

MINUTES OF THE REGULAR MEETING OF JANUARY 25, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 25, 1990, at 7:45 P.M. in the County Council Chambers, Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Berl - 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 11, 1990, as circulated.

PUBLIC HEARINGS

1. RE: C/U #928--Jeffrey S. Todd

David Rutt, attorney, and Jeffrey Todd were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Seaford Hundred to amend Conditional Use No. 413 for a Medical Office Building by Expansion of a Tanning Salon on the west side of Route 30, 1,800 feet south of Route 547, to be located on a parcel containing 1.85 acres more or less.

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

Mr. Lank read into the record a statement received with a petition in opposition to this application.

Mr. Rutt stated the applicant has a conditional sales contract pending on the proposed site.

Mr. Rutt stated the applicant plans to operate a tanning salon in the rear of the existing building. Dr. Francisco's office would remain in the front part of the building. There are no plans to expand the building.

Mr. Todd stated he plans to relocate his wife's tanning salon, Sunsa-tions Plus, to the proposed site. At its present location there is no room for expansion and they are paying an excessive amount of rent.

Mr. Todd stated he has one full time employee and four (4) part time employees. They are open from 6:00 A.M. to 8:00 P.M., five (5) days per week, and from 8:00 A.M. to 1:00 P.M. Saturdays and Sundays. The business includes tanning beds and exercise equipment. There are no showers, hot tub, etc. There is adequate space on the proposed site for parking.

Mr. Todd stated the building presently has two (2) security lights. He would like to have illuminated awnings installed. He plans to plant the rear of the site with trees to help screen the adjoining chicken houses. There would be a soda machine, but no food would be sold.

Jack Reynolds spoke in favor of the application.

Jean Ricks spoke in opposition due to additional traffic and a commercial use in a residential area would open the door for more commercial uses, property devaluation, and other commercial sites are available without re-zoning a separate parcel.

Kenneth Merriman, of Heritage Village Property Owners Association, spoke in opposition due to increased traffic, the site is in a residential area, and possible neon lighting.

Gerald Sammons spoke in opposition for similar reasons.

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 no comments were requested from the State DelD.O.T. since no expansion of the building was proposed.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area is affected, that no on site or off site drainage improvements will be necessary, that no tax ditch is affected, that the Evesboro soils on site are suitable for the intended use, that slight limitations may be anticipated if any construction takes place, and that the soil type is of statewide importance based on the Sussex County Soil Survey.

The Commission found that the applicant was present with legal counsel, that the applicant plans to utilize the rear of the building for a tanning salon, and that the front portion of the building will remain Doctor's offices.

The Commission found, based on comments by the applicant, that there are no plans to enlarge the building, only interior modifications; that the front half of the building has been utilized as doctors offices since 1978, that the rear half of the building was utilized for doctors offices until approximately 1985, a family counseling center until approximately 1987, and is presently vacated; that the business, presently located in the City of Seaford, has five (5) tanning booths; that the existing business has no area for expansion; that the present site is leased; that users are scheduled by appointment only with hours from 6:00 A.M. to 8:00 P.M., Monday to Friday, and 8:00 A.M. to 1:00 P.M. Saturday and Sunday; that one full time and four (4) part time employees exist presently; that the application

building will provide adequate space for additional tanning booths; that adequate septic facilities and water exist on the premises; that no negative impact is anticipated on the health, safety or welfare of the inhabitants of Sussex County; that no more of an impact on the neighborhood, property values, or Route 30 is anticipated than the doctor's offices; that adequate lighting exists on the premises; that adequate space is available for parking; that the use is a service type business, similar to a doctor's office; that the scheduling of the business is similar to a doctor's office - by appointment only; and that if it is necessary to relocate the entrance, adequate frontage is available.

The Commission found, based on comments by one party present in support, that he anticipates no impact on property values, since he is building a new home across Route 30 in Heritage Village.

The Commission found, based on comments by parties present in opposition, that concerns were expressed in reference to a commercial business in an agricultural residential area, that a precedent may be set for additional commercial uses, that the closest commercial activity is in Seaford limits approximately one mile south of the site; that the area is growing residentially; that three (3) major developments exist in close proximity; traffic and traffic safety; childrens safety along Route 30; concern for lighted signs in a residential area, and that the existing entrance may be closed since it is on lands of others.

Motion made by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied based on the record of opposition, and since a tanning salon is considered more of a commercial activity with hours of operation different from a typical doctors office.

2. RE: C/Z #1045--Richard A. and Melody A. Hudson

Steve Parsons, attorney, and Richard and Melody Hudson were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Baltimore Hundred, located on the west side of Route 348, 158 feet north of Route 26, containing 1.0 acre more or less.

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

Mr. Parsons stated the applicants plan to operate a contractors office and an antique shop from the proposed location.

Mr. Hudson stated he plans to operate his contractors office from a building he would erect on this site. The entrance would be from Route 348. One truck would be stored at this location.

Mrs. Hudson stated she plans to operate an antique business from the site. The shop would be open from 9:00 A.M. to 5:00 P.M., six (6) days per week.

Mr. Hudson stated their residence is on the proposed site.

Mr. Parsons stated there are other commercial uses in the area.

Mr. Parsons presented a petition in support of this 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, based on comments received from the State DeID.O.T., that a traffic impact study was not recommended and that capacity to Route 348 is controlled by one or more intersections.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area is affected, no on site or off site drainage improvements are anticipated, no tax ditch is affected, slight limitations may be anticipated during and after completion of construction, and that the Evesboro soils on site are suitable for the intended use and of statewide importance.

The Commission found that the applicants were present with legal counsel and that the applicants plan to utilize the site for an antique shop and a contractors office.

The Commission found, based on comments by representatives of the application, that traffic is substantially less on Route 348 than on Route 26, that the site was chosen since it fronts on Route 348, that the site is a portion of a larger tract of land owned by the applicants, that no adverse impact on traffic is anticipated on Route 348, property values, or the neighborhood, that the applicants contractor business is growing and adequate space is available for expansion on the proposed site, and that several business and commercial uses and zoning districts exist in close proximity.

The Commission found that a petition in support of the proposed uses was submitted containing twenty (20) signatures of neighbors and adjoining owners.

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 denied since the site is only 158 feet from Route 26, traffic on Route 26, the limited size of the proposed structure compared to the parcel size, and that rezoning may be considered a form of spot zoning.

3. RE: C/Z #1046--Concrete Building Systems, Inc.

Jim Waehler, attorney, and George Bell were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to HI-1 Heavy Industrial in Little Creek Hundred, located approximately 555 feet north of Route 502 and west of Railroad, containing 8.39 acres more or less.

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

Mr. Waehler stated the applicants plan to expand the existing business of manufacturing precast cement panels. The proposed site would be used for storage of completed panels awaiting shipment. The panels are used in building condominiums, parking garages, etc.

Mr. Ball stated they anticipate having approximately 75 employees if this application is approved. There are other commercial and industrial uses in the area. The proposal would not generate any additional traffic other than additional employees. They may construct an office on this site at some future time.

Peggy Brinkley, on behalf of her parents, spoke in opposition due to existing drainage problems and the poor condition of the access road which also serves several residences.

George Edwards, on behalf of his mother, spoke in opposition for similar reasons.

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 the State DelD.O.T., that a traffic impact study was not recommended and that the present level of service "B" of Route 13A, between Route 54 and the north Delmar Limits, may change to level of service "C" based on assumed development as General Light Industry generating on a per acre basis.

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

The Commission found, based on comments received from the D.N.R.E.C. Land Use Planning Act Coordinator, that State regulations prohibit the burial of construction debris except at facilities that have been specifically permitted or approved by the Department to accept this type of waste.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area is affected, no off site drainage improvements will be necessary, on site drainage improvements will be necessary, no tax ditch is affected, the Elkton Loam soils on site are suitable for the intended use, slight limitations in reference to erosion/sediment control may be anticipated during and after completion of construction, and that the soils on site are considered of statewide importance.

The Commission found that the application was represented by George Bell, Manager of Support Services of Concrete Building Systems, Inc. and legal counsel, and that the site is proposed to be utilized for storage of concrete construction panels awaiting delivery.

The Commission found, based on comments made by representatives of the application, that the company presently utilizes sites on both sides of Route 502, that the concrete panels are manufactured multi-family, commercial and industrial structures and parking garages, that a batch plant and three (3) cranes are utilized on the existing site adjoining the proposed site, that approximately 20 additional employees may be anticipated, that other commercial and industrial uses exist immediately adjacent and in close proximity, that the only anticipated traffic increase may be additional employees, that no additional truck traffic is anticipated, that no adverse impact on the neighborhood or property values is anticipated, that the rezoning and intended use are compatible to the existing uses, and that there is some incompatibility to the two (2) residential uses adjoining which have existed since the industrial uses were established on the existing sites.

The Commission found that three (3) area residents were present and expressed concerns to maintenance of the existing dirt access road and drainage, that the postal service, Meals on Wheels, and ambulance service have sometimes not been able to serve the residences due to water on the road and drainage.

Written statements were submitted from the Laurel Senior Center and Cheer.

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

4. RE: C/Z #1047--John T. and Pauline Satterfield

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Indian River Hundred, located on the northwest corner of the intersection of Route 24, Route 297, and Route 5, containing 30,691 square feet more or less.

This application was withdrawn prior to the public hearings.

5. RE: C/Z #1048--Martha S. and Michael T. Marciano

Martha and Michael Marciano were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Indian River Hundred, located on the south side of Route 24, 1,200 feet east of Route 30, containing 1.32 acres more or less.

Mr. Lank summarized comments received from the State Highway Department, the Sussex Conservation District, the Indian River School District, and the LUPA Coordinator.

Mrs. Marciano stated they reside on the proposed site. They plan to use the garage for the sale of seafood seasoning and related items.

Mrs. Marciano stated there will be no employees other than herself and her husband. They will be open from 7:00 A.M. to 7:00 P.M., six (6) days per week, year round. The site has a horseshoe shaped driveway. There is sufficient space for parking. There are other commercial uses in the area.

Donald Ward spoke in support 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, based on comments received from the Indian River School District, that it does not appear that the proposed change will have a significant impact on the district.

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

The Commission found, based on comments received from the DelD.O.T., that a traffic impact study had been requested originally and that since the use proposed will generate very insignificant traffic, the traffic impact study requirement was waived. It was also noted that we still have an ongoing traffic problem on Route 24.

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

The Commission found that the applicants were present and plan to utilize the site for retail sale of seafood seasoning, spices, and related items.

The Commission found, based on comments made by the applicants, that they plan to continue residing on the premises and plan to convert the existing garage into a sales area, that no employees are anticipated other than the applicants, that anticipated hours are 7:00 A.M. to 7:00 P.M., six (6) days per week, that no adverse impact on property values, the neighborhood, or Route 24, and that numerous business and commercial uses and districts exist in close proximity.

The Commission found that an area property owner spoke in support since the area is predominantly zoned for business and commercial uses.

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 since other business and commercial uses and districts exist in the immediate area.

OTHER BUSINESS

1. RE: First State Motors
Route 113

The Commission reviewed the preliminary site plan for the First State Auto Sales.

No one was present on behalf of the project.

Mr. Moore questioned the entrance location as not being in the C-1 General Commercial Zone.

It was the consensus of the Commission that the intent and survey presented at the change of zone public hearing, was to include the entrance location in the C-1 General Commercial zone.

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

OLD BUSINESS

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

No one was 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.

At the conclusion of the public hearings, the Chairman referred to this application, which had been deferred on January 11, 1990.

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

The Commission found, based on computer information provided by the staff, that in the GR General Residential District across Route 24, there were 1,441 parcels of which 725 were vacant.

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 denied based on the record of opposition, since no need for additional GR General Residential land in this general area was shown, and based on the number of vacant parcels in the GR General Residential District across Route 24, and concerns expressed on traffic on Route 24.

2. RE: ORDINANCE TO AMEND ORDINANCE NO. 90
(Subdivision Ordinance)

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.

At the conclusion of the public hearings, the Chairman referred to this ordinance amendment, which had been deferred on January 11, 1990.

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

The Commission found that the record of the January 11, 1990, public hearing had been kept open since comments had been requested from the County Engineering Department.

The Commission found that letters have been received from Public Water Supply Company and the National Association of Water Companies with suggested Amendments.

The Commission found, based on comments by representatives present from Public Water Supply Company, Utility Systems, Tidewater Utilities and the National Association of Water Companies that they supported the suggested amendments from the County Engineer.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to forward this Ordinance Amendment to the Sussex County Council with the recommendation that it be approved with the following substitution amendments:

- A. Article 10, Section 2, Paragraph 4, second paragraph shall be written as follows:

"All subdivisions requiring a public water supply shall be provided with a water supply and distribution system and fire hydrants meeting national recognized standards which have been adopted by the County Engineer.

1. Prior to the start of construction of any public water supply system, the utility or owner shall submit a copy of the construction drawing and demand calculations to the County Engineer in order to assure compliance with all applicable regulations.
2. Upon completion of the project, the utility or owner shall submit a set of as-built drawings to the County Engineer for his records to aid in future planning together with certification of compliance by a responsible utility officer.
3. The County reserves the right to collect appropriate fees for the Engineering Design Review and for any field inspections deemed necessary by the County Engineer."

- B. Article 10, Section 2, Paragraph 5 shall be written as follows:

5. Sanitary Sewer Facilities. Every subdivision with lots of such size as to require a public sewer system under the zoning regulations or the regulations of the State Department of Natural Resources and Environmental Control and/or the County Engineer shall be provided with the community sanitary sewer system connected to a County or Municipal system or to an adequate community sewerage disposal plant meeting the requirements of the State Department of Natural Resources and Environmental Control and

the County Engineer. If connected to the County or Municipal system, sewers shall be constructed to meet the standards and requirements of such system and shall become a part thereof without cost to the County or Municipality. If built as an independent system, sanitary sewer facilities shall meet nationally recognized standards which have been adopted by the County Engineer.

- a. For such independent systems it is requested that application documents be submitted to the County Engineer at the same time as submission to Department of Natural Resources and Environmental Control.
- b. A copy of the Department of Natural Resources and Environmental Control approved permit, and a copy of construction drawings be submitted to the County Engineer prior to construction.
- c. Upon completion of the project, the owner shall submit a set of as-built drawings to the County Engineer for his records to aid in future planning, together with a Certificate of Compliance by a responsible utility officer and/or Professional Engineer.
- d. The County reserves the right to collect appropriate fees for the Engineering design review and for any field inspections deemed necessary by the County Engineer."
- e. In addition, some acceptable arrangement of ownership and operation shall be made which is acceptable to the County and the State Department of Natural Resources and Environmental Control.

Where a public sewerage system will not be available, private on-site means of sewage disposal meeting the requirement of the State Department of Natural Resources and Environmental Control shall be provided; and, in addition, the State Department of Natural Resources and Environmental Control and/or the Commission may require the installation and capping of sanitary sewer mains and house connections if their evaluation shall indicate that public sewer service will be necessary in the future to protect the public health. Generally, this requirement will be made when the establishment of a sanitary sewer district with related services exists or is planned, or when the State Department of Natural Resources and Environmental Control will only issue temporary holding tank permits.

3. RE: Subdiv. #89-23--The Hollys

The Commission reviewed the preliminary subdivision plan for a proposed 70 lot subdivision.

No one was present on behalf of the application.

Mr. Moore stated that the requested feasibility for on site septic systems had been obtained from the D.N.R.E.C..

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

4. RE: Subdiv. #89-20--Greystone Manor

The Commission reviewed the preliminary subdivision plan for a proposed 33 lot subdivision.

Mr. Moore stated that the required feasibility for on site septic systems had been obtained from the D.N.R.E.C.

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

5. RE: Subdiv. #89-8--Country Manor, Section II

The Commission reviewed the final subdivision plat for the 96 lot resubdivision of Country Manor, Section II.

Mr. Moore stated that all final approvals had been obtained.

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

6. RE: Subdiv. #88-30--James Morgan

Mr. Moore submitted a request for a six (6) month time extension for the preliminary approval for the James Morgan Subdivision.

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

7. RE: Norman Justice
5 lots

The Commission reviewed a request to create five (5) additional lots on the unimproved Piney Point Road.

No one was present on behalf of the proposal.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve a total of three (3) parcels, with the stipulation that no further subdivision be approved without a major subdivision application.

8. RE: Hill'N'Dale

The Commission reviewed a proposal to allow the developers to develop the third section of Hill'N'Dale Subdivision to private street construction standards.

Mr. Lank stated that the previous sections and the record plan require State construction standards.

Motion made by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to deny the request.

Meeting Adjourned 10:35 P.M.

Lawrence B. Lank, Secretary