

MINUTES OF THE REGULAR MEETING OF MAY 14, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 14, 1998, at 7:30 P.M., in the County Council Chambers, Sussex County Administrative Building, Georgetown, Delaware with the following members present;

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

Motion made by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the minutes of April 23, 1998 as corrected.

II. PUBLIC HEARINGS

C/U #1242--application of RSC LANDSCAPING, LTD. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for retail sales of landscaping supplies not produced on site to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 16.39 acres, more or less, east of Road 308, approximately 2,896 feet northeast of Road 310.

The Commission found based on comments received from DelDOT that a traffic impact study was not recommended and that the existing level of service B of Road 308 will not change as a result of this application.

The Commission found based on comments received from the Office of State Planning Coordination that the State has no objections to the conditional request, that DelDOT has no plans to improve Sussex 308 at this time and any improvements needed to support this business would be at the applicant's expense, and that if any significant physical expansion of the business were needed to support these sales, the applicant would need to submit an entrance plan for approval and obtain a new entrance permit.

The Commission found based on comments received from the Sussex Conservation District that the soils mapped on site are Evesboro loamy sand, Rumford loamy sand, and Woodstown sandy loam, that the suitability of the soils for the intended use are slight: relatively free of limitations or limitations are easily overcome for the Evesboro and Rumford soils, that the suitability of the soils for the intended use for the Woodstown soils is moderate: limitations need to be recognized but can be overcome by careful design or special construction measures, that with respect to erosion and sedimentation control the applicant will have to follow recommended erosion and sediment control practices during construction and maintain vegetation after completion of any construction, that the farmland rating of the soils are of Statewide Importance, Hydric Soil in Small Depressions for the

Evesboro, Statewide Importance for the Rumford soils, and Prime Farmland, Hydric Soil in Depressions for the Woodstown soils, that no storm flood hazard area is affected, that it may be necessary for any off-site and on-site drainage improvements, and that no tax ditch is affected.

The Commission found that John Cordrey, Attorney, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the applicants propose to continue to their landscaping business, that there will be no changes in structures on the property, that the metal building is for sales of landscaping plants, that the majority of the site includes greenhouses, plants and shrubs, that the existing use complies with the AR-1 zoning district, that the proposed use is to be able to sell mulch, stone, and flagstone that is not produced on this site, that the closest residential use is approximately one-quarter of a mile away and is owned by one of the applicants, that the business is open from 9:00 A.M. to 5:00 P.M. Monday through Saturday with no Sunday hours, that most of the work relates to landscaping off site, that the business averages ten to fifteen customers per day, that perennial and ornamental grasses are grown on site, that a pond may be created to help drain the site, and that there are twenty four greenhouses on the site.

The Commission found that no parties were present with interest to this application.

Motion made 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 based on the record submitted by the applicant and that the site plan be approved as submitted.

C/U #1243--application of H.L.M.M., L.L.C. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an amendment to stipulation No. 1 of Conditional Use No. 1028, relating to square footage of floor space, for medical offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.33 acres, more or less, northwest of Route 18 (Savannah Road), 350 feet northeast of Route 12.

The Commission found, based on comments received from the Sussex County Engineering Department that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that the use is needed to meet the needs of the current structure, that capacity is not a concern, that the property is served by an existing eight inch lateral, that the property may be responsible for additional connection charges (impact fees) at

the rate of \$2,954 per EDU, and that connection charge rate is for the period July 1, 1997 to June 30, 1998.

The Commission found, based on comments received from the Sussex Conservation District that the soils mapped on site are Sassafras loam and Woodstown Loam, that the suitability of the soils for the intended use are slight to moderate and relatively free of limitations or limitations are easily overcome and limitations need to be recognized but can be overcome by careful design or special construction measures, that with respect to erosion and sedimentation control the applicant will have to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction, that the farmland rating of the soils is Prime Farmland and Hydric Soil in Depressions, that no storm flood hazard area is affected, that it will not be necessary for any off-site or on-site drainage improvements, and that no Tax Ditch is affected.

The Commission found, based on a letter received from the applicant that the project shall be limited to a maximum of three one and one-half story buildings, containing a maximum of 27,000 square feet of first-floor space and 12,000 square feet of second-floor space contained in the three buildings, and that no building shall contain more than 10,000 square feet of first-floor space.

The Commission found that Dr. Harry Anagnostakos was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he owns and manages H.L.M.M., L.L.C., that he read a letter which was sent to the County Administrator and Director of Planning and Zoning, that building number one was larger than 9,000 square feet, that a company from Atlanta designed the building, that building number two is proposed for six doctors and that 10,000 square feet is needed, that there will not be any impacts to the sewer or to the stormwater management pond, and that he is willing to honor the 27,000 square feet maximum first-floor space.

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

The Commission found that Neal Boyle an adjoining property owner was present and advised the Commission that he is not against any more doctor's offices but he does object to the drainage and stormwater management area on the existing site, that the existing stormwater management area does not work, that it is an eyesore and a hazard to his grandchildren, that there are still drainage problems for the site, that the stormwater management area should work before any other buildings are built, and

submitted photographs of the stormwater management pond.

Motion made by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to defer action pending receipt of comments from the Sussex Conservation District in reference to the stormwater plan.

C/U #1244--application of SALT POND EAST, L.L.C. T/A BETHANY COURTS, L.L.C., to consider the Conditional Use of land in a MR Medium Density Residential District for multi family dwelling structures (28 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 8.615 acres, more or less, south of Road 360, 4,000 feet east of Road 357, and 2,900 feet west of Route One.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the existing level of service E of Road 360 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped as Evesboro loamy sand, loamy substratum, Fallsington sandy loam, Klej loamy sand, Pocomoke sandy loam, and Tidal marsh, salty, that the suitability of the soils for the intended use have slight limitations for the Evesboro and Klej soils, that these soils are relatively free of limitations or limitations are easily overcome, and that the Fallsington, Pocomoke, and Tidal marsh, salty soils have severe limitations and that these limitations are severe enough to make the proposed use questionable; that careful planning and design and/or very special construction measures are needed, that with respect to erosion and sedimentation control the applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction, that the farmland rating of the Evesboro soils is of Statewide Importance, Hydric Soil in Small Depressions, that the farmland rating of the Fallsington soils is Prime Farmland, Statewide Importance, Hydric Soil, that the farmland rating of the Klej soils is of Statewide Importance, Hydric Soil in Depressions, that the farmland rating of the Pocomoke soils is Prime Farmland (where drained), Statewide Importance (not drained), Hydric Soil, that the farmland rating of the Tidal marsh soils is Hydric Soil, that a storm flood hazard area is affected since the area may be flooded at times due to wet, poorly drained soils and the proximity to the Salt Pond, that it may be necessary for any off-site and on-site drainage improvements due to the poorly drained soils on site and that no tax ditch is affected.

The Commission found, based on a letter received from Robert G. Bishop and Carol S. Bishop that they are opposed to this application due to the proposed density, the property values for current residents will be lowered, there will be an increase in traffic and noise, that this application will create safety problems for normal traffic and emergency vehicles, and that it will create confusion because of the name selected.

The Commission found that Ray Giudice, developer, and Gordon Mead, Engineer from Davis, Bowen and Friedel 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 8.615 acres, that the site fronts Road 360, that twenty eight units are proposed with a community building and swimming pool, that there would be no negative impacts to Road 360, that the Town of Bethany Beach will supply water to the site, that the site is located within the Cedar Neck Expansion Area of the Bethany Beach Sanitary Sewer District, that the project will be marketed as an active adult community, that the project will be called Bethany Courts and not Salt Pond East, that four units will be connected by garages in the middle, that the homes look out into courts, that the four units will be set in 165' by 165' squares with 40' spacing between buildings, that the units will range from 1,500 to 2,000 square feet with three bedrooms, that the project creates a single family concept, that in their opinion the product is a non-typical townhouse attached by garages and that the design won an award for the best of the west in design, that the Cedar Neck area is under sewer expansion proposal, that six property owners could be served by sewer, that all properties could be served through the Salt Pond system rather than running a line down Road 360 and eliminating a need for an additional pump station and sewer expenses to the County, the units will be competitive in price range with the units in the Salt Pond, that the stormwater management control devices will be placed in the wetland mitigation area, that the parking is doubled with two spaces inside the garages and two spaces in front of the garages, that the proposed clubhouse will be 3,000 square feet or larger, that the proposed entrance is 107 feet from the entrance to the Salt Pond, that the area between the site and McCoy's Way is a drainage ditch, that they would start the project as soon as possible, that the project will be phased and built within one to two years, that the wetlands mitigation area is limited to the wetlands at the entrance, and submitted a package containing drawings and pictures of the proposed units.

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

The Commission found that Mary Farrell, Thomas Farrell, James Henry, James Henry, Jr., and John Colson spoke in opposition

to this application and submitted photographs of the area and expressed concerns about the traffic counts, the density that is proposed, increases in traffic, drainage problems in the area, environmental impacts to the area, access easements on the property, the entrance being too close to the Salt Pond entrance, and wastewater disposal systems.

Motion made 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 denied since the site is not an appropriate location, that the property may not be capable of supporting the proposed density, and concerns about the close proximity of the entrance to the entrance of the Salt Pond.

C/Z #1336--application of WILLIAM H. & BARBARA Y. NICHOLS to amend the zoning map from a GR General Residential District to an AR-1 Agricultural Residential District in Little Creek Hundred, located on both sides of Road 503, 3,000 feet east of Road 504, for three (3) tracts containing 49.49 acres, more or less.

The Commission found, based on comments received from the Sussex Conservation District that the soils on site are mapped as Fallsington sandy loam and Pocomoke sandy loam, that the suitability of the soils for the intended use are severe in that the limitations are severe enough to make use questionable; and that careful planning and design and/or very special construction measures are needed, that with respect to erosion and sedimentation control, the developer will be required to follow recommended erosion and sediment control during any construction and to maintain vegetation after completion of any construction, that the farmland rating of the Fallsington soils are Prime Farmland, Statewide Importance, Hydric Soil, and that the farmland rating of Pocomoke soils are Prime Farmland (where drained), Statewide Importance (not drained), Hydric Soil.

The Commission found that William Nichols was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the land is currently used for agricultural purposes and that he intends to continue this use.

The Commission found that there were no parties present in support of or in opposition to this application.

Motion made by Mr. Hastings, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since it is a down-zoning.

C/Z #1337--application of HILDA LOUISE NORWOOD & DELORES P.N. HANDY to amend the zoning map from C-1 General Commercial District to an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, located north of Route 9, approximately 2,200 feet southwest of Delaware Route One, to be located on 6.43 acres, more or less.

The Commission found, based on comments received from the Sussex County Engineering Department that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District and since this application is a down-zoning to continue agricultural uses, there will be impact on the sanitary sewer system.

The Commission found, based on comments received from the Sussex Conservation District that the soils on site are mapped as Sassafras sandy loam, that the suitability of the soils for the intended use are slight; relatively free of limitations or limitations are easily overcome, that with respect to erosion and sedimentation control the applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil is Prime Farmland, that no storm flood hazard area is affected, that it will not be necessary for any off-site or on-site drainage improvements, and that no tax ditch is affected.

The Commission found that Paul Grinage was present on behalf of this application and stated during his presentation and in response to questions raised by the Commission that they are seeking to continue farming the land, that they have concerns about paying taxes on commercial property, and that a large home is being built on the property.

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

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since it is a down-zoning.

III. OTHER BUSINESS

Sea Colony West
Phase 20, Section 3 - Multi Family Site Plan

The Commission reviewed a multi family site plan for thirty two units in four buildings with eighty two parking spaces provided.

Mr. Abbott advised the Commission that the site plan meets the minimum requirements of the zoning code and that approvals are needed from the Sussex County Engineering Department, Office of State Fire Marshal, and Sussex Conservation District.

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.

Marsh Island Golf Course
Preliminary Site Plan - Road 279

The Commission reviewed a preliminary site plan for an eighteen hole golf course on the east side of Road 279, 880 feet north of Road 279-A.

Mr. Abbott advised the Commission that the golf course is a permitted use in the AR-1 District, that there is a one hundred foot building restriction line along the property, that a 4,500 square foot clubhouse and a 1,300 square foot maintenance building are proposed, that 102 parking spaces have been provided with 25' interior drives, that the parking is setback 25' from the front property line, that the site plan meets the minimum requirements of the zoning code, and that at this time only preliminary approval should be considered since the staff has not received any agency approvals or permits.

Mark Davidson of ECI Corporation and Mr. Schneider, purchaser, were present and advised the Commission that wetlands will be mitigated for 16' wide cart paths and bridges, and that the property will still be purchased if the site plan is not approved.

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

Ocean Breezes Subdivision
Recreational Facility Site Plan - Windswept Way

The Commission reviewed the site plan for the recreation area for Ocean Breezes Subdivision located on Delaware Route One near Bethany Beach.

Mr. Abbott advised the Commission that the site is zoned MR, that a bathhouse, office, storage area, swimming pool, barbecue pit and trellis are proposed, that no parking spaces are provided since this area is for residents of the subdivision only, and

that the setbacks are determined by the Commission.

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.

Rehoboth Mall
Revised Site Plan - Road 274

The Commission reviewed a revised site plan for a commercial building at the Rehoboth Mall.

Mr. Abbott advised the Commission that a 9,100 square foot building is proposed, that 47 additional parking spaces are required and that 62 have been provided, that DelDOT stated that no upgrades will be required for the existing entrances, and that approvals will be required from the Fire Marshal and Sussex Conservation District.

Jeff Clark of Land Tech Inc. advised the Commission that DelDOT wants the developer to install sidewalks along the frontage of Route One and that the developers do not want to do this.

It was the consensus of the Commission that the sidewalk issue be resolved between DelOT and the developers.

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

IV. OLD BUSINESS

SUBD. #95-9--application of RICHARD D. COMSTOCK, ET. UX. to consider the Subdivision of land in a MR Medium Density Residential District in Cedar Creek Hundred, by dividing 14.82 acres into 21 lots, located on the east side of Route 619A, 250 feet northwest of Route 36.

Mr. Abbott advised the Commission that the final plan has been reduced to 20 lots, that the plan meets the minimum requirements of the subdivision and zoning codes, and that the staff has received all agency approvals.

Motion made by Mr. Wheatley, seconded by Mr. Phillips, and carried unanimously to approve this application as a final.

SUBD. #97-6--application of JOHN J. STRYHOLUK, SR. to consider the Subdivision of land in an AR-1 Agricultural Residential

District in Dagsboro Hundred, by dividing 10.20 acres into 5 lots, located on the east side of Road 340, 687 feet north of Road 382.

Mr. Abbott advised the Commission that this application received final approval on February 12, 1998 and was not recorded with the sixty day time frame and questioned if the Commission would re-consider the application as a final.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to re-approve this application as a final.

Meeting adjourned at 10:45P.M.