

MINUTES OF THE REGULAR MEETING OF JANUARY 25, 1996

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 25, 1996, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II. Joel Leidy, ex-officio member, representing Del DOT was present.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the minutes of January 11, 1996, as amended.

II. PUBLIC HEARINGS

1. RE: C/U #1143 -- Shirley A. Sato

Ann Sato was present on behalf of her application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broad Creek Hundred for a Tanning Salon lying on the southwest corner of the intersection of Route 9 and Route 20, on a parcel containing 0.37 acres more or less.

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

Ms. Sato stated that she has three (3) tanning beds, that the room utilized for the tanning beds was originally a grocery store, that the use should be a benefit to the community, that the existing sign is adequate, that adequate parking is available on the site, that no adverse impact is anticipated on property values, that access exist from both Route 20 and Road 473, that the predominant access to the parking area is from Route 9, that the business has existed for approximately one (1) year.

Barbara West, an area resident, stated that she supports the application.

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 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 on-site or off-site drainage improvements, that the soils are mapped as Woodstown sandy loam which has slight to moderate limitations, that the applicant shall be required to follow recommended erosion and sedimentation control practices and to maintain vegetation, and that the farmland rating of the soil type is Prime Farmland,

The Commission found that the applicant was present and stated that she has three (3) tanning beds, that the room utilized for the tanning beds was originally a grocery store, that the use should be a benefit to the community, that the existing sign is adequate, that adequate parking is available on the site, that no adverse impact is anticipated on property values, that access exist from both Route 20 and Road 473, that the predominant access to the parking area is from Route 9, that the business has existed for approximately one (1) year.

The Commission found that an area resident stated that she supports the application.

The Commission found that no parties appeared in opposition.

Motion by Mr. Ralph, 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. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. One unlighted sign, not exceeding 32 square foot per side or facing, may be permitted.

2. RE: C/U # 1145 -- Preston Louis McIlvaine

Preston McIlvaine was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for Expansion to Conditional Use No. 333 (Office, Warehouse and Retail Sales) by adding Professional Services and General Repair including Reconditioning of Commercial Bearings, lying on the south side of Road 48, 1,000 feet west of Road 297 across from Morris Mill Pond, on a parcel containing 3.97 acres more or less.

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

Mr. McIlvaine stated that the lumber company will remain on the site, that the reconditioning of bearings will not generate any hazardous waste, that an existing building will be utilized for the reconditioning of bearings, and that no adverse impact is anticipated on property values or the neighborhood.

Mr. McIlvaine submitted a letter from Madelyn M. Macklin, representing the adjoining landowners, stating no objection to the application.

Donna Burrows, representing the tenant proposing to recondition bearings, stated that the bearings are general roller bearings from railroad wheels, that the bearings can be lifted by hand, that no other reconditioners exist within Delaware except for Amtrak, and that five trained technicians will be employed.

Mr. McIlvaine added that 1 or 2 tractor trailers may come to the site per week.

Dale Burrows, a resident in the area, stated that he supports the application.

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 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 on-site or off-site drainage improvements, that the soils are mapped as Evesboro loamy sand and Kenansville loamy sand which have slight limitations, that the applicant will be required to follow recommended erosion and sediment control practices and to maintain vegetation, and that the farmland rating of the Evesboro soil types are considered of Statewide Importance, and that the farmland rating of the Kenansville soils are considered Prime Farmland.

The Commission found that the applicant was present and stated that the lumber company will remain on the site, that the reconditioning of bearings will not generate any hazardous waste, that an existing building will be utilized for the reconditioning of bearings, and that no adverse impact is anticipated on property values or the neighborhood.

The Commission found that the applicant submitted a letter on behalf of the adjoining land owners stating no objection to the application.

The Commission found that a representative of the tenant proposing to recondition bearings stated that the bearings are general roller bearings from railroad wheels, that the bearings can be lifted by hand, that no other reconditioners exist within Delaware except for Amtrak, and that five trained technicians will be employed.

The Commission found that the applicant added that 1 or 2 tractor trailers may come to the site per week.

The Commission found that an area resident stated that he supports the application.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

3. RE: C/Z #1271--Sussex Land Co.

Donald Ward and Wayne Pepper were present on behalf of Sussex Land Co. to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Cedar Creek Hundred, located on the southeast corner of Road 224 and Conrail Railroad and the southwest corner of Road 224 and Road 226, to be located on a parcel containing 57.99 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Office of the State Fire Marshal, the Sussex Conservation District, and the Delaware Department of Agriculture.

Mr. Ward stated that it is their intent to develop lots for manufactured homes, that the rezoning should be considered an extension to an existing GR General Residential District since the site is across the railroad from a GR General Residential

District, that the rezoning should not be considered spot zoning since it adjoins an existing district, that no dwellings exist in close proximity to the site, that no negative impact is anticipated on the neighborhood, that a need exist for additional GR land in Sussex County, that a soil scientist has performed an analysis on the site and that all lots should take inground septic systems, that the use is consistent with farmland preservation by containing lots within an area, that the site could presently be developed with all five (5) acre parcels with manufactured homes, that the lots along Route 226 will remain, that more manufactured homes exist in the area than single family homes, that they purchased the property three days ago, that the 14 lots along Route 226 were created in September 1995, that the entrance to the subdivision is close to the railroad which has daily rail activities, that he is aware of the need for lots for sale for manufactured home by the number of people calling that request lots for manufactured homes, that approximately a third of the callers ask for lots permitting manufactured homes, that individual septic systems and wells are proposed for each lot, that the highest and best use of this site is GR zoned lots for sale, not for lease, that deed restrictions will be created and may include a five (5) year age limit on manufactured homes to be placed, that a buffer area may be established along the railroad, and that a recreational area may be included on the final plans.

Joel Leidy, Subdivision Engineer for DelDOT, stated that the South District Office of DelDOT may have granted entrance locations for the lots along Route 226, but that subdivision entrance location and design shall be subject to the Subdivision Engineers Office in Dover, and that a safety concern about the closeness of the subdivision entrance to the railroad, a rail system that may permit trains traveling around 50 miles per hour, must be considered.

Joann Parsons, Donald Dutton, Ethel Bush, Randy Johnson, Robin Lippencod, Scott Smith, Terry Dutton, Kay Mitchell, and Vicky Dutton spoke in support of lots for sale, rather than leased in parks, that a need exist for lots for manufactured homes, that lease lots are small and close to other lots, and that a lot zoned for a manufactured home sells easily, where a restricted lot may never sell.

Doug Breeding, Nelson Hall, Donald Glasco, and Dennis McColley spoke in opposition to this application and expressed concerns relating to flooding of the land and Route 226, a dirt road, that Road 226 has been closed for several weeks due to flooding on several occasions, that one (1) death has occurred at the railroad crossing within the last 1.5 years, that an accident occurs at the intersection of Route 213 and Route 224 approximately every three weeks, that two-thirds of the site is

flooded annually, that the site is not suitable for development, that trash is already a major concern along Route 226, that crops have rotted in the fields due to flooding, that septic problems already exist in the Ellendale area and the soils are basically the same on this site, and that the area should remain agricultural.

At the conclusion of the public hearing, 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 originally a traffic impact study was requested, that they have deducted the 14 lots along Route 226 and found that a traffic impact study is not necessary at this time, that they would have preferred that the lots along Route 226, a dirt road, not be established or that access to the lots be from the interior of a subdivision, and that the level of service of both Route 224 and Route 226 creates ample capacity.

The Commission found, based on comments received from the Office of the State Fire Marshal, that the office has no objection to the proposal, that there are certain regulations that must be met and that the applicant shall be required to submit site plans for review and approval prior to erecting or locating manufactured homes on the site.

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 on-site or off-site drainage improvements, that the soils are mapped as Evesboro loamy sand, Klej loamy sand, and Woodstown sandy loam, that the Evesboro soils and some of the Klej and Woodstown soils have slight limitations, that some of the Klej and Woodstown soils have moderate limitations, that the applicants shall be required to follow recommended erosion and sediment control practices and to maintain vegetation after any construction, and that the farmland rating of the Evesboro and Klej soils are considered of Statewide Importance, and that the farmland rating of the Woodstown soils is considered Prime Farmland.

The Commission found, based on comments received from the Delaware Department of Agriculture, that the department reviewed the site by using the LESA, Land Evaluation and Site Assessment analysis formula for Sussex County, that the analysis scored a 203 out of 300 points which is slightly above the County average of 188 points, indicating that the site is suitable for

economically viable long-term agricultural production, that the soils are more suitable for forest management, that the site is wet much of the year, that the department feels that this site is not suited for development, that ground water quality and long term septic viability problems are apparent, questioned if there is a definitive and demonstrated need for additional GR zoning in the area when there is vacant lands already zoned, and stating that based on the high LESA score and the existence of lands more suited for a project as well as the sites close proximity to Ellendale State Forest, the department strongly urge the County to deny this request.

The Commission found that Donald Ward and Wayne Pepper were present on behalf of Sussex Land Co. and that Mr. Ward stated that it is their intent to develop lots for manufactured homes, that the rezoning should be considered an extension to an existing GR General Residential District since the site is across the railroad from a GR General Residential District, that the rezoning should not be considered spot zoning since it adjoins an existing district, that no dwellings exist in close proximity to the site, that no negative impact is anticipated on the neighborhood, that a need exist for additional GR land in Sussex County, that a soil scientist has performed an analysis on the site and that all lots should take inground septic systems, that the use is consistent with farmland preservation by containing lots within an area, that the site could presently be developed with all five (5) acre parcels with manufactured homes, that the lots along Route 226 will remain, that more manufactured homes exist in the area than single family homes, that they purchased the property three days ago, that the 14 lots along Route 226 were created in September 1995, that the entrance to the subdivision is close to the railroad which has daily rail activities, that he is aware of the need for lots for sale for manufactured home by the number of people calling that request lots for manufactured homes, that approximately a third of the callers ask for lots permitting manufactured homes, that individual septic systems and wells are proposed for each lot, that the highest and best use of this site is GR zoned lots for sale, not for lease, that deed restrictions will be created and may include a five (5) year age limit on manufactured homes to be placed, that a buffer area may be established along the railroad, and that a recreational area may be included on the final plans.

The Commission found that Joel Leidy, Subdivision Engineer for DelDOT, was present and stated that the South District Office of DelDOT may have granted entrance locations for the lots along Route 226, but that subdivision entrance location and design shall be subject to the Subdivision Engineers Office in Dover, and that a safety concern about the closeness of the subdivision entrance to the railroad, a rail system that may permit trains

traveling around 50 miles per hour, must be considered.

The Commission found that nine people spoke in support of lots for sale, rather than leased in parks, that a need exist for lots for manufactured homes, that lease lots are small and too close to other lots, and that a lot zoned for a manufactured home sells easily, where a restricted lot may never sell.

The Commission found that four area residents spoke in opposition to this application and expressed concerns relating to flooding of the land and Route 226, a dirt road, that Road 226 has been closed for several weeks due to flooding on several occasions, that one (1) death has occurred at the railroad crossing within the last 1.5 years, that an accident occurs at the intersection of Route 213 and Route 224 approximately every three weeks, that two-thirds of the site is flooded annually, that the site is not suitable for development, that trash is already a major concern along Route 226, that crops have rotted in the fields due to flooding, that septic problems already exist in the Ellendale area and the soils are basically the same on this site, and that the area should remain agricultural.

Motion by Mr. Ralph, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since Road 226 has been closed on several occasions due to flooding, that the site does not appear to be conducive to development, and questioning the need since the adjoining GR General Residential District has not been developed.

4. RE: C/Z #1273--James R. Revell

James Revell was present on behalf of his application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Little Creek Hundred, to be located on the west side of Road 68, approximately 1/2 mile north of Route 54, to be located on a parcel containing 1.51 acres more or less.

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

Mr. Revell stated that he proposes to assemble electronic hardware, for example microwave filters from aluminum and brass materials, that the use will be a benefit to the area, that his goal is to confine all business activities within a building with no outside storage, that he may contact the Town of Delmar to consider annexation, and that he plans to make ten (10) jobs available for employees.

Gerald Messick, an area resident, spoke in opposition and expressed concerns relating to keeping the area residential, not wanting a commercial building in front of his home, that 20 to 30 children live in the area, that traffic and safety is a concern, that a precedent may be set for additional applications, that a buffer is needed between residential and commercial uses, and that plenty of vacant commercial land exist in the area.

Kay Mitchell and Lisa Jenny spoke in support of the 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, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "A" of Road 68 may increase to a level of service "B" if the site is developed as a discount shopping use.

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 on-site or off-site drainage improvements, that the soils on the site are mapped as Woodstown sandy loam which has both slight and moderate limitations, that the applicant shall be required to follow recommended erosion and sediment control practices and to maintain vegetation, and that the farmland rating of the soil type is considered Prime Farmland.

The Commission found that the applicant was present and stated that he proposes to assemble electronic hardware, for example microwave filters from aluminum and brass materials, that the use will be a benefit to the area, that his goal is to confine all business activities within a building with no outside storage, that he may contact the Town of Delmar to consider annexation, and that he plans to make ten (10) jobs available for employees.

The Commission found that an area resident spoke in opposition and expressed concerns relating to keeping the area residential, not wanting a commercial building in front of his home, that 20 to 30 children live in the area, that traffic and safety is a concern, that a precedent may be set for additional applications, that a buffer is needed between residential and commercial uses, and that plenty of vacant commercial land exist in the area.

The Commission found that two people spoke in support of the application.

Motion by Mr. Ralph, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since other commercial uses and districts exist on adjoining lands or in close proximity to the site.

III. OTHER BUSINESS

1. RE: R.A. Raley Property

The Commission reviewed the preliminary site plan for a retail store located on Route 9 at Nassau Commons.

Mr. Abbott advised the Commission that comments have been received from the Technical Advisory Committee, letters from the Citizens Coalition, an attorney, and from Wal-Mart.

The Commission discussed the comments received from the Technical Advisory Committee.

Mr. Lank read a letter from the developers attorney requesting that action be tabled until the traffic impact study has been reviewed by DelDOT.

Motion was made by Mr. Ralph, seconded by Mr. Phillips, and carried unanimously to defer action until the traffic impact study has been reviewed by DelDOT and a response is received. The site plan shall not be placed on the agenda until a response is received from DelDOT.

2. RE: Clearwater MR/RPC

Jeff Clark of Land Tech, Inc. was present as the Commission reviewed a revised master plan for Clearwater.

Mr. Abbott advised the Commission that the number of multifamily units are being reduced, that the single family cluster dwellings are being increased, that the total allowable number of units are being reduced, and that single family cluster dwellings are requesting that 12' by 20' garages or sheds be permitted in two different locations.

Motion made by Mr. Lynch, seconded by MR. Ralph, and carried unanimously to approve the master plan as revised.

3. RE: C/U #1034--Tunnell Companies

Mr. Abbott advised the Commission that a letter requesting a one year time extension has been received for the Greens of Pot Nets manufactured home park, and that this is the second request for a time extension.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve a one year time extension.

4. RE: Everett Warfel

The Commission reviewed a concept to create a parcel with access from a 65' easement on the north side of Route 16.

Mr. Abbott advised the Commission that the parcel is being created to build poultry houses.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried 4 to 0, with Mr. Allen not participating, to approve the concept.

5. RE: Matthew W. Smith

The Commission reviewed a concept to create a parcel with access from a 50' right of way off of Route 13.

Mr. Abbott advised the Commission that the existing road will be widened to 50' to serve the parcel.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the concept.

Additional Business

1. C/U #981--Robert Short

Mr. Lank advised the Commission that a letter requesting a time extension has been received, that the Conditional Use was considered void in 1995 since construction had not started and that it has not started due to the road construction of Route 113.

Motion made by Mr. Ralph, seconded by Mr. Phillips, and carried unanimously to approve a one year time extension.

Meeting adjourned at 9:30 P.M.