

MINUTES OF THE REGULAR MEETING OF APRIL 26, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 26, 1990, 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. Berl - 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 April 5, 1990, as circulated.

PUBLIC HEARINGS

1. RE: Subdiv. #90-8--John Huber

Danny Morris, Coast Survey, Inc., was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 8.89 acres into 14 lots, located on the northwest side of Route 265-A, 2,350 feet northeast of Route One and an application for a variance from the maximum 600 foot cul-de-sac length.

Mr. Moore summarized the comments of the April 23, 1990, Technical Advisory Committee Meeting.

Mr. Moore stated that the proposed name, "The Woods of Nassau," was too similar to other subdivision names and must be changed. The name of Hidden Oaks was proposed for the subdivision.

Mr. Moore summarized a letter from Coast Survey, requesting a variance from the maximum 600 foot cul-de-sac length, on the basis that the configuration of the property could not accommodate a loop street arrangement.

No one was present 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.

Mr. Moore stated that the feasibility for on-site waste water had not been obtained.

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

2. RE: Subdiv. #90-9--Walter T. Wilson

Danny Morris, Coast Survey, Inc., was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred by dividing 22.7 acres into 24 lots, located on the south side of Route 88, 2,250 feet west of Route One.

Mr. Moore summarized the comments of the April 23, 1990, Technical Advisory Committee Meeting.

Mr. Moore stated that the proposed retention pond should have a minimum twenty (20) foot buffer from adjacent property lines.

Mr. Morris had no objection to the request.

No one was present in favor of the application.

No one was present in opposition to the 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.

Mr. Moore stated that the proposed retention area needed to be revised and that the on-site waste water feasibility had not been obtained.

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

3. RE: Subdiv. #90-10--Hubert D. Mock, Jr.

Danny Morris, Coast Survey, Inc., Hubert D. Mock, Jr., and Todd Mock, developers, were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred by dividing 30.14 acres into 39 lots, located on the north side of Route 235-A, 0.5 mile west of Route 5, and an application for a variance from the maximum 600 foot cul-de-sac length.

Mr. Moore summarized the comments of the April 23, 1990, Technical Advisory Committee Meeting.

Mr. Mock stated that a request for a variance from the 600 foot cul-de-sac length was needed on the basis that the configuration of the property did not permit a loop street design and that two stubb streets had been proposed as future access to the adjacent property, which would allow a loop street arrangement.

Mr. Mock stated that he did not have a contract to purchase the adjacent property.

No one was present in favor of the application.

Robert Witsil, attorney, was present on behalf of James Wells and Jeffery Wells of Sycamore Farms, Inc., an adjacent dairy farming operation, in opposition to the application.

In summary, Mr. Witsil listed the following as reasons to oppose the application:

That the area is predominantly agricultural and not appropriate for residential development; that the proposed street was in excess of the maximum 600 foot cul-de-sac length; that the agricultural practices of the farming operation on either side of the proposed subdivision may pose a health threat to potential residents of the proposed subdivision; that the adjacent borrow pit utilizes a dirt lane adjacent to the proposed subdivision which may create a dust problem; that the condition of Route 235-A may create a safety hazard; that the site is prime farm land; the loss of productive farm land; and that the site was in close proximity to the Prime Hook Refuge, a listed natural critical area; and that there was no need for additional residential lots in the area.

In addition, Mr. Witsil presented photos and exhibits to be placed in the file in opposition to the application.

Mr. Mock rebutted by stating that the adjacent farming practices may not be appropriate and may have created damage; that Route 235-A is a State maintained street; that a market exists for lots in the area and that central water is proposed.

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.

Mr. Moore stated that on-site waste water feasibility had not been obtained.

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

4. RE: Subdiv. #90-11--Donald Martin

Donald Martin, developer, was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 8.68 acres into 13 lots, located on the southeast side of Route 350, and as an extension to the Pit Road Subdivision, and an application for a variance from the maximum 600 foot cul-de-sac length.

Mr. Moore summarized the comments of the April 23, 1990, Technical Advisory Committee Meeting.

Mr. Moore stated that the street maintenance shall be uniform and the existing radio tower shall be removed.

No one was present in favor of the application.

No one was present in opposition to the application.

Richard Rice, registered tree farmer, expressed concern for the potential loss of existing trees.

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.

Mr. Moore stated that the 404 wetlands needed to be deleted and that on-site waste water feasibility had not been obtained.

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

5. RE: Subdiv. #90-12--Steved Watson

Steved Watson, developer, was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred by dividing 107.65 acres into 30 lots, located on the west side of Route 478-A, 4,360 feet south of Route 78, and an application for a variance from the maximum 600 foot cul-de-sac length.

Mr. Moore summarized the comments of the April 23, 1990, Technical Advisory Committee Meeting.

Mr. Moore stated that documentation was needed to establish the fifty foot right of way across lands of H & H Farms.

Mr. Watson presented written agreements and court documentation, as exhibits which grant access to the property.

Mr. Moore requested Mr. Berl to review the exhibits.

No one was present in favor of the application.

Mr. Moore summarized a letter from Lawrence Steele, III, which expressed concerns as to the legality of the proposed fifty (50) foot right of way. Mr. Steele represents H & H Farms, Inc.

Jeff Hastings, H & H Farms, Inc., was present and confirmed Mr. Watson's statements as to the right and location of the proposed fifty (50) foot right of way.

Warren Calloway, from the adjacent hunt club, expressed concern as to potential problems that may affect the hunt club's activities if the development were approved.

Barry Brumly, representing the Town of Bethel, expressed concerns for added traffic and questioned the proposed water supply.

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.

Mr. Moore stated that the feasibility for on-site waste disposal had not been obtained and that Mr. Berl needed to review the proposed fifty (50) foot right of way question.

Motion made by Mrs. Monaco, seconded by Mr. Smith, and carried 4-0, with Mr. Ralph not voting, to defer action.

6. RE: Subdiv. #90-13--Red Mill Assoc.

Jeff Clark and Paul West, Land Tech, Inc., William Vernon and Ray Clatworthy, developers, and Dave Rutt, attorney, were present on behalf of this application to consider the Subdivision of land in an MR Medium Density Residential Zoning District in Broadkill Hundred by dividing 51.5 acres into 131 lots, located on the west side of Route One, 1,050 feet north of Route 88.

Mr. Moore summarized the comments of the April 23, 1990, Technical Advisory Committee Meeting.

Mr. Moore stated that the area delineated as 404 wetlands should have the proposed road crossing eliminated and the 404 line should be established as a building restriction line.

Mr. Moore asked Andy Lorenz, D.N.R.E.C., to summarize additional comments from the on-site branch of D.N.R.E.C.

Mr. Lorenz stated that Phase I shall be an on-site standard sub-surface septic system and the development be limited to 52 lots, at a density of two (2) units per pervious area. That Phase II shall utilize an on-site de-nitrification system, allowing an additional 88 lots. That Phase III be connected to the future County sanitary sewer district for a total of 181 lots.

Mr. Rutt asked Mr. Clark to review the proposed subdivision plan.

Mr. Clark stated that the 404 wetlands area would be revised to eliminate the road crossing.

Mr. Rutt introduced Clark Carbaugh of Cabe Associates, Inc. Mr. Carbaugh reviewed the proposed waste water disposal plans.

Mr. Vernon described the proposed development plans.

No one was present in favor of the 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.

Mr. Moore stated that the proposed plan needed to be revised.

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

7. RE: ORDINANCE TO AMEND ORDINANCE NO. 97
(Circus)

Mr. Lank read the proposed Ordinance referencing one to two day activities for non-profit organizations.

No parties were present in support of or opposed to the proposed Ordinance.

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. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved as presented.

OTHER BUSINESS

1. RE: Bethany Mini Storage

The Commission reviewed the preliminary plan for a proposed mini storage complex.

Mr. Moore stated that the plan was in compliance with the Ordinance.

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

2. RE: Charles Downs, Hrs.

No Action.

3. RE: Colonial Oaks Motel

The Commission reviewed a proposal to allow the Colonial Oaks Motel to be condominiumized. The motel was approved as C/U #29 as a rental motel unit complex.

Greg Williams, attorney, was present on behalf of the request.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the request.

4. RE: County Corporate Center
Route One

The Commission reviewed the site plan for a proposed bank and office complex.

Mr. Moore stated that the Phase I site plan was in compliance with the Ordinance.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the site plan for Phase I.

OLD BUSINESS

1. RE: Subdiv. #89-2--The Cove

The Commission reviewed the final plat plan for the 41 lot, Phase I, subdivision, The Cove.

Mr. Moore stated that all approvals had been obtained.

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

2. Subdiv. #89-17--Tradewinds Estates

The Commission reviewed the final subdivision plat.

Mr. Moore stated that all approvals had been obtained.

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

3. RE: Subdiv. #88-29--The Bluffs at Sandy Landing

The Commission reviewed the final subdivision plat.

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

4. RE: Subdiv. #88-30--James Morgan

The Commission reviewed the final subdivision plat.

Mr. Moore stated that all approvals had been obtained.

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

5. RE: Subdiv. #88-33--Dove Knoll

The Commission reviewed the final subdivision plat.

Mr. Moore stated that all approvals had been obtained.

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

6. RE: South Forest
Discussion

Mr. Moore stated that the preliminary approval for Phase I of the South Forest Subdivision had expired in March. However, the construction plans had been submitted and sent to Kidde Consultants, thus delaying final approval.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to extend the preliminary approval for 90 days.

7. RE: Borrow Pits

- A. Lands of Harvey Justice
- B. Lands of Gerald Hickman

Mr. Lank advised the Commission that both borrow pits referenced above were violated recently. The Justice Pit for encroaching into the buffer area approved. The Hickman Pit for digging without appropriate approvals.

Mr. Lank submitted a letter from Mr. Justice and several photographs of the site.

Mr. Justice appeared and submitted several photographs taken earlier this week.

Mr. Lank submitted photo copies of a 1968 and a 1972 aerial photos of the areas in question.

Mr. Lank reported on the file for C/U #311 for Mr. Justice's Borrow Pit which included the findings of facts of the decision by the County Council in 1975.

The Commission discussed at length both sites.

At the conclusion of the discussion, Mr. Hickman made a motion, seconded by Mr. Ralph, and carried unanimously that the Commission members should inspect the site prior to rendering any decisions.

8. RE: Nanticoke River Watershed Study

The Commission discussed membership participating in the Advisory Committee for the study.

It was the consensus of the Commission that Donald Ralph be nominated for membership on the Nanticoke Advisory Committee and that Margaret Monaco be his alternate.

9. RE: M. J. Webb Farms
Borrow Pit Proposal

Mr. Lank advised the Commission that the Department of Transportation, in their Support Facilities Report, has asked for a traffic impact study for the referenced property.

Mr. Lank also advised the Commission that the Department of Transportation has expressed concern over Borrow Pits and access to the highway system, especially dirt roads and that the Department suggests that any consideration of a zoning change or conditional use be postponed until a study of the roadways and an agreement can be reached on this property.

It was a consensus of the Commission that an application should not be processed until a recommendation is received from the Department of Transportation.

10. RE: Special Meeting

Mr. Lank asked the Commission if a special meeting could be scheduled for May 31, 1990, for Change of Zones and/or Conditional Uses.

It was a consensus of the Commission to agree to schedule for public hearings only on May 31, 1990.

Meeting Adjourned 11:10 P.M.

Lawrence B. Lank, Secretary