

MINUTES OF THE REGULAR MEETING OF JANUARY 23, 1997

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 23, 1997, at 7:30 P.M., in the County Council Chambers, the County Administration Building, Georgetown, Delaware, with the following members present:

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

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the minutes of January 9, 1997, as amended.

II. PUBLIC HEARINGS

1. RE: APD #97-3--Theodore & Phyllis Hastings & Joseph Black

No one was present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred for two (2) parcels of land totalling 228.00 acres more or less, located on the east side of Route 30 and the northwest side of Road 249 for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized a report from the Delaware Agricultural Lands Preservation Foundation that was submitted with the application.

Mr. Phillips questioned the size of the borrow pit and how much the pit can be expanded.

Mr. Wheatley expressed concerns about the fifty foot setback for adjoining parcels next to Preservation Districts and expressed concerns about not having a recommendation from the Foundation Staff.

Mr. Ralph stated that he agrees with the concerns about the fifty foot setback and that he supports the creation of Agricultural Preservation Districts.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried 3 votes to 2, with Mr. Allen and Mr. Lynch opposed, to recommend approval to the Delaware Agricultural Lands Preservation Foundation. Mr. Lank was instructed to continue notifying the Foundation that the Commissioners concerns relate to the mandated fifty foot setback imposed on adjoining landowners.

III. OTHER BUSINESS

1. RE: Jimmy's Grill

Roger Trice was present as the Commission reviewed a revised commercial site plan for a restaurant on Route 13-A and Route 13 near Bridgeville.

Mr. Abbott advised the Commission that the site plan was approved on October 11, 1996 with the stipulations that the parking lot comply with the requirements of the zoning code, that all parking spaces and fire lanes be striped, that concrete bumpers be installed near the stormwater management area, and that the signage on the tractor trailer be removed immediately, that the revised site plan is for a five hundred square foot addition for patron use, and that the setbacks and required parking spaces meet the requirements of the zoning code.

Mr. Trice advised the Commission that the owner has a written contract to have the parking lot paved as required and that this will be completed as soon as the weather permits this to be done, that the tractor trailer has been removed, and that the addition will be for dinning.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the site plan as revised.

2. RE: Roger and Elizabeth Wooleyhan

The Commission reviewed a request for a variance from the setback requirements for a parcel that is adjacent to agricultural lands on Road 306-A.

Mr. Abbott advised the Commission that the Commission needs to act on the variance since the Ordinance is in the Subdivision Code, that the owners are requesting to build a dwelling with the regular AR-1 Agricultural Residential setbacks, and that the three adjoining land owners have sent letters of no objection.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the variance request.

3. RE: Robert P. Short / Ellendale Market

The Commission reviewed the site plan for C/U #983, for a retail store, east of U.S. Route 113 and south of Road 641, near Ellendale.

Mr. Abbott advised the Commission that a 4,800 square foot convenience store building is proposed with 3,200 square foot of

retail space, that all setbacks and parking requirements meet the Zoning Ordinance, that all appropriate agency approvals have been obtained, except DelDOT, and that plans have been reviewed and submitted to DelDOT.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a final, subject to receipt of an entrance permit from DelDOT.

4. RE: Joseph J. Balsamo

The Commission reviewed the site plan for a restaurant north of Route 54, next to the Fenwick Water Park west of Route One.

Mr. Abbott advised the Commission that a 2,350 square foot building is proposed with 1,000 square foot of patron area, that all setbacks conform to the Zoning Ordinance, that the number of parking spaces exceed the minimum required, and that the Commission must decide on the six (6) parking spaces within the front yard setback. Mr. Abbott added that no agency approvals have been received to date.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan, as a preliminary only. Final site plans shall be subject to the elimination of the six (6) parking spaces along Route 54 and revised plans to establish corrected locations for 22 parking spaces. Final approval shall be subject to receipt of all appropriate agency approvals and/or permits.

IV. OLD BUSINESS

RE: Subdiv. #96-11--David A. Shevock

No one was present on behalf of this application to consider the Subdivision of land in a C-1 General Commercial and an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 9.80 acres into 6 lots, located at the northeast corner of the intersection of Road 269A and Penn Central Railroad.

Mr. Abbott advised the Commission that preliminary plans for the subdivision were approved on July 25, 1996, that the final plans contain the same layout and design, that the plans comply with the Subdivision Ordinance, and that all appropriate agency approvals have been received.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve this subdivision as a final.

V. ADDITIONAL BUSINESS

RE: Workshop - Comprehensive Land Use Plan Draft

Mr. Ralph questioned if the Commission could advise the County Council to retain the two (2) existing land use plans, the Coastal Sussex Land Use Plan and the Western Sussex Land Use Plan.

Mr. Lank advised the Commission that the Quality of Life and Shaping Delaware's Future legislation require certain changes in the plans and that a new plan is necessary to combine the existing plans into one comprehensive plan and to include the necessary changes to conform to the legislation.

re: Strip Subdividing

Mr. Ralph stated that strip development still needs to be discussed.

Mr. Wheatley stated that he is still receiving phone calls about strip development. Mr. Wheatley continued by suggesting that a combination formula may be appropriate and exemplified: four (4) lots plus one (1) lot per each X number of acres with combined entrances subject to DelDOT.

Mr. Lynch stated that he does not feel that it is necessary to restrict the number of lots along secondary roads.

Mr. Lank reminded the Commission that, in the past, they have stated concerns for certain road being added to their review prior to subdivision consideration, i.e. Routes 54, 26, 24, 16, etc...

There was a consensus of the Commission, after a long discussion, that they would not object to four (4) one (1) acre lots, with a minimum width of 150 feet, being allowed as a minor subdivision, and that the residual acreage and frontage of a parcel should not be counted as one (1) of the four (4) lots, that combined entrances per DelDOT approval would be required, and that any further subdivision of the parcel would require a public hearing.

re: Manufactured Homes

Mr. Allen questioned if the Commission should address manufactured homes at this time and questioned if ordinances can legally be created to restrict the location of manufactured homes.

Mr. Schrader advised the Commission that ordinances have been created in numerous jurisdictions that restrict the location of manufactured homes, that the language about parity between manufactured homes and constructed dwellings, on page 35, is not acceptable, and that the language should be removed from the draft.

Mr. Allen stated that double wide manufactured homes should not be permitted in existing subdivisions and that double wides may be acceptable in subdivisions created after adoption of appropriate ordinances, if not restricted by private deed restrictions.

Mr. Lank advised the Commission that parity may already exist when one compares the number of permits for dwellings and manufactured homes issued annually within Sussex County.

There was a consensus of the Commission that the lot size for a manufactured home can be reduced from five (5) acres to one (1) acre, if the manufactured home placement is made subject to review and approval by the Sussex County Board of Adjustment.

re: Sunsetting

There was a consensus of the Commission that sunsetting be addressed as an implementation provision of the draft and that ordinances will be necessary to provide for sunsetting of subdivisions and changes of zoning created after adoption of appropriate ordinances.

re: Protection of all Waterways

There was a consensus of the Commission that the Conservation Overlay Zones, originally referenced to as Conservation Districts on page 11 of the draft, remain as one (1) acre lots for on-site septic systems as presently written in the Zoning Ordinance, and that the revised draft references to the Inland Bays be accepted as written.

re: Setbacks

The Commission made no changes to existing setbacks. There was a consensus of the Commission that Agricultural Preservation Districts setbacks should not be imposed on neighboring properties.

re: Transportation Issues

There was a consensus of the Commission that transportation issues be amended as addressed in the Draft Revisions of October 24, 1996.

The Commission discussed the Recommended Transit Corridors map, Figure 7, and questioned if it is necessary to add a connection between Selbyville and Delmar. There was a consensus that it is not necessary at this time since the map will be reviewed again in the next review of the Comprehensive Plan in five (5) years.

re: Intergovernmental Coordination

Mr. Schrader expressed some concerns about the creation of Intergovernmental Coordination Zones, page 38 of the Draft - Revision, that the Draft suggest that the incorporated areas shall be notified of any proposals within one mile of their jurisdiction and that they may respond and recommend actions to the County, that the Draft may not require the jurisdictions to notify the County of any proposals to allow the County to respond and recommend an action, and that memorandums of understanding should be required between the County and the other jurisdictions to give each jurisdiction the same rights.

There was a consensus of the Commission to allow Mr. Schrader to rewrite this section of the Draft Revision.

re: Transfer of Development Rights

Mr. Wheatley stated that he did not feel that the County was ready to get involved in a Transfer of Development Rights program.

There was a consensus of the Commission that all references, especially Page 15, to Transfer of Development Rights be deleted from the Draft Revision of October 24, 1996. Mr. Schrader to prepare a statement referencing Transfer of Development Rights.

re: Development District uses

Mr. Schrader expressed a concern relating to commercial and industrial uses permitted in the Development District.

There was a consensus of the Commission that there is a need to create more descriptive definitions of the uses permitted in a Development District. Mr. Schrader is to rewrite this section.

Minutes
January 23, 1997
Page 7

Mr. Allen asked Mr. Lank to combine all of the comments and to prepare an addendum to the Draft Revision of October 24, 1996 for submittal to the Commission on Wednesday, January 29, 1997, so that the Commission may prepare a recommendation for the Sussex County Council at a Special Meeting of the Commission on January 30, 1997.

The next meeting of the Commission will be at 7:00 P.M. in the County Council Chambers January 30, 1997.

Meeting adjourned at 9:45 P.M.