

MINUTES OF THE REGULAR MEETING OF JUNE 24, 1999

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 24, 1999, at 7:30 P.M., in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware, with the following 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 by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve the agenda as amended by removal of item 1 under other business from the agenda.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of June 10, 1999 as corrected.

Mr. Schrader explained how the meeting would be conducted.

PUBLIC HEARINGS

Subdivision #99-8 -- application of WOLFE POINT, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred, by dividing 172.57 acres into 188 lots, located east of Road 267, approximately 650 feet northeast of Spinnaker Drive within Wolfe Runne Subdivision.

Mr. Abbott advised the Commission that the Technical Advisory Committee reviewed this application on June 16, 1999, and that the Commission has received these comments, and requested that the Report be made a part of the record for this application.

Mr. Abbott advised the Commission that Mr. Schrader has reviewed the proposed restrictive covenants and has found them to be acceptable.

The Commission found that Paul Townsend, developer, and Preston Lee, surveyor, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the plan is being revised to meet the requirements of the Technical Advisory Committee; that 188 lots are proposed; that the streets will be private and built to Sussex County specifications; that the entire project will be built at the same time; that the development adjoins Wolfe Runne subdivision; that the entrance location was dictated by DelDOT; that Mr. Townsend is meeting with a representative from DNREC in reference to comments made about the lots encroaching into the wetlands; that there are no Tidal ditches on the site; that well sites on the property were put in in the 1940's for Fort Miles and are now federal property; that the well sites are no longer utilized but the Federal Government will not deed the land back to the developers; and that the entrance is located far enough away from the curve on Gills Neck Road as DelDOT will allow.

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

The Commission found that Dennis Finnerty of the Citizens Coalition, Frank Burl of Wolfe Runne Homeowners Association, Don Roessler of the Citizens Coalition, Nick Saratora of Wolfe Runne subdivision, and Patsy Carpenter of Wolfe Runne subdivision were present in opposition to this application and advised the Commission in their presentations that they have concerns about the negative impacts to the wetlands; that the development will destroy the buffers protecting Cape Henlopen State Park; that there should be a buffer and berm between this development and Wolfe Runne subdivision; that there are concerns about a by-pass and right turn lane; that Gills Neck Road is used for bicycling; that a traffic impact study should be performed; that there are no speed limit signs posted on Gills Neck Road; that the curve needs improvements made to it; that there are traffic accidents on the road; questioned if the West Rehoboth Expansion sewer district has adequate capacity for the proposed development; and questioned what impacts the development would have on the Cape Henlopen School District.

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

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

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

Subdivision #99-9 -- application of RONALD RITTHALER to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Lewes and Rehoboth Hundred, by dividing 49.18 acres into 128 lots, located at the southwest corner of the intersection of Road 266 and Road 269-A.

Mr. Abbott advised the Commission that the Technical Advisory Committee reviewed this application on June 16, 1999, and that the Commission has received these comments, and requested that the Report be made a part of the record for this application.

The Commission found that Ronald Ritthaler, developer, and Mark Davidson of Design Consultants Group were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they are addressing the recommendations made by the Technical Advisory Committee; that no pump station is proposed; that the site is served by the county sewer district; that a new manhole is being placed on New Road; that this is the developer's third subdivision since 1984; that there is a need for affordable lots in the Lewes area; and that there is a large interest for the lots.

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

The Commission found that Steven Stark of Sand Dunes Village was present in

opposition to this application and stated that the lots are smaller than the lots in Sand Dunes Village and The Orchard subdivisions; that a buffer should be next to the railroad tracks to the rear of the site; that the proposed plan does not reference any open space for the project; that there are no shoulders along New Road; that a lot of people use New Road for riding bikes; that there would be a loss of forest lands if the project is approved; and questioned if adequate sewer is available.

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

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

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

Subdivision #99-10 -- application of DONALD M. AND KATHRYN C. MARTIN to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred, by dividing 3.22 acres into 3 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet located at the end of Pit Road, 1,850 feet southeast of Road 530.

Mr. Abbott advised the Commission that the Technical Advisory Committee reviewed this application on June 16, 1999, and that the Commission has received these comments, and requested that the Report be made a part of the record for this application.

The Commission found that Donald Martin, developer, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he will conform to the buffer strip from adjacent farmland; that the existing garage will be on lot number seven; that the existing foundation will be on lot number five; that he owns and rents dwellings located in the subdivision; that no manufactured homes will be permitted; that Pit Road has not been accepted by DelDOT; and that the project will be completed within two years.

The Commission found that there were no parties present with any interest to this 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 hearing.

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

C/Z #1382 -- application of PAUL D. SMITH to consider a proposal to amend the Comprehensive Zoning Map from a GR General Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, located north of Road 234, 353 feet northeast of Road 233, to be located on 31,983 square feet, more or less.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Rumford loamy sand, which have slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the farmland rating of the soil type is considered of Statewide Importance; that no storm flood hazard area or tax ditch is affected; that it may be necessary for some on-site and off-site drainage improvements since the site is at the lowest point on the landscape; and that during a storm event runoff water may collect before it infiltrates into the soil.

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 234, between Route One and Road 233, will not change as a result of this application.

The Commission found that Paul Smith and Christie Smith were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site is part of a family farm; that they intend to operate a heating and air business from the site; that a brick building is proposed for the office and apartment above, with a metal building attached for the shop and storage; that they are willing to landscape the lot; that they will live in the apartment; that stormwater management will be handled on the site; that family members live around the site; that the parking area will be paved; that security lighting will be provided to the rear of the building; that several commercial/business properties exist in the immediate area, i.e. liquor store, convenience store, and auto repair and parts sales; that the business is operated from trucks driven by employees; that some storage of materials is maintained at a brother-in-law's garage and a father-in-law's garage; that the business has 2 vans, a pickup, and a large van; that the business has 3 employees plus the applicants; that 90% of the time the employees are on job sites; that 10% of the time the employees are on the road between job sites; that the business vehicles are not stored at their home, the employees drive the vehicles to their homes; that there will be no materials stored outside; that they have been in business for 1.5 years; and that their brother-in-law lives immediately adjacent to the site.

The Commission found that Kevin Burdette and Jesse Webb spoke in support of the application and stated that they have no objection; that the property will be well maintained; that commercial uses exist in close proximity to the site; that there should be no inconvenience to the neighbors; and that the use should be a benefit to the community.

The Commission found that June Clendaniel spoke in opposition to the application and read a petition in opposition to additional traffic that would be a safety hazard to children and residents in the area; that the use would put additional physical strain on the road surface that is already used as a cut-through to the gas station and liquor store on Route One; that property values would immediately decrease and the change of zoning to commercial would invite the interest of even more businesses to located in this residential community. The petition was signed by nine people.

The Commission found that there were 4 people present in support and 1 person 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.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to defer action.

C/U #1383 -- application of CENTRAL STORAGE AT LONG NECK to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, located south of Road 22, 0.2 mile southeast of Road 298 and across from Audrey Drive, to be located on 5.11 acres, more or less.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, which has slight limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the farmland rating of the soil type is considered of Statewide Importance; that no storm flood hazard area or tax ditch is affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from DelDOT, that the present level of service "E" of Long Neck Road will not change as a result of this application; that the Department is concerned about this rezoning; that the Department sees this application as encouraging more traffic in an area that has been identified as operating at unacceptable levels of service during summer peak hours; that the Department feels that it is in the public interest to avoid the types of development that would increase turning traffic; that some more intensive commercial uses would warrant that a traffic impact study be done; that a traffic impact study may be required later in the development

process; and that knowing that a 12,800 square foot retail and mini-storage use are proposed, the Department does not recommend a traffic impact study.

The Commission found that Jerry Hill and Mark Schaffer were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they are proposing a joint venture with the Cassidy property, a parcel recently rezoned for C-1 General Commercial, so that one entrance and one stormwater management system can serve both parties; that a formal site plan and entrance design has been submitted to DelDOT for joint use of the entrance; that they propose to build a retail center in the front of the site and mini-storage units to the rear of the site; that each unit of the mini-storage will have an alarm system; that the mini-storage area will be fenced and gated; that users will have keys for access to the area; that driveways will be hard-surfaced; that a resident manager will live on the site; that they have spoken to the residents to the south and offered a 50 foot setback buffer of trees; that they are willing to submit the site plan to the residents to the south prior to submittal of a formal site plan for development of the site; that the use conforms to and is compatible to the neighboring uses; that a need exist for mini-storage in this area where the majority of the homes are manufactured homes; that the 40' wide storage buildings will be climate controlled; and that the storage units will vary in size.

The Commission found that Barry Nichols, a resident of Woodlyn Estates, submitted photographs of the area, homes in the area, the street within Woodlyn Estates, an some mini-storage sites, and stated that some the neighbors in Woodlyn Estates met and discussed the project and expressed some opposition to the rezoning as it may relate to reduction of property values, added traffic congestion, the need, the number of storage facilities within ten miles of the site, environmental issues, and the loss of woodlands in the area.

The Commission found that Bill Hudson, owner of Pontoon Express and Mini-storage, and Howard Albert, Manager of Indian River Mini-storage, were present and expressed concerns about the need for additional storage facilities, the number of units available in the area, the amount of stormwater management area needed for this type of project, traffic, that adequate facilities exists in the general area; that no need exist for additional facilities; that rezoning not needed when adequate C-1 General Commercial space exist in the area; that during summer months the units within the area are approximately 85% full; and that during winter months the units within the area are approximately 60% to 65% full.

The Commission found that Don Ray, a resident of Woodlyn Estates, submitted a copy of a petition in opposition from the residents within Woodlyn Estates and area business. The petition contains 56 signatures.

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. Wheatley stated that he would abstain from participating in the vote.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried with 4 votes that the application be deferred. Mr. Wheatley abstained.

V. OLD BUSINESS

C/Z #1379 -- application of DYER MCCREA VENTURES, L.L.C. 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 Indian River Hundred, Sussex County, lying on the northeasterly side of Road 299, 850 feet more or less southeast of Road 298, to be located on 76.69 acres, more or less.

The Chairman referred to this application deferred on June 10, 1999.

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

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the County Council with the recommendation that it be approved based on the record of support and the conceptual site plan submitted.

C/Z #1381 -- application of WASTE MANAGEMENT OF DELAWARE, INC. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HI-1 Heavy Industrial District for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, lying west of Road 583 and northwest of Railroad and 0.8 mile south of Road 582, to be located on 40.00 acres, more or less.

The Chairman referred to this application deferred on June 10, 1999.

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

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to defer action.

VI. OTHER BUSINESS

Joseph Francis Wooten, Estate
Lot - U.S. Route 113

Mr. Abbott advised the Commission that this item has been removed from the agenda.

Big Oaks Campground
Small Cabins to Replace Tents - Road 270

The Commission reviewed a request to replace eight tent sites with eight cabin type structures in Big Oaks Campground.

Mr. Abbott advised the Commission that each cabin would be 12 feet by 16 feet; and that the cabins will not have any restrooms or cooking facilities in them.

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

Mr. Allen advised the Commission and the audience that this is Mr. Phillips last meeting and stated that it has been a pleasure working with Mr. Phillips and that he will be missed. Mr. Allen introduced Mr. Layton Johnson as Mr. Phillips replacement.

Meeting adjourned at 9:55 PM.