

MINUTES OF THE REGULAR MEETING OF JULY 13, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 13, 1995, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Ralph, Mr. Wheatley, Mr. Schrader
- Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray
- Zoning Inspector II.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the minutes of June 22, 1995 as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1121 -- Clinton & Frieda Yoder

Clinton Yoder was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for Multi-family Use for Four (4) Dwellings lying on the southeast corner of Route 16 and Route 585 on a parcel containing 2.95 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex Conservation District.

Mr. Yoder advised the Commission that his father and brother operate a nursing home immediately adjacent to the site, that he proposes to provide living units for independent retirement living, that he has no formal agreement with the nursing home for care, that the nursing home has similar housing on its site, that nursing home representatives have advised him that a need exist for this type of housing, that adequate parking will be provided, that cottage type housing is proposed for a maximum of two people per unit, that the units will have 2 bedrooms, a kitchen, a bath, and a living room, that he is not seeking to subdivide the parcel, that the units will be for lease only, that the site will have on-site septic and water, that the nearest fire company is Greenwood, that no contact has been made with other agencies.

Mark Yoder, Jr. and Mark Yoder, Sr., owners and operators of the adjacent nursing home, were present in support of the application and expressed a need for this type of housing, and added that this type of housing creates a sense of community and a sense of security for the occupants.

No parties appeared 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.

The Commission found, based on comments received from DelDOT, that the proposed action will have no impact on traffic on Route 16 or Route 585.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras sandy loam and Woodstown sandy loam, that the Sassafras soils have slight limitations, that the Woodstown soils have some slight limitations and some moderate limitations, that the applicants shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil types are considered Prime Farmland, 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 that the applicant was present and stated that his father and brother operate a nursing home immediately adjacent to the site, that he proposes to provide living units for independent retirement living, that he has no formal agreement with the nursing home for care, that the nursing home has similar housing on its site, that nursing home representatives have advised him that a need exist for this type of housing, that adequate parking will be provided, that cottage type housing is proposed for a maximum of two people per unit, that the units will have 2 bedrooms, a kitchen, a bath, and a living room, that he is not seeking to subdivide the parcel, that the units will be for lease only, that the site will have on-site septic and water, that the nearest fire company is Greenwood, that no contact has been made with other agencies.

The Commission found that the owners and operators of the adjacent nursing home were present in support of the application and expressed a need for this type of housing, and added that this type of housing creates a sense of community and a sense of security for the occupants.

The Commission found that no parties appeared in opposition.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved, since the use will be a benefit to the area, and with the stipulation that the site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.

2. RE: C/U #1122--Brice J. Butler, Jr.

Brice Butler, Jr. was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for Plumbing Supply Storage lying on the north side of a private road, 550 feet east of Road 361 which is 250 feet north of Road 362 on a parcel containing 1.5 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex Conservation District.

Mr. Butler state that supplies will be stored in a 24' by 24' area of the garage structure, that the business is operated from his home, that he has an office in his home, that the garage portion of the building will continue to be utilized for a garage only, that he has spoken to his neighbors and has heard of no objections, that the business is operated by he and his wife with a mechanic and an apprentice, that three vehicles are utilized for the business, that the business operates during normal working hours with some on-site services.

It was noted that the application was only for storage of plumbing supplies and not for the actual business.

Mr. Lank stated that the office was not advised that the business operated from the site.

Mr. Schrader stated that if the use is approved, the only use being approved will be for storage of the plumbing supplies and that the business with employees is not permitted with this application.

Mr. Butler requested to withdraw his application and stated that he will reapply for the business and related storage.

There was a consensus of the Commission that the fee be waived since there was some confusion in what was being applied for in the application.

The Commission accepted Mr. Butler's withdrawal.

3. RE: C/U #1123 -- North Bethany Seafood Market, Inc.

No parties appeared on behalf of this application to consider the Conditional Use of land in an MR Medium Density Residential District in Baltimore Hundred for Expansion of Conditional Use No. 629 to Allow for a Full Service Restaurant lying on the west side of Delaware Route One, 921 feet south of Road 360 on a parcel containing 3.11 acres more or less.

Mr. Lank advised the Commission that this application was withdrawn by the applicant on July 11, 1995.

4. RE: C/Z #1261 -- Tunnell Companies, L.P.

Rob Tunnell and John Sergovic, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Indian River Hundred, located on the north side of Route 23 (Long Neck Road), 850 feet west of Road 298, to be located on a parcel containing 3.0441 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex Conservation District.

Mr. Sergovic stated that the intent of this application is to relocate the commercial use portion of the community to allow for a redesign of the area, that the B-1 Neighborhood Business reduces some of the possible impacting uses within a C-1 General Commercial category, that a reconfiguration of the golf course and park needed a portion of the rear of the commercial zoned area.

Mr. Sergovic requested that 1993 and 1994 minutes of the Planning and Zoning Commission hearings and the County Council hearings relating to the rezoning and Conditional Use No. 1034 for the site be made a part of the record of this application.

Mr. Tunnell advised the Commission that the redesign created a need to realign the commercial area and that the same number of lease lots are proposed with this Conditional Use application, that the intended use of the site is medical or service oriented uses, that restrictions were recorded in Deed Book 1961 Page 101 to restrict certain uses on the original parcel and that the same restrictions will carry over to this parcel, that the entrance location has been verbally agreed upon by DelDOT and that final approval has not yet been received, that no new entrances are proposed, that no additional lots will be created, that the commercial area will be smaller in acreage, and that a significant portion of the commercial site will be utilized for a drainage pond.

Mr. Charles Landshaw and Mr. and Mrs. David Douglas, area residents, questioned rumors about a Beebe medical clinic and buffers along Road 298.

No parties appeared 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.

The Commission found, based on comments received from DelDOT that a traffic impact study was not recommended and that the level of service "D" of this road segment of Long Neck Road will not change as a result of this application.

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 shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil type is considered of Statewide Importance, that no storm flood hazard areas or tax ditches are affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the application was represented by one of the owners and an attorney who advised the Commission that the intent of this application is to relocate the commercial use portion of the community to allow for a redesign of the area, that the B-1 Neighborhood Business reduces some of the possible impacting uses within a C-1 General Commercial category, that a reconfiguration of the golf course and park needed a portion of the rear of the commercial zoned area, that the redesign created a need to realign the commercial area and that the same number of lease lots are proposed with this Conditional Use application, that the intended use of the site is medical or service oriented uses, that restrictions were recorded in Deed Book 1961 Page 101 to restrict certain uses on the original parcel and that the same restrictions will carry over to this parcel, that the entrance location has been verbally agreed upon by DelDOT and that final approval has not yet been received, that no new entrances are proposed, that no additional lots will be created, that the commercial area will be smaller in acreage, and that a significant portion of the commercial site will be utilized for a drainage pond.

The Commission found that the attorney requested that that the 1993 and 1994 minutes of the Planning and Zoning Commission hearings and the County Council hearings relating to the rezoning and Conditional Use No. 1034 for the existing site be made a part of the record of this application.

The Commission found that three area residents questioned rumors about a Beebe medical clinic and buffers along Road 298.

The Commission found that no parties appeared in opposition.

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

RE: C/Z #1262 -- Tunnell Companies, L.P.

Rob Tunnell and John Sergovic, Attorney, were present on behalf of this application to amend the zoning map from C-1 General Commercial to AR-1 Agricultural Residential in Indian River Hundred, located 372 feet north of Route 23 (Long Neck Road), 1,200 feet west of Road 298, to be located on a parcel containing 3.1884 acres more or less.

Mr. Lank advised the Commission that the comments received from the Sussex Conservation District were the same as those read for C/Z #1261 and requested that the comments be made a part of the record of this application.

Mr. Sergovic stated that the intent of this application is to down zone the rear portion of the C-1 General Commercial District to AR-1 Agricultural Residential so that the area may be utilized as a part of the community and golf course.

Mr. Sergovic requested that all of his comments and the Comments of the applicant which were a part of the presentation on C/Z # 1261 be made a part of the record of this application.

No parties appeared in opposition.

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

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

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 shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil type is considered of Statewide Importance, that no storm flood hazard areas or tax ditches are affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the application was represented by one of the owners and an attorney who advised the Commission that the intent of this application is to down zone the rear portion of the C-1 General Commercial District to AR-1 Agricultural Residential so that the area may be utilized as a part of the community and golf course.

The Commission found that the attorney requested that the 1993 and 1994 minutes of the Planning and Zoning Commission hearings and the County Council hearings relating to the rezoning and Conditional Use No. 1034 for the existing site be made a part of the record of this application.

The Commission found that no parties appeared in opposition.

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

RE: C/U #1124 -- Tunnell Companies, L.P.

Rob Tunnell and John Sergovic, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for a Manufactured Home Park (Expansion to Conditional Use No. 1034), lying 372 feet north of Route 23 (Long Neck Road), 1,200 feet west of Road 298 on a parcel containing 3.1884 acres more or less.

Mr. Lank advised the Commission that the comments received from the Sussex Conservation District were the same as those read for C/Z #1261 and requested that the comments be made a part of the record of this application.

Mr. Sergovic stated that the intent of this application is realign a portion of the community and golf course and that the number of units originally approved for Conditional Use No. 1034 will not change as a result of this application.

Mr. Sergovic requested that all of his comments and the Comments of the applicant which were a part of the presentation on C/Z # 1261 be made a part of the record of this application.

No parties appeared in opposition.

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

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

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 shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil type is considered of Statewide Importance, that no storm flood hazard areas or tax ditches are affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the attorney present on behalf of this application stated that the intent of this application is realign a portion of the community and golf course and that the number of units originally approved for Conditional Use No. 1034 will not change as a result of this application.

The Commission found that the attorney requested that all of his comments and the comments of the applicant which were a part of the presentation on C/Z # 1261 be made a part of the record of this application.

The Commission found that no parties appeared in opposition.

The Commission reviewed the original stipulations relating to the manufactured home community, Conditional Use No. 1034 and found that the stipulations should carry over to this application and that the maximum number of units (726) shall not be exceeded with the combined Conditional Use approvals.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved as an expansion of Conditional Use No. 1034 and that the maximum number of units shall not exceed 726 units for the project in its entirety.

III. OTHER BUSINESS

1. RE: Sea Colony West
Recreation Area - Site Plan

The Commission reviewed the site plan for a recreational facility for the expansion of Sea Colony West.

Mr. Lank advised the Commission that the site plan provided for the buildable area and related parking and drives, but does not indicate the uses intended.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approved the site plan as a preliminary only. Final plans shall be required to be submitted to the Commission for review and shall indicate the uses intended.

2. RE: Addition to Cottage Cafe
Hickman Beach Plaza - Site Plan

The Commission reviewed the site plan for a deck expansion of the restaurant on the southwest side of Route One.

Mr. Lank advised the Commission that the deck is for waiting area only and is not intended for meals, that if approved the deck shall be no less than 35 feet from the right of way of Route One and shall not exceed 4 feet above grade.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan with the stipulation that the deck be utilized for waiting area only and that the deck shall be no less than 35 feet from the right of way of Route One.

Meeting adjourned at 9:15 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 as election of Officers.

Mr. Lank opened nominations for Chairman.

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

Motion adopted; 3 yea, and 1 not voting.

Vote by roll call: Mr. Wheatley, yea; Mr. Ralph, yea; Mr. Lynch, yea; and Mr. Allen, not voting.

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Lynch, seconded by Mr. Allen, to nominate Mr. Ralph for Vice-Chairman.

Motion adopted: 3 yea, and 1 not voting.

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Vote by roll call: Mr. Wheatley, yea; Mr. Allen, yea; Mr. Lynch, yea; and 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. Shane Abbott, Planner II, to sign record plats for recordation.

Meeting adjourned at 9:30 P.M.