

MINUTES OF THE REGULAR MEETING OF NOVEMBER 7, 1991

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 7, 1991, at 7:30 P.M. in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Magee, Mrs. Monaco, Mr. Ralph, Mr. Smith, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planning Technician.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of October 24, 1991, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #1144--V & L Partnership

James Fuqua, attorney, was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR-RPC General Residential-Residential Planned Community in Indian River Hundred, located on the southeast side of Route 24, 600 feet north of Route 5 and Route 22, to be located on a parcel containing 59.05 acres more or less.

Mr. Lank summarized comments received from D.N.R.E.C. Division of Water Resources, D.N.R.E.C. Division of Waste Management, D.N.R.E.C. Division of Water Resources Pollution Control Branch, D.N.R.E.C. Division of Water Resources Water Supply Branch, the Department of Agriculture Division of Resource Management, County Engineering, the Sussex Conservation District, the Fire Marshal's Office, and the Department of Transportation.

Mr. Lank read a letter received from Townsends in opposition to this application.

Mr. Fuqua stated the site is wooded and has never been used for agriculture.

Mr. Fuqua stated the applicants plan to develop 201 lots, the entrance would be off Route 24, common areas would be provided, private streets are proposed, central sewer and central water are proposed, there would be deed restrictions, and a homeowners association would be created.

Joseph Conaway, Cooper Realty, stated there are 19 mobile home parks in the area with rental lots. There is a need for lots for mobile homes which can be purchased.

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Charles Marsh, Ron Beideman, and Julie Hall spoke in favor of this application.

Doug Nelson and Leon Burton spoke in opposition since there are no restrictions on the age of manufactured homes allowed in this development.

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 members of the Technical Advisory Committee, that the Soil Evaluation Group of the Division of Water Resources of the State D.N.R.E.C. has reviewed the proposal and reported on mapped soils on the parcel; that the Evesboro soil type is the only soil on-site suitable for on-site waste water disposal; that a soil feasibility study must be conducted using a 300 foot grid; that a report must be submitted to D.N.R.E.C. with certain fees; and that the maximum sitting density shall be one dwelling per half acre; that the Division of Air and Waste Management, Solid Waste Branch, of the State D.N.R.E.C. advises that Delaware regulations prohibit the burial of construction/demolition debris, including trees and stumps, except at approved locations, and that the Branch encourages recycling; that the Pollution Control Branch of the Division of Water Resources of the State D.N.R.E.C. advised that regulations require that all projects which will generate a wastewater flow greater than 2,000 gallons per day or a pump station must obtain a State construction permit submitted through the Sussex County Engineer with certain fees; that the Water Supply Branch of the Division of Water Resources of the State D.N.R.E.C. advises that all planned developments which will withdraw 50,000 gallons or more per day are required to provide central water; that the operator must obtain a certificate of Public Convenience and Necessity before providing water service; that the developer is encouraged to locate wells in compliance with the State Wellhead Protection Plan; that the Division of Resource Management of the State Department of Agriculture advises that a Land Evaluation and Site Assessment (LESA) analysis has been completed on this property and that the analysis indicated that the site scored 201 out of 300 points indicating an average site for economic, long-term agricultural production; that the forested parcel accounts for the above average land evaluation score and reflects the highly productive qualities of the soil type; that the site assessment score totaled 105 out of 200 points which reflects that 20% of the area within one and one-half miles of the site has been developed and that agricultural investment within the parcel is below average; that the development

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of 201 lots at this location will have a long term impact on agriculture in this area; that the Division is concerned with the loss of prime forest land in the Inland Bays area; that maintaining a forested cover will aid in reduction of movement of sediment into wetlands; that, based on the high Land Evaluation score, the Division opposes this application; that the Sussex County Engineering Department advised that Sussex County Ordinance No. 657 required Department review and approval of private water and wastewater systems; that wetlands delineation shall be required to be performed by a qualified professional; that notes referencing storm water management areas, drainage and utility easements, maintenance, and flood prone areas shall be placed on the record plat; that if the appropriate revisions are made, preliminary approval may be considered; that a definite determination cannot be made in reference to expansion of the Long Neck Sanitary Sewer District without completion of a comprehensive planning study; that the property cannot be considered for inclusion in the sanitary sewer district until fifty (50) connections have been made within the existing district; that the Soil Conservation Services provides a soil interpretation guide of the soil types; that the Sussex Conservation District advises that no construction may take place on-site until a sediment control and storm water management plan is approved; that certain additional data shall be provided, and fees paid for submission of necessary plans; that the Office of the State Fire Marshal advised that since the project will be served by a central water supply system, a hydrant system will be required meeting State fire protection regulations; that street widths must be maintained in order to ensure fire department access to dwellings; and that revised plans, applications, and fees must be submitted in order to obtain approvals.

The Commission found, based on additional comments submitted by the Sussex Conservation District, that soils on-site are mapped to be Evesboro loamy sand; that the suitability of the soils for the intended use may vary from none to slight limitations; that the evaluation of the soils in respect to erosion and sedimentation control may have severe limitations during construction and slight limitations after completion of any construction; that the farmland rating of the soil type is of state wide importance; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any off-site drainage improvements; and that it may be necessary for some on-site drainage improvements.

The Commission found, based on comments received from the Division of Water Resources, Wetlands and Aquatic Protection Branch, that wetlands regulated by the state do not appear within the area of the site; that wetlands regulated by the U. S. Army Corp. of Engineers do appear to be within the area of the site; that any activity such as filling, dredging, crossing with a road

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or placement of a structure may require a permit; that Quinea Creek and its tributaries are regulated by both the Corp. and the State; that a storm water management facility should be implemented to prevent surface water run off from directly entering adjacent wetlands and waterways; that in order to reduce the likelihood of wetlands impacts and future wetlands violations, property lines should not extend into wetlands; and that wetland areas could be dedicated as undisturbed community open space.

The Commission found that several comments have been received from DelD.O.T. which indicate that originally a traffic impact study was requested in October 1990; that the Department decided to do a safety improvement project at the intersection of Route 24 and Route 22; that a representative of the partnership has agreed in principle to the concept and amount of donation to be made in lieu of a traffic impact study; that an entrance permit will not be issued until the donation is completed in written agreement; and that the entrance to the project will be done to incorporate the design of the Route 24 and Route 22 improvements.

The Commission found that one of the owners/developers was present with legal counsel and a realtor/consultant; and that the owners/developers plan to utilize the 59 acre site for a maximum of 201 single family lots.

The Commission found, based on statements made by representatives of the application, that they are surprised by the Department of Agriculture's recommendation of denial since the site is totally wooded and not in agricultural activity; that the developers have agreed to contribute to the intersection improvements at Route 24 and Route 22; that public water will be available on-site from the Public Water Supply Co., a franchise in the area; that they have no intent to develop the site with septic systems; that public sewer is necessary to complete the project; that they have no objection to public sewer being a condition of approval; that three (3) open space areas are proposed in the project, one for tennis, one for basketball, and one for tot lots; that no lot lines will encroach the Federal wetland boundaries; that a twenty (20) foot building restriction line is proposed from Federal Wetland boundaries; that the Federal Wetlands are to remain in their natural state and may be conveyed to the State or a nature conservancy; that storm water management will conform to all agency requirements for quality and quantity; that some of the lots may be utilized for storm water management, therefore, reducing the total number of lots; that storm water management ponds will not be located in or reduce recreation areas; that the area is mixed with agriculture, single family housing, and commercial uses; that the area is serviced by the Delaware State Police, the Indian River Fire Company, and the Indian River School District; that the site

is located in close proximity to a hospital and hospital satellite facilities; that the only tree removal will be for street construction, necessary drainage facilities, and home improvement locations; that stick built homes, modular, and new or used manufactured homes may be located on individual lots; that manufactured homes will have quality requirements and restrictions; that 19 manufactured home parks exist on Long Neck Road with 5,194 sites; that 2 of the 19 parks provide for ownership by long term leases; that with the 19 manufactured home parks only 42 sites are available for used manufactured homes; that no lots for manufactured homes are for sale in the area; that 320 lots are available for lease for manufactured homes in the area; that a need exists in the area for ownership of lots; that the majority of the purchasers may be individuals who now lease lots in parks along Long Neck Road; that it may cost \$1,000,000. to develop the site with the appropriate improvements; that the site is in compliance with the Coastal Sussex Land Use Plan due to its superior design to preserve wetlands by providing open space, by creating a community atmosphere; since the site is located with the designated development district; since the site is not within the Conservation Zone; since the site is in close proximity to a village shopping center; since the site will be in compliance with the trends, services, and existing use projected in the Coastal Sussex Land Use Plan; and that the project will not be developed without county sewer availability.

The Commission found that the applicants submitted correspondence from DelD.O.T., the Public Water Supply Company, Inc., County Engineering, a comparison of purchase vs. rental, and proposed restrictions.

The Commission found that three (3) persons spoke in support of the application due to the creation of lots for purchase for manufactured home owners, since central water and public central sewer is proposed, environmental protection, since a committee will be created to review quality of units placed in the project, and since the lots will be purchased, the buyers will not have to fight rental increases annually as they do in rental parks.

The Commission found that two (2) persons spoke in opposition and expressed concerns in reference to depreciation of property values due to placement of used manufactured homes, the lack of age limitations for the used manufactured homes, and since sites are available in the area for manufactured homes in compliance with county regulations.

The Commission found that one (1) letter was received in opposition from an adjacent land owner which referenced that the project is not in keeping with the current land use plan and would adversely affect the value of Townsend's property.

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Motion made by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to defer action.

2. RE: ORDINANCE TO AMEND CHAPTER 99  
(length of cul-de-sac)

Mr. Lank introduced the proposed ordinance to amend Chapter 99 of the Code of Sussex County relating to maximum lengths of cul-de-sac streets.

Mr. Lank advised the Commission that present County regulations provide for 600 foot maximum cul-de-sac length and that variances have been necessary to consider streets of greater length; that DelD.O.T. regulations provide for 1,000 foot cul-de-sac lengths; and that the intent of the Ordinance is to bring the County regulations into conformance with the DelD.O.T. regulations.

There was a consensus of the Commission that the regulations should be created equally.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this amendment to the Sussex County Council with the recommendation that it be approved as submitted.

3. RE: ORDINANCE TO AMEND CHAPTER 115  
(aquaculture)

Mr. Lank introduced the proposed Ordinance to amend Chapter 115 of the Code of Sussex County relating to aquaculture (fish and frog farms).

Mr. Lank advised the Commission that the definition of aquaculture conforms to Department of Agriculture regulations; that aquaculture activities will be permitted uses in farm ponds or structures on five acres or more and that special exception provisions will be eliminated in some zoning classifications.

Mr. Lank advised the Commission that when farm ponds are created in compliance with the Code of Sussex County, no spoil is removed from a site; and that if spoil is removed from a site, a Conditional Use for a borrow operation shall be required.

Motion made by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved as submitted.

OTHER BUSINESS

1. RE: Robert Bayly  
C/U #981 & C/Z #1137  
Site Plan

The Commission reviewed a commercial site plan for a salvage yard, auto repair garage and auto sales area.

Mr. Abbott advised the Commission that the site plan complies with Chapter 115 of the Code of Sussex County. The site plan has a twenty five (25) foot setback for the car sales and parking area, and the salvage yard area has a seven (7) foot chain link fence with slatted screen.

The site plan also complies with the stipulations imposed by the County Council.

Mr. Lank advised the Commission that the Sussex County Building Code has approved the addition that was built on the garage.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the site plan as submitted.

2. RE: Atlantic Auction Co., Inc.  
Site Plan

The Commission reviewed a commercial site plan for a storage building and possible auction building.

Mr. Abbott advised the Commission that the site plan complies with Chapter 115 of the Code of Sussex County.

Mr. Abbott advised the Commission that the owner intends to keep the driveway and parking area gravel since the property is an open field.

The Commission had questions about parking if auctions are held at this site. Mr. Lank advised the Commission that the parking can be located on the property as overflow parking.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the site plan as submitted and to allow for gravel parking and driveway.

3. RE: Christopher Hitchens  
Shed on vacant lot

The Commission reviewed a request to construct at 8 foot by 10 foot shed on a vacant parcel of land.

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Mr. Abbott advised the Commission that at this time, the applicant will not be starting a dwelling on the property within six (6) months as required by Chapter 115 of the Code of Sussex County.

The applicant needs the shed to care for the property since grass, trees, and shrubs have been planted on the parcel.

Mr. Abbott advised the Commission that the developer of the property has sent a letter with no objections of the shed being placed on the property.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve this request.

4. RE: Bethany Bay  
Phase I, Section 2.3

The Commission reviewed a revised site plan for this section of Bethany Bay.

The Commission voted at a previous meeting that the project comply with the master plan which shows a twenty (20) foot setback between units.

Jeff Clark of Land Tech, Inc. advised the Commission that Mr. Pettinaro is willing to relocate one dwelling unit and two (2) foundations to meet the twenty foot setback between structures. There would still be four structures where there is not a twenty foot setback between structures.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to defer action pending a request for legal consideration for Michael Moore to appear before the Commission to discuss his involvement with this project.

OLD BUSINESS

1. RE: C/U #988--John E. and Janet E. Macklin

Application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for the Operation of a Tire Sales and Service Business, Demolition, and Landscaping Business lying on the northwest corner of the intersection of Route 207 and Route 206, and to be located on a parcel containing 7.79 acres more or less.

The Chairman referred to this application which had been deferred on October 24, 1991.

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

There was a consensus of the Commission that the site would not be out of character with some of the Lincoln area if proper zoning is in place and if controls are provided.

The Commission discussed restrictions. Mr. Lank read a list of restrictions for consideration.

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

1. All tires shall be stored in the warehouse or storage building.
2. All tire sales and service activities, on-site, shall be performed in service bays, not outside.
3. No tires, materials or debris shall be stored outside of the warehouse or storage building.
4. No inoperable unlicensed vehicles shall be stored on-site, unless within the warehouse or storage building.
5. All junk, debris, trailer frames, inoperable unlicensed trucks and buses, and storage tanks shall be removed from the premises within six (6) months of the approval of this Conditional Use unless stored within a warehouse or storage building.
6. All business vehicles shall be parked in an orderly manner per an approved site plan.
7. No materials or debris shall be burned or buried on-site.
8. Stockade fencing shall be provided along Route 206 in the same fashion as the existing fence. Fencing shall be maintained in a good appearance.
9. Advertising signage shall be limited to one sign per street frontage. Signs shall not exceed 32 square feet per side or facing.
10. The applicant shall present all appropriate agency permits and/or approvals for entrances, building code and fire marshal regulations, and sediment, erosion and storm water management regulations.

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11. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
12. Permits issued under this Conditional Use approval may be revoked by the Director for failure to comply with conditions of approval or applicable regulations per Chapter 115, Article XXIV, Section 115-176, of the Code of Sussex County.

2. RE: Subdiv. #90-33--Gerald Hickman  
Holt's Lake Acres

Mr. Abbott advised the Commission that this four (4) lot subdivision received preliminary approval on November 29, 1991.

Mr. Abbott advised the Commission that all required agency approvals have been received and that the subdivision is in compliance with the Subdivision Code.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve this subdivision as a final as submitted.

3. RE: Subdiv. #90-18--Junior Armiger  
Hill'N'Dale Section 3

Mr. Abbott advised the Commission that the developer is requesting a one year time extension. This subdivision received preliminary approval for forty (40) lots on December 27, 1990.

Mr. Lank advised the Commission that the developer was under the assumption that a central water system was required. Since the central water is not required, the developer wishes to create additional lots.

Mr. Lank advised the Commission that since additional lots are intended, the developer must go through a public hearing process, this application may expire before the scheduled public hearing, and that should the proposed resubdivision receive preliminary approval, this application will become void.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve a one (1) year time extension for this subdivision.

4. RE: C/U #884--Cool Branch  
Site Plan

The Commission reviewed the site plan for a 621 lot manufactured home park.

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The Commission was advised that all agency approvals have been received, and that the site plan complies with Chapter 115 of the Code of Sussex County.

Mr. Lank advised the Commission that there were concerns about the lot width at the required setbacks on cul'de'sacs. As per the definition of lot width in Chapter 115, this site plan meets the requirement for lot widths.

Mr. Lank advised the Commission that the definition should be amended to include the radius on cul'de'sacs at the required setback.

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

Meeting Adjourned at 10:30 P.M.

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Lawrence B. Lank, Secretary