

MINUTES OF THE REGULAR MEETING OF MARCH 14, 1991

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 14, 1991, at 7:30 P.M. in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Ralph, seconded by Mrs. Monaco and carried unanimously to approve the minutes of February 28, 1991, as circulated.

PUBLIC HEARINGS

1. RE: C/U #959--Delaware Electric Cooperative

David Rutt, attorney, and Frank Dill, Delaware Electric Cooperative, 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 an Electrical Substation on the northeast side of Route 277, 1,800 feet west of Route 279, and to be located on a parcel containing 2.0 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways and the Sussex Conservation District.

Mr. Rutt stated the applicants plan to construct an electrical substation on the proposed site.

Mr. Dill stated more power is needed in this area. The alternative to this substation would be costly upgrading of existing facilities and lines.

Mr. Dill stated the site would be fenced with a locked chain link fence with barbed wire on top. There would be security lighting. No water or sewer would be needed on the site. The site would be landscaped around the fence. Other than monthly inspections and emergency service, there would be no traffic to or from the site. There would be no noise and no air or water pollution caused by this use of the site. There would be no effect on television reception in the area. The surrounding area is wooded.

George Owens, engineering consultant, spoke concerning the connection between substations and adverse health problems.

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 proposed use will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Evesboro loamy sand and Fallsington sandy loam; that the suitability of the soils for the intended use may vary from slight to severe limitations; that in reference to erosion and sedimentation control, moderate limitations may be anticipated during construction and slight limitations may be anticipated after completion of any construction; that the farmland rating of the soil type is 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 that the application was represented by a company engineer, legal counsel, and an electrical consultant, and that the applicants propose to utilize the site for an electrical substation.

The Commission found, based on comments made by representatives of the application, that a need exists for electrical service in the area based on annual summer reports on peak loads and demographic information; that this area is one of the fastest growing areas in the cooperative network; that the site will have safety fencing, landscaping, and security lighting; that on-site water or sewer are not necessary; that no impact is anticipated on traffic since the only necessary traffic will be monthly inspections of facilities; that the site is wooded and adjoins a vacant parcel; that no adverse impact is anticipated on property values; that the facility will create no air, water, or noise pollution; that no PCB's are used in transformers; that there should be no impact on TV reception in the area; that the facility shall conform to National Safety Codes; that no negative impact is anticipated on health, safety, or welfare of the citizens in the area; that if this site is not available for the use, then it may be necessary to expand existing facilities at higher cost; and that the only disturbance to the site to date has been performed by the present owner, not the applicants.

Motion made by Mr. Hickman, seconded by Mr. Smith, 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 since a need exists for electrical service in the area, based on the site plans and information submitted, and with the condition that the site plan shall be reviewed and have approval by the Planning and Zoning Commission.

2. RE: C/Z #1116--Atlantic Auction Co., Inc.

Steve Parsons, attorney, and Robert Kauffman were present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business in Baltimore Hundred, located in the Town of Millville, on the north side of Route 26, 1,250 feet southeast of Route 347 and to be located on a parcel containing 4.16 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways, the Indian River School District, and the Sussex Conservation District.

Mr. Parsons stated the adjoining properties on both sides and across the street are zoned UB Urban Business.

Mr. Kauffman stated he is a real estate agent and broker, an auctioneer, and operates an antique business at another location. He plans to construct a building approximately 40 feet by 100 feet at the rear of the property to be used for his real estate business and his antique business. The existing barn on the site would be removed or remodeled. The existing gas tank at the front of the site is under a lease agreement which will continue for five years. There is sufficient space on the site for parking. The site would be served by an on-site well and septic system.

Mr. Kauffman stated he contacted area residents and found no objection and presented a petition of residents with no objection to this application.

Gary Willey, on behalf of the Town of Millville, read a letter in favor of this 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, based on comments received from DelD.O.T., that originally, a traffic impact study had been requested, as in all recent rezoning requests along Route 26 due to existing summer traffic volumes and the current two (2) lane roadways; that this proposal, by itself, is not a problem; that Route 26 is not going to get any better; that Route 26 improvements may be requested at the permit stage; that Route 26 should be considered an urban street requiring curbing 22 feet from the centerline and appropriate paving; and that it is not anticipated that traffic generation would be that great.

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped to be Evesboro loamy sand; that the suitability of the soils for the intended use may have slight limitations; that moderate limitations may be anticipated during construction and slight limitations may be anticipate after completion of any construction in reference to erosion and sedimentation control; that the farmland rating of the soil type is of statewide importance; 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 that the application was represented by one of the owners and legal counsel, and that the site is intended to be utilized for an office for an auctioneer and real estate sales, and an antique store.

The Commission found, based on comments made by representatives of the application, that the site is between two (2) UB Urban Business Districts and across from a UB Urban Business District; that the site contains four (4) acres of a twenty (20) acre parcel; that the site is presently occupied by a barn which has billboards on its side walls and a commercial propane tank loading facility; that the building proposed will contain 4,000 square feet and will be located toward the rear of the site away from the propane tank facility, since the propane tank facility has an extended time contract; that the existing barn may be remodeled or removed; that approximately twenty (20) businesses exist along Route 26 in Millville; that adequate space exists on-site for parking; that no negative impacts are anticipated on property values since other business uses and districts exist in close proximity; that the site is not conducive to residential use due to business uses surrounding; that no impact is anticipated on traffic; and that the site will be served by on-site septic and water.

The Commission found that a petition containing 14 signatures was submitted in support of the application.

The Commission found that the Millville Town Council has provided written comments in support of the rezoning since the propane tank facility would not be a suitable neighbor for residential use and since all neighboring properties are zoned for business.

Motion made by Mr. Hickman, seconded by Mr. Smith, 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, since the site is adjacent to and in close proximity to several UB Urban Business uses and districts, and since the Millville Town Council supports this rezoning.

3. RE: C/Z #1117--Mark A. Burnham

Mark Burnham and Sally Harris were present on behalf of this application to amend the zoning map from GR General Residential to C-1 General Commercial in Broadkill Hundred, located on the northeast side of Route One, and south of Waples Pond and to be located on a parcel containing 31,633 square feet more or less.

Mr. Lank summarized comments received from DelD.O.T. and the Sussex Conservation District.

Mr. Burnham stated there is an existing, nonconforming tavern and package store on the proposed site. They are applying to have conforming zoning. They have no plan to change or expand the existing use.

Mr. Burnham stated the site is served by on-site water and septic system. There is adequate parking space.

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 DelD.O.T., that a traffic impact study was not recommended and that the present level of service "B" of Route One will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Evesboro loamy sand; that the suitability of the soils for the intended use may have slight limitations; that in reference to erosion and sedimentation control, slight limitations may be anticipated during construction and after completion of any construction; that the farmland rating of the soil type is of statewide importance; 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 that the applicant was present and plans to continue utilizing the site for a lounge and liquor store; that no change in use is intended; that no major expansions are planned; that adequate space is available on-site for parking; that water and septic exist on-site; and that conforming zoning for the existing use is requested.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action and ask the staff to research permits for a recent expansion on the rear of the structure.

4. RE: C/Z #1118--Peninsula Oil Co.

Dean Betts, attorney, and John Willey, Vice President of Peninsula Oil Co., were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Dagsboro Hundred, located on the northwest corner of the intersection of Route 113 and Route 20 and to be located on a parcel containing 2.0 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways, the Indian River School District, and the Sussex Conservation District.

Mr. Betts stated there is an existing building on the site which has previously been used as a diner and a garage. There are other commercial uses in the area.

Mr. Betts stated the applicants have a conditional sales contract on this site.

Mr. Willey stated they plan to remove the existing building and construct a steel building to be used as a convenience store with gas sales. The old gas tanks have been removed.

Mr. Willey stated the proposed building would be similar to the Uncle Willies in Bridgeville. The business will be open seven (7) days per week, year round. There will be entrances on Route 113 and Route 20. They have contacted the State Highway Department concerning these proposed entrances.

James Brasure, present owner of the site, spoke in favor of this 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, based on comments received from DelD.O.T., that a traffic impact study has not been recommended; that the level of service "C" of Route 20 may change to level of service "D"; and that the level of service "B" of Route 113 may change to 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 Indian River School District, that at this time, it does not appear that the proposal will have a significant impact on the district.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Evesboro loamy sand; that the suitability of the soils for the intended uses may have slight limitations; that in reference to erosion and sedimentation control, moderate limitations may be anticipated during construction and slight limitations after completion of any construction; that the farmland rating of the soil type is of statewide importance; 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 that the application was represented by the company vice-president and legal counsel, and that the applicants plan to utilize the site for a convenience store with gasoline filling islands.

The Commission found, based on comments made by representatives of the application, that the site is presently occupied by a restaurant, which was formerly used for an auto service center; that the existing structure will be removed and replace by a modern convenience store and self service gasoline

filing islands; that the rezoning will be compatible to the area and uses in close proximity; that a liquor store, used car sales, office, and other commercial uses exist across from the site and southerly along Route 113 into Millsboro; that the site has been used commercially for at least thirty (30) years; that the proposed entrances are acceptable based on a letter received from DelD.O.T.; that the existing underground storage tanks have been removed from the site and no significant level of contaminants were found on-site according to D.N.R.E.C.; that no negative impact on the neighborhood or property values is anticipated; that the facility will operate seven (7) days per week, year round; that the area will have adequate space for on-site parking; and that the unpaved area will contain the septic system.

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, since the site has historically been utilized for commercial uses; since traffic will be controlled by an up-to-date entrance design system; since the site is appropriately located at an intersection with a traffic control light; and since the site will be upgraded with a modernized facility.

5. RE: C/Z #1119--Horace A. Sagers

Steve Parsons, attorney, Horace Sagers, and Jeff Clark, Land Tech, Inc., were present on behalf of this application to amend the zoning map from MR Medium Density Residential to C-1 General Commercial in Baltimore Hundred, located on the east side of Route 357, 650 feet south of Route 359 and to be located on a parcel containing 29,454 square feet more or less.

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

Mr. Parsons stated there are other commercial districts and uses in the area.

Mr. Sagers stated they plan to move the existing dwelling on this site to another location. They plan to construct a sixteen (16) unit efficiency motel. They will meet all setback requirements. There is sufficient space on the site for parking.

Mr. Sagers stated he has talked with some residents of Murrays Estates and found no objections to his proposal.

Mr. Clark presented drawings of the proposed building, landscaping, and parking arrangement.

Mr. Parsons presented a letter from Charles P. Townsend, III, Seacoast Realty, in support of this application.

Bill Bass, President of Murrays Estates Association, and Gary Willey, Sunrise Realty and Builders, spoke in support of this application.

Robert and Lorraine Phelps, adjoining property owners, spoke in opposition due to drainage problems, noise, lights, additional demand on the water supply, and security problems.

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 DelD.O.T., that a traffic impact study was not recommended, and that the present level of service "D" 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 change will have a significant impact on the district.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Rumford loamy sand and Klej loamy sand; that the suitability of the soils for the intended use may vary from slight to moderate limitations; that in reference to erosion and sedimentation control, moderate limitations may be anticipated during construction and slight limitations may be anticipated after completion of any construction; that the farmland rating of the soil types is of state wide importance; 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 that the applicant was present with legal counsel and a landscape architect, and that the applicant proposes to remove an existing dwelling from the site and construct an office and 16 unit efficiency motel complex.

The Commission found, based on comments by representatives of the application, that adequate space is available on-site for parking; that a need exists for short term rental space in the area; that the site is adjacent and in close proximity to other commercial and business uses and districts; that no negative impact

on traffic or property values is anticipated; that the proposed improvements will conform to all regulations; and that a statement submitted from the realtor indicates that a need exists for moderately priced lodging in Cedar Neck.

The Commission found that the property owners association of Murrays Estates, an adjoining development, supported the rezoning.

The Commission found that two (2) persons spoke in opposition and expressed concerns in reference to drainage, noise, closeness of a motel to their residence, security, water quality, trespassing, that fencing and screening should be provided, and that security lighting should be directed away from neighbors residences.

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

OTHER BUSINESS

1. RE: Tracy Hill

The Commission reviewed a sketch showing two (2) lots on a proposed fifty (50) foot right of way and one (1) lot fronting Route 509 on lands of Bonnie Hill.

It was noted that the lots proposed are existing yard spaces of three children of Mrs. Hill, and that the fifty (50) foot right of way contains the existing farm drive serving the two (2) lots.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the concept for the three (3) lots.

2. RE: Sugar Maple Farms II
Revised Preliminary

Mr. Lank advised the Commission that the subdivision has been deleted from the agenda for this evening.

3. RE: Subdiv. #89-11--Richard Carr

Mr. Lank advised the Commission that Mr. Carr has requested a second time extension for submittal of final record plans due to delays in permit processes with some agencies.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to grant an extension of time that will expire February 10, 1992, as requested.

4. RE: Horizon Vistas
Site Plan

Mr. Lank advised the Commission that Mr. Moore has reviewed the site plan and found it to be in compliance with the Zoning Ordinance, and that all appropriate agency permits or approvals have been obtained for the proposed 14 unit multi-family structure adjoining Whites Creek.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the final site plan.

5. RE: William F. Betts, II

Mr. Lank advised the Commission that a request has been submitted for a storage building on a two (2) acre residential lot on Route 257. A residential structure may not be placed on the property for another one and one half years.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to permit the shed placement.

OLD BUSINESS

1. RE: C/Z #1114--Bayville Shore Development Corp.

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to HR-2/RPC Multi-Family Residential Planned Community in Baltimore Hundred, located 1,950 feet north of Route 58B on Assawoman Bay, and to be located on a parcel containing 61.12 acres more or less.

The Chairman referred back to this application which had been deferred since February 28, 1991.

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

Motion made by Mr. Hickman, seconded by Mr. Smith, 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, traffic, and concerns for the intersection of Route 54 and Route 58B.

2. RE: C/Z #1115--Bayville Shore Development Corp.

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to M Marine in Baltimore Hundred, located 1,950 feet north of Route 58B on Assawoman Bay, and to be located on a parcel containing 35.32 acres more or less.

The Chairman referred back to this application which had been deferred since February 28, 1991.

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

Motion made by Mr. Hickman, seconded by Mr. Smith, 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, and since the use will not be appropriate or necessary without the multi-family use intended in Change of Zone No. 1114.

3. RE: ORDINANCE TO AMEND CHAPTER 115 (Zoning Procedures)

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO ZONING PROCEDURES.

Mr. Lank submitted revised Ordinances referencing Zoning Procedures which reflect previous discussions.

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

The Ordinance will be placed on the agenda for March 21, 1991, for action.

Meeting Adjourned 9:30 P.M.

Lawrence B. Lank, Secretary