

MINUTES OF THE REGULAR MEETING OF MAY 24, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 24, 1990, 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. Berl - Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of May 10, 1990, as circulated.

PUBLIC HEARINGS

1. RE: C/U #935--Dr. Pravin O. Gohel

Dr. Pravin O. Gohel was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for Professional Offices on the southeast side of Savannah Road (Route 18), 280 feet southwest of Quaker Road, to be located on a parcel containing 25,000 square feet more or less.

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

Dr. Gohel stated he plans to operate his cardiology practice from the existing dwelling on the site. He sees patients by appointment only. The office would be open Monday through Thursday and 1/2 day on Friday. There would be no weekend hours. He sees a maximum of 10 to 12 patients per day. He would have two (2) employees other than himself. He presently operates his practice in an office he rents from the hospital.

Dr. Gohel stated he plans to have a handicap ramp and parking area in front of the existing dwelling. He plans to remodel the interior of the dwelling, with no change to the exterior.

Dave Jones and Brenda Jones, sellers of the proposed site, spoke in favor of the application.

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 18 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the Sassafras sandy loam soils on-site have good suitability for the intended use, that moderate limitations may be anticipated for erosion/sedimentation control during construction and that slight limitations may be anticipated after completion of construction, that the farmland rating of the soil type is prime, that no storm flood hazard area is affected, that it may not be necessary for any off-site or on-site drainage improvements, and that no tax ditch is affected.

The Commission found that the applicant, a cardiologist, was present and plans to utilize the site for his professional office.

The Commission found, based on comments by the applicant, that this office shall function by appointment only on Mondays, Tuesdays, Thursdays, and Fridays, with no Saturday or Sunday hours, that he employs two (2) staff employees, that office appointments do not normally exceed 10 or 12 patients, that a ramp shall be installed, that the residential appearance of the dwelling structure shall be retained, that no major expansions to the structure are proposed, that parking is proposed in the front yard area, and that no adverse impact on the neighborhood or property values are anticipated.

The Commission found that the present owners of the property were present in support, and stated that the site is adjoining a video rental store and in close proximity to other doctors offices, a grange hall, a mini storage complex and other commercial zoned properties and commercial uses, and that Route 18 in this area is no longer a residential area due to the above uses, traffic, and that this area is a poor location for raising children.

Motion made by Mr. Smith, seconded by Mr. Hickman, 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 with the following stipulations:

1. The parking area shall be located to the rear of the structure to retain the residential appearance.

2. The residential character and appearance of the structure shall be retained.
3. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.

2. RE: C/Z #1067--Joseph Wayne Melvin

Gail Melvin was 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 north side of Route 16, across from Route 22A, containing 2.14 acres more or less.

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

Mrs. Melvin stated they plan to have an office and warehouse in a former poultry house for their heating and air conditioning business. No manufacturing will be done on-site. A secretary will be on-site workdays. Approximately eight (8) vehicles would be on-site during work time. Traffic would be primarily employees coming for work and leaving work. Approximately one (1) delivery would be received per week. Clients usually do not come to the site. No business activity would take place in the dwelling. There are other businesses in the area.

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 present level of service "C" will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District that the Rumford loamy sand soils on-site have good suitability for the intended use, that moderate limitations may be anticipated for erosion/sedimentation control during construction and that slight limitations may be anticipated after completion of construction, that the farm land rating of the soil type is of state wide importance, that no storm flood hazard areas are affected, that it may not be necessary for any off-site or on-site drainage improvements, and that no tax ditch is affected.

The Commission found that the applicant's wife was present on behalf of the application and plans to utilize a former poultry house for an office and warehouse for their heating and air conditioning business, that no manufacturing will be done on-site, that one (1) employee, a secretary, is on-site workdays, that approximately eight (8) vehicles are on-site during work time, that traffic is primarily employees coming for work scheduling and leaving work, that approximately one (1) delivery is received per week, that few clients come to the site, that no business activity will take place in the dwelling, and that no adverse impact on property values or the neighborhood are anticipated.

The Commission found that no parties appeared in support or in opposition to the application.

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

3. RE: C/Z #1068--John I. Shaffer, Jr. and Vernon O. Lutz, Jr.

John Shaffer, Jr. and Vernon Lutz, Jr. were present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business in Baltimore Hundred, located in the Town of Millville on the southwest side of Route 26, 170 feet west of Route 350, containing 1.074 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways, the Sussex Conservation District, and the Indian River School District.

Mr. Lank stated the applicants presently operate a one chair beauty salon as a home occupation in their residence on the proposed site.

Mr. Shaffer stated that they plan to expand their beauty shop by hiring a shampoo person, a manicurist and another beautician. No additions will be made to the dwelling. Adequate space is available for parking. There are other business uses and zonings in the area.

Mr. Shaffer presented a petition containing 33 signatures of persons not opposed to this application.

Thomas R. Crowley, Mr. Turnahan, and Robert Bunting spoke in opposition due to the residential character of the area, traffic, children's safety, other uses permitted in UB Urban Business Districts, possible septic and/or water problems, other commercial space is available in the area, Millville does not need additional commercial area, and depreciation of property values.

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 originally, a traffic impact study had been recommended, however, because the business is already existing, the traffic review is different and becomes insignificant.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro loamy sand and Pocomoke sandy loam soils on-site vary from fair to good suitability for the intended use, that moderate limitations may be anticipated for erosion/sedimentation control during construction and that slight limitations may be anticipated after completion of construction, that the farm land ratings of the soil types vary from prime to of state wide importance, that no storm flood hazard area is affected, that it may not be necessary for any off-site or on-site drainage improvements, and that a tax ditch may be affected by this application since the "Derrickson Canal Tax Ditch" runs along the southern boundary of the site.

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

The Commission found that the applicants were present and plan to utilize the site for expansion of an existing home occupation beauty shop, that the expansion will be within the structure, that adequate space is available for parking, that three (3) additional employees are proposed, that no adverse impact on property values or the neighborhood are anticipated, and that several properties in close proximity are zoned UB Urban Business.

The Commission found that three (3) parties spoke in opposition and expressed concerns about the impact on the residential character of the area, expansion of commercial uses adjacent to a residential subdivision, traffic, children's safety, other uses permitted in a UB Urban Business District, that no public sewer or water is available to serve the expansion, that adequate commercial space is available in the area, that Millville does not need additional commercial area, and depreciation of property values.

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, traffic, and the residential character of the area adjoining.

4. RE: C/Z #1069--David A. Shevock

Eugene Bayard, attorney, and David Shevock were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Lewes and Rehoboth Hundred, located on the east side of Route 269A, north of Penn Central Railroad, containing 9.8 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways, the Sussex Conservation District, the D.N.R.E.C. Land Use Planning Act Coordinator, and the D.N.R.E.C. Division of Water Resources.

Mr. Shevock stated that he plans to operate his construction office and equipment and material storage yard from the proposed site.

Mr. Bayard stated that the site is adjacent to a dirt pit and a railroad, and across from a concrete batch plant and a vacant 20 acre commercially zoned parcel. On-site septic and water will be provided. The business has grown from two (2) employees in 1987 to its present twenty (20) employees, the number of pieces of equipment has changed from two (2) in 1987 to twenty-five (25). The applicant anticipates a need for additional equipment and hiring an additional eight (8) or ten (10) employees. Adequate space for parking is available. There will be security fencing, lighting and a security system on the building. Normal work hours are from 7:30 A.M. to 5:00 P.M., five (5) days per week, with no weekend hours and no proposed work after 5:00 P.M. The site is not suitable for residential development with the uses surrounding it. The primary storage on-site will be stone and pipes.

Walt Riggins, Irvin Barr, Shelly Billings, and Eleanor Barr spoke in opposition due to heavy truck traffic, noise, children's safety, possible hours of operation, the present condition of Route 269A, that lots were purchased in "The "Orchard" Subdivision because the zoning was agricultural residential, questioning the need for additional commercial land when vacant commercial land exists in close proximity, and property devaluation.

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 originally a traffic impact study had been recommended, however, the proposed use, a construction storage yard, will not pose a traffic problem and no immediate conversion to other uses are anticipated. Since the zoning classification allows so many high traffic generating type businesses, the south district shall restrict the entrance permit to the requested use. Any change in use will require resubmittal for entrance approval.

The Commission found, based on comments received from the Sussex Conservation District, that the Sassafras sandy loam and Fallsington sandy loam soils on-site have fair to good suitability for the intended use, that moderate limitations may be anticipated for erosion/sediment control during construction and slight limitations may be anticipated after completion of construction, that the farm land rating of the soil types are prime, that no storm flood hazard area is affected, that it may not be necessary for any off-site drainage improvements, that it may be necessary for some on-site drainage improvements, and that no tax ditch is affected.

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 D.N.R.E.C. Waste Management Section, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on a letter received from Derrick T. McDowell, a soil scientist for D.N.R.E.C., that he has examined the site evaluation and found nothing site specific that would be affected by the rezoning.

The Commission found that the applicant was present, with legal counsel, and plans to utilize the site for a construction office and equipment and material storage yard.

The Commission found, based on comments by representatives of the application, that the site is adjacent to a dirt pit and a railroad, and across from a concrete batch plant and a vacant 20 acre commercially zoned parcel; that on-site septic and water will be provided; that the business has grown from two (2) employees in 1987 to its present twenty (20) employees; that the number of pieces of equipment has changed from two (2) in 1987 to twenty-five (25); that a need for an additional eight (8) or ten (10) employees is anticipated; that a need for additional equipment is

anticipated; that the site will provide adequate space for an office, equipment storage, material storage, parking, septic and stormwater management; that security fencing, lighting and a security system on the building are proposed; that normal work hours are from 7:30 A.M. to 5:00 P.M., five (5) days per week, with no weekend hours and no proposed work after 5:00 P.M.; that the site is not suitable for residential development with the uses surrounding it; that the majority of the traffic from the site will go south along Route 269A to Route 9, and that the primary storage on-site will be stone and pipes.

The Commission found that four (4) persons spoke in opposition and expressed concerns over heavy truck traffic, noise, children's safety, possible hours of operation, the road condition of Route 269A with no shoulder improvements, that the area is quiet and peaceful except for the existing concrete batch plant, that lots were purchased in "The "Orchard" Subdivision because the zoning was agricultural residential, questioning the need for additional commercial land when vacant commercial land exists in close proximity, and devaluation of property values.

Motion made by Mr. Smith, seconded by Mr. Hickman, 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 the site is located between a railroad and a dirt pit landfill, and since other commercial uses exist in close proximity.

5. RE: C/Z #1070--Indian River Homes

Lynn Moore, president of Indian River Land Co., was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Indian River Hundred, located on the southeast side of Route 24, 810 feet northeast of Route 5 (Route 297), containing 1.298 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways, the Indian River School District, and the Sussex Conservation District.

Mr. Moore stated that Indian River Land Co. would be leasing the property for a branch real estate office. There will be three (3) or four (4) employees. Interior and exterior renovations will be made to the existing building. Other business and commercial uses exist in the area. Adequate space for parking is available.

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 present level of service "D" of Route 24 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 rezoning will have a significant impact on the school district.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro loamy sand soils on-site have good suitability for the intended use, that moderate limitations may be anticipated for erosion/sedimentation control during construction and that slight limitations may be anticipated after completion of construction, that the farm land rating of the soil type is of state wide importance, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the application was represented by an officer of Indian River Land Co., the intended lessee for the property, and that Indian River Land Co. plans to utilize the site for a branch real estate office, that three (3) or four (4) employees are planned, that interior and exterior renovations are proposed to the building, that the area is mixed residential and commercial, that the site is located in close proximity to other business and commercial uses, and that no adverse impact on the neighborhood or property values 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 the site is in close proximity to other business and commercial uses.

6. RE: Subdiv. #90-14--H. Wayne Kraeer

Jeff Clark, Land Tech, Inc., and Wayne Kraeer 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 42.5 acres into 46 lots, located on the northwest side of Route 84, 2,000 feet southwest of Route 363.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of May 21, 1990.

Mr. Clark stated the subdivision will have large single family lots. The subdivision will be served by central sewer and water. There will be a fire protection system. There will be no construction on any wetlands on the site. The subdivision will have private streets. Utilities Systems, Inc. will design and maintain the central sewer system. The proposed name is "Sussex Meadow".

No one was present in opposition.

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

OTHER BUSINESS

1. RE: T & R Roofing
Route 9

The Commission reviewed the final site plan for the proposed T & R Roofing warehouse.

No one was present on behalf of the site plan.

Mr. Moore stated that all approvals had been obtained and referenced the delineated frontage road designated to accommodate any further commercial access to adjacent tracts.

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

2. RE: Carolyn Bull
Route 113

The Commission reviewed the final site plan for a proposed antique shop.

No one was present on behalf of the site plan.

Mr. Moore stated that all approvals had been obtained and the applicant has requested a waiver from the parking requirements to substitute the paving with gravel for the parking area.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the plan as a final and to approve the request for gravel parking.

3. RE: R. A. Raley
Route 315

Withdrawn from the agenda.

OLD BUSINESS

1. RE: C/Z #1064--Carl M. Freeman Associates, Inc.

No one was present on behalf of this application to amend the zoning map from MR Medium Density Residential to RPC Residential Planned Community in Baltimore Hundred, located on the east side of Route One, one mile north of Route 360, containing 20.67 acres more or less.

At the conclusion of the public hearings, the Chairman referred back to this application which had been deferred on May 10, 1990.

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

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 with the stipulation that no commercial activities be permitted.

2. RE: Subdiv. #90-13--Woodlands of Red Mill

The Commission reviewed a preliminary plan for the proposed 131 lot subdivision. Action had been deferred pending a revised street design eliminating a 404 wetlands crossing and a phasing designation in compliance with the D.N.R.E.C. feasibility for on-site waste disposal.

Mr. Moore stated that those items had been completed.

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

3. RE: Dove Knoll

Withdrawn from the agenda.

4. RE: Malcolms Manor
Revised

The Commission reviewed a request to allow the developer of Malcolms Manor to revise the record plat by recording an eighteen lot subdivision and voiding the existing sixteen lot subdivision.

Mr. Moore stated that the public hearing and preliminary approval had been granted for a nineteen lot subdivision.

At the time of final approval, septic approvals could be obtained for only sixteen lots, subsequently, approvals have been obtained for two (2) additional lots.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the request with the stipulation that the homeowners agree to the revision.

5. RE: Shady Park Mobile Home Park

The Commission reviewed the final site plan for the Shady Park Phase II Mobile Home Park.

No one was present on behalf of the site plan.

Mr. Moore stated that all approvals had been obtained.

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

6. RE: Time Extensions

Mr. Moore stated that requests for time extensions for Subdiv. #88-2 and Subdiv. #89-11 have been received, both siting time delays in obtaining agency approvals.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the request for a one (1) year time extension for Subdiv. #88-2 and Subdiv. #89-11.

8. RE: Plantations
Route 275

Mr. Moore questioned the Commission as to whether the Commission could review and approve a site plan for a dome to cover the existing tennis area, the dome being 56 feet in height.

It was the consensus of the Commission that the approval would need a Board of Adjustment approval for a variance in the height requirements.

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Meeting Adjourned 10:25 P.M.

Lawrence B. Lank, Secretary