

MINUTES OF THE SPECIAL MEETING OF SEPTEMBER 14, 2000

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 14, 2000 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The Meeting was called to order at 7:00 P.M. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Lynch, Mr. Wheatley, with Mr. Berl - Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray - Zoning Inspector III.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as circulated.

Mr. Schrader described how the agenda and hearings would be conducted.

III. PUBLIC HEARINGS

C/U #1356 -- application of WILLIAM C. DOWNS to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a campground to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 67.775 acres, more or less, lying south of Road 257, 1.25 miles north of Route 88.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the level of service of Road 257 may change from level of service "A" to level of service "B".

The Commission found, based on comments received from the County Engineering Department, that the project should be subject to review by the Technical Advisory Committee; that the proposed on-site central water system shall be subject to approval by the State Department of Health; that if the water system is to be maintained privately it shall be regulated by Sussex County Ordinance 657 requiring plan review, construction inspection and fees; that the proposed on-site septic system shall be subject to approval by the State DNREC; and that if the system is to be maintained privately it shall be regulated by Sussex County Ordinance 657 requiring plan review, construction inspection and fees.

The Commission found that William C. Downs was present and stated in his presentation and in response to questions raised by the Commission that he proposes tents and hard tents (small cabins) only; that no travel trailers or motor homes will be permitted; that all camp sites will be located in wooded areas; that the hard tents (small cabins) measure approximately 12-feet by 16-feet and have no bath or cooking facilities and no electric; that he and his wife live on the site; that they have no intent to impact neighbors; that some of the campsites are not suitable for wet weather use; that he proposes no more than 374 camp sites; that the site plan is conceptual; that the number and location of bath houses is subject to the Department of Health; that the campsites contain at least 2,000

square feet; that the septic area location has not yet been determined; that the streets will be stoned; and that the hard tents (small cabins) will be utilized on no more than one-third of the campsites.

The Commission found that Richard Anthony, present on behalf of the Southern Delaware Group of Sierra Club, Mike Tyler, present on behalf of the Citizens Coalition, John P. Reed, III, Jackson Dunlap, and Joe Larimore were present in opposition to this application and stated that this application will result in direct, secondary, collateral, cumulative and future foreseeable adverse impacts to both adjacent properties and the district in general; that the application conflicts with the spirit, intent and letter of the Comprehensive Plan, and fails to satisfy the applicable requisites of the Zoning Ordinance; that the site is not in a Development District; that the application is a classic example of sprawl with a high-density activity and development in a conservation area; that the site nearly adjoins the McCabe Preserve, an open space natural recreation area; that the site is opposite a large farm preservation district; that the use would be uncharacteristic of the intent to farm preservation; that community septic systems are prone to failure and it would be irresponsible to jeopardize the quality of the water; that managing growth and following the Comprehensive Plan are critical to maintaining what makes the County livable and beautiful; that allowing campgrounds to proliferate in the County will have a negative affect on the quality of life; that the application represents irresponsible land use, driven by greed, not need; that the activity will disrupt the peace and pleasure of the area; that trespassing by the campers onto neighboring properties is a concern; that traffic increases is a major concern due to the narrowness of Road 257; that the activity may impact hunting on adjacent properties; that stormwater runoff is a concern; that the plans submitted are very vague; that Road 257 is very crooked; that DelDOT is not inclined to spend the necessary funds to maintain and improve Road 257; and that the intersection of Road 257 and Road 258 is a major concern.

The Commission found that Mr. Anthony and Mr. Tyler submitted written comments for the record.

The Commission found that John P. Reed, III, submitted a petition in opposition with 105 signatures.

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 by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied based on the record of opposition; since no recreational facilities are designated; since the hard tents may be converted to another use; due to the lack of environmental

investigation, i.e. the wetlands were not delineated; since a dump may exist on the site; and since Road 257 is so narrow and so crooked.

C/U #1357 -- application of SUPER FRESH FOOD MARKET to consider the Conditional Use of land in a C-1 General Commercial District for a sales cart program for the sales of soft and hard goods from carts to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 14.86 acres, more or less, lying at the southwest corner of the intersection of Route One and Road 283 (Postal Lane).

The Commission found that no one was present on behalf of this application.

There was a consensus of the Commission to refer this application to the end of the public hearings.

At the conclusion of the public hearings, the Commission found that no one was present on behalf of the application.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to forward a recommendation to the Sussex County Council that this application be denied due to the lack of a presentation in support.

C/U #1358 -- application of ARTESIAN WATER CO., INC. to consider the Conditional Use of land in a HR-1 High Density Residential District for a public utility water plant to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.0 acres, more or less, lying in the southwest corner of Bayville Shores Development, 1,800 feet north of Route 58-B.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the Fenwick Island Sanitary Sewer District; that approval from the Department is based on the installation of a central wastewater system for the proposed Bayville Shores Development, if the plant backwash must be treated and discharged to a central wastewater system; that system connection charges will be due prior to obtaining a building permit, if a connection to the wastewater system is made; and that the system connection charge is \$2,389 per equivalent dwelling unit for July 1, 2000 to June 30, 2001.

The Commission found that James F. Waehler, Attorney, and Jeff Clark of Land Tech, L.L.C. were present on behalf of the applicants and stated in their presentations and in response to questions raised by the Commission that the Commission granted preliminary approval of the site plan for the water plant to serve the development; that they propose to connect to the regional water system for the area; that the Roxana Volunteer Fire Co.

supports central water with fire hydrants; that the regional water system is in place or under construction in Bethany Beach, South Bethany, and from Fenwick Island to the Maryland line and then west along Route 54; that the pipeline has been planned; that interconnection is possible with Bethany Beach and Ocean City; that if a water main breaks, water can be obtained from several locations; that if a power outage occurs, the elevated storage tank will provide water pressure to serve both domestic water and fire protection; and that the tanks and buildings will be located in a wooded area of the site.

The Commission found that Mr. Waehler submitted a letter from the Roxana Volunteer Fire Co. which referenced that one benefit of the project has been the installation of fire hydrants capable of supplying a safe, reliable flow throughout the service area; that the Fire Chief has had the opportunity to review the plans for the development and feels that fire hydrants located within the community and in the region will enhance the Roxana Fire Companies ability to provide effective service.

The Commission found that Thomas Hunnechurch of Swann Point opposed the location of the buildings and the closeness to the property line near Swann Point and suggested that the facility be relocated somewhere else on the site.

The Commission found that Mr. Hunnechurch submitted a letter in opposition from Mr. and Mrs. Michael E. Schuchman, which referenced that they oppose the location of the water facility; that the applicant is currently or will in the future be supplying central water to many communities along Route One and Route 54; that these communities stand to increase the values of their properties by virtue of having central water; that Swann Keys will never subscribe for water from the applicant; and that the properties near the site will decrease in value in the shadow of an unsightly water tower and its facilities.

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 by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application 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) the 30-foot buffer along Swann Drive shall remain undisturbed; 3) the tanks shall be painted a pale blue with no lettering.

C/Z #1411 -- application of ILLYA WAPLES to amend the Comprehensive Zoning Map from a C-1 General Commercial District to a GR General Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying northeast of Malloy Street, 100 feet southeast of Central Avenue and southeast of Hebron Road (Road 273), to be located on 10,400 square feet, more or less.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the parcel has been provided with two 6-inch laterals; that there are currently three mobile homes on the site; that system connection charges will be required if any additional units are placed on the site; and that the system connection charge rate through June 20, 2001 is \$2,954 per equivalent dwelling unit.

The Commission found that Illya Waples was present and stated in his presentation and in response to questions raised by the Commission that one mobile home will be removed; that the existing mobile home on lot #43 will remain; that a newer mobile home will be placed on lot #44; and that the existing mobile home on lot #44 will be converted to a storage unit if he can obtain approval from the County Board of Adjustment.

The Commission found that no parties appeared in opposition to the 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 by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved.

C/Z #1412 -- application of L.A. WILLIAMS to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Seaford Hundred, Sussex County, land lying east of U.S. Route 13, 0.41 mile north of Road 532, to be located on 15.9487 acres, more or less.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the City of Seaford's proposed service area, per the Western Sussex Water and Sewer Plan, and that the developer should contact the City for sewer and water availability information.

The Commission found, based on comments received from DelDOT, that the Department is opposed to this application because the Department is concerned about potential traffic impacts of rezoning the property to commercial and the potential for conflicts with the Corridor Capacity Preservation Program; that if the County finds it appropriate to approve the rezoning, the applicant should be advised that the Department may require that a traffic impact study be done prior to the Department's review of site or entrance plans pertaining to the land.

The Commission found that Levin Williams was present and stated in his presentation and in response to questions raised by the Commission that DelDOT provided no objections to the five lots subdivision of the property in February 2000; that he has amended his application from C-1 General Commercial to LI-2 Light Industrial since DelDOT preferred Light Industrial; that north of the site is zoned commercial and is improved by a landscaping business, a Southern States retail outlet, office and mini-storage facilities; that he has an option for a commercial glass company using one of the lots if the rezoning is approved; that the properties along Route 532 contain large lots; that the City of Seaford has no plans for sewer or water service in this area; that the lots will be improved with septic and wells on-site; and that DelDOT required that a 50-foot wide cross access easement be created along the right-of-way of U.S. Route 13.

The Commission found that Mrs. Betty Evans and Larry Hollis were present in opposition to the application and expressed concerns relating to children's safety; poor drainage in the area; depreciation of property values; traffic; permitted uses in the commercial and industrial districts; outside storage; and since the intended uses are unknown.

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 by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to defer action.

C/Z #1413 -- application of L.A. WILLIAMS to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Seaford Hundred, Sussex County, land lying at the southeast corner of the intersection of U.S. Route 13 and Delaware Route 18, to located on 8.9314 acres, more or less.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the City of Seaford's proposed service area, per the Western Sussex Water and Sewer Plan, and that the developer should contact the City for sewer and water availability information.

The Commission found, based on comments received from DelDOT, that the Department is opposed to this application because the Department is concerned about potential traffic impacts of rezoning the property to commercial and the potential for conflicts with the Corridor Capacity Preservation Program; that if the County finds it appropriate to approve the rezoning, the applicant should be advised that the Department may require

that a traffic impact study be done prior to the Department's review of site or entrance plans pertaining to the land.

The Commission found that Levin Williams was present and stated in his presentation and in response to questions raised by the Commission that this application is similar to Change of Zone #1413; that the site is just north of the commercial activities referenced in Change of Zone #1413; that the owner proposes to retain approximately 4-acres and the home facing Road 532; that the entrance to the site will be from a joint access easement with the Bayard Layton property just south of the site; and that the entrance should be adequate for both properties according to Rich Vetter of DelDOT.

The Commission found that no parties appeared 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 by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to defer action.

C/Z #1414 -- application of ALLEN T. HANDY, SR. to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Seaford Hundred, Sussex County, land lying west of U.S. Route 13, 2,076 feet south of Route 18, to be located on 10.14 acres, more or less.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the City of Seaford's proposed service area, per the Western Sussex Water and Sewer Plan, and that the developer should contact the City for sewer and water availability information.

The Commission found, based on comments received from DelDOT, that in January 2000 the Department requested a traffic impact study be done because of expected trip generation with commercial rezoning; that in July 2000 the Department modified its comments since the applicant had agreed to apply for Light Industrial zoning; that the Department believes that the traffic from the proposed use would be negligible; that the Department does not recommend a traffic impact study; that the January 2000 comments referenced creation of a service road along the rear of the parcel; and that after discussions with the applicant the Department is not opposed to a service road along the frontage of U.S. Route 13.

The Commission found that Allen Handy was present and stated in his presentation and in response to questions raised by the Commission that the entrance to the service road is proposed to be located on this parcel; that permanent easements and cross access easements will be created along U.S. Route 13; that the parcel is approximately half way between Route 18 and Road 46; that both sides of the parcel are zoned C-1 General Commercial; that he proposes to build offices and warehouses; that a need exists for contractor storage warehousing in the area; that 10% to 20% of each building will be office space; and that DelDOT's concern is traffic counts on U.S. Route 13.

The Commission found that John Evan of Clearbrooke Estates spoke in opposition and expressed concerns about the impact of industrial uses, especially warehousing, on the residential community to the rear of the site.

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.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to defer action.

Meeting adjourned at 9:10 P.M.