

MINUTES OF THE REGULAR MEETING OF DECEMBER 17, 1992

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 17, 1992, at 7:30 P.M. in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Magee, Mrs. Monaco, Mr. Ralph, Mr. Bayard - County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner I.

Motion by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of December 3, 1992, as circulated.

II. PUBLIC HEARINGS

1. RE: C/Z #1181 -- Leonard & Julie Cannatelli

Leonard Cannatelli was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Nanticoke Hundred, located on the southeast side of Route 516, 2,280 feet south of Route 46 to be located on a parcel containing 98.80 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Office of the Secretary of DNREC, DNREC Division of Water Resources Pollution Control Branch, the Office of the State Fire Marshal, the Division of Resource Management of the State Department of Agriculture, the Division of Fish and Wildlife, DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, the Sussex Conservation District, and DNREC Division of Parks and Recreation.

Mr. Cannatelli stated that he proposes to create 78 lots on 98 acres with softball fields, basketball courts, and open space, that he would like to create a manufactured home park with 7,500 square foot lots, that he applied for rezoning since numerous people have called to rent the manufactured home on the site showing a possible need for rental units in the area, that ten (10) lots will be developed at a time, that used manufactured homes, not exceeding eight (8) years of age will be permitted, that individual septic systems are intended, that a central water system may be installed, that an association of the residents will be formed to provide maintenance of the open space, that no negative impact is anticipated on property values or the neighborhood, that a minimal amount of woodland will be disturbed to create the lots, and that he does not plan to reside on the site.

Monroe Givens, Ingrid Parker, Dalse Givens, Isaac Smith, Charles Fletcher, Chris Thompson, William Smack, Leon Malone, Kathryn Trice, Vernon Armwood, and Paul West, spoke in opposition to the rezoning request and expressed concerns in reference to wetlands on the site, drainage, depreciation of property values, development with used manufactured homes, rental units, anticipated

lack of maintenance of recreational areas, police protection, the broad base of the agency comments, poor soils, trash, children safety, and additional traffic.

Mr. Lank read petitions containing 44 signatures in opposition and one letter 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 DelDOT, that the proposed 78 lot project does not warrant a traffic impact study and that DelDOT reserves the right to request a traffic impact study during the subdivision review process.

The Commission found, based on comments received from the Office of the Secretary of DNREC for the purpose of land use review and coordination, that comments have been requested from DNREC Division of Fish and Wildlife, DNREC Division of Parks and Recreation, DNREC Division of Soil & Water Conservation, DNREC Division of Water Resources Pollution Control Branch, Watershed Assessment Branch, Underground Discharges Branch, Water Supply Branch, Wetlands and Aquatic Protection Branch, the Department of Agriculture, the Bureau of Archaeology and Historic Preservation, the Department of Health and Social Services Division of Public Health, the Department of Transportation, the Office of the State Fire Marshal, the State Police Headquarters Communications, and the Sussex Conservation District.

The Commission found, based on comments received from the DNREC Division of Water Resources Pollution Control Branch, that the Division has no objections to the proposed change.

The Commission found, based on comments received from the Office of the State Fire Marshal, that the Office has no objection to the proposed zoning change.

The Commission found, based on comments received from the Department of Agriculture Division of Resource Management, that a Land Evaluation and Site Assessment (LESA) analysis of the site scored 148 points out of 300 points indicating that it is a below average site for economical long-term agricultural production in Sussex County, that the site lies very close to future growth boundaries within the Western Sussex Land Use Plan, that prior to any rezoning of AR-1 Agricultural Residential lands the County should allow development to occur within existing GR General

Residential Districts, that even though the Department regrets the loss of any agricultural land the site's proximity to other residential development and its low LESA score make the prospects for long term agriculture questionable, that if approved any forested area which serves as a natural buffer to adjacent farmland should remain undisturbed.

The Commission found, based on comments received from the DNREC Division of Fish and Wildlife, that the Division has no comments at this time with respect to this project.

The Commission found, based on comments received from the DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, that wetlands regulated by the State do not appear within the area of development, that wetlands regulated by the U.S. Army Corps. of Engineers appear to be within or adjacent to the area of proposed development, that any activity such as filling, dredging, crossing with a road or placement of a structure may require a permit, that the extent of wetlands should be identified on a site plan indicating that the developer is aware of potential limitations regarding development within or adjacent to wetlands, that in order to reduce the likelihood of wetlands impacts and future wetland violations property lines should not extend into wetlands or deed restrictions should be adopted which limit activities in wetlands, and that wetlands could be dedicated as undisturbed community open space.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, Klej loamy sand, Fallsington Sandy loam, and Osier loamy sand, that the suitability of the soils for the intended use indicate that the Fallsington and Osier soils may have high water table which are not very suitable for normal septic systems, that the Evesboro soils, which are predominant, are very suitable, that the evaluation of the soils with respect to erosion and sediment control may require the developer to be aware that the soils may be erosive due to wind and water during construction and that after completion of any construction adequate seeding and vegetative cover will help eliminate erosion, that the farmland rating of the soils types vary from prime to statewide importance, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any off-site drainage improvements, and that on-site drainage improvements may be required.

The Commission found, based on comments received from the DNREC Division of Parks and Recreation, that the project does not involve a state-recognized natural area or an open space state resource area, that the project does not negatively effect current or proposed greenways or the provision of outdoor recreation opportunities or facilities, and that the Division is unaware of any rare plants, animals, or unique natural communities within the project area.

The Commission found, based on comments made by the applicant, that he proposes to create 78 lots on 98 acres with softball fields, basketball courts, and open space, that he would like to create a manufactured home park with 7,500 square foot lots, that he applied for the rezoning after numerous people called to rent the manufacture home on the site showing a possible need for rental units in the area, that ten lots will be developed at a time, that used manufactured homes, not exceeding eight years of age, will be permitted, that individual septic systems are proposed, that a central water system may be installed, that an association of residents will be formed to provide maintenance of the open space, that no negative impact is anticipated on property values or the neighborhood, that a minimal amount of woodlands will be disturbed to create the lots, and that he does not plan to reside on the site.

The Commission found that eleven (11) people, of the nineteen (19) people present in opposition, spoke and expressed concerns in reference to wetlands on the site, drainage, depreciation of property values, development with used manufactured homes, rental units, anticipated lack of maintenance of recreational area, police protection, the broad base of the agency comments, children safety, poor soils, trash, and additional traffic.

The Commission found, based on petitions containing approximately 44 signatures submitted in opposition, that concerns were expressed in reference to traffic on Road 516, considering child safety, road strength and constant road crumbling, that the area is already overcrowded, considering child safety, available law enforcement, and area population is overwhelming compared to areas with town water, sewer, police, and fire protection, that the site is located in a basin with improper drainage, possible wetlands, higher taxation by increased development of area and services, and that numerous places exist in the general area for manufactured homes with good drainage.

The Commission found from one letter received in opposition that no need exist for another manufactured home park where at least three exist within one to two miles of the proposed site.

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 denied based on the record of opposition and since no need was shown.

2. RE: APD #92-1 -- Francis M. Gum, 3rd, Robert D. Gum,
& Waples W. Gum

Francis M. Gum, 3rd, was present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential District in Baltimore Hundred for two (2) parcels totalling 292.297 acres more or less, located southeast of Route 375, on both sides of Route 392, and on both sides of Route 392A for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Gum advised the Commission that he and his two brothers like open space, animals, clean air, and wildlife, that they want to preserve the property for the future and for family members, that when the property transfers to family members the property will be stipulated that it will remain an Agriculture Preservation District, and that they are not applying for any dollar value benefit, but for the preservation of the farm and the land.

Mr. Magee advised the Commission that he knows the site, that it is one of the best pieces of farmland in the area, and that it should be preserved.

No parties appeared in opposition.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with a recommendation that the site be approved as an Agricultural Preservation District.

III. Other Business

1. Bill Moyer - DNREC

Bill Moyer on behalf of the DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, Richard Hassell and Kevin Faust of the U.S. Army Corps. of Engineers, Laura Mitchell of the U.S. Fish and Wildlife Service, and Jeff Lapp of the Environmental Protection Agency, were present to discuss wetlands violations and concerns in Sussex County.

Ms. Mitchell stated that 33 site have been violated this year, that there are two types of violators - people that are unaware or uneducated about wetlands and people that knowingly violate, that wetlands should be delineated on all subdivision plats, and that

restrictions should be included within deeds for parcels containing wetlands.

Mr. Lapp discussed conditions after violation, repair, reclamation and possible fines.

Mr. Hassell and Mr. Faust described steps and advised that an average process time for permits is 50 days (average includes individual permits for rip-rap, piers, etc... to large scale development projects), described the different types of permits, and recommended that the New Castle County regulations be reviewed for possible regulation in Sussex County.

Mr. Hassell advised that the community needs to be made aware of wetlands and their impacts, that delineation is needed, and that building permits should have a standard language referencing wetlands.

Mr. Bayard agreed that deed restrictions and Ordinances are needed.

Mr. Hassell stated that the present regulation being enforced is the 1987 Manual.

Mr. Moyer advised the Commission that he would forward copies of New Castle County regulation to the Office.

2. M. L. Joseph Construction Co.

The Commission reviewed a request to create a fifty (50) foot access to serve a parcel of land which has a borrow pit located on it. The Access will be located on the north side of Route 353.

Mr. Abbott advised the Commission that the developer is creating lots on Route 353 and that the remaining fifty (50) feet will serve as an access to the remaining lands.

Mr. Lank advised the Commission that a representative of the applicant advises that the service road to the borrow pit is located within the fifty (50) foot right of way.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve the fifty (50) foot access.

3. Schooner Village

Mr. Abbott advised the Commission that this building received approval for multi-family use and now the developer wants to revise the building to townhouses.

Mr. Abbott advised the Commission that buildings A and B have been approved as townhouses, that the lot area, aggregate yards and setbacks comply with the Code.

Mr. Abbott advised the Commission that the site plan references a twenty two (22) foot interior driveway instead of the required twenty five (25) foot and that there will not be any parking along this area.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve the site plan as revised for townhouses and a twenty two (22) foot interior driveway along units 17 through 21.

4. Oak Grove Subdivision

Peter Loewenstein, Surveyor of Atlantic Consulting, Inc. was present requesting that the developer be allowed to create three (3) lots for septic systems in the Oak Grove Subdivision.

Mr. Loewenstein advised the Commission that the State DNREC may not approve three lots for septic and that these lots have already been approved, that the proposed three lots are intended for septic systems only and not for dwelling construction, that the lots would be owned in fee with the lots occupied for dwelling, and that the owners will be responsible for maintenance of the lots.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve the three lots for septic system sites with the stipulation that the deed restrictions for the three lots be reviewed and approved by the County Attorney prior to recordation of the lots.

Meeting adjourned at 9:55 P.M.