

MINUTES OF THE REGULAR MEETING OF JULY 27, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 27, 1995, 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. Bayard - County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the minutes of July 13, 1995.

II. PUBLIC HEARINGS

1. RE: C/U #1125--Cheryl E. Murphy, etal

Steve Murphy was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Little Creek Hundred for Automotive Sales (Classic and Antique Vehicles) lying on the southwest side of Route 64, 1,500 feet southeast of Route 455B on a parcel containing 1.46 acres more or less.

Mr. Lank summarized comments received from DelDOT.

Mr. Murphy stated that he proposes to restore classic and antique vehicles, that Delaware law requires that an area be set aside for at least 5 vehicles for display purposes, that the entrance will be subject to DelDOT, that the display area is proposed near the road front, that the closest large commercial use is Mitchell's Salvage approximately 2 miles away, that some body shops and mechanics are located within 1/4 and 1/2 miles, that he will have no employees, only family members, that he presently has a retail sales area for automotive sales near Five Points in Laurel, that he will do no painting and no major mechanical repair work on the site, that the present access used to get to the site is through an access easement, that he or a family member will do some upholstery work on the vehicles as needed, and that custom wheels may be installed on the vehicles on the site.

Carol Nesbitt, Mr. and Mrs. Sonny Adams, William Layfield, Ernest Layfield, Virginia Christopherson, Martin Ross, John Owens, Betty Owens, Reese Jones, and Steve Ross spoke in opposition and expressed concerns relating to access, storage of vehicles, the appearance of a junk yard atmosphere, traffic, the type of traffic existing and anticipated, depreciation of property values, the distance from towns, environmental issues including oils and lubricants contaminating the ground water, vehicles using their driveways to turnaround to go to the site, and the loss of the peacefulness of the existing agricultural area.

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 significant impact on traffic on Road 64.

The Commission found that the applicant's husband represented the application and stated that he proposes to restore classic and antique vehicles, that Delaware law requires that an area be set aside for at least 5 vehicles for display purposes, that the entrance will be subject to DelDOT, that the display area is proposed near the road front, that the closest large commercial use is Mitchell's Salvage approximately 2 miles away, that some body shops and mechanics are located within 1/4 and 1/2 miles, that he will have no employees, only family members, that he presently has a retail sales area for automotive sales near Five Points in Laurel, that he will do no painting and no major mechanical repair work on the site, that the present access used to get to the site is through an access easement, that he or a family member will do some upholstery work on the vehicles as needed, and that custom wheels may be installed on the vehicles on the site.

The Commission found that 11 area residents were present in opposition to this application and expressed concerns relating to access, storage of vehicles, the appearance of a junk yard atmosphere, traffic, the type of traffic existing and anticipated, depreciation of property values, the distance from towns, environmental issues including oils and lubricants contaminating the groundwater, vehicles using their driveways to turnaround to go to the site, and the loss of the peacefulness of the existing agricultural area.

There was a consensus of the Commission that the applicants have an automotive sales lot in the Town of Laurel and that the use is more appropriate in a commercial district.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since the use is not in keeping with the neighborhood, since the area is predominantly agricultural, since the use is more appropriate if located in a commercial district along a major corridor, and since the use could have a possible adverse impact on property values in this neighborhood.

2. RE: APD #95-5--Jeffrey Wheatley & Wheatley Farms, Inc.

No one was present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Northwest Fork Hundred for four (4) parcels totalling 322.55 acres more or less, located northeast of Route 34, south of Route 587A, and northwest of Route 585 for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Criteria Checklist/Staff Report received from the Delaware Agricultural Lands Preservation Foundation.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved.

3. RE: APD #95-6--Wheatley Farms, Inc.

No one was present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Northwest Fork Hundred for three (3) parcels totalling 289.03 acres more or less, located on the north side of Route 545, 600 feet east of U.S. Route 13 for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Criteria Checklist/Staff Report received from the Delaware Agricultural Lands Preservation Foundation.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved.

4. RE: APD #95-7--Baxter Farms, Inc.

James Baxter, James Baxter III, and Jay Baxter were present on behalf of the Baxter Farms, Inc. application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred for nine (9) parcels totalling 696.21 acres more or less, located on the west side of Road 318, both sides of Road 48, both sides of Road 432, northeast of Road 326, and on both sides of Conrail Railroad for the purpose of a recommendation to the Delaware Agricultural Lands Preservation District.

Mr. Lank summarized the Criteria Checklist/Staff Report received from the Delaware Agricultural Lands Preservation Foundation.

James Baxter III stated that he is forty-five years old, that the farm is family operated, that the family wants to preserve the farm, and that he hopes that the family will continue to operate the farm in future generations.

Mr. Phillips commended the Baxter family for their effort to preserve the farm.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved.

5. RE: APD #95-8--Baxter Farms, Inc. - Lowe's Crossroads

James Baxter, James Baxter III, and Jay Baxter were present on behalf of Baxter Farms, Inc. - Lowe's Crossroads application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Gumboro Hundred for two (2) parcels totalling 310.8 acres more or less, located on both sides of Road 439, on both sides of Road 441, on the north side of Road 440 and on the north side of Route 24, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Criteria Checklist/Staff Report received from the Delaware Agricultural Lands Preservation Foundation.

Mr. Ralph commended the Baxter family for their effort to preserve their farms.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved.

6. RE: Subd. #95-6--Alvin C. Bunting & Lesley Burgess

Alvin Bunting was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 4.60 acres into 4 lots located on the northwest side of Road 266, 0.4 mile north of Road 266A.

Mr. Abbott summarized the Technical Advisory Committee Report of July 19, 1995, and comments received from the DNREC Wetlands and Subaqueous Lands Section and Division of Fish and Wildlife.

Mr. Abbott advised the Commission that this application was previously reviewed as Subdivision #92-5 and received preliminary approval on October 22, 1992, that the one year time period to obtain final approval expired and that the Commission voided this application on October 13, 1994.

Mr. Bunting advised the Commission that he was not aware of the subdivision being voided and that he was under the impression that the surveyor was obtaining the necessary approvals.

Mr. Abbott advised the Commission that Mr. Bunting was mailed a letter notifying him and the surveyor that this subdivision was voided, and that the only agency approvals needed are from DelDOT and the Office of the State Fire Marshal.

Mr. Bunting advised the Commission that the plan is the same as previously submitted and that they will obtain the necessary approvals.

No one was 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. Phillips, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary.

7. RE: Subd. #95-7--Sand Chase, Inc.

Mike Mumford, developer, and Jeff Clark of Land Tech, Inc., were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred by dividing 115.11 acres into 74 lots, located on the north side of Road 394A, 310 feet north of Road 394.

Mr. Abbott summarized the Technical Advisory Committee Report of July 19, 1995 and comments received from the DNREC Wetlands and Subaqueous Lands Section and the Division of Parks and Recreation and advised the Commission that the developer is requesting a waiver from the thirty foot forested buffer strip along agricultural lands.

Mr. Clark advised the Commission that the developer will comply with the recommendations of the Technical Advisory Committee, that the center of the property is for the community wastewater disposal system, that the streets will be twenty feet wide and twelve feet wide where there is a boulevard, and that the stormwater management area will have to be redesigned as recommended by the County Engineering Department and Sussex Conservation District, and that some of the lots will be water front lots.

Joe Diblasi and Joe Nichols raised questions about access to Roy Creek, boat ramps and docks, stormwater runoff onto other lands, and loss of monuments.

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. Phillips, and carried unanimously to approve this application as a preliminary.

III. OTHER BUSINESS

1. RE: Gardner Williams

The Commission reviewed a concept to create two lots on the north side of Route 9 northeast of Road 479.

Mr. Abbott advised the Commission that DelDOT has approved the entrances.

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

2. RE: Wayne and Wanda Weber

The Commission reviewed a concept to create three lots with access from a fifty foot right of way off of Road 373.

Mr. Abbott advised the Commission that this was originally approved by the Commission on September 14, 1989 with the stipulation that any further subdivision shall require a public hearing and that each owner share in the perpetual maintenance of the right of way and that wells and septic have been approved for each lot.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the three lots and fifty foot right of way with the stipulation that any future subdivision shall require a public hearing.

3. RE: American Health and Fitness

The Commission reviewed a commercial site plan for a fitness and health club with retail stores on Blue Water Run West and Route 54.

Mr. Abbott advised the Commission that the fitness club is a 70' x 115' building, that there are two 25' x 40' retail stores with storage, that the building is setback 60' from Route 54, that the parking area is setback 5' from Route 54, that adequate parking spaces are provided, that the access is from Blue Water Run West and that there is no ingress or egress onto Route 54, that the site was approved for commercial uses by the Keenwick Sound MR/RPC, that approvals have been received from the Sussex Conservation District and State Fire Marshal Office, and that the site plan needs to show a fence along the lands of Jesse Cobb.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary with the stipulation that the final site plan show a fence along the lands of Cobb. Final approval shall be subject to review and approval of the Commission.

4. RE: Tidewater Properties

The Commission reviewed a commercial site plan for a 10,000 square foot building for offices on the west side of Route 13 near Seaford.

Mr. Abbott advised the Commission that the building setbacks are met, that adequate parking is provided, that there will not be any new entrances and that there will be a new exit, and that the staff has not received any agency approvals.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a preliminary. Final site plan approval shall be subject to the staff receiving all agency approvals and review and approval by the Commission.

5. RE: Handy Office Building

The Commission reviewed a commercial site plan for a 60' x 75' office building with a proposed 60' x 60' storage building on Route 13 south of Route 18.

Mr. Abbott advised the Commission that the building setbacks are met, that there is an existing entrance and exit and that the staff has not received any agency approvals.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and review and approval by the Commission.

6. RE: Shellton Stallard

The Commission reviewed a concept to create a lot with access from a fifty foot right of way off of Route 30.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the lot and fifty foot right of way as a concept.

IV. OLD BUSINESS

1. RE: Subd. #93-2--Harry, Jean, and Stephen Seipp

No one was present on behalf of this application to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 21.43 acres into 26 lots, located on the north side of Road 524, 1,040 feet northeast of Road 516.

Mr. Abbott advised the Commission that the final record plat is in compliance with the Subdivision Ordinance, that all required agency approvals have been obtained, and that the final record plat has been reduced to 17 lots.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the record plat as a final.

2. RE: Subd. #95-3--Lucille Koon and James Riordan

Jim Riordan was present on behalf of this application to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 46.41 acres into 67 lots, located on the southeast side of Road 285, 3,213 feet southwest of Road 285A.

Mr. Abbott advised the Commission that this application was deferred at the March 23, 1995 hearing for additional information from the DNREC Division of Fish and Wildlife.

Mr. Abbott read a letter from the Division of Fish and Wildlife in reference to this application and advised the Commission that the developers have created a eight hundred foot buffer from the nest of the Bald Eagles and that the preliminary plat has been reduced to 32 lots and that any future subdivision would require a public hearing.

Mr. Riordan advised the Commission that he has no problems with the recommendations of the Division of Fish and Wildlife.

Mike D'Amico spoke in opposition to this application expressing concerns of the bald eagle, loss of farmland, traffic concerns, quality of life issues and stated that he did not have time to review the revised plan.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the revised 32 lot subdivision plan as a preliminary with the stipulation that any future subdivision would require another public hearing.

Meeting adjourned at 9:38 PM