

MINUTES OF THE REGULAR MEETING OF MARCH 23, 2000

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 23, 2000 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

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

Mr. Allen advised the Commission that C/U #1330 - - Wallace P. Townsend, Jr. was withdrawn on March 22, 2000.

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

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the minutes of March 9, 2000 as corrected.

IV. PUBLIC HEARINGS

SUBDIVISION #2000-5—application of OAK CREST FARMS, INC. to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Indian River Hundred, by dividing 96.57 acres into 177 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located east of Road 285, 310 feet north of Road 286.

Mr. Lank advised the Commission that they have a copy of the Technical Advisory Committee Report of March 15, 2000 and requested that the report be made a part of the record for this application.

Mr. Abbott summarized comments received from the Natural Resources Conservation Service in reference to the soils mapped on site and the suitability of the soils for the intended use.

The Commission found that David Braun of Gerald A. Donovan Associates, Inc. was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that there is no natural outfall on the site; that there will be a series of stormwater management ponds draining runoff to Beaverdam Creek by pipes along Beaverdam Road; that central sewer and central water is proposed; that an interconnection street could be provided for Sandy Ridge Court and Clubhouse Circle and Oak Leaf Drive and Rolling Hills Drive; that the proposed open space area will be left in its natural state; that a majority of the site will remain wooded except for clearing for streets and stormwater management areas; that only stick built or modular homes will be permitted and manufactured homes will not be permitted; and that the development

will be turned over to a homeowners association once 75 percent of the lots have been sold; and that the street design is proposed to be tar and chip surface.

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

The Commission found that John Souder and Neal Batchelor of the 18 people present in opposition to this application spoke in opposition due to concerns about the proposed stormwater management areas; how the open space will be developed; whether buffers will be required adjacent to wooded areas of other ownership; who will maintain and operate the sewer system; what happens if the sewer system fails; questioned the density proposed; raised concerns about the stormwater ponds impacting adjacent wells; advised the Commission that this same parcel was denied a subdivision application in December of 1996; questioned if DelDOT's comments have been addressed; stated that Tidewater Utilities has no knowledge of this application; and made reference to the recently Total Maximum Daily Load regulations enacted by DNREC.

Mr. Braun responded that there is 25 feet to the top of the bank for the pond; that there will be a 12 to 15 foot tree buffer left adjacent to Mr. Souder's land; that the open area will remain in vegetation; that the location of the central well has not yet been determined; that the stormwater management ponds will be dry ponds; that the central sewer area contains beds and backup beds; that there will not be any lagoons, and that forested buffers will be installed adjacent to farmland.

At the conclusion of the public hearings, the Chairman referred back to this application.

The Chairman discussed the points and issues raised during the public hearing.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action pending receipt of a septic feasibility statement from DNREC.

SUBDIVISION #2000-6—application of THE CONCORD GROUP to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred, by dividing 44.64 acres into 28 lots, located north and south of Road 483, 350 feet east of Road 20-A.

Mr. Lank advised the Commission that they have a copy of the Technical Advisory Committee Report of March 15, 2000 and requested that the report be made a part of the record for this application.

Mr. Abbott summarized comments received from the Natural Resources Conservation Service in reference to the soils mapped on site, and the suitability of the soils for the

intended use; and comments received from Mr. Schrader in reference to the revised restrictive covenants being acceptable.

The Commission found that Donald Miller, surveyor, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that a septic feasibility statement has been issued by DNREC and that the site is suitable for individual on-site gravity fed septic systems; that the entrances should be aligned based on the County Engineer's recommendation however DelDOT prefers the proposed entrance design; that the wetland delineation has been flagged on site very conservatively; that the proposed lots are at least 60 inches above the water table; that the cul-de-sac is a 53-foot radius; that silt fencing will be installed; that the small borrow pit located on lot 7 will allow for a future homeowner to build a dwelling with a basement if they so desire; that the lots will all have individual on-site septic systems and wells; and that each lot is greater than 1 acre in size.

The Commission found that no parties were present with any interest 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. Johnson, seconded by Mr. Hastings, and carried unanimously to approve this application as a preliminary.

C/U #1329—application of JOHN AND MARY FREY to consider the Conditional Use of land in an AR-1 Agricultural Residential District for used car sales to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.34 acres, more or less, lying southwest of Road 382, 726 feet northwest of Road 388.

The Commission found, based on comments received from DelDOT, that a traffic impact study is not recommended and that the existing level of service "C" for Road 382 (State Route 20) will not change as a result of this application.

The Commission found that John Frey and Stephen Parsons, attorney, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the site is in close proximity to Best Drywall, Garthside Restaurant, European Coach Works which are all zoned C-1 General Commercial; that the applicant prefers a conditional use application since they are requesting only one use; that the property was purchased in October 1998; that the business would be part time now and full time in the future; that no more than 15 vehicles would be displayed at the site; that there would not be any adverse impacts on surrounding property values; that no

offensive lighting is proposed; that there would not be any Sunday operations; that the applicant had a car dealership in Baltimore; that the applicant has a license for a wholesale dealer; that a 2 foot by 3 foot sign is proposed; that there would not be any repairs to vehicles at this site; that the lights would be cut off at 7:00 PM daily; that the applicant tows cars with a truck and 16 foot trailer; that customers would be able to park in the existing driveway and that there is adequate room for parking; that the applicant is registered with 4 auction businesses; that the applicant would not object to no parking signs placed along Road 382; that there is no clean up or detailing of vehicles done on site only washing cars when needed; that the property was purchased in anticipation of establishing a used car sales facility; and submitted a list of 9 conditions for approval.

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

The Commission found that Thomas W. Quillen a neighbor was present and spoke in opposition to this application and advised the Commission that the area is a quiet residential area; that there are two larger car lots located in Selbyville and one located within a ¼ mile of this site; that there is no need for another car dealership in the area; questioned the need for lighting if the lights are to be turned off at 7:00 PM; expressed concerns about customers parking along the shoulder of Road 382; and submitted a petition with 8 signatures opposed to this application.

The Commission found that 5 people were present 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. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since there would be traffic concerns along Road 382; that the site is not an appropriate location for a used car sales facility; that there are adequate car sales facilities in close proximity to the site; and based on the record of opposition.

C/U #1330—application of WALLACE P. TOWNSEND, JR. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a softball park, dormitories, and accessory buildings to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 44.00 acres, more or less, lying west of Road 288-A at the intersection of Lakewood Drive within Lochwood Subdivision.

This application was withdrawn March 22, 2000.

C/Z #1399—application of JAMES R. AND JUDY R. POWELL to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, lying at the northeast corner of the intersection of Route 17 and Road 365, to be located on 1.50 acres, more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study is not recommended; that the existing level of service "C" of Route 17 will not change as a result of this application; that the existing level of service "B" of Road 365 may change to a level of service "C" as a result of this application; and recommends that the County restrict the applicants to the proposed use only on the subject property.

The Commission found that Judy Powell was present on behalf of this application and advised the Commission in her presentation and in response to questions raised by the Commission that she and her husband have owned the property since 1986; that they would like to convert the existing feedhouse into an office and warehouse; that businesses are calling her about the availability of renting the building for storage; that the feedhouse has existed on the site for many years; that if the rezoning is approved, they plan to rent the feedhouse to a heating and air conditioning company for office space and storage; that the feedhouse has an office entrance door and two overhead doors; that they plan minor improvements to the feedhouse; that the site currently has three entrances and that they plan on closing two; that there are other commercial uses in the area; that there would not be any outside storage permitted since they reside next to this site; that in the future they possibly could open another business for their 12 year old handicapped son; that if they applied for a conditional use application they would have to come back for another hearing anytime the use changed; and that the B-1 zoning district does not permit warehousing.

The Commission found that no parties appeared with any interest 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. Johnson, and carried unanimously to defer action.

V. OLD BUSINESS

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.

The Chairman referred back to this application which was deferred at the January 27, 2000 meeting pending receipt of a septic feasibility statement from DNREC.

Mr. Abbott advised the Commission that the staff has received the septic feasibility statement from DNREC and that the site is suitable for individual on-site septic systems.

Motion by Mr. Johnson, seconded by Mr. Hastings, and carried 4 votes to 1, with Mr. Allen opposed, to approve this application as a preliminary.

VI. OTHER BUSINESS

Waterside HR/RPC
Revised Master Plan
Road 361

The Commission reviewed a revised master plan for the Waterside residential planned community located southwest of Bethany Beach on Road 361.

Mr. Abbott advised the Commission that the total number of units does not exceed the 113 permitted units; that the layout of the multifamily units has changed; and that each phase would be required to be reviewed and approved by the Commission.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the revised master plan as a concept.

Al Brewington
Lot on 50' Right of Way
Road 326

The Commission reviewed a concept to create a lot with access off of an existing 50 foot right of way off of the north side of Road 326 near Millsboro.

Mr. Abbott advised the Commission that this would be the third lot off of the existing right of way; and that the right of way is currently improved with crusher run stone.

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

Robert Raymond King
4 Parcels
U.S. Route 13

The Commission reviewed a request to create 4 parcels off of the east side of U.S. Route 13, south of Route 18 near Seaford.

Mr. Abbott advised the Commission that DelDOT has issued a letter of no objection for the entrance location approval and that the parcels require approval by the Commission since U.S. Route 13 is a major arterial roadway.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the 4 parcels as a concept.

Steven M. and Cynthia Yingling
Lot on 50' Right of Way
Route 36

The Commission reviewed a concept to create a parcel with access from an existing 25-foot right of way located on the north side of Route 36 east of Greenwood.

Mr. Abbott advised the Commission that the owners propose to create a parcel with access from an existing right of way, that an additional 25 feet would have to be widened to make the right of way 50 feet in width; and that there are currently 6 parcels with access off of this right of way.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried 4 votes to none, with Mr. Hastings abstaining, to deny this request as submitted and require the owner to follow the public hearing process for a major subdivision application.

W.B.O.C., Inc.
C/U #547 Revised Site Plan
Road 505

Bill Kenton, Vice President of W.B.O.C., Inc. was present as the Commission reviewed a minor revision to C/U #547.

Mr. Abbott advised the Commission that the revision is for a replacement of a 1,049-foot television tower; that the proposed new tower will not be in the same location; and that the new tower will be approximately 25 feet from the existing tower.

Mr. Kenton advised the Commission that the existing tower is over 20 years old; that the

federal government is requiring the new tower; and that the new tower will not exceed the height of the existing tower.

Motion by Mr. Hastings, seconded by Mr. Wheatley, and carried unanimously to approve the revised site plan since the revision is a minor amendment to the approved use.

Meeting adjourned at 9:50 P.M.