

MINUTES OF THE REGULAR MEETING OF JUNE 27, 1996

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 27, 1996, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director. Joel Leidy, ex-officio member, was present on behalf of the Secretary of the Department of Transportation.

Mr. Schrader explained how the public hearings and agenda items are conducted.

II. PUBLIC HEARINGS

1. RE: Subd. #96-4--James C. and Louise T. Hudson

Dan McCann, surveyor from McCann Inc., was present on behalf of this application to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred by dividing 19.36 acres of a 153.37 acre parcel into 21 lots located on the north side of Falls Road, 850 feet north of Road 258, 1,075 feet northeast of Road 261, within Creek Falls Farm Subdivision.

Mr. Abbott summarized the Technical Advisory Committee Report of June 19, 1996, and a letter from Mr. Schrader about the proposed deed restrictions.

Mr. McCann advised the Commission that the developers will comply with the recommendations of the Technical Advisory Committee, that deed restrictions will be submitted for review, that the lots on Road 258 have been developed, and that some of the interior lots in Phase 1 have been developed.

There were no parties present in support or opposition 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 public hearing.

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

2. RE: Subd. #96-5--Paul E. and Michelle R. Coverdale

Paul Coverdale was present on behalf of his application to consider the subdivision of land in an AR-1 Agricultural

Residential Zoning District in Cedar Creek Hundred by dividing 5.16 acres into 2 lots and a waiver from the street construction design requirements, located on the southwest side of a fifty (50) foot private road, 210 feet south of Road 620, 1,450 feet southeast of Road 617.

Mr. Abbott summarized the Technical Advisory Committee Report of June 19, 1996, and a letter from Mr. Schrader about the proposed deed restrictions.

Mr. Coverdale advised the Commission that he would like the road to remain as is, that he proposes two parcels, that he owns the road with another property owner, that his present neighbor will purchase the proposed lot, and the new owner would participate in the maintenance of the street, and that there are no plans for any future subdivision.

Alan Jester advised the Commission that he owns the road with Mr. Coverdale and that he would like to see the road remain as is.

Harry Donovan advised the Commission that the price of the road construction is too costly, that he believes the property owners will maintain the road, and that the waiver request should be approved.

There were no parties present in opposition 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 public hearing.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve as a preliminary and to approve the waiver request for the street construction design.

3. RE: Subd. #96-6--Willard M. Griffith

Buddy Griffith was present on behalf of his application to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Georgetown Hundred by dividing 24.57 acres into 3 lots and future development area, located on the east side of Whispering Woods Court, 630 feet east of Whispering Woods Drive, with Blue Heron Estates Subdivision.

Mr. Abbott summarized the Technical Advisory Committee Report of June 19, 1996, and a letter from Mr. Schrader about the

proposed deed restrictions.

Mr. Griffith advised the Commission that the existing road will serve three lots, submitted soil evaluation reports from DNREC for the three proposed lots, that the reserved area will be for lot expansions and that no future development is proposed.

Colleen Martin raised concerns about having use of the easement serving lot 1B since her access is off of this easement.

Mr. Griffith advised the Commission that when the dwelling was built on Mrs. Martin's lot, the builder put the driveway in the wrong location, and that he will grant Mrs. Martin an easement so that she can continue using the existing driveway.

Geoffrey Elliott advised the Commission that he is an adjoining property owner and that he has not seen the proposed layout. After reviewing the subdivision plan, Mr. Elliott did not have any concerns.

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 made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve as a preliminary and as a final subject to an easement being granted between Mr. Griffith and Mrs. Martin and reviewed by Mr. Schrader.

4. RE: Subd. #96-7--Hubert D. Mock, Jr.

Mike Mock was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred by dividing 8.50 acres into 15 lots, located on the north side of Road 235-A, corner of the intersection of the east side of Starlight Drive, within Starlight Meadows Subdivision.

Mr. Abbott summarized the Technical Advisory Committee Report of June 19, 1996, and a letter from Mr. Schrader about the deed restrictions.

Mr. Mock advised the Commission that Starlight Meadows has 34 lots, that most of the lots have been sold, that they are getting ready to pave the remaining streets in Phase 1, that the lots are larger than 1/2 acre, that this is a nice community, and that people have expressed an interest in purchasing the proposed lots.

No parties appeared in support of or in opposition 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 public hearing.

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

III. OTHER BUSINESS

1. RE: R. A. Raley Property

The Commission reviewed a preliminary commercial site plan for a retail store on Route 9.

Bob Raley advised the Commission that they have to consider whether the site plan meets the requirements of the zoning code, that he feels that he has valid entrance approvals and permits from DelDOT, that there is a recorded plan for a 93,500 square foot retail area with parking for 7,000 vehicles, that the Commission is required to act on a site plan within ten days, made reference to meetings with representatives of DelDOT, stated that the property has been zoned C-1 since 1971, and stated that if the Commission denies this site plan, a reason must be stated.

Mr. Schrader made reference to the statutory duties of the Planning and Zoning Commission, that there only consideration should be for the site plan dated October 23, 1995, read 115-219 D of the Code of Sussex County referencing traffic circulation patterns both internal and external, quoted portions of a letter, dated May 21, 1996, from DelDOT to the Planning and Zoning Office, and made reference to a case law of East Lake Partners vs. Dover.

Mr. Leidy advised the Commission that the entrance permits were for Nassau Commons and Nassau Park and that the 1972 recorded plan does not automatically grant the use of a shopping center.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried three to two, with Mr. Allen and Mr. Ralph voting no, to deny the site plan as submitted, based on DelDOT's comments which concluded that additional traffic generated by this project, specifically during the peak seasonal hours, cannot be accommodated by the existing roadways, that since roadway improvements cannot be made that will provide adequate levels of

service during the seasonal Saturday peak hours, DelDOT cannot approve an entrance permit for this subdivision approval, that given the significant failure of the intersection of State Route One and Road 14B/Road 266B, DelDOT must object to any subdivision proposal that has any material impact on the seasonal peak hour conditions already occurring on Route One, and that the current seasonal demands on State Route One and the inability to design and fund roadway improvements that will provide adequate levels of service under these circumstances dictate that no commercial use of this site could be permitted which significantly affects the peak traffic hours during the summer season.

2. RE: Baxter Farms, Inc.

The Commission reviewed a concept to create a ten acre parcel with access from a fifty foot right of way on the south side of Route 18.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve as a concept subject to DelDOT granting an entrance permit.

3. RE: Creeks End Subdivision

The Commission discussed the forested buffer strip along Guiana Creek for Creeks End Subdivision.

Mr. Abbott advised the Commission that the County Council stipulated that a forested buffer be maintained along Guiana Creek, that a surveyor questioned the width and was advised that the County Ordinance requires a thirty foot forested buffer along agricultural lands. The surveyor then put a thirty foot buffer along Guinea Creek.

There have been concerns that the buffer is being cleared out to provide for access to a marina being proposed.

Mr. Lank advised the Commission that the Wetlands and Subaqueous Lands Branch of DNREC has raised the question if this is permitted.

Julian Weinberg an area resident advised the Commission that they are trying to prevent the proposed 24 slip marina from being approved, that there was no mention of any proposed marina during the conditional use and change of zone public hearings, stated that have of the buffer has been removed and questioned if this is in violation of the approved conditional use.

Til Purnell an area resident stated that water bodies need forested buffers to keep pollutants from entering the water, and

stated that maintains means not destroying or disturbing.

Mr. Schrader advised the Commission that the subdivision plan and multi family site plan were approved by the Commission with a thirty foot forested buffer.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously that Mr. Lank write to DNREC advising them that a thirty foot forested buffer be maintained.

4. RE: Douglas and Patricia Blizzard

The Commission discussed a request for a twenty five foot easement to split two parcels within an existing subdivision.

Mr. Abbott advised the Commission that the subdivision was created prior to the adoption of the Subdivision Ordinance. After the adoption of the subdivision ordinance, the staff reviewed all approved subdivisions. All subdivisions that were not built, the streets were flagged so that permits would not be issued until the streets were built. The tax map states that the parcel in question cannot be subdivided until Jenny Lane is built.

Mr. Blizzard advised the Commission that he cannot afford to build the street at this time and wants to give his son the front lot and that he would use a twenty five foot easement to access his parcel.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to defer action so that the staff can research recorded plots and deeds.

5. RE: Bertha Hudson

The Commission reviewed a request for a waiver from the requirements for submitting a preliminary subdivision plan.

Mr. Abbott advised the Commission that Mrs. Hudson wants to create a parcel in an existing subdivision off of a public street, and that since there is no additional street construction required they are requesting a waiver from having to show the topography on the preliminary plan and since only one lot is proposed, is it necessary to require the applicant to go through the Technical Advisory Committee.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve the waiver request.

6. RE: Kevin Borden

The Commission reviewed a concept to add additional land to lot 1 in Dove Knoll and to be able to subdivide the lot into 2 lots to reduce the cost of the sewer hookup.

Mr. Lank advised the Commission that if the Commission is favorable to this request, a public hearing should be required since the original subdivision was approved for a certain number of lots.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously that a public hearing be required.

7. RE: Beacon Meadows

The Commission reviewed a concept for a two lot addition to Beacon Meadows Subdivision.

Mr. Abbott advised the Commission that the stormwater management area has been re-designed and that the owners have additional room to create two additional lots.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve the two lot addition.

IV. OLD BUSINESS

1. RE: Subd. #95-9--Richard D. Comstock

The Commission reviewed a request for a one year time extension in order to obtain final approval.

Motion made by Mr. Ralph, seconded by Mr. Lynch, and carried unanimously to grant a one year time extension.

ADDITIONAL BUSINESS

Mr. Schrader advised the Commission that the Commission and County Council have been cleared from the Freedom of Information Acts filed by the Hudson Pond Preservation Society.

Meeting adjourned at 10:00 PM.