

MINUTES OF THE REGULAR MEETING OF JUNE 8, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 8, 1989, at 7:45 P.M. in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Jones - Assistant County Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

No action was taken on the minutes of May 18, 1989, since there were none submitted.

PUBLIC HEARINGS

1. RE: C/Z #1005--Salt Pond Associates

James Fuqua, attorney, was present on behalf of this application to amend the zoning map from MR Medium Density Residential to RPC Residential Planned Community in Baltimore Hundred, located on the southeast corner of the intersection of Route 360 and Route 357, containing 378.77 acres more or less.

Kenneth Simpler, one of the developers, Jeff Clark of Land Tech, Inc., Harry Beard of Whitman, Requardt and Associates, Jerry Friedel of Davis, Bowen and Friedel, Inc., and Charles Miller of Environmental Consulting Services, Inc., were also present on behalf of the application.

Mr. Lank summarized comments from agencies represented at the Development Advisory Service meeting of May 4, 1989.

Mr. Lank read a March 29, 1989, correspondence from A. Temple Carter, Subdivision Manager of DelDOT to Tom Kirby of Whitman, Requardt, and Associates, which responded to a traffic impact study performed.

Mr. Lank summarized comments received from Sussex Conservation District which referenced drainage and soil suitability.

Mr. Lank read a letter received from Kevin C. Donnelly, Planner for the Delaware Department of Agriculture, which referenced the Land Evaluation and Site Assessment (LESA) analysis for the site.

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Mr. Lank read a letter received from Rodney J. Short, adjacent land owner, dated April 19, 1989, which referenced drainage.

Mr. Fuqua submitted, for the record, a large report titled "The Salt Pond - Residential Planned Community - June 1989" as applicants' exhibit "A". The report contained information on the location; past development history; the developers; the Salt Pond Development Plan, which referenced overview, zoning, water, wastewater, stormwater, solid waste, utilities, security, traffic impact, environmental impact, recreational facilities, construction phasing, fire protection, the neighborhood business area, and social impact. The report also contains documents including maps of existing conditions, tabulation and unit count, the preliminary master plan for development of the project, and a preliminary layout plan for the commercial area.

Mr. Fuqua referenced that the purpose of an RPC Residential Planned Community is to encourage large-scale development as a means of creating a superior living environment through unified development and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan.

Mr. Fuqua reported to the Commission that a 1973 RPC for this site proposed 1458 units, that the present density allowed after deduction of streets, commercial area, and water area would permit 1286 units, that if Federal wetlands were also deducted, the density allowed could be 826 units, and that the maximum density proposed by the developers is 639 units.

Mr. Fuqua stated that the average square footage of lots exceeds 10,000 square feet, that the commercial area shall be limited to B-1 Neighborhood Business uses only, that the project will be phased over ten (10) years, that a minimum disturbance of wetlands is intended, that central water and sewer are proposed, that several areas are planned for recreational use, and that private streets, built to Sussex County specifications are proposed.

Mr. Fuqua referenced that this project reflects the intent of the Coastal Sussex Land Use Plan, adopted March 1988, in that the plan encourages RPC Residential Planned Community development and since the map of the plan designates the general area for single family and planned unit development with a density of one (1) to four (4) units per acre. The plan also designates a village shopping center in the vicinity of the proposed location.

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Mr. Clark of Land Tech, Inc., referenced all the agencies and regulations reviewed in planning the project; described the existing conditions of the site; and stated that an RPC application method was chosen to allow for a variety of housing types, that typically, the development trends of the area have been 75 percent single family and 25 percent multi-family, that increased lot setbacks are proposed from Salt Pond, freshwater ponds, 404 wetlands, and the Loop Canal, that two (2) entrances are proposed on Route 360 and one (1) entrance is proposed on Route 357, that a 62 foot wide boulevard is proposed through the project, that fifty (50) foot wide streets are proposed, that pedestrian and bike traffic will be handled by way of a pathway network throughout the project, that a 70,000 square foot gross commercial leasable area is proposed, that recreation uses shall include swimming pool, tennis courts, fitness area, tot-lots, playgrounds, and a small community beach, that stormwater management is proposed with the intent to control water with some drainage into the wetlands areas.

Mr. Beard of Whitman, Requardt and Associates, discussed the traffic impact study performed and the necessary improvements suggested by the study, that the developers have provided facilities for pedestrians along Route 360 and Route 357, and that DelDOT has found the plans for improvements to Route 360 and Route 357 to be acceptable.

Mr. Friedel of Davis, Bowen, and Friedel, Inc., stated alternatives for water supply and that the developer proposes a central sewer system design for future hookup to the South Coastal Regional Wastewater Facilities.

Mr. Miller of Environmental Consulting Services, Inc., stated that the site has been studied for establishment of the Federal 404 Wetlands and State Wetlands and that the developers propose to preserve the wetlands in their natural state, that several ponds are proposed to protect the wetlands from proposed lots and units, and that the ponds will add approximately five (5) acres of freshwater wetlands to the site.

Mr. Simpler stated that there will be little change in the appearance along Route 360 and that preservation of the environment was a major factor in the design of the project.

Mrs. Shirley Price spoke in opposition and expressed concern over the location of the commercial area at the intersection of Route 360 and Route 357, traffic, pedestrian safety, and that wetlands should be kept in their natural state, not altered.

A. Temple Carter of DelDOT stated that the traffic impact study was completed and reviewed, and that the design criteria is acceptable for the project.

At the conclusion of the agenda, 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 D.N.R.E.C. Land Use Planning Act Coordinator, that the Development Advisory Service (DAS) comments will probably serve as LUPA comments.

The Commission found, based on the Development Advisory Service (DAS) report of meeting of May 4, 1989, that since the wastewater disposal is proposed via the South Coastal Sewage Treatment Plan, the D.N.R.E.C. On-Site Wastewater Branch has no comment; that the D.N.R.E.C. Division of Water Resources regulations shall require State permits for any pump station and sewer lines; that a central water system is required by the D.N.R.E.C. Water Supply Branch; that the D.N.R.E.C. Wetlands and Aquatic Protection Branch recommends that a stormwater retention facility should be considered to prevent surface water runoff from directly entering adjacent waterways, that sediment and erosion control structures should be utilized during construction to prevent impacts to adjacent wetlands and waterways, and that State and Federal wetlands maps are available for review; that D.N.R.E.C. Division of Fish and Wildlife suggest that as much undisturbed buffer as possible around wetlands, ditches and ponds be provided, that buffer areas provide critical wildlife habitat and help filter water runoff to minimize pollution of critical fisheries habitat, that the minimum buffer should be 25 to 50 feet from all ponds and 404 wetlands; that the D.N.R.E.C. Division of Parks and Recreation recommend the addition of playground equipment to the community recreation core, that play areas should be developed for various age levels, and that the community recreation core could be 1.5 acres to 10 acres per 1,000 population; that the D.N.R.E.C. Division of Parks and Recreation Natural Heritage Program has requested to do a heritage survey for rare plants and animals on site, and that maintenance and protection of wetlands is strongly encouraged; that the D.N.R.E.C. Division of Air and Waste Management prohibit the burial of construction/demolition debris except where permitted; that the Bureau of Archaeology and Historic Preservation stated that the site contains a known prehistoric archaeological site and request permission to relocate and excavate the data contained within the site; that the State Division of Public Health requires review and approval of drinking water systems and that any beach swimming

areas which are provided with lifeguards and swimming pools must meet recreational water requirements and regulations; and that Public Service Commission approval must be obtained to install, operate, and charge for use of a central water system.

The Commission found, based on a copy of correspondence from A. Temple Carter, Subdivision Manager to Whitman, Requardt, and Associates, that Deldot has reviewed the traffic impact study and generally agree with the findings of the study in reference to Route 360 and Route 357 and proposed entrances.

The Commission found, based on comments received from the Sussex Conservation District, that in reference to drainage, a storm flood hazard area is affected, no off-site drainage improvements will be necessary, on-site drainage improvements will be necessary, and no tax ditch is affected, that in reference to soils suitability for the intended uses, moderate to severe limitation are probable, that in reference to soils in respect to erosion and sediment control, only slight limitations are anticipated during and after construction, and that the site farmland rating is of statewide importance and wetlands.

The Commission found, based on comments received from the State Department of Agriculture, that the Land Evaluation and Site Assessment (LESA) Analysis indicated a score of 130 out of 300 points indicating that it is a below average site for economical, long term agricultural production.

The Commission found that the application was represented by James Fuqua, Esquire, of Fuqua and Graves, P.A.; Kenneth Simpler, developer; Jeff Clark of Land Tech, Inc.; Harry Beard of Whitman, Requardt and Associates; Jerry Friedel of Davis, Bowen, and Friedel, Inc.; and Charles Miller of Environmental Consulting Services, Inc.

The Commission found, based on comments by representatives of the application, that they plan to develop the site with 634 units, that the proposal meets the purpose of the RPC Residential Planned Community Article in the Comprehensive Zoning Ordinance, that the present density allowed would permit 1286 units, that if Federal wetlands were also deducted, the density allowed could be 826 units, which is 247 units greater than the proposed density, that the project shall be phased over ten (10) years, that a minimum disturbance of wetlands is intended, that central water is proposed, that central sewer with future discharge into the South Coastal Regional Treatment Facility is proposed, that streets will be private at County specification, that the project reflects the intent of the Coastal Sussex Land Use Plan which encourages Residential Planned Community development and since the map of

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the plan designates the general area for single family and planned unit development with a density of one (1) to four (4) units per acre, and a village shopping center in the vicinity of the proposed location, that the RPC application method was chosen to allow for a variety of housing types, that the development trends of the area are proposed - 75 percent single family and 25 percent multi-family, that increases in setbacks are proposed from Salt Pond, freshwater ponds, 404 wetlands, and the Loop Canal, that two (2) entrances are proposed on Route 360 and one (1) entrance on Route 357, that 70,000 square feet of gross leaseable area is proposed, that stormwater management methods are proposed, that several ponds are proposed to protect the wetlands from proposed lots and units, and that the ponds will add approximatley five (5) acres of freshwater wetlands to the site.

The Commission found that one person appeared in opposition and expressed concerns over the location of the commercial area, traffic, pedestrian safety, and that wetlands should be kept in their natural state, not altered.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved, with the stipulation that the plan be considered in concept only, not as a preliminary plan, and that the plan be reviewed by the Technical Advisory Committee prior to preliminary plan consideration.

2. RE: ORDINANCE TO AMEND ORDINANCE NO. 97

ORDINANCE TO AMEND ORDINANCE NO. 97, THE COMPREHENSIVE ZONING ORDINANCE OF SUSSEX COUNTY, AS AMENDED, BY AMENDING ARTICLE 5, ARTICLE 6, AND ARTICLE 11, WHICH MAKE REFERENCE TO REGULATIONS AND PERMITTED USES OF ADVERTISING SIGNS.

Mr. Lank summarized the proposed amendments.

The Ordinance creates jurisdiction over signs, exceeding 32 square feet, to Sussex County. Sussex County has not had jurisdiction on signs exceeding 32 square feet since 1982. The purposes of the Ordinance are to create setbacks from a property line, dwelling, church, school, and/or public land, size and height limitations for signs, lighting limitations, and to describe more specifically the type of signs permitted in each zoning category.

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Shirley Price was present in support of the Ordinance and suggested that the Ordinance should be amended to include provisions about lighting of signs causing annoying glare and that any existing sign, not in compliance with the regulations, needs to comply with the amendments if adopted.

Dennis Forney was present in support of the Ordinance and added that he is opposed to flashing signs, portable signs, and billboards too close together. Mr. Forney added that Sussex County needs to make provisions for proper inspection of signs.

Lynn Rogers of Rogers Sign Co. stated that he can live with most of the proposed amendments, and added that there are always loopholes in regulations. Mr. Rogers expressed concern over the number of County employees needed to handle the enforcement. Mr. Rogers added that he agrees with the proposed regulations for signs of less than 32 square feet. Mr. Rogers quoted specific sections of the amendments which caused some concern, i.e.:

Page 5 Item 2(6) - the 500 foot setback should be 300 feet.

Page 5 Item 2(C) - the 600 square foot sign area maximum is half of sign area permitted by the State.

Page 6 Item 7 - Animated sign techniques can be loopholed. Presently, companies are using aluminum and plastic disc nailed loosely for wind movement.

Page 10 Section 2.3 - Questioned the interpretation of the regulation. Are new sign permits required each time the picture or character of the sign changes?

Scott Gregory of Reagen Advertising agreed with Mr. Rogers' comments and also expressed concern over square area of signs and questioned if permits are required each time the paper is changed on a sign.

Leon Baker of DelDOT, South District, stated that he supports the Ordinance since the State has no jurisdiction over portable signs, height, or distances from a church, school, dwelling, public lands or property lines.

William Dryden of DelDOT, South District, agreed with Mr. Baker and stated that the purpose of State Outdoor Advertising Regulations is roadside control for the travelling public to protect drivers from any visual obstructions.

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Mr. Rogers suggested that the County Council should contact DelDOT and the State Representatives to try to get the State regulations amended to include the primary purposes of these amendments.

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

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

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be denied as submitted.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to recommend that the Sussex County Council should work with the State in getting State regulations revised to include reference to lighting, setbacks from property lines, setbacks from a dwelling, church, school, or public lands, and height limitations.

OLD BUSINESS

1. RE: C/U #906--William Sammons

No one was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for a Radio Station and 322 Foot High Antenna Tower located at the southwest corner of the intersection of Route 42 and Route 624, and to be located on a parcel containing 2.28 acres more or less.

Motion made by Mr. Ralph, seconded by Mr. Hickman, and carried 3-2, with Mr. Allen and Mr. Smith opposed, to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support for the application.

2. RE: C/Z #995--Woodin, Wentling and Associates, Inc.

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to RPC Residential Planned Community in Lewes and Rehoboth Hundred, located on the west side of Route 274, 1.5 miles south of Route One, containing 90.01 acres more or less.

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Mr. Lank advised the Commission that the Sussex County Council rejected this application by default on June 6, 1989, since no one appeared on behalf of the applicant at the public hearing before the Council.

No action.

Meeting Adjourned 10:45 P.M.

Lawrence B. Lank, Secretary