

MINUTES OF THE REGULAR MEETING OF MARCH 12, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 12, 1998, at 7:30 P.M., in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware with the following present:

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

Motion made by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to approved the minutes of February 26, 1998 as corrected.

Mr. Schrader explained how the meeting will be conducted.

PUBLIC HEARINGS

APD #98-1--application of RALPH E. and EVELYN N. BENSON to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred for three (3) parcels of land totalling 243.69 acres, more or less, located southwest of Road 224, on both sides of Road 216 and west of Road 627, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

The Commission found that Dale Benson, son of Ralph and Evelyn Benson, was present and stated that they would like to maintain the farm as agriculture and have applied to the Delaware Agricultural Lands Preservation Foundation for an Agricultural Preservation District.

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

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward a recommendation to the Delaware Agricultural Lands Preservation Foundation that the application be approved.

C/U #1233--application of EDDIE FRENCH to consider the Conditional Use of land in an AR-1 Agricultural Residential Zoning District for a plumbing and heating contractor business to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 4.47 acres, more or less, on the west side of U.S. Route 13, 2,015 feet south of Road 488.

The Commission found, based on comments received from DelDOT, that originally the Department recommended a traffic impact study; that the Department provided additional comments on January 2, 1998 and February 2, 1998; that it has been determined

that traffic from the proposed use will be negligible; that the Department feels that a Conditional Use, limiting the use of the property to exactly what is proposed, is the best way for the County to address the project; and that comments have been provided to the applicant's surveyor describing amendments to the entrance design.

The Commission found, based on comments received from the Delaware Office of State Planning Coordination, that the State is not opposed to this application, however, it would feel more comfortable if the County would delay any action until the applicant obtains a wetlands delineation and an individual on-site septic disposal application approval by the State DNREC.

The Commission found, based on the site plan, that a wetlands delineation has been performed.

The Commission found that the applicant was present and stated that a septic system permit has been approved; that the customer parking area will be paved; that the employee truck parking area will be stoned; that business hours are proposed from 7:30 a.m. to 5:00 p.m. weekdays with some Saturday hours; that the service personnel takes their vehicles home; that no material will be stored outside; that signage will be less than permitted by Code; that the wooded area will remain; that the driveway to the rear of the building is approximately 40' from the wetlands; that no tractor trailer deliveries will be received at the site; that no retail sales are proposed; that the use is a service business only; that the site plan will be corrected based on DelDOT comments; that he owns the property; and that a drainage plan is being designed.

The Commission found that the applicant submitted two (2) letters from adjoining landowners in support of the application.

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

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

C/U #1234--application of THE JEFFERSON SCHOOL to consider the Conditional Use of land in an AR-1 Agricultural Residential Zoning District for a school building and ancillary buildings and ground improvements to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 43.25 acres, more or less, north of Road 244, approximately 1,400 feet west of Road 319.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of Road 244 will not change as a result of this application.

The Commission found, based on comments received from the Delaware Office of State Planning Coordination, that the State believes that this site is inappropriate for a new elementary school; that the site is adjacent to strip development and does not appear to be close to a town or established community where constructing a new school would make more sense; that the remote area limits the number of students who could walk to school; that it appears that the majority of students would arrive by bus or private cars; that the location blatantly contradicts State preservation efforts from a natural resource perspective; that the parcel is completely within the Ellendale/Redden State Resource Area, identified as a protection priority by the Open Space Council; that 1992 infrared aerial photographs show the site completely forested with what appears to be natural stand regeneration of dominant pine canopy; that the Delaware Department of Agriculture Forestry Service and DNREC Land Protection Office are interested in exploring protection options with the owner, even if the site was since logged; that if the County chooses to disregard the State concerns and approve the application, the State suggests that a soil scientist evaluate the site for the best location for the school's on-site disposal system; and that if more than 200 students are contemplated and the majority would arrive by car versus bus, the County and the applicant should contact DelDOT Subdivision Section to see if the project warrants a traffic impact study.

The Commission found that Charles Adams, surveyor, George Smith, attorney, and Patrick Ryan, architect, were present on behalf of the application and stated in their presentation and in response to questions raised by the Commission that no zoning category permits a school; that the only process is through the Conditional Use application; that the school started in 1992 with six (6) students; that presently there are 52 students; that the school, presently located at the Grace United Methodist Church in Georgetown, has outgrown the facility; that the proposed use should have a minimal impact on the parcel and area; that the soils have slight to moderate limitations for septic use; that the building is designed as an expandable building; that stormwater management will be provided; that athletic fields will be created; that the site has a rolling topography; that the facility will be one story and approximately 35,000 square feet; that a multi-purpose gym will be provided; that the school serves students from kindergarten to fifth grade; that an application has been filed for a Charter School for students from sixth grade to middle school; that the location of fencing has not yet been

established; that bus service is not provided; that students from Milford, Lewes, Milton, Rehoboth, Georgetown, and Seaford attend the school; that they anticipate 100 students could register for the Jefferson School with a maximum of 350 students, overall, if the Charter School is approved; that no wetlands are mapped; that some fill was placed on the access road, by the present owner, after the logging operation was completed; that the school wants to work with the State to protect and preserve the site; that the School Board thinks that the site is very appropriate for a private school; that the middle school will be a public school; that the school will be built with or without approval for the Charter School; that the School Board hopes that the school will open September 1999; and that the school is a non-profit Delaware corporation.

The Commission found that the representatives of the application presented an aerial photograph of the site, the site plan, building plans and elevations, and a general area map.

The Commission found that Ronald Moore of Country Trails Land Company, the landowners, stated that the pines were logged from the site; that no hardwoods were removed; and that fill-dirt was placed on the haul road to clean up after the logging company.

The Commission found that 14 people were present in support of the application.

The Commission found that no parties appeared in opposition to the application.

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, even though the Delaware Office of State Planning Coordination objects to the application, and with the condition that the site plan be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

III. OTHER BUSINESS

1. Ocean Outlets Bayside

Gordon Mead of Davis, Bowen and Friedel, and Tricia Roll of Charter Oaks were present as the Commission reviewed a revised commercial site plan for retail sales on Route One near Rehoboth.

Mr. Abbott advised the Commission that the revised site plan is for a proposed 15,000 square foot addition for retail sales, that the setbacks meet the minimum requirements of the zoning code, that 738 parking spaces are required and that 745 parking spaces

are proposed, that the staff has received a letter of no objection from DelDOT, and final approvals from the State Fire Marshal Office and Sussex Conservation District.

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

2. Bob Evans Restaurant

Jeff Sower of Bob Evans, Inc. and William Lingo of Jack Lingo Realty were present as the Commission reviewed a commercial site plan for a proposed restaurant located at the intersection of Route One and Postal Lane (Road 283).

Mr. Abbott advised the Commission that the proposed restaurant is 5,280 square feet, that the setbacks and parking requirements meet or exceed the requirements of the Zoning Code, that there is no access to Route One, and that a landscape plan has been submitted with the site plan.

Mr. Sower and Mr. Lingo advised the Commission that the proposed restaurant is larger than the Dover restaurant and smaller than the Salisbury restaurant and discussed the site plan, landscaping plan and proposed signage.

Motion made by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and permits.

3. Long Neck Health Center

Mike Petit de Mange of Landmark Engineering was present as the Commission reviewed a site plan for a medical facility located on Route 22 near Long Neck.

Mr. Abbott advised the Commission that proposed medical facility is 6,580 square feet, and that the setback and parking requirements meet the minimum requirements of the zoning code.

Mr. Petit de Mange advised the Commission that the medical facility will be a walk in facility, and that the site plan has been submitted to all agencies for their review and approvals.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and permits.

4. Eagle's Nest Fellowship Church

Ken Christenbury of ECI Corporation was present as the Commission reviewed a site plan for a proposed Church located on Road 235 near Milton.

Mr. Abbott advised the Commission that the proposed church is 30,500 square feet, that all setbacks and parking requirements meet the minimum requirements of the zoning code, and that the site plan references areas for future expansion.

Mr. Christenbury advised the Commission that the future expansion area is conceptual, that the developers want to begin construction as soon as possible, that a conditional use application will be filed in the future for a school, that the cemetery on the site will not be disturbed, and that the site plan has been submitted to all agencies for their review and approval.

Motion made 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 staff receiving all required agency approvals and permits.

5. Ken Wolhar

The Commission reviewed a commercial site plan for a model home sales office at the intersection of Route One and Road 258 near Milton.

Mr. Abbott advised the Commission that the site plan references two model homes that are proposed, that eight parking spaces are proposed, that the rear yard setback needs to be revised to a minimum of thirty feet, that the staff has received approvals from DNREC, Fire Marshal Office, and Sussex County Building Code, and that approvals are needed from DelDOT and the Sussex Conservation District.

Motion made by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a preliminary with the stipulation that the rear yard setback be revised to thirty feet. Final approval shall be subject to the staff receiving all required agency approvals and permits.

6. John W. Scott

The Commission reviewed a commercial site plan for an used car sales facility on Road 321 south of Route 9 near Georgetown.

Mr. Abbott advised the Commission that an entrance approval has been received from DelDOT, that a 20' x 36' sales office and a 64' x 52' shop are proposed, that the setback and parking

requirements meet the minimum requirements of the zoning code, and that the display area has to be a minimum of twenty five feet from the front property line.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and permits.

7. Villa Park Estates

Mr. Abbott advised the Commission that this item was removed from the agenda on March 11, 1998.

8. The Plantations MR/RPC

The Commission reviewed a request to revise the front yard setback for lot 20 within the Plantations Residential Planned Community located on Road 275.

Mr. Abbott advised the Commission that in residential planned communities, the Commission has the authority to allow for lesser setbacks, that the developers obtained a building permit for lot 20 for a dwelling, that the permit was issued correctly, that the dwelling did not meet the minimum front yard setback requirement of thirty feet, and that now the developer is asking the Commission to waive the thirty foot front yard setback.

Motion made by Mr. Phillips to approve the request. There was no second to the motion so the motion died.

Motion made by Mr. Lynch, seconded by Mr. Hastings, and carried three votes to one, with Mr. Phillips voting no, to deny the request. It was stated that the developers can apply to the Board of Adjustment for a variance.

9. Lina Cropper

The Commission reviewed a concept to create a lot with access from an existing campground street within Gulls Way Campground located on Route 26 near Dagsboro.

Mr. Abbott advised the Commission that the lot was created for a family member by a trust fund, that the applicant has obtained approval from DNREC and the Sussex County Building Code, and that the Commission approved two lots in July 1993.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the lot as a concept.

IV. OLD BUSINESS

C/U #1227--application of DANIEL W. MAGEE T/A MAGEE FARMS to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a corn maze recreational activity to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 5.1 acres, more or less, of a 63.75 acre parcel, on the northern side of Road 54, across from Road 394.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to defer action, since Mr. Wheatley has participated in the public hearing, and was not available for this meeting.

C/U #1229--application of FUN SPORT, INC. to consider the Conditional Use of land in a C-1 General Commercial District for expansion of existing recreational facilities to enlarge wading pool and to add a go-cart track to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 42,000 square feet, more or less, approximately 310 feet east of Route One and 270 feet south of Melson Road and behind the Midway Shopping Center.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to defer action, since Mr. Wheatley had participated in the public hearing, and was not available for this meeting.

Meeting adjourned at 9:30 P.M.