

MINUTES OF THE REGULAR MEETING OF JANUARY 14, 1993

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 14, 1992, at 7:30 P.M. in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

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

II. PUBLIC HEARINGS

1. RE: C/U #1024 -- R & R Wholesales

Richard Roop, Jr. was present on behalf of this application to consider the Conditional Use of land in an AR-2 Agricultural Residential District in Broad Creek Hundred for Used Car Sales lying on the southeast side of Route 448, 800 feet northeast of Route 62 to be located on a parcel containing 2.80 acres more or less.

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

Mr. Roop advised the Commission that no sales or display of vehicles will be in front of the existing fence on the property, that the maximum number of vehicles will be twenty (20), that no signage is intended, that the driveway will be improved with either stone or clam shells, that no adverse impact on the neighborhood is anticipated, that the closest commercial activity is approximately 3 miles away, that an office will be created in the existing garage building on the premises, that cars will be cleaned and detailed in the garage building, and that customer parking will be behind the fence near the garage building.

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 the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any off-site drainage improvements, that the site may need on-site drainage improvements, that the soils are mapped as Evesboro loamy sand and Fallsington sandy loam, that the suitability of the Evesboro soils

for the intended use may vary from none to slight limitations, that the suitability of the Fallsington soils may be severe due to wetness if not adequately drained, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, and that the farmland rating of the soil type is of statewide importance.

The Commission found that the applicant was present and plans to utilize the site for a used car sales facility, that all storage and display of vehicles for sale will be behind an existing stockade fence, that the maximum number of vehicles will be twenty (20), that no signage is intended, that the driveway will be improved with clamshells or stone, that no adverse impact is anticipated on the neighborhood, that the closest business is approximately three (3) miles away, that an office will be created in the existing garage building, that vehicles will be cleaned and detailed in the garage building, and that customer parking will be behind the existing fence.

The Commission found that no parties appeared in opposition.

Motion 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 with the following stipulations:

1. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
 2. One on-premise sign, unlighted and not exceeding 32 square feet per side or facing, may be placed.
 3. Vehicles stored and displayed and all customer parking shall be behind the existing stockade fencing.
2. RE: C/U #1025 -- Hocker Farm Limited Partnership

Joseph Conaway of Consultant's Unlimited was present on behalf of this application to consider the Conditional Use of land in a GR General Residential District in Baltimore Hundred for a Public Water Utility lying 105 feet northeast of Marlinton Road, approximately 260 feet north of Waterway Drive in Cedar Landing Development, west of Route 357 to be located on a parcel containing 8,385 square feet more or less.

Mr. Lank advised the Commission that a DelDOT representative had advised the Office that the proposed plan will have no significant impact on traffic.

Mr. Lank summarized comments received from the Office of the Secretary of the State DNREC for the purpose of land use review and coordination, Delaware Health and Social Services Division of Public Health, the Sussex Conservation District, and the Indian River School District.

Mr. Conaway submitted a packet of information as a part of the application.

Mr. Conaway advised the Commission that the applicants have owned the site since 1988, that a Certificate of Public Convenience and Necessity was issued by the State DNREC on August 25, 1992, that the use is appropriate as a Conditional Use in GR General Residential Districts, that the use will serve Cedar Landing Development and other developments in the area, that no wetlands are mapped on site, that the water company will be housed in a garage type structure, that two (2) storage tanks with a capacity of 45,000 gallons are proposed, that the only traffic anticipated after completion of construction will be one maintenance vehicle per day, that the system will provide additional fire protection for the area, that the area needs to be served by central sewer and water, that some interest has been expressed by developments in the area for the service, that the site may be fenced for security, and that the site will accommodate the intended use.

No parties appeared 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 that the proposal will have no significant impact on traffic.

The Commission found, based on comments received from the Office of the Secretary of the State DNREC, that comments were requested from the DNREC Division of Soil and Water Conservation, the DNREC Division of Water Resources Water Supply Branch, the Delaware Health and Social Services Division of Public Health, and the Sussex Conservation District.

The Commission found, based on comments received from the Delaware Health and Social Services, that the project will require Division of Public Health approval and that the water system will have to be sampled prior to serving any customers.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood area or tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils on the site are Evesboro loamy sand, Woodstown sandy loam and Matawan loamy sand, that the suitability of the Evesboro and Matawan soils for the intended use may vary from none to slight limitations, that the suitability of the Woodstown soils may vary from slight to moderate limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, and that the farmland rating of the soil type is of statewide importance.

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

The Commission found that the application was represented by a consultant who advised the Commission that the applicants have owned the site since 1988, that a Certificate of Public Convenience and Necessity was issued by the State DNREC on August 25, 1992, that the use is appropriate as a Conditional Use in GR General Residential Districts, that the use will serve Cedar Landing Development and other developments in the area, that no wetlands are mapped on the site, that the water company will be housed in a garage type structure, that two (2) storage tanks with a capacity of 45,000 gallons are proposed, that the only traffic anticipated after completion of construction will be one maintenance vehicle per day, that the system will provide additional fire protection for the area, that the area needs to be served by central sewer and water, that some interest has been expressed by developments in the area for the service, that the site may be fenced for security, and that the site will accommodate the intended use.

The Commission found that no parties appeared in opposition.

Motion by Mr. Magee, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since a need exist for central water in the area, since the use will be good for the area, and since the use will eliminate the need for individual wells on small lots, and with the stipulation that the site plan be

reviewed and approved by the Planning and Zoning Commission.

3. C/Z #1182 -- Ann L. Henry-Allen, Robert W. Grossman, et.ux.
& Norris T. Hudson, et.ux.

Anne. L. Henry-Allen was present on behalf of this application to amend the zoning map from MR Medium Density Residential to AR-1 Agricultural Residential in Broad Creek Hundred, located on the northwest corner of Route 450 and Route 422A, to be located on a parcel containing 40.53 acres more or less.

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

Mr. Lank read a letter from Norris T. Hudson and Jean Hudson requesting withdrawal of their land from the rezoning application.

Mrs. Henry-Allen submitted a letter from Robert Grossman and Elizabeth Grossman delegating Mrs. Henry-Allen as their representative.

Mrs. Henry-Allen advised the Commission that her building permit for her dwelling referenced the zoning as AR-1 Agricultural Residential, that the stable on the premises was built without a permit, that her intent is for private use for two (2) horses, that she has no intent for a hog farm or chicken houses, that her deed contains no restrictions, and that the horses have been on the site since July 1992.

David Larrimore, an adjoining property owner, advised the Commission that he did not object to the Henry-Allen property being rezoned due to its limited size, but that he does object to rezoning of the larger parcels.

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 the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site area mapped as Evesboro loamy sand and Fallsington sandy loam, that the suitability of the Evesboro soils for the intended use may vary from none to slight limitations, that the Fallsington soils may

have severe limitations due to wetness if not adequately drained, that the evaluation of the soils with respect to erosion and sediment control may require the applicants to follow an Erosion and Sedimentation Control Plan during construction and to maintain a vegetative cover after completion of any construction, that the farmland rating of the soils, as mapped, are of Statewide Importance, 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 that Norris and Jean Hudson have requested to be excluded from the rezoning requested, based on a letter received on January 14, 1993.

The Commission found that Mrs. Anne L. Henry-Allen was present on behalf of the application and representing herself and the Grossman family.

The Commission found, based on comments made by the applicant, that her building permit for her dwelling referenced the zoning as AR-1 Agricultural Residential, that the stable on the premises was built without a permit, that her intent is for private use for two (2) horses, that she has no intent for a hog farm or chicken houses, that her deed contains no restrictions, and that her horses have been on the site since July 1992.

The Commission found that one neighbor spoke in support of the Henry-Allen property being rezoned, but opposed the rezoning of the larger tracts.

Motion by Mr. Ralph, seconded by Mr. Magee, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the Henry-Allen property be approved, and with the recommendation that the Grossman and Hudson properties be denied.

4. RE: C/Z #1183 -- Peninsula Oil Company, Inc.

Ronald Williams and A. Dean Betts, Esquire, 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 on the west side of Route 113, 320 feet north of Route 20 to be located on a parcel containing 24,571.7 square feet more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Indian River School District.

Mr. Betts advised the Commission that the corner property was recently rezoned by the County, that the adjoining property is being developed as a convenience store and related fuel facility, that the requested rezoning is proposed as expansion to the adjoining site for expansion of the facilities under construction, that additional areas for truck parking may be needed to accommodate parking for the larger vehicles, that the site is appropriate for expansion to the adjoining site, that the existing house and out buildings will be removed from the premises, that no adverse impact on the neighborhood is anticipated, and that no additional fuel storage tanks are proposed.

No parties appeared 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 DelDOT, that a traffic impact study was not recommended, and that the level of service of Route 113 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, that the suitability of the Evesboro soils may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type, as mapped, is of Statewide Importance, 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 Indian River School District, that at this time it does not appear that the proposed change will have a significant impact on the district.

The Commission found, based on comments made by representatives of the application, that the adjoining corner property was recently rezoned by the County, that the adjoining property is being developed as a convenience store and related fuel sales, that the requested rezoning is proposed as expansion to the adjoining site for expansion of the facilities under construction, that additional areas for truck parking may be needed to

accommodate parking for larger vehicles, that the site is appropriate for expansion to the adjoining site, that the existing house and out buildings will be removed from the premises, that no adverse impact on the neighborhood is anticipated, and that no additional fuel storage tanks are proposed.

The Commission found that no parties appeared in opposition.

Motion by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the rezoning is an extension to an existing C-1 General Commercial District and an expansion to an existing commercial use.

5. RE: C/Z #1184 -- Charles Kenneth Covey

Charles K. Covey was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Seaford Hundred, located 200 feet north of Route 535, approximately 1,500 feet west of U.S. Route 13 to be located on a parcel containing 21,598 square feet more or less.

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

Mr. Covey advised the Commission that approximately half of the site is already zoned General Commercial, that he intends to convert an existing building on the site into a garage type structure for storage of vehicles, that presently the building will hold three (3) vehicles, that additions may provide space for storage of ten (10) vehicles, that presently he stored vehicles awaiting repair outside, that some vandalism has occurred, that the site adjoins a park owned and operated by the City of Seaford, and that numerous business and commercial uses exist in the immediate area.

No parties appeared 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 DelDOT, that a traffic impact study was not recommended, and that the level of service of Route 535 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sedimentation control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type, as mapped, is of Statewide Importance, 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 made by the applicant, that approximately half of the site is already zoned General Commercial, that he intends to convert an existing building on the site into a garage type structure for storage of vehicles, that presently the building will house three (3) vehicles, that additions may provide space for a total of ten (10) vehicles, that presently he stores vehicles awaiting repair outside, that some vandalism has occurred, that the site adjoins a park owned and operated by the City of Seaford, and that numerous business and commercial uses exist in the immediate area.

The Commission found that no parties appeared in opposition.

Motion by Mrs. Monaco, seconded by Mr. Ralph, 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 expansion to an existing General Commercial District and an existing commercial use, since the site already contains a commercial building, and since the rezoning will eliminate a parcel split with two zonings.

III. Other Business

1. Gary Jackson

The Commission reviewed a request to create a lot with access from a fifty foot right of way off of Route 48.

Mr. Abbott advised the Commission that there is an existing twenty foot access along the property line and that Mr. Jackson will grant an extra thirty feet to make the right of way fifty foot in width to serve a proposed 2.50 acre lot, that the right of way will be approximately 600 feet in length, and that prior to zoning regulations, two parcels did exist at this site that have been combined as one.

Motion made by Mr. Smith, seconded by Mr. Ralph and carried unanimously to approve the lot and fifty foot right of way.

2. Herbert Sargent

The Commission reviewed a request to create two lots on an existing fifty foot right of way off of Route 64.

Mr. Abbott advised the Commission that the fifty foot right of way presently serves a seven acre parcel, that the owner proposes to create a two acre lot to build a dwelling, that the remaining five acres will retain a manufactured home for the owners son, and that a cul-de-sac will be constructed at the end of the right of way so that the two lots will have the required lot frontage.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the two lots and fifty foot right of way.

3. Donald W. Shipp, Jr.

The Commission reviewed a request to create three lots on a fifty foot right of way from an existing thirty foot easement off of an unnamed street in George C. Moore Subdivision.

Mr. Abbott advised the Commission that the proposed lots have the required lot width of 150 foot and one acre in size since they are located in a conservation zone, that the remaining lot is 4.20 acres in size, that the dwelling will remain on the 4.20 acre tract, and that a fifty foot right of way is proposed from the existing thirty foot easement.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the three lots and fifty foot right of way.

4. The Plantations East RPC

The Commission reviewed the preliminary record plan for the Plantations East RPC.

Mr. Abbott advised the Commission that they recently had reviewed and approved the concept plan for this project, that the multi-family section has been revised to a townhouse concept, that not all multi-family sections have been submitted, that the same number of units are proposed, and that the plan meets the technical requirements of the zoning code with one possible exception.

Mr. Abbott advised the Commission that Village #4 has a proposed twenty-five foot easement to serve three units and questioned if this would be a subdivision in a subdivision since the multi-family units are now townhouses.

Mr. Abbott advised the Commission that this would be considered an interior drive if the units were a condominium type.

The Commission discussed this and questioned if there is any way that this item could be revised.

Tim Vance of Gulf Stream Design Group, advised the Commission that they would look into revising this concern and if so, this would be submitted with the remaining multi-family villages at a later date.

It was the consensus of the Commission that if this area could not be revised, it is hoped that this would be the only instance.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to grant preliminary approval except for Village #4 and the remaining villages.

5. Woodland Crossing

The Commission reviewed the Record Master Plan for the Woodland Crossing RPC.

Mr. Abbott advised the Commission that the Master Record Plan has been submitted, that the plan references all stipulations imposed by County Council, and that the layout is about the same as what was submitted during the public hearing process.

Mr. Lank advised the Commission that the street design is now a loop system instead of a cul-de-sac and that this change was made because the final wetland delineation found there to be less wetlands than originally thought and that some golf holes have been located closer to Route 78.

Mr. Lank advised the Commission that the golf course will be the first phase of this project.

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

6. Rehoboth Beach Yacht & Country Club

The Commission reviewed a revised record plan of Section C of Rehoboth beach Yacht & Country Club.

Preston Lee of Tatman and Lee Associates, Inc. advised the Commission that this development was plotted in the 1960's, that 50% of the lots have been developed, that eleven lots are being deleted and that the street location is being revised due to changes in the wetland regulations, and that no new lots are being created.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the record plat as revised.

Meeting adjourned at 9:30 PM