

MINUTES OF THE REGULAR MEETING OF MARCH 9, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 9, 1995, at 7:30 P.M., in Room 115, 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.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the minutes of February 23, 1995 as amended.

II. PUBLIC HEARINGS

1. RE: C/U #1107--Jerry K. & Victoria A. Leiby

Jerry and Victoria Leiby were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Little Creek Hundred for a Real Estate Office as an Accessory Use to the Dwelling lying on the north side of Route 64, 1,609 feet northwest of Route 70, on a parcel containing 31,654 square feet more or less.

Mr. Lank summarized comments received from the Delaware Department of Transportation (DelDOT) in reference to this application.

The applicants advised the Commission that there are other commercial uses on Route 64 in the area such as a junk yard, manufactured home park, day care center, auto repair shop, construction company, and gift shop, and submitted photographs of the commercial uses, that they plan to convert a single car garage into an office, that the applicant is a Licensed Real Estate agent wanting to open a new brokerage, that there would not be any negative impacts on the neighborhood or property values, that there would be 3 to 4 employees, and that if the company grew in size, the applicant would want to relocate to a site on Route 13.

There was no one present in opposition to this application.

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 the proposed action will have no significant impact on traffic.

The Commission found, based on comments made by the applicants, that there are other commercial uses on Route 64 in the area such as a junk yard, manufactured home park, day care center, auto repair shop, construction company, and gift shop and submitted photographs of the commercial uses, that they plan to convert a single car garage into an office, that the applicant is a Licensed Real Estate agent wanting to open a new brokerage, that there would not be any negative impacts on the neighborhood or property values, that there may be 3 to 4 employees, and that if the business grew in size, the applicant would try to relocate to a site on Route 13.

The Commission found that no one appeared in opposition.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this application to the 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. The office use be limited to a Real Estate Office only.

2. RE: C/U #1108--Fun Sport, Inc.

James Lumis, James Yori, Attorney, and Ted Simpler, Surveyor, were present on behalf of this application to consider the Conditional Use of land in a C-1 General Commercial District in Lewes and Rehoboth Hundred for Expansion of Conditional Use No. 1066 for an Additional Go-Cart Track lying on the east side of Route One within Midway Shopping Center on a parcel containing 3,527 square feet more or less.

Mr. Lank summarized comments received from the Sussex County Engineering Department in reference to this application.

Mr. Yori advised the Commission that this is an expansion of an amusement facility, that the proposal is for a kiddie track, that six carts are proposed, that the carts will be two horsepowered, that employee parking adjoins the tracks, that three tracks were opened in 1994 and that there were no known complaints for noise, that the waterslide is a buffer from the residential area and a buffer wall adjoins the Sears building, that the carts will accommodate children up to 36" in height, that the existing sidewalk will be retained, that the site is in the center of an existing shopping center and recreational complex, that there would be no negative impact on traffic on Route One, that the site is in a development district according to the Coastal Sussex Land Use Plan, that the existing lighting is sufficient, that there is adequate parking provided, that the

entrance to the track will be from the sidewalk, and that all stipulations from Conditional Use No. 1066 will continue to be met.

There was no one present in opposition to this 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 the Sussex County Engineering Department, that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that sewer service will be available by the fourth quarter of 1995, that the County will accept holding tank wastewater at the Inlands Bay or South Coastal Regional Wastewater Facilities, that a permit can be obtained from the Engineering Department, and that no capitalization fee is due at this time.

The Commission found, based on comments made by representatives of the application that this is a proposed expansion of an amusement facility, that a kiddie track is proposed, that there will be six carts for the new track, that the carts will have two horse powered motors, that employee parking adjoins the tracks, that three tracks were opened in 1994 and there have not been any known complaints from noise, that the waterslide is a buffer from the residential area, and a buffer wall adjoins the Sears building, that the carts will accommodate children up to 36" in height, that the existing sidewalk will be retained, that the site is in the center of an existing shopping center and recreational complex, that there would be no negative impacts on traffic to Route One, that the site is in a development district according to the Coastal Sussex Land Use Plan, that the existing lighting is sufficient, that there is adequate parking provided, that the entrance to the track will be from the sidewalk, and that all stipulations of Conditional Use No. 1066 will continue to be met.

The Commission found that no one appeared in opposition.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the County Council with the recommendation that it be approved with the following stipulations:

1. Chain-link fencing at least four feet high shall be installed around the track perimeter.

2. No additional lighting shall be permitted.
3. Maximum number of tracks shall be four (4).
4. Maximum number of go carts shall be forty (40).
5. Operating hours shall be 10:00 AM to 12:00 Midnight daily.
6. No less than four (4) employees shall be on site during business hours.
7. Gasoline shall be stored in "UL" approved safety containers and or as regulated by regulatory agencies.
8. Fire extinguishers shall be located at all refueling stations, in pit areas, and on the track infield at locations no greater than 50' from any go cart anywhere on a track.
9. Noise levels shall not exceed noise decibel levels associated with five (5) horsepower engines, with factory installed mufflers, in new covered go cart vehicles at the time the conditional use was approved.

3. RE: C/Z #1252--RML Enterprises, Inc.

Richard Longo, President of RML Enterprises, Inc, and President of Hillcrest Associates, and Barry Stengel, Director of Planning for Hillcrest Associates were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broad Creek Hundred, located on the southeast corner of the intersection of Route 482 and U.S. Route 13, to be located on a parcel containing 2.09 acres more or less.

Mr. Lank summarized comments received from the Department of Transportation (DelDOT) and the Office of the State Fire Marshal Office.

Mr. Longo advised the Commission that the proposed rezoning would be for a convenience store since there is a need for this use in the area, that there is adequate access to Route 13 and Route 482, that this is an appropriate location to serve the community, that a treatment plant and central water is proposed to serve the site, that the site was selected since it was for sale, and that there are other commercial uses in the area.

No one was present in support of this application.

Olan Boyce was present in opposition stating that Route 482 is not wide enough and the entrance would be too close to the intersection.

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 a traffic impact study was not recommended, that the level of service of U.S. Route 13 will not change as a result of this application, and that the level of service "A" of Route 482 may change to a level of service "B".

The Commission found, based on comments received from the Office of the State Fire Marshal, that their office has no objections to the proposed zoning change.

The Commission found, based on comments made by the applicant, that the proposed rezoning would be for a convenience store since there is a need for this use in the area, that there is adequate access to Route 13 and Route 482, that this is an appropriate location to serve the community, that a treatment plant and central water are proposed for this site, that this site was selected since it was for sale, and that there are other commercial uses in the area.

The Commission found that no one was present in support of this application.

The Commission found that one person spoke in opposition stating that Route 482 is not wide enough, that the entrance location would be too close to the intersection, and that there are drainage problems in the area.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the County Council with the recommendation that it be approved since commercial uses exist in the immediate area.

4. RE: RML Enterprises, Inc.

Richard Longo, President of RML Enterprises, Inc. and President of Hillcrest Associates, and Barry Stengel, Director of Planning for Hillcrest Associates were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Broad Creek Hundred, located on the south side of Route 482, approximately 170 feet northeast of U.S. Route 13, to be located on a parcel containing 30.97 acres more or less.

Mr. Lank summarized comments received from the Delaware Department of Transportation (DelDOT), Office of the State Fire Marshal, and the State of Delaware Department of Agriculture.

Mr. Longo advised the Commission that they propose 71 10,000 square foot lots for manufactured homes, that the site will have a treatment plant for sewer either spray irrigation or infiltration and central water, that there is a need for small lots with higher density, that there would be an attractive entrance with landscaping, that the location is ideal because it is located near Route 13 which allows for access to get to commercial areas and jobs, that the project is good for first time home owners, that several manufactured home parks exist in the area, that the project may be operated with a corporation, that additional right of way will be dedicated for Route 482 and that Route 482 will be improved to State specifications, and that if the public streets, central sewer and water are too costly, the developers may apply for a conditional use to establish a manufactured home park.

No one was present in support of this application.

Olan Boyce, Elwood Baker, and Eddie Boyce spoke in opposition due to drainage problems in the area, stormwater runoff on other properties, depreciation of property values, and traffic on Route 482.

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 made by DelDOT, that a traffic impact study was not recommended, that the level of service of U.S. Route 13 will not change as a result of this application, and that the level of service "A" of Route 482 may change to a level of service "B" as a result of this application.

The Commission found, based on comments made by the Office of the State Fire Marshal, that their office has no objections to the proposed zoning change.

The Commission found, based on comments made by the Department of Agriculture, that the Land Evaluation and Site Assessment (LESA) score for this project was 160 points out of 300, that this score is below average for the County, the Land Evaluation (LE) score for the site received 79 which is average for the County, the Site Assessment (SA) score of 81 points results from its proximity to other developments and commercial activity, and its location within a proposed "Development District" area of the Western Sussex Land Use Plan, that the proposed change does not appear to have immediate impact on the area's agricultural community, they do have concerns with heavier

traffic patterns interfering with surrounding agricultural operations, that they urge the County to locate developments where infrastructures exist to avoid the loss of farmland, and that a buffer zone will be required from any agriculture lands.

The Commission found, based on comments made by the representatives of the application, that 71 10,000 square foot lots are proposed for manufactured homes, that the site will have a treatment plant for sewer either spray irrigation or infiltration and central water, that there is a need for smaller lots with higher density in this area, that there would be an attractive entrance with landscaping, that the location is ideal since it is close to Route 13 which allows for access to commercial areas and jobs, that the project would benefit first time homeowners, that several manufactured home parks exist in the area, that the project may be operated by a corporation, that the developers will dedicated additional right of way for Route 482, that Route 482 will be improved to State specifications, and that if the public streets, central sewer and water are not feasible, the developers may apply for a Conditional Use to establish a manufactured home park.

The Commission found no one was present in support of this application.

The Commission found that three persons spoke in opposition expressing concerns about drainage problems in the area, stormwater run-off on adjacent properties, depreciation of property values, and traffic on Route 482.

It was a consensus of the Commission that the proposed subdivision project would not be marketable due to cost for central water, sewer, roads, and drainage.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the County Council with the recommendation that it be denied.

5. RE: C/Z #1254--Donald R. & Terry Steele Long

Donald Long and Steve Parsons, Attorney, were present on behalf of this application to amend the map from GR General Residential to B-1 Neighborhood Business in Baltimore Hundred, located on the west side of Route 357 at the intersection of the south side of Maryland Street, to be located on a parcel containing 1.03 acres more or less.

Mr. Lank summarized two comments received from the Department of Transportation (DelDOT), and the Sussex County Engineering Department.

The applicants advised the Commission that the proposed rezoning is for a small gift shop to be located in the existing dwelling, that the applicant has owned the property for twenty-six years, that the gift shop would be 1,000 square feet, that two to three employees are proposed, that the hours of operation would be from 10:00 AM to 6:00 PM, that the site did have a Conditional Use for a beauty shop from the mid 1970's until 1990, that there are other commercial uses in the immediate area, that fire protection is provided by the Millville Fire Department, that the shop would be on the south side of the dwelling, that two rooms will be converted into a shop, that the shop will have a separate entrance, that small candles, gifts, and knick knacks will be sold, that there is adequate room for parking, and that no negative impacts on traffic, the neighborhood, or property values is anticipated.

No one was present in opposition to this application.

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 made by DelDOT, that the proposed change will have no significant impact on traffic, and that the applicants should not have any problem getting an entrance permit as long as the proper information is provided, and questioned if the applicant could have an entrance to Route 357 and an exit to Maryland Street.

The Commission found, based on comments made by the Sussex County Engineering Department, that the property is located within Phase I of the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District, that the County Council is considering the installation of sanitary sewer pipelines for this area, and that at time, service is not available.

The Commission found, based on comments made by representatives of the application, that the proposed rezoning is for a small gift shop to be located in the existing dwelling, that the applicant has owned the property for twenty-six years, that a 1,000 square foot shop is proposed, that two to three employees are anticipated, that the hours of operation would be 10:00 AM to 6:00 PM, that the site did have a Conditional Use for a beauty shop from the mid 1970's until 1990, that there are other commercial use in the immediate area, that fire protection is provided by the Millville Fire Department, that the shop would be on the south side of the dwelling, that the shop will have a separate entrance from the dwelling, that two rooms will be

converted into a shop, that small candles, gifts, and knick knacks will be sold, that there is adequate room for parking, and that no negative impacts on traffic, the neighborhood, or property values is anticipated.

The Commission found that no one appeared in opposition.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this application to the County Council with the recommendation that it be approved.

III. OTHER BUSINESS

1. RE: Bridgeville Tourist Center

Tom Carroll of Landmark Engineering was present as the Commission reviewed the final site plan for a visitor center on Route 13 near Bridgeville.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code and that all required agency approvals have been received.

Motion made by Mr. Ralph, seconded by Mr. Lynch, and carried 4 to 0, with Mr. Wheatley not participating, to approve the site plan as a final.

2. RE: Thomas & Patricia Derrick

Thomas and Patty Derrick were present as the Commission reviewed the final site plan for a retail store on Route One near Rehoboth Beach.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code and that all required agency approvals have been received.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried 4 to 0, with Mr. Wheatley not participating, to approve the site plan as a final.

Meeting adjourned at 9:30 PM.