

MINUTES OF THE REGULAR MEETING OF DECEMBER 17, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 17, 1998, at 7:30 P.M., in the County Council Chambers, County Administrative Building, Georgetown, Delaware, with the following present;

Mr. Allen, Mr. Hastings, Mr. Lynch, Mr. Phillips, Mr. Wheatley, Mr. Schrader – Assistant County Attorney, and Mr. Abbott – Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to adopt the agenda as presented.

No action was taken on the minutes of December 10, 1998.

Mr. Schrader explained how the meeting will be conducted.

II. PUBLIC HEARINGS

SUBDIVISION #98-10—application of MARK W. HUDSON to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred, by dividing 10.27 acres into 6 lots, located north of Route 20, 890 feet east of U.S. Route 113, and 1,189.90 feet west of Road 326.

The Commission found that Mr. Abbott summarized the Technical Advisory Committee Report of December 9, 1998.

The Commission found, based on a letter received from Kim V. Hudson, that he has concerns about the proposed entrance location; concerns about a buffer adjacent to his property; and concerns about stormwater run-off onto his property.

The Commission found that Mark Hudson was present and stated in his presentation and in response to questions raised by the Commission that he agrees with the application; that the two lots off of Road 326 have been approved and recorded and that DelDOT has approved the entrance location; that the two lots are vacant; that the proposed entrance location has a natural opening and is wooded; that the area between the entrance and Kim Hudson's lands will be open area; and that he will comply with the recommendations of the Technical Advisory Committee.

The Commission found that 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.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary.

SUBDIVISION #98-11—application of LEE LITTLETON to consider the subdivision of land in a GR General Residential Zoning District in Little Creek Hundred, by dividing 8.76 acres into 6 lots, located south of Road 454, 300 feet east of Road 457.

The Commission found that Mr. Abbott summarized the Technical Advisory Committee Report of December 9, 1998.

The Commission found that Don Miller, surveyor, was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the stormwater management area is located in the uplands and not the "404" wetlands; that no forested buffer strip is required since the site is not adjacent to active farm land; that manufactured homes will be permitted since the zoning allows for them; that the wetlands have been delineated; that the streets will be constructed or bonded prior to the transfer of any lot; that a homeowners association will be established to maintain the infrastructure; and that the developer will pay for the street improvements.

The Commission found, that of the 21 people present in opposition to this application, that Dennis Carr, Vincent Biddle, William Carr, James Driscoll, and Howard Evans spoke in opposition since the street has never been put in as the developer stated he would through another application; that they have to maintain the street now; that the neighborhood has changed in the past ten years; questioned if buffers would be required; stormwater run-off onto neighboring properties; impacts to wetlands in the area; increased traffic; negative impacts to property values; manufactured homes being permitted; safety concerns for children in the area; and that the developer does not have the minimum width for the proposed right of way; and submitted two photographs of the existing right of way.

At the conclusion of the public hearing, the Chairman referred back to this application.

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

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to defer action so that the staff can research a previous application for this site.

SUBDIVISION #98-12—application of NORRIS L. NIBLETT to consider the subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred by dividing 38.71 acres into 42 lots, located south of Road 46, 740 feet east of Road 526.

The Commission found that Mr. Abbott summarized the Technical Advisory Committee Report of December 9, 1998.

The Commission found that Norris Niblett, developer, and Don Miller, surveyor, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the proposed subdivision will permit double wide manufactured homes; that no lots will be rented; that all homes will have to be new unless approved by the developer; that the developer will comply with the recommendations of the Technical Advisory Committee; that the entrance will be located on the lands of the developer; that a homeowners association will be established; that there will be several stormwater management ponds; that the ponds will usually be dry since the soils on site are sandy, and that the elevations of the site are high.

The Commission found, that of the 21 people present in opposition, that Robert Witsil, Attorney representing Richard and Susan Osborne, Paul Hignutt, Brenda Knapp, Susan Gibbs, Eugene Hastings, Rosalie Day, Richard Slatcher, David Voshell, and Paul West spoke in opposition since this is a resubdivision of a previously approved subdivision plan and requires the consent of the property owners; that the previous approved lots were larger than what is now proposed; that there will be an increase in density in the area; that traffic will increase; safety concerns for the area; stormwater management concerns; and negative impacts to property values in the area.

At the conclusion of the public hearing, 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. Hastings, and carried unanimously to defer action so that the staff can research how many lots of the previous plan have been transferred, and to review the previous recorded deed restrictions.

C/U #1265—application of NANCY C. RHUE to consider the Conditional Use of land in an AR-1 Agricultural Residential District for antiques and craft shop and wildlife and folk art to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 2.05 acres, more or less, lying west of Delaware Route One, approximately 3,540 feet north of Road 198.

The Commission found, based on comments received from DelDOT, that a traffic impact study is not recommended; that the existing level of service "C" of Route One will not change as a result of this application; that although a traffic impact study is not recommended, they are opposed to this application since the use would conflict with the goals of the Corridor Capacity Preservation Program since, the purpose of the program is

to focus development toward existing locations and to reduce the need for expansion of the transportation system; that this location is in a Preservation Investment Area; that there are no plans developed for alternative access to Delaware Route One in this area; and that if the County were to approve this application, they would not issue a commercial entrance permit for the proposed project.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped as Rumford loamy sand; that the suitability of the soil for the intended use is slight, relatively free of limitations or limitations are easily overcome; that with respect to erosion and sedimentation control, the applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction; that the farmland rating of the soil is of Statewide Importance; that it would not be necessary for any off-site or on-site drainage improvements; and that no storm flood hazard area or tax ditch is affected.

The Commission found that Michael and Nancy Rhue were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the proposed use is for a crafts, and antiques shop; that herbs may be sold during season; that the existing dwelling will be used for retail sales; that the existing barn and sheds may be used for storage; that there will be no outside storage or display areas; that the existing driveway will be used for ingress and egress; that adequate room is available for parking; and that they propose to be open six days per week with weekend hours.

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

At the conclusion of the public hearing, 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. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations;

1. The business shall operate six days per week with no Monday hours.
2. No outside storage or display areas shall be permitted.
3. One non-illuminated sign, not exceeding thirty-two (32) square feet per side or facing, may be permitted.
4. The existing barn and sheds may be utilized for storage.

5. The site plan shall be subject to review and approval of the Planning and Zoning Commission upon receipt of all required agency approvals and permits.

III. OTHER BUSINESS

Long Neck Back Bay Center
Commercial Site Plan
Route 24 and Road 299

Mike Zimmerman, developer was present as the Commission reviewed a preliminary commercial site plan for a supermarket and retail sales at the intersection of Route 24 and Road 299.

Mr. Abbott advised the Commission that the total acreage for the site is 22.72 acres; that the net development of this phase will be 13.72 acres; that the intended use is a permitted use in the General Commercial Zoning District; that the buildings total 87,000 square feet; that 435 parking spaces are required and that 456 are provided; that the site plan meets the requirements of the zoning code; that a portion of 19 parking spaces are located within the front yard setback along Road 299 and that this would need a waiver from the Commission; and that approvals and permits will be required from DelDOT, Office of the State Fire Marshal, Sussex Conservation District, and DNREC to obtain final approval.

It was the consensus of the Commission that the 19 parking spaces be relocated out of the front yard setback along Road 299 since the applicant has more parking than what is required.

Mr. Zimmerman advised the Commission that the parking area in question will be for handicapped parking and would like to keep the parking area as shown.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary with the stipulation that no parking be located within the front yard setback along Road 299.

Subdivision #96-31—Dale C. & Sandra M. Cohee
Time Extension

The Commission reviewed a request for a time extension in order to obtain final subdivision approval.

Mr. Abbott advised the Commission that the surveyor is requesting a six month time extension so that all required agency approvals can be obtained in order to receive final subdivision approval; and that this is the second request for an extension.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve a one year time extension.

Tall Pines Associates, LLC
C/U #1191 Site Plan
Road 247

The Commission reviewed the final site plan for a 54 lot expansion to Tall Pines Campground located on Road 247.

Mr. Abbott advised the Commission that the final plan meets the requirements of the zoning code; that the plan is the same as what was submitted for the public hearing; and that all agency approvals except for the sewer have been received by the staff.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the site plan as submitted. Final approval shall be subject to the staff receiving the sewer approval from DNREC.

ADDITIONAL BUSINESS

Roxana Fire Company

Mr. Abbott advised the Commission that the staff has received a site plan for an expansion to the Roxana Fire Company located on Road 382; that the site has had an approved conditional use in the past; and questioned if another conditional use application would be required.

It was the consensus of the Commission that a conditional use application be filed.

Meeting adjourned at 10:15 P.M.