

MINUTES OF THE REGULAR MEETING OF JANUARY 11, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 11, 1990, at 7:45 P.M. in the County Council Chambers, Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Berl - Attorney, and Mr. Lank - Director.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of December 14, 1989, and December 28, 1989, as corrected.

PUBLIC HEARINGS

1. RE: C/U #927--William L. Tribbitt

William Tribbitt 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 Country Craft Shop on the north side of Route 16, 0.9 mile west of Route 113, and 500 feet west of Route 595A, to be located on a parcel containing 1.28 acres more or less.

Mr. Lank summarized comments received from the State Highway Department and the Sussex Conservation District.

Mr. Lank stated this application was previously heard as a change of zone application.

Mr. Tribbitt stated he plans to operate a country decorating shop.

Mr. Tribbitt stated his residence is on the proposed site. There are also six (6) out buildings on the site.

Mr. Tribbitt stated he plans to use three (3) of the existing out buildings for the business. The remaining out buildings would be used for storage. There would be no paint stripping done at this location. The shop would be open from 10:00 A.M. to 8:00 P.M., but hours could vary according to the season. There will be a separate entrance for the business.

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 that the applicant was present and plans to utilize the site for a country decorating shop for sale of country crafts, reproduction antiques, antiques, decoys, dolls, baskets, and other country items.

The Commission found, based on comments received from the State DelD.O.T. on a previous zoning change application for the same site, that a traffic impact study was not recommended, and that the level of service "B" of Route 16 may change to level of service "C" if the site is fully developed to an equivalent use in per acre trip generation to discount shopping.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro soils on site are suitable for the intended use; that in reference to erosion and sediment control, slight limitations may be anticipated during construction; that the farmland rating is of Statewide importance; that no storm flood hazard area is affected; that it may not be necessary for any on site or off site drainage improvements and that no tax ditch is affected.

The Commission found, based on comments made by the applicant, that he intends to utilize existing structures on the premises, that adequate space is available on site for parking; that he plans to utilize the existing entrance for access to the business, that no adverse impact is anticipated on the neighborhood, property values, or Route 16.

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 with the following stipulation:

- A. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.

2. RE: C/Z #1042--D. Edward and Donna K. Dukes

Lynn Moore and Edward Dukes were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Broad Creek Hundred, located on the southwest corner of the intersection of Route 9 and Route 474, containing 4.0 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District and the State Highway Department.

Mr. Moore stated the applicants plan to operate a convenience store in a block building 40 feet by 60 feet. There will be a deli and they will sell groceries, gas, and diesel fuel. There will be three (3) above ground fuel storage tanks in the rear of the store.

Mr. Moore stated the store would be open from 7:00 A.M. to 7:00 P.M., six (6) days per week. There will be two (2) entrances, one on Route 9 and one on Route 474.

Mr. Dukes stated there will be adequate space for parking.

Mr. Dukes stated there are several other businesses in the area, but no other convenience stores.

Mr. Dukes stated the site is presently tilled.

James Massey spoke in favor of the application.

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 that D. Edward Dukes and Lynn Moore were present on behalf of this application and that Mr. Dukes plans to utilize the site for a convenience store.

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 Sussex Conservation District, the Bureau of Archaeology and Historic Preservation, and the Department of Transportation.

The Commission found, based on comments received from the State DelD.O.T., that a traffic impact study was not recommended and that the level of service "C" of Route 9 and the level of service "A" of Route 474 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the Fallsington and Rumford soils on site are suitable for the intended use, that in reference to erosion/sediment control, slight limitations may be anticipated during construction, that the farmland rating of the soils is of Statewide importance; that no storm flood hazard area is affected; that it may not be necessary for any off site drainage improvements; that it may be necessary for on site drainage improvements, and that no tax ditch is affected.

The Commission found, based on comments by representatives of this application, that the proposed convenience store will include a deli, grocery and gasoline sales, that fuel storage tanks are proposed to be above ground with bulkheading, that a need exists in this area for convenience shopping since none exists between Laurel and Georgetown on Route 9, that the intended use will serve the immediate area and the travelling public, that a six (6) day work week is proposed with no Sunday hours, that other business, commercial, and industrial uses exist in close proximity, that no adverse impact is anticipated on the neighborhood, Route 9 or Route 474, or property values, and that adequate space is available on site for parking.

The Commission found that one party who travels through the intersection at least 10 times per week, was present in support of convenience shopping in the area.

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, since the site is a suitable location for the intended use and can be utilized to serve the general area.

3. RE: C/Z #1043--James Harold and Elaine S. Bowen

James Harold Bowen was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Broadkill Hundred, located on the south side of Route 9, 2,350 feet east of the intersection of Route 262, containing 0.762 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District and the State Highway Department.

Dr. Bowen stated he is a chiropractor and plans to operate his office at this location. He may have one (1) partner at some future time, but presently the office would be just for his own practice. The office would be open Monday thru Friday, from 8:30 A.M. to 6:00 P.M. There is adequate space for parking.

Dr. Bowen stated he understands he may be required to use an access road with a central entrance for all the lots in the strip, and he does not object to that arrangement.

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 that James Harold Bowen was present and plan to utilize the site for a chiropractic office.

The Commission found, based on comments received from the State DelD.O.T., that a traffic impact study had been recommended and that the recommendation has been waived since a frontage road is intended to serve the lots.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro soils on site are suitable for the intended use, that in reference to erosion/sediment control, slight limitations may be anticipated during construction, that the farmland rating of the soils is of Statewide importance, that no storm flood hazard area is affected, that no on site or off site drainage improvements are anticipated, and that no tax ditch is affected.

The Commission found, based on comments by the applicant, that an entrance is proposed between lots 4 and 5 to serve as access to a frontage road serving all lots, that the site backs up to a railroad, that adequate space is available on site for parking, that weekday hours are proposed no later than 6:00 P.M., and that no adverse impact is anticipated on the neighborhood, property values, or Route 9.

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 based on the record of support and its close proximity to other commercial and business uses.

4. RE: C/Z #1044--R. Marvin Ingram

Norman Barnett, attorney, and Marvin Ingram were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Indian River Hundred, located on the north side of Route 24, approximately 1,300 feet east of Route 313, containing 64.36 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District, the State Highway Department, and the Department of Agriculture - Division of Resource Management.

Mr. Barnett stated the applicant plans to subdivide the parcel into 99 lots with individual septic systems and central water. Each lot will be one half (1/2) acre. The lots will be sold rather than leased.

Mr. Barnett stated private streets are proposed. There will be deed restrictions.

Mr. Ingram stated there is a need in the area for reasonable priced lots for manufactured homes.

Leroy Morris and Lucy Allen spoke in favor of the application.

Three (3) persons were present in favor of the application.

Dennis Parsons, Charles Short, Cecil Horsey, Kevin Parsons, Oscar Long, and others spoke in opposition due to increased traffic, property devaluation, trespassing on adjoining private farmland, and no need for more manufactured home communities.

Ten (10) persons were 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 that the applicant was present with legal counsel and an engineer, and plans to utilize the site for a 99 lot subdivision which would permit the placement of manufactured homes and other single family structures.

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 Sussex Conservation District, the D.N.R.E.C. Division of Air and Waste Management, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, the Department of Agriculture, and the Division of Public Health.

The Commission found, based on comments received from the State DelD.O.T., that no significant impact on traffic is anticipated.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro, Rumford and Woodstown soils on site are suitable for the intended use, that in reference to erosion/sediment control, slight limitations may be anticipated during construction, that the farmland rating of the soils is of Statewide importance, that no storm flood hazard area is affected, that it will not be necessary for any off site drainage improvements, that it may be necessary for some on site drainage improvements, and that no tax ditch is affected.

The Commission found, based on comments received from the State Department of Agriculture, that a Land Evaluation and Site Assessment (LESA) analysis was performed and that the site scored 190 out of 300 points, indicating an average site for economical long term agricultural production, that existing forest cover should be incorporated into the plan, and that the use should be located within the Coastal Sussex Land Use Plan's Development District, not in the Agricultural District.

The Commission found, based on comments made by representatives of this application, that the area is in need of lots suitable for manufactured housing; that a subdivision is proposed, not a park; that the majority of the site is farmland; that the area has mixed single family housing types; that only one access is proposed to serve the subdivision; that trees and shrubs may be planted along the perimeter of the subdivision, that no adverse impact is anticipated on Route 24, the neighborhood, or property values; that, based on the Sussex County Soil Survey Maps, the soils are suitable for septic systems; that central water with fire protection capabilities are proposed; and that deed restrictions are proposed to be adopted with the subdivision, and will permit used manufactured homes.

The Commission found that two (2) parties were present in support of this application who expressed a need for this type of housing in the area.

The Commission found that ten (10) parties were present in opposition to this application, of which six (6) spoke, and expressed concern over additional traffic, use of used manufactured homes, that enough GR land exists in the area for manufactured home communities, the need to separate communities and farms, the need for fencing to control trespassing, depreciation of property values, and that there would be no benefit to area residents by rezoning the parcel.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to defer action.

5. RE: ORDINANCE TO AMEND ORDINANCE NO. 90

AN ORDINANCE TO AMEND ORDINANCE NO. 90, AS AMENDED, ENTITLED "SUBDIVISION ORDINANCE FOR THE UNINCORPORATED AREA OF SUSSEX COUNTY, DELAWARE", TO PROVIDE FOR THE INSPECTION OF WATER SUPPLY FACILITIES AND SANITARY SEWER FACILITIES BY THE COUNTY ENGINEER OR HIS AGENT AND TO PERMIT THE IMPOSITION OF FEES THEREFORE.

Mr. Lank summarized the proposed Ordinance.

Clark Carbaugh, a representative of Utility Systems, Inc., was present in support of such an Ordinance, and expressed some concern over determining cost for designing and installing systems, standards and specifications for compliance, and fees. Mr. Carbaugh did not express any concern over the text of the Ordinance as written.

Glenn Kensigner was present to support the Ordinance and questioned the affect on individuals.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to defer action and to request a representative of the County Engineering Department to appear at the next regular meeting to discuss the Ordinance.

OTHER BUSINESS

1. RE: C/U #897--Dover Radio Page

The Commission discussed an amendment to the site plan to place an additional equipment storage building within the chain link fencing on site for additional antenna users on the tower.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the amended site plan.

2. RE: C/U #898--Dover Radio Page

The Commission discussed an amendment to the site plan to place an additional equipment storage building within the chain link fencing on site for additional antenna users on the tower.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the amended site plan.

3. RE: Norman Justice

The Commission reviewed a sketch for five (5) lots on an existing private road off Route 357, Cedar Neck Road.

After some discussion, motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to defer action so that the staff may review the deeds for previous out-conveyances.

4. RE: Subdiv. #88-30--James M. Morgan

Mr. Lank advised the Commission that Mr. Morgan was requesting a six (6) month time extension for submittal of final plans.

It was the consensus of the Commission to defer action pending staff inspection of the site for work already being performed.

OLD BUSINESS

1. RE: C/U #926--Mt. Zion A. M. E. Cemetery

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 Cemetery 345 feet west of Route 213, 400 feet north of Route 16, and to be located on a parcel containing 2.01 acres more or less.

At the conclusion of the public hearings, the Chairman referred to this application, which had been deferred on December 28, 1989.

Mr. Lank summarized information he had received from Public Health and the Sussex Conservaton District.

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 with the following stipulations:

1. Arrangements shall be made satisfactory to the County Attorney for perpetual maintenance of the cemetery.
2. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission. Final approval shall be subject to receipt of approvals from the Sussex Conservation District for erosion/sediment control and the State DelD.O.T. for entrance locations.

Meeting Adjourned 9:50 P.M.

Lawrence B. Lank, Secretary