

MINUTES OF THE REGULAR MEETING OF DECEMBER 8, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 8, 1994, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mrs. Monaco, Mr. Phillips, Mr. Ralph, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the minutes of November 17, 1994 as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1095--Harry W. & Vesta A. Mitchell

Harry W. Mitchell, the applicant, and Thomas Cooper of Consultants Unlimited, Inc. were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Seaford Hundred for an Electrical Contractor Office and Storage of Parts lying on the west side of Route 552, approximately 310 feet northwest of Route 20, on a parcel containing 2.34 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District and the Delaware Department of Transportation.

Mr. Mitchell stated that he proposes to utilize an existing building on the site for an office for his electrical contracting business, that the business performs services for residential uses and business/commercial uses, that the business maintains to service trucks, that the trucks will be parked overnight in the buildings, that he just recently moved onto the site, that the business presently is operated from another location, that he may stored conduit outside, that the business has four (4) employees, that adequate parking is available on the site, that he would have no objection to employees parking being required behind the building, that no signage is intended, that no adverse impact is anticipated on the neighborhood, and that a previous land owner remanufactured toy tractors at the site within the existing buildings.

Mr. Cooper stated that the business must not be obtrusive since the applicant has operated the business for fourteen (14) years from a residential area, Woodside Manor, within the incorporated limits of the City of Seaford.

No parties appeared in opposition.

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 the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand with a loamy substratum, that the soils are relatively free of limitations or that the limitations are easily overcome, that the applicants shall be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction, that the soils are considered of Statewide Importance and Hydric in small depressions, that no storm flood hazard areas or tax ditches are affected, that it may not be necessary for any on-site or off-site drainage improvements, and that if any additional construction is proposed buildings should be placed near the front of the property.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic on Road 552.

The Commission found that the applicant was present and stated that he proposes to utilize an existing building on the site for an office for his electrical contracting business, that the business performs services for residential uses and business/commercial uses, that the business maintains to service trucks, that the trucks will be parked overnight in the buildings, that he just recently moved onto the site, that the business presently is operated from another location, that he may store conduit outside, that the business has four (4) employees, that adequate parking is available on the site, that he would have no objection to employees parking being required behind the building, that no signage is intended, that no adverse impact is anticipated on the neighborhood, and that a previous land owner remanufactured toy tractors at the site within the existing buildings.

The Commission found that a consultant present on behalf of the application stated that the business must not be obtrusive since the applicant has operated the business for fourteen (14) years from a residential area, Woodside Manor, within the incorporated limits of the City of Seaford.

The Commission found that no parties appeared in opposition.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the buildings already exist, since the buildings were previously used for business activities, and with the following stipulations:

1. No signage shall be permitted.
2. Business vehicles shall be parked in the buildings when not in use.
3. Employee parking shall be to the rear of the existing buildings, and not adjacent to adjoining lands of other ownership.
4. No outside storage shall be permitted.

2. RE: C/U #1096 -- Angola Community Partners, L.L.C.

Craig Hudson, a partner, and John Sergovic, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for 117 Dry Boat Storage Slips within an Existing Manufactured Home Park lying on the north side of South Beach Drive, within Angola Beach Mobile Home Park, 1,200 feet west of Route 278, on a parcel containing 1.99 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District and the County Engineering Department.

Mr. Sergovic stated that they had appeared before the Commission on July 28, 1994 to requested an amendment to their site plan, and that the Commission preferred that an application for a Conditional Use for the storage area be submitted.

Mr. Sergovic added that boats have been stored on individuals lots within the park, that recent restrictions created by the developer have limited the storage of boats on an individual lot, that the boat storage area will improve the appearance of individual lots, and that the site is close to the Marina.

Mr. Hudson stated that he may provide water on the site to wash down boats, that the boat storage area is centralized within the park, that 422 home sites existing within the park, that approximately 150 of the resident families have boats, that the park has developed over a 25 year period, that some of the lot are extremely small pie shaped lots where parked boats have created very crowded site conditions, that the area proposed is within an area originally designated as recreational area and was utilized for a septic field, that in some areas of the park people have parked their boats within buffer areas to the rear of

lots, that no fees are proposed to be charged for space within the storage area, that space will be restricted to residents of Angola Beach Mobile Home Park and Angola Estates only, that insurance may be provided by the developers, that security lighting has been provided for the storage area, that full time security personnel travel the streets within the park, that trees and or shrubs are proposed to be planted for screening and noise buffering, that the area is centrally located to the marina and boat ramp, that the marina has 72 slips, that the corporation purchased the park in May 1993, that the storage area was created late spring 1994, that the drives in the storage area are clamshelled and that the spaces will remain grassed, that boat spaces vary in length from 27.5 feet to 33 feet, and that a resident may temporarily park his boat and trailer on an individual lot while actively using the boat, but a boat may not be permanently stored on the individual lot.

Joseph Mann, one of the 12 people present in support of the application, stated that the developers have improved the park since they purchased the park, that individual lots look better without boat storage on site, and that some boats have remained stored on individual lots and never used or the area around them maintained.

Dennis Norwood, President of the Angola Beach Tenants/Homeowners Association, Virginia Heath, Anthony DePaola, and Ralph Niblick, spoke in opposition and expressed concerns about impacts on lots immediately adjacent to the storage area, that homeowners insurance does not cover a boat stored away from their residence, that the storage area is serving residents within Angola Estates, that if the use is approved additional space will be needed in the future to serve the undeveloped area of Angola Estates, that the residents have always been allowed to keep their boats in their yards and should be allowed to continue, that the boat storage area is a good idea for people that want to use it, but the people should be allowed to choose where they stored their boat, and that the hearings should have been scheduled during the summer when the majority of the residents use the park.

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 the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand with a loamy substratum, that the Evesboro

soils are relatively free of limitations or that the limitations are easily overcome, that the developers will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil type is considered of Statewide Importance, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from the County Engineering Department, that the site is located in an area west of the West Rehoboth Expansion Area where County Council has agreed to restrict zoning changes and conditional uses in subdivision approval as outlined in a Memorandum of Understanding between the State DNREC and County Council.

The Commission found that the attorney present on behalf of the applicant stated that they had appeared before the Commission on July 28, 1994 to request an amendment to their site plan, and that the Commission preferred that an application for a Conditional Use for the storage area be submitted, that boats have been stored on individual lots within the park, that recent restrictions created by the developer have limited the storage of boats on an individual lot, that the boat storage area will improve the appearance of individual lots, and that the site is close to the Marina.

The Commission found that one of the owners of the Park stated that he may provide water on the site to wash down boats, that the boat storage area is centralized within the park, that 422 home sites exist within the park, that approximately 150 of the resident families have boats, that the park has developed over a 25 year period, that some of the lots are extremely small pie shaped lots where parked boats have created very crowded site conditions, that the area proposed is within an area originally designated as recreational area and was utilized for a septic field, that in some areas of the park people have parked their boats within buffer areas to the rear of lots, that no fees are proposed to be charged for space within the storage area, that space will be restricted to residents of Angola Beach Mobile Home Park and Angola Estates only, that insurance may be provided by the developers, that security lighting has been provided for the storage area, that full time security personnel travel the streets within the park, that trees and or shrubs are proposed to be planted for screening and noise buffering, that the area is centrally located to the marina and boat ramp, that the marina has 72 slips, that the corporation purchased the park in May 1993, that the storage area was created late spring 1994, that the drives in the storage area are clamshelled and that the

spaces will remain grassed, that boat spaces vary in length from 27.5 feet to 33 feet, and that a resident may temporarily park his boat and trailer on an individual lot while actively using the boat, but a boat may not be permanently stored on the individual lot.

The Commission found that one of the 12 people present in support of the application stated that the developers have improved the park since they purchased the park, that individual lots look better without boat storage on site, and that some boats have remained stored on individual lots and never used or the area around them maintained.

The Commission found that four people spoke in opposition and expressed concerns about impacts on lots immediately adjacent to the storage area, that homeowners insurance does not cover a boat stored away from their residence, that the storage area is serving residents within Angola Estates, that if the use is approved additional space will be needed in the future to serve the undeveloped area of Angola Estates, that the residents have always been allowed to keep their boats in their yards and should be allowed to continue, that the boat storage area is a good idea for people that want to use it and that people should be allowed to choose where they stored their boat, and that the hearings should have been scheduled during the summer when the majority of the residents use the park.

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

3. RE: C/Z #1245 -- Antonio V. Nero & Antonio V. Nero, Jr.

Antonio V. Nero was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Little Creek Hundred, located on the west side of Route 70, 2,100 feet north of Route 30, to be located on a parcel containing 90.28 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District, DelDOT, the State Department of Health and Social Services, the Office of the Secretary of the State DNREC, and the Department of Agriculture.

Mr. Nero advised that Commission that the first 600 feet or 700 feet off of Route 70 will not be developed with manufactured homes, that manufactured homes will have restrictions in design, that lots will be 200 feet wide and larger than one acre in square area, that mobile homes and a salvage yard adjoin a portion of the site along the north side of Route 64.

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.

The Commission found, based on comments received from the Sussex Conservation District, that comments have been requested from the DNREC Division of Air and Waste Management, Air Quality Section, Waste Management Section Hazardous Waste Branch, Solid Waste Branch, and Superfund Branch, the DNREC Division of Fish and Wildlife, the DNREC Division of Parks and Recreation, the DNREC Division of Soil and Water, the DNREC Division of Water Resources Surface Water Discharge Section, Groundwater Discharges Section, Water Supply Section, Watershed Assessment Section, Watershed Assessment (Soil) Section, Wetlands Policy & Administration Section, a Planner for the Office of the Secretary of DNREC, the Department of Agriculture, the Delaware Development Office, the Delaware State Historic Preservation Office, the Delaware Department of Health & Social Services Division of Public Health, the Department of Transportation, the Office of the State Fire Marshal, State Police Headquarters Communications, and the Sussex Conservation District.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Kenansville loamy sand, and Woodstown sandy loam, that the Evesboro soils, Kenansville soils, and some of the Woodstown soils are relatively free of limitations or that the limitations are easily overcome, that some of the Woodstown soils have moderate limitations which need to be recognized but can be overcome by careful design or special construction measures, that the developer shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the Evesboro soils are considered of Statewide Importance, that the Kenansville and Woodstown soils are considered Prime Farmland, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from DelDOT, that a traffic impact study was recommended and that the number of lots, computed by DelDOT, far exceeded the maximum number of lots that can be created in a GR General Residential District.

The Commission found, based on comments received from the Delaware Health and Social Services, that the Division of Public Health has no comments on this request.

The Commission found, based on comments received from the State Department of Agriculture, that they analyzed the site using the Land Evaluation and Site Assessment (LESA) system, that the LESA score totaled 159 out of 300 points, that the score is below average for Sussex County and reflects the low agricultural investment on the parcel and non-agricultural factors such as nearby development which indicate that long term agricultural use is questionable.

The Commission found that the applicant was present and advised the Commission that the first 600 feet or 700 feet off of Route 70 will not be developed with manufactured homes, that manufactured homes will have restrictions in design, that lots will be 200 feet wide and larger than one acre in square area, that mobile homes and a salvage yard adjoin a portion of the site along the north side of Route 64.

The Commission found that no parties appeared in support of or in opposition to this application.

Motion 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 since manufactured homes already exist on parcels within on the application site and around the site, and since the request is compatible to the area.

4. RE: C/Z #1246 -- Kenneth L. Webb & Robert E. Webb

Kenneth L. Webb and Robert E. Webb were present on behalf of their application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Nanticoke Hundred, located on the south side of Route 16, 1,505 feet east of Route 611, to be located on a parcel containing 5.5247 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District and DelDOT.

Robert E. Webb stated that the site was formerly occupied by Wolter's Trucking, that they propose to build a building measuring approximately 40 feet by 80 feet for a convenience store and sub shop on the site, that they chose to apply for B-1 Neighborhood Business, rather than a Conditional Use, because

they hope to expand the building in the future as a small strip shopping center, that the entire 5.5 acre parcel was applied for in anticipation of future expansion, that no negative impact is anticipated on the neighborhood, and that conversations with area residents indicate support for the use.

Winifred Willing, an area resident, spoke in support of the need for a store in the area since the closest convenience stores are at Greenwood or Ellendale.

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 the Sussex Conservation District, that the soils are mapped as Fallsington sandy loam and Woodstown sandy loam, that the Fallsington soils have severe limitations which make use questionable and that careful planning and design and/or very special construction measures are needed, that some of the Woodstown soils are relatively free of limitation or the limitations are easily overcome, that some of the Woodstown soils have moderate limitations that need to be recognized but can be overcome by careful design or special construction measures, that the developers shall be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction, that the Fallsington soils are considered of Statewide Importance and Prime Farmland, that the Woodstown soils are considered Prime Farmland, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

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 16 will not change as a result of this application.

The Commission found that the applicants were present and stated that the site was formerly occupied by Wolter's Trucking, that they propose to build a building measuring approximately 40 feet by 80 feet for a convenience store and sub shop on the site, that they chose to apply for B-1 Neighborhood Business, rather than a Conditional Use, because they hope to expand the building in the future as a small strip shopping center, that the entire 5.5 acre parcel was applied for in anticipation of future expansion, that no negative impact is anticipated on the

neighborhood, and that conversations with area residents indicate support for the use.

The Commission found that an area resident spoke in support of the need for a store in the area since the closest convenience stores are at Greenwood or Ellendale.

The Commission found that no parties appeared in opposition to this application.

Motion 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 since a need exist for convenience shopping to serve the residential area and since the closest stores are approximately three (3) miles away.

III. OTHER BUSINESS

1. RE: Ocean Outlets Seaside Phase II

The Commission reviewed the final site plan for commercial retail outlet stores on Route One north of Route 271.

Mr. Abbott advised the Commission that the site received preliminary approval on September 22, 1994, and that the final site plan has been revised since Route 271 has been relocated per an agreement with DelDOT and that the staff has received all required agency approvals or letters of no objection to the site plan.

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

2. RE: Clearwater RPC

The Commission reviewed a site plan for the recreational area of the Clearwater Residential Planned Community on Route 361.

Mr. Abbott advised the Commission that the site plan references a swimming pool, bathhouse, tennis court, and a parking area for thirteen cars.

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

3. RE: Delaware State Housing Authority

The Commission reviewed a revised site plan for the Hickory Tree multi family project on Route 60 near Selbyville.

Mr. Abbott advised the Commission that the previous approved plan had a ten foot dedication to public use per DelDOT, that the setbacks were taken from the old right of way line which would make the setback thirty feet from Route 60, and that DelDOT has no objection to the dedication being an easement only.

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

4. RE: The Plantations East

The Commission reviewed a revised site plan for Village 1 and Village 3 North of The Plantations Residential Planned Community on Route 275.

Mr. Abbott advised the Commission that the original foot print of the plan had the multi family buildings 165 feet in length and that the developers were under the understanding that decks could encroach on multi family buildings as they are permitted on single family dwellings.

Mr. Abbott advised the Commission that since this is a Residential Planned Community the zoning ordinance allows for requirements to be waived and stated that if the Commission is favorable to this request, that it should be for these two sections only.

Motion made by Mr. Phillips, seconded by Mrs. Monaco, and carried unanimously to approve the revised plan with the stipulation that it be for Village 1 and 3 North only.

5. RE: Subd. #93-7--Richard W. Aydelotte

Mr. Abbott advised the Commission that this application was previously voided and that the developer has sent a letter requesting that this application be returned to an active status since the septic feasibility report could not be obtained due to the fact that the developer had to install monitoring wells on the site as requested by DNREC.

Mr. Abbott advised the Commission that the septic report has been received and that the site is suitable for septic systems although DNREC recommends that a central sewer system be installed.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to return this application to an active status and to grant preliminary approval.

6. RE: Leonard & Alice West

The Commission discussed a request to allow a preliminary subdivision plan to be submitted at a scale of 1" = 200', and to allow the contours to be shown only the street design, stormwater management area, and approximately on 1/2 acre lot areas.

The Commission discussed this request and questioned if this has ever been done in the past.

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

IV. OLD BUSINESS

1. RE: C/U #1094 -- Ernest & Nelsa Hosse

No parties were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for Retail Sale and Wholesale Nursery Products, Farm Products, Fertilizers, Pots, Gardening Equipment, and Etc. lying on the south side of Route 18, one mile southeast of Route 527, on a parcel containing 5.00 acres more or less.

The Commission discussed the points and issues raised during the public hearing on November 17, 1994.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since similar uses exist in the area.

Meeting adjourned at 10:30 PM.