

MINUTES OF THE REGULAR MEETING OF FEBRUARY 25, 1993

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 25, 1993, at 7:30 P.M. in the County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Magee, Mrs. Monaco, Mr. Ralph, Mr. Smith, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner I.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to approve the minutes of February 11, 1993 as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1028 -- Dr. Harry J. Anagnostakos

Dr. Anagnostakos and Preston Dyer, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for Medical Offices lying on the northwest side of Route 18 (Savannah Road), 350 feet northeast of Route 12 at Westcoat Corner to be located on a parcel containing 5.34 acres more or less.

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

Mr. Dyer advised the Commission that the applicant proposes to develop the parcel with four (4) buildings for medical offices and related medical services, that the site will be landscaped, that all buildings will face a central courtyard, that a stormwater management plan has been prepared for submittal, that a landscaped buffer is proposed to be placed along the adjoining Brady and Boyle lands, that an entrance plan application has been submitted to DEIDOT, that the applicant will comply with all agency requirements, that the buildings have been proposed to the rear of the site to create a separation from the existing dwellings in the immediate area, that the buildings will retain a residential image with a style similar to local architecture in Lewes, that the area has a mixed character of commercial and residential uses, that the most recent Conditional Use in the area is a doctors office and that several other Conditional Uses for doctors offices exist in the immediate area, that the buildings should blend in with the area, that the four buildings create a low density use due to the size of the parcel, that the first building will house three (3) offices, that the second building is intended to house two (2) offices, that the maximum number of offices anticipated is twelve (12), that the site is suitable for a standard septic type system, that the site will be substantially landscaped, that the project will be phased, that signage will be limited to a low monument type

entrance sign, that no residential use of the property is intended, and that the buildings are designed with a second story intended for support staff and storage related to the offices below.

Dr. Anagnostakos stated that OSHA has regulations that must be complied with for the handling of medical waste, that no medical waste will be disposed of on the site, that licensed medical waste handlers pick up one box of medical waste at a time per OSHA regulations, and that approximately one box is picked up per week from his office.

Neal Boyle spoke about concerns that should be positively addressed prior to approval of a zoning change which reference water and sewerage, traffic, and the site plan, and submitted a letter containing four (4) signatures of neighbors with concerns.

Gertrude Thorpe agree with Mr. Boyle and expressed concerns about drainage, traffic, speed limits, sewer and water.

Jane Brady stated that she purchased her lot with the knowledge that a 70 foot wide entrance existed adjoining her easterly property line, that she does not oppose the type of use, that she does oppose the amount of use intended and the size of the parcel, that the size of the site and the use is out of character with the area, that the use should be located in a commercial district, that all of the parking areas affect the neighbors more than the offices proposed since the offices will all face a courtyard, and that she would not object to two (2) buildings of similar size with a maximum of eight (8) users.

In response to some of the questions, Mr. Dyer stated that the site is feasible for a standard type of septic system, that design is intended for future hookup to public sewer system, and that regulations require that stormwater be controlled on the site.

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 a traffic impact study was not recommended and that the level of service "D" of Savannah Road will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped

as Sassafras loam and Woodstown loam, that the suitability of the Sassafras soils for the intended use may vary from none to slight limitations, that the Woodstown soils may vary from slight to moderate limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soils, as mapped, is Prime, that no storm flood hazard areas or tax ditches are affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments made by representatives of the application, that the applicant proposes to develop the parcel with four (4) buildings for medical offices and related medical services, that the site will be landscaped, that all buildings will face a central courtyard, that a stormwater management plan has been prepared for submittal, that a landscaped buffer is proposed to be placed along the adjoining Brady and Boyle lands, that an entrance plan application has been submitted to DelDOT, that the applicant will comply with all agency requirements, that the buildings are proposed to be placed to the rear of the site to create a separation from the existing dwellings in the immediate area, that the buildings will retain a residential image with a style similar to local architecture in Lewes, that the area has a mixed character of commercial and residential uses, that the most recent Conditional Use in the area is a doctor's office and that several other Conditional Uses for doctors offices exist in the immediate area, that the four (4) buildings create a low density use due to the size of the parcel, that the first building will house three (3) offices, that the second building is intended to house two (2) offices, that the maximum number of offices anticipated is twelve (12), that the site is suitable for a standard septic type system, that the project will be phased, that signage will be limited to a low monument type entrance sign, that no residential use of the property is intended, and that the buildings are designed with a second story intended for support staff and storage related to the offices on the first floor, that OSHA has regulations that must be complied with for the handling of medical waste, that no medical waste will be disposed of on the site, that licensed medical waste handlers pick up one box of medical waste at a time per OSHA regulations, and that approximately one box is picked up per week from the applicants office.

The Commission found that three (3) people expressed concerns in reference that properties in the Westcoat Corner area have experienced flooding, that storm water floods the intersection of Route 12 and Savannah Road, that storm drainage problems still

exist endangering motorists and the drinking water, that water sometimes stands on the application site, that basements in the area have been flooded, that the existing storm drainage system should be corrected to care for immediate problems affecting traffic and health, that the existing storm drainage system should be updated to handle the project, that due to the large parking area proposed rain runoff should be controlled to not exacerbate the existing storm water problems, that the existing grade of the land should not be disturbed, that traffic on Savannah Road has significantly increased over the last few years, that Savannah Road is the primary emergency vehicle route, that motorists currently use shoulders to pass turning vehicles at 40 MPH creating a dangerous situation for residents entering and leaving their driveways, that Westcoat Corner is particularly accident prone per DelDOT records, that eighteen (18) reported accidents have occurred in a three (3) year period at Westcoat Corner, that roadway planning and improvements are needed, that the speed limit should be reduced, that passing on shoulders should be prohibited, that road intersections should have deceleration, entrance and exit lanes, questioning where lights, dumpsters, and air-conditioning units are proposed to be located, that the location of the buildings and parking location should be located where they do not impact the neighbors as they relate to aesthetics, noise, and view, that the closeness of the parking area is too close to neighboring property lines, that a minimum of twenty (20) feet of buffer should be created with appropriate fencing, and that the use, due to its size, would be more appropriate in a commercial district.

Motion by Mr. Smith, seconded by Mr. Magee, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be denied as submitted.

There was a consensus of the Commission that they would be receptive to a new application for a lesser number of buildings of the same basic size.

2. RE: C/U #1029 -- Carlton E. & Shirley B. Seward

Mr. & Mrs. Carlton Seward were present on behalf of their application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for Storage and Sales of Video Games and Machines lying on the northeast side of Route One, 1,600 feet northwest of Route 264 to be located on a parcel containing 40,000 square feet more or less.

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

Mr. Seward advised the Commission that the business trades as "Carlton's Amusements", that they propose to construct a one story high 30' by 60' garage type structure at the rear of the lot for storage of machines, that the business leases game machines to businesses in the area, that the business presently has five (5) employees, that the business services machines and does repair work on pool tables, that the majority of work done on machines is done at business locations, that a minimal amount of repair work is done on-site, that the applicants or their son will reside in the residence, that the business serves the area between Smyrna and Dewey Beach, that the business does not operate vending machines, that the business will be utilizing only two (2) pickup type vehicles, that the existing shed on the premises will be removed, and that the only signage proposed will be a wall sign or an awning on the building.

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 the proposed action will have no significant impact on traffic, and that a traffic impact study was not recommended.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Sassafras sandy loam, that the suitability of soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain a vegetative cover after completion of any construction, that the farmland rating of the soil type is Prime, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicant was present and plans to utilize the site for the construction of a one story garage type structure for the storage of video game machines, that the business leases game machines to businesses in the area from Smyrna to Dewey Beach, that the business presently has five (5) employees, that the business services game machines and does repair work on pool tables, that the majority of the work done on machines is done at business locations, that a minimal amount of repair work will be done on machines at the site, that the applicants or their son will

reside in the residence on site, that the business does not operate vending machines, that the business utilizes two (2) pickup trucks, that the existing shed will be removed from the premises, and that the only signage proposed will be a wall sign or an awning.

The Commission found that no parties appeared in opposition.

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

1. One unlighted wall sign, not exceeding 32 square feet, shall be permitted.
2. No outside storage shall be permitted.
3. The storage building shall not exceed one story or 30' by 60'.
4. The existing shed shall be removed from the premises.
5. The maximum number of business vehicles shall be two (2) pickups.
6. The site plan shall require the review and approval of the Planning and Zoning Commission.

3. RE; C/U #1030 -- Raymond G. & Mary Ann Bryan

Raymond Bryan and Layton Johnson 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 the Sale of Western Apparel and Tack lying on the northwest side of Route 20, 1,150 feet east of Route 474 to be located on a parcel containing 6.31 acres more or less.

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

Mr. Johnson stated that the applicants propose to create a shop for the sale of western apparel and related tack, that the closest tack shop is in the Harrington area, that the proposed shop will be a part time use now and future retirement employment, that an unlighted sign is proposed, that immediate plans are for a 24' by 24' building 17 feet high, that one future addition of the same size may be built, and that the business will operate year round with no Sunday hours, probably from 11:00 A.M. to 7:00 P.M.

Mr. Bryan stated that he has not yet applied for a commercial entrance permit, that signage will not exceed 32 square feet per side or facing, that no employees other than family are proposed, and that no adverse impact is anticipated on the neighborhood or Route 20.

No parties appeared in opposition.

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 the soils on the site are mapped as Evesboro loamy sand, Woodstown sandy loam, and Pocomoke sandy loam, that suitability of the Evesboro soils for the intended use may vary from none to slight limitations, that the Woodstown soils may vary from slight to moderate limitations, that the Pocomoke soils may have severe limitations due to wetness if not adequately drained, that the farmland rating of the Evesboro soils is of statewide importance, that the farmland rating of the Woodstown soils and a drained Pocomoke soil is Prime, that no storm flood hazard area is affected, that it may not be necessary for any off-site drainage improvements, that it may be necessary for same on-site drainage improvements, and that the Black Savannah Tax Ditch runs along the north property line of the property.

The Commission found that the applicant was present with his tax consultant and that the applicant plans to utilize the site for a tack shop to sell western apparel and tack, that the closest tack shop is near Harrington, that the proposed shop will be a part time use now and future retirement employment, that an unlighted sign, not exceeding 32 square feet per side or facing, is proposed, that immediate plans are for a 24' by 24' building 17 feet high, that one future addition of the same size may be built, that adequate space is available for parking, that the business will operate year round with no Sunday hours, that the anticipated hours of operation are 11:00 A.M. to 7:00 P.M., that an application for a commercial entrance has not yet been applied for, that no employees other than family members are proposed, and that no adverse impact is anticipated on the neighborhood or Route 20.

The Commission found that no people appeared in opposition.

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

1. One unlighted sign, not exceeding 32 square feet per side

- or facing, may be permitted on the parcel.
2. The building shall be setback at least 80 feet from the right of way of Route 20 and 80 feet from the easterly property line.
3. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
4. RE: Subdiv. #93-4 -- Blue Heron, Inc.

Willard Griffith, owner, and Charles Adams, surveyor of Adams-Kemp Associates, Inc. were present on behalf of the application of Blue Heron, Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Georgetown Hundred, by dividing 58.21 acres into 14 lots, located on the northwest side of Evergreen Drive of Blue Heron Estates, and as an extension to Blue Heron Estates Subdivision, and requesting a variance from the maximum allowed cul-de-sac length of 1,000 feet.

Mr. Abbott summarized the Technical Advisory Committed Report of February 18, 1993.

Mr. Abbott summarized comments received from the Department of Agriculture, the DNREC Division of Parks and Recreation Natural Heritage Program, Greenways and Natural Heritage Inventory Branches, and the DNREC Underground Discharges Branch in reference to this application.

Mr. Griffith advised the Commission that the restrictions for the proposed lots will be the same as Section One of Blue Heron Estates, and that he will submit a copy of the restrictions to the County Attorney for review.

Mr. Allen questioned if any of the adjoining properties are used for agricultural purposes.

Mr. Magee questioned if the developer is aware of the Agricultural Use Protection Ordinance requiring deed restrictions, and questioned the number of lots that would be affected by this restriction.

Mr. Abbott advised the commission that nine (9) lots will be affected by the restriction requirement.

Harold Johnson, an adjoining property owner, advised the Commission that he operates a farm and that he is not opposed to the application, but he wants future owners aware of farm operation procedures 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.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to defer action pending review of proposed deed restrictions to be submitted.

5. RE: Subdiv. #93-5 -- Ingram - Hudson Properties

Jeff Clark of Land Tech, Inc. was present on behalf of the application of Ingram - Hudson Properties to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred by dividing 76.40 acres into 86 lots, located on the north side of Route 24, 1,210 feet east of Route 313.

Mr. Abbott summarized the Technical Advisory Committee Report of February 18, 1993.

Mr. Abbott summarized written comments received from the Department of Agriculture, and DNREC Division of Parks and Recreation Natural Heritage Program, Greenways, and Natural Heritage Inventory Branches in reference to this application.

Mr. Clark advised the Commission that the site has very sandy soils, that the stormwater management area will be approximately 18 inches deep and that this will be more of a shallow depression since there is not a lot of water retained on site, that the proposed streets will be private, that individual on site septic and wells are proposed, that the minimum lot size will be one-half acre, that the homeowners association will maintain the streets and stormwater management areas, that single family dwellings are proposed, and that at this time there are not any plans for recreation areas.

Mr. Allen questioned the size of the proposed stormwater management area and if it is required to be this large, and if any of the dirt will be used as borrow material.

Mr. Clark advised the Commission that he could design another stormwater management area but feels that this is the better alternative since it will only be a shallow depression.

Mr. Lank advised the Commission that the borrow can be removed from the site since it is for construction of the streets and stormwater management areas, and that this would not be considered a large borrow operation.

Mr. Magee questioned if there are any agricultural operations

within 300 feet of this application and advised that there is a fifty foot setback for residential uses within 300 foot of any agricultural lands.

Charles Short, Harrison Short, Aletha Short and Cecilia Coursey expressed concerns about agricultural lands in the area, proposed dwelling types, increases in traffic in the area, and negative impacts on 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.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to defer action pending receipt of a septic feasibility statement from DNREC and submittal of the proposed restrictive covenants.

6. RE: ORDINANCE TO AMEND CHAPTER 115 (SIGNS)

Mr. Lank introduced the proposed Ordinance relating to direction signs and off premise signs.

Shirley Price spoke in support of the Ordinance due to past experiences, specifically referencing the lack of notification required. She stated that the proposed Ordinance will allow a neighbor to express an opinion, that neighbors should have the right to protest placement of billboards, and that signs can impact property values.

Lynn Rogers of Rogers Sign Company spoke in opposition to the Ordinance and stated that he knows of no objection to the present process, that the Ordinance will create impacts on sign companies in planning, additional fees, delays in production, and changes in cost and materials.

Betsy Cunningham of Revere Corp. spoke in opposition of the Ordinance and stated that, based on state records, 74 sign permits of all types were issued, that 30 permits were issued in 1990, that 13 permits were issued in 1991, and 22 permits were issued in 1992, that very few of the sign permits relate to billboards due to zoning, that Revere Corp. has not placed a new billboard structure in the last two years, and that she can deal with the present two permit process (State and County).

Ralph Clausen stated that section referencing directional sign in the AR-1 Agricultural Residential District does not comply with the State law, that the State will not issue a permit that has not

first obtained a County permit, and that the section referencing directional signs in the AR-1 Agricultural Residential District should be removed from the proposed Ordinance.

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

III. Other Business

1. RE: The Salt Pond - Schooner Village

The Commission reviewed a revised site plan for Buildings F, G, and H of Schooner Village at the Salt Pond Development.

Mr. Abbott advised the Commission that this site plan was approved as multi-family in 1992 and due to financial recommendations, the plan has been revised to a townhouse concept, that the building layout is the same, that the plan complies with the Code, and that this would be the last revision to Schooner Village.

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

2. RE: The Plantations East RPC

The Commission reviewed the site plan for the multi-family portion of the Plantations East RPC.

Mr. Abbott advised the Commission that this site plan is for Villages 4, 5, 6, 7, and 8, that these sections are for townhouses, that the plan meets the requirements of the Code, that some sections will be resubmitted for approval as multi-family, and that no agency approvals have been received.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receiving agency approvals and review by the Commission.

3. RE: George Hudson

The Commission reviewed a request to create three lots and a fifty foot right of way off of Route 480A.

Mr. Lank advised the Commission that there are presently two parcels that share an existing driveway that is paved, that the owner wants to expand the driveway to fifty feet in width and extends the length to create a lot for a son.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the three lots and fifty foot right of way.

4. RE: Joseph and Megan Choma

The Commission reviewed a request to relocate a right of way and revise the location of two lots off of Route 54.

Mr. Abbott advised the Commission that there presently is an existing twenty foot wide right of way serving a 1.05 acre tract and a 13.90 acre tract, that the owner wants to relocate and widen the right of way to fifty feet in width and revise the shape of the two lots.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the relocation and widening of the right of way and the two revised lots.

5. RE: John Hamstead

The Commission reviewed a request to create a lot off of an existing public street off of Route 38.

Mr. Lank advised the Commission that the street is maintained by the State of Delaware, that Mr. Hamstead's driveway is of equal width and is paved past the location of the proposed lot.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the request.

IV. Old Business

1. RE: C/Z #1185 -- JLJ Enterprises, Inc.

No one was present on behalf of the application of JLJ Enterprises, Inc. to amend the zoning map from GR General Residential to C-1 General Commercial in Georgetown Hundred, located on the south side of Route 40, approximately 3/4 mile west of U.S. Route 113 and 440 feet west of Route 40B, to be located on a parcel containing 1.55 acres more or less.

The Commission discussed the application which has been deferred since February 11, 1993.

Motion by Mr. Smith, seconded by Mrs. Monaco, and carried 4 votes to 0 to forward this application to the Sussex County Council with the recommendation that it be denied since the use will not be compatible to the area due to the residential character of the area. Mr. Magee did not participate due to his absence at the

Minutes
February 25, 1993
Page 13

public hearing.

Meeting adjourned at 11:00 P.M.