

MINUTES OF THE REGULAR MEETING OF JANUARY 8, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 8, 1998, at 7:30 PM, in the County Council Chambers, Sussex County Administrative Building, Georgetown, Delaware, with the following members present;

Mr. Allen, Mr. Hastings, Mr. Lynch, Mr. Phillips, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the minutes of December 11, 1997 as corrected.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the minutes of December 18, 1997 as corrected.

Mr. Schrader explained how the meeting will be conducted.

II. PUBLIC HEARINGS

1. C/U #1219--W. Donald Clifton for Clifton Canning Co., Inc.

W. Donald Clifton and Karen Emory Brittingham of Charles Murphy and Associates were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for Indoor Boat Storage Facility on the southeast side of Road 38, 2,240 feet northeast of Route One, located on 4.99 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex Conservation District.

Ms. Brittingham stated that the site has been utilized for a cannery for more than 50 years; that several buildings on the site have been used for cannery storage; that the proposed use is indoor boat storage for fishermen; that no negative impact is anticipated on the neighborhood or property values; that no additional parking will be necessary; that no outdoor storage of boats is proposed; that access to the building will be from the rear since overhead doors exist; that the maximum capacity of boats for storage is 300; that the hours of operation will be seasonal from 7:00 A.M. to 9:00 P.M.; that the proposed use should be less impacting than the cannery, since tractor trailer activity is eliminated; and that signage will be in compliance with the Zoning Ordinance.

Ms. Brittingham and Mr. Clifton, in response to questions raised by the Commission, stated that approximately 69,400 square feet of buildings will be utilized; that they hope to occupy all of the buildings within 2 years; that the height of the building

is 17 feet; that the hours of operation will be enforced; that the buildings are concrete block with concrete floors; that the area around the site is wooded with a ditch on one side; that a fenced and gated entrance will be maintained; and that all boats will be trailered.

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.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "A" of Road 38 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Sassafras sandy loam, and Swamp; that the Evesboro and Sassafras soils have slight limitations; that the Swamp soils have severe limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation; that the farmland rating of the Evesboro soils is of Statewide Importance; that the farmland rating of the Sassafras soils is Prime Farmland; that the Swamp soils are considered Hydric; that no storm flood hazard area or tax ditch is affected; and that on-site and off-site drainage improvements may not be necessary if the storage facility is located on the Evesboro or Sassafras soils.

The Commission found that W. Donald Clifton and Karen Emory Brittingham were present and that Ms. Brittingham stated that the site has been utilized for a cannery for more than 50 years; that several buildings on the site have been used for cannery storage; that the proposed use is indoor boat storage for fishermen; that no negative impact is anticipated on the neighborhood or property values; that no additional parking will be necessary; that no outdoor storage of boats is proposed; that access to the building will be from the rear since overhead doors exist; that the maximum capacity of boats for storage is 300; that the hours of operation will be seasonal from 7:00 A.M. to 9:00 P.M.; that the proposed use should be less impacting than the cannery, since tractor trailer activity is eliminated; and that signage will be in compliance with the Zoning Ordinance.

The Commission found that Ms. Brittingham and Mr. Clifton, in response to questions raised by the Commission, stated that approximately 69,400 square feet of buildings will be utilized; that they hope to occupy all of the buildings within 2 years; that the height of the building is 17 feet; that the hours of operation will be enforced; that the buildings are concrete blocks with concrete floors; that the area around the site is wooded with a ditch on one side; that a fenced and gated entrance will be maintained; and that all boats will be trailered.

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

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 the application makes use of an existing vacated manufacturing building; since the use will serve the fishermen in the area with storage space; and with the following stipulations:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. Signage may be subject to the B-1 Neighborhood Business District restrictions.

2. C/U #1220--Country Trails Land Co.

Tom Marvel, a member of the Sussex County Association of Realtors, was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Georgetown Hundred for Professional Office Use on the southwest corner of the intersection of U.S. Route 9 and Road 321, located on 1.8699 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex Conservation District.

Mr. Marvel stated that the Association has almost outgrown their existing offices on South Bedford Street; that the Association chose this site to centrally serve the realtors in the County; that the majority of the realtors are employed in the resort area; that a 2,000 square foot building is proposed for office space and conference rooms; that access is limited by DelDOT onto Truck Route 9 (Road 321); that typically there will be four (4) employees on the site; that adequate parking is proposed for meetings and conferences; that an antique store exists west of the site; that a C-1 General Commercial District exists across Road 321; that there is no anticipated impact on the neighborhood or property values; and that a deed restriction, as requested by DelDOT, will be provided to limit use to professional office use.

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.

The Commission found, based on comments received from DelDOT, that, originally, DelDOT had requested a traffic impact study; that in response to materials submitted on behalf of the Association of Realtors, DelDOT has withdrawn the request; that DelDOT expects that the traffic from the proposed use will be negligible and that DelDOT is not opposed to the use; and that DelDOT was opposed to rezoning of the property and prefers to see the use permitted as a Conditional Use, which can restrict the use.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand which has slight limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that the farmland rating of the Evesboro soils is considered of Statewide Importance; that no storm flood hazard area or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Tom Marvel, a member of the Sussex County Association of Realtors, was present and stated that the Association has almost outgrown their existing offices on South Bedford Street; that the Association chose this site to centrally serve the realtors in the County; that the majority of the realtors are employed in the resort area; that a 2,000 square foot building is proposed for office space and conference rooms; that access is limited by DelDOT onto Truck Route 9 (Road 321); that typically there will be four (4) employees on the site; that adequate parking is proposed for meetings and conferences; that an antique store exists west of the site; that a C-1 General Commercial District exists across Road 321; that there is no anticipated impact on the neighborhood or property values; and that a deed restriction, as requested by DelDOT, will be provided to limit use to professional office use.

The Commission found that no parties appeared in support of or in opposition to 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 since the site is located within a Town Center in the Sussex County Comprehensive Plan and with the following stipulations:

1. The site plan shall be subject to the review and approval by the Planning and Zoning Commission.
2. The entrance shall be restricted to Truck Route 9 (Road 321).

3. C/Z #1328--Salvatore J. & Betty Gallo

Betty Gallo and James Fuqua, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Lewes and Rehoboth Hundred, located on the west side of Kings Highway (Road 268), 250 feet south of Road 269, to be located on 2.1258 acres more or less.

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

Mr. Fuqua stated that a real estate office exists on the site; that the real estate office was approved as a Conditional Use; that commercial storage of a non-conforming shed, former poultry house, exists on the site; that adjoining land to the north is zoned C-1 General Commercial; that the applicants intend to build an additional 30' by 60' office onto the site; that one or two additional staff are anticipated; that the site plan will be prepared to comply with the Zoning Ordinance; that all agency comments will be met; that no wetlands exists on the site; that any future change in use will require DelDOT approval; that the site is in close proximity to the Lewes Fire Company and the State Police; that the site is located within a Development District in the Sussex County Comprehensive Plan; that the use is an appropriate use in a Development District; and that the property has a small access to Road 269.

Mrs. Gallo stated that the garage is used for commercial storage of real estate signs; and that they need additional office space.

Mr. Fuqua added that the property is presently two parcels and will be combined into one parcel to permit the proposed construction.

Mr. Fuqua submitted photographs of the improvements on site.

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.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the present level of service "E" will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras sandy loam which has slight limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the farmland rating of the soil type is considered Prime Farmland; that no storm flood hazard area or tax ditch is affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the sewer system has been designed to provide capacity for the existing use and an additional 3.22 equivalent dwelling units; that approximately 7,270 square feet of office space can be constructed based on the capacity; and that system connection charges will be required.

The Commission found that Betty Gallo and James Fuqua, attorney, were present and that Mr. Fuqua stated that a real estate office exists on the site; that the real estate office was approved as a Conditional Use; that commercial storage of a non-conforming shed, former poultry house, exists on the site; that adjoining land to the north is zoned C-1 General Commercial; that the applicants intend to build an additional 30' by 60' office onto the site; that one or two additional staff are anticipated; that the site plan will be prepared to comply with the Zoning Ordinance; that all agency comments will be met; that no wetlands exist on the site; that any future change in use will require DelDOT approval; that the site is in close proximity to the Lewes Fire Company and the State Police; that the site is located within a Development District in the Sussex County Comprehensive Plan; that the use is an appropriate use in a Development District; and that the property has a small access to Road 269.

The Commission found that Mrs. Gallo stated that the garage is used for commercial storage of real estate signs; and that they need additional office space.

The Commission found that Mr. Fuqua added that the property is presently two parcels and will be combined into one parcel to permit the proposed construction.

The Commission found that Mr. Fuqua submitted photographs of the improvements on site.

The Commission found that no parties appeared in support of or in opposition to 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 since the site is located within a Development District in the Sussex County Comprehensive Plan; since the use is an extension to an existing commercial use; since the zoning is an extension of commercial zoning on adjacent lands; and since the zoning and use will conform to the general use of the area.

4. C/Z #1329--Edward J. Timmons, Sr.

Edward J. Timmons, Sr. and Steve Parsons, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Dagsboro Hundred, located 250 feet northeast of Road 83 and Road 334, 500 feet northeast of U.S. Route 113, to be located on 10.71 acres more or less, excepting therefrom a portion already zoned C-1 General Commercial.

Mr. Lank summarized comments received from DelDOT and the Sussex Conservation District.

Mr. Timmons and Mr. Parsons, during their presentation and in response to questions raised by the Commission, stated that the application is proposed to expand the C-1 General Commercial zoning existing on the front of the site; that approximately seven (7) acres are proposed as expansion; that the rezoning will establish conforming zoning for the manufactured home storage already existing on the site; that recycling of manufactured homes also takes place on the site; that the site is surrounded by other commercial properties; that no adverse impact is anticipated on the neighborhood or traffic; that no increase in traffic is anticipated; that a need exist for the recycling of manufactured homes; that manufactured home dealers store new and used units on the site; that they have applied for enough acreage to provide adequate storage area and space for recycling of the

older manufactured homes; that some setbacks were being encroached upon by stored units; that the site has always been utilized for the storage of some units; that the applicant is aware that fencing is needed, and that the applicant has agreed to put up the fencing; that the storage and recycling will take place to the rear of the site; that new units will be stored on the front 200 feet of depth of the site; that fencing will separate the two uses; that the fencing will be installed prior to the County Council meeting; and that an office building exists on the front of the site and is used for retail sales of recyclable materials.

Edward Adams, the manufactured home recycler on site, stated that he sells recyclable parts to individuals; that during good weather, he can dispose of three (3) units per week; that he sells steel, aluminum, parts, axles, etc...to individuals and salvage yards; that 60 to 100 units exist on the site for recycling; and that no recycling activities take place on Sundays.

Francis Robino, an employee of Mr. Adams, stated that a need exist for recycling of manufactured homes; that some of the homes being received are damaged homes acquired by evictions; that the majority of the units are brought in by manufactured home dealers; that the use eliminates older units; and that 80% of the units are from Sussex County.

Mrs. Linda Adams stated that they have received 62 units within the last two and one-half weeks.

Sam Kennan, an adjoining landowner, stated that he has no objection to the rezoning or the use, but is concerned about rodents and Sunday hours; and that a need exist for fencing around the site to control the blowing debris.

Dennis Johnson, a Sussex County Constable, stated that he has been dealing with the Adams' for several months; that the Adams' have spent several thousands of dollars cleaning up the debris on the site; that 90% of the violations have been corrected and cleaned up; that the majority of the units have been received in the last few weeks; and that the Adams' are keeping trash to a minimum.

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 "A" may change to a level of service "C" if this rezoning takes place.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Johnston loam or silt loam; that the Evesboro soils have slight limitations; that the Johnston soils have severe limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that the farmland rating of the Evesboro soils is of Statewide Importance; that the Johnston soils are considered Hydric; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements if the facilities are located on Evesboro soils.

The Commission found that Edward J. Timmons, Sr. and Steve Parsons, Attorney, were present and that during their presentation and in response to questions raised by the Commission, stated that the application is proposed to expand the C-1 General Commercial zoning existing on the front of the site; that approximately seven (7) acres are proposed as expansion; that the rezoning will establish conforming zoning for the manufactured home storage already existing on the site; that recycling of manufactured homes also takes place on the site; that the site is surrounded by other commercial properties; that no adverse impact is anticipated on the neighborhood or traffic; that no increase in traffic is anticipated; that a need exist for the recycling of manufactured homes; that manufactured home dealers store new and used units on the site; that they have applied for enough acreage to provide adequate storage area and space for recycling of the older manufactured homes; that some setbacks were being encroached upon by stored units; that the site has always been utilized for the storage of some units; that the applicant is aware that fencing is needed, and that the applicant has agreed to put up the fencing; that the storage and recycling will take place to the rear of the site; that new units will be stored on the front 200 feet of depth of the site; that fencing will separate the two uses; that the fencing will be installed prior to the County Council meeting; and that an office building exists on the front of the site and is used for retail sales of recyclable materials.

The Commission found that Edward Adams, the manufactured home recycler on site, stated that he sells recyclable parts to individuals; that during good weather, he can dispose of three (3) units per week; that he sells steel, aluminum, parts, axles, etc...to individuals and salvage yards; that 60 to 100 units

exist on the site for recycling; and that no recycling activities take place on Sundays.

The Commission found that Francis Robino, an employee of Mr. Adams, stated that a need exist for recycling of manufactured homes; that some of the homes being received are damaged homes acquired by evictions; that the majority of the units are brought in by manufactured home dealers; that the use eliminates older units; and that 80% of the units are from Sussex County.

The Commission found that Mrs. Linda Adams stated that they have received 62 units within the last two and one-half weeks.

The Commission found that Sam Kennan, an adjoining landowner, stated that he has no objection to the rezoning or the use, but is concerned about rodents and Sunday hours; and that a need exist for fencing around the site to control the blowing debris.

The Commission found that Dennis Johnson, a Sussex County Constable, stated that he has been dealing with the Adams' for several months; that the Adams' have spent several thousands of dollars cleaning up the debris on the site; that 90% of the violations have been corrected and cleaned up; that the majority of the units have been received in the last few weeks; and that the Adams' are keeping trash to a minimum.

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

III. OTHER BUSINESS

1. Atlantic Liquors

Byron Jefferson, P.E. was present as the Commission reviewed a revised commercial site plan for retail sales at the intersection of Route One and Road 274.

Mr. Abbott advised the Commission that the revised site plan is for a 6,614 square foot package store, that the staff has received a letter of no objection to the entrance locations from DelDOT, that the site is located within the Highway Corridor Overlay Zone and that the twenty foot buffer proposes the landscaping to be grass, that the building setbacks meet the minimum requirements of the Zoning Code, that thirty six parking spaces are required and that forty two spaces are provided, that all parking spaces are ten feet by twenty feet and that the interior drives are twenty five feet in width, that there is parking within the sixty foot setback area and that this would

require a waiver from the Commission, that the site is not located within a flood plain, that there are no wetlands on the site, and that if the Commission is favorable, only preliminary approval should be considered since the staff has not received any agency approvals.

Mr. Abbott read a part of the Zoning Code in reference to the requirements of the twenty foot landscaped buffer requirements.

Mr. Jefferson advised the Commission that the buffer is proposed to be grass in order to keep costs down, that the developers would not object to putting in more elaborate landscaping, that the alley will serve as a fire lane, and that the existing building on the proposed site will be torn down to be used for parking.

Jay Diaz, Store Manager, advised the Commission that the existing building is approximately 3,000 square feet, that the proposed store will be 6,000 square feet, that they need extra storage for discount sales, and agreed to install additional landscaping.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary.

2. Dash - In Food Store

Karen Brittingham of Charles Murphy Associates was present as the Commission reviewed a commercial site plan for a convenience type store with gas pumps at the intersection of Route 24 and Route 22.

Mr. Abbott advised the Commission that the proposed building is seventy feet by forty six feet, that there is an outdoor dining area that is thirty one feet by twenty eight feet, that the setbacks meet the minimum requirements of the Zoning Code, that thirty five parking spaces are required and that forty two spaces are provided, that there is parking located within the front yard setback and that this will require a waiver from the Commission, and that if the Commission is favorable to the site plan, only preliminary approval be considered since the staff has not received any agency approvals or permits.

Motion made by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the site plan as submitted as a preliminary.

3. First State Storage Co.

The Commission reviewed a concept to create a 1.25 acre parcel on the south side of Route 9 across from Road 249 east of Georgetown.

Mr. Abbott advised the Commission that the Commission is required to review and approve this lot since Route 9 is a major arterial roadway and that the DelDOT has approved the entrance location.

Motion made by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to approve the lot as a concept.

4. South Shore Subdivision

The Commission reviewed the final record plan for the twenty three lot South Shore Subdivision near the Indian River Inlet.

Mr. Abbott advised the Commission that this application received final approval on March 23, 1995, that the record plan was not recorded within sixty days of final approval, that the Commission re-approved the subdivision as a final on March 14, 1996 and once again the record plan was not recorded within sixty days, that the developers are requesting that the Commission grant final approval again and that the streets and utilities have been installed.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried three votes to none, with Mr. Hastings abstaining, to re-approve the twenty three lot subdivision as a final.

Meeting adjourned at 9:50 PM.