

MINUTES OF THE REGULAR MEETING OF JULY 28, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 28, 1994, at 7:30 P.M., in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

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

No action was taken on the minutes of July 14, 1994.

II. PUBLIC HEARINGS

1. C/U #1083--Robert A. Willey

Steve Willey and John Argo were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for Expansion of Conditional Use No. 685 for Propane Storage and Sales and an Office Building lying on the northeast side of Route 5, 154 feet northwest of Route 255 to be located on a parcel containing 5.0 acres more or less.

Mr. Lank summarized comments received from the Delaware Department of Transportation (DelDOT) and the Sussex Conservation District.

Mr. Willey and Mr. Argo advised the Commission that a 44' by 69' office building with related storage is proposed, that one additional 30,000 gallon propane tank is proposed to be placed on an existing cradle, that presently there are three 30,000 gallon propane tanks on the site, that the existing entrance is proposed to serve the expansion, that no additional uses are proposed, and that no negative impact is anticipated on traffic, the neighborhood, or property values.

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 significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Rumford loamy sand and Sassafras sandy loam, that both soil types are relatively free of limitations or that limitations are easily

overcome, that the applicant shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the Rumford soils are considered on Statewide Importance, that the Sassafras soils 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 son of the applicant and the proposed builder were present and advised the Commission that a 44' by 69' office building with related storage is proposed, that one additional 30,000 gallon propane tank is proposed to be placed on an existing cradle, that presently there are three 30,000 gallon propane tanks on the site, that the existing entrance is proposed to serve the expansion, that no additional uses are proposed, and that no negative impact is anticipated on traffic, the neighborhood, or property values.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, 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 is an expansion of an existing use, and with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

2. RE: C/Z #1235 -- Brandywine Valley Investment

Carl Widdick was present on behalf of Brandywine Valley Investment to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Northwest Fork Hundred located on the northwest corner of the intersection of Route 18 and Route 13, to be located on an parcel containing 2.09 acres more or less.

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

Mr. Widdick stated that the company proposes to build a 60' by 300' strip shopping building, that preliminary discussions with DelDOT have been made about entrance locations, that right turns in and out will be permitted on Route 13, that a convenience store is planned to be the attraction for the stores, that adequate space is available for parking, that dumpsters will be fenced, that no wetlands exist on the site, that no negative impact is anticipated on property values, the neighborhood, or traffic, that the site is in close proximity to other commercial uses in the area, that fencing will be provided if required, that

lighting will be directed toward the parking area, and that the company has developed similar sites in New Castle County.

Dennis Williams and Harold Jones were present in opposition and expressed concerns that WAWA convenience stores are open 24 hours a day, that the area is predominantly residential and agricultural, that lighting will impact the homes in the area, that the entrance on Route 13 is too close to an existing entrance on the adjoining lands and a deceleration lane to Route 18, that a truck route was recently re-routed around Bridgeville via Route 18 and Route 17, and expressing concerns about trash and dumpster locations proposed, pest control, lack of public bathrooms, pet control, fencing, sewer, traffic backups due to the traffic light at the intersection, and questioning if the site will be served by any fire protection systems or stormwater management.

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, that the level of service of Route 13 will not change, and that the level of service of Route 18 may change from level of service "A" to level of service "B".

The Commission found, based on comments received from the Sussex County Council, that the soils are mapped as Sassafras sandy loam which is relatively free of limitations or that limitations are easily overcome, that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of construction, that the Sassafras soils 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 a representative of Brandywine Valley Investment was present and stated that the company proposes to build a 60' by 300' strip shopping building, that preliminary discussions with DelDOT have been made about entrance locations, that right turns in and out will be permitted on Route 13, that a convenience store is planned to be the attraction for the stores, that adequate space is available for parking, that dumpsters will be fenced, that no wetlands exist on the site, that no negative impact is anticipated on property values, the neighborhood, or traffic, that the site is in close proximity to

other commercial uses in the area, that fencing will be provided if required, that lighting will be directed toward the parking area, and that the company has developed similar sites in New Castle County.

The Commission found that two area residents were present in opposition and expressed concerns that WAWA convenience stores are open 24 hours a day, that the area is predominantly residential and agricultural, that lighting will impact the homes in the area, that the entrance on Route 13 is too close to an existing entrance on the adjoining lands and a deceleration lane to Route 18, that a truck route was recently re-routed around Bridgeville via Route 18 and Route 17, and expressing concerns about trash and dumpster locations proposed, pest control, lack of public bathrooms, pet control, fencing, sewer, traffic backups due to the traffic light at the intersection, and questioning if the site will be served by any fire protection systems or stormwater management.

Motion by Mrs. Monaco, 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 site is in close proximity to other commercial uses and districts.

3. RE: C/Z #1236 -- Turner Marine, Inc.

Charles E. Turner, Jr. was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Lewes and Rehoboth Hundred, located on the northeast side of Route One, 850 feet northwest of Route 265A, to be located on a parcel containing 3.12 acres more or less.

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

Mr. Turner stated that he had applied for a change of zone in 1991, forgot to appear, and was denied for lack of appearance, that he then applied for a Conditional Use and was approved, and that he is now applying to establish conforming zoning for the existing use, a boat sales, service and storage business, that he would like to raise and light the sign on the property, that no negative impact is anticipated on traffic, the neighborhood, or property values, that the site is adjoining and in close proximity to other commercial sites and uses, that he stores approximately 25 boats presently, and that during the winter he stored approximately 47 boats.

Charles Turner, Sr. and Richard Turner stated that the business is a family run business and has been supported by the residents of the area.

Bruce Stacey and Margaret Wright Stacey were present in opposition and expressed concerns about depreciation of property values, questioning the need for a rezoning when the business already exist, and opposing other uses in a C-1 General Commercial 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 public hearings.

The Commission found, based on comments received from DelDOT, that DelDOT and the applicant have agreed on conditions approved in 1991, that they waive the requirement for a traffic impact study, and that plan approval is contingent on DelDOT Subdivision Section review and approval.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are Sassafras sandy loam and Sassafras loam, that both soils are relatively free of limitations or that the limitations are easily overcome, that the applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction, that the soils 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 he had applied for a change of zone in 1991, forgot to appear, and was denied for lack of appearance, that he then applied for a Conditional Use and was approved, and that he is now applying to establish conforming zoning for the existing use, a boat sales, service and storage business, that he would like to raise and light the sign on the property, that no negative impact is anticipated on traffic, the neighborhood, or property values, that the site is adjoining and in close proximity to other commercial sites and uses, that he stores approximately 25 boats presently, and that during the winter he stored approximately 47 boats.

The Commission found that the applicant's father and brother were present and stated that the business is a family run business and has been supported by the residents of the area.

The Commission found that two adjoining landowners were present in opposition and expressed concerns about depreciation of property values, questioning the need for a rezoning when the business already exist, and opposing other uses in a C-1 General Commercial District.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the record and since commercial districts and commercial uses exist on adjoining lands and in close proximity to the site.

4. RE: Subd. #94-5--C-Con Development Corp.

Gus Croll, Developer, and Danny Morris of Coast Survey Inc. were present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in Georgetown Hundred by dividing 10.66 acres into 19 lots, located on the northwest side of Route 319, 380 feet north of Route 245 and a variance from the maximum allowed cul-de-sac length of 1,000 feet.

Mr. Abbott summarized the Technical Advisory Committee Report of July 21, 1994, and comments received from the State of Delaware Department of Transportation, Sussex County Engineering Utility Construction Division, United States Department of Interior Fish and Wildlife Service, and the Indian River School District.

Mr. Allen questioned if the developer has had any contact with DelDOT in reference to the entrance design and location.

Mr. Morris stated that they have not had any discussion with DelDOT yet.

No one was present in support of this application.

Robert and Melissa Berner, Donald McCorry, and George Garrison all spoke in opposition citing the type of proposed housing, the amount of traffic on Route 319, the "S" curve on Route 319 being dangerous, the number of vehicle accidents in the immediate area, a high water table, devaluation of property values, water supply in the area is not good, the entrance location, impacts on Savannah Tax Ditch and surrounding wetlands, the cul-de-sac length, drainage problems, types of proposed deed restrictions, crime, and price range of homes.

Mr. Schrader questioned if the developers have submitted any supporting statements as required by Code.

Mr. Morris advised the Commission that they have not.

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 Mrs. Monaco, and carried unanimously to deny this application as presented due to concerns for safety along Route 319 due to the entrance location.

### III. OTHER BUSINESS

#### 1. RE: Elton R. & Alice J. Wood

The Commission reviewed a concept to create two lots on Route 619.

Mr. Abbott advised the Commission that the owner wants to create two lots, one with 75 foot frontage and one with 60 foot frontage and share the existing driveway for access, and that the Code requires 150 foot road frontage unless a variance is granted by the Board of Adjustment.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to deny this concept.

#### 2. RE: Padula Construction

The Commission reviewed the site plan for C/U #1036 for a contractors storage yard south of Route 265A.

Mr. Lank advised the Commission that the Commission had recommended that C/U #1036 be denied, that the County Council had approved the use with stipulations, that one stipulation required construction of a stockade fence for the property facing the road, that the applicant had placed approximately 100 feet of fencing along the property facing the road, and asked if the Commission considered the fence as constructed, met the stipulation of the County Council.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action.

#### 3. RE: Sea Colony Phase 1E

Mr. Abbott advised the Commission that the developers are requesting to amend a portion of Phase 1E to replace 24 units (apartment type condominiums) with 18 units (townhome type

condominiums).

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the revised site plan as submitted.

4. RE: Angola Beach MHP

The Commission reviewed a proposal to create a boat storage area within a recreation area of Angola Beach Mobile Home Park.

This was deferred at the July 14, 1994 meeting for a legal opinion.

Mr. Schrader advised the Commission that it is his legal interpretation that the developers be required to file a Conditional Use application for boat storage.

IV. OLD BUSINESS

1. RE: C/U #1080 -- Tri-Gas & Oil

No one was present on behalf of this application to consider the Conditional Use of land in an C-1 General Commercial District in Georgetown Hundred for two 30,000 Gallon Propane Storage Tanks lying on the east side of Route 113, 1,200 feet north of Route 114 to be located on a parcel containing 1.03 acres more or less of a 2.41 acre tract.

Mr. Phillips advised that Commission that he had visited the site and reviewed the file and minutes of the public hearing.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved subject to site plan review and approval by the Planning and Zoning Commission.

2. RE: C/Z #1234 -- Richard Piper  
RE: C/U #1081 -- Richard Piper

No one was present on behalf of these applications deferred on July 14, 1994.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action pending receipt of information from the Delaware DNREC on the validity of the septic systems on site and to advise the staff to not place the applications on the agenda until the requested information is received.

ADDITIONAL BUSINESS

Mr. Lank read a letter from the Delaware Bay Marine Institute, Inc. which described their Institute and its functions for comparison with a Conditional Use application for Patricia Griffith (C/U #885) for a Health Retreat.

Mr. Schrader and Mr. Lank advised the Commission that they felt that a new Conditional Use was necessary to change the use.

There was a consensus of the Commission that if the Delaware Bay Marine Institute, Inc. desires to proceed with use of the site, then an application for Conditional Use shall be required.

Meeting adjourned 9:45 P.M.