

MINUTES OF THE REGULAR MEETING OF DECEMBER 16, 1999

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, December 16, 1999 at 7:30 P.M. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:30 P.M. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Hastings, Mr. Johnson, Mr. Lynch, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to adopt the agenda as amended, moving Old Business before Public Hearings.

Mr. Allen advised the Commission that action shall not be taken on the Minutes of December 9, 1999 since the minutes were just received.

Mr. Schrader explained how the meeting would be conducted.

V. OLD BUSINESS

C/U #1315 -- application of CHESAPEAKE UTILITIES to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a bulk propane storage facility to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.66 acres, more or less, lying south of Road 361, 1,500 feet west of Road 363.

Mr. Allen referred to this application which was deferred on December 9, 1999.

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

IV. PUBLIC HEARINGS

Subdivision #99-23 -- application of ROBERT MUNCY to consider the subdivision of land in a GR General Residential District in Cedar Creek Hundred, by dividing 7.02 acres into 7 lots, located south of Road 14, 755 feet east of Road 224-A.

Mr. Abbott summarized the Technical Advisory Committee Report of December 8, 1999 and comments received from the Natural Resources Conservation Service.

The Commission found that Robert Muncy, developer, and Dan McCann, surveyor, were present and advised the Commission in their presentation and in response to questions raised by the Commission that Mr. Muncy has developed five lots with homes in the area; that the proposed use will be an asset to the area; that no double wide manufactured homes will be permitted; that the streets will be private; and submitted photographs of

the types of dwellings that will be permitted.

The Commission found that John Schulties, a contractor, was present and spoke in support of this application and advised the Commission that the homes are similar to modular homes and that there is a need for housing in this area.

The Commission found that no parties appeared 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 by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve this application as a preliminary.

Subdivision #99-24 -- application of SUSSEX VENTURES to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, by dividing 54.54 acres into 48 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 335, 22 feet east of Road 331.

Mr. Abbott summarized the Technical Advisory Committee Report of December 8, 1999, comments received from the Natural Resources Conservation Service, and letters of support from Kersey Homes, Inc., Larry's Homes, Inc., and Henry Fisher.

The Commission found that Donald and Drew Ward, developers, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that a forested buffer will be put in adjacent to agricultural lands; that a homeowners association will be established; that the soil work has been completed and submitted to DNREC for approval; that individual septic systems are proposed; that the project will proceed as soon as all approvals are obtained; that if the road were a through road, traffic will use the street as a shortcut to the Power plant; that they would not object to putting in a cul-de-sac in the middle of the development; that only having one entrance would not be a concern; that they have not given much thought to making two subdivisions; that the proposed restrictions will permit double wide manufactured homes with a 5 to 12 pitch and on permanent foundations; that the minimum square footage of the homes will be a minimum of 1,300 square feet living space; that the lots will be sold in land/home packages ranging from \$75,000 to \$125,000; that they will maintain as many trees as possible; and that they tried to purchase additional land but none is available at this time.

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

The Commission found that Ethel Tripp was present and advised the Commission that she resides across the road from the proposed development and that she is opposed to the subdivision since there are traffic problems at the intersection of Road 331 and Road 335; that there are drainage problems in the area; and that the proposed development will have negative impacts to the property values of Diamond 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. Hastings, and carried unanimously to deny this application as submitted.

C/U #1316 -- application of WALKER'S MILL, L.L.C. to consider the Conditional Use of land in a GR General Residential District for a mobile home park to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 20.31 acres, more or less, lying west of Road 594 approximately 1,000 feet north of the intersection with Route 404.

The Commission found, based on comments received from the State DNREC, that the Department has held meetings with representatives of the applicant; that the applicant proposes to develop the site utilizing clustered gravity community systems for wastewater disposal; that the clustered systems can be permitted under one community system permit; that the overall project flow will exceed 2,500 gallons per day and that a preliminary impact analysis will be necessary; that a subdivision feasibility study was not required since the property was not being subdivided; that the Department believes that the project will be feasible once the issues are addressed and resolved; and that wastewater disposal is not a limiting factor for the project.

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 Road 594 will not change as a result of this application.

The Commission found, based on comments received from Tidewater Utilities, Inc., that the company has sufficient water service capacity to serve the expansion, and that they can increase the allocation if necessary.

The Commission found, based on comments received from the County Engineering Department, that the project should be reviewed by the Technical Advisory Committee; that the site lies within the boundary of the Groundwater Management Zone of the former Bridgeville landfill, and that all development is required to connect to the central water system operated by Tidewater Utilities, Inc.; that the septic systems shall be subject to the

State DNREC; that location of the septic disposal areas within the buffer areas may pose problems with landscaping or drainage that may be required; and that a deed notification should be provided to alert homeowners that the lot is located in the Groundwater Management Zone.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State objects to this proposal since the parcel is located in a rural investment area of the State Strategies for State Policies and Spending map; that these are areas that State policies will encourage the preservation of a rural lifestyle and discourage new development; that the State DNREC adopted nutrient Total Maximum Daily Loads for the Nanticoke River; that these regulations call for significant (30%) reductions in nitrogen and phosphorous loads from point and non-point sources; that a development of this size may result in increased nutrient loads in ground and surface waters associated with the Nanticoke River; that it may be difficult to justify the proposal without requiring extensive non-point source strategies that will reduce environmental impacts of the project to the Nanticoke River; that the Department will require a 30% reduction in all non-point source loads (septic systems, runoff and erosion and stormwater) to surface and ground water; that the site is in the service area of Tidewater Utilities, Inc; that the project is entirely located in the "no well zone" of the Groundwater Management Zone; that no water supply well construction will be permitted in the zone; that the construction of non-water supply wells (monitors) will be conditional; that any pumping of ground water on/from the site for any reason (excavation de-watering, etc...) is restricted; that the State does not feel that a community of 40 homes in a very rural area of the County should be approved; that water and wastewater issues could be a major problem; that the stream corridor should be protected from further residential development; that if the County should approve this Conditional Use, it should place legally-binding conditions on the approval as to who will be held legally and financially responsible if a wastewater problem (as defined by the State DNREC) ever arise; that a performance bond of considerable value should be established as a condition; that the developer should contact the County for information on the exact location of monitor wells on the site; that development may involve planning around these wells or the proper abandonment or replacement of these wells by a licensed well contractor; and that if the project is approved, the developer should contact the Georgetown office of the Office of the State Fire Marshal.

The Commission found that Andrew C. Strine of Walker's Mill, L.L.C. and Randy Duplechain of Davis, Bowen, and Friedel were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that the project will be family-owned and operated along with the existing sections of Walker's Mill Mobile Home Park; that the site is across from the former Bridgeville Landfill site; that they propose to develop the site with 40 manufactured home sites for lease; that the density of the site will equal approximately 2 units per acre; that the lots

are typically 70' by 110'; that the Zoning Ordinance allows lots of 50' by 100'; that the zoning permits manufactured homes; that they will connect to the Tidewater Utilities water system via an 8-inch waterline that runs along Road 594; that the water company has advised them that they have capacity for the project; that the existing strip lots along Road 594 will be eliminated; that they anticipate approval of a gravity septic system; that a tot-lot is proposed to serve this project and the existing mobile home park; that 209 lease lots exists in the existing park; that approval of the project will not constitute spot zoning and will not impact agriculture; that other manufactured home communities exists in close proximity; that a resident manager lives in the existing park; that one entrance is proposed to serve the expansion area; that the expansion area and the existing park will not be connected by roads, since some small wetland pockets exists between the two areas and since the adjoining section of the existing park is a row of lots; that they will meet all appropriate codes and agency requirements; that stormwater management will be located to the rear of the site; that street lighting will be provided; that they propose to only permit new manufactured homes with vinyl siding and shingled roofs; that the lots are located in excess of 200' from the wetlands areas to the rear; and that a 50' wide buffer separates the expansion from the existing park.

The Commission found that Edward Doyle, resident manager in Walker's Mill Mobile Home Park, spoke in support of the application and stated that the expansion provides a service to residents in the area; that the existing park has only one vacant lot; that the expansion provides more open space and a tot-lot for the children in the park; and that mobile homes will be consistent with the developments in the area.

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. Wheatley, seconded by Mr. Johnson, and carried unanimously that the application be forwarded to the Sussex County Council with the recommendation that it be approved since it is an expansion of an existing mobile home park in a GR General Residential District, and with the following stipulations:

1. A tot-lot shall be provided and shall be depicted on the site plan.
2. Access shall be provided to the tot-lot from the existing park by paths or trails.
3. Street lighting shall be provided and noted on the site plan.
4. The maximum number of lots shall not exceed 40 lease lots.
5. All manufactured homes placed on lots within the park shall be new units with shingled roofs and vinyl siding.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

Motion carried 5 - 0.

C/U #1317 -- application of DONALD W. HEARN to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a multi-family dwelling structure (2 units) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.003 acres, more or less, lying west of Road 296A and 670 feet north of Road 47.

The Commission found that comments were not requested from DelDOT since the site contained an existing dwelling, and the proposal included an addition to the dwelling for a mother-in-law quarters with a kitchen.

The Commission found that Donald W. Hearn was present and stated in his presentation and in response to questions raised by the Commission that he and his wife live in the dwelling; that his mother-in-law had a heart attack and now lives with the family; that they built an addition on the dwelling so that his mother-in-law could have some privacy; that she does not have any cooking facilities in her suite; that the Conditional Use will allow her to have cooking facilities; and that he has no intent to rent the suite.

The Commission found that no parties appeared in support of or in opposition to the 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 by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with a recommendation that it be approved as submitted.

Motion carried 5 - 0.

C/U #1318 -- application of WAYNE CROPPER to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a campground and trailer sales lot to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 51.42 acres, more or less, lying north of Route 26, approximately 4,700 feet east of Road 382.

The Commission found, based on comments received from DelDOT, that on April 6, 1999 the Department recommended that a traffic impact study be prepared for the campground and sales lot; that in June of 1999 the applicant met with the Department and described the intent of the campground and sales lot; that the Department recommends

that the County act on the sales lot now and permit it without conditions relating to traffic; that regarding the campground expansion, the Department still recommends that the County require a traffic impact study; that it would be reasonable to postpone action on the campground expansion until the Department has reviewed and commented on a traffic impact study; and that alternatively the County could approve the expansion subject to a condition that it could not be occupied until those conditions have been met and the applicant has satisfied all recommendations that the Department offers in their comments.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State DNREC has stated that they believe that this parcel could be developed if the adequate pollution control measures are followed, such as buffers along the watercourses and stormwater management that control nutrients along the sediments; that DelDOT has submitted comments that they have not yet received a traffic impact study requested and that the State asks that the County defer action until the traffic impact study is received and DelDOT has had time to provide the County with detailed comments; and that if the project is approved, the State urges the applicant to contact the Georgetown Office of the Office of the State Fire Marshal to submit site plans.

The Commission found that Wayne Cropper and James Fuqua, Jr., Attorney, were present and stated in their presentations and in response to questions raised by the Commission that the applicant purchased the site in January 1999; that a retail convenience store with gasoline sales exists in front of the parcel; that a retail outlet and mini-storage project exists to the west of the parcel; that several commercial uses exist along Route 26; that the existing campground has 536 sites; that the park is a family owned and managed project; that the park is open from April 15 through October 15; that the campground has a history of being in compliance with all regulations; that a waiting list is maintained for vacancies, since the park is full; that 398 additional sites are proposed in the expansion area; that central water will be provided; that a central community disposal facility is proposed; that the existing campground has approximately 90 septic areas; that the streets in the campground are paved; that the site was previously tilled; that an area of wetlands exists along Pepper Creek; that no wetlands will be disturbed; that playground areas will be provided; that the existing trailer sales is proposed to be moved from within the campground to the proposed sales lot; that the sales lot will have access from the Conti's private road; that the existing home on the sales lot will be utilized as a sales office; that the sales area will be fenced with a 6' high chain-link fencing; that a controlled service road will connect the sales lot and the campground; that the service road will be used for hauling campers from the sales lot to the campground; that traffic counts were performed this past summer; that preliminary traffic impact statement was submitted to DelDOT in September; that DelDOT provided comments on the preliminary statement and a final statement was submitted to DelDOT on December 8, 1999 in response to DelDOT comments; that the site is located in a

Development District according to the Comprehensive Plan; that the project will comply with all requirements of the Zoning Code; that the existing camp store, laundromat, and bath-house are adequate to serve the expansion; that approximately 40 spaces will be developed per year; that the site seems to be a logical location for the use since it is an expansion to an existing project, and since a need has been shown for additional space in the County; that the trees in the buffer areas were planted approximately 13 years ago and have reached a height of approximately 25 feet; that the sales lot inventory will consist of approximately 12 to 15 new camping units and 12 to 15 used camping units; that all of the sites are rented seasonally; and that 95% of the units stay on the site permanently.

The Commission found that Mr. Fuqua submitted a packet of information which included a copy of the deed to the property, a site plan, a copy of the minutes of August 9, 1984 for Conditional Use #803, a copy of the resolution of the County Council, dated September 18, 1984, for Conditional Use #803, ten (10) photographs of Gulls Way Campground, a copy of Gulls Way Campground regulations, a soil mapping report, a letter from Mr. and Mrs. Daniel Conti, the adjoining landowner granting permission for access to their private road as entrance to the trailer sales lot, a copy of the perimeter survey, a copy of the area of the sales lot, a brochure on Gulls Way Campground.

The Commission found that six Cropper family member were present in support.

The Commission found that there were no parties present 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.

Motion by Mr. Lynch, 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 an extension to an existing campground and with the following stipulations:

1. A permit will be obtained from DNREC for a central wastewater system complying with all applicable regulations.
2. Entrance permits will be obtained from DelDOT permitting use of the use of the existing Gulls Way entrance for the campground and the Omni Road entrance for the sales lot. All entrance and road improvements as required by DelDOT will be completed per DelDOT's requirements.
3. The maximum number of new campsites shall be 398.
4. All requirements of Section 115-172(H) of the Zoning Ordinance shall be complied with including 50-foot landscaped buffers as shown on the site plan.

5. The final site plan or final site plan for phases shall be submitted to the Planning and Zoning Commission for review and approval.
6. The trailer sales lot shall be fenced with 6-foot high chain-link type fencing and shall be lighted with security lighting.
7. The trailer sales lot shall be utilized for the sale of recreational vehicles, campers, and travel trailers only, not mobile homes or manufactured homes.
8. A controlled access shall be provided from the sales lot to the campground for the purpose of movement of recreational vehicles, campers and travel trailers from the sales lot to the campground, and not for vehicle access from Route 26 to the campground.

Motion carried 5 - 0.

VI. OTHER BUSINESS

Nextel Communications
Site Plan Route 16

The Commission reviewed a site plan for a 150-foot telecommunications tower off of Road 16.

Mr. Abbott advised the Commission that the comments for this project will be the same for the next two items; that the towers are permitted since they are less than 150 feet; that a 10' x 20' shelter building is proposed; that the areas will be enclosed with chain link fencing; that the areas are 100' x 100'; and that only preliminary approval should be considered since entrance permits have not been obtained.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of an entrance permit.

Nextel Communications
Site Plan Road 527

Motion by Mr. Johnson, seconded by Mr. Hastings, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of an entrance permit.

Nextel Communications
Site Plan Road 296-A

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of an entrance permit.

Rehoboth Beach Volunteer Fire Company
C/U #1274 Site Plan Road 275-A

Mr. Abbott advised the Commission that this item was removed from the agenda on December 16, 1999.

First Haitian Baptist Church
Site Plan Road 536

The Commission reviewed a site plan for a church off of a private road south of Road 536 west of Seaford.

Mr. Abbott advised the Commission that the site plan is for a 3,840 square foot church; that churches are permitted in all zoning districts; that 192 seats are proposed; that the site plan references 40 parking spaces and that 48 are required; that the parking area should be noted that it is to be paved; and that all agency approvals have been received except for the Sussex Conservation District.

Mr. Lank advised the Commission that additional right of way should be dedicated since the private road is only 20 feet wide.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a preliminary with the stipulations that 8 additional parking spaces be provided; that a note be put on the site plan that the parking area is to be paved; and that an additional 15 feet of right of way be dedicated to the existing 20 foot private road.

Meeting adjourned at 9:45 P.M.