

MINUTES OF THE REGULAR MEETING OF AUGUST 22, 1996

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 22, 1996, at 7:30 P.M., 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.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of August 8, 1996 as circulated.

II. PUBLIC HEARINGS

1. RE: C/Z #1285--Lynn C. & Shirley M. Baynum

Brad Baynum, son of the applicants, was present on behalf of their application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Seaford Hundred, located 603.69 feet east of U.S. Route 13 and 0.4 miles north of Road 534, to be located on a parcel containing 2.17 acres more or less.

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

Mr. Baynum stated that they may place mini-storage units on the rear parcel, that there is no immediate plans for the three (3) lots along U.S. Route 13, that a WalMart is being built just south of the site, that the rear property line is a ditch and may be a part of the drainage plan, that they have not yet performed septic or drainage evaluations, that the entrance, recently approved by DelDOT, is under construction, and that the entrance design includes cross easements across the lots along U.S. Route 13 to the adjoining parcels.

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.

The Commission found, based on comments received from DelDOT, that a traffic impact study requirement has been waived, that the Subdivision Section of DelDOT has approved an entrance plan for the parcel, that the plan permits a single entrance off of U.S. Route 13 to serve four lots, that a cross easement could connect the lots and the adjacent properties, that the

applicant's engineer designed the entrance to accommodate commercial development of all 9.24 acres, that the Project Development Office opposes this application as an inappropriate expansion of the C-1 District, that the 600 foot deep strip of commercial zoning has led to an increased number of entrances, that traffic in and out of the entrances affects the flow of traffic on U.S. Route 13, that the commercial zoning has prompted businesses to locate in rural areas rather than in established communities that might be closer for employees and patrons, and that where there is still appreciable vacant land the Project Development Office would rather see strips of C-1 eliminated, not expanded.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Fallsington loam and Woodstown sandy loam, that the Fallsington soils have severe limitations, that the Woodstown soils have slight limitations, that the applicants will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation, that the farmland rating of the Fallsington soils is Prime Farmland and of Statewide Importance, that the farmland rating of the Woodstown soils is Prime Farmland, that no storm flood hazard area or tax ditch is affected, that it may be necessary for some on-site and off-site drainage improvements when building improvements are developed.

The Commission found that the applicant's son was present on their behalf and stated that they may place mini-storage units on the rear parcel, that there is no immediate plans for the three (3) lots along U.S. Route 13, that a WalMart is being built just south of the site, that the rear property line is a ditch and may be a part of the drainage plan, that they have not yet performed septic or drainage evaluations, that the entrance, recently approved by DelDOT, is under construction, and that the entrance design includes cross easements across the lots along U.S. Route 13 to the adjoining parcels.

The Commission found that no parties appeared in support of or in opposition to this application.

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 based on the record of support and since the rezoning brings the entire parcel into one zoning category, since the ditch at the rear of the site is a natural break from other properties and zones, and since the front portion of the site has been zoned C-1 since 1971.

2. RE: Subdiv. #96-12--H. Robert & Georgetta J. Hickman

H. Robert Hickman was present on behalf of his application to consider the Subdivision of land in a C-1 General Commercial Zoning District in Little Creek Hundred by dividing 19.99 acres into 14 lots, located on the north side of Road 462, 375 feet southeast of U.S. Route 13.

Mr. Lank advised the Commission that they have received a copy of the Technical Advisory Committee Report of August 14, 1996, and that the report will be made a part of the record for this application.

Mr. Abbott summarized comments received from the Wetlands and Subaqueous Lands Section of DNREC and comments from Mr. Schrader about the deed restrictions concerning this application.

Mr. Hickman advised the Commission that the area needs lots for commercial businesses, that there would not be any outside storage, and that most of the lots will be leased however some may be sold.

There were no parties present with any interest 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. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve this application as a preliminary.

3. RE: Subdiv. #96-13--Irvin E. Handy

Irvin Handy, developer, and Ted Simpler, surveyor, were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred by dividing 59.80 acres into 25 lots, located at the north end of South Paula Lynne Drive within Crestfield Subdivision.

Mr. Lank advised the Commission that they have received a copy of the Technical Advisory Committee Report of August 14, 1996, and that the report will be made a part of the record for this application.

Mr. Abbott summarized comments received from the Wetlands and Subaqueous Lands Branch of DNREC and comments from Mr.

Schrader in reference to the proposed deed restrictions.

Mr. Handy advised the Commission that each lot will have on site water and sewer, that a soil scientist has tested the soils and that they are suitable for septic systems, that there are 22 lots left for sale out of the original 48 lots, that about 12 dwellings have been constructed in Phase 1, and that the land is not suitable for farming.

There were no interested parties present for 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. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve this application as a preliminary.

4. RE: Subdiv. #96-14--Bertha Hudson

Bertha Hudson was present on behalf of her application to consider the Subdivision of land in a GR General Residential Zoning District in Dagsboro Hundred by dividing 37.14 acres into 2 lots, located on the north side of Winter Road, 225 feet southwest of Road 82.

Mr. Lank advised the Commission that this application was discussed in the past and that the topography was waived and that this application was not reviewed by the Technical Advisory Committee since there are not any new roads being constructed.

Mr. Abbott advised the Commission that there were not any deed restrictions submitted since the road is State maintained, that there is no need for storm water management controls, and a forested buffer strip is not required.

There were no parties present with any interest 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. Ralph, seconded by Mr. Phillips, and carried unanimously to approve this application as a preliminary

and as a final.

III. OTHER BUSINESS

1. RE: John E. Spieker, MD

The Commission reviewed the site plan for C/U #1150 for medical offices on Road 269A.

Mr. Abbott advised the Commission that the site plan complies with the setback and parking requirements, that the stormwater management area has been relocated, that the adjoining property owners were notified as required by the stipulations of the County Council, and that as of this date, no agency approvals have been received.

Neal Boyle was present in opposition to this site plan and read a letter from himself and from Elizabeth Irving also in opposition and submitted photographs of the Bayside Medical Center stormwater control devices that he feels are not sufficient.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to deny the site plan as submitted.

2. RE: Lake Ventures, L.L.C.

The Commission reviewed the site plan for C/U #1155 for six multi family units in one building on Lake Drive between Rehoboth Beach and Dewey Beach.

Mr. Abbott advised the Commission that the site plan is similar to the one submitted during the public hearing, that the setback and parking requirements are met, and that as of this date, no agency approvals have been received.

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

3. RE: Eagles Landing

The Commission reviewed a concept to revise the site plan for 135 additional multi family units.

Mr. Abbott advised the Commission that Eagles Landing had their own community septic system and now that they are on the County sewer, they have additional land to create more units, that the total area is 34.90 acres and that a maximum of 418 multi family units would be permitted, and that if the Commission is favorable to the concept, a preliminary plan be submitted

referencing all required information to be shown on the site plan.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve as a concept only.

4. RE: George Farnell

The Commission reviewed a commercial site plan for the relocation of a real estate office on Route 13 and Route 13A.

Mr. Abbott advised the Commission that the setbacks are based on an average setback performed by a Surveyor, that adequate parking is referenced, and that all required agency approvals and permits have been obtained.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a final.

5. RE: Salt Pond Associates

James Fuqua, Attorney, was present as the Commission reviewed a revised site plan for the business area of the Salt Pond residential planned community.

Mr. Fuqua advised the Commission that a RPC is permitted 1.00 acre of land to be used for businesses per 100 units, that the site has 6.49 acres available for business uses with open space and requested that the area be relocated to allow for a real estate office.

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

6. RE: Salt Pond Associates

James Fuqua, Attorney, was present requesting a setback variance from the wetlands for lot 264 within the Salt Pond.

Mr. Fuqua advised the Commission that the developers agreed to a ten foot setback from 404 wetlands as a part of their approval, that a revised wetland delineation has been done and the area has changed, and requested that the owner be allowed to use the 404 wetland line as a building restriction line.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the setback variance.

7. RE: Ocean Ridge West

Doug Jones, surveyor, was present as the Commission reviewed a setback variance within Ocean Ridge West RPC.

Mr. Abbott advised the Commission that they can grant different front yard setbacks in residential planned communities, that Delmarva Power and Light has a right of way across lots 28 and 29, and that they require a twenty foot setback from the centerline of the transmission line, and that the developer is requesting a front yard setback of fifteen feet for lots 28 and 29.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the setback variance.

8. RE: Lind Yoder

The Commission reviewed a concept to create a lot off of an existing 50 foot right of way on the south side of Route 16.

Mr. Abbott advised the Commission that this would be the second lot with access from the right of way.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve as a concept.

9. RE: Gary Owens

The Commission reviewed a concept to create a parcel off of a 50 foot right of way on the north side of Road 527.

Mr. Abbott advised the Commission that this would be the second lot with access from the right of way.

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

10. RE: Ron Hastings
Rivers End Section III - Revision

Mr. Lank advised the Commission that he has received a letter from Ronald E. Hastings and a letter from Mark Allen, President of the River's End Homeowner's Association for Section III, in reference to errors made on the original site plan for Section III, that two parcels have been landlocked from access by the creation of Section III, and that the owner is requesting connection to the street system for Section III.

Mr. Lank presented a marked up plot of Section III and a copy of the preliminary plan. The final plot took portions of the adjoining lands for stormwater management ponds.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the corrective revision.

11. RE: Alan Mills

The Commission reviewed a concept to create a 1.50 acre lot with access from a 50 foot right of way of off Road 201 and Road 202.

Mr. Abbott advised the Commission that the site is presently accessed by a twenty foot road, that the owner will have to widen the right of way to fifty feet across his other lands to create the lot.

Motion made by Mr. Ralph, seconded by Mr. Phillips, and carried unanimously to approve as a concept.

Meeting adjourned at 9:15 PM.