

MINUTES OF THE REGULAR MEETING OF FEBRUARY 9, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 9, 1989, at 7:45 P.M. in the County Council Chambers, Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mrs. Monaco, Mr. Smith, Mr. Jones - Assistant County Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the minutes of January 26, 1989, as circulated.

PUBLIC HEARINGS

1. RE: C/U #899--Lewes Fire Department, Inc.

Application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for a substation for a fire department located on the southwest side of Route 275, 442 feet southeast of Route 283, and to be located on a parcel containing 1.0 acre more or less.

Application withdrawn prior to meeting.

2. RE: C/U #900--Lewes Fire Department, Inc.

Lou Richards and John Burton were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for a substation for a fire department located on the northwest side of Route 24, 0.8 mile northeast of Route 277, and southeast of Route 277, 0.8 mile south of Route 277A, and to be located on a parcel containing 2.53 acres more or less.

Mr. Lank stated comments were received from the State Highway Department. They expect no significant impact on Route 24 as a result of this application.

Mr. Richards stated they plan to construct a substation on the proposed site to house fire trucks and an ambulance. This will improve their service for area residents.

Mr. Richards stated the proposed building would be metal with a brick front. The site is surrounded by woods and fields.

Peter R. Dirk, Sr. spoke in favor of the application.

Michael Simpler, of the Rehoboth Volunteer Fire Company, spoke in opposition due to the proposed site being on the boundary line between the Lewes and Rehoboth Fire company districts.

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 Division of Highways, that approval of this application will have no significant impact on traffic.

The Commission found that the application was represented by two (2) members of the Fire Department and plan to utilize the site to better serve the area with fire protection services.

The Commission found that the applicants propose to build a 40 foot by 60 foot station to house fire and ambulance apparatus to serve the Lewes Fire Department service area.

The Commission found that the applicants propose ingress/egress on Route 24 and on Route 277.

The Commission found, based on comments by representatives of the application, that no negative impact is anticipated on the area, that a need exists in the area for a fire and ambulance substation, and that the substation should improve the quality of life in the area.

The Commission found that representatives of the Rehoboth Volunteer Fire Co. were present in opposition and expressed concern over the location since the site is at the boundary line of the disputed district boundaries between the Lewes Fire Department and the Rehoboth Volunteer Fire Company.

Motion made by Mr. Smith, 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.

3. RE: C/Z #972--Tom Bachar T/A Wood Shed

Tom Bachar was 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 west side of Route 13A, one-half mile south of Route 544, containing 1.00 acre more or less.

Mr. Lank stated comments were received from the State Highway Department. They will not request a traffic impact study and expect no change in the existing level of service "C" of Route 13A as a result of this application.

Mr. Lank read into the record a letter from Leona W. Henry in favor of the application.

Mr. Bachar stated the proposed site is under contract to purchase.

Mr. Bachar stated the business has been operated at its present location since approximately 1956. It has been operated by Mr. Bachar for approximately 2½ years.

Mr. Bachar stated his residence is on the same site as the existing business.

Mr. Bachar stated he plans to expand the existing business by an addition to the package store and a cooler. There will be no change required to the sewer or water already serving this site.

Mr. Bachar stated C-1 General Commercial zoning exists across the street from this site.

Don Jacobs spoke in opposition, not to the present use or the proposed expansion, but to the change to C-1 General Commercial zoning.

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 Division of Highways, that a traffic impact study is not recommended and that the level of service "C" of Route 13A will not change as a result of this application.

The Commission found that the applicant was present and proposes to expand the existing package store on the premises.

The Commission found, based on comments made by the applicant, that the lounge and package store have existed since 1950, that the area across Route 13A is C-1 General Commercial and has several commercial uses, that no negative impact is anticipated on the area since the use already exists, and that the site is sewed by on-site sewer and water.

The Commission found, based on a letter from Leona Henry, an immediate neighbor, that she has no objection to this application.

The Commission found that a neighbor was present in opposition, not to expansion of the existing use, but to the other uses permitted in the C-1 General Commercial district.

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 creates conforming zoning for the existing use and since the rezoning is an extension to an existing C-1 General Commercial District.

4. RE: C/Z #973--Frank D. Smith

Frank Smith was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Nanticoke Hundred, located on the north side of Route 18, 1/4 mile east of Route 527, containing 5.96 acres more or less.

Mr. Lank stated comments were received from the State Highway Department. They will not request a traffic impact study and expect no change in the existing level of service "D" of Route 18 as a result of this application.

Mr. Lank stated comments were received from Indian River School District stating they expect no significant impact on the school system as a result of this application.

Mr. Lank summarized comments received from the LUPA agencies.

Mr. Smith stated he plans to restore antique cars at the proposed location. He does not plan to paint the cars at this location. All cars would be stored inside.

Mr. Smith stated there was a store on the proposed site which has been closed since the early 1970's. He may reopen the store.

Mr. Smith stated this site adjoins Elmer's Market. There are other businesses in the area.

George Bunnell spoke in opposition due to the size of the parcel involved and the uses allowed under C-1 General Commercial zoning. Mr. Bunnell also expressed concerns regarding trash and noise.

Mrs. Bunnell 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 from the State Division of Highways, that the level of service "D" of Route 18 will not change as a result of this application.

The Commission found, based on comments from the Indian River School District, that at this time it does not appear that the proposed rezoning will have a significant impact on the district.

The Commission found, based on comments from the D.N.R.E.C. Land Use Planning Act Coordinator that comments have been requested from the D.N.R.E.C. On-Site Wastewater Branch, Water Supply Branch, and Waste Management Section, the Bureau of Archaeology and Historic Preservation, and the Department of Transportation.

The Commission found, based on comments by the applicant, that a store exists on the site, but has not been utilized since the 1970's. The Commission also found that the applicant operates an antique and classical car restoration business and may create a convenience store in the future. The Commission also found that the applicant has utilized the site for his land clearing business and for repair of his equipment in the land clearing business.

The Commission found that the site is between a large produce market on the east, a furniture upholstery shop on the west, and a produce market to the south.

The Commission found that two neighbors were present in opposition to the C-1 General Commercial zoning permitted uses, noise and outside storage.

Motion made by Mr. Smith, 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 other commercial uses exist in close proximity.

5. RE: C/Z #974--Thomas Russell Brittingham

Vicki Ingram was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Broadkill Hundred, located on the southwest side of the intersection of Route 88 and Route 258, containing 33,203 square feet more or less.

Mr. Lank stated comments were received from the State Highway Department. They expect no change in the existing level of service "A" of Route 261 and level of service "B" of Route 258 and Route 88.

Mr. Lank summarized comments received from the LUPA agencies.

Mr. Lank stated a letter was received from the firm of Shaub and Barnett, representing Draper Canning Company, stating they are not opposed to this application if it will not interfere with their existing cattle farming operation.

Mrs. Ingram stated the applicant plans to construct a steel building with brick front approximately 44 feet by 48 feet to be used as a convenience store, selling groceries, gas, and deli items.

Mrs. Ingram stated the store would be open year round, seven (7) days a week, from 7:00 A.M. until 11:00 P.M. The proposal includes 10,000 square feet of parking area. The site will be served by on-site well and septic system.

Mrs. Ingram stated there are no stores of this type in the area.

John Connors spoke in opposition stating the proposed use would not be compatible with the surrounding agricultural area.

Robert Hopkins spoke in opposition due to possible litter problems.

James Hopkins spoke in opposition due to increased traffic.

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 Division of Highways, that the level of service "B" of Route 88, the level of service "B" of Route 258, and the level of service "A" of Route 261 will not change as a result of this application.

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. On-Site Wastewater Branch, the Department of Transportation, and the Department of Agriculture.

The Commission found that the applicant was represented by his daughter, who stated that Mr. Brittingham plans to utilize the site for a convenience store.

The Commission found, based on comments by the applicant's representative, that a 24 foot by 48 foot building is proposed with a deli, groceries, and gasoline sales, that the store will be open 7:00 A.M. to 11:00 P.M., 7 days per week, that no negative impact is anticipated on the neighborhood or property values, that the rezoning and use will create a convenience for the general area since the closest convenience store is approximately 5 miles away in Milton, and approximately 6 miles away at Five Points near Nassau, that the site can provide adequate parking, and that the site will be served by on-site sewer and water.

The Commission found, based on a letter received on behalf of Draper Canning Company, that the company does not oppose the rezoning as long as the use of the property will not interfere with Draper's cattle farming and other agricultural operations on the adjacent property. Draper's are concerned that the property owner or patrons may complain about the referenced agricultural uses.

The Commission found that three neighbors were present in opposition and expressed concerns about a difficult alignment of the intersection, increased traffic, traffic safety, and litter from store users, and that they prefer the site remain AR-1 Agricultural Residential since the area is predominantly agricultural.

Motion made by Mr. Smith, 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 a need exists for a convenience store in the area to serve the immediate area with convenience shopping and will lessen road travel for area residents.

6. RE: C/Z #975--Peter Axaopoulos

Peter Axaopoulos was 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 500 feet north of Route 26, 1/4 mile east of Route 17, containing 1.45 acres more or less.

Mr. Lank stated comments were received from the State Highway Department. They will not request a traffic impact study and expect no change in the existing level of service "D" of Route 26 as a result of this application.

Mr. Lank stated comments were received from Indian River School District. They expect no significant impact on the school district as a result of this application.

Mr. Axaopoulos stated the front portion of this parcel is zoned commercial and is being developed with mini-storage units.

Mr. Axaopoulos stated if this application is approved he plans to expand the mini-storage business on the proposed site.

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 Division of Highways, that the level of service "D" of Route 26 will not change as a result of this application.

The Commission found, based on comments received from the Indian River School District, that at this time, it does not appear that the proposed rezoning will have a significant impact on the district.

The Commission found that the applicant was present and plans to utilize the site for expansion of the mini-storage project in the existing C-1 General Commercial on the same parcel.

The Commission found, based on comments by the applicant, that the site is approximately half C-1 General Commercial and half AR-1 Agricultural Residential.

The Commission found, based on comments by the applicant, that the existing entrance serving the existing mini-storage project will be utilized to serve the expansion.

The Commission found, based on comments by the applicant, that no adverse impact is anticipated on property values on Route 26, and that the intended use, mini-storage, generates very limited traffic, and causes no noise, odor, or smoke.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved since the rezoning will be an extension to the C-1 General Commercial District on the same parcel and eliminates the split zoning on the same parcel.

OTHER BUSINESS

1. RE: Fred Campbell
2 lots
Route 278

The Commission reviewed a proposal to subdivide 2.65 acres into two (2) lots having access from an existing twenty (20) foot easement from Angola Beach Mobile Home Park.

No one was present on behalf of the proposal.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the proposed two (2) lot subdivision as submitted.

2. RE: Lawrence Tucker
2 lots, 50 foot right of way

The Commission reviewed a proposal to create two (2) lots having access from a fifty (50) foot right of way.

No one was present on behalf of the proposal.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action pending further information as to the intent of the property owner.

3. RE: A & S Development Co.
Route 13

The Commission reviewed the site plan for a proposed warehouse display complex.

No one was present on behalf of the project.

Mr. Moore stated that all agency approvals have been obtained.

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

4. RE: Roxana Fire Company
Site Plan
C/U #873

The Commission reviewed the site plan for the proposed substation for the fire department as approved by Conditional Use 873.

No one was present on behalf of the site plan.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the site plan, with the stipulation that no construction permit be issued prior to receipt of final approval from all agencies.

OLD BUSINESS

1. RE: Subdiv. #88-34--Ocean Farms

The Commission reviewed the preliminary plot plan for the proposed 119 lot subdivision.

The application had been deferred for a redesign of the street system.

Mr. Moore stated that the County Engineers Office is satisfied with the revisions.

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

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

The Commission reviewed the preliminary plot plan for the proposed 35 lot subdivision.

The subdivision had been deferred pending a redesigned street layout and a feasibility from D.N.R.E.C. for wastewater disposal.

Mr. Moore stated that those two items have been completed.

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

3. RE: Subdiv. #88-38--Creekside Manor

The Commission reviewed the preliminary subdivision plat for the proposed 12 lot subdivision.

The subdivision had been deferred pending a feasibility from D.N.R.E.C. for wastewater disposal.

Mr. Moore stated that the feasibility has been obtained.

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

4. RE: Woodlyn Estates
Revised

The Commission reviewed a proposal to revise the Woodlyn Estates Subdivision by deleting a forty (40) foot building restriction line on lots 1 and 2 and making the forty (40) foot area a permanent buffer exclusive of lots 1 and 2.

No one was present on behalf of the proposal.

Motion made by Mr. Ralph, seconded by Mr. Smith, and carried unanimously to approve the revised subdivision as submitted.

5. RE: Wanmar Lakes
Revised

The Commission reviewed a request to revise the Wanmar Lakes subdivision by conveying a portion of the open space to the adjacent lots in the Fenwick West Subdivision.

Both subdivisions are undeveloped.

No one was present on behalf of the request.

Motion made by Mr. Ralph, seconded by Mr. Smith, and carried unanimously to approve the request as submitted.

Meeting Adjourned 9:55 P.M.