

MINUTES OF THE REGULAR MEETING OF MAY 11, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 11, 1989, 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. Jones - Assistant County 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 April 13, 1989, and April 27, 1989, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #995--Woodin, Wentling & Associates, Inc.

Richard Woodin, developer and engineer, and Al Rizzo, soil scientist, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to RPC Residential Planned Community in Lewes and Rehoboth Hundred, located on the west side of Route 274, 1.5 miles south of Route One, containing 90.01 acres more or less.

Mr. Lank summarized comments from the LUPA agencies.

Mr. Woodin stated the proposed development will be developed with single family dwellings similar to Arnell Creek, which adjoins this site. A wooded section containing approximately 35 acres will be retained in its natural state and used as a passive recreation area or open space.

Mr. Woodin stated they plan, if possible, to have individual septic systems. If D.N.R.E.C. will not approve individual septic systems due to the lot sizes being less than a half acre, they will have community systems with three (3) or more lots on each system.

Mr. Woodin stated proposed streets will be public, built to State specifications. The street system will interconnect with the street system of Arnell Creek Subdivision. The residents of the proposed subdivision will have access to recreation facilities which exist within Arnell Creek.

Mr. Woodin stated they plan to landscape along the road frontage of Route 274. Stormwater runoff will be controlled by grasslined waterways to the wetlands areas.

Mr. Woodin stated they would be willing to submit their plan to the Technical Advisory Committee if requested to do so.

John Mitchell, spokesman for Rehoboth Bay Mobile Home Park Association, spoke in opposition due to additional traffic and pedestrian and bicycle safety since Route 274 has no shoulder along the road.

Charles Marsch, Chairman of Environmental Concerns Committee, spoke in opposition, stating there are many approved lots in the area which are not developed. There is no need for another subdivision. Mr. Marsch also expressed concerns regarding septic problems, inadequate roads, and possible water contamination.

Tom Keefer spoke in opposition due to existing erosion problems in Arnell Creek, additional traffic, and lack of speed control by police due to no shoulder on Route 274.

Larry Wonderlin spoke in opposition due to additional traffic and destruction of wildlife habitat.

Susan Schranck and Fritz Schranck spoke in opposition for similar reasons.

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

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

The Commission found, based on comments received from the D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested to be forwarded to the Commission by May 9, 1989, from the D.N.R.E.C. On-Site Wastewater Branch, Pollution Control Branch, Wetlands and Aquatic Protection Branch, Water Supply Branch, Air Resources Section, Waste Management Section, the Division of Fish and Wildlife, the Division of Parks and Recreation, the Division of Soil and Water Conservation, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, the Department of Agriculture, the Division of Public Health, and the Public Service Commission.

The Commission found that no comments have been received from the referenced agencies to date.

The Commission found, based on comments received from Beth Horsey, Sussex Conservation District Coordinator, that the soils on site are primarily sassafras loam and sandy loam, that the suitability of these soils for the intended use are satisfactory, that the soils have only slight limitations with respect to erosion and sedimentation control during and after construction, that the farmland rating is prime, that no storm flood hazard areas are affected, that the project will not necessitate any off-site drainage improvements, that the project will necessitate on-site drainage improvements, and that no tax ditch is affected by this application.

The Commission found that one of the applicants was present on behalf of the application and plans to utilize the site for 140 single family lots.

The Commission found, based on comments by the applicant, that they intend to retain the wetlands and the majority of the wooded area for passive open space and nature areas, that all wetlands and proposed streets have been deducted from the density calculation, that central water will be provided, that individual septic systems are proposed subject to the approval of the State D.N.R.E.C., that approximately 35 acres will remain in its natural state, that the lots proposed will retain the 100 foot lot width requirement and the allowable square footage in an AR-1-RPC District, that streets dedicated to public use are proposed, that no adverse impact on property values, the neighborhood, or Route 274 are anticipated, that this project is intended to interconnect with Arnell Creek Subdivision, and that this site is desirable for development since it is located on a dead end road.

The Commission found, based on comments by the applicant, that they did not choose to develop the site with the mixed residential uses allowed in an RPC District, but to subdivide and provide open space, and that a similar number of lots could be developed as an AR-1 Agricultural Residential District Subdivision if the entire site is utilized, that the plan does not increase density, but preserves the natural features, that the plan intends to utilize the wooded area and limited wetlands for drainage, and that a buffer is being retained from the wetlands along Arnell Creek.

The Commission found that several parties present in opposition expressed concerns over the lack of shoulders along Route 274, pedestrian safety, traffic, speed limit, traffic safety, questioned the need for additional lots when a large number of vacant undeveloped lots exist in numerous projects in the area, concerns for water contamination, storm water management, sediment and erosion control practices, and the loss of wildlife habitat.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to defer action. The Commission instructed Mr. Lank to contact the State D.N.R.E.C. for clarification of the acceptable lot size for a septic system.

2. RE: C/Z #996--F. Dean Esham

Dean Esham was present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business in Dagsboro Hundred, located on the northwest corner of Gum Street and Main Street, within the Town of Frankford, containing 10,046 square feet more or less.

Mr. Lank stated the State Highway Department had no comments since the proposed site is within the Town Limits of Frankford.

Mr. Lank stated comments were received from the Indian River School District. They feel this application will have no significant impact on the school district.

Mr. Lank summarized comments received from the LUPA agencies.

Mr. Esham stated he plans to repair and renovate the existing building on the site and lease it to be used as an antique store.

Mr. Esham stated the site has previously been used commercially.

Mr. Esham stated the site has two (2) controlled accesses with a gravel parking area in front of the building. There is space for additional parking in the rear if necessary.

Mr. Esham stated the site is served by town water. The site will be served by the proposed sewer system for Frankford.

Mr. Esham stated he spoke with several neighbors and found no objections.

Francis M. Gum, III, Trustee of the Presbyterian Church of Frankford, spoke in opposition due to uses allowed in UB Urban Business zoning and the proposed zoning would not be compatible to the surrounding residential neighborhood.

Sidney Madison spoke in opposition due to increased traffic and the appearance of the site.

Thelma Smith, Waples Gum, Margaret Shaffer, and Gloria Gum spoke in opposition for similar reasons.

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 Indian River School District, that it does not appear that the proposed change will have a significant impact on the District.

The Commission found, based on comments received from Beth Horsey, Sussex Conservation District Coordinator, that the soils on site are satisfactory for the intended use, that the soils have only slight limitations with respect to erosion and sedimentation control during and after construction, that no storm flood hazard area is affected, that the project will not necessitate any off-site or on-site drainage improvements, and that no tax ditch is affected by this application.

The Commission found that the applicant was present and plans to lease the site for an antique shop or furniture store.

The Commission found, based on comments by the applicant, that the building on site was constructed in the 1950's and has been utilized for storage and as a laundromat, that the site has two (2) controlled access points, that the existing building is in need of repair, that the proposed improvements to the structure should enhance the area, that since the Town

Council of Frankford has taken no position, they must not object to the rezoning, that the town supplies water, that the site is presently served by on site septic, and that no adverse impact is anticipated on traffic or the neighborhood.

The Commission found that several parties were present in opposition since the rezoning would not be in keeping with the residential character of the neighborhood, that no other commercial activities exist in the immediate vicinity, that once the zoning is changed, a wide variety of business activities could be allowed, other uses permitted in UB Urban Business, the hours of operation, traffic, and storage of materials or items for sale.

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 based on the record of opposition.

3. RE: C/Z #997--Gary and Anna Meiklejohn

Anna and Gary Meiklejohn 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 north side of Route 382, 2,000 feet east of Route 388, containing 2.0 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 382 as a result of this application.

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

Mrs. Meiklejohn stated they plan to operate a country store offering crafts, produce, and gift items. They will not sell grocery items.

Mrs. Meiklejohn stated they plan to construct a wood structure for the business approximately 24 feet by 32 feet. They plan to be open from 9:00 A.M. to 6:00 P.M., possibly later during the summer months.

Mrs. Meiklejohn stated they will meet all requests made by the State Highway Department regarding entrance to the site.

Mrs. Meiklejohn stated they reside on this site.

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 "B" of Route 382 will not change as a result of this application.

The Commission found, based on comments received from Beth Horsey, Sussex Conservation District Coordinator, that the soils on site are Evesboro Loamy Sand, that the suitability of the soils for the intended use are satisfactory, that the soils have only slight limitations with respect to erosion and sedimentation control during and after construction, that no storm flood hazard area is affected, that the project will not necessitate any off site or on site drainage improvements, and that no tax ditch is affected by this application.

The Commission found that the applicants were present and plan to utilize the site for a country general store with crafts and produce sales, that the intended hours of operation are 9:00 A.M. to 6:00 P.M., and that no adverse impact on the neighborhood or traffic are anticipated.

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 and since other C-1 General Commercial Districts exist in close proximity.

4. RE: C/Z #998--Wayne and Wanda Weber

Wayne and Wanda Weber 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 southeast side of Route 26, across from Route 348, containing 22,667 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 "D" of Route 26.

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

Mrs. Weber stated they originally planned to use the existing two (2) story dwelling as two (2) apartment units. They were contacted by the Southeast Sussex Ministerium with a proposal to use the first floor of the structure as a thrift shop.

Mrs. Weber stated the thrift shop would be operated by volunteers on behalf of the Ministerium. They would sell clothing and small household articles. The profit would be returned to the community through the Ministerium.

Mr. Lank read into the record a letter from the Southeast Sussex Ministerium stating their opposition to C-1 General Commercial zoning, but expressing their support of B-1 Neighborhood Business zoning.

Mrs. Weber stated the second floor apartment would be rented.

Mrs. Weber stated there are other businesses in the area.

The applicants stated they would not object to the lesser zoning classification of B-1 Neighborhood Business.

Alma Woodhouse, Rae Esham, Evelyn Nordberg, and Muriel Schoelkopf spoke in favor of the application.

Ray Esham spoke in favor of B-1 Neighborhood Business zoning.

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 "D" of Route 26 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 of zone will have a significant impact on the district.

The Commission found, based on a letter from the Southeast Sussex Ministerium, that the ministerium opposes C-1 General Commercial, which would be out of keeping with the character of the area, but supports B-1 Neighborhood Business, which would accommodate the intended use of the site for the Atlantic Community Thrift Shop, Inc.

The Commission found, based on comments received from Beth Horsey, Sussex Conservation District Coordinator, that the soils on site are Evesboro Loamy Sand, that the suitability of these soils for the intended use are satisfactory, that the soils have only slight limitations with respect to erosion and sediment control during and after construction, that no storm flood hazard area is affected, that the project will not necessitate any off-site or on-site drainage improvements, and that no tax ditch is affected.

The Commission found that the applicants were present and plan to utilize the site for a thrift shop and an apartment.

The Commission found, based on comments by the applicants, that they proposed to lease the first floor of the structure for a thrift shop and the second floor for an apartment, that the residential character of the building will be retained, that other business and commercial uses exist in close proximity, that no adverse impact on the neighborhood, property values, or Route 26 is anticipated, and that B-1 Neighborhood Business would be acceptable.

The Commission found that four (4) persons were present in support of an application for B-1, not C-1.

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 as C-1 General Commercial District and to recommend that the site be approved as a B-1 Neighborhood Business District.

5. RE: C/Z #999--Lewis J. Adkins

Lewis Adkins and Dean Adkins were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Little Creek Hundred, located on the northwest side of Route 66, 2,100 feet north of Route 54, containing 30,602 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 66 as a result of this application.

Mr. Lank read into the record comments received from the Sussex Conservation District.

Lewis Adkins stated they plan to operate a sign painting shop.

Mr. Adkins stated his son paints small signs, four (4) feet by eight (8) feet or smaller, and does truck lettering. Some of the work is done off the site.

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 existing level of service "A" of Route 66 will not change as a result of this application.

The Commission found, based on comments received from Beth Horsey, Sussex Conservation District coordinator, that the soils on site are Evesboro Loamy Sand, that the suitability of the soil for the intended use is satisfactory, that the soil has only slight limitations with respect to erosion and sedimentation control during and after construction, that no storm flood hazard area is affected, that the project will not necessitate any off-site or on-site drainage improvements, and that no tax ditch is affected by this application.

The Commission found that the applicant and his son were present and plan to utilize the site for a sign shop.

The Commission found, based on comments by the applicants, that the sign shop will specialize in four (4) feet by eight (8) feet signs, vehicle and truck painting, that a large portion of the vehicle and truck painting is done off-site, and that no adverse impact on Route 66, the neighborhood, or property values is anticipated.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support.

OTHER BUSINESS

1. RE: James Holston

The Commission reviewed a concept to subdivide 5.55 acres into two (2) parcels, one containing 5.05 acres and one containing 0.5 acres southwest of Route 20, with access to the 0.5 acres by a fifty (50) foot easement across the 5.05 acres.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the concept.

OLD BUSINESS

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

No one was present on behalf of this application deferred on April 27, 1989, 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. Allen stated that he had reviewed the testimony and had inspected the site. However, since he had not participated in the public hearing, he was abstaining from voting on this application.

Mr. Allen turned the meeting over to Mr. Ralph, Vice Chairman, to chair this application.

Mr. Jones advised the Commission that private agreements between the applicant and neighbors should not be a rationale for granting approval of an application.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried with three votes in support and two not voting, Mr. Allen and Mr. Ralph abstaining, to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

A. No expansion of the existing structures and business be permitted without a new application.

B. All business related materials shall be stored within the structure.

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

No one was present on behalf of this application, deferred on April 27, 1989, 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.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried 4-0, with Mr. Allen abstaining, to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support and since the site is near the private airport and Route One, which is not conducive for residential use and since a non-residential structure exists on the premises that can be utilized for commercial purposes.

3. RE: Subdiv. #88-28--Martha Timmons

Jeff Clark of Land Tech, Inc. was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred by dividing 4.92 acres into 6 lots, located on the south side of Pepper Creek, the north side of Vines Creek, and adjacent to Section II of the Point Farm Subdivision.

Mr. Lank advised the Commission that Mr. Moore, Planner, stated that all necessary agency permits and/or approvals have been obtained.

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

Meeting Adjourned 10:20 P.M.