

MINUTES OF THE REGULAR MEETING OF MAY 9, 1991

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 9, 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. Lank - Director, and Mr. Abbott - Planning Technician.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of April 25, 1991, as circulated.

PUBLIC HEARINGS

1. RE: C/U #966--Tony Quartarone
T/A Q-Tone Broadcasting Corporation

Kenneth Barnett, broadcasting engineer, was 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 500 Foot High Radio Broadcast Tower as an Amendment to C/U #840 lying 360.55 feet northwest of the end of state maintenance of Route 52C, 4,800 feet west of Route 17, and to be located on a parcel containing 2.19 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District.

Mr. Barnett stated the applicants plan to replace the existing tower with a taller tower. The new tower will be built beside the existing tower. When the new tower is completed, the old tower will be taken down. This change will enable the station to increase its power. This increase in power has already been approved by the F.A.A. and the F.C.C.

Mr. Barnett stated the increase in transmission power will not cause interference with television reception in the area.

Carol Quillen, Wayne Wilkerson, Bill Phillips, and Dorothy Phillips spoke in opposition due to health concerns, property devaluation, lighting on the tower, poor maintenance of the existing tower, and danger to private planes.

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 hearings.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Pocomoke sandy loam and Muck; that the suitability of the soils for the intended use are severe if not adequately drained; that in reference to erosion and sediment control, moderate limitations may be anticipated during construction and slight limitations after completion of any construction; that the farmland rating of the soils types is of statewide importance; that no storm flood hazard area or tax ditch will be affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicant was present with an engineer, and that the company plans to replace the existing 300 foot tower with a 500 foot tower to increase their area of coverage.

The Commission found, based on comments by representatives of the application, that the new tower will be located adjacent to the existing tower; that once the new tower is completed, the existing equipment on the existing tower will be placed on the new tower and the old tower will be removed; that the existing guy wires are not fenced but can be if so stipulated; that appropriate F.A.A and F.C.C. approvals have been granted; that the tower is intended for use only by the applicants; that no rental space is proposed; that tower maintenance has been maintained since purchased by Q-Tone; that microwave dishes will remain at basically the same height as presently placed on the existing tower; that the base supporting the tower will be larger; that guy wires will be basically at the same location as existing; that the F.A.A. has studied the site in reference to aircraft; that the F.A.A. has approved the use and its lighting; that no strobe lights are intended; that one additional red beacon light will be required; that F.C.C. regulations provide that applicants are required to respond and take care of any interference; that the tower is designed to fall within the radius of the guy wires; that the new tower is designed to withstand 90 mile per hour winds; that the project will be an FM broadcast facility; and that the tower will be painted red and white.

The Commission found that four persons spoke in opposition and expressed concerns in reference to electromagnetic fields, the lighting of the tower, the height of the tower, TV/Radio interference, strobe lighting, that two private airports are in the vicinity, impact on horses in the area, guy wire locations,

inadequate maintenance on the existing tower and lighting, and safety to air traffic users.

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 this application be approved based on the record of support and subject to the following conditions:

1. The guy wires shall be enclosed with six (6) foot high chain link type fencing.
2. Issuance of a permit shall be subject to receipt of F.A.A. and F.C.C. permits.
3. The tower shall not exceed a height of 152 meters as indicated on the F.C.C. permit.

2. RE: C/U #967--James H. Owens

James Owens was 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 a Private Airstrip on the south side of Route 16, across from Route 227, and to be located on a parcel containing 32.67 acres more or less.

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

Mr. Lank stated letters in support of this application was received from Bruce M. Toby and B. George Carey.

Mr. Lank stated a petition in support of this application containing 17 signatures has been received.

Mr. Lank stated a letter in opposition to this application has been received from the Town Council of the Town of Ellendale.

Mr Lank stated a petition in opposition containing 114 signatures has been received.

Mr. Owens stated he plans to operate a private airstrip for himself, his family, and his guests. The airstrip has existed on his property since 1989.

Mr. Owens stated there will be no gas sales or airplane maintenance at this location.

Mr. Owens stated his residence is on this site.

Mr. Owens stated his airstrip would be for small planes only. Guests using his airstrip would not normally remain overnight.

Steve Greenley, Richard Webb, Frank Bowen, Gordon Hester, and James C. Owens, Jr. spoke in favor of this application.

Seventeen (17) persons were present in support of this application.

Dennis Wyatt, Donald Dutton, Rev. Leroy Singleton, Charlie Owens, and Gerald Webb spoke in opposition due to unsafe conditions; no need was shown; drainage of the site; the size of planes; the site is not safe due to its close proximity to the Town; increases in air traffic and vehicle traffic; increases in noise; possible runway lighting for night use; landing and take offs over the Town of Ellendale; parking of aircraft on site; and the possible increase in the number of users.

Fourteen (14) 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 hearings.

The Commission found, based on comments received from the State Division of Highways, 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 Fallsington sandy loam and pocomoke sandy loam; that the suitability of the soils for the intended use may have severe limitations due to wetness if not adequately drained; that in reference to erosion and sedimentation control, severe limitations may be anticipated during construction and slight limitations after completion of any construction; that the farmland rating of the soil types are of statewide importance; that no storm flood hazard area or tax ditch will be 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 Delaware Transportation Authority, that the site is listed on the Federal Aviation Administration's Airport Master Record and is depicted on the low-altitude airmen's sectional chart of the Washington D.C. section; that recreational flying is dependant on

privately owned facilities; that too many of the small privately owned airports are closing as a result of economic pressures and encroaching development; and that the Department supports the application for a private airstrip.

The Commission found that V. George Carey, State Representative for the 36th District, had written in support of the application since the Milford Air Park has closed, and since the Sussex County Airport does not meet the needs of small private aircraft.

The Commission found that a petition, containing 17 signatures in support, had been received stating no objection to a private take off and landing strip for use by the applicants and their guests, if not exceeding ten (10) aircraft.

The Commission found that the Town of Ellendale had written in opposition to the private airstrip due to the number of people in opposition who reside in the Town.

The Commission found that a petition, containing 114 signatures in opposition, had been received which stated that they opposed this application for private take off and landing strip for the applicants and their guests for the use of up to ten (10) aircraft due to their feelings that it would be hazardous and dangerous to the Community of Ellendale and it's surrounding citizens.

The Commission found that the applicant was present and plans to utilize the site for one runway and one taxiway; that the airstrip has been used since 1986; that the F.A.A. has mapped the strip as a private airstrip; that the strip is intended to be utilized by the applicant and his guests; that no commercial aircraft maintenance will be performed on-site; that there will be no fuel sales on site; that it is intended that all landings will be from the east; that it is intended that all take offs will be toward the east; that no take offs or landings are intended over the Town of Ellendale; that there should be no negative impacts on the Town of Ellendale; that there are no recorded complaints against the airstrip; that the runway length is approximately 2,010 feet and runs parallel to the railroad right of way; that the majority of the aircraft utilizing the airstrip will be one and two seaters; that one hangar exists and no additional hangars are proposed; that guests will not maintain their aircraft on-site unless during an emergency; that no over night tie downs will be provided; that no fuel will be stored on-site; that the type of aircraft to be utilized make very limited noise; and that in the past, the site has been utilized by as many as seven aircraft on a certain day.

The Commission found that five (5) people spoke for the twenty (20) people present in support, and stated that a very limited number of sites are available; that smaller aircraft conflict with larger aircraft at larger commercial airports; that the site is a safe location for landing aircraft; that users must be qualified; that no major obstacles exist in the area; that there are no noise problems with the aircraft; and that the site is designed for VFR daylight use only.

The Commission found that six (6) people spoke for the fourteen (14) people present in opposition, and expressed concerns in reference to the drainage of the site; that four seater planes have utilized the site and have had trouble with taking off; that the site is not safe due to its close proximity to the town; that fly overs have been experienced for four straight days; air traffic and vehicle traffic; increases in traffic; noise; possible runway lighting for night use; landing and take offs over the Town of Ellendale; parking of aircraft on site; and the possible increase in the number of users.

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

3. RE: C/U #968--Gene H. Huey

Gene Huey 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 a Private Airstrip on the southeast side of Route 594, 750 feet southwest of Route 565, and to be located on a parcel containing 35.939 acres more or less.

Mr. Lank summarized comments received from the Department of Transportation, the D.N.R.E.C. Land Use Planning Act Coordinator, and the Sussex Conservation District.

Mr. Huey stated he plans to operate a private airstrip for his own use and for his guests.

Mr. Huey stated he has been flying for approximately 30 years, and has a commercial pilot's license. He has a small plane of his own which he flies mostly on weekends for his own recreation.

Mr. Huey stated the strip would be a grass strip. There would be no gas sales or airplane maintenance done on this site. His airstrip would be open daylight hours only. There would normally be no more than one (1) or two (2) planes on the site at a time. There would be no commercial activities.

Richard Webb spoke in favor of this application.

Eleven (11) persons were present in support of the application.

Robert Donovan spoke in opposition due to noise and changing the character of the neighborhood.

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 Delaware Transportation Authority, that the Authority does not object to the proposed airstrip, and that the bulk of recreational flying in Delaware is dependent on the small privately owned airstrips.

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 Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped to be Kenansville loamy sand and Rumford 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, severe limitations may be anticipated during construction and slight limitations after completion of any construction; that the farmland rating of the soil types is prime and of statewide importance; that no storm flood hazard area or tax ditch will be 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 a private airstrip, that he flies a 1940 J4 Piper Cub which uses automotive gasoline for fuel; that he is a fully certified pilot; that the plane was stored at the Milford Airpark (recently closed), and is presently stored at the Laurel Airpark (presently for sale); that the strip is proposed for his personal use and for guests, not for commercial purposes; that a grass runway is proposed; that fuel stored on-site will be for his personal use, not for sale; that one hangar will be provided for his personal aircraft; that tie downs will be provided; that no runway lighting is proposed; that the strip will be for VFR daylight use only; that no commercial maintenance activities are proposed; that the maximum number of users is anticipated to be ten

(10) aircraft during a typical Fly-In; that no adverse impact is anticipated on property values or the neighborhood; and that the primary use of the airstrip will be by the applicant for his recreational flying during early evenings and on weekends.

Eleven (11) people were present in support of the private airstrip.

The Commission found that one (1) person was present in opposition and expressed opposition to aircraft noises and flight times; the changing character of the neighborhood since the area is agricultural and residential; and questioning the need for a strip in this area.

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

4. RE: C/Z #1123--Marvin Long

Application to amend the zoning map from B-1 Neighborhood Business to C-1 General Commercial in Baltimore Hundred, located on the south side of Route 54, 600 feet east of River Run, the entrance to Keenwick Sound, and to be located on a parcel containing 2.89 acres more or less.

Application Withdrawn.

5. RE: C/Z #1124--Philip M. Scudieri & Celinda A. Ellsworth

Philip Scudieri 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 390, 545 feet north of Route 54, and to be located on a parcel containing 1.09 acres more or less.

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

Mr. Scudieri stated he plans to operate a school to teach self defense and martial arts to students from the ages of 5 to 65. He presently operates his school in Ocean City, Maryland.

Mr. Scudieri presented pictures on the proposed site showing the improvements he has made since acquiring the property.

Mr. Scudieri stated he plans to construct a building 40 feet by 50 feet for his school. He will conduct evening classes in the winter, and day and evening classes during the summer months. Class size is approximately 20 students. There would be a waiting

area for parents. There is sufficient space for parking on the site. There will be no billboards and no neon signs.

Mr. Scudieri stated he would change the proposed site plan to accommodate the Commission's requirements.

Mr. Scudieri stated he has talked with his neighbors and found no objections.

No one was present in opposition.

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

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

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study was not recommended, and that the level of service of Route 390 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Evesboro loamy sand; that the suitability of the soils for the intended use may vary from none to slight limitations; that in reference to erosion and sedimentation control, severe 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 will be 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 teaching self defense, martial arts, confidence, physical fitness, and exercise for people of all ages; that the site will provide a better location with easier access than his present site in Ocean City; that he has taught for seventeen years; that the maximum number of students per session would be twenty (20); that adequate space is available on-site for parking; that the primary use of the property for classes will be from 6:00 P.M. to 9:00 P.M., that a 2,400 square foot structure is proposed; that the rezoning and the use will be compatible with the area, which is mixed commercial and residential; and that the applicant will reside on the premises.

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

OTHER BUSINESS

1. RE: Coachman Office

The Commission reviewed a site plan for an office at Lot 12 of Nassau Commons, north of Route 9.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the site plan subject to receipt of all necessary permits or approvals.

OLD BUSINESS

1. RE: Salt Pond RPC

James Fuqua, Esquire, was present on behalf of the developers to request consideration of an amended preliminary site plan. The amended plan would reduce the number of units from 639, as originally approved, to 528. The number of units is being reduced to provide for an eighteen hole executive golf course. Mr. Fuqua advised the Commission that the golf course will provide additional amenities, and that present real estate market conditions do not warrant the original development.

Mr. Lank advised the Commission that reduction of the number of units also reduces the amount of area for Business purposes. The area for business purposes will be reduced from 6.39 acres to 5.28 acres.

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

2. RE: Sussex East Mobile Home Park

The Commission reviewed the original site plan and a revised site plan for the Mobile Home Park. It was noted that the original site plan did not separate the recreation area and the open area; that the recreation area shown met the requirements for open space per the Code; and that it was possible that a drafting error created the labeling of the open area and the recreation area.

It was the consensus of the Commission to grant permission for the developer to amend the site plan by changing the open space reference to other lands of the developers, as intended on the original plan.

3. RE: Subdiv. #89-10--Crestfield

Mr. Abbott advised the Commission that the application of Mary Handy to consider the subdivision of land in an AR-1 Agricultural Residential 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 has been removed from the agenda pending receipt of a feasibility statement from the State D.N.R.E.C.

4. RE: Subdiv. #91-9--Back Bay Cove

The Commission discussed the application of Back Bay Cove to consider the subdivision of land in an MR Medium Residential District in Cedar Creek Hundred by dividing 18.7 acres into 13 lots, located as an extension to Bay Shore Drive (Broadkill Beach), 1.5 miles north of Route 16.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the subdivision as a preliminary. Final plans shall be required to be submitted to the Commission upon receipt of all appropriate agency permits or approvals.

Meeting Adjourned 10:30 P.M.

Lawrence B. Lank, Secretary