

MINUTES OF THE REGULAR MEETING OF AUGUST 24, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 24, 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. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the minutes of August 10, 1995 as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1129--Brice J. Butler, Jr.

Brice Butler 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 a Plumbing Business with Related Storage as an Accessory Use to a Dwelling lying on the north side of a private road, 550 feet east of Road 361, 250 feet north of Road 362, on a parcel containing 1.5 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Sussex County Engineering Department.

Mr. Butler stated that his office will be located within the residence, that the existing garage will be utilized for storage, that no additional construction is proposed, that the easement drawn on the site plan passes through his lot to the O'Rourke property, that he has been in business for eight years, and that the adjacent property is a golf driving range.

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 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 Pocomoke sandy loam which has severe limitations, that the applicant will be required to follow recommended erosion and

sediment control practices during any construction and to maintain vegetation, that the farmland rating of the soil type is Prime and of Statewide Importance, that no storm flood hazard area is affected, that it may not be necessary for an off-site drainage improvements, that it will be necessary for some on-site drainage improvements since a tax ditch exist next to the site, and that the area may flood due to wet soils.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in a Priority II Planning Area and will not receive sanitary sewer service within the next five years.

The Commission found that the applicant was present and stated that his office will be located within the residence, that the existing garage will be utilized for storage, that no additional construction is proposed, that the easement drawn on the site plan passes through his lot to the O'Rourke property, that he has been in business for eight years, and that the adjacent property is a golf driving range.

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 with the stipulation that any further construction relating to the business shall require submittal of a new Conditional Use application.

2. RE: C/U # 1130--Robert B. Atallian

Robert Atallion was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for Display and Sale of Antiques with Related Storage lying on the south side of Route 9, 1,300 feet east of Route 281 on a parcel containing 5.91 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex County Engineering Department.

Mr. Atallion stated that he intends to utilize the existing buildings on site for his antique business, that the buildings were used for stables and riding rings, that the stable portion of the building will be utilized for storage, that the riding ring portion of the building will be developed in two phases for antique display and sales, that the building is being developed in two phases due to regulations of the State Fire Marshal which

requires firewall separation for structures over 10,000 square feet, that septic and water are on-site, that collectibles and antiques will be sold on consignment and retail, that the entrance exist and the shoulder of Route 9 is paved, that no vehicles are planned to be sold, that no food sales are intended, that some antique horsedrawn farm equipment may be displayed in front of the buildings, and that he has contacted the County Building Code Department for compliance.

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 hearings.

The Commission found, based on comments received from DelDOT, that the proposed action will have no impact on traffic on Route 9.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located west of the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District where the County Council agreed with DNREC to restrict zoning changes and conditional uses in subdivision approval.

The Commission found that the applicant was present and stated that he intends to utilize the existing buildings on site for his antique business, that the buildings were used for stables and riding rings, that the stable portion of the building will be utilized for storage, that the riding ring portion of the building will be developed in two phases for antique display and sales, that the building is being developed in two phases due to regulations of the State Fire Marshal which requires firewall separation for structures over 10,000 square feet, that septic and water are on-site, that collectibles and antiques will be sold on consignment and retail, that the entrance exist and the shoulder of Route 9 is paved, that no vehicles are planned to be sold, that no food sales are intended, that some antique horsedrawn farm equipment may be displayed in front of the buildings, and that he has contacted the County Building Code Department for compliance.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously that this application be forwarded to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. No indoor or outdoor flea market type of activity shall be permitted.
3. No outdoor display of sale items shall be permitted between the parking area and Route 9.
4. One (1) ground sign, not exceeding 32 square feet per side or facing, may be permitted.

3. RE: C/U #1131--Nicholas P., Jr. & Cynthia S. DelCampo

Byron Jefferson was present on behalf of the owners for this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for an Eighty-two Lot Addition to an Existing Manufactured Home Park lying 1,100 feet northwest of Route 224, 500 feet west of Route 214 on a parcel containing 41.1 acres more or less.

Mr. Jefferson read a letter from Nicholas DelCampo apologizing for not being able to attend the meeting and stating his desire to still expand the park and advising the Commission that delays in getting all necessary agency approvals and or permits preventing him from starting construction before his original conditional use expired.

Mr. Jefferson stated that the applicant has continued working with agencies for approvals, that he is now proposing to establish a stormwater outlet to Cubbage Pond, that the outlet to Cubbage Pond will require a re-establishment of some Federal wetlands, that the same number of lots with the same layout from the June 1992 approval are still proposed, that the existing sewerage treatment plant will be upgraded and that the existing spray irrigation site should remain in same, and that the use of and reclamation of the Morgan property may be a benefit for the development and the Morgan property.

Claude Chapman, Jane Chapman, Nina Cannata, Richard Douglas, and Frankie Downs raised questions about odors from the sewerage treatment system, the impact on the sewerage treatment system by adding 82 additional sites, and possible impacts on neighboring developments and Cubbage Pond.

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 that the applicant could not attend, but submitted a letter apologizing for not being able to attend the meeting and stating his desire to still expand the park and advising the Commission that delays in getting all necessary agency approvals and or permits preventing him from starting construction before his original conditional use expired.

The Commission found that a Professional Engineer was present on behalf of the applicant and stated that the applicant has continued working with agencies for approvals, that the applicant is now proposing to establish a stormwater outlet to Cubbage Pond, that the outlet to Cubbage Pond will require a re-establishment of some Federal wetlands, that the same number of lots with the same layout from the June 1992 approval are still proposed, that the existing sewerage treatment plant will be upgraded and that the existing spray irrigation site should remain in same, and that the use of and reclamation of the Morgan property may be a benefit for the development and the Morgan property.

The Commission found that four area residents and a resident of the Lewes area raised questions about odors from the sewerage treatment system, the impact on the sewerage treatment system by adding 82 additional sites, and possible impacts on neighboring developments and Cubbage Pond.

The Commission considered the findings and stipulations of the June 16, 1992 Conditional Use approval.

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 approved since the use proposed will be an extension of a fully developed, fully leased manufactured home park, since the use proposed will serve a clear need for additional leased lots for manufactured homes in the Milford area, since the existing park and the use proposed will be served by a central sewerage system with effluent treatment permitted by the DNREC, since the use proposed will cause no adverse impact on the character of the neighborhood since it is an extension to an existing park, since no adverse impact is anticipated on traffic or the environment in the area, and since the use proposed is consistent with the purposes and goals of the Land Use Plan, and with the following stipulations:

1. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission. A playground and other recreation facility shall be provided by the applicant, as a part of the final site plan.

2. The maximum number of lots in the expansion area shall not exceed 82.
3. All septic or sewer effluent is to be disposed on on-site, under the terms of a DNREC central system permit.
4. Subd. #95-8--J.W. Shockley & Son, Inc.

Bill Shockley, President of J.W. Shockley & Son, Inc., Mike Kobin of George, Miles & Buhr, and James Fuqua, Attorney, were present on behalf of this application to consider the Subdivision of land in a C-1 General Commercial Zoning District and AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 5.19 acres into 5 lots, located on the northeast side of Route One, 1,380 feet southeast of Route 268.

Mr. Abbott summarized the Technical Advisory Committee Report of August 16, 1995, and comments received from the DNREC Division of Parks and Recreation.

Mr. Fuqua advised the Commission that the site is in a commercial district on Route One, that County sewer and central water is proposed, that there are no wetlands located on the site, that police protection is provided by the Delaware State Police, that fire protection is provided by the Lewes Fire Department, that the site is located in a Development District based on the Coastal Sussex Land Use Plan, that the project complies with the Land Use Plan, that one entrance to the site will serve the five lots, that all future lot owners will share in the maintenance of all improvements, that the developers will obtain all the necessary agency approvals, and that the individual uses will be what is permitted in the General Commercial Zoning District.

No one was present in support of this application.

No one was present in opposition to this application.

Mike Tyler questioned why there will be another curb cut onto Route One and if there will be any new crossovers on Route One.

Mr. Fuqua advised the Commission that the Developers have spoke with the adjoining property owner and that he does not want a shared entrance and that DelDOT will not permit another crossover in this 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.

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

5. Subd. #95-9--Richard D. Comstock, et ux.

Richard Comstock, Developer, Harry Murphy and Bob Nash, Surveyors, were present on behalf of this application to consider the Subdivision of land in a MR Medium Density Residential District in Cedar Creek Hundred by dividing 14.82 acres into 21 lots, located on the east side of Road 619A, 250 feet northwest of Route 36.

Mr. Abbott summarized the Technical Advisory Committee Report of August 16, 1995, and comments received from the DNREC Division of Parks and Recreation.

Mr. Murphy advised the Commission that the site will be developed for first time home buyers and retired couples, that all requirements of the Technical Advisory Committee will be met, that the septic feasibility has been submitted to DNREC for approval, that there are no wetlands on the site, and that if approved, the development will be built in phases.

No one was present in support of this application.

No one was present in opposition to this application.

Phil Kaline and Elaine Burlingame raised questions about the size of homes proposed, access to the lots, stormwater management locations, and the amount of density proposed.

Mr. Comstock advised the Commission that the homes will be 1,350 square feet, that all lots will have access to the subdivision streets, and that the driveways will be paved.

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 the subdivision as a preliminary.

III. OTHER BUSINESS

1. Rehoboth Jiffy Lube

The Commission reviewed a commercial site plan for an automotive service business and car wash located on Route One.

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

2. Martin Property Comfort Inn

The Commission reviewed a commercial site plan for a 80 unit motel and restaurant located on Route One.

Mr. Abbott advised the Commission that this plan is revised from the plan that received preliminary approval on January 12, 1995.

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

3. Angola Community Limited Partnership

The Commission reviewed a commercial site plan for C/U #1117 for model homes display lot located on the entrance to the Rehoboth Mall and Route 24.

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

4. Building Blocks Day Care Center

The Commission reviewed a commercial site plan for an office type building located on Road 68.

Mr. Abbott advised the Commission that this property will be annexed into the Town of Delmar on October 2, 1995.

Motion made by Mr. Ralph, seconded by Mr. Lynch, and carried with 4 votes to approve the site plan as submitted as a final. Mr. Wheatley abstained from participating on this site plan review.

5. Herring Creek Builders

The Commission reviewed a commercial site plan for a model home and sales office located on Route One near Red Mill Pond.

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

6. Athelene & Mary Brumbley

The Commission reviewed a concept to create two lots located on Route 113 near Dagsboro.

Mr. Abbott advised the Commission that DelDOT has approved the use of the existing entrances.

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

7. Gus & Jeanette Volkman

The Commission reviewed a concept to create two lots with access off of a fifty foot right of way off of Road 347 near Millville.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the two lots as a concept with the stipulation that any future subdivision require a public hearing.

8. Joseph R. Hudson, Sr.

The Commission reviewed a concept to create a five acre parcel with access from an existing fifty foot right of way off of Road 264.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the five acre tract with the stipulation that any future subdivision require a public hearing.

Meeting adjourned at 9:45 PM.