

MINUTES OF THE SPECIAL MEETING OF APRIL 4, 2002

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 4, 2002 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Lynch, and Mr. Wheatley with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to adopt the agenda as circulated.

OLD BUSINESS

C/Z #1458 -- application of **BAYWOOD, LLC AND TUNNELL COMPANIES, L.P.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a GR-RPC General Residential District - Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying on both sides of State Route 24, south and west of Road 298, north of State Route 23 (a.k.a. Long Neck Road) and on both sides of Route 5, to be located on 722.316 acres, more or less.

The Commission discussed this application which was deferred after the public hearing on March 14, 2002. The discussion included references to the 1997 Comprehensive Plan Map, Development Districts, Agricultural Residential Districts, and Rural Community Districts.

Mr. Lynch stated that he would move to approve the application with reasons and conditions; passed out his suggested reasons and conditions; and asked Mr. Schrader to read his recommendations. Mr. Schrader read that the proposed reasons that includes the following:

1. The proposed GR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because a large portion of the proposed project is in a Development District, as established by the 1997 Sussex County Comprehensive Plan, and the remainder is an extension of the pre-existing golf course and project.
2. GR Zoning is appropriate for the proposed project site because the project is adjacent to another GR-RPC development (Pines of Long Neck) and central sewer and water are available.
3. The RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large-scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses. A portion of the proposed project has

already been approved for 726 manufactured home lots that will be reduced and redeveloped under the RPC designation.

4. The subject property is in the Long Neck area along State Routes 23 and 24 that has developed with residential projects with densities similar to or greater than the proposed project. The Long Neck area is as established existing community with a distinctive neighborhood character. The proposed project is in character with the nature of the area.
5. The recommendation of approval of this project is subject to the following conditions:
 - The maximum number of dwelling units shall not exceed 960, of which no more than 30% shall be townhouse or multifamily units. No townhouse or multifamily units shall be permitted in that portion of the project west of State Route 24.
 - Except as related to the golf course or as previously zoned, no commercial development is permitted.
 - Site plan review is required for the master plan and each phase of the proposed development.
 - Property addressing of the project shall be submitted to the County Addressing Division for review and approval.
 - The site plan for the manufactured home park portion of the project shall be revised and subject to review and approval by the Planning and Zoning Commission.
 - The interior street design shall include streetlighting, sidewalks and bike paths.
 - There shall be a 50' buffer surrounding the perimeter of the project and a landscape plan shall be submitted and approved by the Planning and Zoning Commission with each site plan. Buffer areas shall retain existing vegetation to the maximum extent possible. Screening of service yards and other places, that tend to be unsightly, shall be accomplished by the use of walls, fencing, planting or combinations of these. Screening shall be effective in winter and summer. In areas where vegetation does not exist, additional landscaping shall be provided utilizing earth mounds or plant material, or both. Landscape plantings should be indigenous to the local area and should provide a soft visual buffer between the project and adjacent properties.
 - All signals, entrances, intersections, roadway improvements, and multimodal facilities shall be constructed as required by DelDOT.
 - The RPC shall be served by central sanitary sewer service.
 - The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.

- Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. If it is determined that additional areas are required for stormwater management, parking, or other use, the additional area shall be taken from lot areas, not designated State and Federal wetlands or open space areas.
- State wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas, except as may be authorized by a valid Federal or State permit. There shall be no construction in any wetlands without valid permits.
- No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules or regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the above reasons and conditions.

Motion carried 5 - 0.

C/Z #1461 -- application of **OCEAN ATLANTIC ASSOCIATES, V, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District and a GR General Residential District to a MR-RPC Medium Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying southeast of Route 88, 400 feet southwest of Route One, and also being northwest of Best Lane, to be located on 103.08 acres, more or less.

The Commission discussed this application which was deferred after the public hearing on March 21, 2002.

Mr. Johnson stated that he would move to approve the application with reasons and conditions; passed out his suggested reasons and conditions; and asked Mr. Schrader to read his recommendations. Mr. Schrader read the proposed reasons that included the following:

1. The proposed rezoning from AR and GR to MR-RPC meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a development district as established by the 1997 Sussex County Comprehensive Plan.
2. MR Zoning is appropriate for the proposed project site because medium density residential development is appropriate in areas where central sewer and water are available.
3. The RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large-scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
4. The subject property is in an area along County Route 88 that has developed with residential subdivisions with densities similar to the proposed project. The proposed project will be in character with the nature of the area if the commercial area is denied and limited to single family and multifamily duplex dwellings.
5. The recommendation of approval is subject to the following conditions:
 - The maximum number of dwelling units shall not exceed 300, of which no more than one-half shall be multifamily duplex units.
 - No multifamily duplex units shall be adjacent to other contiguous residential subdivisions.
 - There shall be no commercial development, except that the community center building may be used as a temporary sales office for this project.
 - Residential building permits shall not exceed 100 per year.
 - Site plan review is required for the master plan and each phase of the development.
 - The interior street design shall include streetlighting, sidewalks and bike paths.
 - There shall be a 50' buffer between the perimeter of the project and adjacent residential subdivisions, County Route 88, and Best Lane and a 30' buffer between the perimeter of the project and adjacent commercial areas. Buffer areas shall retain existing vegetation to the maximum extent possible. In areas where vegetation does not exist, additional landscaping shall be provided utilizing earth mounds or plant material, or both.

- A landscape plan, including a "street tree" planting program, shall be submitted and approved by the Planning and Zoning Commission with each site plan. The "street tree" planting program shall be of not less than three trees per unit. Landscape plantings should be indigenous to the local area.
- All signals, entrances, intersections, roadway improvements, and multimodal facilities shall be constructed as required by DelDOT.
- The project shall have no access to Best Lane, except for emergency vehicles.
- Recreational facilities, e.g., swimming pool, tennis courts, etc., shall be constructed and open to use by the residents at the time of the completion of the first 60 units.
- The RPC shall be served by the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
- The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
- Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. If it is determined that additional area is required for stormwater management, parking, or other use, the additional area shall be taken from lot areas, not designated wetlands or open space areas.
- Designated wetlands shall not be included in any individual lots. Designated wetlands shall be maintained as non-disturbed areas.
- No community or individual boat docks or boat launching facilities shall be permitted.
- No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules or regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be

released upon the issuance of all other permits and the filing of an approved master plan or final site plan.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the above reasons and conditions.

Motion carried 5 - 0.

Subdivision #2002-4--application of **COUNTRY LIFE HOMES** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 6.01 acres into 12 lots, located west of Neptune II Drive, 100 feet north of Neptune III Drive within Ocean Farm Subdivision, north of Road 363, southwest of Road 361.

The Commission discussed this application which was deferred after the public hearing on March 21, 2002.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried with four votes to defer action.

Motion carried 4 - 0, with Mr. Lynch not voting.

OTHER BUSINESS

Sports at the Beach
C/U #1421 Site Plan - Route 9

Mr. Abbott advised the Commission that the site plan is for an athletic complex; that 8 baseball and softball fields are proposed; that 6 of the fields are lighted for night play; that there are 9 40-foot by 80-foot dormitories and 3 40-foot by 108-foot dormitories; that there are 4 multi purpose fields proposed; that there is a 40-foot by 50-foot maintenance building proposed; that a playground, swimming pool, and basketball court are proposed; that the kitchen and pavilion are located in an 80-foot by 190-foot building; that 298 parking spaces are proposed; that water and sewer will be provided by the Town of Georgetown; that the setbacks meet the requirements of the zoning code; that the site plan meets the conditions of approval; that the office has received an approval from the Federal Aviation Administration; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all required agency approvals.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the

site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals.

Skydive Delmarva, Inc.
C/U #1423 Site Plan - Route 24

Mr. Abbott advised the Commission that the site plan is for 10 recreational vehicle campers for skydiving instructors and pilots; that each camper is limited to one family; that Leyland Cypress trees are proposed to be planted for the screening of the campers; that there is a 13-foot separation between the campers; that the campers are permitted to be on the site from April 1 to November 30 of each year; that the Building Code Office has advised the staff that the violations have been corrected; that the Office of the State Fire Marshal has approved the site plan; and that the site plan is suitable for final approval.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a final.

Lewes Fire Department, Inc. and Rehoboth Beach Volunteer Fire Company, Inc.
C/U #1433 Site Plan - Route 24

Mr. Abbott advised the Commission that the site plan is for a 8,200 square foot fire substation; that the setbacks meet the requirements of the zoning code; that 21 parking spaces are proposed; that the water and sewer are proposed to be on site; that an approval has been received from the Sussex Conservation District; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all required agency approvals.

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

The Villages at King's Creek
C/U #1441 Site Plan - Road 273

Mr. Abbott advised the Commission that the site plan is for 8 single family detached units; that a 6-foot high stockade fence is required and proposed along the rear property line; that 24 parking spaces are proposed; that there is a minimum ten-foot separation between the units; that sewer will be provided by Sussex County and that water will be provided by Tidewater Utilities; that there are not any wetlands on the site and the site is not located in a flood zone; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all required agency approvals.

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

Peninsula Community Church
Site Plan - Route 54

Mr. Abbott advised the Commission that the site plan is for a 15,105 square foot church with seating capacity for 335 seats; that 84 parking spaces are required and that 101 spaces are proposed; that the parking lot is proposed to be improved with 6 inches of crushed stone; that the setbacks meet the requirements of the zoning code; that the Board of Adjustment approved a special use exception for a day care facility at the site; that a softball field, soccer field, basketball court and cemetery are also proposed; that the site will be served by central sewer and water; that there are not any wetlands on the site and the site is not located in a flood zone; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all required agency approvals.

Rich Polk was present and advised the Commission that the parking area will be paved as soon as the funding is available.

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

Joe Webb
Relocation of a right of way - Route 14

Mr. Abbott advised the Commission that this is a request to relocate an existing 33-foot right of way approximately 150-feet to the southeast and create a 45-foot right of way to serve as access to an 8.15-acre lot.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the relocated right of way as a concept.

Rodney Wyatt
Lot and 50' right of way - Route 404

Mr. Abbott advised the Commission that this is a request to create a 1.00 acre lot with access from an existing 50-foot right of way off of Route 404 and that the proposed lot would be the third parcel with access from the right of way.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the request as a concept.

The Home Depot
Parcel and Easement - Delaware Route One

Mr. Abbott advised the Commission that this is a request to create a 10.19-acre tract with access from a 25-foot easement across the Home Depot site; and that the original owner of the land wishes to put the proposed 10.19-acre tract in a long term nature conservation program.

Randy Duplechain of Davis, Bowen and Friedel was present and advised the Commission that the owner does not want to develop the property; that access to the site would be from a cross access easement over the Home Depot site; and that the owner may not object to a private restriction that the land will not be developed.

The Commission discussed concerns about the width of the easement.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action pending review of proposed deed restrictions limiting the parcel from being developed.

Robino Seachase, L.L.C.
C/U #1379 Time Extension

Mr. Abbott advised the Commission that a request for a one-year time extension for a 45-unit multi-family project has been received; that the application was approved by the County Council on May 8, 2001; and that this is the first request for an extension.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve a one-year time extension.

Subdivision #2001-6 - - Sussex Shores Water Co.
Time Extension

Mr. Abbott advised the Commission that a request for a one-year time extension has been received; that the application received preliminary approval for 23 lots on April 5, 2001; and that all agency approvals have been received except the Sussex Conservation District.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve a one-year time extension.

DMV Partnership
C/U #1306 Revised Site Plan - Road 360

Mr. Abbott advised the Commission that the revised site plan is the same as what the Commission approved on November 30, 2000 except that now the units will not be connected by a shed.

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

Rehoboth Mall
Revised Site Plan - Delaware Route One

Mr. Abbott advised the Commission that the revised site plan is for a 3,200 square foot bank; that the new structure brings the total gross leasable area to 183,014 square feet; that 1,098 parking spaces are required and that the Board of Adjustment granted a variance of 48 spaces; that with the variance the required parking is 1,050 spaces; that the setbacks meet the requirements of the zoning code; that the site plan is suitable for preliminary approval and that final approval could be subject to receipt of all required agency approvals.

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

McKinney Property
Revised Commercial Site Plan - Delaware Route One

Mr. Abbott advised the Commission that the revised site plan is for retail stores and mini storage; that the staff has received a letter of no objection from DelDOT in reference to the entrance location; that the site plan meets the requirements of the zoning code; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all required agency approvals.

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

Meeting adjourned at 8:20 P.M.