

MINUTES OF THE REGULAR MEETING OF JULY 8, 1993

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 8, 1993, at 7:30 P.M., in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Magee, Mrs. Monaco, Mr. Phillips, Mr. Ralph, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner I.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried with four (4) votes, with Mr. Phillips not voting, to approve the minutes of June 24, 1993, as circulated.

II. PUBLIC HEARING

1. RE: APD #93-3 -- Alro Corporation c/o Carla P. Short

Mrs. Carla P. Short was present on behalf of the application of Alro Corporation to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred for three (3) parcels totalling 565.3 acres more or less, located on the southeast side of Route 62, on both sides of Route 435, and north of Route 433A for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank read comments received from the Office of the Secretary of the Delaware Department of Natural Resources and Environmental Control (DNREC) which advised that comments have been requested from the DNREC Division of Fish and Wildlife, the DNREC Division of Parks and Recreation, the DNREC Division of Water Resources Watershed Assessment Branch, Wetlands and Aquatic Protection Branch, and Water Supply Branch, the Department of Agriculture, the Delaware State Historic Preservation Office, and the Sussex Conservation District.

Mr. Lank read comments received from the DNREC Division of Water Resources Water Supply Branch which referenced that the Branch has no objections and no comments on the proposed zoning.

Mr. Lank read comments received from the Sussex Conservation District which referenced that the soils on the site are mapped as Pocomoke, Fallsington, Woodstown, Evesboro, Osier, Klej, and Kenansville soils, that the farmland rating of the soil types are considered Prime and of Statewide Importance, that no storm flood hazard area or tax ditch is affected, and that it will not be necessary for any off-site or on-site drainage improvements.

Mr. Lank read comments received from the DNREC Division of Water Resources Wetlands and Aquatic Protection Branch which referenced that the Branch supports the formation of voluntary Agricultural Preservation Districts since they may serve to

indirectly enhance conservation of wetlands and aquatic habitats and referencing necessary permits if the site contains any Federal or State wetlands.

Mrs. Short advised the Commission that Sheep Pen Branch Tax Ditch crosses through the property, that she grew up in the Wilmington area where she worked on a dairy farm which has since been converted into the Concord Mall, a shopping mall, and that she requested the Agricultural Preservation District so that the property can remain in agricultural use.

The Commission discussed Agricultural Preservation Districts in general.

At the conclusion of action on other items on the agenda, the Chairman referred back to this application.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be accepted as an Agricultural Preservation District.

III. OTHER BUSINESS

1. RE: The Plantation East

The Commission reviewed a revised site plan for The Plantation East for the location of well houses.

Mr. Abbott advised the Commission that the well houses were located in the open area, that the developers need to move the locations further away from the existing sewer, and questioned if the well houses should meet the setback requirements for accessory structures.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the well house location with the stipulation that the setback requirements for accessory structures be met.

2. RE: Raymond Bryan

The Commission reviewed a revised site plan for Conditional Use #1030 for a western apparel and tack shop.

Mr. Abbott advised the Commission that the owner would like to use an existing garage for retail sales while the new structure is being built, that the County Building Code Office

and the Office of the State Fire Marshal have approved the plans, that the staff is waiting for an entrance plan approval from DelDOT, and that a building permit cannot be issued until the entrance is approved.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to allow the existing garage to be used temporarily for a six month period during construction of the proposed western apparel and tack shop.

IV. OLD BUSINESS

1. RE: C/U #1044 -- Thomas & Elizabeth Johnson

The Chairman referred to the application of Thomas and Elizabeth Johnson, deferred since June 24, 1993, to consider the Conditional Use of land in a AR-1 Agricultural Residential District in Nanticoke Hundred for Assembly of Small Products and Wholesale Sales lying on the south side of Route 40, 1,620 feet northwest of Route 593, to be located on a parcel containing 5.86 acres more or less.

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

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried with four votes, with Mr. Phillips not voting, to forward this application to the Sussex County Council with the recommendation that it be denied since the applicant failed to create a record which described the specific intent of the use intended.

2. RE: C/U #1046 -- Dr. Andrew S. Malinowski

The Chairman referred to the application of Dr. Andrew S. Malinowski, deferred since June 24, 1993, to consider the Conditional Use of land in a AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for General Offices lying on the Northwest side of Route 18 (Savannah Road), 1,500 feet northwest of Route 12 at Westcoat Corner to be located on a parcel containing 1.83 acres more or less.

Mr. Lank summarized the findings and stipulations applied to C/U #1028, the application of Dr. Harry J. Anagnostakos, which is located west of the subject property.

The Commission reviewed the site plan submitted and discussed the points and issues raised during the public hearing.

Motion by Mr. Magee, seconded by Mrs. Monaco, and carried with three votes for and one against, with Mr. Ralph opposing the motion, and Mr. Phillips not voting, to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. A 30 foot wide buffer shall be located along the side and rear property lines. The buffer shall be planted with a staggering of trees. The plans for the forested planting of the buffer shall be subject to review and recommendation of a State Forester. Existing trees along the rear property line shall be retained. The existing Sycamore trees in the front yard shall be retained.
2. Trash dumpsters shall be located to the rear of the building and shall be screened from view.
3. The front of the building shall be designed to be architecturally compatible with residential structures. Additions to the existing structures shall not exceed one (1) story in height.
4. One unlighted sign, not exceeding 32 square feet per side or facing, shall be permitted.
5. DelDOT approval for the entrance shall be presented prior to submittal of site plans.
6. No residential use of the building shall be permitted.
7. There shall be no parking permitted in the front yard.
8. The front yard setback shall conform to the average of the immediate adjacent parcels along Savannah Road.
9. The use shall be limited to general professional offices for medical, dental, and legal professionals.
10. Business hours shall be 8:00 A.M. to 5:00 P.M. on weekdays, with no weekend hours, except in cases of emergencies.
11. Site plans shall be required to be reviewed and approved by the Planning and Zoning Commission. All appropriate agency permits or approvals shall be required prior to consideration of the final site plan by the Planning and Zoning Commission.

3. RE: Subdiv. #93-3 -- Wheatley Farms, Inc.

Dale Wheatley, developer, and John Wech, designer, were present on behalf of the application of Wheatley Farms, Inc. to consider the Subdivision of land in a GR General Residential Zoning District in Nanticoke Hundred by dividing 30.10 acres into 47 lots, located on the south side of Route 545, 425 feet west of Route 594.

Mr. Abbott advised the Commission that the record plat is in compliance with the subdivision and zoning codes and that all required agency approvals and/or permits have been received.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the Subdivision as a final.

4. RE: Review of Wetlands Violations.

Mr. Lank asked the Commission if they would be interested in a short tour with Bill Moyer of the State DNREC Wetlands and Aquatic Protection Branch to review wetlands violations.

There was a consensus of the Commission members that a tour in late September or early October would be appropriate.

Mr. Lank advised the Commission that he would contact Mr. Moyer and schedule a date for the tour.

The meeting adjourned at 8:40 P.M.

At the conclusion of the meeting the Commission met to reorganize.

Mr. Allen appointed Mr. Lank as Acting Chairman for the purpose of holding an election of Officers.

Mr. Lank opened nominations for Chairperson.

Motion by Mr. Magee, seconded by Mr. Ralph, to nominate Mr. Allen for Chairman.

Motion adopted: 4 yea. 1 not voting.

Vote by roll call: Mrs. Monaco, yea; Mr. Ralph, yea; Mr. Phillips, yea; Mr. Magee, yea; and Mr. Allen, not voting.

Mr. Lank opened nominations for Vice-Chairperson.

Motion made by Mr. Allen, seconded by Mr. Ralph, to nominate Mrs. Monaco for Vice-Chairperson.

Mrs. Monaco declined the Chair.

Motion made by Mrs. Monaco, seconded by Mr. Magee, to nominate Mr. Ralph for Vice-Chairman.

Motion adopted: 4 yea. 1 not voting.

Vote by roll call: Mrs. Monaco, yea; Mr. Allen, yea; Mr. Phillips, yea; Mr. Magee, yea; Mr. Ralph, not voting.

Mr. Lank turned the meeting over to Mr. Allen, Chairman.

Mr. Allen appointed Mr. Lank as Secretary for the Commission.

Mr. Allen authorized Mr. Lank and Mr. Abbott to sign record plats for recordation.

Meeting adjourned at 9:00 P.M.