

MINUTES OF THE REGULAR MEETING OF FEBRUARY 9, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 9, 1995, at 7:30 P.M. 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 by Mr. Ralph, seconded by Mr. Lynch, and carried unanimously to approve the minutes of January 26, 1995, as amended.

II. PUBLIC HEARINGS

1. RE: C/U #1102--Charles Daisey

Charles Daisey was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Georgetown Hundred by amending Conditional Use No. 978 for a Used Car Sales Facility by Deletion of the Stipulation that "The Maximum Number of Vehicles to be Displayed shall be Ten" lying on the northeast side of Route 213, 170 feet north of Route 565, on a parcel containing 1.37 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District.

Mr. Daisey stated that he operates the business fulltime, that he request that the limitation of ten (10) vehicles be deleted so that he may display approximately fifty (50) vehicles, that no repair work is performed on the site, that he proposes to build a building for a wash bay to maintain the appearance of the vehicles, that no adverse impact is anticipated on property values, the neighborhood, or traffic on Road 213.

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.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any off-site or on-site drainage improvements, that the soils are mapped as Evesboro loamy sand, Klej loamy sand, and Pocomoke sandy loam,

that the Evesboro soils and some of Klej soils have slight limitations, that some of the Klej soils have moderate limitations, that the Pocomoke soils have severe limitations, that the applicant may be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, and that the Farmland rating of the soil type is considered of Statewide Importance.

The Commission found that the applicant was present and stated that he operates the business fulltime, that he request that the limitation of ten (10) vehicles be deleted so that he may display approximately fifty (50) vehicles, that no repair work is performed on the site, that he proposes to build a building for a wash bay to maintain the appearance of the vehicles, that no adverse impact is anticipated on property values, the neighborhood, or traffic on Road 213.

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

The Commission found that the applicant established that the proposed use, a used car sales lot, will not adversely affect the character of the neighborhood or property values, that the proposed use will cause no adverse environmental or traffic impact, that the surrounding area is developed with a variety of commercial enterprises, and that the proposed use does not conflict with the Land Use Plan.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that "The maximum number of vehicles to be displayed shall be ten" be deleted as a stipulation, and that all other stipulations imposed by Ordinance No. 782 for Conditional Use No. 978 remain in force.

2. RE: C/Z #1251--Pines Acres, Inc.

George Harrison, Jr., President of Pines Acres, Inc., was present on behalf of his application to amend the zoning map from AR-1 Agricultural Residential to MR Medium Density Residential in Indian River Hundred, located 110 feet northeast of the end of Rudder Road within Seafarers Village Subdivision, approximately 1,460 feet north of Road 22 (Long Neck Road), to be located on a parcel containing 26.446 acres more or less.

Mr. Allen asked Mr. Schrader if the applications for C/Z #1251 and C/U #1103 can be held at the same time.

Mr. Schrader stated that the two applications could be considered at the same time since they were based on the same site.

Mr. Lank summarized comments received from DelDOT, the Delaware Department of Agriculture, the Sussex Conservation District, the Sussex County Engineering Department, and the Delaware Department of Natural Resources and Environmental Control.

Mr. Harrison advised the Commission that he developed Seafarers Village, a 17 lot subdivision, was developed in 1982, that most of the lots have been improved by dwellings, that few single family lots for sale exist in the Long Neck area, that the site will have access across the cul-de-sac at the end of Rudder Road, that a small wetland area exist along Guinea Creek, that the wetlands have been delineated and forwarded to the U.S. Army corps. of Engineers for verification, that a buffer area is proposed to be preserved as open space along Guinea Creek, that a need exist for single family lots for dwellings in the Long Neck Area, that land owners in Seafarers Village have been notified of the proposal, that deed restrictions in Seafarers Village allow for amendments by 60% vote of the residents, that no negative impact is anticipated on the area, that the multi-family portion of the applications was suggested by residents of the area interested in dwellings with little or no maintenance, that since the Long Neck Elementary School will be completed in the fall of 1995 it is anticipated that the proximity of the school will attract additional residential development, that 63 residential lots and 23 multi-family units are proposed as a maximum on the site, that the ponds depicted on the site plan are proposed locations for stormwater management, that the street in Seafarers Village is built to County specification, that he is working with DelDOT to establish if it will be feasible to develop public streets in the proposed project and the existing street, that he may apply for boat docks at the site, that the shoreline is proposed to have rip-rap to protect the shoreline from erosion, that the entire project will be constructed as one phase, that a minimal amount of trees will be disturbed, that some of the trees will be relocated along Lingo Estates Mobile Home Park, that the residents within Seafarers Village will have access to the shoreline, that the project should have a positive impact on the area, and that no negative impact is anticipated on property values, the neighborhood, or traffic on Route 22 (Long Neck Road).

Tim Buckmaster and Richard Hulsizer, residents of Seafarers Village, spoke in support of the application and stated that the project should improve property values, that the area is growing and a need exist for residential lots for sale, that the

developer has been kept the residents aware of his proposals, and that having access to the water will be beneficial to their activities within the subdivision.

No parties appeared in opposition.

At the conclusion of the public hearing, 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 DelDOT, that a traffic impact study was not recommended, and that the level of service "D" of Route 22 will not be impacted by this application.

The Commission found, based on comments received from the Delaware Department of Agriculture Division of Resource Management, that the Land Evaluation and Site Assessment analysis of the site scored 133 out of 300 points which is below average for Sussex County and indicates that this is a poor site for economical long term agricultural production, that the low land evaluation score resulted since the parcel contains marginally productive soils for agricultural use, the very low site assessment score reflects that the surrounding area is already extensively developed and that the parcel is accessible to a public sewer system, that developing the parcel will have little long term impact on the area's agricultural community, that the Division does not oppose the rezoning, and that the Division believes that the MR zoning will permit development densities that are sufficiently high so as to reduce some of the residential sprawl occurring throughout the agricultural areas of coastal Sussex County.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that off-site drainage improvements may be necessary in the areas of Woodstown soils, that the applicant needs to be aware that the Guinea Creek area is within a 100 year floodplain, that the soils on the site are mapped as Evesboro loamy sand, Fallsington sandy loam, Rumford loamy sand, and Woodstown sandy loam, that the Evesboro soils, Rumford soils, and some of the Woodstown soils have slight limitations, that some of the Woodstown soils have moderate limitations, and that the Fallsington soils have severe limitations, that the applicant may be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the Evesboro soils, Fallsington soils, and Rumford soils are considered of Statewide

Importance, and that the Fallsington soils and Woodstown soils are considered Prime Farmland.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in the Long Neck Sanitary Sewer District, that there is capacity in the sewer system to serve the proposal for 86 units, that access to the sewer system will be at the developer's expense, that all sewers must be constructed in accordance with Ordinance No. 38, that any upgrades to existing pump station or gravity sewer shall be done at the developer's expense, and that there will be connection charges required for each unit constructed.

The Commission found, based on comments received from the Office of the Secretary of the Delaware Department of Natural Resources and Environmental Control, that a Land Use Planning Act number has been provided for comments on this application.

The Commission found that the developer was present and advised the Commission that he developed Seafarers Village, a 17 lot subdivision, was developed in 1982, that most of the lots have been improved by dwellings, that few single family lots for sale exist in the Long Neck area, that the site will have access across the cul-de-sac at the end of Rudder Road, that a small wetland area exist along Guinea Creek, that the wetlands have been delineated and forwarded to the U.S. Army corps. of Engineers for verification, that a buffer area is proposed to be preserved as open space along Guinea Creek, that a need exist for single family lots for dwellings in the Long Neck Area, that land owners in Seafarers Village have been notified of the proposal, that deed restrictions in Seafarers Village allow for amendments by 60% vote of the residents, that no negative impact is anticipated on the area, that the multi-family portion of the applications was suggested by residents of the area interested in dwellings with little or no maintenance, that since the Long Neck Elementary School will be completed in the fall of 1995 it is anticipated that the proximity of the school will attract additional residential development, that 63 residential lots and 23 multi-family units are proposed as a maximum on the site, that the ponds depicted on the site plan are proposed locations for stormwater management, that the street in Seafarers Village is built to County specification, that he is working with DelDOT to establish if it will be feasible to develop public streets in the proposed project and the existing street, that he may apply for boat docks at the site, that the shoreline is proposed to have rip-rap to protect the shoreline from erosion, that the entire project will be constructed as one phase, that a minimal amount of trees will be disturbed, that some of the trees will be relocated along Lingo Estates Mobile Home Park, that the residents within Seafarers Village will have access to the

shoreline, that the project should have a positive impact on the area, and that no negative impact is anticipated on property values, the neighborhood, or traffic on Route 22 (Long Neck Road).

The Commission found that two residents of Seafarers Village spoke in support of the application and stated that the project should improve property values, that the area is growing and a need exist for residential lots for sale, that the developer has been cooperative and kept the residents aware of his proposals, and that having access to the water will be beneficial to their activities within the subdivision.

The Commission found that no parties appeared in opposition.

Motion by Mr. Lynch, 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 findings that the applicant and residents of the area have established a need for residential housing, and since the change of zone conforms to the Coastal Sussex Land Use Plan.

RE: C/U #1103--Pine Acres, Inc.

George Harrison, Jr., President of Pine Acres, Inc., was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for Multi-Family Dwelling Structures (23 units) lying 110 feet northeast of the end of Rudder Road within Seafarers Village, approximately 1,460 feet north of Road 22 (Long Neck Road), on a parcel containing 26.446 acres more or less.

All comments made as a part of the record for C/Z #1251 by Commission members, staff members, the applicant and supporters are hereby made a part of the record for this application.

All Commission findings related to C/Z #1251 are made a part of the record for this application.

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

1. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
2. Final site plan approval shall be subject to receipt of all agency approvals and/or permits.

4. RE: C/U #1104--Eileen McCaffery

Eileen McCaffery, James Buck, III, John Buck, and John Wech were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for Expansion to an Existing Manufactured Home and Recreational Park by Adding 81 Recreational Sites lying approximately 1,120 feet east of Road 347 and 1/2 mile north of Road 349, on a parcel containing 7.27 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, the Office of the Secretary of DNREC, and the Sussex County Engineering Department.

Mr. Wech advised the Commission that the applicant proposes to expand the park for tenting and overflow camping, that no infrastructure will be provided immediately, that in the future the sites will be served with electric and water, that 163 sites, of the original intended 195 sites, presently are utilized in the park, that the proposed 81 sites will conform to zoning regulations, that the sites will be utilized for overnight and weekly rental, that DNREC has approved a septic system for the existing and expandable area, that DelDOT has been contacted to review the existing entrance to determine if any additional improvements are necessary, that the entrance road is well maintained, that the proposed site is wooded, that 36 foot wide right of ways are proposed with 20 foot stoned and maintained, and that over 90 percent of the forested canopy will be maintained.

Mrs. McCaffery stated that the campground at the State Parks refers people to their park when the State campground is at capacity, that the majority of the other private camping sites in the general area rent seasonally or have only a minimum area for overnight camping, that some of the private camping sites also refer people to their park.

Mr. Wech stated that Jim and John Buck operate the park, that the maximum number of lots anticipated within the existing and expansion area is 226 sites after installation of all infrastructure, that no wetlands exist on the site, that the site is not within a Conservation Zone, and that within 1000 feet only four (4) homes exist.

Jim Buck stated that the park provides and maintains a swimming pool, game room, campstore, security, and recreational areas, that trash removal is provided, and that some winter storage of campers is permitted.

Mr. Wech submitted and read the existing park restrictions, and stated that the applicant has no objection to the restrictions being made a part of any stipulations imposed if the use is approved.

Linda Hickman, Ed Howell, John Thay, and Ken Hickman, all area land owners, spoke in opposition and expressed concerns density, impact on property values, that residential sites would be more appropriate for the area based on the trend of development recently in the area, and the fear that camping residents in the park will complain about farming and other activities.

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 DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils are mapped as Evesboro loamy sand, Klej loamy sand, and Matawan loamy sand, that the Evesboro soils, and some of the Klej soils and Matawan soils have slight limitations, that some of the Klej soils and Matawan soils have moderate limitations, and that some of the Matawan soils have severe limitations, that the developers shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the Evesboro and Klej soils are considered of Statewide Importance, and that the Matawan soils are considered Prime Farmland.

The Commission found that the Office of the Secretary of the State DNREC has provided this application with a Land Use Planning Act number for comments.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in a Priority III service area, based on the South Coastal Area Planning Study, that sewer service is not expected to be available in the near future, and that the site will ultimately be served by the South Coastal regional Wastewater Facilities.

The Commission found that the applicant was present with her two sons and a Landscape Architect and advised the Commission that they propose to expand the park for tenting and overflow camping, that no infrastructure will be provided immediately, that in the future the sites will be served with electric and water, that 163 sites, of the original intended 195 sites, presently are utilized in the park, that the proposed 81 sites will conform to zoning regulations, that the sites will be utilized for overnight and weekly rental, that DNREC has approved a septic system for the existing and expandable area, that DelDOT has been contacted to review the existing entrance to determine if any additional improvements are necessary, that the entrance road is well maintained, that the proposed site is wooded, that 36 foot wide right of ways are proposed with 20 foot stoned and maintained, that over 90 percent of the forested canopy will be maintained, that the campground at the State Parks refers people to their park when the State campground is at capacity, that the majority of the other private camping sites in the general area rent seasonally or have only a minimum area for overnight camping, that some of the private camping sites also refer people to their park, that the sons operate the park, that the maximum number of lots anticipated within the existing and expansion area is 226 sites after installation of all infrastructure, that no wetlands exist on the site, that the site is not within a Conservation Zone, that within 1000 feet only four (4) homes exist, that the park provides and maintains a swimming pool, game room, campstore, security, and recreational areas, that trash removal is provided, that some winter storage of campers is permitted.

The Commission found that the applicant's Landscape Architect submitted and read the existing park restrictions, and stated that the applicant has no objection to the restrictions being made a part of any stipulations imposed if the use is approved.

The Commission found that four (4) area land owners, spoke in opposition and expressed concerns in reference to density, the impact on property values, that residential sites would be more appropriate for the area based on the trend of development recently in the area, and the fear that campering residents in the park will complain about farming and other activities.

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

RE: C/U #1105--Donald W. O'Neal

Donald W. O'Neal was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Little Creek Hundred for a Trucking Business lying on the west side of Road 13A, 475 feet north of Road 501, on a parcel containing 2.42 acres more or less.

Mr. Lank summarized comments received from DelDOT, and the Sussex Conservation District.

Mr. Lank read a letter submitted by the applicant with his application which described the business.

Mr. Lank read three notes in support by neighbors.

Mr. O'Neal stated that the site is approximately 0.2 mile from a Grain Mill, that trucks utilize Road 13A daily to and from the Grain Mill, that a railroad exist behind the site, that the site is 1.5 miles from Laurel limits, that he has placed a privacy fence behind the residence to shield the trucking operation, that the majority of the truck parking will be along the railroad, that very little maintenance work will be done on the site, that some tire changing will be performed on the site, that the building on the site will be an office, that he would have no objection if a restriction is placed on his use that requires that stored tires be out of view behind the fence, that he originally started the business in 1990 with two (2) trucks, and that he anticipated no negative impact on the neighborhood or property values.

Charles Haddock and Garner Perdue, area residents spoke in opposition and expressed concerns about impacts on property values, the number of trucks on site with refrigeration units running, trucks being washed with high pressure washers, noises from air tools, and truck motor and gearing noises when leaving the site.

John O'Neal, the applicant's brother, stated that most of the trucks leave on or before 10:00 P.M.

At the conclusion of the public hearing, 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 DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area of tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils are mapped as Evesboro loamy sand and Rumford loamy sand, that both soil types have slight limitations, that the applicant shall be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction, and that both soil types have a farmland rating for Statewide Importance.

The Commission found that the applicant submitted three notes from area residents stating no objection to the use.

The Commission found that the applicant stated that the site is approximately 0.2 mile from a Grain Mill, that trucks utilize Road 13A daily to and from the Grain Mill, that a railroad exist behind the site, that the site is 1.5 miles from Laurel limits, that he has placed a privacy fence behind the residence to shield the trucking operation, that the majority of the truck parking will be along the railroad, that very little maintenance work will be done on the site, that some tire changing will be performed on the site, that the building on the site will be an office, that he would have no objection if a restriction is placed on his use that requires that stored tires be out of view behind the fence, that he originally started the business in 1990 with two (2) trucks, and that he anticipated no negative impact on the neighborhood or property values.

The Commission found that two (2) area residents spoke in opposition and expressed concerns about impacts on property values, the number of trucks on site with refrigeration units running, trucks being washed with high pressure washers, noises from air tools, and truck motor and gearing noises heard when the trucks are leaving the site.

The Commission found that the applicant's brother stated that most of the trucks leave the site on or before 10:00 P.M.

Mr. Ralph stated that he could not understand how trucking activities on this site will impact property values and that trucking activities at the grain mill site will not impact property values, and questioned the noise difference between the two activities.

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

1. All truck tractors and trailers shall be parked near the railroad.
2. Temporary tire storage shall be behind the stockade fencing and shall be no higher than the fencing.
3. No mechanical repair shall be performed on the site.
4. No signage shall be permitted on the site.

III. OTHER BUSINESS

1. RE: Subd. #85-15--Swann Estates

The Commission reviewed three lots for Swann Estates Subdivision Phase 1. The lots were originally approved during the public hearing but were denied septic by DNREC, and the developer never put them in. DNREC has since approved individual septic systems for these lots.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the three lots.

2. RE: Maplewood Subdivision

The Commission reviewed a setback modification for lot 160 in Maplewood Subdivision. A drainage easement requires a twenty foot rear yard setback in this development however the engineering department does not have any problems with a ten foot setback as allowed in the MR zoning district.

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

3. RE: Lingo Estates

Mr. Lank presented a copy of the approved site plan for the 52 lot mobile home park and advised the Commission that he owners are requesting permission to create a condominium regime on the site, that Mr. Schrader has reviewed the legal text of the condominium documents, that the staff has reviewed the proposed site plan, and that the site needs to be inspected to clarify some setback questions.

Mr. Lank advised the Commission to take no action on the site plan revision until staff could inspect the site.

Meeting adjourned at 9:45 P.M.