

## MINUTES OF THE REGULAR MEETING OF JANUARY 12, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 12, 1995, at 7:30 PM in Room 115, of the Courthouse, Georgetown, Delaware with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Ralph, seconded by Mr. Phillips, and carried unanimously to approve the minutes of December 22, 1994 as amended.

### II. PUBLIC HEARINGS

#### 1. RE: C/U #1098--Layton's Riviera, Inc.

Bayard Layton was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broad Creek Hundred for a 46 lot Addition to an Existing Manufactured Home Park lying on the southeast corner of the intersection of Hickory Avenue and an existing street within Layton's Riviera Mobile Home Park, approximately 430 feet southwest of Route 78, on a parcel containing 25.0563 acres more or less.

Mr. Lank summarized comments received from the Delaware Department of Transportation (DelDOT) and Delaware Health and Social Services - Division of Public Health.

Mr. Layton stated that his father established the park in the sixties, that he proposes to create in-park unit sales (turn key), that the streets will be paved to the specifications for subdivision streets within Sussex County, that a stormwater management system will be provided, that he resides immediately adjacent to the existing park, that the park will be restricted, that no adverse impact is anticipated on the neighborhood or property values, that west of the site is the Nanticoke River, north of the site is Route 78 and a poultry farm, south of the site is a wooded area owned by another land owner, and that east of the site is his residence and poultry farm, that individual septic systems serving one or two units are intended, that the site is not in a flood zone, that no wetlands exist on the site, and that he will comply with all agency requirements.

Mr. Layton submitted restrictions for the existing park for review.

George Littleton, owner of the poultry farm across Road 78, spoke in support of the application and stated that the existing park is well maintained.

Steven Ellis, Attorney, present on behalf of Everett Conaway and Jesse Conaway, spoke in opposition to expansion of a non-conforming park, development of lots within 500 feet of the Nanticoke River, impacts on the school district, added that the Conaways maintain the wooded area immediately adjacent to the site, and expressed a concern that the expansion will cause increased pressures on adjoining landowners to increase density in the area.

At the conclusion of the public hearings, 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 Department of Transportation, that the proposed action will have no significant impact on traffic on Road 78.

The Commission found, based on comments received from the Delaware Health and Social Services - Division of Public Health, that the Layton's Riviera is a regulated community public water system, that drinking water from the system is monitored on a regular schedule, that the Division strongly recommends that the proposed addition be tied into the existing water system to help protect the groundwater and ensure that new residents will be provided safe, potable drinking water.

The Commission found that the owner of the manufactured home park was present and stated that his father established the park in the sixties, that he proposes to create in-park unit sales (turn key), that the streets will be paved to the specifications for subdivision streets within Sussex County, that a stormwater management system will be provided, that he resides immediately adjacent to the existing park, that the park will be restricted, that no adverse impact is anticipated on the neighborhood or property values, that west of the site is the Nanticoke River, north of the site is Route 78 and a poultry farm, south of the site is a wooded area owned by another land owner, and that east of the site is his residence and poultry farm, that individual septic systems serving one or two units are intended, that the site is not in a flood zone, that no wetlands exist on the site, and that he will comply with all agency requirements.

The Commission found that the park owner submitted restrictions for the existing park for review.

The Commission found that the owner of the poultry farm across Road 78, spoke in support of the application and stated that the existing park is well maintained.

The Commission found that an attorney, present on behalf of land owners immediately to the south of the site, spoke in opposition to expansion of a non-conforming park, development of lots within 500 feet of the Nanticoke River, impacts on the school district, and expressed a concern that the expansion will cause increased pressures on adjoining landowners to increase density in the area.

There was a consensus of the Commission during discussion that the park is a non-conforming park, quiet and low key, that the park is fully developed and occupied, and that the application to expand the park, should be an appropriate action.

Motion by Mr. Ralph, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. All streets providing access to the site shall be built to the standards of the Subdivision Ordinance.

2. RE: C/U #1099--Albert Delio, Jr.

Albert Delio and Marilyn V. Truitt were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for Truck Tractor and Trailer Storage and Repair lying on the north side of Route 46, approximately 290 feet east of Route 516, on a parcel containing 7.12 acres more or less.

Mr. Lank summarized comments received from the Department of Transportation.

Mr. Delio stated that he proposes to store trucks and trailers on the site, that he presently maintains 6 to 8 trucks and approximately 20 trailers which includes 4 refrigerated units for produce, 7 flatbeds for grain and watermelon, 8 vans for grain and watermelons, and 2 lowboy trailers, that the only equipment or vehicles repaired or maintained on the site will be his company vehicles or equipment, that the majority of the repair work will be performed in the larger storage building, that his business is presently located in Vincentown, New Jersey, that his primary business is hauling watermelons, produce, and grain, that he hauls grain for Townsend's, Inc. and produce for area farmers or wholesalers, that he and his brother are the only drivers presently utilized for the business, that he may move his

entire business to the site, that he has not decided whether he will live on the site, that a refrigerated unit will not be parked and running on the site unless there is someone at the site, that he anticipates no negative impact on the neighborhood, that no fuel will be stored on the site, that he will oil and grease the vehicles, that no additional employees are proposed, and that he would not object to fencing, if required.

Mrs. Truitt stated that Mr. Delio is not applying for commercial, only a Conditional Use, and that he plans to work on his business vehicles and to store his vehicles on the site.

Vance Phillips, a farmer and realtor from the Laurel area, and Steven Cooper, a realtor from the Seaford area, spoke in support of the application since the applicant primarily hauls agricultural products, and stated that the use should probably be considered an agricultural use, that a subdivision of 14 possible homesites could impact the adjoining farm more negatively than the proposed application, and that the farm property in the past has been utilized for maintenance and storage of farm equipment.

Carlton Jones, Carlton Jones, Jr., Dawson Givens, and Ned Hearn spoke in opposition to the application and expressed concerns that the applicant was being vague in his presentation and not being very definite about his intent, that trucks could be running all hours of the night causing air and noise pollution, that if the application is approved a fence should be required, that the application will create another spot for people to notice if not well maintained, that approximately 60 feet exist between the Jones poultry houses and the larger shed proposed for repair causing a concern about noise, and that a man living in a community and maintaining his equipment is one thing, but a man stating unknown facts is questionable, and expressing concerns about fuel storage, waste oil storage, oil and grease runoff and spills, questioning traffic counts, and reporting that several accidents have happened at the intersection of Road 46 and Road 535.

At the conclusion of the public hearings, 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 Department of Transportation, that the proposed action will have no significant impact on traffic on Road 46.

The Commission found that the applicant was present and stated that he proposes to store trucks and trailers on the site, that he presently maintains 6 to 8 trucks and approximately 20 trailers, which includes 4 refrigerated units for produce, 7 flatbeds for grain and watermelon, 8 vans for grain and watermelons, and 2 lowboy trailers, that the only equipment or vehicles repaired or maintained on the site will be his company vehicles or equipment, that the majority of the repair work will be performed in the larger storage building, that his business is presently located in Vincentown, New Jersey, that his primary business is hauling watermelons, produce, and grain, that he hauls grain for Townsend's, Inc. and produce for area farmers or wholesalers, that he and his brother are the only drivers presently utilized for the business, that he may move his entire business to the site, that he has not decided whether he will live on the site, that a refrigerated unit will not be parked running on the site unless there is someone at the site, that he anticipates no negative impact on the neighborhood, that no fuel will be stored on the site, that he will oil and grease the vehicles, that no additional employees are proposed, and that he would not object to fencing, if required.

The Commission found that the owner of the property stated that the applicant is not applying for commercial, only a Conditional Use, and that the applicant plans to work on his business vehicles and to store his vehicles on the site.

The Commission found that two (2) realtors, one of which is also a farmer from the Laurel area, spoke in support of the application since the applicant primarily hauls agricultural products, and stated that the use should probably be considered an agricultural use, that a subdivision of 14 possible homesites could impact the adjoining farm more negatively than the proposed application, and that the farm property in the past has been utilized for maintenance and storage of farm equipment.

The Commission found that four (4) area residents spoke in opposition to the application expressing concerns that the applicant was being vague in his presentation and not being very definite about his intent, that trucks could be running all hours of the night causing air and noise pollution, that if the use is approved a fence should be required, that the application will create another spot for people to notice if not well maintained, that approximately 60 feet exist between the Jones poultry houses and the larger shed proposed for repair causing a concern about noise, and that a man living in a community and maintaining his equipment is one thing, but a man stating unknown facts is questionable, and expressing concerns about fuel storage, waste oil storage, oil and grease runoff and spills, questioning traffic counts and reporting several accidents have happened

at the intersection of Road 46 and Road 535.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to defer action.

3. RE: C/Z #1249--Braven O. Duffie

Braven O. Duffie was present on behalf of his application to amend the zoning map from C-1 General Commercial to MR Medium Density Residential in Lewes and Rehoboth Hundred, located on the northwest corner of the intersection of Route 9 and Ward Avenue, 0.22 mile west of Five Points, to be located on a parcel containing 9,506 square feet more or less.

Mr. Lank advised the Commission that Department of Transportation comments were not requested since the application does not change the use of the property.

Mr. Lank advised the Commission that the application was accepted with the understanding that the applicant was filing the application due to a mortgage company policy that his proposed dwelling would have to be mortgaged as a commercial use, not a residential use. Mr. Lank added that he had requested a confirmation from a mortgage company and that a response has not been received.

Mr. Duffie stated that he needs a new home, that his existing home is old, that his lot is an eyesore, that he proposes to replace the existing manufactured home with a modular home if a mortgage can be obtained, that he intends to clear the lot entirely once the modular is placed on the lot, and that he wants to do everything legally.

No parties appeared in support or in opposition to this application.

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

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

The Commission found that Department of Transportation comments were not requested since the application does not change the use of the property.

The Commission found, based on staff comments, that the application was accepted with the understanding that the applicant was filing the application due to a mortgage company policy that his proposed dwelling would have to be mortgaged as a commercial use, not a residential use, that the staff had requested a confirmation from a mortgage company, and that a response has not been received from a mortgage company.

The Commission found that the applicant stated that he needs a new home, that his existing home is old, that his lot is an eyesore, that he proposes to replace the existing manufactured home with a modular home if a mortgage can be obtained, that he intends to clear the lot entirely once the modular is placed on the lot, and that he wants to do everything legally.

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

Motion by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to defer action.

#### OTHER BUSINESS

1. RE: Juel & Virginia Stamper

The Commission reviewed a survey to create two parcels located on Route 9 which is a major arterial roadway near Coolspring.

Mr. Abbott advised the Commission that the Department of Transportation has approved one entrance to serve the two parcels.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the two parcels.

2. RE: Clearwater MR-RPC

The Commission reviewed the final site plan for Phase II of the Clearwater Residential Planned Community near Bethany.

Mr. Abbott advised the Commission that Phase II consists of 38 single family cluster dwellings, that there is a 20 foot separation between the units, that the site is part of the approved Master Record Plan, and that all required agency approvals and or permits have been received.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve Phase II as a final.

3. RE: Martin Property Comfort Inn

Bill Bahder, Engineer, was present as the Commission reviewed a preliminary commercial site plan for a motel and retail stores located on Route One.

Mr. Abbott advised the Commission that the motel is for 80 units and two 5,000 square foot retail stores, that the plan meets all of the requirements of the zoning code, that there is one entrance located on Route One with a right in and right out, an entrance and exit located on South Street, that there are no wetlands on site, and that the site is not in a flood plain.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve as a preliminary.

4. RE: Joseph Webb, III

The Commission reviewed a setback modification from agricultural lands for a side yard setback located on Route 209A near Milford.

Mr. Abbott advised the Commission that a building permit was issued in error and since the setback is referenced in the Subdivision Code a variance cannot be granted by the Board of Adjustment. The side yard setback is 40.6 feet from the agricultural lands.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the setback modification.

IV. OLD BUSINESS

1. RE: Subd. #92-7--Larry E. Willey

No one was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Northwest Fork Hundred by dividing 24.09 acres into 33 lots, located on the west side of Route 562, 900 feet north of Route 566.

Mr. Abbott advised the Commission that the final plan is the same as submitted for preliminary approval, that the plan meets the requirements of the Subdivision Code, and that all required agency approvals and or permits have been received.

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Motion made by Mr. Ralph, seconded by Mr. Lynch, and carried 4 to 0, with Mr. Wheatley not participating, to approve the subdivision plan as a final.

Meeting adjourned at 9:15 PM.