

MINUTES OF THE REGULAR MEETING OF JANUARY 24, 1991

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 24, 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 January 10, 1991, as circulated.

PUBLIC HEARINGS

1. RE: C/U #957--Ronald H. and Diane M. Vassallo

Edward Maull, attorney, Ronald Vassallo and Diane Vassallo were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for Retail Sales and Display of Wooden Products at the southeast corner of the intersection of Route 9 and Route 290, and to be located on a parcel containing 1.36 acres more or less.

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

Mr. Maull stated that the proposed parcel has conditional use approval for office equipment and retail sales. The applicants are seeking approval for the display of wooden lawn furniture and the sale of wooden lawn furniture. There are other businesses in the area.

Mr. Vassallo stated he makes the furniture at his residence in New Jersey. He keeps one of everything he makes at the proposed site. Some of his business is done by phone contact. Some orders are delivered directly from New Jersey to the customers' home. He has one full time employee. The business would be operated year round.

Dot McClafferty and Doug Miller spoke in favor of the application.

No one was present in opposition.

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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 "A" of Route 290 will not change as a result of this application. It was noted that access to the site is limited to Route 290 and that access is not proposed from Route 9.

The Commission found, based on comments received from the County Engineering Department, that the site is in the area west of the West Rehoboth Expansion area where County Council has agreed to restrict zoning changes.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are Rumford loamy sand, that the soil suitability for the intended use creates none to slight limitations, that in reference to erosion and sedimentation control slight limitations may be anticipated during construction and after completion of any construction, that the farmland rating of the soil type 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 that the applicants were present with legal counsel and plan to utilize the site for retail sales of and display of wooden products: sheds, decks, gazebos, gliders, etc.

The Commission found, based on comments by the representatives of the application, that the applicants purchased the property with the understanding that they were permitted retail sales as a continuation of the previous conditional use on the property, C/U #600 for Admiral Business Machines, Inc., for office equipment service and retail sales, that nothing is constructed on-site presently, that all products are made in New Jersey at the applicants site, that no dust or machinery are necessary on-site, that the property has been used for retail sales since 1980, that no change in the character of the neighborhood is anticipated, that the business is family run with some family member on-site at all times, that at most, there have been 3 or 4 customers per day, that most of the sales are special ordered and delivered to an individual's site, that products handled to and from the site are handled by the applicant, that west of the site are business and commercial districts and some uses, that east of the site are several conditional uses for a cabinet shop and antique shops and commercial districts and uses.

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The Commission found that two (2) neighbors from across Route 9 spoke in support of the application.

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 with the condition that the use be only for retail sales and display of wooden products.

2. RE: Subdiv. #91-1--Talivaldis Berzins

John Wech, McCann, Inc., was present on behalf of this application to consider the Subdivision of land in an MR Medium Density Residential Zoning District in Baltimore Hundred by dividing 11 acres into 44 lots, located on the northeast side of Route 361, and as an extension to Ocean Way Estates.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of January 18, 1991.

Mr. Wech stated the applicant would supply the subdivision with central water if required to do so.

No one was present in opposition.

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

3. RE: Subdiv. #91-2--Joseph Dailey

No one was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred by dividing 18.04 acres into 11 lots, located on the south side of Route 329, 1,400 feet west of Route 432.

Application withdrawn.

4. RE: Subdiv. #91-3--Indian River Homes

Lynn Moore, of Indian River Homes, was present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in Dagsboro Hundred by dividing 16.6 acres into 14 lots, located on the east side of Route 326, 1,750 feet south of Route 86.

Michael Moore summarized comments from the Technical Advisory Committee meeting of January 18, 1991.

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Lynn Moore stated the proposed subdivision will have private streets. The applicants would like to have the first phases of this subdivision changed from public to private streets. The subdivision will have individual on-site water and septic systems.

No one was present in opposition.

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

5. RE: Subdiv. #91-4--Samuel P. Alloway

John Wech, McCann, Inc., was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Little Creek Hundred by dividing 10.14 acres into 6 lots, located on the south side of Route 492, 700 feet west of Laurel Town Limits.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of January 18, 1991.

Mr. Wech stated the proposed subdivision will have less than 600 feet of streets. The lots will have individual on-site septic systems.

Helen Sullivan, Chester Justice, Charles White, Charlene Layton, Pat Shriver, Gail White, Dorothy Sullivan, and Norris Sullivan spoke in opposition due to additional traffic, childrens safety, no need was shown for lots in the area, and the area is predominantly a farming area.

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

6. RE: ORDINANCE AMENDING CHAPTER 115 (Dormitories)

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, DELAWARE, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 69, TITLE 9, DELAWARE CODE, PERTAINING TO DORMITORIES.

Mr. Lank summarized the proposed ordinance on dormitories.

Mr. Lank noted that the Ordinance seemed incomplete since the title did not reference the intent of the Ordinance.

Mr. Lank read the Town of Georgetown's reference to Boarding Homes.

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John Sergovic, attorney, submitted a packet of information from other jurisdictions which reference dormitories. The packet includes information from the Town of Lewes; Kent County; Washington, DC; Montgomery County, MD; New Castle County; and information from a case from the Supreme Court of Delaware where the University of Delaware and the City of Newark were referenced. The packet included references to definitions and parking requirements.

Mr. Sergovic stated that a need exists for this type of housing in the resort areas for low cost housing for summer employees.

Mr. Allen expressed a concern that the Ordinance was being prepared to benefit a certain developer or project.

Mr. Schrader questioned whether it would be more appropriate to create a dormitory provision as a special exception in a C-1 General Commercial District and raised questions in reference to parking, parking space size reduction, seasonal use enforcement, maximum number of accommodations, size of rooms, and number of bathrooms.

Mr. Sergovic stated that Building Codes and Health Codes will regulate size and numbers.

Sandy Artisan, from the Rehoboth Beach-Dewey Beach Chamber of Commerce read a statement in support of the proposal since dormitory housing would help merchants fill jobs during the summer season, could help increase the workforce during the fall months, could help alleviate loss of employees during weekends for the fall months, and that this type of housing would be beneficial to both the merchants and the employees of the Rehoboth Beach and Dewey Beach areas.

Harriet Smith, of Del Tech, stated that the college is growing and that there is always a need for housing in the area to serve students.

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

OLD BUSINESS

1. RE: ORDINANCE TO AMEND CHAPTER 115 (Zoning Procedures)

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO ZONING PROCEDURES.

The Chairman referred to this Ordinance which was deferred since December 27, 1990.

The Commission discussed amendments proposed that will require a showing of good cause for withdrawals of applications to the Board of Adjustment and the County Council.

It was the consensus of the Commission to defer action.

2. RE: Subdiv. #90-29--Nelson Hall

The Commission reviewed a revised preliminary plat for a proposed 64 lot subdivision.

The revision reduced the total number of lots to 50 lots and deleted a proposed street within a D. P. & L. right of way.

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

3. RE: Subdiv. #90-38--East Middlecord Circle

The Commission reviewed a revised preliminary plat for a proposed 16 lot subdivision.

The revision reduced the total number of lots to 13 and reduced the length of the cul-de-sac to 758 feet.

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

4. RE: Subdiv. #90-39--David Webb

Application withdrawn from the agenda.

5. RE: Subdiv. #90-40--Raymond Banks

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

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

6. RE: Lighthouse Cove
Site Plan

The Commission reviewed a request to renew the site plan approval for a proposed motel complex.

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John Sergovic, attorney, was present on behalf of the proposal.

Previous site plan approval was on September 10, 1987.

Mr. Moore stated that the plan is in compliance with the zoning code.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to renew the site plan approval.

7. RE: Great Eastern
Site Plan
Route 54

The Commission reviewed a proposal to create a six (6) lot subdivision by creating two (2) frontage roads to provide access.

It was the consensus of the Commission that the proposal shall require a public hearing, as the access would be creating a street.

8. RE: Discussions

A. Strip Developments along arterial roads

Mr. Lank exhibited a concept for a subdivision along Route 13 and suggested that the Commission review all strip development proposals along arterial roads until an Ordinance is established.

It was the consensus of the Commission that they review all strip developments along arterial roads.

B. Conduct of Public Hearings

Mr. Lank submitted a proposal from the County Attorney for guidelines for the conduct of public hearings.

Mr. Lank read a letter from Til Purnell urging no action to amend the process.

It was the consensus of the Commission to defer action pending review of the proposal.

Meeting Adjourned 10:30 P.M.

Lawrence B. Lank, Secretary