

MINUTES OF THE REGULAR MEETING OF MARCH 21, 1991

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 21, 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, Mr. Jones - Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

PUBLIC HEARINGS

1. RE: C/U #960--CHESAPEAKE UTILITIES CORPORATION/
EASTERN SHORE NATURAL GAS CO.

James Fuqua, attorney, and Bob Rider and Jim Moore, representing the applicants, 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 Bulk Storage of Propane Gas 1,800 feet south of Route 584, and east of Conrail Railroad, and to be located on a parcel containing 8.51 acres more or less.

Mr. Schrader stated he would not be participating in this public hearing. Mr. Jones would be filling in for him.

Mr. Lank summarized comments received from the Department of Transportation, the Sussex Conservation District, and the D.N.R.E.C. Division of Water Resources Waste Management Section.

Mr. Rider stated the applicants propose to place 18 propane storage tanks on this site. The storage facility is needed to meet the demand during peak seasons. Propane is used in natural gas which is used in the poultry industry and to heat manufactured homes.

Mr. Rider stated the applicants will meet or exceed all safety requirements. There will be a buffer around the perimeter of the site. No trucks would be routed through the Town of Bridgeville. The propane would be delivered to the site primarily by rail and taken from the site by truck.

Minutes
March 21, 1991
Page 2

Jim Moore stated the proposed rail siding would hold no more than seven (7) cars at a time. The site would be fenced, and there would be a security system. The entrance is proposed from Route 584. The applicants are proposing eighteen (18) thirty thousand

gallon tanks in groups of six (6) tanks. The site would be unmanned except for loading and unloading. There would be no wastewater disposal system needed on the site. They have had no problems with other similar facilities.

Bob Sawyer, President of the Bridgeville Commission, read a letter in opposition from the Town of Bridgeville.

Ken McIlvain, Ann Neal, Tom Jefferson, Lisa Jefferson, Glenda Crockett, Doris McIlvain, Charlotte Cannon, Vincent Rooks, Ernest Anderson, James Dredden, Myra Neal Sampson, Vera Smack, Brenda Davis, Michelle Hopkins, Mary Royal, Charles Royal, Betty Murray, on behalf of her mother, Constance Hicks, Cynthia Hicks, and Phyllis Jones spoke in opposition due to the closeness of the residential area and the school, possible health problems, and property devaluation.

Twenty five (25) persons were 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 D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested from the D.N.R.E.C. Division of Air and Waste Management, Air Resources Section, Waste Management Section, Hazardous Waste Branch, Solid Waste Branch, Environmental Response Branch, CERCLA/Superfund Branch, Underground Storage Tank Branch, Bureau of Archaeology and Historic Preservation, and the Department of Transportation.

The Commission found, based on comments received from Deld.O.T., that no significant impact on traffic is anticipated.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Sassafras sandy loam; that the suitability of the soils for the intended use may vary from none to slight limitations; that moderate limitations may be anticipated during construction and slight limitations may be anticipated after completion of any construction in reference to erosion and sedimentation control;

Minutes
March 21, 1991
Page 3

that the farmland rating of the soil type is prime; that no storm flood hazard area or tax ditch is affected; and that it may not be necessary for any off-site or on-site drainage improvements.

The Commission found, based on comments received from the D.N.R.E.C. Land Use Planning Act Coordinator, that the Waste Management Section of D.N.R.E.C. stated that Delaware regulations prohibit the burial of solid waste anywhere in the State except at approved disposal facilities for this type of waste. This prohibition applies to trees, stumps, and other construction/demolition debris as well as to municipal and industrial waste. The department encourages the reuse and recycling of waste materials.

The Commission found that the applicants were represented by a Board member of the utility company, legal counsel, a Vice President of Sharp Energy, and an engineer, and that the applicants plan to utilize the site for bulk storage of propane gas.

The Commission found, based on comments made by representatives of the application, that 18 propane storage tanks are proposed along the railroad across from Perdue Feed; that propane is a primary source of heat throughout the county for poultry farm operations and manufactured homes; that long winter cold spells have exhibited the need for bulk storage of propane in the general area; that the site contains a natural gas line and compressor station; that up to 18 percent propane can be injected into natural gas without affecting its quality; that Bridgeville is centrally located for the service area; that the State Fire Marshal has indicated that bulk storage tanks are safer than residential use type tanks; that access to the site shall be from Route 584; that fencing, a security system, a monitoring system, and landscaping will be provided; that the closest structure is approximately 900 feet easterly; that a school building exists within 1,500 feet; that two (2) additional employee jobs are anticipated; that the company serves approximately 6,100 accounts of which 1,000 are agricultural accounts, 100 commercial accounts, and 5,000 residential accounts; that a need exists for additional supply to provide continual supply to existing and future customers; that no additional large tank truck traffic is anticipated in the Town of Bridgeville; that a railway siding is proposed for delivery of bulk propane to the site; that the majority of the trucks utilizing the site are 9,000 gallon bulk supply vehicles; that there is no need for wastewater or stormwater management; that no traffic impact is anticipated; that 8 to 10 trucks may utilize the site per day; that no wetlands exist on-site; that the site was chosen due to its rail access and its close proximity to a major highway (Route 13); that the monitoring system relays an alarm to a staffed facility off-site if any propane vapor, smoke or flame is detected on-site; that

the facility will be designed to conform or be greater than National Codes and State Fire regulations; that the use is of a generally public or semi-public character essential for the general welfare; that the site is an appropriate location; that the site is adjacent to several commercial and industrial uses; and that the area is more appropriate for commercial and industrial uses.

The Commission found that 21 persons spoke of the 25 persons present in opposition and expressed concern about the closeness of the facility to residential areas; a fear for their lives; that the existing alarms on the natural gas facility are continuously being set off and not responded to immediately; depreciation of property values; safety to the community, the school, and the town; response time for alarms; future growth of the site; the loss of a potential growth area for the town; and childrens safety due to the close proximity to residential areas and a school.

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

2. RE: C/U #961--CAROL A. SOOTS

Carol Soots was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for Offices on the southeast side of Route 18, 380 feet southwest of Quaker Road, and to be located on a parcel containing 25,000 square feet more or less.

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

Ms. Soots stated she has conditional use approval for a television repair shop and video store. The video store has been moved.

Ms. Soots stated she plans to lease a maximum of three (3) professional offices. She will continue to reside on-site. There will be no expansion of the existing building. The existing septic system will serve the proposed uses. There will be security lighting in the parking area. There are other businesses in the area. She talked with neighbors and found no objection.

No one was present in opposition.

At the conclusion of the public hearings, the Chairman referred back to this application.

Minutes
March 21, 1991
Page 5

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

The Commission found, based on comments received from DelD.O.T., that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from County Engineering, that the site is located within Phase II of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, and that sanitary sewer service should be available within five (5) years.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Sassafras sandy loam; that the suitability of the soils for the intended use may vary from none to 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 prime; 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 convert a portion of the premises, previously used for a television and video store and shop, to offices for professionals; that the maximum number of office units is three (3); that she will continue to reside on the premises; that anticipated professionals are surveyor, architect, or insurance representatives; that the existing septic on-site may be adequate to serve the home and offices; that security lighting already exists; that the proposed use should create less traffic than the previous use; that no adverse impact on property values or the neighborhood and anticipated; and that several conditional uses, business and commercial uses and districts exist in close proximity.

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.

3. RE: C/U #962--DONALD BUNTING

Minutes
March 21, 1991
Page 6

Donald Bunting was 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 Office and Display of Food Service Equipment on the northeast corner of the intersection of Route 280B and Route 285, and to be located on a parcel containing 1.48 acres more or less.

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

Mr. Lank stated this application was previously applied for as a change of zone to B-1 Neighborhood Business.

Mr. Bunting stated he has an approved commercial entrance permit.

Mr. Bunting stated he is proposing a 30 foot by 30 foot building to be used for an office and display area for food service equipment. The applicant and his wife would operate the business. There would be no employees. The business would be open five (5) days per week, eight (8) hours per day, year round.

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 County Engineering, that the site is located west of the West Rehoboth Expansion area where the County Council has agreed to a memorandum of understanding with the D.N.R.E.C. to restrict zoning changes, and that the site is not located in the groundwater management zone of the Angola landfill.

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 vary from none to slight 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; and that it may not be necessary for any on-site or off-site drainage improvements.

Minutes
March 21, 1991
Page 7

The Commission found, based on comments received from DelD.O.T., that a traffic impact study was not recommended; that capacity is controlled by one or more intersections, and that a commercial entrance permit has been issued by the South District of DelD.O.T.

The Commission found that the applicant was present and plans to utilize the site for an office and display of food service equipment; that all agency requirements will be met; that a thirty (30) foot structure is proposed; that no other intended expansions are proposed; that the business will operate eight (8) hours a day; five (5) days per week, year round; that the business is family operated; that no additional employees are anticipated; and that no adverse impacts are anticipated on property values or the neighborhood.

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.

4. RE: C/Z #1120--ROBERT T. AND CONNIE L. CAREY

Robert Carey was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Little Creek Hundred, located on the south side of Route 24 (4th Street), 100 feet west of Route 13 and to be located on a parcel containing 8,821 square feet more or less.

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

Mr. Carey stated the proposed site adjoins his existing business. The area will be used mostly for employee parking, customer parking, and to park the tow trucks used in his business. There will be no wrecked cars stored in this area. He presently has approximately 20 employees.

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 level of service "A" of Route 13 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on-site are Evesboro loamy sand; that the suitability of the soils for the intended use vary from none to 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 applicant was present and plans to utilize the site for parking of employee and customer vehicles for the auto repair facility on the adjoining parcel owned by the applicants; that the site will be fenced; and that no adverse impacts are anticipated on the neighborhood or property values.

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 it be approved based on the record of support and since the site is an extension to an adjoining commercial use (auto repair center) and district.

5. RE: ORDINANCE AMENDING CHAPTER 115 (Campground)

AN ORDINANCE AMENDING CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, DELAWARE, RELATING TO SPECIAL REQUIREMENTS FOR CONDITIONAL USES FOR A PARK OR CAMPGROUND FOR MOBILE CAMPERS, TENTS, CAMP TRAILERS, TOURING VANS AND THE LIKE.

Mr. Lank summarized the ordinance amendments proposed.

Mr. Moore reported to the Commission the makeup of the committee who worked on the amendments. The Committee included some campground owners, campers, a citizen at large, a staff member, and a member from a resort area chamber of commerce.

Kevin Sager, George Plummer, Glenn Jones, and Doris Glascock spoke in support of the amendments.

Several additional amendments were suggested by those attending. The amendments included a revised definition of a recreational vehicle and an increase in the size of decking allowed at grade from three (3) foot by six (6) foot sections to four (4) foot by eight (8) foot sections.

At the conclusion of the public hearings, the Chairman referred back to these amendments.

The Commission discussed the proposed amendments and the additional amendments suggested by the parties present during the public hearing.

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

Mr. Schrader was asked to include the suggested amendments in the text of the amendment so that the Commission may consider the amendments in Ordinance form.

OLD BUSINESS

1. RE: C/Z #1117--MARK A. BURNHAM

No one was 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.

The Chairman referred back to this application which was deferred on March 14, 1991.

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

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; since the rezoning provides conforming zoning for the existing uses on the premises; since the site has been historically used commercially; and since other commercial and business uses exist in close proximity.

2. RE: C/Z #1119--HORACE A. SAGERS

No one was 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.

The Chairman referred back to this application which was deferred on March 14, 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 approved based on the record of support; since other commercial and business uses and districts exist immediately adjacent and in close proximity; and since the Coastal Sussex Land Use Plan designates a village center in this immediate area.

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.

The Chairman referred back to this ordinance which has been deferred since December 27, 1990.

The Commission discussed amendments discussed at previous meetings which referenced withdrawals two (2) days prior to a public hearing and showing a good cause for withdrawal, and time limits for reapplication when an applicant fails to appear for a 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 approved with the amendments drafted by the County Attorneys.

4. Subdiv. #89-9--THEODORE SIMPLER (Kime Circle)

The Commission reviewed the final plat for the proposed eight (8) lot subdivision.

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

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

5. RE: Subdiv. #91-4--SAMUEL P. ALLOWAY (Little Creek Estates)

The Commission reviewed the preliminary plat for the proposed six (6) lot subdivision.

Action had been deferred pending receipt of the waste water feasibility from the D.N.R.E.C.

Mr. Moore stated that the feasibility had been obtained.

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

6. RE: Subdiv. #91-1--TALIVALDIS BERZINS (Ocean Way Estates)

The Commission reviewed the final plat for the proposed 44 lots subdivision.

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

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

7. RE: Subdiv. #90-23--HORACE A. SAGERS (Water View Estates)

The Commission reviewed the final plat for the revised 23 lot subdivision.

Mr. Moore stated that all approvals with the exception of approval for the installation of a dry sewer system, have been obtained.

Mr. Moore suggested that the developer obtain a feasibility from the County Engineer's Office, prior to recordation.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the 23 lot subdivision as a final, with the stipulation that the statement of feasibility be obtained prior to recordation.

8. RE: Rehoboth Shores Mobile Home Park

Mr. Lank exhibited the plats of Rehoboth Shores colored to indicate proposed relocations of lot lines and exhibiting violations that need to be corrected.

Minutes
March 21, 1991
Page 12

Mr. Lank introduced a memo from some of the tenants raising questions about the plats and requesting preliminary approval only, and that certain issues be addressed prior to final approval.

- Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously that the plat of Section One, Blocks A, B, C, F, and G be approved as a preliminary only with the stipulations that all lots be monumented and numbered to indicate the official lot corners, as revised, and that platted lot numbers and lot numbers on leases shall be identical.

In addition, Mr. Lank was asked to contact Peter B. Jones, attorney, for a legal opinion in reference to: clearly identify who is responsible for the expense of relocation of mobile homes, sheds, fences, shrubbery, flower beds, relandscaping and relocation of lot line markers, as requested by the tenants of the park.

Meeting Adjourned 10:55 P.M.

Lawrence B. Lank, Secretary