

MINUTES OF THE REGULAR MEETING OF FEBRUARY 8, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 8, 1990, at 7:45 P.M. in the County Council Chambers, Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Berl - Attorney, and Mr. Lank - Director.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of January 25, 1990, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #1049--Irvin Forrest and Ronald Adams

Eleanor Brown, Lower Sussex Realty, and Mr. Wright were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the south side of Route 18, 3,400 feet east of Route 5, containing 2.03 acres more or less.

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

Mr. Wright stated he operates the existing antique shop on the site. The applicants plan to use a portion of the existing dwelling on the site to better display some of the antiques. No other additions or expansions are planned.

Mr. Wright stated hours of operation during the summer are 10:00 A.M. to 5:00 P.M., six (6) days per week and 12:00 noon to 5:00 P.M. on Sundays. Hours during the rest of the year are 12:00 noon to 5:00 P.M. Saturday and Sunday only.

Mr. Wright stated there are presently two (2) employees. No additional employees are anticipated.

Mr. Wright stated there are other business uses and districts in the area.

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 the major use is an existing business and that traffic generation is insignificant.

The Commission found, based on comments received from the Sussex Conservation District, that the Rumford loamy sand on site is suitable for the intended use, that the soil type is of State-wide importance, that slight limitations may be anticipated for erosion/sediment control during and after completion of construction, that no storm flood hazard area and no tax ditch are affected, and that no on site or off site drainage improvements are anticipated.

The Commission found that the applicants were represented by an employee and a realtor who advised the Commission that the applicants plan to expand their antique business into the dwelling.

The Commission found, based on comments by representatives of the application, that the antique business will operate in the summer months with hours of 10:00 A.M. to 5:00 P.M. and 12:00 P.M. to 5:00 P.M. on Sunday. Off season hours will be on weekends only, that no additional employees are anticipated, that the site adjoins a C-1 General Commercial District presently occupied by billboards, that other commercial and business uses exist in close proximity, and that no negative impact is anticipated on the neighborhood, property values, and Route 9.

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 due to the commercial uses and district in the immediate area.

2. RE: C/Z #1050--Reed Trucking Co., Inc.

John Sergovic, attorney, Blake Reed, President of Reed Trucking Co., Inc. and Beulah Reed were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Cedar Creek Hundred, located on the north side of Route 16, 190 feet east of Route 113, containing 21.76 acres more or less.

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

Mr. Sergovic stated Reed Trucking Co., Inc. has been at its present location for approximately 53 years.

Mrs. Reed stated their business has out grown the present location.

Mrs. Reed stated the company hauls agricultural products. The company now has 35 tractors and 40 trailers. They presently have 53 employees.

Mr. Sergovic presented copies of letters in support of this application from interested agencies.

Mr. Reed stated the company has grown. The size of trucks has also grown, making their present location too small.

Mr. Reed stated all the area involved in this application will eventually be blacktopped. There would be a fenced in area and a maintenance facility for their own trucks. There will be no freight terminal.

Harold Truxon and George Reed spoke in favor 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 that the application was represented by the owners and legal counsel, and that the applicants plan to utilize the site for a transportation center.

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 Sussex Conservation District, that no storm flood hazard area is affected, that it may not be necessary for any off site drainage improvements, that it may be necessary for on site drainage improvements; that the School House tax ditch could be affected by this application; that the Evesboro loamy sand and Pocomoke sandy loam on site are suitable for the intended use, that in reference to erosion/sediment control, moderate limitations may be antici-

pated during construction and slight limitations may be anticipated after completion of construction; and that the farmland rating of the soils is of Statewide importance.

The Commission found, based on comments received from DelD.O.T., that the site will be a benefit in that the truck traffic will be removed from the beach traffic thru Milton, that the zone is necessary for the trucking operation, and that DelD.O.T. may restrict the entrance permit.

The Commission found, based on comments by representatives of the application, that the intended use of the site will serve the business and the area, the primary users of the business are agricultural oriented, that the business presently has 35 tractors, 40 trailers, and 53 employees, that the business has outgrown its present location, that the primary use of the site will be a yard for parking the tractors and trailers, an office and maintenance building; that the majority of the proposed site will be hard surfaced, that approximately one half of the site will be fenced; that no adverse impact is anticipated on property values; and that the Route 16 access will better serve the business.

The Commission found that letters were submitted by the applicant from Ellendale Volunteer Fire Company, Inc., who anticipated no problems handling any emergencies on site; from Country Side Realty, who anticipate that rezoning the property would not decrease property values of the adjoining property owners; from the Commander of Troop 7 of the Delaware State Police, who stated that the location should not pose any problems for Troop 7 for police coverage; from the Town of Ellendale, who referenced no objection; from Milford School District, who anticipate no adverse impact on the District and anticipate a broader tax base; and from Eastern Shore Soil Services, who referenced preliminary soil studies.

The Commission found that an area businessman was present 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 since the rezoning will be a continuation of adjoining commercial uses and districts.

3. RE: C/Z #1051--Robert and Mary Anne Dillon

Robert and Mary Anne Dillon were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Dagsboro Hundred, located on the south side of Route 26, across from Route 330, containing 9,900 square feet more or less.

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

Mr. Lank read into the record a letter from Eugene Bayard, Wilson, Halbrook and Bayard, in the interest of Elisha Cropper, stating the past use of the proposed site.

Mr. Dillon stated they plan to operate a small grocery store and sell gas in the existing structure which was previously used for this purpose. There will be no additions to the building. They would reside in an existing residence on the site. The site has adequate well and septic.

Bake Timmons, Ocean View Real Estate, spoke in favor of the application and presented three (3) letters in support of this application from local residents.

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 that the applicants were present and plan to utilize the site for a convenience store.

The Commission found, based on comments from DelD.O.T., that a traffic impact study was not recommended and that the level of service "D" of Route 26 will not change as a result of this application.

The Commission found, based on comments from the Sussex Conservation District, that the Evesboro loamy sand on site is suitable for the intended use, that the farmland rating of the soils are of Statewide importance, that in reference to erosion/sediment control, slight limitations may be anticipated during and after completion of construction, that no storm flood hazard area is affected, and that it may not be necessary for any on site or off site drainage improvements.

The Commission found, based on a notarized affidavit submitted by the executor of the estate selling the property, that the site was utilized as a gas station and/or grocery store from 1938 through 1988 and for a period not exceeding six months in 1989.

The Commission found, based on comments by the applicants, that no expansion of the store is proposed, that their request is to confirm the appropriate zoning classification for the store, that they propose to reside on the premises, that adequate sewer and water exist on site, that the nearest convenience store is across Route 26 approximately 3/4 mile westerly.

The Commission found that one area resident spoke in support of creating conforming zoning for an existing use and who also submitted three (3) letters in support from area residents.

A motion was made by Mr. Hickman, seconded by Mr. Smith, to deny the application.

The motion was defeated 2-3.

A motion was made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action, the staff to check the information on the affidavit and business licenses.

4. RE: C/Z #1052--Richard W. Shaubach, Sr.

Richard Shaubach, Sr. was present on behalf of this application to amend the zoning map from MR Medium Density Residential to C-1 General Commercial in Dagboro Hundred, located on the southeast corner of the intersection of Route 382 and Route 355, containing 23,502 square feet more or less.

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

Mr. Shaubach stated he plans to operate a plumbing and heating shop with a second story apartment for an employee to live in.

Mr. Shaubach stated he presently has three (3) employees. He plans to hire three more employees and a secretary. He presently has three (3) trucks and plans to add three (3) more.

Mr. Shaubach stated he plans to construct a house style building. There will be an office and a shop for his own trucks. The upstairs apartment would be rented.

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 that the applicant was present and plans to utilize the site for a plumbing shop with an apartment above.

The Commission found, based on comments from DelD.O.T., that a traffic impact study is not recommended and that the level of service "A" of Route 382 may change to level of service "B" if the site is developed to an equivalent use in per acre trip generation to discount shopping.

The Commission found, based on comments from the Sussex Conservation District, that the Klej loamy sand on site is suitable for the intended use, that the farmland rating of the soils are of Statewide importance, that in reference to erosion/sediment control, slight limitations may be anticipated during and after completion of construction, 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, based on comments made by the applicant, that he presently has three (3) employees and three (3) vehicles, that four (4) additional employees and three (3) additional vehicles are anticipated, that no outside storage is proposed, that the business performs general plumbing and heating services for residential and commercial clients, that the site is in close proximity to a previous grain business and butcher shop, that the area is predominantly residential, and that no impact is anticipated on property values or the neighborhood.

Motion made by Mr. Hickman, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since the rezoning and use would be out of character with the residential area and since rezoning the site could be considered a form of spot zoning.

5. RE: C/Z #1053--Glenn H. and Linda R. Griffin

Glenn and Linda Griffin were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Seaford Hundred, located on the east side of Route 13, 800 feet south of Route 18, containing 2.01 acres more or less.

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

Mr. Griffin stated he plans to construct a metal building for his construction business. The building would be approximately 40 feet by 80 feet with a fenced in area for his trucks and equipment. He presently has nine (9) employees, seven (7) trucks, four (4) trailers, and other equipment. There would be security lighting.

Mr. Griffin stated there are other businesses in the area.

No one was present on 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 that the applicants were present and plan to utilize the site for equipment and material storage for their construction business.

The Commission found, based on comments received from DelD.O.T., that a traffic impact study was not recommended and that the level of service "B" of Route 382 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the Sassafras sandy loam on site is suitable for the intended use, that the farmland rating of the soils is prime, that in reference to erosion/sediment control, slight limitations may be anticipated during and after completion of construction, 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, based on comments made by the applicants, that they have nine (9) employees and seven (7) vehicles and other equipment, that a 50 foot by 80 foot building is proposed to park vehicles and store equipment, that the building is proposed to be placed in the rear portion of the parcel, that a fenced in area behind the building is proposed, that the site is in close proximity to other commercial uses and districts, and that no adverse impact on property values, the neighborhood, or Route 13 are anticipated.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, 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 the rezoning would be compatible to the area, since the use would not be out of character with other commercial uses and districts in close proximity.

6. RE: ORDINANCE TO AMEND ORDINANCE NO. 97
(dry stack boat storage)

No one was present in reference to AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, TO PROVIDE FOR DRY STACK BOAT STORAGE FACILITIES AS A CONDITIONAL USE IN CERTAIN ZONING DISTRICTS.

Mr. Lank read the Ordinance and advised the Commission that the Ordinance amends the definition of a Marina by including dry stack boat storage facilities (also known as a boatel, valet storage, pigeon hole storage, and stackominium) whereby pleasure boats are stored in an enclosed structure on dry land, with direct loading and unloading capabilities to a waterway or body of water.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward the Ordinance to the Sussex County Council with the recommendation that it be approved as presented.

OTHER BUSINESS

1. RE: Jack Hallman

The Commission reviewed the site plan for a commercial office building south of Route 24.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the site plan as a preliminary. Issuance of a building permit shall be subject to receipt of all appropriate agency permits.

2. RE: C/U #879--Chaski Associates, L.P.
Laurel Village Manufactured Home Park

Mr. Lank read a letter from John A. Sergovic, Jr., attorney for Chaski Associates L.P., requesting that the Commission consider that the use is substantially underway since some agency permits have been recently obtained.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to consider the use substantially underway and to grant a one year time extension until October 1, 1990, for consideration of the final site plan.

3. RE: Robert Hickman
Subdivision north of Route 462

Mr. Lank read a letter referencing the Commission approval of a 10 parcel subdivision north of Route 462 and then advised the Commission that Mr. Robert Hickman has advised him on the phone that the approval was not the way he intended to develop the parcel. The fifty (50) foot wide right of ways were intended to serve only the larger acreage parcels to the rear.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the six (6) lots along Route 462 and allow private entrance and that interior lots will have access to the fifty (50) foot right of ways.

OLD BUSINESS

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

No one was 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.

The Chairman referred back to this application which was deferred on January 25, 1990.

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

It was the consensus of the Commission that the drainage concerns expressed by opposition at the public hearing would be remedied by stipulation of the site plan review which would require erosion and sediment control plan approval prior to permit issuance.

Motion made by Mr. Hickman, seconded by Mrs. Monaco, 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 the use will be compatible to the area, the adjoining zoning categories, and since the rezoning is an extension to an adjoining HI-1 Heavy Industrial District.

2. RE: Subdiv. #89-13--Oakwood

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 14.24 acres into 17 lots, located on the north side of Route 336, 3,000 feet northeast of Route 336A.

Mr. Lank advised the Commission that the staff had reported to him that all appropriate permits or approvals have been obtained.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to grant final approval of the seventeen (17) lot subdivision.

3. RE: C/U #24--Sussex Shores Water Company

Mr. Lank submitted a letter from Griffin and Hackett, P.A., who represent the Water Company, requesting an amendment to the site plan for a 165.5 foot elevated water storage tank, for the public water utility located west of Route One.

The Commission discussed the requested amendment to the site plan.

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

Meeting Adjourned 9:40 P.M.