

MINUTES OF THE REGULAR MEETING OF JANUARY 13, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 13, 1994, at 7:30 PM, in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Magee, Mrs. Monaco, Mr. Phillips, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Magee, seconded By Mrs. Monaco, and carried 4 to 0, with Mr. Allen not voting, to approve the minutes of December 16, 1993, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1061 -- Gregory P. Mitchell

Gregory P. Mitchell and Joseph Conaway, Consultant, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for a Parts Storage and Truck Facility lying on the northwest corner of the intersection of Routes 334A and 331, to be located on a parcel containing 9.90 acres more or less.

Mr. Lank summarized comments received from the State Department of Transportation (DelDOT).

Mr. Conaway submitted a packet of information which included a reduced copy of the tax map of the general area, a copy of the deed, a copy of the survey of the site, a copy of comments received from DelDOT, a copy of the National Wetlands Inventory Map of the area, and copies of the Wetlands and Timberlands Map, the Public Services Map, the Agricultural Lands Map, the Critical Natural Areas Map, and the Historic Sites Map from the Coastal Sussex Land Use Plan.

Mr. Conaway advised the Commission that the site has been used for truck repair and parts storage for approximately 10 years, that the manufactured home was placed on the site in 1988 and is presently occupied by the brother of the applicant, that in September 1993 the site was violated for the storage of unlicensed vehicles, and that the applicant has applied for Conditional Use to establish conformance.

Mr. Mitchell advised the Commission that the site is utilized in association with two salvage yards he operates at other location, that he stores approximately 20 trucks for parts removal, that school bus type vehicles are used for storage of parts, that he has received no complaints from neighbors, that there is no intent to expand the facility, that approximately 40 vehicles have been removed from the site since September 1993, that he strips certain types of vehicles for certain parts and

then removes the vehicles from the site, that he is willing to plant additional trees along the properties of his neighbors to provide additional screening, that he has no intent to expand the area used for storage of vehicles and has no objection to such a stipulation, that customers do not utilize this site, that no signage is proposed, that presently 22 school buses and 14 trucks exist on the site, that no septic or well exist on the site, and that he has State licenses for the salvage yards at Seaford and Laurel.

Mr. Conaway added that no additional structures are proposed, that there is no anticipated impact on the school district, that no wetlands exist on the site, that no historic sites exist on the site, that the site is within the eight (8) minute response time for fire protection from either Millsboro or Dagsboro, that no adverse impact is anticipated on land values or the neighborhood, that the Conditional Use process works better for the site than a rezoning and allows for stipulations, that the use complies with the Conditional Use process, and complies with the Coastal Sussex Land Use Plan, that additional employees are proposed, and that no paving is proposed.

Nadine Blades advised the Commission that she has no objection as long as the site is maintained as presently being utilized.

At the conclusion of the public hearings, Mr. Ralph, acting 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 made by representatives of the application, that the site has been used for truck repair and parts storage for approximately 10 years, that the manufactured home was placed on the site in 1988 and is presently occupied by the brother of the applicant, that in September 1993 the site was violated for the storage of unlicensed vehicles, that the application has applied for Conditional Use to establish conformance, that the site is utilized in association with two salvage yards operated by the applicant at other locations, that approximately 20 trucks are maintained for parts removal, that there is no intent to expand the facility, that approximately 40 vehicles have been removed from the site since September 1993, that certain parts are

removed from vehicles and then the vehicles are removed from the site, that the applicant is willing to plant additional trees along the properties of neighbors to provide additional screening, that there is no intent to expand the area used for storage of vehicles and has no objection to such a stipulation, that customers do not utilize the site, that no signage is proposed, that presently 22 school buses and 14 trucks exist on the site, that no septic or well exist on the site, that State licenses exist for the salvage yards at Seaford and Laurel, that no additional structures are proposed, that there is no anticipated impact on the school district, that no wetlands exist on the site, that no historic sites exist on the site, that the site is within the eight (8) minute response time for fire protection from either Millsboro or Dagsboro, that no adverse impact is anticipated on land values or the neighborhood, that the Conditional Use process works better for the site than a rezoning and allows for stipulations, that the use complies with the Conditional Use process and complies with the Coastal Sussex Land Use Plan, that additional employees are proposed, and that no paving is proposed.

One area resident stated that she has no objection as long as the site is maintained as presently being utilized.

Motion by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulation:

1. The applicant shall provide at least one row of evergreen trees along adjoining property lines which are not presently wooded.
2. No signage shall be placed the site.
3. All storage activities shall be limited to the present cleared area.
4. The existing manufactured home, behind the existing garage, shall be utilized for storage only.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

2. RE: C/U #1062 -- Excel Leasing Corporation

George Anderson of Excel Leasing Corporation was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broad Creek Hundred for an Equipment Leasing Company lying on the south side of Route 491, 1/4 mile east of Rout 493E (Main Street of Bethel), to be located on a parcel containing 4.40 acres more or less.

Mr. Lank summarized comments received from DelDOT.

Mr. Anderson advised the Commission that the company has existed for approximately 4 years, that the company provides leasing and financing arrangements for small farm and business equipment, that the majority of the business is handled over the telephone, that a modular bank type structure is proposed for the office, that he has three (3) employees, that no equipment is stored on the site, that financing is arranged through financial institutions, that the modular structure measures approximately 12' by 50', that on site connections for septic and water exist on the site, and that the site was formerly the location for the office for Jade Run Turf Farm.

No parties appeared in opposition.

At the conclusion of the public hearing, Mr. Ralph, Acting 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 made by a representative of the Corporation, that the company has existed for approximately 4 years, that the company provides leasing and financial arrangements for small farm and business equipment, that the majority of the business is handled over the telephone, that a modular bank type structure is proposed for the office, that he has three (3) employees, that no equipment is stored on the site, that financing is arranged through financial institutions, that the modular structure measures approximately 12' by 50', that on site connections for septic and water exist on the site, and that the site was formerly the location for the office for the Jade Run Turf Farm.

Motion by Mr. Allen, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that no outside storage of equipment shall be permitted on the site.

3. RE: C/Z #1217 -- David L. & Charlotte T. Larson

David L. and Charlotte T. Larson were present on behalf of their application to amend the zoning map from AR-1 Agricultural

Residential to C-1 General Commercial in Dagsboro Hundred, located on the southeast side of Route 432, across from Route 322, to be located on a parcel containing 1.97 acres more or less.

Mr. Lank summarized comments received from DelDOT.

Mr. Larson advised the Commission that they propose to utilize the site for retail sales of collectibles and storage, that the existing buildings are in fair shape and need renovation, that approximately 50 feet of the poultry house will be removed to improve sight visibility from the site, that the existing building contains collectibles from previous owners, that remodelled buildings may be leased to others for storage, that parking is proposed between the buildings, that renovation of the buildings will commence immediately upon approval, and that the business should be operational by spring.

James Baxter, an adjoining land owner, advised the Commission that the building was built in 1946 as a feed house, that the building has been used commercially for antique storage for the last 10 years or more, that the buildings are in need of repair, that the applicants have already made some improvements to the buildings, that he has no objections to the use intended, and that he recommends the rezoning be approved.

At the conclusion of the public hearings, Mr. Ralph, Acting 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 representation of the applicants, that they propose to utilize the site for retail sales of collectibles and storage, that the existing buildings are in fair shape and need renovation, that approximately 50 feet of the poultry house will be removed to improve sight visibility from the site, that the existing building contains collectibles from previous owners, that remodelled buildings may be leased to others for storage, that parking is proposed between the buildings, that renovation of the buildings will commence immediately upon approval, and that the business should be operations by spring.

The Commission found, based on representation of an adjoining land owner, that the building was built in 1946 as a feed house, that the building has been used commercially for antique storage for the last 10 years or more, that the buildings are in need of repair, that the applicants have already made some improvements to the buildings, that he has no objection to the use intended, and that he recommends approval of the rezoning.

Motion by Mr. Phillips, seconded by Mr. Allen, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved due to the historical commercial use of the site.

4. RE: APD #94-1 -- James H. Bennett, Jr., Hope B. Smith, A. James McCabe, Harold C. & Anita G. Wallach, and Carrie W. & James H. Bennett, Jr.

James H. Bennett, Jr. was present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred and Baltimore Hundred for eleven (11) parcels totalling 295 acres more or less, located on both sides of Route 382, both sides of Route 340, southeast of Route 354, and north of Route 54 for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank advised the Commission that the 295 acres includes 153.8 acres of crop land, 2 acres of pasture land, 136.6 acres of woodlands, small acreages set aside for structures, and approximately 1 acres set aside for the remains of an old grist mill, that the Land Evaluation and Site Assessment (LESA) score totalled 191 points out of 300, that the site has very high potential for expansion due to the large amount of farmland within one mile of the site, that 99% of the site is in agricultural use, and that a Century Farm exist within the proposed District.

Mr. Bennett advised the Commission that he would like to restore or preserve the grist mill site, that the District is proposed to be named after the grist mill, that he proposes to apply for registration in the National Historical Registry, and that the properties are to continue being farmed.

At the conclusion of the public hearings, Mr. Ralph, Acting Chairman, referred back to this application.

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

Motion by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with a recommendation of approval.

5. RE: Ordinance to Amend Chapter 115
(Agricultural farmland of Five (5) Acres or More)

Mr. Lank read the proposed Ordinance relating to structures for storage of animal manure or animal waste composting, and structures for storage of poultry manure or poultry product composting.

No parties appeared in support of or in opposition to the proposed Ordinance.

Mr. Magee stated that the Ordinance should improve a farmers relationship with his neighbors.

Mr. Ralph expressed a concern about manure storage in fields and near ditches.

Mr. Ralph added that the Council should consider establishing an Ordinance which creates a setback, the same as proposed in this Ordinance, for open field storage of manure from property lines, dwellings, and ditches.

Motion by Mr. Allen, seconded by Mrs. Monaco, and carried unanimously to forward a recommendation to the Sussex County Council that an Ordinance be drafted to create a setback for open field storage of manure from property lines, dwellings, and ditches.

The Commission discussed the propsoed Ordinance.

Motion by Mr. Magee, seconded by Mr. Allen, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be approved as circulated.

III. OTHER BUSINESS

1. RE: Wawa Food Market

The Commission reviewed the final site plan for a convenience type store on Dartmouth Drive and Route One near Midway.

June Spring and Peter Gilligan of Wawa, Inc. were present to answer any questions.

Mr. Abbott advised the Commission that preliminary approval was granted September 9, 1993, that the site plan complies with the zoning code, that all agency approvals have been received, and that there is not any ingress or egress onto Route One.

Motion made by Mr. Magee, seconded by Mr. Allen, and carried unanimously to approve the site plan as submitted as a final.

2. RE: Wawa Food Market

The Commission reviewed a preliminary site plan for a convenience store on Route 13 south of Route 404 near Bridgeville.

June Spring and Peter Gilligan of Wawa, Inc., and Gordon Mead of Davis, Bowen and Friedel, were 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 ingress and egress is located on a private 50 road off of Route 13, and that if the Commission is receptive to this site plan, only preliminary approval should be considered.

Mr. Gilligan advised the Commission that sewer will be provided by the Town of Bridgeville and the water will be supplied by an existing central system.

Mrs. Spring advised the Commission that Wawa stores are open twenty four hours per day.

Motion made by Mrs. Monaco, seconded by Mr. Allen, and carried unanimously to approve the site plan as submitted as a preliminary.

3. RE: Rehoboth Beach Outlets

The Commission reviewed a commercial site plan for retail outlet stores on the southeast side of Route One, northwest of Route 24 near Midway.

Gordon Mead of Davis, Bowen & Friedel, and a representative of the developers were present on behalf of this site plan.

Mr. Abbott advised the Commission that there is 141,218 square footage of retail sales, and that the site plan complies with the requirements of the zoning code, and that if the Commission is receptive to the site plan, only preliminary approval should be considered.

Mr. Mead advised the Commission that a holding tank is proposed until sewer is available, that Tidewater Utilities will provide water, and that evergreens a minimum of six foot in height will be planted along residential zoned lands to provide screening.

The representative of the developers advised the Commission that each store is approximately 3,000 to 4,000 square foot of area, and that the total amount of stores would be between 20 to 40.

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

4. RE: Rodney Allen Baker

The Commission reviewed the final site plan for Conditional Use #995 for a hunting supply business on Route 32 near Greenwood.

Mr. Abbott advised the Commission that the Board of Adjustment approved the manufactured home to be used for a sales office, that all agency approvals have been received, and that the site plan complies with the zoning code.

Motion made by mrs. Monaco, seconded by Mr. Allen, and carried unanimously to approve the site plan as submitted as a final.

5. RE: Kaye Construction

The Commission reviewed a revised site plan for Conditional Use #954 on Route 525.

Mr. Abbott advised the Commission that the owner would like to erect a 150' x 65' storage shed for construction equipment and a 28' x 40' office building to replace the existing 10' x 40' construction trailer, and questioned if this would require an amended conditional use hearing.

Motion made by Mrs. Monaco, seconded by Mr. Allen, and carried unanimously to approve the revised plan as submitted as a final.

6. RE: Gentle Winds Addition

The Commission reviewed a revised subdivision plan for the Gentle Winds Addition subdivision.

Mr. Abbott advised the Commission that this subdivision was originally approved to have public streets, that now the developer would like to construct them to County specifications, and that the County Engineering department has approved the design plans.

Mr. Magee questioned if the lot owners are aware of the proposed change.

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

7. RE: Glenn R. Jones

The Commission reviewed a concept to create three parcels off of an existing 50' right of way near Sailor's Path Road.

Mr. Abbott advised the Commission that each parcel would have to be a minimum of one acre since the lots are located in a Conservation Zone, and that all wetlands and the one hundred year flood plain will have to be shown on the final survey.

Motion made by Mr. Allen, seconded by Mrs. Monaco, and carried unanimously to approve the three lots as a concept.

IV. OLD BUSINESS

1. RE: Subd. #91-24--Sara M. Short

Mr. Abbott advised the Commission that this application has been removed from the agenda.

2. RE: Subd. #89-23--George W. Marshall

Mr. Schrader questioned if the private deed restrictions have been reviewed and approved. Mr. Abbott advised that they had not.

Motion made by Mr. Allen, seconded by Mrs. Monaco, and carried unanimously to defer action pending receipt of the deed restrictions.

3. RE: Subd. #90-37--Ronald Hastings

No one was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred by dividing 52.2 acres into 29 lots, located on the east side of Route 530, 2 miles south of Route 20, and as an extension to Rivers End Subdivision.

Mr. Abbott advised the Commission that the final record plat is in compliance with the subdivision code, that the final plat has been reduced to 27 lots, and that all required agency approvals and or permits have been received.

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

4. RE: K-Mart

Mr. Lank advised the Commission that representatives of K-Mart have requested a waiver in plat size for a site plan for a store on Route One. The request will allow the site plan to be drawn on one sheet, 30" by 42" or 36" by 48", rather than two sheets with a match line.

Motion by Mr. Allen, seconded by Mr. Magee, and carried unanimously to permit the larger plat size.

Meeting adjourned at 9:40 PM