

MINUTES OF THE REGULAR MEETING OF JUNE 22, 2000

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 22, 2000 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:30 P.M. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Hastings, Mr. Johnson, Mr. Lynch, and Mr. Wheatley, with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Mr. Lank advised the Commission that item number 4 under Old Business has been removed from the agenda.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to adopt the agenda as revised.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of June 8, 2000 as corrected.

Mr. Schrader explained how the hearings would be conducted.

PUBLIC HEARINGS

C/Z #1403 -- application of PROVIDENCE LAND, LTD to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-RPC High Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying west of Road 361, 220 feet north of Road 362, to be located on 15.46 acres, more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of Road 361 at this location will not change as a result of this application.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is adjacent to the Ocean View Expansion of the Bethany Beach Sanitary Sewer District; that an 8-inch gravity stub has been provided for the property from Manhole OV-48; that capacity is limited to 4 units per acre; that the District boundaries cannot be extended until at least 50 properties have been connected within the Town of Ocean View; that Sussex County Ordinance No. 38 requirements and system connection charges will apply to this project; that the current connection charge for the Ocean View Expansion project is \$1,559 per EDU; and that sanitary sewer service will be available early next year.

The Commission found, based on comments received from the Office of State Planning Coordination, that the site is located within an environmentally sensitive developing area of the Strategies for State Policies and Spending, where State policies will be to seek a balance between resource protection and sustainable growth; that according to the State Historic Preservation Office, there are some potential for a small prehistoric site in the southeastern part of the site; that the State Historic Preservation Office would like to work with the developers to avoid this site; that the State DNREC has noted that the soils are hydric and have the potential to contain some freshwater wetlands; that water could stand at or near the surface for some periods of time and could pond on the surface in shallow depressions; that DNREC does not advocate development of this parcel due to the wet nature of the soils; that the State does not recommend development of this parcel due to the wet nature of the soils, but has no objection to the rezoning; and that the State does ask the County to require that the developer work with the Historic Preservation Office to avoid the small prehistoric site.

The Commission found that the United States Department of Agriculture Natural Resources Conservation Service submitted an overview of the soils and the interpretation of the soils.

The Commission found, based on comments received from the Sussex Conservation District, that there are no storm flood hazard areas or tax ditches affected by this site; that it may be necessary for some on-site or off-site drainage improvements due to the wet nature of the soils; that wetlands may be present and that the Army Corps. of Engineers has jurisdiction over this site; that the soil types include Evesboro loamy sand, Fallsington sandy loam, Fallsington loam, Pocomoke sandy loam, and Rumford loamy sand; that the soils conditions vary from slight limitations to severe limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; and that all of the soil types are considered of Statewide Importance.

Mr. Lank reminded the Commission that this project was reviewed by the Technical Advisory Committee on March 15, 2000 and that the T.A.C. report is a part of the record for this application.

The Commission found that letters were received from Charles M. Kauffman and John W. Hall in support of the project.

Mr. Schrader announced that he would not be participating in this application since he has a client in opposition.

The Commission found that Steve Parsons, Attorney, Robert Harris, developer, and Jeff Clark of Land Tech, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site contains 15.46 acres just outside of the Town of Ocean View; that the site is located within a Development District according to the Comprehensive Plan; that the site has been farmed; that the site includes man-made ditches; that no State or Federal Wetlands exists on the site; that Road 361 has been improved; that subdivisions adjoin the site on 3 sides; that a mixture of single family attached and single family detached housing is proposed; that the application will not exceed 4 units to the acre; that 13 single family lots and 49 single family attached units are proposed; that a community pool and bathhouse are proposed; that a one-acre wet pond is proposed for stormwater management; that central water will be provided by Tidewater Utilities, Inc.; that central sewer is proposed through the County system; that in the Technical Advisory Committee Report, the State DNREC expressed concerns relating to potential wetlands, possible increased nutrient loads to ground and surface waters, that Little Assawoman Bay is designated as Waters of Exceptional Recreational or Ecological Significance, blue-line ditches, and poorly drained soils; that Michael F. Green of Environmental Consulting Services, Inc. responded to the DNREC comments and found that the site has been farmed, that there are no wetlands on the site, that ditches that cross the site are man-made, that wastewater disposal is proposed to be via the County sewer system, that the wastewater will be treated prior to discharge into waters of the State and this will contribute to a reduction of the nutrient load to waters, that stormwater management will also reduce the load, that overall nutrient load for the site will probably decrease as a result of residential development due to the fact that most of the site is changing from farming to residential; and that reforestation and tree planting will provide for nutrient filtering; that 3 parking spaces will be provided per unit; that the existing ditching will be altered for the creation of a pond; that the outfall from the pond will cross under Road 361 to the Assawoman Canal; that approximately 500 trees per acre will be planted for the reforestation project; that streets will be maintained by the developer until the project is completed and that once completed the maintenance will be transferred to a home owners association; that the originally did not plan on a pool, but they have revised their plans to include a pool at the request of the Office of State Planning Coordination, who requested community facilities; that the developers also developed Bahama Beach, a 75 unit project, The Cottages at Whites Creek, an 89 unit project, Clearwater, a 211 unit project, and South Hampton; that this project will not exceed 4 units per acre; that the site is within the Millville Volunteer Fire Company service area; that the majority of the agency comments were positive; that the project should improve property values in the area; that development projects exists to the north and the west; that a driving range exists across the road; and that a market analysis was performed and it was determined that a need exists for high quality homes in the range of \$200,000 to \$250,000.

The Commission found that Vicki York, a Realtor, was present and stated that mixed single-family and multi-family units exists in the area; that homes developed by the applicant sell well; that a need exists in the area for affordable housing; and that there should be no adverse impacts on the neighborhood or property values.

The Commission found that Mr. Parsons added that the property is located in a Development District, according to the 1997 Sussex County Comprehensive Plan; that mixed housing exists in the area; that central water and sewer are proposed; that the developer will conform to all agency requirements; that the project will not exceed 4 units per acre; that there should be no traffic impact; that neighboring property owners have written letters in support of the application; that the Comprehensive Plan suggest that future growth should occur around existing Towns and in designated Development Districts; that the site is near the Town of Ocean View; that the purpose of a Development District is to concentrate development in areas where public water and wastewater systems are available or planned and where past trends indicate that growth will occur; and that Development Districts will produce a mixed-use growth pattern supported by public and private investments to provide a variety of economic development and housing opportunities.

The Commission found that Robert Orem, Mayor of the Town of Ocean View, was present and expressed concerns that DelDOT did not request a Traffic Impact Study; that the Town of Ocean View has doubled in size in the past 3 years; that the Town is concerned about the cumulative effects of traffic; that the project is in close proximity to Hunters Run, Savannah's Landing, South Hampton, Bethany Meadows, and Clearwater projects; that Road 361 is a good road that terminates on the west at Route 26 and on the east by Jefferson Bridge; that the pavement section of Woodland Avenue is only 18 feet wide; that the Town of Ocean View would prefer single-family detached housing; and that the Town of Ocean View would prefer a change in the mix of housing proposed to 50/50.

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 by Mr. Lynch, seconded by Mr. Hastings, 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.

Motion Carried 5 - 0.

Subdivision #2000-15 -- application of HENRY C. TIFFT to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred, by dividing 7.88 acres into 2 lots, and a variance of 25 feet from the required 50 foot right of way width, and a waiver from the street construction requirements, located east of existing 25 foot private road, approximately 1,900 feet north of Road 534.

The Commission found that the Technical Advisory Committee reviewed the site plan on June 14, 2000 and that the Technical Advisory Committee Report is considered a part of the record for this application.

Mr. Abbott summarized comments received from the U.S. Department of Agriculture Natural Resources Conservation Service.

The Commission found that Henry C. Tiffit was present and stated that he wants to convey a lot to his son and daughter-in-law; that the parcel is a part of a small farm owned by Helen Parsons, his mother-in-law; that at her death Ms. Parsons' will divided the parcel into 3 lots for family members; that the site has access to Road 534 by way of an access road with a 15' to 25' right-of-way; that a home existed in the past at the proposed location; that the home was destroyed by the local fire company; that the land does not seem attractive to anyone, except family members; that the road access is crossed by a powerline; and that he and his wife will retain land on both sides of the proposed lot.

The Commission found that no parties appeared in support of or 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.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the Subdivision as requested.

Motion Carried 5 - 0.

Subdivision #2000-16 -- application of WAYNE PEPPER to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred, by dividing 19.70 acres into 4 lots, located west of Road 431, 500 feet north of Road 329.

The Commission found that the Technical Advisory Committee reviewed the site plan on June 14, 2000 and that the Technical Advisory Committee Report is considered a part of the record for this application.

Mr. Abbott summarized comments received from the U.S. Department of Agriculture Natural Resources Conservation Service.

The Commission found that Wayne Pepper was present and stated in his presentation and in response to questions raised by the Commission that he did attend the Technical Advisory Committee meeting of June 14, 2000; that an adjoining land owner may purchase lot #1; that lot #2 will be conveyed to Providence Church; and that DelDOT representatives disagree to the location of the entrance for lot #9.

The Commission found that Ralph Clausen, an adjoining land owner, was present and stated that the buffer should not be required since his property is wooded; and that he does not think the lots should be allowed to be resubdivided.

The Commission found that Reverend Page Marshall, Pastor of Providence Church, was present and stated that lot #2 is proposed to be conveyed to the Church for additional parking.

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 by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the Subdivision as a preliminary. Final approval shall be subject to the review and approval by the Planning and Zoning Commission upon receipt of an approved entrance location from DelDOT.

Motion Carried 5 - 0.

Subdivision #2000-17 -- application of VILLAGE DEVELOPERS, INC. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred, by dividing 12.77 acres into 13 lots, located south of Road 338, 2,950 feet southwest of Road 82.

The Commission found that the Technical Advisory Committee reviewed the site plan on June 14, 2000 and that the Technical Advisory Committee Report is considered a part of the record for this application.

Mr. Abbott summarized comments received from the U.S. Department of Agriculture Natural Resources Conservation Service.

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

The Commission found that Charles Adams, Surveyor, was present on behalf of the application and stated in his presentation and in response to questions raised by the Commission that they are proposing 13 lots; that stormwater management is proposed to be located to the rear of the parcel in a wooded area; that a buffer is proposed along the Radish lands; that they did not provide a buffer from the Smith property since it is a commercial nursery and greenhouse operation; that the stormwater management area will be 3 to 4 feet in depth; that individual wells and septic systems will be provided; and that the applicant will comply with all agency requirements.

The Commission found that Tim Hodges, developer, was present and stated in his presentation and in response to questions raised by the Commission, that deed restrictions have been submitted for review, and are currently being modified; that Technical Advisory Committee comments will be addressed; that a Homeowners Association will be established; that a fee will be required for maintenance of streets, stormwater management areas and buffers; that no manufactured homes will be permitted; that they propose single-family on-site construction; that lots 1 and 2 are owned separately; that entrance approvals have been granted for lots 1 and 2; that a minimum of 1,350 square feet will be required per dwelling; and that the architectural design of the dwellings will match newer homes built in the area.

The Commission found that Todd Mumford, Bruce Smith, Jill Davis, and Carl Short were present in opposition and expressed concerns about the lose of the rural character of the area; that a 15 lot Subdivision doubles the number of homes located along the road, which creates a significant impact on Road 338; that the Subdivision will change the quality of the life of the residents in the area; questioned the size of the homes proposed; expressed concerns about the size of the lots; that a buffer should be required along the Smith property since it contains a agricultural activity; that most of the newer homes in the area contain a minimum of 1,700 square feet; that additional traffic generated by the project will impact the tar and chip roadway; that the area has low density and that the Subdivision will be out of character with the neighborhood; and that the Subdivision takes away farmland.

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 by Mr. Hastings, seconded by Mr. Johnson, and carried unanimously to approve the Subdivision in concept only. A revised preliminary plan shall be required to be submitted to the Commission with a 30-foot wide forested buffer adjacent to the lands of Bruce F. Smith along lots 3 through 7 and the stormwater management area.

Motion Carried 5 - 0.

Subdivision #2000-18 -- application of SMOKEY HOLLOW, L.L.C. to consider the Subdivision of land in a GR General Residential Zoning District in Baltimore Hundred, by dividing 67.24 acres into 9 lots, located north of Road 390, 2,135 feet northeast of Road 390A.

The Commission found that the Technical Advisory Committee reviewed the site plan on June 14, 2000 and that the Technical Advisory Committee Report is considered a part of the record for this application.

Mr. Abbott summarized comments received from the U.S. Department of Agriculture Natural Resources Conservation Service.

The Commission found that Paul West of Vista Design Group, Inc. was present on behalf of the applicant and stated in his presentation and in response to questions raised by the Commission that the Subdivision has low density and will cause no impact; that the developer is building his home on the site and proposes to retire on the site; that the lots are intended for estate housing; that the perimeter of the site is wooded; that a large pond will be dug on the site for both stormwater management and views; that the Subdivision will conform to all agency requirements; that lots 2 and 3 will have engineered septic systems; that lots 1 and 4 through 9 will have septic systems; that additional footage along Road 390 will be dedicated to public use; that the minimum dwelling size shall be 3,000 square feet with a minimum of 1,800 square feet required on the first floor; that the bridge that crosses the ditch is being inspected; that the bridge was built by DelDOT for the Sussex Conservation District; and that two-thirds of the site is upland.

The Commission found that no parties appeared in support of or 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.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve this Subdivision as a preliminary.

Motion Carried 5 - 0.

OLD BUSINESS

C/U #1335 -- application of STEPHEN C. THEIS to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a professional photography studio to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 33,100 square feet, more or less, lying east of Greenbriar Road (a private road), 250 feet north of Road 535, 0.5 mile east of U.S. Route 13.

The Chairman referred back to this application which was deferred on June 8, 2000.

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

The Commission found that Mr. Schrader stated that the restrictive covenants supercede any action taken by the County since the covenants are more restrictive.

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

- 1.) One unlighted sign, not exceeding 2' by 4' may be permitted.
- 2.) The property shall be maintained as it exists.
- 3.) The appearance of the property shall retain its residential character.
- 4.) There shall be no outside storage.
- 5.) Off street parking shall be provided. There shall be no parking on the street right-of-way.
- 6.) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Carried 5 - 0.

C/U #1336 -- application of TIDEWATER UTILITIES, INC. to consider the Conditional Use of land in a C-1 General Commercial District for an elevated water storage facility to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.79 acres, more or less, lying 880 feet southeast of Melson Road (entrance to site is 1,300 feet northeast of Route One) behind Midway Shopping Center.

The Chairman referred back to this application which was deferred on June 8, 2000.

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

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

- 1.) There shall be no signage on the water tower.
- 2.) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Carried 5 - 0.

C/U #1337 -- application of PRESTON SCHELL to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an institutional facility (Delaware Guidance Services for Youth Counseling) and a sales office to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 3.63 acres, more or less, lying southwest of Route One and northwest of Best Lane just north of Red Mill Pond.

The Chairman referred back to this application which was deferred on June 8, 2000.

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

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be deferred until the Commission receives a traffic impact study report on the Subdivision and this application.

Motion Carried 5 - 0.

Subdivision #2000-14 -- application of OCEAN ATLANTIC ASSOCIATES, V, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred, by dividing 40.59 acres into 116 lots, and a waiver from the forested buffer strip requirements, located west of Route One, 0.5 mile south of Route 88.

Mr. Lank advised the Commission at the beginning of the meeting that this agenda item has been removed from the agenda.

OTHER BUSINESS

1. Bridgeville Park Center, L.L.C.
Preliminary Commercial Site Plan - Route 404

The Commission reviewed the commercial site plan for 74,910 square foot of gross leaseable area on 12.79 acres between U.S. Route 13 and Route 404 in the C-1 General Commercial District.

The Commission found that Ken Christenbury of D.C. Group was present on behalf of the applicant and stated that sewer service will be provided by the Town of Bridgeville and that Tidewater Utilities, Inc. will provide water service.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the site plan as a preliminary.

2. Robert W. Spear, Sr.
Parcel on 20' road - Road 510

The Commission reviewed a one lot Subdivision on an existing 20' wide private road.

Mr. Abbott advised the Commission that the road right-of-way will be widened to 50' per a letter from Donald Miller, Surveyor.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the Subdivision in concept with the amended right-of-way width of 50'.

3. Bethany Meadows - Phase 5
Revised Multi-Family Site Plan - Road 368

The Commission reviewed a revised layout for a 70 unit multi-family project. It was noted that the original site was revised on July 22, 1999 contained 72 units.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the revised site plan as a preliminary. Final approval may be granted by the staff upon receipt of all appropriate agency approvals.

ADDITIONAL BUSINESS

Mr. Hastings stated that this will be his last Commission meeting; that he has learned and enjoyed working with the Commission, the staff, and the County Council; and that he has gained a tremendous respect for the duties of the staff and the Commission.

Mr. Allen stated that he regrets but respects Mr. Hastings decision to resign from the Commission. All present, Commission and staff, agreed with Mr. Allen's statement.

Meeting adjourned at 10:00 P.M.