

MINUTES OF THE REGULAR MEETING OF OCTOBER 22, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 22, 1998, at 7:30 P.M., in the County Council Chambers, Sussex County Administrative Building, Georgetown, Delaware, with Mr. Allen, Chairman, Presiding:

The following members were present: Mr. Allen, Mr. Hastings, Mr. Phillips, Mr. Wheatley, Mr. Schrader – Assistant County Attorney, Mr. Lank – Director, and Mr. Abbott – Assistant Director.

Motion made by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to adopt the agenda as amended.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the minutes for October 8, 1998 as amended.

Mr. Schrader explained how the meeting would be conducted.

II. PUBLIC HEARINGS

C/Z #1353—application of PATRICIA MAE CORRELL to consider a change of zone from C-1 General Commercial District to an AR-1 Agricultural Residential District in Northwest Fork Hundred, located southeast corner of the intersection of Road 600 and U.S. Route 13, north of Road 40, to be located on a parcel containing 17.06 acres, more or less.

The Commission found that DelDOT comments were not requested since the application was for a downzoning.

The Commission found that the 17.06 acres was a part of a 187.32 acres tract.

The Commission found that Charles Landy Correll was present on behalf of the family and stated that the majority of the parcel is in agricultural production; that they propose to downzone the site so that the entire parcel qualifies for ag-land preservation; that approximately 80 acres is tillable with irrigation; that some woodlands exist on the farm; that the field has produced good yields of crops over recent years; and that they propose to sell the development rights to the Delaware Agricultural Lands Preservation Foundation.

The Commission found that 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.

Motion made by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since it is a downzoning and the land has continued to be used for agricultural uses.

Subdivision #98-7—application of AVICE RICKARDS to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 14.92 acres into ten (10) lots, located on the northern side of Road 266 (New Road), across from Road 269-A.

Mr. Abbott summarized the Technical Advisory Committee Report of October 14, 1998 and comments received from the Natural Resources Conservation Service.

The Commission found that Charles Adams, surveyor, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the developer will follow the recommendations of the Technical Advisory Committee, that there will be a landscaped buffer along the adjacent agricultural lands, that the soils are suitable for development, and that at this time, individual septic systems and individual wells are proposed.

Mr. Allen questioned if the developer could be forced to hook into the County sewer.

Mr. Schrader advised the Commission that the sewer boundary is across the road and that the County cannot force the applicant to hook into the sewer at this time.

The Commission found that there were no parties present with 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. Phillips, seconded by Mr. Hastings, and carried unanimously to approve the application as a preliminary.

C/U #1262—application of GERONE C. AND PATRICIA C. HUDSON to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an electrical business office and warehouse to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.22 acres, more or less, lying west of Road 384, approximately 30 feet south of Road 381.

The Commission found based on comments received from DelDOT that a traffic impact study was not recommended and that the level of service "B" of Road 384 will not

change as a result of this application.

The Commission found that Patricia Hudson and Steve Parsons, Attorney, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the site is 1.22 acres located near Bayard; that the proposed use is for an electrical business office and warehouse; that the applicants have been in business in the area for over thirty years; that the applicants have a need for a new office and warehouse; that there would be no adverse impacts on the neighborhood or to surrounding property values; that fencing is not proposed at this time; that no outside storage is proposed except for four company vans that will be parked behind the building after business hours; that security lighting is proposed; that the property to the north is owned by the applicant's mother; that the applicants reside across the ditch to the south; that minimal signage is proposed; that the front yard area will be grass and landscaped; that the nearest business is approximately one quarter of a mile away at Bayard; that there are several businesses in this area; that the remaining lands will continue to be cultivated; and that a Conditional Use application was chosen since this is a family business and there is a need for this type use in the area.

The Commission found that 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.

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

1. No outside storage of materials shall be permitted.
2. Parking of service vehicles shall be permitted to the rear of the building.
3. One (1) non-illuminated sign, not exceeding thirty-two (32) square feet per side or facing, may be permitted.
4. Area between parking area and the ditch shall be maintained in grass and/or landscaping.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all required agency approvals and or permits.

C/Z #1352—application of LOUIS MOSES, DORA MOSES, AND JAMES MOSES to consider a change of zone from AR-1 Agricultural Residential District to a C-1 General Commercial District in Baltimore Hundred, located west of Road 396, 224 feet northeast of Road 389, to be located on a parcel containing 37,970 square feet, more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "A" of Road 396 may change to a level of service "B".

The Commission found that James Moses and Steve Parsons, Attorney, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that a brochure was submitted with the application; that the proposed use is for expansion of an existing warehouse on an adjacent property; that the existing warehouse was approved approximately six years ago and it has never been empty; that the existing warehouse is 9,800 square feet with eleven (11) rental units; that the proposed warehouse would be 7,000 square feet with seven (7) rental units; that the applicant intends to duplicate the building design; that the existing entrance to the warehouse will be utilized for the expansion; that adequate space is available on the proposed site; that there is a need for this type of use in the area; that there are several C-1 districts in the area; and submitted photographs into the record.

The Commission found that 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.

Motion made by Mr. Phillips, seconded by Mr. Hastings, 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 presented by the applicant and since there are other commercial uses and districts in the area.

C/Z #1354—application of THE STATE OF DELAWARE, DEPARTMENT OF Residential District to a C-1 General Commercial District in Seaford Hundred, located TRANSPORTATION to consider a change of zone from an AR-1 Agricultural south of Road 46 (Dolby Road), 200 feet northwest of Route 13A, to be located on a parcel containing 2.619 acres, more or less.

The Commission found that comments were not requested from DelDOT.

The Commission found, based on a letter received from Stephen C. Seipp, that he has no objections to the rezoning and that he does not object to the proposed construction of the truck sheds or privacy fence.

The Commission found that Jeff Reed, Maintenance Engineer, was present on behalf of this application and stated in his presentation and in response to questions raised by the

Commission that the front portion of the site is zoned C-1; that they propose conforming zoning with the existing uses on the site; that the buildings on site were built in 1955; that the salt shed on site was built in 1980 when the State was exempt from zoning regulations; that DelDOT relocated an area yard to this site in 1976; that two truck sheds are proposed for this site; that the sheds would be three sided block buildings; and that the site is limited due to existing stockpiles.

The Commission found based on comments made by Mr. Lank that a variance will be required from the Board of Adjustment if the proposed truck sheds are to built as located on the proposed site plan.

The Commission found that 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.

Motion made by Mr. Wheatley, seconded by Mr. Phillips, 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 presented by the applicants, since the site is an extension to an adjacent C-1 zoned site, and that the rezoning would bring the site into compliance with the zoning code.

C/Z #1355—application of CONSOLIDATED LAND TRUST, L.L.C. to consider a change of zone from an AR-1 Agricultural Residential District to a MR-RPC Medium Density/Residential Planned Community District in Baltimore Hundred, located east of Road 361, across from Road 362, to be located on a parcel containing 40.62 acres, more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "C" for Road 361 may change to a level of service "D".

The Commission found that this application was reviewed by the Sussex County Technical Advisory Committee on May 20, 1998, and the Development Advisory Service on July 17, 1998.

The Commission found, based on letters received from James and Lori Roe, and Brice and Wanda Butler, that they are opposed to this application since there are drainage problems in the area; the increased density proposed; increases in traffic in the area; loss of wildlife habitat; and negative impacts to property values.

The Commission found that Mike Lynn, developer, Jim Fuqua, Attorney, Jeff Clark of Land Tech Inc., and Charles Miller of Environmental Consultants, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the proposed development is for 88 single family lots with recreation facilities; that the proposed density is 2.2 units per acre; that the total site is 40.60 acres; that the developer has met with the Technical Advisory Committee and the Development Advisory Service; that the development is to be served by the Bethany Beach Sanitary Sewer District and that according to the County Engineer, adequate capacity for expansion is available; that central water provided by Tidewater Utilities is proposed; that according to DelDOT, no negative impact to traffic is anticipated; that one entrance is proposed to serve the development; that the proposed streets will not interconnect with streets in existing developments; that there are no wetlands on the site; that there are no unique characteristics of the property; that the site is a large area with woods and cleared lands; that shopping and medical facilities exist in the area; that the development will provide construction jobs to the area; that the recreational facilities will include a swimming pool with bathhouse and tennis court; that the site is located in the Development District of the Comprehensive Land Plan; that the plan permits four dwelling units per acre; that the site has a series of agricultural ditches which drain in several directions and into the Assawoman Canal; that the stormwater will be piped to ponds on site; that the developer and the Natural Resources Conservation Service have an agreement for the public ditch improvements; that the proposed development is a low density single family community; that innovative designs are proposed; that the clustering of the homes allows for ponds and reduction in tree loss; that the plan creates open space with areas for active and passive recreation; that a sidewalk system is proposed throughout the development; that the plan proposes service drives and open curb parking; that by reducing the lot sizes and setbacks did not create additional density; that the site borders Ocean Way Estates where 19 single family lots exist; that each residential lot will be served by access from an alley; that Ocean Way Estates is at a density of 3.5 units per acre; that a divided boulevard is proposed and that the median will be planted; that as many trees as possible will be saved; that 33 to 34 percent of the site will be open space; that the individual lots will have planted privet hedges; that 176 parking spaces are required and 336 spaces are provided; that the garages will be setback twenty feet from the property lines to allow for off-street parking and driveways; that the applicant has submitted a planting list to an adjacent property owner who has a paddock area for horses; that the architecture of the dwellings will be a California bungalow style; that a Homeowners Association will be formed and future owners will be aware of the horse farm adjacent to the site; that the development will be built in a three year period with approximately 30 dwellings built per year; that approximately \$190,000 in sewer impact fees will be collected by the County; that the market will be an affordable second home and retirement community; that the development creates a desirable living environment; that the lots range in size from 7,800 square feet to 11,500 square feet; that the average lot size is 8,100 square feet; that the depth of the ponds will be about four to

five feet deep; that the ponds should maintain a water level throughout the project; that the development will be a turn key sales package; that the sites will be similar to Shipcarpenters Square in Lewes; that phases one and two will be for 26 lots and phase three will be 36 lots; that the streets will have street lights; submitted nine letters in support of this application; and submitted a package of exhibits from the Technical Advisory Committee Report, Development Advisory Service report, Sussex Conservation District, Department of the Army Corps of Engineers, Department of Transportation, Sussex County Engineering Department, Indian River School District, Mediacom, Bell Atlantic, Millville Volunteer Fire Company Inc., Tidewater Utilities, and Sussex County Comprehensive Land Use Plan.

The Commission found that Paul Keller, a resident of Savannah's Landing, was present and spoke in support of this application since the proposed development will be similar to Savannah's Landing.

The Commission found that Bob Orem, President of the Town Council of Ocean View, was present and spoke in support of this application because of the quality of development that the applicants build.

The Commission found that Jeff Helke, a resident of Ocean Way Estates, was present and spoke in opposition to this application due to drainage problems in the immediate area; and the proposed density.

The Commission found that William Mower, a resident of Ocean Way Estates, was present and spoke in opposition to this application due to drainage problems; impacts on traffic in the area; and the loss of wildlife habitat.

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. Hastings, and carried unanimously to defer action.

III. Old Business

Subdivision #98-6--application of WILLIAM, JR. AND AMY SMACK to consider the Subdivision of land in a GR General Residential Zoning District in Nanticoke Hundred, by dividing 7.36 acres into two (2) lots, and a waiver from the street design requirements, located east of Road 525, 1,187 feet south of Road 526.

The Chairman referred back to this application which was deferred at the September 24,

1998 meeting.

Mr. Abbott advised the Commission that the staff has received a letter from the applicants stating that they will be responsible for the future maintenance of the private street; that the three other owners with access to the street have signed an agreement that the applicants will maintain the street; and that the street will be improved with stone.

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

IV. Other Business

1. McDonald's Restaurant
Revised Commercial Site Plan
Route One and Route 24

Ross Harris of ECI was present as the Commission reviewed a revised commercial site plan for a McDonald's Restaurant at the intersection of Delaware Route One and Route 24.

Mr. Harris advised the Commission that the existing restaurant and bait and tackle store will be demolished and the new restaurant will be closer to Route 24; that four entrances will be closed and that two will be relocated; and that the site plan is a better design than what exist now.

Mr. Abbott advised the Commission that the staff has received a letter of no objection from DelDOT in regards to the entrance locations; that the site plan meets the minimum requirements of the zoning code; read a letter received from Mabel Granke in reference to the revised site plan; and stated that only preliminary consideration be given since the staff has not received all required agency approvals and permits.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval be subject to the staff receiving all required agency approvals and permits.

2. Sea Colony West
Multi-Family Site Plan
Phase 20B

The Commission reviewed a preliminary multi-family site plan for Phase 20B of the Sea Colony West RPC.

Mr. Abbott advised the Commission that this phase is for eight (8) 8 plex buildings, seven (7) 5 plex buildings, and eight (8) 4 plex buildings; that the site plan meets the minimum requirements of the zoning code; that this is the last phase of this project; that the staff has received an approved plan from the Sussex Conservation District; and that approvals are needed from the Sussex County Engineering Office and State Fire Marshal Office.

Motion made by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval be subject to the staff receiving all required agency approvals and permits.

3. Elmeda E. Betts
Lot and 50' Right of Way
Route 30

The Commission reviewed a concept to create a one acre parcel with access from a fifty foot easement off of Route 30.

Motion made by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to approve the lot and right of way as a concept.

4. Sussex West
C/U #1198 Preliminary Site Plan
Road 265

Mr. Lank read a letter from Richard Berl, Assistant County Attorney, in regards to a legal opinion of the findings of fact for Sussex West Manufactured Home Community.

The Commission found based on Mr. Berl's opinion, that the 108 lots do not have to be spread out over the entire 55 acre parcel.

Mr. Abbott advised that Commission that the preliminary site plan was reviewed by the Technical Advisory Committee on September 16, 1998, that the site plan meets the requirements of Ordinance No. 1187 adopted by the Sussex County Council and the minimum requirements of the zoning code; and read a letter received from DelDOT in regards to a proposed inter-connecting road with the existing Sussex East Park.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried three votes to none, with Mr. Hastings abstaining, to approve the site plan as a preliminary.

Mr. Allen read a letter received from Mr. Capuno in reference to Mike Brady being helpful.

Mr. Allen stated that it should be noted in the minutes that Joyce Watkinson is doing a commendable job and that the Commission extends their thanks.

Meeting adjourned at 10:45 P.M.