

MINUTES OF THE REGULAR MEETING OF JANUARY 22, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 22, 1998, at 7:30 P.M., in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following members present:

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

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the minutes of January 8, 1998 as corrected.

Mr. Schrader explained how the meeting will be conducted.

II. PUBLIC HEARINGS

The following comments, relating to public hearings, are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties in support of or in opposition to an application. Also referenced are exhibits that may have been presented in support of or in opposition to an application.

C/U #1221--application of Joseph H. Smith to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for a Produce Market (Seasonal) on the southwest corner of Route 20 and Road 432, located on 1.74 acres more or less.

The Commission found, based on comments received from DelDOT, that the present level of service "D" of Route 20 and level of service "B" of Road 432 will not change as a result of this application.

The Commission found that Joseph H. Smith was present on behalf of this application and stated that he proposes to expand the agricultural operation of Country Living Farms; that he farms along Road 432; that he proposes a produce market to serve the general area around Millsboro; that the front of the building will have overhead doors facing Route 20; that sliding doors will be provided on the sides and rear, the docking area; that an entrance is proposed along Route 20 and an entrance/exit is proposed along Road 432; that the Conditional Use method was chosen since the use is seasonal, rather than rezoning; that it is not feasible to establish a commercial produce market to sell crops and produce grown on the same farm; that he is building a green house on one of the farms; that approximately 90% of the produce he will be selling will be grown on Country Living Farms; that seasonal activities will run for approximately eight (8) months; and that the parking area will be paved.

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

Motion by Mr. Hastings, seconded by Mr. Phillips, 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 presented by the applicant, since the use is an agricultural related use in an Agricultural Residential District in the Sussex County Comprehensive Plan, and with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

C/U #1222--application of Harlan L. Jones to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for a Machine Shop on the southwest side of Route 404, 1,005 feet northwest of Road 563, located on 4.76 acres more or less of a 42.127 acres tract.

The Commission found, based on comments received from DelDOT, that the present level of service "E" of Route 404 will not change as a result of this application.

The Commission found that Harlan L. Jones, Harlan "Larry" Jones III, and Robert V. Witsil, Jr., Attorney, were present on behalf of this application.

The Commission found that Mr. Witsil submitted four (4) photographs for the record. The photographs included views of the site, Route 404, the exterior of the building, and the interior of the building.

The Commission found that Harlan Jones, Larry Jones, and Mr. Witsil, in their presentation or in response to questions raised by the Commission stated that the building was constructed in August of 1997; that the site is approximately 300 feet deep and contains 4.76 acres; that the metal building measures approximately 40' by 40'; that Larry Jones will operate the business ; that the business will consist of typical machine shop activities, with no auto repair work; that the site is located on a straight section of Route 404; that no outside storage is proposed; that no negative impact is anticipated on the school district; that the site is located in a Development District in the Sussex County Comprehensive Plan; that no impact is anticipated on the Church of God located on adjoining property since the shop building and the church are approximately 250' apart; that no Sunday hours are proposed; that small parts will be machined; that most of the deliveries will be by six (6) wheeled trucks, i.e. UPS, etc...; that the business will begin with evening and Saturday hours; that noise will be held at a minimum since the walls of the building are insulated and since

air conditioning will be utilized in warmer weather; that no vehicles will be stored outside of the building; that the only signage proposed will be for identification of the site; that equipment for the business will include lathes, milling machines, surface grinders, drill sharpeners, and other small machinery; that some welding and some fabrication work may be performed; and that they have no objection to downsizing the application site.

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

Motion by Mr. Wheatley, seconded by Mr. Lynch, 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 presented by the applicant and his representatives, since the site is located in a Development District in the Sussex County Comprehensive Plan; and with the following stipulations:

1. The boundary of the Conditional Use shall be reduced to a minimum width of 150', and shall begin 10' southeast of the 20' wide driveway. This will reduce the Conditional Use site to 1.03 acres more or less.
2. There shall be no business hours on Sunday.
3. There shall be no business hours from 11:00 P.M. to 6:00 A.M.
4. Welding may be included with this application.
5. Fabrication work may be included with this application.
6. One unlighted sign, not to exceed 32 square feet per side or facing, may be permitted.
7. No outside storage shall be permitted.
8. All business activities and work shall be performed within the building.
9. No business vehicles, other than those titled to the applicant, may remain parked outside overnight.

C/U #1223--application of West Side New Beginnings, Inc. to consider the Conditional Use of land in a GR General Residential District in Lewes and Rehoboth Hundred for a Private Club/Community Activity Center on the southeast corner of Norwood Street and Burton Avenue, within West Rehoboth Subdivision off of Road 273, located on 17,500 square feet more or less.

The Commission found that DelDOT comments were not requested since the site was within a subdivision.

The Commission found, based on comments received from the County Engineering Department, that the site is located within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the site is presently served by two existing 6-inch laterals; and that the owners will be responsible for connection

charges (impact fees) unless it qualifies for an exemption.

The Commission found that two letters were received in support of the application. The letters were written by Marguerite Iandola and Mable Granke.

The Commission found that Mrs. Bennie Smith and James A. Fuqua, Jr., Attorney, were present on behalf of this application and that based on their presentation and responses to questions raised by the Commission stated that the use is intended for the betterment of the community; that a Conditional Use for a private club and community activity center was approved in April 1994; that the needed funds for the project could not be raised and that the Conditional Use approval became void since construction never started; that the City of Rehoboth supports the intended use; that a contractor has prepared plans and construction is finally ready to start; that the center will benefit the residents and children in the area; that there are no environmental problems in the area that will impact the site; that the corporation was started by the residents of the area to improve the area; that the use will be run by the people of the area for the community; and that after school, pregnancy alliance, family preservation, senior citizen, health, and future day care programs may be established.

The Commission found that fifteen (15) area residents were present in support of the application.

Motion by Mr. Lynch, seconded by Mr. Wheatley, 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 for the application, since the site is located within a Development District in the Sussex County Comprehensive Plan, and with the following stipulations:

1. Parking and security lighting, if any, shall be arranged and installed to minimize glare on property in the area.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

C/U #1224--application of Thomas M. and Amanda L. Rosenthal to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Little Creek Hundred for a Private Air Strip on the southwest side of Road 62, approximately 890 feet southeast of Road 451, located on 79.00 acres more or less.

The Commission found, based on comments received from the Delaware Office of State Planning Coordination, that DelDOT notes that if the proposed air strip remains private and is limited to the owners' personal and agricultural use, the effect on traffic

should be negligible; that it has been confirmed with the applicant that the air strip will remain private and for personal recreational use; and that Delaware DNREC advises that proper site planning in conjunction with the Soil Conservation Service can avoid impacting freshwater wetlands.

The Commission found that Thomas M. Rosenthal was present and stated, in his presentation and in response to questions raised by the Commission, that he proposes a private air strip for recreational use; that the land is currently farmed; that the air strip will be approximately 1,800 feet in length; that he intends to be a good neighbor; that he would be flying on sunny days only; that the aircraft will be a two seater; that the surrounding area is farmland; that he intends to take off toward the west and land from the west over the wooded area; that the air strip will be grassed; that the only plane to be stored on the site will be his plane; that fuel storage will be in small containers; that he is unaware of any drainage problems on the site; that the air strip will not be lighted; that he has no objection to being limited to daylight hours only; that he may fly 3 or 4 times a week; that he does not plan to perform any mechanical work on the site; that the access to the site is from the private road; that he has no objection to restrictions against fly-ins; and that he plans to install fencing and hedges to screen the site from the easterly side.

The Commission found that Ken Link, a friend of the applicant, stated that the applicant is a responsible pilot and that the two seater plane will probably be a 65 horsepower Piper, which has limited use.

The Commission found that Gloria Good and Paul Good, adjoining property owners, were present in opposition and expressed concerns that their home is in direct line with the easterly end of the runway; that their children and grand children play in a cleared area to the rear of their home; that the end of the runway will be approximately 50 feet from their property; that their home will be approximately 386 feet from the end of the runway; that they have family members that are pilots and that they have been around aircraft; that their main objection is not noise, only the location of the air strip; and that aircraft are machines and that machines do break.

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

1. There shall be no fuel storage or sales on the site.
2. Only one aircraft shall be permanently stored on the site.

3. No commercial activities shall be permitted.
4. No runway lighting shall be permitted.
5. No hangar space or tie-down rentals shall be permitted.
6. The runway shall be no longer than 1,790 feet in length.
7. Landing and take-off of aircraft shall be to the western end of the runway and away from existing residences.
8. No skydiving activities shall be permitted.
9. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

C/Z #1330--application of Mumford Real Estate Partnership to consider a proposal to amend the zoning map from AR-1 Agricultural Residential District to C-1 General Commercial District in Baltimore Hundred, located on the north side of Route 54, 500 feet west of U.S. Route 113, to be located on a parcel containing 6.67 acres more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that the Department recommends that the County approve this rezoning, however they ask that the County require the applicant to file a deed restriction limiting the property to the expansion of the existing use, a sheet metal works business, only; that the State Long Range Transportation Plan designates the area in a Preservation Investment Area where the Department seeks to preserve the existing infrastructure and to avoid significant capital improvements; and that they plan to limit spending to maintenance and safety improvements.

The Commission found, based on comments received from the Delaware Office of State Planning Coordination, that the Delaware Economic Development Office (DEDO) strongly supports this rezoning for expanding an existing historically sound commercial operation; that DEDO believes the Town of Selbyville and its surrounding rural areas will continue to benefit from this business' job opportunities; and that the Delaware Office of State Planning Coordination supports DelDOT's request for deed restrictions, which would protect and enhance the existing business seeking to expand while preserving future highway capacity if other commercial uses should eventually locate there.

The Commission found that Curtis Mumford, Jeffrey Mumford, and Steve Ellis, Attorney, were present on behalf of this application.

The Commission found that Mr. Ellis submitted letters from the Town of Selbyville which referenced that the Town has agreed to supply public water for sprinkler and domestic use; that public sewer is available if requested for the new facility; and that the Town Police Department will continue to assist the Delaware

State Police in patrolling the area.

The Commission found that Mr. Ellis submitted a letter from the Selbyville Fire Company, Inc. which referenced that the Fire Company is able to provide fire coverage and protection to the new Mumford facility; that the new facility will provide for sprinkler coverage; and that the Town has a water source located at the property in the form of a fire hydrant served by an 8" water line.

The Commission found that Curtis Mumford, Jeffrey Mumford, and Mr. Ellis, during their presentations and in response to questions raised by the Commission, stated that the business has existed for 65 years; that the buildings were destroyed by fire; that a building permit has been issued to replace the same square footage; that the same use will continue after completion of the new facility; that the business supports 12 to 15 employees; that the business has approximately 50 customers per day; that 50% of the products that they sell are agricultural oriented; that the original facilities had manufacturing on the easterly side and warehousing and sales on the westerly side of the building; that they propose to reverse the locations within the building to provide better service to their customers; that storage will continue to the north of the building; that access will continue to be from Route 54; that DelDOT has not required a new entrance, but they propose to create a controlled entrance with DelDOT approval, rather than have direct access along Route 54.

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

Motion by Mr. Hastings, seconded by Mr. Lynch, 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 rezoning will bring the entire site, which has a history of commercial activity, into one zoning classification C-1 General Commercial; and since the site is located in a Development District in the Sussex County Comprehensive Plan.

C/Z #1331--application of Joseph W. and Bettina M. McQuaide to consider a proposal to amend the zoning map from GR General Residential District to AR-1 Agricultural Residential District in Indian River Hundred, located on the west side of Road 285, across from Road 287, to be located on a parcel containing 23.41 acres more or less.

The Commission found, based on comments made by Mr. Lank, that the site is adjacent to a site recently downzoned from GR General Residential to AR-1 Agricultural Residential; that the site requested is the front 450' west of Road 285; and that two existing parcels, being lands of William and Phyllis Dampman, along Road 285 will remain GR General Residential.

The Commission found that Joseph W. McQuaide was present and stated that they are requesting to downzone their property along Road 285 so that they may continue agricultural activities.

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

Motion by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the application is for downzoning of a property to AR-1 Agricultural Residential, and since the rezoning will bring their entire parcel into one zoning classification, AR-1 Agricultural Residential.

Subdivision #98-1--application of Dr. James Beebe, Jr. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred by dividing 15.41 acres into 4 lots, located at the northeast corner of the intersection of Beebe Drive and Bundicks Drive, within Beebe Farms Subdivision, on the east side of Road 285, 272 feet north of Road 287.

Mr. Abbott summarized the Technical Advisory Committee Report of January 14, 1998.

Bill Mann, Surveyor, advised the Commission that the DNREC has approved the septic for the four proposed lots, that each lot is more than one acre not including the Federal '404' wetlands, and that individual wells are proposed.

Dr. Beebe advised the Commission that he currently has twenty-one approved lots, that a few of the lots have been sold, that all street improvements have been installed, that no construction for any dwellings has taken place, and that he has had requests for larger sized lots.

No parties appeared in support of or in opposition to this application.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary.

III. Other Business

1. Quakertown Medical Associates, L.L.C.

The Commission reviewed a preliminary site plan for offices located on the northern side of Savannah Road, west of the Town Limits of Lewes.

Mr. Abbott advised the Commission that the existing dwelling is being converted to offices, that seven parking spaces are required and that twenty have been provided, that the plan meets the requirements of the zoning code, and that the staff has not received any agency approvals.

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

2. C/U #1175--Thelton Savage

The Commission reviewed the site plan for C/U #1175 for a beauty salon and auto storage building on Route 20 near Concord.

Mr. Abbott advised the Commission that the site plan is the same as what was submitted during the Public Hearing, that all agency approvals have been received, and that screening will be required adjacent to the Levi Hughes property.

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

3. Plantations East--MR/RPC

The Commission reviewed a revised site plan for Village 6 within the Plantations Residential Planned Community.

Mr. Abbott advised the Commission that twenty-eight single family lots have been relocated and that each lot meets the minimum requirements of the subdivision and zoning codes.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the revised plan as submitted.

4. The Salt Pond--MR/RPC

The Commission reviewed a request to delete the ten foot setback requirement from the Federal '404' Wetlands line within the Salt Pond Residential Planned Community.

Mr. Abbott advised the Commission that the developers restricted themselves with the ten foot setback and have requested that the

ten foot setback be deleted.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the request.

5. C/U #1173--Ford/Raab Partnership

Mr. Abbott advised the Commission that a request for a one year time extension has been received from the developer.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to deny the one year time extension request.

6. Subdivisions Discussions

Mr. Abbott advised the Commission that there are three subdivision applications that have been deferred since December 1996 and questioned what action the Commission should take on these applications.

It was the consensus of the Commission that these applications be put on the next agenda under Old Business.

IV. Old Business

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

The Chairman referred back to this application which was deferred at the January 8, 1998 meeting.

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

Motion made by Mr. Lynch, seconded by Mr. Phillips, with Mr. Hastings and Mr. Allen voting against, and Mr. Wheatley abstaining, to forward this application to the County Council with the recommendation that it be approved. The motion failed.

2. Subdivision #96-16--Dale Wheatley

The Chairman referred back to this application which was deferred at the December 5, 1996 meeting.

Mr. Abbott advised the Commission that the septic feasibility statement has been received from the DNREC and that the site is suitable for individual on site septic systems.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried four votes to none, with Mr. Hastings abstaining, to approve this application as a preliminary.

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Meeting adjourned at 10:15 P.M.