

MINUTES OF THE REGULAR MEETING OF JANUARY 27, 2000

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, January 27, 2000 at 7:30 PM in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:30 PM with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Hastings, Mr. Lynch, Mr. Wheatley, Mr. Schrader – Assistant County Attorney, Mr. Lank – Director, and Mr. Abbott – Assistant Director.

Mr. Lank advised the Commission that C/U #1324 – American Tower Corp. was withdrawn January 26, 2000.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to adopt the agenda as amended.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the minutes of January 13, 2000 as amended.

Mr. Schrader explained how the meeting would be conducted.

IV. PUBLIC HEARINGS

Subdivision #2000-1 application of WALLS FARM, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred, by dividing 56.25 acres into 56 lots and a waiver from the forested buffer strip requirements, located northwest of Road 277, 865 feet southwest of Road 275.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on January 19, 2000; that each member has received a copy of the report and recommended that the report be made a part of the record.

Mr. Abbott advised the Commission that no additional correspondence has been received in reference to this application.

The Commission found that Craig Hudson, developer, John Sergovic, Attorney, and Kevin Burdette, Engineer, were present on behalf of this application and advised the Commission in their presentations and in response to questions raised by the Commission that the revised restrictive covenants were submitted to Mr. Schrader today; that since the Technical Advisory Committee Meeting the site plan has been revised to meet the recommendations of the Committee; that the proposed location of the grid road was based on DelDOT's recommendations; that planting strips have been added along Nautilus Court and Seashell Boulevard so that the lots will not have double frontages; that the proposed lots 55 and 56 will have a common entrance from Road 277; that the

maintenance of the buffer strips is referenced in the common areas; that the plan has been revised five times due to the grid road concept; that they are not sure when the grid road will be built; that the grid road is mapped where DelDOT is requiring it to be; that before the grid road is built, DelDOT will have to condemn the property; that the grid road area will be an open area until it is built; that the width of the right of way for the grid road is 60 feet; and that the existing tree line will serve as a buffer from the adjacent agricultural lands along lots 14 through 21.

Mr. Schrader advised the Commission that the revised restrictive covenants are acceptable.

The Commission found that Don Rosseler of Gosling Creek Subdivision and the Citizens Coalition was present as advised the Commission that both groups are in support of this application since the proposed subdivision adheres to the density requirements of the County Comprehensive Land Use Plan and it is consistent with the surrounding developments in the immediate area.

The Commission found that Halsey Knapp, an adjoining property owner, was present and advised the Commission that he is opposed to this application since the proposed grid road is located on half of his property; that DelDOT has not contacted him about this; that the existing 20 to 30 foot hedgerow between his property and the proposed subdivision would be destroyed when the grid road is built; and that a forested landscaped buffer should be required adjacent to agricultural farmlands.

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.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to defer action so that Mr. Johnson can listen to the tape and review the record for this application.

Subdivision #2000-2—application of D. & N. PROPERTIES, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred, by dividing 33.46 acres into 21 lots, located south of Road 484, 4,320 feet east of Road 483.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on January 19, 2000; that each member has received a copy of the report and recommended that the report be made a part of the record.

Mr. Abbott advised the Commission that no additional correspondence has been received in reference to this application.

The Commission found that Don Miller, surveyor, was present on behalf of this application and advised the Commission in his presentation and in response to questions raised by the Commission that the developer will comply with the recommendations of the Technical Advisory Committee; that the lots will be a minimum of one acre since the area is located in a conservation zone; that the development will allow for double wide manufactured homes; that the agricultural protection deed restriction will be incorporated into the final restrictive covenants since the site is located within 300 feet of agricultural lands; that a forested landscaped buffer is not required since the site is not adjacent to agricultural lands; that this section is not a portion of the Fleetwood Pond strip lots along Road 484; that the site is cut over woods with small pines growing; that the proposed entrance location will be realigned; and that the lots will not have access to Fleetwood Pond since the pond is held in private ownership.

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

The Commission found that Leah Baker, Jeff Culley, and Joseph Beck, area property owners, were present in opposition to this application and advised the Commission that they have concerns about ecological impacts to Fleetwood Pond; questioned if septic systems have been approved; that the property is a part of the Fleetwood Pond strip lot subdivision; that there are several low areas on the site that will drain into Fleetwood Pond; requested that a buffer be placed between this property and the existing strip lot development; that there would be negative impacts to the wildlife in the area; questioned who will maintain the streets in the subdivision; raised concerns about the right of way to the proposed subdivision; and stated that the proposed entrance could be relocated onto the entire parcel.

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.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to defer action pending receipt of a septic feasibility statement from DNREC and so that Mr. Johnson can listen to the tape and review the record for this application.

Subdivision #2000-3—application of EDGE GROUP, INC. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred, by dividing 8.90 acres into 9 lots, located northwest of Road 265-A, 1,400 feet northeast of Route One.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on January 19, 2000; that each member has received a copy of the report and recommended that the report be made a part of the record.

Mr. Abbott advised the Commission that a septic feasibility statement has been received from the Underground Discharges Section of DNREC and that the site is suitable for individual on-site septic systems; and that a revised plan was submitted to the staff based on the recommendations of the Technical Advisory Committee.

The Commission found that Roger Gross, engineer, was present on behalf of this application and advised the Commission in his presentation and in response to questions raised by the Commission that the proposed subdivision is for 9 lots; that the site is suitable for gravity septic systems; that the homes will be stick built; that no manufactured homes will be permitted; and that the street will be private.

The Commission found that no parties appeared in support of 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.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to defer action so that Mr. Johnson can listen to the tape and review the record for this application.

Subdivision #2000-4—application of FARMHOUSE LAND DEVELOPMENT, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred, by dividing 35.06 acres into 32 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located at the northern end of Creek Drive within Creek Falls Farm Subdivision, 1,500 feet northwest of Road 258 and Road 88.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on January 19, 2000; that each member has received a copy of the report and recommended that the report be made a part of the record.

Mr. Abbott advised the Commission that a septic feasibility statement has been received from the Underground Discharges Section of DNREC and that the site is suitable for individual on-site septic systems.

The Commission found that John Sergovic, Attorney, and Ross Harris, engineer, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the application is for a 32 lot single family subdivision; that the streets will be private and built to Sussex County specifications; that the street is approximately 3,000 feet long with a turn around in the middle for emergency vehicles and a cul-de-sac at the end of the street; that the homes will be similar to the ones in the other three phases of Creek Falls Farm; that no manufactured homes will be permitted; and that the restrictive covenants were submitted to Mr. Schrader today and that they are the same as Phase 3.

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

The Commission found that Don Kessler a resident of Creek Falls Farm Phase 2 was present and questioned if there will be a homeowners association.

Mr. Sergovic advised the Commission that there will be a homeowners association and that they will share in the cost of the maintenance of the street located in Phase 2.

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.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to defer action so that Mr. Johnson can listen to the tape and review the record for this application.

C/U #1324—application of AMERICAN TOWER CORP. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a proposed 340' high guy wire telecommunications tower to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 12.35 acres, more or less (tower to be situated on a 10,000 square foot lease area), lying northwest of a Private Road, 1,000 feet southwest of Route 24 and 1,400 feet southwest of Road 298.

Application was withdrawn on January 26, 2000.

V. OTHER BUSINESS

Rehoboth Mall Redevelopment
Revised Commercial Site Plan – Route One

John Sergovic, Attorney, Randy Duplechain, Engineer, and Glen Weinberg, Partner, were present as the Commission reviewed a revised commercial site plan.

Mr. Abbott advised the Commission that the revision is for the Eckerd Drug Store since they do not want a stand alone store; that the Wal-Mart store has been revised; that Mr. Sergovic is requesting a certain area of the foot print of the mall not be classified as gross leaseable area; and that the staff is waiting for a legal opinion from Mr. Berl – Assistant County Attorney.

Mr. Sergovic and Mr. Weinberg advised the Commission that they are trying to maintain the small square footage area as when the mall was originally approved so that the project would not be required to follow the “big-box” ordinance; that the tenants do not want a free standing store; that they want the same amount of leaseable area; that there is not enough land available for parking; that they would be willing to close off a portion of the mall corridor and have it as dead space; that access to the drug store would be from the exterior only; that there is no inter-connection from the Wal-Mart to the Fashion Bug store; that the Wal-Mart has been shifted to be parallel to the property lines; that the Fire Marshal has no objections to the revised layout; that fire walls will be provided; and questioned if they will be able to respond to Mr. Berl’s opinion.

It was the consensus of the Commission that this item be deferred until receipt of Mr. Berl’s legal opinion in reference to the gross leaseable area.

Hudson Homes Sales Center
Final Commercial Site Plan – Route 24

The Commission reviewed the final site plan for a manufactured home sales lot.

Mr. Abbott advised the Commission that the site plan received preliminary approval on November 18, 1999; that the final site plan meets the requirements of the zoning code; and that all required agency approvals have been received.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a final.

Central Self Storage
Preliminary Commercial Site Plan – Route One and Road 273

Preston Schell, developer, and Kevin Burdette, Engineer, were present as the Commission reviewed a preliminary commercial site plan for mini storage.

Mr. Abbott advised the Commission that a letter of no objection has been received from DelDOT in reference to the entrance location; that the storage area consist of 72,875 square feet located within 9 separate buildings; that the buildings range from 10,000 square feet to 4,725 square feet; that there is a 30' by 35' office/apartment building with a garage proposed; that the setbacks meet the minimum requirements of the zoning code; and that if the Commission is favorable, final approval shall be subject to the staff receiving all required agency approvals.

Mr. Schell and Mr. Burdette advised the Commission that the buildings will have split face masonry on the exterior and that the interior walls will be metal; that the sizes of the buildings differ; that there is a reserved area for a future bike path and possible grid road; that the apartment above the office will be for an on-site manager; that there will be a gated access to the facility and will require pin numbers to open the gate and the individual's storage area; and that all driveways will be concrete.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all required agency approvals.

Shore Electric
Preliminary Commercial Site Plan – Private Road

Joseph Johnson, owner, and Richard Bryan, Realtor, were present as the Commission reviewed a preliminary site plan for a contractor's office and storage warehouse on lot 3 within the J.W. Shockley subdivision off of Route One near Midway.

Mr. Abbott advised the Commission that the proposed building is 60' by 150'; that 15 parking spaces are proposed; that the setbacks meet the minimum requirements of the zoning code; and that if the Commission is favorable, final approval could be subject to the staff receiving all required agency approvals.

Mr. Johnson and Mr. Bryan advised the Commission that the building is a prefabricated metal building; that 1/3 of the building will be for the owner's office and storage of equipment; that the rest of the building will be rental space for other contractors; that there will be no outside storage of materials; that the parking area will be paved; and that the stormwater management will be handled by the design for the entire subdivision.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all required agency approvals.

Homeworks Carpet Warehouse
Preliminary Commercial Site Plan – Route 54 and Road 390

Paul West, Landscape Architect, was present as the Commission reviewed a preliminary commercial site plan for a warehouse.

Mr. Abbott advised the Commission that the proposed building is 6,000 square feet; that 10 parking spaces are proposed; that the setbacks meet the minimum requirements of the zoning code; that an ingress only is proposed on Route 54 and an ingress/egress on Road 390; and that if the Commission is favorable, final approval could be subject to the staff receiving of all agency approvals.

Mr. West advised the Commission that the building is for a carpet warehouse; that the building will be metal; that the parking area is for employees who will be at the site; that he is not sure whether or not DelDOT will allow the existing entrance on Route 54 to remain; that there would usually be two part time employees at the site; and that there will not be any retail sales at the site.

Warren Hamstead, owner, advised the Commission that his office and retail sales store is located about 8 miles away in Ocean City, Maryland and that their regulations will not permit any warehousing in Ocean City.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the review and approval by the Commission upon receipt of all required agency approvals.

Compass Rose Plaza & Central Storage at Long Neck
Preliminary Commercial Site Plan – Route 22

Jerry Hill, owner, and Don Miller, surveyor, were present as the Commission reviewed a preliminary commercial site plan for retail sales and a mini storage facility.

Mr. Abbott advised the Commission that the front parcel is for a proposed 20,000 square foot retail sales shop building; that the site plan references 73 parking spaces and that 100 spaces are required since the parking calculations are based on gross leaseable area since more than 1 store is proposed; that the back parcel is for a 60,800 square foot mini storage facility located within 8 buildings; that access to the rear parcel is from a 50 foot cross access easement; that the setbacks meet the minimum requirements of the zoning code; and that the site plan should be subject to meet the parking requirements.

Mr. Hill and Mr. Miller advised the Commission that the retail shops would be reduced to meet the parking requirements; that the mini storage buildings will be of metal

construction; that a resident manager will reside in an apartment on site; and that the project will start as soon as all approvals have been obtained.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan with the stipulation that the parking requirements be met for the retail sales area, and with the stipulation that final approval shall be subject to the staff receiving all required agency approvals.

South Street Associates, L.L.C.
Preliminary Multi-Family Site Plan – South Street

Bonnie Benson, Attorney, and Mark Davidson, designer, were present as the Commission reviewed a preliminary multi-family site plan.

Mr. Abbott advised the Commission that 8 units are permitted and proposed; that the setbacks meet the requirements of the zoning code; that 24 parking spaces are required and proposed; and that if the Commission is favorable, final approval could be subject to the staff receiving all required agency approvals.

Ms. Benson and Mr. Davidson advised the Commission that central water and sewer are proposed; and that the site plan has been submitted to all agencies for review and approvals.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Southampton RPC
Phase 1 Final Site Plan – Roads 361, 362, and 368

The Commission reviewed the final site plan for Phase 1 of Southampton a MR Medium Density Residential, Residential Planned Community.

Mr. Abbott advised the Commission that Phase 1 is for 20 single family lots, 26 single family cluster dwellings, and 16 townhouse units; that a pool and bathhouse and 2 tennis courts are proposed; that the site plan is the same as the Master Record Plan which the Commission approved; and that all required agency approvals and permits have been received.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve Phase 1 as a final.

Glen and Karen Stevenson
2 lots on Public Street – Water Street

The Commission reviewed a concept to create 2 lots off of Water Street.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve this request as a concept.

Louis J. Travalini, Jr
3 Lots on existing 50' Right of Way – Road 351

The Commission reviewed a concept to create 3 lots with access from an existing recorded 50' right of way.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve this request as a concept with the stipulation that any future subdivision will require a public hearing with the right of way to be improved.

Ruth P. Jones
Lot and 50' Right of Way – Road 431

The Commission reviewed a concept to create a lot with access from a 50' right of way.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve this request as a concept.

James L. Hitchens
Lot and 50' Right of Way – U.S. Route 113

The Commission reviewed a concept to create a parcel with access from a 50' right of way.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve this request as a concept.

Walter Beck
Lot on 50' Right of Way – Road 262

The Commission reviewed a request to create a parcel with access from an existing 50' right of way.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve this request as a concept with the stipulation that any future subdivision will require a public hearing and the right of way shall be required to be improved

Meeting adjourned at 10:30 PM..