

## MINUTES OF THE REGULAR MEETING OF MAY 12, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 28, 1994, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Magee, Mrs. Monaco, Mr. Ralph, Mr. Jones - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mrs. Monaco, seconded by Mr. Allen, and carried unanimously to approve the minutes of April 28, 1994, as circulated.

### II. PUBLIC HEARINGS

#### 1. RE: C/U #1076--George & Martha Whitworth

George and Martha Whitworth were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for Boat Storage lying on the south side of a private road, 2,340 feet south of Route 54, 1,800 feet west of Route 390A to be located on a parcel containing 40,587 square feet more or less.

Mr. Lank summarized comments received from the Delaware Department of Transportation (DelDOT) and the Indian River School District.

Mr. Whitworth advised the Commission that he proposes to utilize the site for off-season storage of boats and boat trailers only, that he anticipates that the area will provide space for approximately 50 boats, that the area is buffered by a ditch on two sides, that he will haul the majority of the boats to and from the site, that no repair, painting, or washing of the boats will be performed on the site, that no signage is proposed, that no negative impact is anticipated on the neighborhood or traffic, that the site will have access from Route 54 by way of a recorded easement across lands of Victor Evans, and that he would have no objection to a stipulation limiting off-season storage of boats or a stipulation that no washing of boats be performed on the site.

Mr. and Mrs. Victor Evans, David Evans, and Raymond Burkin spoke in opposition to the use and expressed concerns in reference to increased traffic through the Evans property, the narrowness of the dirt road to the site, that the area should remain in agricultural uses, depreciation of property values, future expansion of the use, loss of the farm character of the area, that other storage areas exist in the area, concerns for traffic accidents at the entrance, and children safety since the dirt road easement crosses the Evans property close to barns and driveways.



Mr. Evans submitted three (3) letter 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 Indian River School District, that at this time it does not appear that the proposed change will have a significant impact on the district.

The Commission found that the applicant was present and advised the Commission that he proposes to utilize the site for off-season storage of boats and boat trailers only, that he anticipates that the area will provide space for approximately 50 boats, that the area is buffered by a ditch on two sides, that he will haul the majority of the boats to and from the site, that no repair, painting, or washing of the boats will be performed on the site, that no signage is proposed, that no negative impact is anticipated on the neighborhood or traffic, that the site will have access from Route 54 by way of a recorded easement across lands of Victor Evans, and that he would have no objection to a stipulation limiting off-season storage of boats or a stipulation that no washing of boats be performed on the site.

The Commission found that three area residents spoke in opposition to the use and expressed concerns in reference to increased traffic through the Evans property, the narrowness of the dirt road to the site, that the area should remain in agricultural uses, depreciation of property values, future expansion of the use, loss of the farm character of the area, that other storage areas exist in the area, concerns for traffic accidents at the entrance, and children safety since the dirt road easement crosses the Evans property close to barns and driveways.

The Commission found that three (3) letters were received in opposition for similar reasons to stated opposition.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since the area is predominantly agricultural and since approval of the use may establish a precedent for additional applications in the area.



2. RE: C/U #1077--Barbara H. Hearl

Barbara H. Hearl was present on behalf of her application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for Retail Sales of Antiques lying on the north side of Route 9 (formerly Route 18) approximately 1,900 feet east of Route 261 to be located on a parcel containing 1.28 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex County Engineering Department.

Ms. Hearl advised the Commission that she proposes to sell antiques from an existing frame garage and shop, that several similar uses exist in the area, that she has spoken to the neighbors and heard no objections, that the use is compatible to the area, that she anticipates no negative impact on property values, traffic on Route 9, or the neighborhood, that she has no plans for any expansion to the business, and that the use will be accessory to the use of the premises for her residence.

No parties appeared 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 County Engineering Department, that the Department has reviewed the application, that the site is located in Phase III of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that Phase III is not considered a near-term service area, and that there is no established schedule for providing sanitary sewer service to this area.

The Commission found that the applicant was present and advised the Commission that she proposes to sell antiques from an existing frame garage and shop, that several similar uses exist in the area, that she has spoken to the neighbors and heard no objections, that the use is compatible to the area, that she anticipates no negative impact on property values, traffic on Route 9, or the neighborhood, that she has no plans for any expansion to the business, and that the use will be accessory to



the use of the premises for her residence.

The Commission found that no parties appeared in opposition.

Motion by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved with the following stipulation:

1. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
2. The entrance location and design shall be subject to DelDOT.
3. One unlighted sign, not exceeding 32 square feet, may be permitted.

3. RE: C/Z #1228--John Huegel

John Huegel 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 Route 13, 500 feet south of Route 18 to be located on a parcel containing 4.83 acres more or less.

Mr. Lank summarized comments received from the Office of the Secretary of the State Department of Natural Resources and Environmental Control (DNREC) and DelDOT.

Mr. Huegel advised the Commission that he intends to operate a rental equipment store that would provide rental equipment for individuals and small business uses, that the equipment includes lawn mowers, floor polishers, chaffing dishes for parties or receptions, and small tractors, that the largest piece of equipment presently rented by the company is a backhoe, that no negative impact is anticipated on traffic, that any outside storage will be within a fenced-in enclosure, that the business will operate 6 or 7 days a week from 7:00 AM to 5:00 PM, that he is purchasing two parcels, that one entrance will serve both parcels, that the second parcel will be reserved for future expansion or a similar use, and that commercial districts and uses exist on adjacent property and across Route 13.

No parties appeared in opposition.

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 the Office of the Secretary of the State DNREC, that comments have been requested from Planners within that Department, the Department of Agriculture, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of Route 13 will not change as a result of this application.

The Commission found that the applicant was present and advised the Commission that he intends to operate a rental equipment store that would provide rental equipment for individuals and small business uses, that the equipment includes lawn mowers, floor polishers, chaffing dishes for parties or receptions, and small tractors, that the largest piece of equipment presently rented by the company is a backhoe, that no negative impact is anticipated on traffic, that any outside storage will be within a fenced-in enclosure, that the business will operate 6 or 7 days a week from 7:00 AM to 5:00 PM, that he is purchasing two parcels which will be served by one entrance, that the second parcel will be reserved for future expansion or a similar use, and that commercial districts and uses exist on adjacent property and across Route 13.

The Commission found that no parties appeared in opposition.

Motion by Mrs. Monaco, seconded by Mr. Magee, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the site is an extension to an existing C-1 General Commercial District and since the site is adjacent to and across from C-1 General Commercial Districts and commercial uses.

4. RE: C/Z #1229--Richard M. Brown

Mr. Lank advised the Commission that this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the southwest side of Route 260, 600.61 feet northwest of Route 258 to be located on a parcel containing 1.38 acres more or less was withdrawn by the applicant and that the applicant has submitted an application for a Conditional Use for an Auto Repair Shop.

5. RE: C/Z #1230--Alan L. and Michele M. Gordon

Alan L. Gordon, Michele M. Gordon, and David Rutt, Attorney, were present on behalf of this application to amend the zoning map from MR Medium Density Residential to B-1 Neighborhood



Business in Baltimore Hundred, located on the east side of Route 357, 800 feet south of Route 360 to be located on a parcel containing 0.81 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Indian River School District.

Mr. Gordon and Mr. Rutt advised the Commission that the applicants have resided on the site since March of 1994, that the applicants own and operate a heating, air-conditioning, and refrigeration business from a rental site off-site, that the applicants have applied for rezoning to allow them to utilize the existing garage on the site for an office, shop and storage, that the majority of the work performed is off-site, that any duct work necessary for jobs is fabricated by a sub-contractor off-site, that no fabrication will be performed on-site, that no business will be performed on site except for the use of the office, that no expansion of the garage is proposed, that there will be no outside storage of materials, that the business presently has two vehicles, a van utilized by the applicants and a small truck utilized by an employee, that the employee drives the small truck from his home, that deliveries of parts are by UPS type vehicles once or twice a week, that no additional septic is necessary, that fire protection is provided by the Millville Fire Company, that police protection is provided by the State Police, that the closest heating and air conditioning business is approximately 10 miles away, that several commercial and business uses exist within 1/2 miles, that no negative impact is anticipated on property values or the neighborhood, that a 3' by 5' illuminated sign is proposed to be erected on the site to advertise the business, that typical business hours are 8:00 AM to 4:00 PM daily 5 days per week, that the business should not impact traffic, and that the business should not generate any noise, dust, or pollution.

Jeff Clark of Land Tech, Inc. discussed the site plan on behalf of the applicant and advised the Commission that the zoning line splits the property and does not encroach into the area surrounded by the Salt Pond RPC project, that no additions are proposed to expand the garage building, that appropriate parking will be provided, and that the existing northerly portion of the circular drive will be abandoned.

No parties appeared in opposition.

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 a traffic impact study was not recommended and that the level of service "D" of Route 357 will not change as a result of this application.

The Commission found, based on comments received from the Indian River School District, that at this time it does not appear that the proposed change will have a significant impact on the District.

The Commission found that the applicants were present with an attorney and a consultant and advised the Commission that the applicants have resided on the site since March of 1994, that the applicants own and operate a heating, air-conditioning, and refrigeration business from a rental site off-site, that the applicants have applied for rezoning to allow them to utilize the existing garage on the site for an office, shop and storage, that the majority of the work performed is off-site, that any duct work necessary for jobs is fabricated by a sub-contractor off-site, that no fabrication will be performed on-site, that no business will be performed on site except for the use of the office, that no expansion of the garage is proposed, that there will be no outside storage of materials, that the business presently has two vehicles, a van utilized by the applicants and a small truck utilized by an employee, that the employee drives the small truck from his home, that deliveries of parts are by UPS type vehicles once or twice a week, that no additional septic is necessary, that fire protection is provided by the Millville Fire Company, that police protection is provided by the State Police, that the closest heating and air conditioning business is approximately 10 miles away, that several commercial and business uses exist within 1/2 miles, that no negative impact is anticipated on property values or the neighborhood, that a 3' by 5' illuminated sign is proposed to be erected on the site to advertise the business, that typical business hours are 8:00 AM to 4:00 PM daily 5 days per week, that the business should not impact traffic, that the business should not generate any noise, dust, or pollution, that the zoning line splits the property and does not encroach into the area surrounded by the Salt Pond RPC project, that no additions are proposed to expand the garage building, that appropriate parking will be provided, and that the existing northerly portion of the circular drive will be abandoned.

The Commission found that no parties appeared in opposition.



Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since other commercial uses exist in the area and since the site is in close proximity to other commercial and business uses.

### III. OTHER BUSINESS

#### 1. RE: S & W Partnership

John Schade and William Warrington, owners, John Sergovic, attorney, and Jeff Clark, consultant, were present to discuss the preliminary site plan for 19 multi-family units west of Route One and adjoining the Little Assawoman Bay.

Mr. Magee questioned the findings of a letter sent to Mr. Sergovic by Dennis Schrader, Assistant County Attorney.

Mr. Sergovic provided his interpretation of the letter.

The Commission discussed the letter and Mr. Sergovic's interpretation.

Mr. Clark described the site plan by comparison to single family dwellings.

Motion by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to defer action until Mr. Schrader could provide an interpretation of his letter as it relates to this project and the wetlands references in the zoning ordinance.

#### 2. RE: C/U #1071--Prettyman Broadcasting Co.

The Commission reviewed the site plan for C/U #1071 for a radio broadcasting station on Road 371.

It was noted that parking is proposed in the front yard for 9 parking spaces.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a preliminary. Final site plan approval shall be subject to staff review and receipt of all appropriate agency approvals.

#### 3. RE: C/U #1004--Nicholas DelCampo

Mr. Abbott advised the Commission that Mr. DelCampo has requested a one-year time extension of his Conditional Use approval and that this is his first request for an extension.



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

4. RE: Gloria Daniels

Gloria Daniels was present on behalf of her request to create a lot with access from a 50 foot wide right of way from Route 30.

The Commission discussed the proposal.

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

5. RE: Sara E. Hastings

The Commission reviewed a concept to subdivide one lot on the northerly side of Route 9.

Mr. Abbott advised the Commission that the entrance location has been approved by DelDOT.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approved the lot in concept.

IV. OLD BUSINESS

1 & 2. RE: C/z #1224 & C/U #1072--Delaware State Housing Authority

The Chairman referred back to these applications which have been deferred since April 14, 1994.

It was noted that Mr. Phillips was not present.

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

Meeting adjourned at 9:15 PM.