

MINUTES OF THE REGULAR MEETING OF JANUARY 10, 1991

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 10, 1991, at 7:30 P.M. in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mrs. Monaco, Mr. Hickman, Mr. Smith, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of December 27, 1990, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #1104--Jack Mears and John Reynolds

Jack Mears and John Reynolds were 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, 1,100 feet south of Route 454A, and to be located on a parcel containing 0.76 acre more or less.

Mr. Lank summarized comments received from the State Division of Highways and the Sussex Conservation District.

Mr. Mears stated they plan to use the proposed site for their real estate business, and rent space to other similar type businesses at some future time.

Mr. Mears stated they are buying the property at this time as an investment. They may lease the property for a billboard.

No one was present 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 the State Division of Highways, that a traffic impact study was not recommended and that the level of service "A" 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 will be affected, that it may not be necessary for any off-site drainage improvements, that it may be necessary for on-site drainage improvements, that the soils mapped on-site are Klej loamy sand and Fallsington sandy loam, that severe limitations may be anticipated for the intended use due to wetness if not adequately drained, that moderate limitations may be anticipated during construction and slight limitations after completion of construction with respect to erosion and sedimentation control, and that the farmland rating of the soil types is of state wide importance.

The Commission found that the applicants were present and plan to utilize the site for a future real estate office and some commercial leasing, that they are purchasing the property as an investment, that a billboard may be a potential use, that no negative impact on the neighborhood or property values are anticipated.

Motion made 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 based on the record of support and since the site is located in a town center in the Western Sussex Land Use Plan, and since the site location is not appropriate for residential lots.

2. RE:C/Z #1105--W. Nelson Hall

Nelson Hall was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Broadkill Hundred, located on the north side of Route 231, approximately 50 feet west of Route 5, and to be located on a parcel containing 28.15 acres more or less.

Mr. Lank summarized comments received from the D.N.R.E.C. Land Use Planning Act Coordinator, the State Division of Highways, and the Sussex Conservation District.

Mr. Hall stated this application had been heard previously, but since he had failed to appear at the County Council hearing, he had to reapply. There are no changes from the previous application. He plans to subdivide the property into lots and sell them for the placement of manufactured homes or dwellings.

No one was present 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 the D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested from the D.N.R.E.C. Division of Air and Waste Management, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study was not recommended and that capacity to this road segment is controlled by one or more intersections.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped are Rumford loamy sand, that the suitability of the soils for the intended use vary from no to slight limitations, that moderate limitations may be anticipated during construction and slight limitations after completion of any construction in reference to erosion and sedimentation control, that the farmland rating of the soil type is of statewide importance, that no storm flood hazard or tax ditch is affected, and that it may not be necessary for any off-site or on-site drainage improvements.

The Commission found that the applicant was present and plans to utilize the site for a strip development for manufactured homes, that an easement for access crosses the property which serves lands to the rear of the site, and that no adverse impact is anticipated on the neighborhood or property values since similar uses and zoning exist across the road from the site.

The Commission found that the applicant had filed a previous application which had been recommended for the same site, which had been withdrawn from County Council action since no one appeared on behalf of the application at the hearing before the County Council.

Motion made 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 based on the record of support and since the rezoning will be an expansion to the GR General Residential District across Route 231.

3. RE: C/Z #1106--George C. Coverdale

George Coverdale, and Pat Campbell-White, Virginia Joy Real Estate, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General

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Commercial in Broadkill Hundred, located on the south side of Route 9, 400 feet west of Route 290, and to be located on a parcel containing 1.206 acres more or less.

Mr. Lank read into the record a letter received from the Department of Transportation and summarized comments received from the Sussex Conservation District.

Ms. Campbell-White submitted three (3) letters in support from area residents and businesses.

Ms. Campbell-White stated that the applicant plans to relocate his general contractor business to the proposed site. He may also lease space for other similar businesses. He plans to construct buildings for storage and business use. The site could be used for mini-storage.

Dr. Bowen spoke in opposition since no definite use was stated. Dr. Bowen was also opposed to a mixture of B-1 and C-1 zonings in the same strip of lots.

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 the State Division of Highways, that access to the site shall be via the service road and entrance at Lot #4 in front of the T & R Roofing site.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on-site are Rumford loamy sand, that the suitability of the soils for the intended use vary from no to slight limitations, that moderate limitations may be anticipated during construction and slight limitations after completion of any construction in reference to erosion and sedimentation control, that the farmland rating of the soil type is of statewide importance, that no storm flood hazard area or tax ditch will be affected, and that it may not be necessary for any off-site or on-site drainage improvements.

The Commission found that the applicant was present with a realtor and that he plans to utilize the site for a contractors office and storage; that a site evaluation has been completed for this site for a cap and fill septic system; that no adverse impact is anticipated on property values, the neighborhood, or Route 9; that mini-storage was being considered but would be limited due to

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shallowness of the site; and that other business and commercial uses exist within the same subdivision.

The Commission found that three (3) letters of support have been received from two (2) lot owners in the subdivision and the owners of the farm across the railroad.

The Commission found that one person spoke in opposition and expressed concern referencing the intended use; that the lot has been for sale for three (3) years; since no plans have been submitted for development of the lot; other uses permitted in C-1 General Commercial Districts; the odd shape of the property; and cost of the service road.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the rezoning will be an extension of existing business and commercial districts adjoining.

4. RE: C/Z #1107--Leon T. Fleming & Others

Norma Fleming was present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business in Cedar Creek Hundred, located on the southeast corner of the intersection of Route 16 and Route 213, and the northeast corner of the intersection of Route 213 and Willow Street in the Town of Ellendale, and to be located on a parcel containing 55,200 square feet more or less.

Mr. Lank summarized comments received from the State Division of Highways and the Sussex Conservation District.

Ms. Fleming stated there is a non-conforming restaurant on the proposed site. The restaurant is presently closed, but has not yet been closed for two (2) years. The site is not a desirable site for residential use. The applicants plan to sell the property.

Kathleen Walton, Mayor of Ellendale, spoke in opposition since no proposed use was given.

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 the State Division of Highways, that a traffic impact study was not

recommended, and that the level of service "D" of Route 16, and the level of service "A" of Route 213 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on-site are Klej loamy sand, which may have slight to moderate limitations for the suitability of the soils for the intended use, that moderate limitations may be anticipated during construction and slight limitations after completion of any construction in reference to erosion and sedimentation control, and that the farmland rating of the soil type is of statewide importance.

The Commission found that one of the owners was present on behalf of the application, and that the owners are proposing to sell the property; that the site is occupied by a restaurant, a non-conforming use; that the site is not desirable for residential use at this location due to commercial activities across Route 213; that the site has potential for retail or furniture sales; that the existing septic system is not adequate for the restaurant; that a replacement septic permit has been approved; and that no negative impact on property values is anticipated.

The Commission found that the Mayor of the Town of Ellendale spoke in opposition since the applicants have no proposal for the intended use, only speculation.

Motion made by Mrs. Monaco, seconded by Mr. Hickman, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since the intent is only speculative.

5. RE: C/Z #1108--Margaret K. and Clifton S. Justice

David Rutt, attorney, Margaret Justice, Clifton Justice, and Kelly Justice were present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business in Baltimore Hundred, located on the south side of Route 26, 670 feet west of Railway Road (Route 350) in the Town of Millville, and to be located on a parcel containing 4.3 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways, the Sussex Conservation District, the Indian River School District, and a letter in opposition from the Town of Millville.

Mr. Rutt stated a two (2) story frame dwelling and out buildings exist on the proposed site. The site was previously the Millville Post Office.

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Mrs. Justice stated they plan to lease the front of the property to their daughter. She would operate her custom art design and interior design business and gift shop in the first floor of the existing building. Her residence would be on the second floor.

Kelly Justice stated she plans to relocate her business to the proposed site. She would be open year round, six (6) days per week. She may also teach art classes. The building is presently being renovated. She may need more storage space in the future. Adequate parking space exists on the site. She would have a small sign. She presented a petition containing 36 signatures of persons in support of this application.

Butch Evans, on behalf of the Town of Millville, Loretta Shackle, Ellie Shackle, and Clement Shackle spoke in opposition to increased traffic, losing the residential character of the area, and property devaluation.

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 the State Division of Highways, that originally traffic impact studies had been recommended, but that the public hearing process could proceed.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped are Evesboro loamy sand and Pocomoke sandy loam, which may have slight to moderate limitations for the intended use; that moderate limitations may be anticipated during construction and slight limitations after completion of any construction in reference to erosion and sedimentation control; that the farmland ratings of the soil types are prime and of statewide importance; that no storm flood hazard area will be affected; that it may not be necessary for any on-site or off-site drainage improvements; and that the Derrickson Canal Tax Ditch runs through the property.

The Commission found, based on comments received from the Indian River School District, that at this time it does not appear that the proposal will have a significant impact on the district.

The Commission found that a letter had been received from the Millville Town Council in opposition due to a possible devastating effect on the town by rezoning this size parcel, that some

commercial zoned parcels are residential uses, and that the town is attempting to prepare its own land use plan ordinance.

The Commission found that the applicants were present with legal counsel and their daughter and that the applicants plan to lease the site to their daughter for her art, crafts, and gifts gallery.

The Commission found, based on comments by representatives of the application, that the site is the old Millville Post Office; that on-site water and sewer are adequate to serve the use; that the use is intended to be open year round, six (6) days per week; that no negative impact is anticipated on the neighborhood; that numerous other businesses exist in close proximity in Millville; that additional storage area and work space may be needed; that the daughter plans to reside on the second floor; that the structure is being renovated on the roof, porch, and interior presently; and that adequate space is available on-site.

The Commission found that a petition containing 36 signatures has been submitted in support.

The Commission found that the Mayor of Millville and two (2) persons spoke in opposition due to traffic increases, the loss of the residential character of the town, devaluation of property values, and commercialization.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support, and since other urban business uses and district exist in the immediate area.

OLD BUSINESS

1. RE: C/U #955--M. J. Webb Farms, Inc.

No one was 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 a Borrow Pit at the west end of a private road, 1,780 feet west of Route 595, 200 feet northwest Route 606, and to be located on a parcel containing 64.58 acres more or less.

The Chairman referred to this application which has been deferred since December 13, 1990.

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

Motion made 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 based on the record of support and since a need will exist for materials for construction of the widening of U. S. Route 113 and due to the close proximity to U. S. Route 113 and with the stipulation that Route 595 from the site to Route 606, and from Route 595 to Route 607, shall be improved to state specification; that a haul route be established and highway maintenance agreements be established for maintenance of those portions of Route 595, Route 606, and Route 607 utilized for the haul route.

2. RE: Subdiv. #88-31--Sugar Maple Farms, Inc.

The Commission reviewed the final subdivision plat for the proposed 66 lot subdivision.

Mr. Moore stated that all approvals have been obtained.

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

3. RE: Subdiv. #90-21--M. L. Joseph

The Commission reviewed the final subdivision plat for the proposed 24 lot subdivision.

Mr. Moore stated that all approvals have been obtained.

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

4. RE: Subdiv. #90-37--Ronald Hastings

Application withdrawn from the agenda.

5. RE: Back Bay Cove
Revised

The Commission reviewed a proposal to revise the existing 104 lot Back Bay Cove Subdivision.

Sam Burke, attorney, was present on behalf of the proposal.

Mr. Burke stated that the revision reduces the number of lots from 104 to 83, reduces the amount of streets and is in compliance with current subdivision standards.

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Mr. Moore stated that the revision is in compliance with current beach preservation requirements and delineates the 404 wetlands line as a building restriction line.

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

6. RE: Pine Ridge Mobile Home Park
Site Plan

Mr. Lank submitted copies of the revised plan for C/U #924 for Ronald E. Hastings and advised the Commission that the owner is requesting a one (1) year time extension.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a preliminary and to grant a one (1) year time extension.

7. RE: Rehoboth Shores Mobile Home Park
Site Plan

Mr. Lank submitted a revised plan proposal by the developer's surveyor which proposes to correct violations within the park by revising lot lines.

Mr. Lank read a letter from the Sussex County Mobile Home Tenants Association requesting that the Commission withhold approval until the tenants have the opportunity to review the revisions and further site inspections by the staff.

Mr. Phillip Julius spoke on behalf of the tenants in the park.

Motion made by Mr. Hickman, seconded by Mrs. Monaco, and carried unanimously to defer action and instruct the staff to contact the developer to request that letters be sent to the tenants advising them of the proposed amendments to their leased lots, that the developer be given fifteen (15) days to forward comments to the tenants and that the tenants be given thirty (30) days to respond.

8. RE: David Shevock
Gosling Creek
Site Plan

The Commission reviewed the final site plan for the recreation area.

Mr. Moore stated that all approvals had been obtained.

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Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the plan as a final.

Meeting Adjourned 10:20 P.M.

Lawrence B. Lank, Secretary