

MINUTES OF THE REGULAR MEETING OF DECEMBER 22, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 22, 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 December 8, 1994 as circulated.

II. PUBLIC HEARINGS

1. RE: C/Z #1247 --Elton Ray Beauchamp

Elton Ray Beauchamp was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Little Creek Hundred, located on the west side of Route 13, 950 feet south of Route 30 (A.K.A. Route 64), to be located on a parcel containing 31,355 square feet more or less.

Mr. Lank summarized comments received from the Department of Transportation (DelDOT) and the Sussex Conservation District.

Mr. Beauchamp stated that within 1.5 miles of the site numerous commercial activities and uses exist, that one lot away from the site is a commercial business for a CB repair, that he proposes to place stockade fencing adjoining residential lots to screen the business, that he has a similar building and use in Delmar and has fenced the rear of that site due to residential lots adjoining, that the building may be divided into two or three uses, that he has been contacted for space for a discount grocer and a saw sharpening business, that the commercial entrance has been approved by DelDOT, that standard septic is probable based on conversations with DNREC, that no negative impact is anticipated on traffic or the neighborhood, that security lighting will be installed, that presently the saw sharpening business operates from 9:00 AM to 5:00 PM Monday through Friday and 1/2 day on Saturday, and that he has no intent to lease the land to a convenience store chain.

Ralph Teaberry, an adjoining landowner, expressed concerns to all the uses in a General Commercial District, trucks parking along Route 13, and convenience stores.

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 a traffic impact study was not recommended and that the level of service "B" of Route 13 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 not be necessary for any off-site drainage improvements, that on-site drainage improvements may be necessary for areas mapped as Fallsington soils, that the soils are mapped as Evesboro loamy sand and Fallsington sandy loam, that the Evesboro soils are relatively free of limitations or the limitations are easily overcome, that the limitations of the Fallsington soils are severe enough to make use questionable and that careful planning and design and/or very special construction measures are needed, that the owner 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 and Hydric in small depressions, and that the Fallsington soils are considered Prime Farmland of Statewide Importance, and Hydric.

The Commission found that the applicant was present and stated that within 1.5 miles of the site numerous commercial activities and uses exist, that one lot away from the site is a commercial business for a CB repair, that he proposes to place stockade fencing adjoining residential lots to screen the business, that he has a similar building and use in Delmar and has fenced the rear of that site due to residential lots adjoining, that the building may be divided into two or three uses, that he has been contacted for space for a discount grocer and a saw sharpening business, that the commercial entrance has been approved by DelDOT, that standard septic is probable based on conversations with DNREC, that no negative impact is anticipated on traffic or the neighborhood, that security lighting will be installed, that presently the saw sharpening business operates from 9:00 AM to 5:00 PM Monday through Friday and 1/2 day on Saturday, and that he has no intent to lease the land to a convenience store chain.

The Commission found that an adjoining landowner expressed concerns to all the uses in a General Commercial District, trucks parking along Route 13, and convenience stores.

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 the site is located on US Route 13 in close proximity to other commercial activities and uses.

2. RE: C/Z #1248 -- Charles P. Moore

Charles P. Moore was present on behalf of this application to amend the zoning map from GR General Residential to AR-1 Agricultural Residential in Lewes and Rehoboth Hundred, located on the south side of Route 283, 310 feet southeast of Route 283A, to be located on a parcel containing 2.65 acres more or less.

Mr. Lank asked the Commission if they would consider both C/Z #1248 and C/U #1097 at the same time since they were based on the same site. There was a consensus of the Commission to consider both application during one public hearing.

Charles P. Moore was present on behalf of the application to amend the zoning map from GR General Residential to AR-1 Agricultural Residential in Lewes and Rehoboth Hundred, located on the south side of Route 283, 310 feet southeast of Route 283A, to be located on a parcel containing 2.65 acres more or less.

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

Mr. Lank read a letter from eight residents of Beaver Dam Way in support of the application to rezone the site.

Mr. Moore stated that he intends to relocate his business from his residential lot in Beaver Dam Acres, that he has cut and sells some firewood on his residential lot, that he does not intend to continue selling firewood from his residential lot, that the automotive repair and tow truck service will be relocated to the proposed site if approved, that the existing east entrance on the site will be maintained as the entrance to the site, that the site is directly across the road and field from J.G. Townsends farm office and equipment storage yard, that the site has historically been used on occasion for material and equipment storage for D P & L, George Fluharty, and Land Preparation, that no negative impact is anticipated on the neighborhood, that the impound lot will be fenced and locked since he provided towing for police departments, State and local municipalities, that he presently stores impound vehicles at three (3) location near Lewes and Rehoboth, that he will continue to store vehicles at two of the locations presently utilized.

Fred Ward, a resident of Route 283A, expressed concerns about possible impacts on property values, the hazardous curve of Route 283 at the location, that a pond exist behind the site, that leaking fuel and oils may impact the pond and the wildfowl using the pond, that runoff from the J.G. Townsend property runs to the pond, Fisher Glade, and then to Love Creek.

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 action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that off-site drainage improvements may be needed, that on-site drainage may be needed due to wet soils, that two-thirds of the site are moderately well drained or wetter, that water may pond on the surface or near the surface November through March, that the soils are mapped as Pocomoke sandy loam, Sassafras loam, and Woodstown loam, that the Pocomoke soils limitations are severe enough to make use questionable and that careful planning and design and/or special construction measures are needed, that the Sassafras soils and some of the Woodstown soils are relatively free of limitations or the limitations may be easily overcome, that some of the Woodstown soils have moderate limitations that need to be recognized but can be overcome by careful design and special construction measures, that the owner shall be required to follow recommended erosion and sediment control practices and to maintain vegetation after completion of any construction, that the Pocomoke soils are considered Prime Farmland of Statewide Importance, and a Hydric soil, that the Sassafras soils are considered Prime Farmland, and that the Woodstown soils are considered Prime Farmland and Hydric in depressions.

The Commission found, based on comments received from the County Engineering Department, that the site is located in a area west of the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District where the Council had agreed with DNREC to restrict rezoning and Conditional Uses in Subdivision approval.

The Commission found that a letter of support was received from eight (8) residents of Beaver Dam Way.

The Commission found that the applicant was present and stated that he intends to relocate his business from his residential lot in Beaver Dam Acres, that he has cut and sells some firewood on his residential lot, that he does not intend to continue selling firewood from his residential lot, that the automotive repair and tow truck service will be relocated to the proposed site if approved, that the existing east entrance on the site will be maintained as the entrance to the site, that the site is directly across the road and field from J.G. Townsends farm office and equipment storage yard, that the site has historically been used on occasion for material and equipment storage for D P & L, George Fluharty, and Land Preparation, that no negative impact is anticipated on the neighborhood, that the impound lot will be fenced and locked since he provided towing for police departments, State and local municipalities, that he presently stores impound vehicles at three (3) locations near Lewes and Rehoboth, that he will continue to store vehicles at two of the locations presently utilized.

The Commission found that an area resident expressed concerns about possible impacts on property values, the hazardous curve of Route 283 at the location, that a pond exists behind the site, that leaking fuel and oils may impact the pond and the wildfowl using the pond, that runoff from the J.G. Townsend property runs to the pond, Fisher Glade, and then to Love Creek.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since agricultural lands buffer the site from residential areas.

3. RE: C/U #1097 -- Charles P. Moore

Charles P. Moore was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for Automotive Repair and Towing Service lying on the south side of Route 283, 310 feet southeast of Route 283A, on a parcel containing 2.65 acres more or less.

Mr. Lank advised the Commission that all comments summarized in the record of C/Z #1248, that all comments made by the applicant and Mr. Ward during the public hearing pertaining to C/Z #1248 are made a part of the record for this application.

All Commission findings related to C/Z #1248 are made a part of the record for this application.

Motion by Mr. Phillips, 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:

- A. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.
- B. The impound lot shall be fenced and that adequate security lighting shall be provided.

4. RE: Subdiv. #94-8 -- David B. Webb, Jr.

David B. Webb, Jr. was present on behalf of his application to consider the subdivision of land in a GR General Residential Zoning District in Nanticoke Hundred by dividing 8.87 acres into 10 lots, located on the west side of Route 516, at the intersection of Route 525.

Mr. Abbott summarized the Technical Advisory Committee Report of December 15, 1994, and comments received from the State DNREC Water Supply Section, DNREC Division of Fish and Wildlife, DNREC Solid Waste Management Branch, and DNREC Ground Water Discharges Section.

Mr. Abbott advised the Commission that the developer has submitted proposed deed restrictions and that Mr. Schrader has reviewed these and found that they are acceptable.

Mr. Webb advised the Commission that he purchased the property with the manufactured homes existing on site, that the land is being cleaned and that he is trying to correct what is existing, and that he would donate the land in the rear to the State as an easement.

No one was present 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 made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve as a preliminary.

5. RE: Subd. #94-9--Joseph and Virginia Mangone

Joseph and Virginia Mangone, developers, and James Yori, Attorney, were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred by dividing 4.81 acres into 2 lots, located on the southwestern side of Route 531, 0.4 mile southeast of Route 532, and a waiver from the street construction requirements.

Mr. Abbott summarized the Technical Advisory Committee Report of December 15, 1994, comments received from the State DNREC Water Supply Section, DNREC Division of Fish and Wildlife, DNREC Solid Waste Management Branch, DNREC Ground Water Discharges Section, and the Technical Advisory Committee Report of October 20, 1994.

Mr. Yori advised the Commission that there is an existing right of way that is improved, that the access to the proposed 1.50 acre lot will be off of this right of way, that the proposed lot conforms to the zoning and will be for a single family dwelling for the applicants son, that there will be no negative impacts on traffic, that the lot will have on site sewer and water, that the lot has been approved for sewer, that fire protection is provided by the Seaford and Bridgeville fire departments, that the applicants have received letters of no objection to the applicant using the existing right of way and that the developers have agreed to share in the maintenance of the right of way, and that the developer has agreed to a 175 foot setback from the property owned by the O'Marrows.

Mr. Schrader advised the Commission that he has reviewed the letters that were submitted and finds that they are acceptable.

Mrs. Mangone advised the Commission that a property owner in the area who is not present is not opposed to this subdivision.

No one was present 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 made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve as a preliminary.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve as a final.

6. RE: Subd. #94-10--C-Con Development Corp.

Gus Croll, developer, was present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in Georgetown Hundred by dividing 10.66 acres into 19 lots, located on the northwest side of Route 319, 380 feet north of Route 245 and a variance of the maximum allowed cul-de-sac length of 1,000 feet.

Mr. Abbott summarized the Technical Advisory Committee Report of December 15, 1994, and comments received from the State DNREC Water Supply Section, DNREC Division of Fish and Wildlife, DNREC Solid Waste Management Branch, and the DNREC Ground Water Discharges Section.

Mr. Abbott advised the Commission that proposed deed restrictions were submitted and that Mr. Schrader has reviewed these and found them to be acceptable.

Mr. Croll advised the Commission that they have met with DelDOT and will put in a deceleration lane for traffic which will be discussed at the final entrance design requirements, that the developers will meet the requirements of the Technical Advisory Committee, that there are other manufactured homes in the area, that there is a manufactured home park located to the rear of this site and that there is a need for additional manufactured home lots in the area.

No one was present in support of this application.

Melissa Berner, June Bennett, Donald McCorry, and George Garrison spoke in opposition to this application with concerns about the entrance location on Route 319, the number of vehicle accidents in this area, that there are two other manufactured parks in the area with available lots, drainage problems in the area, increases in population and crime, safety of children, the location of the community sewer disposal system, negative impacts on property values, proposed lot and home sizes, and environmental impacts on Savannah Ditch.

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. Phillips, seconded by Mr. Lynch, and carried unanimously to deny this application due to safety concerns about the location of the entrance and drainage problems.

III. OTHER BUSINESS

1. RE: C/U #978--Charles Daisey

The Commission reviewed an amended site plan for an additional 30' x 42' wash bay building on Route 213.

Mr. Abbott questioned if the applicant would be required to file another conditional use application to erect this building.

The Commission discussed the stipulations of Conditional Use No. 978.

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

2. RE: The Lighthouse Plaza

The Commission reviewed a revised preliminary site plan of retail stores located on Route One near Rehoboth.

Preston Dyer advised the Commission that this revised plan deletes one right turn lane as recommended by DelDOT, that the connector road to the Kmart site has been realigned, that the square footage of the retail stores has decreased, that the required parking has increased, and that the stormwater management area has been conceptually approved by the Conservation District.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve as a revised preliminary.

3. RE: Dave Wilson

The Commission reviewed a concept to create two lots on Route 113.

Mr. Abbott advised the Commission that this subdivision needs the Commission approval since the site is located on a major arterial road and that DelDOT has approved the entrance locations.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the subdivision.

4. RE: Messick Supply Company

The Commission reviewed a commercial site plan for a farm supply store on Route 20 near Hardscrabble.

Phil Day, engineer, was present on behalf of this site plan.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code and that if the Commission is favorable to the site plan only preliminary approval should be considered since no agency approvals have been received.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and or permits.

5. RE: The Pines at Long Neck

Joe Conaway was present as the Commission reviewed the final record plan for the Pines at Long Neck a General Residential Residential Planned Community on Route 24.

Mr. Abbott advised the Commission that the final plot is for 186 lots, that the plan is in compliance with the zoning and subdivision codes and that all agency approvals and or permits have been received.

Motion made by Mrs. Monaco, seconded by Mr. Lynch, and carried unanimously to approve as a final.

6. RE: Royal Farms Store

The Commission reviewed a commercial site plan for a convenience store located on Route 24.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code and that approvals have been received from DelDOT and the Sussex Conservation District, and that if the Commission is favorable only preliminary approval should be considered.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and permits.

IV. OLD BUSINESS

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

No parties 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.

The Commission discussed the points and issues raised during the public hearing on December 8, 1994.

Mr. Lynch stated that he did not feel that 117 storage slips would be enough to serve the entire community of Angola Beach and Angola Estates, that he anticipates that a need would be voiced for additional slips in the future, and that he felt that the land was originally intended and developed to be set aside for use of all of the residents within the park.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be denied since the number of slips proposed may not be enough to serve the entire community of Angola Beach and Angola Estates, since it is anticipated that a need could be voiced for additional slips in the future, and since the land was originally intended and developed to be set aside for use of all of the residents within the park.

Mr. Allen thanked Mrs. Monaco for her dedicated service as a Commission member and advised her that he and the other Commission members will miss her participation in the site inspections and meetings.

Meeting adjourned at 10:00 PM.