

MINUTES OF THE REGULAR MEETING OF NOVEMBER 12, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 12, 1998, at 7:30 P.M., in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware, with the following present;

Mr. Allen, Mr. Hastings, Mr. Lynch, 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.

Motion made by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to approve the minutes of October 22, 1998, as amended.

Mr. Schrader explained how the meeting would be conducted.

PUBLIC HEARINGS

C/Z #1356--application of ELIZABETH ANN HENDRICKS to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a C-1 General Commercial District in Lewes and Rehoboth Hundred, located northwest corner of Route One and Dodd Avenue, to be located on a parcel containing 10,000 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 "D" of Route One will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch will be affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Sassafras sandy loam which have slight limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; and that the soil type is considered Prime Farmland.

The Commission found that seventeen (17) letters in opposition have been received and were made a part of the record.

The Commission found that Darin Lockwood, son-in-law to the applicant, was present and stated in his presentation and in response to questions raised by the Commission that the site has a non-conforming use, a dwelling and flag shop; that the flag shop has been in business since the mid sixties; that they are not proposing a retail business since the site is not adequate; that he has spoken to George Shaw of DelDOT and found that the entrance onto Route One will be closed and the entrance to Dodd Avenue will be permitted to

remain open; that they propose to build a five (5) unit apartment building; that rental properties exist in the area; that adequate space exist on the site for parking; that parking for the units will be beneath the building; that additional parking will be located on site; that parking spaces will be 10' by 20'; that the building will not exceed 42' in height; that a 3' wide landscape buffer will be maintained along Route One; that water and sewer service will be obtained from Sussex County; that each unit will contain approximately 1,800 to 2,000 square feet; that variances will be needed for the density and the setback from Dodd Avenue; and that there are no commercial uses located along Dodd Avenue.

Mr. Wheatley abstained from participating and voting on this application due to a possible conflict of interest.

The Commission found that Mark Eisenhower, John Steele, Kay Wheatley, and Lisa Presheunis, of the seven (7) people present in opposition, stated that Dodd Avenue is a residential subdivision street which has year-round and seasonal occupancies; that the residents of the area want to preserve the single family residential character of the area; that the deed to the property restricts the use of the property to residential, and a 20' setback from any street; that traffic and traffic safety is a major concern; that parking needs to be addressed since on-street parking has been a problem in the area for years; that the change of character may negatively impact property values; that the number of occupants using the units will be a concern due to possible noise; that the proposed building will detract from the quaintness of the development since the homes in the area are mostly one story and the proposed building is three stories.

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 with 4 votes, with Mr. Wheatley abstaining, to forward this application to the Sussex County Council with the recommendation that it be denied since the site may not be a proper location for rezoning, since the use does not conform to the single family character of the area along Dodd Avenue, and based on the record of opposition.

C/Z #1357--application of KENNETH WOODRING to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-RPC High Density Residential District - Residential Planned Community in Baltimore Hundred, located north side of Road 382 (also known as State Road 20), 1,500 feet west of Route 54, to be located on a parcel containing 31.18 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 of Road 382 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected; that it may be necessary for some off-site and on-site drainage improvements due to some seasonally flooded soils from November to April; that the soils on the site are mapped as Evesboro loamy sand, Kenansville loamy sand; Osier loamy sand; and Woodstown sandy loam; that the Evesboro and Kenansville soils have slight limitations; that the Woodstown soils have slight to moderate limitations; that the Osier soils have severe limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the farmland rating of the Evesboro and Osier soils is of Statewide Importance; and that the farmland rating of the Kenansville and Woodstown soils is Prime Farmland.

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 480' from the Fenwick Island Sanitary Sewer District; that a regional planning study is currently being prepared to determine if existing sanitary sewer facilities have been designed with adequate capacity to address future development in the area; that an extension of a regional sewer line will be required with some oversizing to accommodate up-gradient development areas; that the project should be served through the extension of the Fenwick Island Sanitary Sewer District; that the developers should consider sanitary sewer service for the project; that the developers need to be aware that the current impact fee for the Fenwick Island Sanitary Sewer District is \$2,489 per equivalent dwelling unit; and that all work required to extend sanitary sewer service to the project will be at their expense and in accordance with Ordinance No. 38 procedures.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State does not oppose this rezoning; that the DNREC notes that all public water wells shall be located at least 150' within the development's outermost property lines; that all wells require permits; that all work on wells must be supervised by a licensed Delaware Water Well Driller; that the developer should contact DNREC for more information on the legal requirements for setting up a water distribution system; and that the applicant shall be required to submit a site plan to the Sussex County Office of the State Fire Marshal.

The Commission found that Kenneth Woodring, Steve Parsons, attorney, and Jeff Clark of Land Tech, Inc. were present and stated in their presentation and in response to questions raised by the Commission that the site is located in a Development District according to the Comprehensive Plan maps; that a need exists in the area for this type of housing; that they propose to build a senior housing project; that the project will be developed in 6 phases; that approximately 32 units will be developed per phase; that the project should be completed within 3 years; that they propose to sell the units as condominiums, not rental apartments; that there is a definite need for units for retirees now; that there will be a desperate need for units for retirees within 5 years; that property values should be enhanced; that no adverse impact on property values are anticipated; that a subdivision exist to the north; that a convenience store and a couple of parcels exist to the south; that two subdivisions exist to the southwest; that a farm and a subdivision exists to the west; that approximately 5 acres of the 31 acres is wooded; that approximately 1.75 acres of the parcel is Federal wetlands; that no tax ditches exists on the site; that the site is flat; that the site is not located in a flood zone; that Artesian Water Company is willing to supply water, and that fire hydrants will be a part of the system; that the development is designed at MR Medium Density Residential densities; that the density complies with the recommendation of the Comprehensive Plan; that there will be minimal traffic impact; that parking is proposed in parking lots and garages with 322 spaces proposed where 270 spaces are required; that stormwater management will be handled with a series of wet ponds; that stormwater will be discharged at the same rate as existing run-off; that they are willing to work with the adjoining landowner, Tim Monro, in designing the stormwater management plan so that his existing ponds are not impacted; that there are no plans for any wetlands disturbances; that an application will be filled with the County Engineering Department to extend the Fenwick Island Sanitary Sewer District; that the site is within the Roxana Fire Company service area; that shopping needs can be met in the Ocean City and Selbyville areas; that no negative comments were received from the Development Advisory Service; that they have not shown an agricultural buffer since the site is in a Development District and the parcels immediately adjoining will probably be developed in the future; that the home on the site will be demolished; that they have been working with Moore, Warfield & Glick, a real estate firm in Ocean City to market the project; that the price of the units will be in the \$114,500 range; that the units will contain approximately 1,100 square feet with options for garages and sun-rooms; that the units will be constructed on concrete slabs; that the community facilities will be constructed with Phase I and Phase II, during the first year; and that no commercial uses are intended.

The Commission found that Rose Oruc, Bill Paxton, and Tim Monro, of the seven (7) people present in opposition, stated that they were concerned with high density development adjoining single family residential lots; that drainage and changes in the drainage pattern, noise, traffic, traffic safety, flooding of Road 381, emergency

evacuation routes should all be considered prior to any action on this application; and that a 20' wide easement exists along Mill Creek Acres.

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. Wheatley, and carried unanimously to defer action until December 10, 1998.

C/Z #1358--application of TAGGART FAMILY TRUST to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a B-1 Neighborhood Business District in Baltimore Hundred, located east of Route One and 300 feet north of Road 361A and adjacent to south boundary line of Bethany Beach, to be located on a parcel containing 1.16 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" of Route One will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected; that it may be necessary for off-site and on-site drainage improvements due to the wet soil type which is seasonally flooded from November through April; that the soils are mapped as Fallsington sandy loam which has severe limitations; that the applicant shall be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; and that the Fallsington soils are considered Prime Farmland and of Statewide Importance.

The Commission found that Judy Taggart Bullis and James Fuqua, Attorney, and Jeff Clark of Land Tech, Inc. were present and stated in their presentations and in response to questions raised by the Commission that the family has owned the site for approximately 46 years; that their original application had been withdrawn so that they could apply for a Conditional Use; that they found that they could not apply for a Conditional Use in a MR Medium Density Residential District and had to reapply for the B-1 Neighborhood Business District; that the site is located in the Bethany Beach Sanitary Sewer District; that water supply may be obtained from either a private utility or Bethany Beach; that a stormwater management study is being performed; that no negative impact on traffic is anticipated; that one entrance/exit is proposed; that professional offices are proposed; that Route One is not an appropriate location for residential use; that the zoning map indicates residential use in Bethany Beach and multi-family and commercial uses in the unincorporated area; that B-1 Neighborhood Business is proposed to be adjacent to

Bethany Beach to lessen the impact of commercial and multi-family densities and uses; that the site plan provides for 39 parking spaces for the offices and 2 spaces for the existing cottage on the site; that an alternative site plan has been prepared that reverses the building location and parking; that stormwater ponds will be located along Route One; that several professionals have indicated an interest in locating at the site; that the applicant is willing to comply with either site plan; that the history of zoning in the area suggest rezoning to the limits of Bethany Beach; that B-1 Neighborhood Business zoning complies with the Comprehensive Plan; that the site is more feasible for professional offices than residential uses; and that the building design proposed is one-story with roof dormers built on a wooden frame over a crawl space with the finished first floor approximately 4' above grade.

The Commission found that Eugene Muskus, Rickard Hicks, Doug Williams, Mathew Whelan, Fred Gillespie, and Dr. Venables of the eighteen (18) people present in opposition stated that neighbors were not informed of any proposed changes; that the use creates a landlocked home; that the rezoning will create a single family parcel between two commercial parcels; that the use may change after rezoning; that the use should be resort oriented residential; that drainage should be a concern; that the referenced natural woods does not exist; that the need is questioned since the Beebe center is closed part of the year; that the existing MR zoning creates a good buffer between the homes in Bethany Beach and the commercial and multi-family activities; that lots and homes were purchased knowing that the site was a residential district; that traffic and traffic safety should be a major concern; that several vacant commercial spaces exists in the area; and that the area residents are concerned with the other uses permitted in a B-1 Neighborhood Business District and depreciation of their property values.

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. Wheatley, and carried unanimously to defer action until December 10, 1998.

OLD BUSINESS

C/Z #1355--application of CONSOLIDATED LAND TRUST, L.L.C. to amend the Comprehensive Zoning Map 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.

Mr. Lynch stated that he will abstain from voting since he was not present at the public hearing.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried with 4 votes to defer action so that Mr. Lynch may review the record and participate. Mr. Lynch abstained from voting.

OTHER BUSINESS

1. Dr. Bruce M. and Brenda C. Topol
C/U #1260 Site Plan
Route 9

The Commission reviewed the final site plan for a doctor's office located on Route 9 near Lewes.

Mr. Abbott advised the Commission that the site plan is the same as what was submitted during the public hearing, that the County Council revised the stipulations to allow for a light for the sign and the hours of business, and that the required agency approvals have been received.

Mr. Schrader advised Dr. Topol that the County has a twenty-foot sewer easement along the front of the property and questioned where the sign will be located.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as submitted subject to receipt of all agency approvals.

2. Coco Restaurant
Revised Commercial Site Plan
Route One

The Commission reviewed a revised site plan for Coco Restaurant located on Route One.

Mr. Abbott advised the Commission that the owner proposes to relocate the dumpster to the rear of the property and that it would be a minimum of five feet from the lot lines.

Motion made by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan as revised.

3. Shawn Tidwell and Katie Collins
Lot on 50' Right of Way
Road 326

The Commission reviewed a concept to create a parcel with access from a fifty-foot right of way off of Road 326 near Millsboro.

Mr. Abbott advised the Commission that there is an existing 12 foot wide road, that the applicants will dedicate an additional 38 feet to make the right of way fifty feet wide, and wish to create a one acre parcel.

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

4. Melvin and Wanda Dehn
2 lots on 50' Right of Way
Road 77

The Commission reviewed a concept to create two additional lots with access from a fifty-foot right of way off of Road 77 near Seaford.

Mr. Abbott advised the Commission that the existing parcel has fifty feet of road frontage, that the owners would like to extend the right of way back to the rear of their property and to create two additional lots with access from the right of way.

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

5. Dominic Meglio
Lot on 50' Right of Way
Route 20

The Commission reviewed a concept to create a fifty-foot right of way to serve as access for a new parcel located off of Route 20 near Concord.

Mr. Abbott advised the Commission that the owner proposes to separate a commercial zoned parcel from a residential parcel and to create a fifty-foot right of way to serve as access to the residential lot.

Motion made by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to deny the request as submitted. It was the consensus of the Commission that the applicant files an application for a major subdivision.

6. Franklin and Kim Bowles
Agricultural Setback Modification
Road 229-B

The Commission reviewed a request to waive the fifty-foot setback requirement from agricultural lands for a deck attached to a dwelling located on Road 229-B.

Mr. Abbott advised the Commission that the deck is 47 feet from the rear property line, and that the adjoining owner has written a letter of no objection to the waiver.

Motion made by Mr. Wheatley, seconded by Mr. Phillips, and carried unanimously to waive the setback requirement.

Meeting adjourned at 10: 25 P.M.