewater capacity is available if the proposed use does not exceed approximately 1.0 EDU; that the planning study and design assumption for the parcel is 1.0 EDU based on a residential use on a residentially zoned parcel of less than 1.0 acre; that there is one System Connection Charge credit for the project; that it is likely that additional System Connection Charges will be required; that the System Connection Charge Rate is \$4,590.00 per EDU; that the parcel was provided with a 6-inch sanitary sewer lateral located at the rear of the parcel along the parcel's frontage on First Street; that conformity to the West Rehoboth Expansion Area Planning Study will be required; that the proposal is for an employee to occupy the existing office area within the existing dwelling; that the office area shown on the applicant's floor plan is approximately 880 square feet, which will increase the EDU of the parcel to 1.88 EDU total; that the area is currently used as a home occupation office area and conditional use approval is proposed to add an employee; that the Sussex County Engineering Department recommends that the office area be limited to 880 total square feet; and that a concept plan is not required.

The Commission found that Heidi Gilmore, Attorney and William Bell were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the applicants have owned the site since 2010; that they reside at the site; that a multi-purpose room has been converted into an office; that the office has been used as a home occupation and that a conditional use is needed since they would like to hire another employee; that the site is located along Savannah Road where there are numerous conditional uses for offices and other commercial uses; that one additional employee is anticipated; that the existing entrance off of Savannah Road will be utilized; that there is room to park five vehicles; that the office has a separate entrance

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from the dwelling; that the proposed use is compatible to the area; that the proposed hours of business would be from 8:30 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. on Saturdays and Sundays; that there is existing lighting for security purposes; that the site is served by County sewer and an on-site well; that the office is handicapped accessible; that they would like a sign that is permitted by Code; that the site is located in a Environmentally Sensitive Developing Area; that the proposed use is in compliance with the Comprehensive Land Use Plan; that the Exhibit Booklet contains photographs of the site; that there were 3 letters in support of the application submitted with the Exhibit Booklet; that no new construction is proposed; that they have not received any comments from the City of Lewes; and that the current sign on the site will be removed.

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

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

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

#### OTHER BUSINESS

Swann Cove

Final Record Plan Phases 4 and 5 – Route 54

Mr. Abbott advised the Commission that this is the final record plan for Phases 4 and 5 of the Swann Cove residential planned community; that Phase 4 contains 54 single-family lots; that Phase 5 contains 32 single-family lots; that the Commission granted preliminary approval on August 20, 2008; that the final record plan complies with the subdivision and zoning codes and the conditions of approval; that all agency approvals have been received; and that the Commission previously granted final site plan approval on November 12, 2009 but the record plan was not recorded within 60 days of the date of approval.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve Phases 4 and 5 as a final. Motion carried 5 – 0.

#### ADDITIONAL BUSINESS

Mr. Johnson advised the Commission that he would not be at the October 27, 2011 meeting.

Meeting adjourned at 6:50 p.m.