

MINUTES OF THE REGULAR MEETING OF APRIL 5, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 5, 1990, at 7:45 P.M. in the County Council Chambers, Courthouse, Georgetown, Delaware with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Berl - Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of March 8, 1990, and March 22, 1990, as circulated.

PUBLIC HEARINGS

1. RE: C/U #930--Daniel G. McMunn

David Rutt, attorney, and Daniel McMunn were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for a Hunting and Fishing Equipment Discount Retail Store northeast of Route 381, 0.3 mile east of Route 384, to be located on a parcel containing 1.38 acres more or less.

Mr. Lank summarized comments received from the State Highway Department, Indian River School District, and the Sussex Conservation District.

Mr. Rutt stated this application was originally applied for as a change of zone. Mr. Rutt asked that the information in Change of Zone file number 1045 and the testimony from the public hearings be incorporated into this hearing.

Mr. McMunn stated the site is presently vacant.

Mr. McMunn stated he plans to construct a one story frame building and lease it to his nephew for a hunting and fishing supply discount store. The adjoining land on three (3) sides of the site are owned by the applicant.

Eric Rose, nephew of the applicant, stated he and his wife would operate the store. He will be licensed to sell fire arms. He will sell hunting and fishing supplies. There will be a security system on the building. He will be open from 6:00 A.M. to 9:00 P.M. five (5) days per week, from 9:00 A.M. to 9:00 P.M. on Saturdays, and closed Sundays. There are other commercial uses in the area.

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Mr. Rutt presented a petition in favor of the application and a transcript of a portion of the County Council public hearing for Change of Zone #1040, where four (4) people testified in support of the proposed store.

Mr. Lank advised the applicant that a site plan would have to be reviewed by the Planning and Zoning Commission and all required agency approvals obtained before a building permit would be issued.

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 that the applicant was present with his nephew, the proposed operator of the proposed fishing and hunting equipment discount retail store, and legal counsel.

The Commission found, based on comments received from the State DelD.O.T., that a traffic impact study was not recommended and that the level of service "A" of Route 381 will not change as a result of this application.

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

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area is affected, that it will not be necessary for any on-site or off-site drainage improvements, that no tax ditch is affected, that the Evesboro loamy sand and Pocomoke sandy loam on site are suitable for the intended use, that slight limitations may be anticipated during construction and after completion of construction in reference to erosion and sediment control, and that the farmland rating of the soils is of state wide importance.

The Commission found, based on a staff report, that no State or Federal wetlands are indicated on appropriate maps, that the 1988 Coastal Sussex Land Use Plan indicates the area for single family or planned unit developments with density of one to four units per acre and that the site is in a development district, that the site is not within an area of a 100 year flood, and that the site is not located within one mile of a landfill or State area of concern.

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The Commission found that an application for B-1 Neighborhood Business zoning had been denied and that the County Council had waived the fee for an application for a Conditional Use for the intended use.

The Commission found that representatives of the application requested that data within Change of Zone file No. 1040 be included in the record for this application.

The Commission found, based on comments by representatives of the application, that no adverse impact is anticipated on the neighborhood, that the applicant retains three adjoining sides of the site, that the fishing and hunting store will operate during the summer months and hunting seasons on week days from 6:00 A.M. to 9:00 P.M. and Saturdays from 9:00 A.M. to 9:00 P.M. and no Sunday hours, that a one story building is proposed, that no adverse impact is anticipated on property values, that other business and commercial uses exist in close proximity, that a petition was submitted showing a need to serve the area and support for the intended use, that the use will provide a positive affect on the area, and that adequate space is available on site for parking.

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 with the stipulations that the site plan shall require review and approval of the Planning and Zoning Commission and appropriate governmental agencies.

2. RE: C/U #931--Chaski Associates, L.P.

John Sergovic, attorney, and Milton Chaski were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broad Creek Hundred for an Extension to a Mobile Home Park (Laurel Village) west of Laurel Village Manufactured Home Park, and approximately 500 feet west of Route 13, to be located on a parcel containing 37.95 acres more or less.

Mr. Lank summarized comments received from the State Highway Department, the Sussex Conservation District, and the LUPA Coordinator.

Mr. Lank read into the record the stipulations on the Ordinance from the last expansion approval.

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Mr. Chaski explained the layout of the existing park and the proposed addition. There will be no new entrances for this addition. The site is mostly wooded. He would fence the site if requested to do so. There will be a fire hydrant system, central water, and a central sewer system. He would agree to provide the same buffer area as stipulated on the last expansion approval.

Donald Miller, surveyor, stated lots will be larger than required. Trees will be removed for streets and homes only.

Mr. Miller presented a letter from Byron Jefferson regarding septic system design.

Mr. Morton, Mr. Abbott, and Basil Hickman spoke in support of the application.

Fourteen (14) persons were present in support of the application.

Pete Bohn presented a petition containing 46 signatures of people opposed to this application.

Mr. Bohn spoke in opposition due to sewage problems, lowering of the water table, and property devaluation.

Ray Tice, Ivy Ero, and Bea Moore spoke in opposition for similar reasons.

Fifteen (15) 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 that the application was represented by Milton Chaski, legal counsel, and a surveyor/engineer.

The Commission found, based on comments received from the State DelD.O.T., 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 Evesboro loamy sand, Woodstown sandy loam and Pocomoke sandy loam on site are suitable for the intended use, that in reference to erosion and sediment 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 soils is of Statewide importance, 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 on site drainage improvements, that Prong #8 of the Mt. Zion Tax Ditch runs along the westerly property line of the proposed site, and that Prong #8 has a 25 foot maintenance right of way from the top of the ditch bank.

The Commission found, based on comments received from the State 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, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, the Department of Agriculture, and the Sussex Conservation District.

The Commission found, based on comments by representatives of the application, that a seventy (70) lot addition was granted in 1988, that a revision to the layout of the seventy (70) lots and an additional seventy-six (76) lots are proposed, that a sewage treatment permit was received in November 1989 for the seventy (70) lots, that an entrance permit update was approved in January 1990, that central water with fire protection capabilities are proposed, that the majority of the proposed lots will be contained within a wooded area, that approximately fourteen (14) lots will be in an open area, that trees will be planted in open areas for screening, that a need exists for rental lots for manufactured homes, that the park has strict park regulations, that no devaluation of property values are anticipated, that a possible \$2,000,000. tax base may be created for Laurel School District by the additions proposed, that the water system will be available for emergency uses outside of the park, that less than three (3) units per acre are proposed, that the existing park is at capacity, that development of the site may take approximately five (5) to seven (7) years, that if phasing is required, the developer will have no objection as long as site work, streets, drainage and amenities may be installed, that the site is adequate for sewer, that the entrance design recently approved includes the entire project, that the density is the same as if subdividing the overall site, and that the expansion of the park centralizes units and does not scatter units throughout the County.

The Commission found, based on comments by representatives of the application, that the 1970 Comprehensive Development Plan indicates that a large part of the residential growth to 1990 is expected to occur in the Seaford-Laurel area and that this trend is expected to continue, that mobile home development should be concentrated in mobile home parks, that sanitary and other services can be provided, that there is a sense of "community" in a large

mobile home park, and that site development can be more readily controlled in mobile home parks.

The Commission found that fourteen (14) persons were present in support, of which three (3) spoke, and made statements that many retired people live in the park and that the park provides a compatible lifestyle for retirees, that no adverse impact on the area is anticipated by expanding an existing park, that the park provides a housing need, that they do not anticipate any depreciation of property values, that the park is well regulated by management, that sales for manufactured homes are benefitted by a nice, well managed manufactured home community, and that a demand exists for more manufactured home lots in nice manufactured home communities.

The Commission found that fifteen (15) persons were present in opposition, of which four (4) spoke and expressed concerns over sewer impacts, the impact on the water table, density increases, traffic, additional need for entrances, impact on the school district, impacts on property values, street lights, and water quality. A petition, containing 47 signatures, was submitted in opposition.

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 this application be approved, based on the record of support and since manufactured homes are preferred in areas around existing well maintained parks and with the following stipulations:

1. The maximum number of lots shall not exceed one hundred forty-six (146) within the revised addition and the proposed addition.

2. The westerly buffer of the expansion areas shall have a minimum seventy-five (75) foot width, and shall be landscaped with pine trees for the purpose of screening and shall be fenced thereby restricting any access from Route 13-A.

3. Central sewer and water shall be provided.

4. Revised plans shall be required for review by the Planning and Zoning Commission.

3. RE: C/U #932--Louis A. and Sandra L. Rietzow

Louis and Sandra Rietzow were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for an

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Expansion of an Existing Ceramic and Gift Shop on the north side of Route 483, 3,100 feet east of Route 20, to be located on a parcel containing 9.14 acres more or less.

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

Mr. Rietzow stated their residence and poultry houses are on this site.

They have operated a ceramic shop at this location for seven (7) years. They plan to construct a new building for the ceramic shop. They are open Monday, Tuesday, and Thursday evenings and have classes of 10 to 12 students. There is adequate space for parking.

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 that the applicants were present and plan to utilize the site for expansion of their existing ceramic shop.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro loamy sand on site is suitable for the intended use, that in reference to erosion and sediment control, moderate limitations may be anticipated during construction and slight limitations after completion of construction, that the farmland rating of the soils are of statewide importance, that no storm flood hazard area is affected, that it may not be necessary for any on-site or off-site drainage improvements, and that no tax ditch is affected.

The Commission found, based on comments from the State D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested from the D.N.R.E.C. Division of Fish and Wildlife, the D.N.R.E.C. Division of Soil and Water conservation, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments by the applicants, that they propose to enlarge the present shop building to accommodate additional students and work area, that no adverse

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impact on property values or the neighborhood are anticipated, that adequate septic exists on site, and that adequate space is available on site for parking.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support and with the stipulation that the site plan require review by the Planning and Zoning Commission and subject to appropriate agency approvals or permits.

4. RE: C/Z #1061--Abel A. Rodriguez and Stephen W. Rodriguez

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Baltimore Hundred, located on the east side of Route 382, 688 feet north of Route 17 near Roxana, containing 2.89 acres more or less.

Application withdrawn prior to meeting.

5. RE: C/Z #1062--James L. Moses

Steve Parsons, attorney, and James Moses were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Baltimore Hundred, located on the northeast corner of the intersection of Route 396 and Route 389, containing 1.01 acres more or less.

Mr. Lank summarized comments received from the State Highway Department, Indian River School District, Sussex Conservation District, and the LUPA Coordinator.

Mr. Moses stated he plans to construct a building approximately 6,000 to 8,000 square feet to be used to store building materials for his construction business and rent space to other contractors for storage of materials. There will be a tree and wild flower buffer around the site. There would be no need for water or septic on the site. Adequate space is available for parking. He would fence the site if requested to do so. The site would be lighted. Some lumber would be stored outside.

Mr. Parsons presented a petition in support of this application.

Mr. Moses presented a list of ten (10) people interested in renting storage 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 that the applicant was present with legal counsel and plans to utilize the site for a contractors office and storage warehousing.

The Commission found, based on comments received from the State DelD.O.T., that a traffic impact study was not recommended and that the level of service "A" of Route 396 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 use will have a significant impact on the school district.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro loamy sand on site is suitable for the intended use, that in reference to erosion and sediment 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 soils is of State wide importance, that no tax ditch or storm flood hazard area is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from the State D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested from the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on a staff report, that no State or Federal wetlands are indicated on appropriate maps, that the 1988 Coastal Sussex Land Use Plan indicates the area for single family or planned unit developments with a density of one to four units per acre and that the site is in a development district, that the site is not within an area of a 100 year flood, and that the site is not located within one mile of a landfill or State area of concern.

The Commission found that the applicant submitted a brochure which included informational maps, a survey, photographs of the site prior to purchase, photographs of the site as is now exists, a sketch of a proposed building location with tree and wild flower

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plantings, photographs of possible building examples, a petition in support of the application, and a list of interested prospective tenants.

The Commission found, based on comments by representatives of the application, that the applicant is a general contractor and desires a site in Delaware for his office and storage, that a pre-fab metal or concrete structure is proposed, that no adverse impact on traffic or property values is anticipated, that a need exists for this type of service in the area, that adequate space is available on site for parking, that other C-1 General Commercial sites exist in the area, that security lighting will be provided, and that a 6,000 to 8,000 square foot building is proposed.

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.

#### OTHER BUSINESS

1. RE: Larry Rust  
1 lot, Route 488

The Commission reviewed a proposal to create one (1) lot and leave a residue of 98 feet that serves as a non-conforming airport landing strip.

No one was present on behalf of the proposal.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the one (1) lot subdivision with the stipulation that the air strip not be conveyed as a separate parcel without a variance from the Board of Adjustment for the lot width.

2. RE: Jack Mears  
6 lots, Route 462

The Commission reviewed a proposal to create six (6) lots, three (3) with access from Route 460, and three (3) with access from a fifty (50) foot right of way.

No one was present on behalf of the proposal.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action pending review of the fifty (50) foot right of way which exceeds the maximum 600 foot cul-de-sac length.

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3. RE: Robert Rider  
1 lot, Route 584

The Commission reviewed a proposal to create one (1) lot with access from a fifty (50) foot right of way.

No one was present on behalf of the proposal.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the one (1) lot subdivision with the stipulation that the fifty (50) foot right of way not be over 600 feet in length.

4. RE: F. W. Milliken  
6 lots, Route 549

The Commission reviewed a proposal to create six (6) lots, three (3) having access from Route 549, and three (3) having access from a fifty (50) foot right of way.

No one was present on behalf of the proposal.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to defer action pending a review of the cul-de-sac, which is over the 600 foot maximum cul-de-sac length.

#### OLD BUSINESS

1. RE: Creekside - RPC

The Commission reviewed the final site plan for the Creekside RPC Development.

Jack Hickman, developer, and Jeff Clark, Land Tech, were present on behalf of the development.

Mr. Moore stated that all agency approvals have been obtained and the plan is in compliance with the ordinance.

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

2. RE: Seabreak II - RPC  
Discussion

The Commission reviewed the preliminary site plan for the Seabreak II RPC.

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John Sergovic, attorney, and Charles Miller, Environmental Consulting Services, were present on behalf of the site plan.

Mr. Moore summarized a written statement from Mr. Miller which indicated that the area in portions of Lots 1 through 13, delineated as 404 Wetlands, may have been increased in the recent past, due to stormwater run-off from adjacent subdivision and a blocked drainage system. To develop Lots 1 through 13, dwellings would have to be placed in the 404 Wetlands.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the site plan, with the stipulation that Lots 1 through 13 have a restriction that all construction be in compliance with the Federal Wetlands regulations.

3. RE: Mallard Lakes VII

The Commission reviewed the preliminary site plan for the Mallard Lakes multi-family development, Phase VII.

Mike Wigley, Davis, Bowen and Friedel, and John Sergovic, attorney, were present on behalf of the site plan.

Mr. Moore expressed two areas of concern, the location of the proposed pond and the excessive length of the walkway for building number 5.

Mr. Moore suggested that an emergency lane be developed to provide access to building 5 and that the pond be relocated to be a minimum of 25 feet from the adjacent property line.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the site plan as a preliminary with the stipulations as suggested by Mr. Moore.

4. RE: Subdiv. #89-20--Greystone Manor

The Commission reviewed the final subdivision plot for Greystone Manor.

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

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

5. RE: Darrell Hitchens  
Diner

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The Commission discussed a letter from James R. Collins to Darrell Hitchens in reference to a silver diner stored at a borrow pit site being developed by Mr. Hitchens.

Mr. Lank advised the Commission that the diner was still in violation for placement on the parcel as reported several months ago.

It was the consensus of the Commission to advise the County Attorney to proceed with legal action to get the diner removed from the premises.

Meeting Adjourned 10:15 P.M.

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Lawrence B. Lank, Secretary