

## MINUTES OF THE REGULAR MEETING OF APRIL 24, 1997

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 24, 1997, at 7:30 P.M., in the County Council Chambers, County Administrative Building, Georgetown, Delaware, with the following members present:

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

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the minutes of April 10, 1997 as circulated.

### II. Public Hearings

#### 1. RE: C/U #1178--Delaware Commission of Veterans Affairs

Wesley Jones, Administrator, and Reese Phillips, Commissioner, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for a cemetery on the east side of Road 318, approximately 1,700 feet south of Road 86 on the south side of an existing farm lane, located on a parcel containing 62.00 acres more or less.

Mr. Lank summarized comments received from the Delaware Office of State Planning Coordination.

Mr. Jones stated that they hope to be open for business in October of 1999; that the State has budgeted funds in the 1998 Budget for infrastructure, i.e. roads, demolition, utilities, etc...; that the Federal Government will match any funding; that the project will be developed in phases; that Phase 1 will include some buildings and placement of vaults; that an administration building and interment center is proposed; that approximately 1,800 vaults are pre-installed per acre; that all roads exist except one; that the cemetery will be set up more like a memorial park by using flat bronze plates, rather than grave stones; and that they are negotiating a contract with the Sussex Correction Institute to continue farming the undeveloped portions of the site.

Mr. Phillips stated that 7,900 veterans reside in Delaware, and that they want to provide facilities in advance to serve the veterans in the area and veterans moving into the area.

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

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 the Office of State Planning Coordination, that the Office and other State agencies reviewed the application; that the State has no objection to the proposal; that the proposed cemetery is consistent with DelDOT's State Long Range Transportation Plan; that although Sussex 318 does not meet DelDOT's standards, currently there is no general public need to improve it; that depending on the cemetery's traffic, the applicants might have to make some off-site improvements to obtain an entrance permit; that the applicants should contact the South District Permit Supervisor to determine DelDOT's requirements; that the State wish the Commission on Veterans Affairs well in this endeavor and encourage the County to approve the application.

The Commission found that the application was represented by the Administrator and one of the Commissioner's for the Commission of Veterans Affairs who advised the Commission that they hope to be open for business in October of 1999; that the State has budgeted funds in the 1998 Budget for infrastructure, i.e. roads, demolition, utilities, etc...; that the Federal Government will match any funding; that the project will be developed in phases; that Phase 1 will include some buildings and placement of vaults; that an administration building and interment center is proposed; that approximately 1,800 vaults are pre-installed per acre; that all roads exist except one; that the cemetery will be set up more like a memorial park by using flat bronze plates, rather than grave stones; that they are negotiating a contract with the Sussex Correction Institute to continue farming the undeveloped portions of the site; that 7,900 veterans reside in Delaware; and that they want to provide facilities in advance to serve the veterans in the area and veterans moving into the area.

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

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

2. RE: C/U #1179 -- Destination Developments, Inc.

Hank and John McCann were 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 a



three (3) lot addition to an existing manufactured home park (C/U #263 and C/U #465) on the north side of Route 22 and 1,800 feet east of Road 298, located on a parcel containing 14.41 acres more or less.

Mr. Lank summarized a memorandum received from the Sussex County Engineering Department.

Mr. Lank advised the Commission that C/U #263 was granted by the County Council on April 1, 1975, and that C/U #465 was granted by the County Council on April 11, 1978.

Hank McCann advised the Commission that an additional three (3) lots are proposed; that no change in the street layout is proposed; that the site was originally a recreational area with a well site and that distances had to be maintained for septic systems in close proximity; that the project is now served by the Long Neck Sanitary Sewer District; that a fence was recently installed between the site and Lingo Estates, a manufactured home park; that the buffer zone is grassed with some trees at the property line; and that they purchased the project after the creation of the sewer district.

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

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 the County Engineering Department, that wastewater capacity is available for the project expansion; that there will be connection charges (impact fees) due for each improvement constructed in connection with this project; that the current system connection charge is \$1,997.00 per EDU; and that improvements will be needed for connection to the system (i.e. laterals) and that these improvements are the responsibility of the developer or property owner.

The Commission found that C/U #263 was granted by the County Council on April 1, 1975, and that C/U #465 was granted by the County Council on April 11, 1978.

The Commission found that two (2) of the owner/developers were present and advised the Commission that an additional three (3) lots are proposed; that no change in the street layout is proposed; that the site was originally a recreational area with a



well site and that distances had to be maintained for septic systems in close proximity; that the project is now served by the Long Neck Sanitary Sewer District; that a fence was recently installed between the site and Lingo Estates, a manufactured home park; that the buffer zone is grassed with some trees at the property line; and that they purchased the project after the creation of the sewer district.

The Commission found that no parties appeared in support of or in opposition to 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 it be approved with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

3. RE: C/Z #1295 -- Ethel C. Graham & Joseph L. and Carol Lee Shockley

Robert Graham was present on behalf of this application to amend the zoning map from GR General Residential to AR-1 Agricultural Residential in Broadkill Hundred, located on the northeast side of Delaware Route One, east side of Road 234, and the north side of Route 16, to be located on a parcel containing 135 acres more or less.

Mr. Lank summarized comments received from the Office of State Planning Coordination.

Mr. Graham stated that it is the intent of the owners to preserve the land in agriculture and to slow down development in the area; that the site has been zoned since 1971; and that the GR zoning was placed without knowledge of the owners.

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

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 the Office of State Planning Coordination, that the agencies found that this request, a downzoning to Agricultural Residential, to be a refreshing change to the usual rezoning request reviewed; that this parcel is currently farmed and is located in a Class II agricultural preservation area, indicating that the parcel is



suitable for long-term agricultural preservation; that they applaud any application that supports the Shaping Delaware's Future goals and encourages Sussex County to approve such downzonings; that downzoning supports the State's interest in directing housing toward the newly created Development Districts; that the request supports DelDOT's Statewide Long Range Transportation Plan which designates this area as a Preservation Investment Area where DelDOT will strive to maintain and preserve the transportation system now in place, with no expansions.

The Commission found that one of the owners was present and stated that it is the intent of the owners to preserve the land in agriculture and to slow down development in the area; that the site has been zoned since 1971; and that the GR zoning was placed without knowledge of the owners.

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

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

There was a consensus of the Commission that the applicant's should be refunded their application fee since a policy is now in place until June 30, 1997 to accept downzoning applications to Agricultural Residential without fees.

#### 4. RE: ORDINANCE TO AMEND CHAPTER 115 (OUTDOOR BURNING)

Mr. Lank summarized the ordinance to amend Chapter 115, Article III, of the Code of Sussex County, Delaware to delete provisions relating to outdoor burning in the Coastal Zone area of Sussex County.

Joseph Conaway stated that developers have obtained permits from the Office of the State Fire Marshal and the State DNREC and could not burn due to the County regulations, and that there is no appeal process in the County regulations.

The Commission discussed the Ordinance.

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 approved.



### III. Other Business

#### 1. RE: County Development Associates

Pret Dyer was present as the Commission reviewed a revised commercial site plan located on Route One south of Road 270-A.

Mr. Abbott advised the Commission that the site has been enlarged since additional land was acquired from the Bryce Lingo subdivision, that 69,114 square feet of gross leasable area is proposed, that the parking, loading and interior driveway requirements are met, and that the revised site plan conforms to the requirements of the Highway Corridor Overlay Zone.

Mr. Dyer advised the Commission that Phase One is 20,000 square feet of gross leasable area, that Phase One has been constructed and is occupied, that all parking and setback requirements have been met, that this site plan conforms to the Highway Corridor Overlay Zone, that an additional twenty five feet of landscaping has been provided, and summarized the letter of approval from the Department of Transportation.

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

#### 2. RE: Dyer McCrea Ventures, L.L.C.

Mr. Abbott advised the Commission that this item has been deleted from the agenda.

#### 3. RE: Donald Derrickson

Donald Derrickson was present as the Commission reviewed a three lot subdivision and a commercial site plan for a 96 unit motel on Road 283 and Delaware Route One.

Mr. Abbott advised the Commission that the site plan for the proposed motel is located on Parcel 3, that the building will be three stories, that the required parking has been met, that the parking is located within the front yard setback along Road 283 and is subject to the approval of the Commission, that the entrances are located on Road 283, that no entrances are located on Route One, that the stormwater management area is located in the AR-1 district, that there are no wetlands or flood plains located on the site, and stated that DelDOT has completed the traffic impact study for this site and finds the plans to be acceptable.



Mr. Derrickson advised the Commission that at this time there are not any plans for Parcels 1 and 2, that directional signs will be on site, that there will not be any entrances or exits on Route One, and that the traffic impact study was conducted for the highest uses on Parcels 1 and 2.

Mabel Granke advised the Commission that she is glad that there are no entrances on Route One, and questioned if the developer has considered the entrances lining up with the existing entrance for the adjoining church property and the proposed Townsend Square commercial site plan.

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 receipt of all required agency approvals and permits.

4. RE: Townsend Square

Mr. Abbott advised the Commission that this item has been deleted from the agenda.

5. RE: Bayport Estate

The Commission reviewed a preliminary site plan for a 19 unit multi family project on the west side of Delaware Route One north of Fenwick Island.

Mr. Abbott advised the Commission that this site plan received preliminary approval on September 22, 1994 and February 8, 1996, that the final site plan and agency approvals have not been submitted thus voiding the preliminary approval, that the site plan is for 19 units to be located in two buildings, and that supposedly there is a new owner who wishes to develop the property.

The Commission discussed if the property has been transferred to another owner and questioned if there is a sales contract.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to defer action pending verification of ownership or receipt of a sales contract.

6. RE: Chucks Crab Daddy

Chuck Evans, owner, and Maxwell Morris, surveyor, were present as the Commission reviewed a revised site plan for a restaurant on Route 54 near Fenwick Island.



Mr. Abbott advised the Commission that Mr. Evans is seeking a variance from the interior driveway width of twenty five feet and requesting that the parking and interior drive not be required to be paved until the fall season.

Mr. Evans advised the Commission that he was not aware of the paving requirements, that at this time he does not have the money to be able to pave the site, that he is willing to remove a portion of the existing building so that he will have a twenty foot interior drive, that the interior drive is one way, that he will be financially hurt by removing part of the building, that he has an agreement with an adjoining property owner to be able to utilize his site for overflow parking, and that he would like to be able to use the new deck for patron area,

The Commission advised Mr. Evans that a special use exception would be required from the Board of Adjustment for off site parking.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the site plan as revised.

7. RE: Eric Widen and Evelyn Widen

Eric Widen and Evelyn Widen were present as the Commission reviewed a concept to create two parcels off of an existing right of way off of Road 329.

Mr. Abbott advised the Commission that the right of way is existing and that the owners are requesting to separate the fifteen acre parcel into two parcels.

Mr. Widen advised the Commission that this approval is necessary to finalize the owners divorce settlement.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the two parcels off of the existing right of way as a concept.

8. RE: William L. Tyndall

The Commission reviewed a setback variance from agricultural lands on Road 255.

Mr. Abbott advised the Commission that Mr. Tyndall's lot was created out of his mother's farm, that the County has a fifty foot setback requirement for dwellings located next to agricultural farms, that Mr. Tyndall's dwelling is located 42.5 feet from his mothers farm, that a variance of 7.5 feet is requested and that the Commission would have to approve the



setback variance since this is referenced in the Subdivision Ordinance.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the variance.

9. RE: Richard E. Tucker

The Commission considered a one year time extension for Conditional Use #1142 located on Route 54 near Williamsville.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve a one year time extension.

10. RE: Richard Piper

The Commission considered a one year time extension for Conditional Use #1081 located on Road 240 near Ellendale.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve a one year time extension.

Meeting adjourned at 9:40 P.M.