

MINUTES OF THE REGULAR MEETING OF JANUARY 12, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 12, 1989, at 7:45 P.M. in the Court of Common Pleas, Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Jones - Assistant County Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of December 22, 1988, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #970--Linder and Company, Inc.

David Rutt, attorney, was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to RPC Residential Planned Community in Baltimore Hundred, located on the north end of Route 350 and west of White's Creek, containing 420.26 acres more or less.

Mr. Lank stated comments were received from the Indian River School District stating a development of this size may have some impact on the school system.

Mr. Lank stated comments were received from the Department of Agriculture stating they are not opposed to this application.

Mr. Lank summarized comments from agencies represented at the Development Advisory Service meeting.

Mr. Rutt stated the applicants are proposing 1.75 units per acre.

Anthony Walmsley, planner and landscape architect, stated 404 Wetlands have been delineated. No development will occur within these wetlands.

Mr. Rutt stated proposed amenities will include a three (3) hole golf course, village community centers, ponds, and recreation areas.

Mr. Rutt stated a total of 706 units are proposed and would be divided into five (5) villages.

Jeff Clark, Land Tech, Inc., stated private streets are proposed. The project will be phased and should take from 7 to 15 years to develop fully.

Clark Carbaugh, Cave Associates, discussed the proposed central waste-water disposal system.

Temple Carter, Division of Highways, discussed comments from the State Highway Department.

John Lamiet, engineer, discussed proposed improvements to Route 350.

Michael Parkowski stated the proposed development conforms to all state, federal, and county regulations.

David Foulke stated fire hydrants for the development will be installed, off street parking will be provided and underground electric wires are proposed.

Mr. Rutt stated a 280 slip private marina for community residents only is proposed.

Mark Warline, realtor, Van Warrington, realtor, and Jay Warrington, landscaper, spoke in favor of the application.

Millard Colby spoke in opposition due to existing drainage problems, septic problems, and increased traffic.

John Niblett spoke in opposition due to increased traffic, the width of the road leading to the proposed development, and pedestrian safety.

Tom Burns spoke in opposition due to lack of police protection.

Temple Jump spoke in opposition due to drainage problems and increased boat traffic.

George Cole spoke in opposition due to increased density.

Pat Ficken, Coalition of Coastal Communities, spoke in opposition due to destruction of wetlands, increased boat traffic, and lack of police protection.

Shirley Price spoke in opposition due to increased traffic and destruction of the Bay from over development.

Ellen Magee spoke in opposition stating the proposed site is the last open space on Indian River.

Til Purnell spoke in opposition due to increased traffic, poor marina design, and sewer problems.

At the conclusion of the agenda, the Chairman referred back to this application.

The Commission discussed the points and issues raised during the public hearing.

The Commission found, based on comments received from the D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested from D.N.R.E.C. Division of Water Resources, Water Pollution Control Branch, Wetlands and Aquatic Protection Branch, On-Site Wastewater Branch, Water Supply Branch, D.N.R.E.C. Division of Air and Waste Management, Air Resources Section and Waste Management Section, Division of Fish and Wildlife, Division of Parks and Recreation, Division of Soil and Water Conservation, Bureau of Archaeology and Historic Preservation, Department of Transportation, and Department of Agriculture.

The Commission found, based on comments received from the Indian River School District, that the rezoning may have an impact upon the school district based upon the demographic make-up of residents and the actual number of students, there may need to be some additional space considerations at certain feeder schools.

The Commission found, based on comments received from the Department of Agriculture, that the Department does not oppose the rezoning requested based on its LESA analysis which indicated a very poor site for economical, long-term agricultural production.

The Commission found, based on comments from the Development Advisory Service, dated September 16, 1988, and December 13, 1988, that the D.N.R.E.C. Groundwater Management Section issued a non-binding statement of feasibility, that the Water Pollution Branch is concerned that effective stormwater management and erosion controls be maintained, that the Water Supply Branch advises that a central water system will be required and that the site is located in the water service district of Public Water Supply Co., Inc., that the Wetlands Branch advises that permits are required from the State of Delaware and the Army Corps of Engineers for any filling, dredging, crossing with a road, or placement of structures in wetlands, that a stormwater retention facility should be developed to prevent surface water runoff from directly entering adjacent waterways, and that sediment and erosion control structures should be utilized during construction, that the Division of Fish and Wildlife advises that as much undisturbed buffer as possible be provided between any development and the wetlands and/or water, that the project should be designed to discourage and minimize human impact in buffer and wetland areas, that the site should be designed so that surface water runoff does not pollute natural water courses, and that adequate water flow be provided through the marina so water cannot become entrapped and depleted of oxygen, that the Division of Parks and Recreation advises that concern should be given to shoreline access for the residents and that the Division requests the opportunity to do a rare plant survey and suggest maintaining naturally vegetated buffers along wetlands and maintaining as much native mature vegetation as possible, that the Division of Soil and Water Conservation suggests the developer contact Sussex Conservation District for erosion and sediment control requirements and soil limitation

date, that the Waste Management Section advises that no debris may be buried without approval, that the Bureau of Archaeology and Historic Preservation has completed approximately 80% of an archaeological reconnaissance of the site, that the Department of Health and Social Services must approve the plans and specifications for the drinking water system, and that the Public Service Commission recommends a central water system.

The Commission found that the application was represented by David Rutt, Esquire, of Moore and Hitchens, P.A.; Tony Walmsley, Planner from Walmsley and Company; Jeff Clark, Land Tech, Inc.; H. Clark Carbaugh, Cave Associates, Inc. Consulting Engineers; F. Michael Parkowski, Esquire; David Foulke, one of the developers; and John Lamiet, Orth, Rodgers, Thompson and Associates, Inc., Traffic Engineers.

The Commission found, based on comments by representatives for the applicants, that the project complies with Article 5, Section 13, the RPC Residential Planned Community Section, of Ordinance No. 97, the Comprehensive Zoning Ordinance.

The Commission found, based on comments by representative for the application, that they reviewed the RPC Residential Planned Community regulations, the State and Federal Wetlands, Soils, traffic, and State marine regulations in designing this project.

The Commission found, based on comments by representative for the application, that no residential development exists within State or Federal 404 Wetlands and that inland upland wetlands have been designed into a configuration of ponds.

The Commission found that of the 420 acres, 244 acres are either state or federally designated wetlands.

The Commission found that 706 units within five (5) village areas are proposed, that the calculated maximum units could have been 871 units, that the minimum single family lot contains 13,667 square feet with 75 foot width, and that the project is proposed to be phased over 7 to 15 years.

The Commission found that the proposed marina is designed to contain 280 slips for residents in the development only and that the marina location and design are subject to review and approval of the D.N.R.E.C.

The Commission found that a traffic impact study was performed by traffic engineers at the request of DelDOT and that external traffic is limited due to proposed amenities on-site.

The Commission found that central wastewater facilities and central water systems are proposed for the project and that the project is designed with less density and a higher level of sewer treatment than required by D.N.R.E.C.

The Commission found, based on comments of representative of the applicant that the project conforms to environmental State and Federal regulations.

The Commission found, based on comments by one of the developers, that he confirmed all comments made by representatives; that two marketing studies were prepared and found that Sussex County is a resort and retirement destination area for the metropolitan areas of Philadelphia, Washington, DC, and Baltimore for second homes and vacation homes, that they have no objection to the improvements recommended by the traffic consultants, and that they are willing to agree to an irrevocable improvement bond to guarantee the necessary improvements for signalization of Route 26/Route 350 and widening of portions of Route 26 and Route 350.

The Commission found, based on comments by representative of DelDOT, that the developer did perform a traffic impact study per DelDOT request, that there are no immediate plans by DelDOT for improvements to Route 26, that Route 26 should be able to handle approximately 450 additional units with the recommended improvements to intersections and widening of portions of Route 26 and Route 350.

The Commission found that three (3) persons spoke in support of the application.

The Commission found that nine (9) persons spoke in opposition to the application and expressed concern with improvements needed for Route 350 and Route 26, narrowness of Route 350 and Route 26 to handle the improvements that traffic signalization at Route 26/Route 350 will draw additional traffic from the entire area for access to beach from Route 26, that no walkway exists along Route 350, that poor police response time exists, that concerns were expressed in reference to additional boat traffic on Whites Creek and the bays, that State wetlands should not be calculated in density, that the State wetlands on this site are totally covered by water several times a year, that wetlands and wildlife habitat will be destroyed, that concerns were expressed in reference to the water depth of the bay and creek, loss of vegetation, silt, the marina design, marine gas sales, pump out facilities, boat repair facilities and questions referencing where and how the sewer plant would be operated.

Motion made by Mr. Hickman, seconded by Mr. Ralph, and carried 4-1, with Mr. Allen opposing, to forward this application to the Sussex County Council with the recommendation that it be approved, based on the record of support and since the density is less than two (2) units per acre, since the Land Use Plan refers to this site as being located in the Development District for single family/planned unit developments, since a need was shown by the applicants for this type of housing in this area, and since police, fire, and medical protection are available for this area.

OTHER BUSINESS

1. RE: Ocean Outlets
Phase II

The Commission reviewed the final site plan for the proposed Phase II of the Ocean Outlets commercial complex.

Andrew Bech and Tom Ford, developers, were present on behalf of the project.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the site plan as submitted.

2. RE: Baltimore Trust Co.
Site Plan

The Commission reviewed the site plan for a proposed branch bank at the intersection of Route One and Route 273.

No one was present on behalf of the project.

Mr. Moore stated that the developer has requested that the driveway width requirements be reduced to 22 feet along a portion of drive with single loaded parking.

Mr. Moore stated that all permits have been obtained.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the project as submitted.

3. RE: Curtis Tidmore
Accessory Structure

The Commission reviewed a request from Mr. Tidmore to be able to erect a private horse stable on a vacant 3.7 acre parcel.

No one was present on behalf of the project.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the request.

4. RE: Pine Shore Mennonite Church
Site Plan

The Commission reviewed a site plan for a proposed church at the intersection of Route 66 and Route 455-A.

No one was present on behalf of the project.

Mr. Moore stated that all permits have been obtained.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the site plan as a final.

5. RE: Triangle Oil Co.
Site Plan

The Commission reviewed a site plan for a proposed convenience store and gas service complex at the intersection of Route 1 and Route 268-A.

No one was present on behalf of the project.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the project as a preliminary.

OLD BUSINESS

1. RE: C/Z #966--Guy A. Branner

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Lewes and Rehoboth Hundred, located on the southeast side of Route 268, 300 feet southwest of Lewes City Limits, containing 0.739 acre more or less.

The Chairman referred back to this application which was deferred on December 8, 1988.

The Commission discussed the issues raised during the public hearing.

Mr. Jones advised the Commission that it was not possible to change an application for a Change of Zone to a Conditional Use since they are different types of applications and since Conditional Use applications require specific site plans.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support.

2. RE: C/Z #968--Bruce D. Burtelle

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Seaford Hundred, located on the southeast side of a private road, 1,400 feet northeast of Route 30, and 1,200 feet southeast of Route 554, containing 40,747 square feet more or less.

The Chairman referred back to this application which was deferred on December 22, 1988.

The Commission discussed the issues raised during the public hearing.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied as submitted.

It was noted that an application request for a Conditional Use may be more appropriate for this location since a specific use is proposed and since the use is accessory to the use of the property for a dwelling.

3. RE: Subdiv. #88-6--Rivers End, Section II

The Commission reviewed the final plat plan for the proposed 68 lot subdivision.

Mr. Moore stated that all permits have been obtained.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the project as a final.

4. RE: Subdiv. #88-4--Plucks Development

The Commission reviewed the final plat plan for a proposed 7 lot subdivision.

Mr. Moore stated that all approvals have been granted.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the project as a final.

5. RE: Subdiv. #88-24--Webb's Landing

Withdrawn from the agenda.

Meeting Adjourned 10:40 P.M.

Lawrence B. Lank, Secretary