

MINUTES OF THE REGULAR MEETING OF MAY 28, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 28, 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. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the minutes of May 14, 1998 as circulated.

II. PUBLIC HEARINGS

C/U #1245--application of PARADEE GAS CO., INC. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for storage of liquefied petroleum gas to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 21,875 square feet, more or less, lying 1,100 feet west of Road 355 and 850 feet south of Road 382.

The Commission found that this application was withdrawn on May 22, 1998.

C/U #1246--application of PAUL CRONE to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a trucking company to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 2.2 acres, more or less, lying north of Road 291, 850 feet east of Route 5.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the existing Level of Service "A" for Road 291 will not change as a result of this application.

The Commission found, based on comments received from the Sussex County Engineering Department, that this site is located in the area west of the West Rehoboth Expansion Area, where the Sussex County Council agreed to restrict zoning changes and conditional uses, and that this agreement is outlined in the Memorandum of Understanding signed between the State of Delaware Department of Natural Resources and Environmental Control and the Sussex County Council.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped as Evesboro loamy sand, that the suitability of the soils for the intended use are slight and 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 of Statewide Importance, 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 Crone was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he has only one truck and trailer, that his operation is not a large scale trucking company, that he does his own maintenance on his equipment in a 24' by 24' shop on the property, that his trailer is refrigerated, that he tries not to bring loaded trailers to his property, that if he does bring loaded trailers to the site, they are usually not there for more than six hours, that he washes his equipment in the driveway, that the parking area referenced on the site plan is mostly trees, that he would like to maintain as many trees as possible, that loads of dirt have been brought in to level the land, that his roommate has moved his trucks to another site on Route 9 near Harbeson, that he currently hauls for Tyson Foods in Berlin, that by bringing the truck and trailer home saves him time, that he has resided at this site since 1985, that the business started in 1989, that the truck and trailer are parked on the east side of the driveway, that the old trucks on site are used for salvage parts, that this application is the result of a complaint to the Planning and Zoning Office due to the trucks running on site, that the trailer may run once a week for a few hours at the site, that no trailers are leased or subleased to anyone else, that he was violated by the Planning and Zoning Inspector, that he had to go to court and was fined \$50.00 plus court cost and victim compensation fees.

The Commission found that Chris Fuller, Kim and Norman McBride, and Bob Wotring all were present in support of this application and advised the Commission that the applicant purchased the property from another trucker, that this business is the applicants livelihood, that the applicant is a hard worker, very dependable and of good character, and that the refrigerator unit has a timer that shuts off automatically.

The Commission found that Marlene Henry, Linda Butler, and Shirley Street were all present in opposition to this application and advised the Commission that this use should be located in a commercial area and not a residential area, that there is noise when the trucks are running, that the area is rural and quiet, and that there are fumes from the diesel exhaust.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried

unanimously to defer action.

Subd. #98-4--application of SUSSEX VENTURES, INC. to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, by dividing 24.12 acres into 23 lots, located northeast of Road 326, 0.42 mile northwest of Road 318.

Mr. Abbott summarized the Technical Advisory Committee Report of May 20, 1998 and comments received from the State of Delaware Division of Public Health.

The Commission found that Donald and Drew Ward were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that there has not been any changes to the site plan except that the streets are now proposed to be private and built to Sussex County specifications, that their engineer is in the process of revising the plan to meet the requirements of the Technical Advisory Committee, that there are four strip lots along Road 326 that have already been approved and recorded, that one of the lots is currently being cleared so that construction may begin, that they have a contract with Townsends to purchase the land that will be lots 19, 20 and 21, that the existing twenty foot right of way currently serves as access to recorded lots located east of this site and that their attorney is drafting papers to have the right of way closed, that there are no wetlands on this site according to their soil scientist, that the site is suitable for gravity fed or low pressured pipe wastewater disposal systems, that they hope to keep as many trees as possible on the site, and submitted a septic feasibility statement from DNREC stating that the site is suitable for individual on-site septic disposal systems.

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

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

Subd. #98-5--application of CHARLES E. TURNER, JR. to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, by dividing 14.34 acres into 4 lots, located east of Road 279-A, 2,480 feet northeast of Road 279-B.

Mr. Abbott summarized the Technical Advisory Committee Report of May 20, 1998, and comments received from the State of Delaware Division of Public Health.

The Commission found that Charles Turner, Jr. was present on behalf of this application and stated in presentation and in

response to questions raised by the Commission that he is addressing all issues that were presented at the Technical Advisory Committee Meeting, that the two buildings in the center of the property will be demolished, that the existing dwelling near the front is presently being remodeled, that the lagoon on the property is about twenty years old, that an application has been submitted to DNREC for a boat ramp on lot 4, that the boat ramp if approved will only be used by the owners of the 4 lots, that the boats will be put in the water at the beginning of the season and taken out at the end of the season unless there is an emergency such as repairs, that a wetland delineation is being performed and that lots 3 and 4 are wooded.

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

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

III. OTHER BUSINESS

Lowe's

Final Site Plan - Road 275 and Route One

David Rutt, Attorney, and Louis Young of Columbia Engineering were present as the Commission reviewed the final site plan for Lowe's retail store on Road 275 and Route One.

Mr. Abbott advised the Commission that the final site plan is for 151,040 square feet of retail sales and garden center, that this project received preliminary approval on September 25, 1997, that the parking requirements are based on the retail sales and display areas and that 755 parking spaces are required and that 766 parking spaces are provided, that there is a 40' landscaped buffer along Route One and a 25' landscaped buffer along Road 275, that two cross access easements have been provided to the adjacent Wright, Hansen & Turek lands, that the staff has received all required agency approvals, and that variances will have to be obtained from the Sussex County Board of Adjustment for the height of the store front and for the height of and square footage of the proposed ground signs.

Mr. Rutt advised the Commission that the project received preliminary approval on September 25, 1997, that certain changes had to be made based on Mr. Abbott's letter of September 29, 1997 in reference to the water tower location and parking requirements, that the water tower may not be needed at all according to Tidewater Utilities, that all agency approvals have been received and that the site plan meets all requirements of the zoning code.

Mr. Allen questioned why an application for a variance for the height of the store front and sign requirements has not yet been filed.

Mr. Rutt advised the Commission that the developers will apply for the variances if the site plan is approved and that the developers cannot build the signs unless they are approved by the Board of Adjustment.

Mr. Schrader advised the Commission that the site plan could be approved as a final with the stipulation that the signage not be approved at this time and that if the variances were denied, the developer would have to comply with the zoning code.

Michael Tyler, President of the Citizens Coalition advised the Commission that he is confused by the overall site warehouse type building, that he is not satisfied with the garden center square footage in reference to the parking requirements, that the approval should not be piece meal, that the site is not appropriate for the intended use, that the intersection of Route One and Road 275 is a failing intersection, and that the existing store will be vacant and become an eye sore to the area.

Mabel Granke of Rehoboth Beach advised the Commission that the stormwater management area intrudes into the buffer along Route One which is not permitted with the HCOZ, questioned pedestrian movement within the site, questioned the cross access easements to the adjoining lands, questioned parking within the front yard setback, questioned the calculations of the square footage for the parking requirements, questioned the entrance along Road 275, questioned the square footage of the signs, and the negative impacts to the area and submitted written comments.

Don Roessler of Lewes questioned the wording of the zoning code in reference to parking being located within the front yard setbacks.

Mr. Wheatley questioned if construction is allowed to begin immediately or wait until the outcome of the variances to the Board of Adjustment.

Mr. Schrader advised the Commission that if the signs are deleted, construction could begin as soon as a building permit is issued.

Mr. Schrader questioned why the signage is so large.

Mr. Young advised the Commission that the design of the signs are standard requirements for Lowe's and that if the variances are denied, the signs will be redesigned to meet the requirements of

the zoning code.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried four vote to none, with Mr. Hastings abstaining, to approve the site plan as a final.

Thomas M. & Amanda L. Rosenthal
C/U #1224 Site Plan - Road 62

The Commission reviewed the final site plan for Conditional Use No. 1224 for a private airstrip.

Mr. Abbott advised the Commission that the nine stipulations imposed by the County Council are referenced on the site plan and that no approvals are required since no construction is taking place.

Motion made by Mr. Hastings, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a final.

PAF, L.L.C.
4 Lots on Major Arterial Roadway - Route 9

The Commission reviewed a concept to create 4 lots on Route 9 west of Georgetown.

Mr. Abbott advised the Commission that DelDOT approved the entrance locations on May 5, 1998.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the 4 lots.

William Smack
Request Waiver from Subdivision Requirements
Road 525

The Commission reviewed a request to waive the requirements of having the topography being required to be shown on a subdivision plan.

Mr. Abbott advised the Commission that the developer is requesting that the topography not be required on a subdivision plan due to the surveyors cost.

The Commission discussed what happened in the past on a similar request.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to deny this request.

Jimmy's Grille
Revised Commercial Site Plan - U.S. Route 13

The Commission reviewed a revised commercial site plan for the display of and retail sales of sheds and gazebos at the site of Jimmy's Grille near Bridgeville.

Mr. Abbott advised the Commission that the display is setback forty feet from the front property line and that the use is permitted.

Motion made by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the site plan subject to approval from DelDOT.

Daniel W. Magee
C/U #1227 - Site Plan

The Commission reviewed the final site plan for Conditional Use. No. 1227 for a corn maze located on Route 54.

Mr. Abbott advised the Commission that the nine stipulations imposed by the County Council are referenced on the site plan and that DelDOT has approved the entrance.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a final.

IV. OLD BUSINESS

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 Chairman referred back to this application which was deferred at the May 14, 1998 meeting.

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

Mr. Allen and Mr. Phillips discussed their meeting on the site with John Barwick relating to the stormwater management of the site.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that stipulation No. 1 of Conditional Use No. 1028 be amended to read:

"The project shall be limited to a maximum of three (3) 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. No building shall contain more than 10,000 square feet of first-floor space."

Meeting adjourned at 9:40 P.M.