

MINUTES OF THE REGULAR MEETING OF MARCH 23, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 23, 1989, at 7:45 P.M. in the County Council Chambers, Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Jones - Assistant County Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of February 23, 1989, and March 9, 1989, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #986--David S. Brittingham

David Brittingham was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the southeast corner of the intersection of Route One and Route 16, containing 4.24 acres more or less.

Mr. Lank stated comments were received from the State Highway Department. They will not request a traffic impact study and feel the existing level of service "C" of Route One could increase to level of service "D" and the existing level of service "B" of Route 16 could increase to level of service "C" if this site is fully developed to its maximum use.

Mr. Lank summarized comments received from the LUPA agencies.

Mr. Brittingham stated he plans to lease the proposed site for use as a used car dealership or mobile home sales.

Mr. Brittingham stated the site is presently vacant except for a machinery shed.

Mr. Brittingham stated improvements, if any, entrances, water and septic needs have not been decided since he does not have anyone interested in leasing the site at this time.

Jack Pingree spoke in opposition to the proposed use and expressed concern that one commercial parcel in the agricultural area would set a precedent for others.

Ralph Davis spoke in opposition due to property devaluation.

Karen Siegfried spoke in opposition due to additional traffic and the site being at a dangerous intersection.

Albert Lank spoke in opposition due to the uses permitted under C-1 General Commercial Zoning.

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 State Division of Highways, that the existing level of service "B" of Route 16 may change to level of service "C" and the existing level of service "C" of Route One may change to level of service "D" if the site is developed as a commercial use equivalent in per acre trip generation to a discount shopping center.

The Commission found that the State D.N.R.E.C. Land Use Planning Act Coordinator has requested comments from the D.N.R.E.C. Division of Water Resources, Wetlands and Aquatic Protection Branch, On-Site Wastewater Branch, Water Supply Branch, Division of Fish and Wildlife, and the State DelDOT.

The Commission found, based on comments received from the D.N.R.E.C. Land Use Planning Act Coordinator, that state wetlands maps and national wetland inventory maps are available to assist in determining the presence and extent of wetlands; that the On-Site Wastewater Branch had no comment; that the Water Supply Branch does not object to the proposed change; and that the Waste Management Section reports that state regulations prohibit the burial of construction debris except at specifically permitted or approved facilities.

The Commission found that the applicant was present and plans to utilize the site for a used car or mobile home sales facility and that the property is intended to be leased.

The Commission found, based on comments by the applicant, that he anticipates no impact on Route One and Route 16, the neighborhood, or property values, and that the area is predominantly agricultural except for a small filling station across Route One.

The Commission found, based on comments from four (4) area residents, that concerns were expressed in reference to the proposed uses, commercial zoning in a predominantly agricultural area, other commercial uses permitted in a C-1 District, traffic hazards, increase in traffic backup at the intersection, depreciation of property values, and that a precedent may be established for additional applications.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously, that the application be forwarded to the Sussex County Council with the recommendation that it be denied based on the record of opposition and since the rezoning would be inappropriate to the predominantly agricultural residential area and due to traffic and access concerns.

2. RE: C/Z #987--Samuel R. Marsh, Sr.

No one was present on behalf of this application to amend the zoning map from GR General Residential to C-1 General Commercial in Lewes and Rehoboth Hundred, located on the northeast side of Route 270-A, 1/2 mile southeast of Route 270, containing 1.21 acres more or less.

The application was withdrawn prior to the meeting.

3. RE: Subdiv. #89-6--Kent Estates Partnership

Al Thompson, Project Manager, and David Rutt, Attorney, were present on behalf of this application to consider the Revised Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred located on the south side of Route 24, 2,500 feet west of Route 409.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of March 20, 1989.

Mr. Moore stated this application is for the purpose of adding 3.17 acres to serve as a wastewater disposal site for the approved subdivision.

Mr. Thompson stated the site is presently wooded. The nearest dwelling is approximately 1,000 feet away.

Mr. Thompson stated the subdivision was previously approved to have individual septic systems.

Mr. Thompson stated no other changes are being made to the subdivision as recorded.

Don Mitchell spoke in opposition, stating he wants the fifty (50) foot buffer added along some sections of the subdivision as was shown on the original plot.

Marion Hickman spoke in opposition for the same reason.

Five (5) persons were present in opposition to this application.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action.

4. RE: Subdiv. #89-7--John Stanton

Frank Lynch, Jr., surveyor, and John Stanton, were present on behalf of this application to consider the Subdivision of land in an MR Medium Density Residential Zoning District in Baltimore Hundred by dividing 10.8 acres into 30 lots, located on the south side of Route 54, 400 feet east of Route 58-B.

Mr. Moore summarized comments from the Technical Advisory Committee Meeting of March 20, 1989.

Mr. Moore summarized additional comments received from the Technical Advisory Committee agencies.

Mr. Lynch stated the applicant plans to fill an existing ditch on this site and reroute drainage.

Mr. Lynch stated the proposed subdivision will be served by central water. The streets will be built to state specifications.

Howard Grise spoke stating prospective buyers of the subdivision lots should be advised of his existing chicken farming operation which adjoins the proposed subdivision on three (3) sides.

No one was present in opposition.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the subdivision as a preliminary.

5. RE: Subdiv. #89-8--BCK Assoc.

Eugene Bayard, Attorney, Coleman Bunting, Jerry Friedel, and Bill Vernon were present on behalf of this application to consider the Subdivision of land in an MR Medium Density Residential Zoning District in Lewes and Rehoboth Hundred by dividing 62.5 acres into 96 lots, located west of Manor Drive, approximately 250 feet west of Route 272B, and being an extension to Country Manor Subdivision.

Due to possible conflict of interest, Mr. Jones, Assistant County Attorney, left the meeting room.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of March 20, 1989.

Mr. Moore summarized additional comments received from the Technical Advisory Committee agencies.

Mr. Vernon stated central water will be provided, and the site is within the sanitary sewer district.

Mr. Vernon stated the proposed subdivision is tentatively titled Pine Bay. This site was originally approved for 209 lots. The new proposal contains only 96 lots.

Mr. Vernon stated strict restrictive covenants would be recorded with the deeds. Streets would be made to County specifications and maintained by a homeowners association.

Mr. Vernon stated the applicants plan to resurface the existing streets in Country Manor.

Mr. Bunting stated they have an environmental consultant to advise them regarding wetlands crossings, etc.

Dan Anderson spoke in favor of the application.

Ted Projector spoke in opposition due to damage to wetlands.

James Tippetts spoke in opposition due to existing drainage problems.

Ron Drake spoke in opposition due to increased traffic, sewage problems, and decrease in property values.

Larry Olufsen spoke in opposition questioning the safety of the proposed entrance.

Judy Drake spoke in opposition due to endangerment of area wildlife.

Lewin Mitchell, Mary Ellen Olufsen, and Agnes Hebling spoke in opposition for similar reasons.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to defer action.

6. RE: ORDINANCE TO AMEND ORDINANCE NO. 97

AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, ARTICLE 5, SECTION 13, SUBSECTION 13.9, WHICH REFERENCES DWELLING UNITS PERMITTED IN RPC RESIDENTIAL PLANNED COMMUNITIES.

Ted Projector spoke in favor of the amendment and suggested that 404 Wetlands also be included in the amendment.

Shirley Price and Til Purnell spoke in favor of the amendment.

The Commission found that the intent of the Amendment was to include the subtraction of State Wetlands for establishing Net Development area for RPC Residential Planned Communities.

The Commission found that four (4) persons were present in support of the Amendment, that the Amendment should include all wetlands, State and Federal 404, that all wetlands should be left undisturbed, and that Forested Wetlands are one of the most valuable wetlands.

Motion made by Mr. Ralph, seconded by Mr. Smith, and carried unanimously to defer action.

OTHER BUSINESS

1. RE: Angola Estates
Clubhouse

The Commission reviewed a proposed clubhouse/swimming pool complex.

The site is located within approved Angola Estates RPC Development.

No one was present on behalf of the project.

Mr. Moore stated the site plan is in compliance.

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

2. RE: Harley Hickman
3 lots, 3 50 foot right of ways
Route 462

The Commission reviewed a proposal to create three (3) fifty (50) foot right of ways with three (3) lots having access to each right of way.

No one was present on behalf of the application.

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

3. RE: Smith's Campground
Revised

The Commission reviewed a proposal to create ten (10) additional campsites and a bath house within the limits of the approved campground site.

No one was present on behalf of the proposal.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the proposal as submitted.

OLD BUSINESS

1. RE: ORDINANCE TO AMEND ORDINANCE NO. 97

AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, ARTICLE 10, BY ADDING SECTION 17 WHICH REFERENCES ESTABLISHING CONSERVATION ZONES ALONG TIDAL WATERS IN THE AREA ENCOMPASSED WITHIN THE COASTAL SUSSEX LAND USE PLAN AS ADOPTED MARCH, 1988.

The Chairman referred back to this Amendment, which was deferred March 9, 1989.

Mr. Lank advised the Commission that he and Mr. Jones had discussed the suggested amendment by the Commission in reference to creation of a 1:2 ratio lot width to lot depth or a 150 foot minimum lot width.

It is suggested that Paragraph 2 (a) be revised to read "(a) Any lot created after the adoption of this Ordinance shall contain a minimum square area of one (1) acre and a minimum lot width of 150 feet, unless central water and sewer systems are provided."

The Commisison found, based on comments received from the County Engineer, that the original definition should remain intact and not amended as suggested by Utility Systems, Inc.

The Commission found, based on comments received from the State Department of Agriculture, that Paragraph 2(a) would be more useful if it specified a minimum lot size and that it is suggested that variance provisions be deleted.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously that the Amendment be forwarded to the Sussex County Council with the recommendation that it be approved with the revision that Paragraph 2(a) be revised to read "(a) Any lot created after the adoption of this Ordinance shall contain a minimum square area of one (1) acre and a minimum lot width of 150 feet, unless central water and sewer systems are provided."

2. RE: Subdiv. #88-37--Meadow Brook Estates

Allen Warfel, developer, was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred by dividing 8.95 acres into 10 lots, located on the northwest side of Route 619, 660 feet northeast of Route 634.

The Commission reviewed the final plat for the proposed 10 lot subdivision.

Mr. Moore stated that all approvals have been issued.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the plat as a final.

3. RE: Milford Memorial Hospital
Discussion

Mr. Moore questioned the Commission as to whether or not they would consider granting site plan approval for Phase I of a three (3) phase medical office complex.

The developers had requested approval of a fifty (50) foot right of way from Route 18 to the existing Burger King Restaurant.

Mr. Moore asked that the right of way not be considered until more information could be received from the Highway Department pertaining to the entrance design.

Eric Howard was present on behalf of the project.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve Phase I of the medical complex and to defer action on the proposed right of way.

4. RE: Boat Hole Marina
Discussion

Mr. Moore questioned the Commission as to the status of the approved site plan for the proposed Boat Hole dry dock storage and restaurant.

Mr. Moore stated that Robert Raley, developer, has asked for clarification as to his status.

Mr. Moore stated that the permits for the dry dock storage have been issued and are valid.

It was the consensus of the Commission that the entire site plan was valid since permits have been issued for the boat storage portion of the plan.

Meeting Adjourned 11:00 P.M.

Lawrence B. Lank, Secretary