

MINUTES OF THE REGULAR MEETING OF FEBRUARY 11, 1993

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 11, 1993, at 7:30 P.M. in the County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the minutes of January 28, 1993 as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1026 -- Donnie L. & Debra L. Short

Donnie L. & Debra L. Short were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for the Sale of Antiques, Crafts, and Produce lying on the southeast corner of the intersection of Route 404 and Route 569 to be located on a parcel containing 3.86 acres more or less.

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

Mr. Short advised the Commission that he applied for the Conditional Use to officially establish the use and to continue the use of the property for a produce stand and an antique barn, that the produce stand has existed on the site since 1968, that the antique barn has been utilized for antique sales for approximately three (3) years, that the antique barn was previously utilized for an auction, that the majority of the parking for the produce stand is controlled on-site, that some parking has taken place along the shoulder of Route 404, that some produce is grown on site, that no adverse impact is anticipated on the neighborhood since the business already exist, and that additions to the buildings may be planned in the future.

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 the soils on the site are mapped as Evesboro sand, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during any construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type is of Statewide Importance, that no storm flood hazard areas or tax ditches are affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicants were present and plan to continue the existing use of the premises as a produce stand and the sale of antiques and crafts, that the produce stand has existed on the site since 1968, that the antique barn has been utilized for antique sales for approximately three (3) years, that the antique barn was previously utilized for an auction, that the majority of the parking for the produce stand is controlled on-site, that some parking has taken place along the shoulder of Route 404, that some produce is grown on-site, that no adverse impact is anticipated on the neighborhood since the business already exist, and that additions to the buildings may be planned in the future.

The Commission found that no parties appeared in opposition.

Motion 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 with the following stipulations:

1. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
2. The applicant shall provide verification of entrance approval from DelDOT.
3. No parking signs shall be place along both sides of Route 404, if required by DelDOT.

2. RE: C/U #1027 -- Chester Kulas

Chester Kulas 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 Minor Automotive Repair lying on the southwest side of Route 325, 2,000 feet northwest of Route 431 to be located on a parcel containing 29,135 square feet more or less.

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

Mr. Lank read a letter from James L. Marvel, the owner of the property, which supports the application.

Mr. Kulas advised the Commission that he plans to perform minor automotive repairs, which would include generator and alternator replacement, starter replacement, tune-ups, and typical service and maintenance of automotive vehicles, that his work would be limited to non-commercial type vehicles, that no storage of vehicles are intended, that he plans to reside in the manufactured home in the near future, that the business will be operated 5 days per week, and that he has no objection to being restricted that no commercial vehicles may be repaired.

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 the soils are mapped as Woodstown sandy loam and Fallsington sandy loam, that the suitability of the Woodstown soils for the intended use may have moderate limitations, that the Fallsington soils may have severe limitations due to wetness if not adequately drained, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil types, as mapped, are Prime and of Statewide Importance, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any off-site drainage improvements, and that it may be necessary for some on-site drainage improvements.

The Commission found, based on comments in a letter submitted by the owner of the property, that the owner supports the application, and supports the integrity of the applicant.

The Commission found that the applicant was present and plans to utilize the site for minor automotive repairs, which include generator and alternator replacement, starter replacement, tune-ups, and typical service and maintenance of automotive vehicles, that his work would be limited to non-commercial types of vehicles,

that no storage of vehicles is intended, that he plans to reside in existing manufactured home on the premises in the near future, that the business will be operated 5 days per week, and that he has no objection to being restricted that no commercial vehicles may be repaired.

The Commission found that no parties appeared in opposition.

Motion 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 with the following stipulations:

1. No commercial vehicles shall be repaired.
2. No vehicles shall be stored overnight outside of the garage on the site.
3. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.

3. RE: C/Z #1185 -- JLJ Enterprises, Inc.

Jerry L. Jerman, Jr. and David Rutt, Attorney, were present on behalf of this application to amend the zoning map from GR General Residential to C-1 General Commercial in Georgetown Hundred, located on the south side of Route 40, approximately 3/4 mile west of U.S. Route 113 and 440 feet west of Route 40B, to be located on a parcel containing 1.55 acres more or less.

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

Mr. Rutt advised the Commission that he is seeking rezoning for an existing business that was not properly zoned by the applicant, that the applicant was unaware of the need for rezoning, that the Planning and Zoning Department violated the business, that the applicant applied for DelDOT comments and then made application for the rezoning.

Mr. Jerman advised the Commission that the company refurbishes canning and food processing equipment for resale worldwide to industries, that the machines are repaired and rebuilt, and repainted per Codes, that the one story dwelling type structure is utilized for an office, that one shed is utilized for a pump house, that another shed is utilized for box storage, that another shed is utilized for a parts room and storage, that a two car garage is utilized for the service and repair shop, that a building has recently been moved onto the site for storage, that the company started in October 1989 at his residence on the south side of Route 40, that the original business was started as an office only for

the purchase of and wholesale sales of equipment, that parts were stored in a shed at his residence, that the business outgrew the original site, that the business moved to the present site in July 1991, that when he obtained his State license he assumed that nothing else was needed to open the business, that he has lived on Route 40 since 1965, that business uses have existed in the area along Route 40 since prior to 1965, that some equipment storage exist across Route 40, that he is dealing through Sussex County Economic Development Office to locate storage space at a larger permanent site, that typically there are 15 employees on staff with 7 employees on the site, that adequate area exist for employee and customer parking on the site, that if the site is approved a 32' by 55' building may be placed on the site, that the area will be fenced, that the office is intended to remain at this site, that any employment advertisements have generated numerous applicants for jobs, that the area needs jobs, that no adverse impact is anticipated on property values or the neighborhood, that approximately 15 businesses exist within one and one half miles of the site, that approximately one or two tractor trailers deliver machinery to the site per month, that the loudest noise generated is from an air compressor, that the immediate neighbor has never objected to the noise, that no open storage of materials is intended on the site, that surplus oils, greases, and cleaning solvents are stored in barrels which are handled by an independent company, that no additional signage is intended, that a petition containing 20 signatures in support has been circulated, that a commercial entrance permit has not been obtained, that approximately 70 pieces of equipment are presently stored across Route 40 on his mother's property, that the site has never been inspected by OSHA, that one bathroom exist on the site, that approximately 60 percent of the business generated is leased out to other companies for repair work, and that it may take 90 days to remove all the machinery from his mother's site across Route 40.

George Hearn questioned the type of solvents being discarded.

Mr. Jerman responded that the solvents are for parts cleaning.

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 a traffic impact study was not requested, and that the existing level of service "B" of Route 40 may change to a level of service "C" if the site is developed at an equivalent in per acre trip generation to discount shopping.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Fallsington sandy loam, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during any construction and to maintain vegetative cover after completion of any construction, 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 some on-site drainage improvements, and that the Redden Tax Ditch runs through the site and there is a 16.5 feet right of way from the top of the slope of the tax ditch.

The Commission found that the applicant was present, with legal counsel, and that he plans to utilize the site for sale and reconditioning of seamers and support equipment used in the food service industry.

The Commission found, based on comments made by representatives of the application, that the applicant is seeking rezoning for an existing business that was not properly zoned, that the applicant was unaware of the need for rezoning, that the business was violated by the Planning and Zoning Department, and that the rezoning was then applied for, that the business deals worldwide, that the machines are repaired, rebuilt and repainted to all Codes, that the one story dwelling type structure has been converted into an office, that shed are used as a pump house, storage, and a parts room, that the two car garage is utilized for the service and repair shop, that a building was recently moved onto the site for temporary storage without a permit, that the business started in October 1989 at the residence of the applicant on the south side of Route 40 approximately 200 yards for this site, that the business started as an office in his home for the purchase of and wholesale sales of equipment, that parts were later stored in a shed near the residence, that the business outgrew the original site, that the business moved to the present site in July 1991, that he when he obtained his State licenses he assumed that nothing else was needed to open the business, that he has lived on Route 40 since 1965, that business uses have existed in the area along Route 40 since prior to 1965, mothers property, that he has been dealing through Sussex County Economic Development Office to

locate storage space at a larger permanent site, that typically there are 15 employees on staff with 7 employees on the site, that if the site is approved a 32' by 55' building may be placed on the site, that the area will be fenced, that the office is intended to remain at this site, that any employment advertisements have generated numerous applicants for jobs, that the area needs jobs, that no adverse impact is anticipated on property values or the neighborhood, that approximately 15 businesses exist within one and one-half mile of the site, that typically one or two tractor trailers deliver machinery to the site per month, that the loudest noise generated is from an air compressor, that the immediate neighbor has never objected to the noise, that no open storage of materials is intended on the site, that surplus oils, greases, and cleaning solvents are stored in barrels which are handled by an independent company, that no additional signage is intended, that a petition containing 20 signatures in support of the application has been circulated, that a commercial entrance permit has not been obtained, that approximately 70 pieces of equipment are presently stored across Route 40 on his mothers property, that the site has never been inspected by OSHA, that one bathroom exist on the site, that approximately 60 percent of the business generated is leased out to other companies for repair work, and that it may take 90 days to remove all the machinery from his mother's site across Route 40.

The Commission found that no parties appeared in opposition.

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

III. OTHER BUSINESS

1. Sea Colony West HR-RPC

The Commission reviewed the Record Master Plan for Sea Colony West HR-RPC.

Mr. Abbott advised the Commission that the master plan references all of the stipulations that were imposed by the County Council, that the plan is similar to the plan that was submitted during the public hearing, that the recreation area has been relocated, that the street design has been revised, that the total number of units shown is less than what was approved, that the Record Master Plan is for conceptual purposes and that each phase will need to be reviewed and approved by the Commission.

Jim Fuqua, Attorney, advised the Commission that the master plan is for conceptual use only, that the final plan for each phase could be revised but that the Commission and staff would review any revisions, and that he is aware of the problems that other master record plans have caused.

Michael Lynn of Sea Colony, Inc. advised the Commission that the master record plan is a guidance tool to utilize, that the final plan could change depending on the market for what owners would want to purchase, and that if there are any revisions, he is aware that the Commission would have to approve these.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the Record Master Plan as submitted for recordation.

2. Sea Colony West HR-RPC Phase 1-A

The Commission reviewed the site plan for Phase 1-A of Sea Colony West HR-RPC.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code with one exception, that this phase consists of sixty four units and that all required agency approvals have been obtained.

Mr. Abbott advised the Commission that the exception to the site plan is that there is an area where the interior driveway is only twenty feet in width and that the zoning code requires a minimum of twenty five feet in width and that the developers are requesting a waiver from this requirement.

Mike Lynn of Sea Colony Inc. discussed the reasons for requesting this waiver since it would allow the units to be a little closer to one another creating a small neighborhood atmosphere and that the Fire Marshal Office has approved the twenty foot interior drive.

Mr. Allen questioned if there is adequate room to make the drive twenty five foot in width, and advised the developer that a waiver would require a variance from the Board of Adjustment.

Mr. Lynn advised the Commission that there is room to revise the drive to twenty five feet, that the plan will be revised to reflect the requirement and be submitted to the staff for approval.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the site plan as a final with the stipulation that the interior drive be revised to twenty five feet and submitted to and approved by the staff.

3. William T. Sammons and Etals

The Commission reviewed a request to subdivide a 3.25 acre parcel on Route One.

Mr. Lank advised the Commission that this requires approval by the Commission since the proposed lot is on Route One which is a major arterial roadway, that there is an existing entrance to serve a manufactured home on the property, that a dwelling is being constructed on the site and that the manufactured home will be removed.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve this request as submitted.

4. Antonio Nero

The Commission reviewed a request to create a fifty foot access road to serve a landlocked parcel in the Nero Acres Subdivision.

Mr. Lank advised the Commission that Nero Acres Subdivision is recorded and that the landlocked parcel was created after a transfer of property did not follow through, that the developer is requesting to create a fifty foot access off of Danny's Drive to serve as access for the landlocked parcel and questioned if this would require a public hearing.

Mr. Ralph questioned if other lots could be created off of the proposed access road.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the fifty foot access to serve the landlocked parcel with the stipulation that no further subdivision be allowed without a public hearing.

IV. OLD BUSINESS

1. Subd. #93-1--College Fund, Inc.

Mike Makowski, developer was present on behalf of the application of College Fund, Inc. to consider the Subdivision of land in a GR General Residential Zoning District in Cedar Creek Hundred by dividing 48 acres into 71 lots, located on the north

side of Route 38, 1,120 feet east of Route 228-A, and on the east side of Route 228, 920 feet north of Route 38.

Mr. Abbott advised the Commission that this application was deferred at the January 28, 1993 meeting since there were concerns about providing recreation area, drainage problems, and fencing around the stormwater management pond.

Mr. Abbott advised the Commission that on February 8, 1993, the developers submitted a revised plan providing one acre of recreation space, fencing around the stormwater management pond and revisions to make the property drain into the pond area.

Mr. Abbott read a letter from the developer into the record addressing the concerns of the Commission.

Mr. Allen expressed concerns about an approved drainage plan, questioned if the revised plan will work, and if the revised plan has been submitted to DelDOT, Sussex County Engineering and the Sussex Conservation District.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action until an approved drainage plan has been received from DelDOT, Sussex County Engineering and the Sussex Conservation District.

2. Subd. #93-2--Harry, Jean, & Stephen Seipp

Stephen Seipp, developer and Charles Adams, surveyor were present on behalf of the application of Harry, Jean, and Stephen Seipp to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 21.43 acres into 26 lots, located on the north side of Route 524, 1,040 feet northeast of Route 516.

Mr. Abbott advised the Commission that this application was deferred at the January 28, 1993 meeting, that a septic feasibility report has been received and that the site is suitable for individual on site septic systems, and that the proposed subdivision is located in a Conservation Zone, that the Commission should only consider if the site is suitable for subdividing, and if so would they forward support to the Board of Adjustment for granting a variance for the lot size requirement.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve this application as a concept only. Preliminary approval will be subject to the applicant receiving a variance for the lot size requirements.

3. Subd. #92-10--Land Lords, Inc.

No one was present on behalf of the application of Land Lords, Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred by dividing 57.14 acres into 79 lots, located on the north side of Route 235, 850 feet northwest of Route 16.

Mr. Abbott advised the Commission that this application was deferred at the September 24, 1992 meeting pending receipt of a septic feasibility statement, comments from DelDOT concerning another entrance, providing recreation area, and the status of the cemetery located on lot 40.

Mr. Abbott advised the Commission that a septic feasibility statement has been received and that the site is suitable for individual on site septic systems, that DelDOT will not grant another entrance off of Route 235, that the cemetery will have a buffer around it or be left as open space, and that no information about any recreation area has been received.

Mr. Allen expressed concerns about the developer providing recreation area.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to defer action until the developer advises the Commission the status of providing any recreation areas.

4. Subd. #90-35--Delmar Feed Mills, Inc.

Lee Littleton, developer, was present on behalf of the application of Delmar Feed Mills, Inc. 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 this application was deferred at the November 29, 1990 meeting, voided at the October 14, 1992 meeting, and returned to an active status at the December 4, 1992 meeting.

Mr. Abbott advised the Commission that a septic feasibility report has been received and that the site is suitable for individual on site septic systems, and that concerns expressed by the Sussex Conservation District and DelDOT during TAC have been addressed and are acceptable by these agencies.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve this application as submitted as a preliminary.

5. Subd. #90-14--H. Wayne Kraeer

Paul West of Land Tech, Inc. was present on behalf of the application of H. Wayne Kraeer to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred by dividing 42.5 acres into 46 lots, located on the northwest side of Route 84, 2,000 feet southwest of Route 363.

Mr. Abbott advised the Commission that this application received preliminary approval on November 15, 1990, one-year time extensions on September 26, 1991 and September 10, 1992, that the final plat has been submitted for 46 lots, that central sewer and water is proposed, that all agency approvals have been received, and that the record plat meets the requirements of the Subdivision and Zoning Codes.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve this application as submitted as a final.

6. Subd. #92-8--Beacon Homes, Inc.

Paul West of Land Tech, Inc. was present on behalf of the application of Beacon Homes, Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred by dividing 42.62 acres into 58 lots, located on the north side of Route 472, 935 feet west of Route 412A, and the west side of Route 412, 835 feet north of Route 412A.

Mr. Abbott advised the Commission that this application received preliminary approval for 58 lots on August 27, 1992, that the final record plat is the same, that all agency approvals have been received, and that the plat meets the requirements of the Subdivision and Zoning Codes.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve this application as submitted as a final.

7. ORDINANCE TO AMEND CHAPTER 115 (RPC)

Mr. Lank introduced the Ordinance to amend Chapter 115, the Code of Sussex County, relating to RPC Residential Planned Community District.

Motion by Mr. Ralph, seconded by Mr. Smith, and carried with 3 votes, with Mrs. Monaco not voting, to defer action and schedule a special meeting on February 18, 1993 at 7:00 P.M. to discuss the Ordinance. The meeting will be open to the public, but no oral comments or written comments are to be received since the record was closed for written comments on February 10, 1993.

8. Subd. 90-13--Red Mill Associates, L.P.

Paul West of Land Tech, Inc. was present on behalf of the application of Red Mill Associates, L.P. to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Broadkill Hundred by dividing 51.50 acres into 131 lots, located on the west side of Route One, 1,050 feet north of Route 88.

Mr. Abbott advised the Commission that this application received preliminary approval on May 24, 1990, one year time extensions on April 11, 1991, and April 28 1992, that the final plat has been reduced to 123 lots, that all agency approvals have been received, and that the plat meets the requirements of the Subdivision and Zoning Codes.

9. Roxana Fire Company

Mr. Lank advised the Commission that he issued a building permit for a 10' by 34' addition to the fire station on Route 382. The addition is for a bathroom and storage only.

Meeting adjourned at 9:40 P.M.