

MINUTES OF THE REGULAR MEETING OF OCTOBER 9, 1997

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 9, 1997, at 7:30 P.M., in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Jones - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

No action was taken on the minutes of September 25, 1997.

Motion made by Mr. Wheatley, seconded by Mr. Phillips, and carried unanimously to approve the minutes of October 2, 1997 as circulated.

III. OLD BUSINESS

1. C/U #1198--Colonial East, Ltd.

No one was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for an Expansion to an Existing Manufactured Home Park at the northeast corner of U.S. Route 9 and Road 265, located on a parcel containing 55.29 acres more or less.

Mr. Phillips stated that he has spent more time on this application than any other application that he can remember since being appointed to the Commission; that he has visited the area four (4) times; that he has reviewed findings of other Conditional Use applications and subdivision request and feels that the right thing to do is to recommend approval of this Conditional Use; that the Commission was reversed by County Council for some of the very reasons offered by those objecting to this application and referenced: property values will decline, traffic impact will affect the area, the application is out of character with the surroundings, safety as an issue, etc...; that when the Commission asked that subdivisions 96-22 and 96-24 be denied, the Commission was told that the above findings were not appropriate; that it is his feeling that Conditional Use #1198 meets all requirements of the Code when considering a Conditional Use in an AR-1 Agricultural Residential District; and motioned that the Commission recommend approval of Conditional Use #1198 with the following conditions:

1. The preliminary site plan shall be required to be reviewed by the Technical Advisory Committee and the Planning and Zoning Commission.

2. A phasing schedule shall be included with the preliminary plan. The phasing schedule may include an average of twenty-five (25) units per year and will not exceed thirty-five (35) units per year in any calendar year.

3. The development shall comply with requirements of DelDOT regarding entrance improvements, including acceleration and deceleration lanes, a street connection to the existing Sussex East development, construction of a sheltered bus stop on Route 9 of a design and location acceptable to DelDOT, no signs advertising commercial use shall be directed toward Route 9, and that the Road 265 entrance be located directly across from the Shevock properties entrance.

4. The maximum number of lots shall not exceed 224, and that the lots shall be for lease only.

5. The development shall be served by a central water system, including fire protection, and shall be served by central sewer, with the pumping station being constructed by the developer as specified by the applicant's attorney during the public hearing, and being a part of the existing West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

6. A fifty (50) foot buffer shall be maintained along the southerly, westerly and northerly boundaries of the site; the existing growth along the northerly and westerly boundaries will be preserved subject to appropriate pruning and providing clear vision in either direction of the entrance; the southerly boundary along Route 9 will be appropriately landscaped; fencing will be installed parallel to the railroad right-of-way acceptable to the Delaware Transit Authority and DelDOT recommendations; the buffer landscaping, planting, layout, and design shall be subject to approval by the Office of the State Forester and the Planning and Zoning Commission.

7. The community center shall be a part of the first phase and shall be completed prior to initiation of the second phase.

8. Final plans shall be submitted to the Planning and Zoning Commission for review upon receipt of appropriate agency approvals and/or permits.

Mr. Ralph seconded the motion. Mr. Allen, Mr. Lynch, and Mr. Wheatley opposed the motion. The application was denied.

At the conclusion of the meeting and for the purpose of clarifying the reasons for voting against the motion Mr. Allen stated that he opposed the motion for the following reasons:

1. Increased traffic on Road 265. That Road 265 is a narrow 1.3 miles long road connecting one end to Route 9 and the other end to Route One; that both of these routes are heavily travelled making an exit very difficult and dangerous; that, even though, DelDOT has approved an entrance off of Road 265 to the proposed 224 lot expansion to an existing mobile home park, containing 187 lots, which will contain, if approved, a total of 411 lots and

mobile homes, and will add to the already existing 800 plus residential lots approved and exiting onto Road 265, and makes it very difficult for the existing residents; that DelDOT's report contained data obtained and prepared by an independent traffic study group, hired and paid by the applicant; and that he does not feel that DelDOT has done the job the people of Sussex County pay them to do.

2. That the Development District designated by the unadopted Land Use Plan, is still part of a plan and does not mean that every square foot or acre of land in a development district is eligible for any type of development; that he does not feel that the best interest of the people of Sussex County, who live or travel this area will be considered if the Conditional Use is approved.

3. Farm Land Preservation. That we, as a zoning board, are constantly being made aware to preserve prime farmland where and when possible; that we have been asked to remove 50 plus acres of crop land (corn and soybeans) at the present time and allow it to be developed into a mobile home park of which a large percent of lots to be developed will be occupied by non Sussex County residents.

Mr. Wheatley agreed with Mr. Allen's statement and added that he has several safety concerns; that there has been no consideration by DelDOT for signalization of the intersections of Road 265 and Route 9, or Road 265 and Route One; and that he is concerned about the long term impact on the existing residents in the area.

Mr. Lynch agreed with both Mr. Allen and Mr. Wheatley, and added that he is concerned about doubling the number of residents in the area and then creating another entrance for 224 lots onto Road 265; that the residents have no choice but to go from Road 265 to Route One or Route 9; and that he agreed with Mr. Wheatley that traffic signalization is needed.

2. C/Z #1313--Mildred M. Long

No one was present on behalf of this application to amend the Comprehensive Zoning Map from a C-1 General Commercial District to an AR-1 Agricultural Residential District in Dagsboro Hundred on the southwest side of U.S. Route 113, 0.5 mile northwest of Road 406, located on a parcel containing 6.4 acres more or less.

Mr. Ralph stated that he will not be participating in this application.

The Commission discussed the points and issues raised during the public hearing.

Motion made by Mr. Lynch, seconded by Phillips, and carried unanimously that a recommendation be forwarded to the Sussex County Council that action be deferred until the County Board of Adjustment can hold a public hearing and make a decision on the sign, recently located on the premises, and to establish a lot area for the sign location, if the sign is approved.

3. C/U #1205--Milford School District

No one was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for Expansion to Conditional Use No. 1014 (Public School) for Play and Recreation Area on the south side of Butler Avenue (Road 225B), 200 feet east of Road 225 (Third Street) in Lincoln, located on 1.14 acres more or less.

The Commission discussed the points and issues raised during the public hearing.

Mr. Lank advised the Commission that he had spoken to Edward Kee representing the Milford School District and that Mr. Kee confirmed that: The Keen family has agreed to blocking off Butler Avenue; that the School District has agreed to create a private driveway with a minimum width of ten (10) feet to serve the Keen property via an easement across 4th Street, an unopened street, to Road 38; that Butler Avenue will be blocked off even with the rear of the Doughten house lot; that chain-link fencing will be provided along the sides and rear of the site; and that the existing fencing along Butler Avenue will remain as constructed.

Mr. Allen added that the 0.13 acre portion of Small Avenue should not be a part of this application since it has not yet been abandoned.

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 with the following stipulations:

1. The Milford School District shall confirm that the Keen family has agreed to the blocking off of Butler Avenue.

2. The Milford School District shall confirm that the District will create a private driveway, with a minimum width of ten (10) feet, to serve the Keen property via an easement across 4th Street, an unopened street, to Road 38.

3. The Milford School District shall confirm that Butler Avenue may be blocked off even with the rear of the Doughten house lot.

4. Chain-link fencing shall be installed along the sides and rear of the site. The existing fencing along Butler Avenue may remain as constructed.

5. The 0.13 acre portion of Small Avenue shall not be a part of this application since it has not yet been officially abandoned. Therefore, the site being approved shall contain 1.01 acres as described on survey by AKS Associates, Inc.

4. Subdivision #96-17--Dale Wheatley

The Chairman referred back to this application which was deferred at the December 5, 1996 meeting pending a septic feasibility statement from DNREC.

Mr. Abbott advised the Commission that a non binding statement of feasibility has been received from DNREC and that the lots are suitable for individual on site septic systems.

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

II. Other Business

1. Maplewood Center

Mary Norris of ECI Corporation was present as the Commission reviewed a commercial site plan for an office building and day care center on Route 24 west of Route One.

Mr. Abbott advised the Commission that the office building is proposed to be 4,072 square feet, that the day care center is proposed to be 4,000 square feet, that the day care center was approved by the Board of Adjustment on September 8, 1997, that both buildings are one story, that the day care center has a four foot fenced in area for a play area, that adequate parking has been provided, that there is no direct access to Route 24 from this site, that screening is proposed to buffer this site from the Maplewood subdivision, and stated that the staff has not received any agency approvals as of this date.

Ms. Norris advised the Commission that the stormwater management area could not be relocated without revising the site plan, and that the plan has been submitted to all agencies for approvals.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of all required agency approvals and permits.

2. State of Delaware

The Commission reviewed the final site plan for Conditional Use No. 1184 on Road 334A near Dagsboro.

Mr. Abbott advised the Commission that the tower is proposed to be 480 feet tall, that the site plan is the same as what was submitted for the public hearing, and that the Board of Adjustment approved a variance on August 18, 1997.

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

3. Mary Ann Hammond, Trustee

The Commission reviewed a request to have the Indian River Bay determined as the front yard for a building lot near Oak Orchard.

Mr. Abbott advised the Commission that there is an existing dwelling located on the site, that it is going to be demolished and a new dwelling will be built, and that the owners want to have a thirty foot setback from the Bay.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the Indian River Bay as the front yard and that the minimum setback for the rear yard be ten feet from Road 312.

4. Lola M. Lockerman

The Commission reviewed a concept to create a four acre parcel on Route One near the Broadkill River.

Mr. Abbott advised the Commission that DelDOT has no objection to the subdivision and that the subdivision needs the Commission's approval because Route One is a major arterial roadway.

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

5. Karen Speake

The Commission reviewed a variance from the fifty foot setback for lots located adjacent to agricultural lands for a lot off of Route 20.

Mr. Abbott advised the Commission that Mrs. Speake would like to build a dwelling having the regular AR-1 setbacks, that

the adjoining property owner has written a letter of no objection, and that the applicant cannot apply to the Board of Adjustment for a variance since the setback requirement is in the Subdivision Ordinance.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the variance request.

6. Henry Hastings

The Commission reviewed a concept to create a lot off of an existing fifty foot right of way on the north side of Road 488 east of U.S. Route 13.

Mr. Abbott advised the Commission that this lot would be the second lot off of the right of way.

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

7. Subdivision #95-7--Sand Chase, Inc.

The Commission reviewed a request for a one year time extension for subdivision #95-7.

Mr. Abbott advised the Commission that a new owner has purchased the property and wishes to develop the site.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to grant a one year time extension. It was stipulated that this will be the last time extension granted.

8. CMW Builders, Inc.

The Commission reviewed the final site plan for a mercantile and office building at Nassau Commons off of Route 9.

Mr. Abbott advised the Commission that this plan received preliminary approval September 11, 1997, that the final plan is the same, and that all required agency approvals have been received.

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

9. Back Bay Partners, Inc.

Bonnie Benson was present as the Commission reviewed a commercial site plan for a five bay car wash on Route 22.

Mr. Abbott advised the Commission that the setbacks and parking areas meet the requirements of the zoning code, and that as of this date, the staff has not received any agency approvals.

Ms. Benson advised the Commission that the site plan has been submitted to the agencies for approvals, and that DelDOT's approval is forthcoming.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of all required agency approvals and permits.

10. Dr. Hiram Lasher

The Commission reviewed a concept to create three lots with access from a fifty foot easement off of U.S. Route 113 north of Millsboro.

Mr. Abbott advised the Commission that DelDOT has granted an entrance permit, and that the Sussex Conservation District and County Engineering Department are not going to require any submittals.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve the three lots and fifty foot easement as a concept.

Meeting adjourned at 8:45 PM.