

MINUTES OF THE REGULAR MEETING OF JANUARY 27, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 27, 1994, at 7:30 P.M., in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware with the following present:

Mr. Ralph, Mr. Magee, Mrs. Monaco, Mr. Phillips, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mrs. Monaco, seconded by Mr. Phillips, and carried unanimously to approve the minutes of January 13, 1994, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1063 -- United Soils, Inc.

Mr. Lank advised the Commission that the application was withdrawn at 4:15 P.M.

2. RE: C/Z #1218 -- Daniel W. & Filomena Z. Johnson

Daniel W. Johnson and Joseph T. Conaway, Consultant, were present on behalf of this application to amend the zoning map from B-1 Neighborhood Business to C-1 General Commercial in Indian river hundred, located at the northwest corner of the intersection of Route 5 (Road 297) and Road 311, to be located on a parcel containing 2.9855 acres more or less.

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

Mr. Conaway submitted a packet of information on behalf of the applicant and advised the Commission that the applicant proposes to utilize the site for boat storage and mini storage for the residents and visitors that come to the area, that the site will be fenced, and that security will be provided.

Mr. Johnson advised the Commission that the mini storage will be phased, that a repair garage for automotive and truck service is proposed at the north end of the site, that the service bay doors to the garage will be to the rear of the building, that an apartment will be above the garage for security, that since security will be provided access to the site for users can be provided 24 hours a day, that his son, a certified mechanic, will reside in the apartment, that the garage will be a block structure with vinyl siding on the apartment, that signage will be provided to advertise the garage and storage uses, that all repair work will be performed in the garage, that vehicles in need of repair will be parked behind the garage, that

no junk vehicles will be stored on the site, that repairs are proposed on cars, trucks, a boat motors, that no body work is proposed, that the garage building will measure 26' by 40', that chainlink fencing with vinyl slats will be provided, that the storage buildings will have roll up doors, and that boat storage will be accessory to the boat motor repair.

Mr. Conaway advised the Commission that the site is approved for a standard gravity septic system, that the Public Water Supply Company will provide water service, that no wetlands exist on the site, that the site is within the eight minute response time area of the Indian River Fire Company, that no natural or critical areas are affected, that there should be no adverse impact by the rezoning since B-1 zoning establishes the primary uses of the site and the C-1 zoning will not impact the area any greater than the B-1 zoning, that dry storage of boats helps protect the Inland Bays, that there will be no impact on agriculture, that the storage uses will provide storage for residents of the area that occupy small lots with limited storage area (manufactured home communities), and that development of the site is in keeping with the trends of development of the area.

Charles C. Clark, IV, Kenneth Clark, Sr., Harry E. Davis, and Kenneth Clark, Jr. spoke in opposition and expressed concerns in reference to existing traffic on Route 5 and Road 311, additional traffic generated by rezoning, that mini storage would not be appropriate for the area, opposing the repair garage use, that the C-1 rezoning would not be compatible to the residential and agricultural uses in the area, that no need is shown for additional storage uses in the area since several storage uses already exist in the area, questioning if boat repair is permitted in B-1, children safety by increased traffic, concerns about other uses permitted in C-1, and advising the Commission that Route 5 at this location is not a major thoroughfare where C-1 zoning is recommended.

At the conclusion of the public hearing, Mr. Ralph, Acting 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 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 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 it may be necessary for some on-site drainage improvements, that the soils on the site are mapped as Evesboro loamy sand and Rumford loamy sand which have a suitability of none to slight limitations, that the applicant may be required 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 application was represented by the applicant and a consultant who submitted a packet of information, which included a reduced tax map, a conceptual site plan, a copy of the support facilities report from DelDOT, a copy of the feasibility report for septic from the State DNREC, a copy of a letter from Public Water Supply Company, Inc. referencing domestic water supply, copies of map exhibits from the Coastal Sussex Land Use Plan referencing Wetlands and Timberlands, Public Services, Agricultural Lands, Critical Natural Areas, Historic Sites, and a table referencing Percentage of Income derived from Tourist Expenditures, a copy of the area from the National Wetlands Inventory Map, and a map of the State of Delaware exhibiting major outdoor recreation facilities from the Delaware Development Office.

The Commission found, based on comments made by representatives of the application that the applicant proposed to utilize the site for a repair garage, mini storage, and boat storage, that the mini storage will be phased in as needed, that the repair garage will provide service for automobiles, trucks, and boat motor repair, that the repair garage will be located at the north end of the site, that the service bay doors will be located to the rear of the building, that an apartment will be above the garage for security, that since security will be provided users will have access to the site at anytime, that the applicants son, a certified mechanic, will reside in the apartment, that the garage will be a block structure with vinyl siding on the apartment, that signage will be provided to advertise the garage and the storage uses, that all repair work will be performed in the garage, that vehicles in need of repair will be parked behind the garage, that no junk vehicles will be

stored on the site, that no body work is proposed, that the garage building will measure 26' by 40', that chainlink fencing with vinyl slats will be provided, that the storage buildings will have roll up type doors, that boat storage will be accessory to the boat motor repair, that the site is approved for a standard gravity septic system, that domestic water will be provided by a public water franchise, that no wetlands exist on the site, that the site is within the eight minute response time from the Indian river Fire Company, that no natural or critical areas are affected, that there should be no adverse impact by the rezoning since B-1 zoning establishes the primary uses of the site and since C-1 zoning will not impact the area any greater than the B-1 zoning, that dry boat storage will help protect the Inland Bays, that there will be no impact on agriculture, that the storage uses will provide storage for residents on the area that occupy small lots with limited storage area (manufactured home communities), and that development of the site is in keeping with the trends of development of the area.

The Commission found that four (4) people spoke in opposition and expressed concerns in reference to existing traffic on Route 5 and Road 311, additional traffic generated by rezoning, that mini storage would not be appropriate for the area, opposing the repair garage use, that the C-1 rezoning would not be compatible to the residential and agricultural uses in the area, that no need is shown for additional storage uses in the area since several storage uses already exist in the area, questioning if boat repair is permitted in B-1, concerns about children safety by increased traffic, concerns about other uses permitted in C-1, and advising the Commission that Route 5, at this location, is not a major thoroughfare where C-1 zoning is recommended.

Motion by Mr. Magee, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since C-1 General Commercial is not appropriate for the immediate area, and since C-1 General Commercial is more appropriate along major thoroughfares.

3. RE: C/Z # 1219 -- Lester T. Moyer

Lester T. Moyer was present on behalf of his application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Lewes and rebooth Hundred, located on the southeast side of Route 9 (Savannah Road), 160 feet southwest of Railroad Crossing and across from Route 263, to be located on a parcel containing 4.75 acres more or less.

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

Mr. Moyer advised the Commission that he proposes to provide professional office space with a preference for medical offices, that he proposes to locate the entrance on the Lewes side of the property, that he hopes to build the project in two phases with L-shaped buildings located toward the rear of the parcel, entrance drive and grass buffers along Savannah Road, and parking in front of the buildings.

Six people, of the twelve people present, spoke in opposition and expressed concerns to locating business/commercial uses adjoining a residential development, that most of the residents in Henlopen Gardens purchased their units knowing that agricultural uses were adjacent, concerns referencing existing traffic problems, additional traffic, safety hazards, the close proximity of existing entrances to a new entrance, concerns to traffic within Henlopen Gardens, a private development with private streets, depreciation of property values, questioning liabilities, lighting, signs, the lack of a proposed plan, fencing, landscaping, hours of operation, sewer and water, trash and dumpsters, that the property was not properly posted, that school buses stop at the railroad crossing which could create an impact on the proposed location of the entrance, and the possible impact on the sales of units or lots within the development causes by commercial rezoning.

Mr. Moyer added that he will comply with any entrance design required by DelDOT, that he may plant screening along Henlopen Gardens, that the buildings will be designed with early american architecture, that the offices are proposed for professional medical uses and could be utilized by some other professionals, for example: a public account, that sewer and water may be available from the Town of Lewes, and that he may not be able to afford connecting to the Town and may be required to provide septic and well on-site.

At the conclusion of the public hearing, Mr. Ralph 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 the level of service "D" of Route 18 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard or tax ditch is affected, that it may not be necessary for any off-site drainage improvements, that it may be necessary for some on-site drainage improvements, that the soils are mapped as Sassafras sandy loam which have slight limitations for suitability for the intended use, that the applicant may be required 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 considered Prime.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is not located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, and that the site is believed to be located in an area to be served by the City of Lewes Board of Public Works.

The Commission found that the applicant was present and plans to utilize the site for professional medical offices, that the entrance is proposed to be located on the Lewes side of the property, that the project will probably be built in two phases with L-shaped buildings located toward the rear of the site, that the entrance drive and grass buffers will be created along Savannah Road, that parking will be located in front of the buildings, that the entrance will comply with any entrance design requirements established by DelDOT, that plant screening may be placed along Henlopen Gardens, that the buildings will be designed with early american architecture, that office space may be available for public accountants and other professionals if medical professionals don't utilize all available rental space, that sewer and water may be available from the Town of Lewes, and that if connection to the Town system is too costly he may be required to provide septic or water on-site.

The Commission found that six people of the twelve present on opposition spoke and expressed concerns to locating business/commercial uses adjoining a residential development, that most of the residents in Henlopen Gardens purchased their units knowing that agricultural uses were adjacent, not commercial, concerns referencing existing traffic problems, additional traffic, safety hazards, the close proximity of existing entrances to a new entrance, concerns to traffic within Henlopen Gardens, a private development with private streets, depreciation of property values, questioning liabilities, lighting, signage, the lack of a proposed plan, fencing, landscaping, hours of business, sewer, water, trash and dumpster locations, that the property was not properly posted, that school

buses stop at the railroad crossing which could create an impact on the proposed location of the entrance, and the possible impact on the sales of units or lots within the development caused by the commercial rezoning.

Motion by Mr. Phillips, seconded by Mr. Magee, 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.

4. RE: Subd. #94-1--Harley R. Hickman

Bob Durham was present on behalf of this application to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred by dividing 49.66 acres into 29 lots, located on the south side of Route 465, 1,500 feet west of Route 479.

Mr. Abbott summarized the Technical Advisory Committee Report of January 20, 1994, and additional comments received from the Sussex Conservation District, Soil Conservation Service, DNREC Division of Parks and Recreation, and the U.S. Fish and Wildlife Service.

Mr. Durham advised the Commission that Don Miller is designing this project and that the developer will follow all recommendations from the agencies.

Motion made by Mrs. Monaco, seconded by Mr. Magee, and carried unanimously to defer action pending receipt of a septic feasibility statement.

5. RE: Subd. #94-2--Papillion Island Trust

Jim Fuqua, Attorney, and Doug Jones, Surveyor, were present on behalf of this application to consider the subdivision of land in a MR Medium Density Residential Zoning District in Baltimore Hundred by dividing 11.21 acres into 23 lots, located at the end of Route 50A, 2,600 feet west of Route One, and south of the Indian River.

Mr. Abbott summarized the Technical Advisory Committee Report of January 20, 1994, and additional comments received from the Sussex Conservation District, Soil Conservation Service, DNREC Division of Parks and Recreation, U.S. Fish and Wildlife Service, and the Indian River School District.

Mr. Fuqua advised the Commission that the site was presently a manufactured home park, that the site is in a development district, that sewer will be provided by the State of Delaware,

that the site has fire and police protection, that the streets will be private, that the adjoining lands will be multi family units, that the developer will comply with all recommendations of the agencies, and submitted a letter from Sussex Shores Water Company and supporting statements.

6 people were present in support of this application.

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

III. OTHER BUSINESS

1. RE: Mainsail Village at the Salt Pond

The Commission reviewed a site plan for 17 townhouse units at the Salt Pond.

Mr. Abbott advised the Commission that this is for Phase 1, that the plan meets the requirements of the zoning code, and that all required agency approvals have been received.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve as a final.

2. RE: Shawnee Wood Farms

The Commission reviewed a commercial site plan for a convenience store/farm market on Routes 36 and 619, west of Milford.

Mr. Abbott advised the Commission that a 40'x60' building is proposed, that the site plan complies with the zoning code, and that DelDOT has approved the entrance plan.

Motion made by Mrs. Monaco, seconded by Mr. Magee, and carried unanimously to approve the site plan as a preliminary.

3. RE: Halton F. Johnson, Sr.

The Commission reviewed a concept to create two parcels with access from a fifty foot easement off of an existing fifty foot easement on the south side of Route 381A.

Mr. Lank advised the Commission that there is an existing dwelling on the property and it presently has access from an existing 10 foot easement.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve as a concept.

IV. OLD BUSINESS

1. RE: Subd. #90-35--Delmar Feed Mills, Inc.

No one was present on behalf of this application to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred by dividing 42.20 acres into 32 lots, located on the southeast side of Route 536, 900 feet east of Route 542.

Mr. Abbott advised the Commission that the final plat complies with the subdivision code, that the total number of lots is the same, and that all required agency approvals have been received.

Motion made by Mrs. Monaco, seconded by Mr. Phillips, and carried unanimously to approve as a final.

Meeting adjourned at 10:10 PM.