

MINUTES OF THE REGULAR MEETING OF APRIL 27, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 27, 1989, at 7:45 P.M. in the County Council Chambers Courthouse, Georgetown, Delaware, with the following present:

Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Jones - Assistant County Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

PUBLIC HEARINGS

1. RE: C/U #903--Phillip E. Sharp and Florence E. Sharp

David Rutt, attorney, and Phillip Sharp were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for Plumbing and Well Drilling Business located on the southwest side of Route 620, 1,450 feet northwest of Route 633, and to be located on a parcel containing 1.43 acres more or less.

Mr. Lank summarized comments received from the LUPA agencies.

Mr. Lank stated comments were received from the State Highway Department. They expect no significant impact and no change in the existing level of service "A" of Route 620 as a result of this application.

Mr. Lank stated photographs and agency comments from a previous application on this site would be incorporated into this application.

Mr. Sharp stated he has operated his plumbing and well drilling business at this location for approximately 19 years.

Mr. Sharp stated the site has adequate water and septic. Mr. Sharp stated his residence is also on this site.

Mr. Sharp stated he has talked with most of his neighbors.

Mr. Rutt presented a proposed agreement to be entered into with several neighbors limiting the use of the property and the length of time the business can be operated at the present location.

Sandra Brooks spoke in favor of the application.

Orlene Jackson spoke stating she has no objection if the proposed agreement is a part of the approval.

James Marsh and Judy Skinner spoke in opposition due to possible expansion of the business and possible increase in the number of pieces of large equipment stored on the site.

At the conclusion of the public hearings, the Vice 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 no state regulated wetlands are within the area of the site, and that effective stormwater management and erosion controls must be maintained.

The Commission found, based on comments received from the Division of Highways that the level of service "A" will not change as a result of this application.

The Commission found that the applicant was present with legal counsel and plans to continue utilizing the site for a well drilling and plumbing business.

The Commission found, based on comments by the applicant, that the business has existed on the site since the early 1970's, that the applicants' dwelling exists on the site, that adequate water and sewer exist on site, that adequate access exists to serve the site, and that the site is served by Carlisle Fire Company and State Police for fire and for police protection.

The Commission found that the applicant has proposed a private deed restriction with area residents that provides that the business will cease if the applicant or his son, Phillip E. Sharp, Jr., cease to operate the business of plumbing and well drilling.

The Commission found that one neighbor was present and stated that she had purchased her property with knowledge that the business existed and had no objection.

The Commission found that another neighbor was present and has no objection to the use if the agreement is recorded.

The Commission found that two (2) neighbors across Route 620 object to further expansion of equipment for the business.

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

2. RE: C/Z #993--Kenneth R. Corby

Kenneth Corby 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 northwest side of Route 54, containing 24,559 square feet more or less.

Mr. Lank stated comments were received from the State Highway Department. They will not request a traffic impact study and expect no change in the existing level of service "A" of Route 396 as a result of this application.

Mr. Lank stated comments were received from Indian River School District. They expect no significant impact on the school system as a result of this application.

Mr. Corby stated he previously applied for and was granted a change of zone to C-1 General Commercial for a portion of this parcel with the intention of leasing the site for a convenience store. The site was never developed.

Mr. Corby stated he again plans to lease the site for a convenience store, but feels more space would be needed for this use.

Ellen Magee, Peggy Hudson, and Elmer Cooper spoke in favor of the application stating there is a need in the area for this type of store.

No one was present in opposition.

At the conclusion of the public hearings, the Vice 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 Indian River School District that it does not appear that this application will have a significant impact on the district.

The Commission found, based on comments received from the Division of Highways, 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 that the applicant was present and proposes to utilize the site for a convenience store.

The Commission found, based on comments by the applicant, that the existing C-1 General Commercial District adjoining was zoned in 1985, and that the existing C-1 General Commercial may not be adequate in size if the Division of Highways needs to acquire additional right of way along Route 54.

The Commission found that three (3) persons were present in support and stated that the Williamsville area is growing and needs a store for convenience shopping and that the present and future residents can support a store.

No parties were present in opposition.

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 despite testimony in support, since the existing C-1 General Commercial area, owned by the applicant, has not been utilized for business or commercial purposes.

3. RE: C/Z #994--Thetavest, Inc.

John Sergovic, attorney, and Craig Hudson, developer, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the northwest corner of the intersection of Route One and Route 264, containing 2.7 acres more or less.

Mr. Lank stated comments were received from the State Highway Department. They will not request a traffic impact study and expect no change in the existing level of service "B" of Route One, but feel the existing level of service "A" of Route 264 could increase to level of service "B" if this site is fully developed to its maximum use.

Mr. Sergovic stated the applicants plan to develop the proposed site with a real estate office and model home. The soils are suitable for on-site septic system. They plan to relocate the office from its present location at Five Points.

Nancy Tylecki and John Connors spoke in opposition due to uses allowed in C-1 General Commercial zoning and when one site is zoned commercial, other applications usually follow.

At the conclusion of the public hearings, the Vice 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 Division of Highways, that a traffic impact study was not recommended, and that the level of service "A" of Route 264 may change to level of service "B" if the site is developed to a use equivalent in per acre trip generation to a discount shopping center.

The Commission found that the application was represented by a representative of the corporation and legal counsel, and that they plan to utilize the site for real estate sales and a model home.

The Commission found, based on comments by the agents on behalf of the application, that a barn exists on site which has been used for storage for the farm and airport operation, that substantial improvement may be done at Five Points where the present real estate office exists, that the soils on site should provide adequate drainage, and that historically the number of commercial sites along Route One have increased over the last five or six years.

The Commission found that two (2) persons were present in opposition and expressed concern over the need for additional C-1 General Commercial lands when vacant C-1 General Commercial sites exist in close proximity which were never developed by the Hudsons except for billboards, and uses permitted by the C-1 General Commercial District.

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

4. RE: Subdiv. #89-8--Theodore Simpler

Theodore Simpler was present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in Nanticoke Hundred by dividing 6.5 acres into 8 lots, located on the northwest side of Route 525, 2,172 feet northeast of Route 526-A.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of April 17, 1989.

Mr. Simpler stated the proposed lots will have individual wells and individual on-site septic systems.

Mr. Simpler stated he plans to develop the lots with manufactured homes and rent them.

No one was present in opposition.

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

5. RE: Subdiv. #89-10--Mary Handy

Mr. Handy was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred by dividing 37.4 acres into 42 lots, located on the east side of Route 552, 2,000 feet north of Route 20.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of April 17, 1989.

Mr. Handy stated there is a model home on Lot 5 of the proposed subdivision.

Mr. Handy stated he will comply with the recommendations of the Technical Advisory Committee.

Emmitt Lineweaver spoke in favor of the application.

No one was present in opposition.

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

6. RE: Subdiv. #89-11--Richard F. Carr, Jr.

David Rutt, attorney, John Wech, McCann, Inc., and Richard Carr were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred by dividing 108 acres into 110 lots, located on the northeast side of Route 347, 2,150 feet east of Route 346.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of April 17, 1989.

Mr. Carr stated the site is presently wooded. The lots will have central water and individual on-site septic systems. The proposed lots will be minimum one half acre each and will be sold.

Mr. Carr stated a buffer of trees will be retained around the subdivision. A hydrant system will be installed. Strict deed restrictions are proposed. The proposed entrance will be from a permanent fifty (50) foot easement off Route 347.

Mr. Rutt stated the proposed subdivision should not come under the new Conservation Zone rules since the application was made prior to their approval.

Mr. Wech stated streets will be private, built to county standards. A large recreation/park area is proposed near the bay.

Wayne Brittingham spoke in favor of the application.

No one was present in opposition.

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

7. RE: ORDINANCE TO AMEND ORDINANCE NO. 97

ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, BY AMENDING ARTICLE 5, ARTICLE 12, AND ARTICLE 13, TO PERMIT TOURIST HOMES (ALSO REFERRED TO AS BED AND BREAKFAST INNS) AS PERMITTED USES IN CERTAIN DISTRICTS AND AS SPECIAL USE EXCEPTIONS.

Mr. Lank read the proposed changes into the record.

The proposed ordinance allows applications for a tourist home or bed and breakfast inn, with no more than six (6) rental rooms and no cooking facilities in the rooms, to be heard by the Board of Adjustment as a special use exception.

No one was present in opposition.

Motion made by Mr. Hickman, seconded by Mrs. Monaco, and carried unanimously to forward the proposed ordinance to the Sussex County Council with the recommendation that it be approved.

OTHER BUSINESS

1. RE: Ida Jackson
2 lots
Route 312

The Commission reviewed a proposal to create two (2) lots with access from a fifty (50) foot right of way.

No one was present on behalf of the proposal.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the two (2) lot subdivision.

2. RE: David McNatt
2 lots, 50 foot right of way
Route 30

The Commission reviewed a proposal to create two (2) lots having access from an existing fifty (50) foot right of way.

No one was present on behalf of the project.

Motion made by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to approve the two (2) lot subdivision as submitted.

3. RE: Melvin McKenzie
3 lots
Route 507

The Commission reviewed a proposal to subdivide 3.0 acres into three (3) lots 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. Smith, and carried unanimously to approve the three (3) lot subdivision as submitted.

4. RE: Atlantis I & II
Revised Parking

The Commission reviewed a proposal to revise the parking plan for the multi-family project. The revision being the deletion of parking on lots 3, 4, 5, 43, 44, and 45, and to permit the parking with access from Cove Road, which presently occurs.

No one was present on behalf of the proposal.

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

5. RE: Elizabeth Dukes
3 lots
Route 231

The Commission reviewed a proposal to create three (3) lots with access from a fifty (50) foot right of way. The parcel currently contains two (2) manufactured homes and one dwelling.

No one was present on behalf of the proposal.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the proposal as a concept, pending Board of Adjustment approval for the two (2) manufactured homes.

6. RE: Edgehill Pharmacy
Site Plan

The Commission reviewed a preliminary site plan for the proposed pharmacy and strip shopping center located at Peddlers Village Shopping Center.

No one was present on behalf of the project.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the project as a preliminary, with the stipulation that the site plan comply with the Zoning Ordinance and obtain final approval from all required agencies.

7. RE: R.A. Raley
3 lots
Route 315

The Commission reviewed a proposal to create three (3) lots having access from a fifty (50) foot right of way.

No one was present on behalf of the proposal.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the three (3) lot subdivision as submitted.

8. RE: Joe Aceto
3 lots
Route 48

The Commission reviewed a proposal to create three (3) lots having access from a fifty (50) foot right of way.

No one was present on behalf of the project.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the three (3) lot subdivision with the stipulation that a twenty five (25) foot radius be placed on each side of the entrance to the fifty (50) foot right of way.

9. RE: Branchwater Farms
2 lots
Route 24

The Commission reviewed a proposal to subdivide a 4.35 acre commercial property into two (2) lots, having road frontages of 100 feet and 126 feet and sharing a common entrance.

No one was present on behalf of the project.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the two (2) lot subdivision.

10. RE: John T. Fitzgerald, III
1 lot
Route 113

The Commission reviewed a proposal to create an additional one (1) acre parcel having access to an existing fifty (50) foot right of way. The one (1) acre parcel would be the third lot having access to the right of way.

No one was present on behalf of the proposal.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the one (1) lot with the stipulation of no further subdivision without a major subdivision application.

OLD BUSINESS

1. RE: C/Z #990--Louis W. Burton

No one was present on behalf of this application to amend the zoning map from GR General Residential to B-1 Neighborhood Business in Indian River Hundred, located at the northwest intersection of Route 298 and Route 299, containing 0.63 acre more or less.

The Vice Chairman referred back to this application which was deferred on April 13, 1989.

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study is not recommended, and that the existing level of service "A" of Route 298 and Route 299 will not change as a result of this application.

The Commission found that the applicant was present with legal counsel and plans to utilize the site for an antique shop, that the site contains adequate area for parking, that other businesses exist in close proximity, and that they anticipate no adverse impact on the neighborhood or property values.

The Commission found, based on an affidavit from Mrs. Mary A. Mitchell, the previous owner, that the site had previously been used for produce and craft sales.

The Commission found, based on two (2) letters received in opposition and comments received from six (6) persons present, that concerns were expressed in reference to traffic hazards, trash, spot zoning, uses permitted in B-1 Neighborhood Business Districts, that vacant commercial parcels exist in close proximity, and that rezoning the property would change the character of the area.

The Commission found that a petition in opposition was submitted which contained 61 signatures.

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.

2. RE: Subdiv. #88-12--South Shores of Cedar Creek

The Commission reviewed the final plat for the proposed 58 lot subdivision.

No one was present on behalf of the project.

Mr. Moore stated that all approvals and permits have been issued.

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

3. RE: Subdiv. #88-28--Martha Timmons
Application withdrawn from the agenda.

4. RE: Subdiv. #89-5--Indian Beach South
Preliminary

The Commission reviewed the preliminary plan for the proposed 17 lot subdivision.

Mr. Moore stated that the revisions requested at the public hearing have been made and that the adjacent property owner, Mrs. Clum Ward, has been notified of the change and has not responded in objection to the preliminary revision.

No one was present on behalf of the project.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the 17 lot subdivision as a preliminary.

5. RE: Robert Davis
2 lots
Route 636

The Commission reviewed a proposal to subdivide 2.5 acres into two (2) lots with access from an existing fifty (50) foot right of way. The right of way cuts the property in half.

No one was present on behalf of the proposal.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the two (2) lot subdivision with the stipulation that a site evaluation be performed on each lot prior to recordation and a revised entrance permit be obtained from the Highway Department.

6. RE: Subdiv. #88-13--John Satterfield
Application withdrawn from the agenda.

7. RE: Subdiv. #89-6--Kent Estates
Revised

The Commission reviewed a proposed revision to the existing Kent Estates Subdivision. The revision being a 3.17 acre addition for the purpose of a central waste water disposal system.

Mr. Moore stated that the developer and adjacent property owner have reached an agreement to record a fifty foot residential building restriction line on those lots adjacent to Mr. Mitchell's property.

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

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

Meeting Adjourned 10:10 P.M.

Lawrence B. Lank, Secretary