

MINUTES OF THE REGULAR MEETING OF APRIL 23, 1992

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 23, 1992, at 7:30 P.M. in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of April 9, 1992 as circulated.

Public Hearings

1. RE: C/U #997 -- T.J. Tennefoss

T.J. Tennefoss was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for Wooden Pallet Repair lying on the northwest side of Route 36, 1,600 feet southwest of Route 628 and to be located on a parcel containing 13.5 acres more or less.

Mr. Abbott advised the Commission that the applicant had added meat preparation and catering to the application and that this was removed from the application by the Director since this was added after the application was introduced.

Mr. Allen questioned if this could be heard as part of this application.

Mr. Schrader advised the Commission that the meat preparation and catering cannot be heard since this was not a part of the way that the application was advertised.

Mr. Abbott summarized comments received from DelDot and the Sussex Conservation District.

Mr. Tennefoss advised the Commission that he sorts and repairs odd sized wooden pallets, that he manufactures new wooden pallets, that he has been in business for approximately one year, that approximately two acres are used for the repairs and storage of the pallets, that there is presently 3,000 to 4,000 pallets located on the site, that a fence, to be located 250 feet from Route 36, is proposed to shield the pallets, that he presently has one full time employee, that the hours of operation are from 8:00 A.M. to 5:00 P.M. Monday thru Friday, that there are three manufactured homes on the property, that one manufactured home is a residence, that one is used as storage, that there is an unoccupied dwelling on site, that the property is owned by a relative, that there is a need for pallets, and that eight to ten different size pallets are repaired.

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 DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped to be Sassafras sandy loam, Woodstown sandy loam, and Fallsington sandy loam; that the evaluation of the soils with respect to erosion and sedimentation control may require following an Erosion and Sediment Plan during construction and that after completion of construction a vegetative cover must be maintained; that the farmland rating of the soils, as mapped, are Prime and 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 some on-site drainage improvements; and that the Beaverdam Tax Ditch is affected. A 16.5' right of way runs along the north property line.

The Commission found, based on comments made by the applicant, that he sorts and repairs odd sized pallets; that he manufactures new pallets; that he has been in business approximately one year; that approximately two acres of the site is used for repairs and storage; that there is presently 3,000 to 4,000 pallets on site; that he proposes to erect a fence approximately 250 feet from Route 36 to shield the pallets from the view of Route 36; that he presently has one full time employee; that the hours of operation are from 8:00 A.M. to 5:00 P.M., Monday thru Friday; that there is presently three manufactured homes and a dwelling on the property; that the property is owned by a relative of the applicant; that eight to ten different sized pallets are repaired; and that there is a demand for the repair of pallets.

The Commission found that no one was present in opposition.

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

2. RE: C/U #998 -- Jade Run Sod Farm of Delaware

Samuel Alloway and David Rutt, Attorney, were present on behalf of the application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broad Creek Hundred for Agricultural Irrigation Systems Sales and Service lying on the north side of Route 78, east of Route 493 and to be located on a parcel containing 5.46 acres more or less.

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

Mr. Rutt advised the Commission that the intended use is for the sales and service of agricultural irrigation systems to serve the farming community.

Mr. Alloway advised the Commission that he is the owner of Jade Run Sod Farm of Delaware, that he has been in business since 1988, that there is a 40' x 90' metal building on site, that there is a dwelling on site, that no new structures will be added, that he will reside in the dwelling on site after it is renovated, that there will be a sales office in the existing metal building that will have three to four employees, that parts will be stored in the building, that he operates a sod farm across on the other side of the road, that the sod farm operation has 15 to 18 employees, that no additional employees are anticipated, that the operation solicits business from farmers in the area, that the hours of business are from 7:00 A.M. to 5:00 P.M. Monday thru Friday and 7:00 A.M. to 12:00 P.M. on Saturdays, that a sign exists on the site, that the site has sewer and water, that the site is in the service area for the Laurel Fire Company and the Delaware State Police, that there is a irrigation hard hose displayed outdoors, that no expansion is anticipated, that no fabrication will be done on site, that the area is predominately agricultural, that this application will not have any adverse impact on traffic, that property values will not be adversely impacted, and that this application will not affect the health, welfare, or morals of the surrounding property owners.

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 DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped to be Evesboro loamy sand and Kenansville loamy sand; that the suitability of the soils for the intended use vary from none to slight limitations; that the evaluation of the soils with respect to erosion and sedimentation control may require following an Erosion and Sediment Plan during construction and that after completion of construction a vegetative cover must be maintained; that the farmland rating of the soils, as mapped, are Prime and of Statewide importance; that no storm flood hazard area is affected; that it may not be necessary for any off-site or on-site drainage improvements; and that no tax ditch is affected.

The Commission found that the applicant was present with legal counsel and that he plans to utilize the site for agricultural irrigation systems sales and services.

The Commission found, based on comments made by representatives of the application, that one of the representatives of the application is the owner of Jade Run Sod Farm of Delaware; that he has been in business since 1988; that there is an existing 40' x 90' metal building and a dwelling on the site; that no new structures will be added and that the owner will reside in the dwelling after renovations are completed; that there will be a sales office with three or four employees in the metal building; that parts will be stored in the building; that the owner operates a sod farm across the road that employs 15 to 18 employees; that no additional employees are anticipated; that the business solicits business from area farmers; that the hours are from 7:00 A.M. to 5:00 P.M. Monday thru Friday, and from 7:00 A.M. to 12:00 P.M. on Saturdays; that a sign advertising the business is on site; that the site has individual sewer and water; that the site is in the service area for the Laurel Volunteer Fire Company and the Delaware State Police; that there is a irrigation hard hose displayed outside on the site; that there will be no future expansion; that no fabrication will be done on site; that the surrounding area is predominantly agricultural; that this application will not have any adverse impact on traffic; that property values will not be adversely impacted; and that this application will not affect the health, welfare or morals of the adjoining property owners.

The Commission found that no one was present 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 it be approved since the site is compatible to the surrounding farming areas, and with the following stipulations:

1. No outdoor displays except for the existing irrigation hard hose.

3. RE: C/U #999 -- Delaware Electric Cooperative, Inc.

Frank Dill of Delaware Electric Coop. and David Rutt, Attorney, were present on behalf of the application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for an Electrical Utility Substation lying on the east side of Route 5, 996 feet south of Route 302 and to be located on a parcel containing 1.0 acre more or less.

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

Mr. Rutt advised the Commission that the intended use is for the expansion of an existing electrical utility substation.

Mr. Rutt presented a copy of a sales contract to purchase the property.

Mr. Rutt advised the Commission that there is a need for increasing capacity to serve the Long Neck and Angola areas, that the existing substation was built in 1977, that the existing site produces 28 megawatts, that they need to increase to 40 megawatts to avoid blackouts and brownouts, that the Long Neck - Angola area is growing and that there is a need for more electricity, that the site will have a 8' foot chain link fence with barb wire at the top surrounding the site, that there would be two gates, one for vehicles and one for employees to enter, that warning signs will be posted on the fence, that the site will be illuminated, that the tallest structure inside the perimeter will not exceed 35', that shrubbery will be placed on the south side of the property, that no sewer or water is required, that two to three vehicles would be at the site per week, that no adverse impact on traffic is anticipated, that the site is in the service area for the Indian River Volunteer Fire Company and the Delaware State Police, that no air, water or noise pollution is anticipated, that no television interference would occur, that the power comes from Delmarva Power,

that if approved the expansion would start within sixty days and be completed within one year, that construction guidelines will have to be followed per the National and Federal Electric Safety Code, that this expansion will be adequate to the year 2010, and that no adverse impact is expected on neighboring property values.

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 DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped to be Evesboro loamy sand; that the suitability of the soils for the intended use may vary from none to slight limitations; that the evaluation of the soils with respect to erosion and sedimentation control require following an Erosion and Sediment Plan during construction and that after completion of construction a vegetative cover must be maintained; that the farmland rating of the soils, as mapped, 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 that the applicant was present with legal counsel and that the property is to be utilized for an expansion to an existing electrical utility substation.

The Commission found, based on comments made by representatives of the application, that there is a need to increase capacity to serve the Long Neck - Angola area; that the existing site produces 28 megawatts; that they need to increase capacity to 40 megawatts to avoid electrical blackouts and brownouts; that the Long Neck-Angola area is growing and that there is a need for electricity; that the site will have a 8' chain link fence with barb wire at the top surrounding the site; that there will be two gates to enter the site; that warning signs will be posted on the fence; that the site will be illuminated; that the tallest structure inside the perimeter will not exceed 35' in height; that shrubbery will be placed on the south side of the property; that no sewer or water is required for this site; that two to three vehicles would be at the site per week to read meters;

that no adverse impact on traffic is anticipated; that the site is in the service area for the Indian River Volunteer Fire Company and Delaware State Police; that no air, water or noise pollution is anticipated; that no television interference would occur; that the source of power is supplied by Delmarva Power; that if approved, construction would begin within sixty days and be completed and in operation within one year; that construction guidelines will have to be followed per the National and Federal Electric Safety Code; that this expansion will be adequate to the year 2010; and that no adverse impact is expected on neighboring property values.

The Commission found that no one was present in opposition.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the need for additional electricity.

4. RE: C/Z #1159 -- Ralph Michael Pyles

Ralph Michael Pyles was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Nanticoke Hundred, located on the north side of Route 9, 0.3 miles east of Route 20, to be located on a parcel containing 2.01 acres more or less.

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

Mr. Pyles advised the Commission that he has resided at the site since 1979, that he proposes a small used car sales lot, that he has started the business with his brother, that the previous site is located too far away from the residence, that he would have more security if at this site, that he presently has one full time employee, that the business would be open from 8:00 A.M. to 6:00 P.M. Monday thru Saturday, that he would not have more than 15 vehicles at the site, that he would have an office in the dwelling, that if approved the site will have a paint shop, and that the closest commercial business is approximately one mile away.

Bernice Moore and Calvert Richardson spoke in opposition since no other commercial uses exist in the area, other uses that are permitted in commercial districts, and since the area is residential and agricultural.

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

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

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the existing level of service "C" for Route 9 will not be affected by this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils, as mapped, are Evesboro loamy sand and Johnston silt loam; that the suitability of the soils for the intended use vary from none to slight limitations in the Evesboro soils and severe limitations in the Johnston soils due to wetness; that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sediment Plan during construction and after completion of construction a vegetative cover must be maintained; that no storm flood hazard area is affected; that it may not be necessary for any off-site or on-site drainage improvements; and that the Tyndall Branch Tax Ditch is affected. There is a 16.5 foot right of way running along the northeast property line.

The Commission found that the applicant was present and plans to utilize the site for a used car sales lot.

The Commission found, based on comments made by the applicant; that he has resided at this site since 1979; that he plans to have a small used car sales lot; that the business had been started for a family member; that the previous site is located too far away from the dwelling; that there would be more security at this site; that he presently has one full time employee; that the hours of business would be from 8:00 A.M. to 6:00 P.M., Monday thru Saturday; that there would be no more than 15 vehicles at the site; that he would have an office in the existing dwelling; that if approved, the business would have a paint shop; and that the closest commercial business is approximately one mile from this site.

The Commission found that two people spoke in opposition to the rezoning, not to the intended use, and expressed concerns in reference to other uses permitted in the C-1 General Commercial District; and that there are no other commercial uses in the area.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since the rezoning is not in character with the neighborhood, other uses permitted in C-1 General Commercial Districts, and the record of opposition.

5. RE: C/Z #1160--Solar Heating, Inc. T/A Sussex Electric

Charles Stuchlik, III, was present on behalf of the application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the north side of Route 88, 2,000 feet east of Route 256 to be located on a parcel containing 0.98 acres more or less.

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

Mr. Stuchlik advised the Commission that he has been operating under a conditional use, that there are 22 employees, that an additional 1,000 square feet is needed to fabricate metal duct work and for storage, that the business is open year round with employees on call for weekends, that he has 4 trucks at the site, that the addition would be attached to the existing building, that there may be some noise, and that he has spoken with the adjacent property owners.

Ann Johnson, a neighbor to the business, spoke in support of the rezoning.

There was no one 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 from DelDOT, that a traffic impact study was not recommended; and that the existing level of service "B" of Route 88 will not be affected.

The Commission found, based on comments from the Sussex Conservation District, that the soils, as mapped, are to be Evesboro loamy sand and Osier loamy sand; that the suitability of the soils for the intended use vary from none to slight limitations in the Evesboro soils, and severe limitations in the Osier soils, if not adequately drained; that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sediment Plan during construction and to maintain a vegetative cover after completion of construction; that the farmland rating of the soils, as mapped, are of Statewide importance; that no storm flood hazard area is affected; that it may not be necessary for any off-site or on-site drainage improvements; and that no tax ditch is affected.

The Commission found, based on comments made by the applicant, that he has been operating the existing business under a conditional use; that he has 22 employees; that the business needs approximately 1,000 more square feet of building room to fabricate metal duct work and for storage; that the business is open year round with employees on call on weekends; that he has 4 trucks at the site; that the addition would be attached to the existing building; that there may be some noise; and that he has spoken with the adjoining property owners.

The Commission found that one person spoke in favor of this application.

The Commission found that no one was present in opposition.

Motion made by Mr. Smith, seconded by Mr. Magee, 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.

III. OTHER BUSINESS

1. Millville Mini Storage Revised entrance & exit on Route 26

The Commission reviewed a revised site plan for a mini storage and mini shopping facility on Route 26.

Mr. Abbott advised the Commission that they approved this site plan in 1988 with one entrance for ingress and egress.

Mr. Abbott advised the Commission that the staff received a complaint about this site now having one entrance and a new exit.

Mr. Abbott advised the Commission that a separate entrance and exit approval has been granted by DelDOT.

Mr. Abbott advised the Commission that the parking layout will have to be revised and that the staff can work this out with the owner.

Mr. Abbott advised the Commission that a complaint was also made in reference to the site plan receiving a building permit without the Commission reviewing a site plan for additional buildings.

Mr. Abbott advised the Commission that it has been a policy of the Commission to review a site plan for any first time use of the property. When a owner wants to add an addition or a new structure the staff has handled the site plan review and issued permits when all required agency approvals have been received.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve the revised entrance and exit, as submitted, with the stipulation that the parking layout be revised by the owner and reviewed by the staff.

It was also the consensus of the Commission to reaffirm the policy of the staff to handle site plans for additions and new structures once the Commission has reviewed a site plan for first time use.

2. Sussex Vocational Technical School
C/U #976 Site Plan

The Commission reviewed a site plan for a gymnasium and athletic fields off of Route 9.

Mr. Abbott advised the Commission that the site plan is in compliance with the zoning code and that all required agency approvals have been received.

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

IV. OLD BUSINESS

1. RE: C/Z #1157--Hugh & Tina McBride

Mr. Abbott introduced the application of Hugh & Tina McBride to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Baltimore Hundred, located on the south side of Route 54, 220 feet east of Salty Way Drive of Keenwik West Subdivision to be located on a parcel containing 2.93 acres more or less.

Mr. Abbott noted that the public hearing for this application was held on April 9, 1992 and that action had been deferred.

Mr. Abbott advised the Commission that the application has been withdrawn and that the applicant is going to apply for a Conditional Use.

2. RE: C/Z #1158--Bayville Shore Development Corp.

Mr. Abbott introduced the application of Bayville Shore Development Corp. to amend the zoning map from AR-1 Agricultural Residential to HR-2 / RPC High Density Residential - Residential Planned Community in Baltimore Hundred, located on the north side of Route 58B, south of the Assawoman Bay to be located on a parcel containing 91.88 acres more or less.

Mr. Abbott noted that the public hearing for this application was held on April 9, 1992 and that action was deferred.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to defer action on this application for further review of comments and the record.

3. Salt Pond

Rear setback discussion

Mr. Abbott advised the Commission that this was discussed at the April 9, 1992 meeting under other business and that no action was taken.

Mr. Abbott advised the Commission that the developer would like to know if decks can be cantilevered into the 404 wetlands.

Mr. Abbott advised the Commission that the developers agreed to a ten foot setback from the 404 wetlands line, and that the County Council imposed this as a stipulation for the development.

It was the consensus of the Commission, with Mr. Magee not participating, that the decks not be allowed to cantilever into the 404 wetlands line.

4. Salt Pond

Phases 3 & 4

The Commission reviewed the final record plan for Phases 3 and 4 of the Salt Pond.

Mr. Abbott advised the Commission that this should read Phase 3A and 4A since this area will also have another section consisting of multi-family.

Mr. Abbott advised the Commission that Phase 3A consists of 32 lots and that Phase 4A consists of 33 lots.

Mr. Abbott advised the Commission that the final record plan complies with the Subdivision and Zoning codes of Sussex County and that all required agency approvals and permits have been received.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve Phase 3A and 4A as submitted as a final.

5. Subd. #90-13--Red Mill Associates, L.P.

Mr. Abbott advised the Commission that this subdivision received preliminary approval for 131 lots on May 24, 1990.

Mr. Abbott advised the Commission that a one year time extension was granted on April 11, 1991 and is valid until May 24, 1992.

Mr. Abbott advised the Commission that the applicant is requesting another one year time extension in order to obtain final approval.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve a one year time extension.

6. Subd. #91-10--James Tate

Mr. Abbott advised the Commission that this subdivision received preliminary approval for 6 lots on April 25, 1991.

Mr. Abbott advised the Commission that a request for a one year time extension has been received in order to obtain final approval.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve a one year time extension.

7. Subd. #91-11--James Ward

Mr. Abbott advised the Commission that this subdivision received preliminary approval for 20 lots on April 25, 1991.

Mr. Abbott advised the Commission that a request for a one year time extension has been received in order to obtain final approval.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve a one year time extension.

8. Subd. #91-14--Delaware Pulpwood Co.

Mr. Abbott advised the Commission that this subdivision received preliminary approval for 12 lots on May 23, 1991.

Mr. Abbott advised the Commission that a request for a one year time extension has been received in order to obtain final approval.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve a one year time extension.

V. ADDITIONAL BUSINESS

1. Mr. Schrader handed out information concerning the maintenance of the Stormwater Management Areas for Forest Knoll Subdivision. This will be placed on the agenda for the May 14, 1992 meeting.

2. Mr. Abbott advised the Commission that on April 30, 1992, the Commission has a special meeting with Randall Arendt at 7:30 P.M.

Meeting adjourned at 9:30 P.M.