

MINUTES OF THE REGULAR MEETING OF MAY 11, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 11, 1995, at 7:30 PM, in the County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Abbott - Planner II, and Mrs. Mowbray, Zoning Inspector.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the minutes of April 27, 1995, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1115--Thomas & Debbie Paine

Thomas and Debbie Paine were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for the Restoration of Classic Vehicles with Related Storage and Sales lying on the east side of Route 13, 1/4 mile south of Road 583A and south of Sussex Avenue, a private road, on a parcel containing 1.24 acres more or less.

Mr. Abbott summarized comments received from the Delaware Department of Transportation (DelDOT) and the Sussex Conservation District.

Mr. and Mrs. Paine stated that they presently have 28 to 35 vehicles on the site, that the vehicles encroach onto the right of ways of Route 13 and Sussex Avenue, that he restores the interiors of vehicles, does light maintenance on the vehicles, and sells the vehicles, that most of the restoration is done on his own vehicles and that he would like to do other peoples vehicles, and that most of the vehicles on the site are over twenty years old.

Joel Leidy of DelDOT advised the Commission that Sussex Avenue would have to be built and accepted by DelDOT before the road would be dedicated to public use.

No parties appeared in opposition to this application.

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 Department of Transportation, 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 as Matawan sandy loam, that the suitability of the soils for the intended use would have slight limitations and that these limitations are easily overcome, that during any construction the applicant will be required to follow erosion and sediment control practices, that after completion of any construction the applicant would have to maintain a vegetative cover, that the farmland rating of the soil is Prime Farmland, that no storm flood hazard area is affected, that no tax ditch is affected, and that it may not be necessary for any on site or off site drainage improvements.

The Commission found, based on comments made by the applicants, that they propose to restore classic vehicles with storage and related sales, that there are presently 28 to 35 vehicles on the site, that the vehicles encroach into the right of ways of Route 13 and Sussex Avenue, that he restores the interiors of the vehicles and does light maintenance of the vehicles and sells the vehicles, that most of the work is done on vehicles owned by the applicants and that he would like to do other peoples cars, and that most of the vehicles on the site are over twenty years old.

The Commission found, based on comments made by a representative of DelDOT, that Sussex Avenue would have to be built and accepted by the state before the road would be dedicated to public use.

The Commission found that no parties appeared in opposition.

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

2. RE: C/Z #1258--Timothy S. Johnson

Bob Nash and Karen Brittingham of Charles Murphy Surveyors were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Cedar Creek Hundred, located on the southwest corner of the intersection of State Route One and Route 206, to be located on a parcel containing 4.81 acres more or less.

Mr. Allen questioned the location being in the southwest corner of the intersection. Mr. Abbott advised the Commission that the location should be the northwest corner of the intersection of State Route One and Route 206.

Mr. Abbott summarized comments received from the Department of Transportation (DelDOT), the Sussex Conservation District, the Office of the State Fire Marshal, and Delaware Health and Social Services Division of Public Health.

Mrs. Brittingham stated that there are eight subdivisions in the area that would benefit from the proposed rezoning, that there is a need for commercial uses in the area, that there would not be any access from State Route One, that the site is an ideal location because of the three roads in the area, that the rezoning would provide retail shopping without having to travel to Milford, that the area would be screened from the adjoining residential lands, that the applicant would keep control of the land, that the proposed use would be for a convenience store and possible professional service or office, that the site is in the area of the Western Sussex Land Use Plan and designated as a town center, that the convenience store would serve as a rest stop, that the applicant has other sites located in Milford, Dover, Smyrna and Milton, that the applicant contributes to the City of Milford, that the rezoning would provide jobs and revenue to the area, that the applicant would have restrictive covenants that would not permit a laundry mat, car wash or package store, and submitted a pamphlet on Shaping Delaware's Future prepared by the State Planning Cabinet Committee.

Joel Leidy of DelDOT advised the Commission that State Route 30 will be required to be extended based on the Corridor Preservation Section of DelDOT, that the extension would tie in near Shawnee Acres, that the applicant would have to build the road to State Subdivision standards into Matlinds Estates and that the upgrading would be done by DelDOT, that the road would be thirty two feet wide, and that DelDOT would purchase the road from the applicant.

Mr. Abbott stated that based on comments made by a representative of DelDOT, that there have been twenty four accidents at the intersection of State Route One and Route 206 since 1990.

No parties appeared in support of this application.

Dave White, Amanda White, James Thawley, Joe Penuel, Joanne Burbage, Darwin McCormack, Dale Faust and Joanne Clark all area residents spoke in opposition to this application expressing concerns with the area being residential, other permitted uses in B-1 Neighborhood Business districts, increases in traffic to the area, pollution and trash from the proposed convenience store, lighting for the parking area and head lights from cars at night, possibility of convenience stores being opened twenty four hours a day, State Route One and Route 206 intersection is dangerous

and the number of accidents at the intersection, that State Route 30 Extended is only proposed and questioned when it will be built, that the area should be kept residential, that there are other services available within two miles, that this would be spot zoning, safety concerns for children and pets in the area, and negative impacts on property values in the area.

Mr. Leidy stated that a traffic impact study will be required at the entrance permit stage if this application is approved.

At the conclusion of the public hearing, 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 Department recommended that a traffic impact be done by the developer prior to any action on this rezoning, that at this time the traffic impact study request has been postponed, that an entrance permit will be granted if the rezoning is approved, and that a traffic impact study will be required at the entrance approval process.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on site are Sassafras sandy loam, that the suitability of the soil for the intended use would have slight limitations, that these limitations can easily be overcome, that during any construction the developer will have to follow erosion and sediment control practices, that after completion of any construction the developer will have to maintain a vegetative cover, that the farmland rating of the soil is Prime Farmland, that no storm flood hazard area is affected, that it may not be necessary for any on site or off site drainage improvements, and that no tax ditch is affected.

The Commission found, based on comments received from the Office of the State Fire Marshal, that their office has no objections to the proposed zoning change.

The Commission found, based on comments received from the Delaware Health and Social Services Division of Public Health, that a change to neighborhood business will result in this business coming under the State of Delaware Regulations Governing Public Drinking Water Systems. Depending upon the type of business and the number of employees this business may also be subject to the Federal Safe Drinking Water Act.

The Commission found, based on comments made by representatives of the applicant, that there are eight subdivisions in the area that would benefit from this rezoning, that there is a need for commercial uses in the area, that there would not be any access from State Route One, that the site is an ideal location because of State Route One, State Route 30, and Route 206, that the rezoning would provide retail shopping without having to travel to Milford, that the site would be screened from residential lots, that the applicant would retain control of the land, that the proposed use is for a convenience store and professional services or offices, that the site is located in the Western Sussex Land Use Plan and designated as a town center, that the convenience store would serve as a rest stop, that the applicant operates other businesses in Milford, Dover Smyrna and Milton, that the applicant contributes to the City of Milford, that the rezoning would provide jobs and revenue to the area, that the applicant would have restrictive covenants that would not permit any laundry mat, a car wash or package store, and that the applicant submitted a pamphlet on Shaping Delaware's Future that was prepared by the State Planning Cabinet Committee.

The Commission found, based on comments made by a representative of DelDOT, that State Route 30 will be required to be extended based on the Corridor Preservation Section of DelDOT, that the extension would tie into State Route One near Shawnee Acres, that the developer would have to build the extension to State Subdivision Standards into Matlind Estates Subdivision, that the upgrading of the road would be done by DelDOT, that the road would be thirty two feet wide, and that DelDOT would purchase the road from the developer.

The Commission found, based on comments from the staff, that according to someone from DelDOT there has been twenty four accidents at the intersection of State Route One and Route 206 since 1990 through February 1995.

The Commission found that no parties were present in support of this application.

The Commission found that eight people spoke in opposition to this application expressing concerns that the area is residential, other permitted uses in B-1 Districts, increases in traffic to the area, pollution and trash from the proposed convenience store, lighting from the parking area and head lights will shine into homes at night, the possibility of convenience stores being opened twenty four hours a day, that the intersection of State Route One and Route 206 is dangerous, the number of accidents at this intersection, that State Route 30 extended is only proposed and questioned when it would be built,

that the area should be kept residential, that there are other services available within two miles of this site, that this would be spot zoning, safety concerns for children and pets in the area, and negative impacts on property values and traffic.

The Commission found, based on comments made by a representative of DelDOT, that a traffic impact study will be required at the entrance permit stage if this application is approved.

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

3. RE: APD #95-2--Shawnee Wood Farms, Inc.

Donnie Calhoun was present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred for a parcel containing 539 acres more or less, located on the east side of Road 599 and the west side of Road 600, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

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

Mr. Calhoun stated that land is being taken away from farming for developments, that his family wants to keep the land for farming, and that there are tax incentives involved.

Dolores Batson and Elwood Huntsberger spoke in support of this application.

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 Sussex Conservation District, that the soils on site are mapped as Fallsington sandy loam, Keyport fine sandy loam, Rumford loamy sand, Sassafras sandy loam, Woodstown sandy loam, and Woodstown loam.

The Commission found that the applicant was present and stated that farm land is being taken away and that his family wants to keep the land for farming, and that tax incentives are involved.

The Commission found that two persons spoke in support of this application.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve this application.

III. OTHER BUSINESS

1. RE: Rehoboth Jiffy Lube

The Commission reviewed a commercial site plan for a car service station and car wash on Route One near Midway.

Mr. Abbott advised the Commission that the setbacks meet the minimum requirements, that adequate parking is provided however there is parking spaces located within five feet of the Route One, that there is room to relocate the parking spaces, and that no agency approvals or permits have been received.

Louis Shockley, Jr. advised the Commission that the parking in the front setback would be temporary only for customers, that the employee parking is in the rear, and that the site would have only one entrance.

Mr. Wheatley questioned if the parking could be relocated.

Mabel Granke stated that she does not object to the use but has concerns about the entrance location and public safety.

Joel Leidy of DelDOT questioned if the plan has been submitted to DelDOT for review.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to deny the site plan as submitted.

2. RE: Mainsail Village at The Salt Pond

The Commission reviewed a multi family site plan for 6 units in the Salt Pond Development.

Mr. Abbott advised the Commission that this is the fourth building for this phase and that all approvals have been obtained.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as submitted.

3. RE: C/U #1094--Ernest & Nelsa Hosse

Mr. Abbott advised the Commission that this item has been

removed from the agenda.

4. RE: O.A. Newton & Son, Inc.

The Commission reviewed a commercial site plan on the south side of Route 584.

Mr. Abbott advised the Commission that the proposed building is 3,000 square feet, that the setbacks and parking requirements have been met, and that the approval from the Sussex Conservation District is required.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve as a preliminary.

5. RE: C/U #1046--Dr. Andrew Malinowski

Mr. Abbott advised the Commission that a request for a one year time extension has been received for this application. This would be the second time extension approved for this application.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve a one year time extension with the stipulation that this will be the last time extension granted.

6. RE: Crestfield Subdivision

The Commission reviewed a concept to add an additional lot to Crestfield subdivision on Route 552.

Mr. Abbott advised the Commission that the subdivision was approved for 42 lots, that presently there are 39 lots, and that the owner wants to add a 2.00 acre lot to the subdivision.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the lot addition.

7. RE: Samuel V. & Shirley A. Oddo

The Commission reviewed a lot with access from a fifty foot right of way off of Route 436.

Mr. Abbott advised the Commission that the Commission approved this as a concept in 1990 and that it was never recorded and that the applicant has an approved entrance permit from DelDOT.

Motion made by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve as a concept.

IV. OLD BUSINESS

1. RE: C/Z #1257--Bruce Harrison

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Seaford Hundred, located on the east side of U.S. Route 13, 600 feet north of Route 532, to be located on a parcel containing 2.98 acres more or less.

The Chairman referred back to this application which was deferred at the April 27, 1995 meeting.

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

Meeting adjourned at 9:45 PM.