

MINUTES OF THE REGULAR MEETING OF MAY 25, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 25, 1995, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the minutes of May 11, 1995, as circulated.

II. PUBLIC HEARINGS

1. C/U #1116-Atlantic Coastal Aerial Advertising

Thomas J. Calvanelli was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for the Continued Use of a Private Airstrip for a Banner Towing Service (Conditional Use No. 939) lying on the east side of Route 303, 1,800 feet southwest of Route 303A on a parcel containing 9.86 acres more or less.

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

Mr. Calvenelli stated that he has no objection to the existing stipulations placed by the County Council, but requested that the time limit be extended to 4:00 P.M. and that the five (5) year limitation be eliminated.

Mr. Lank read the stipulations imposed by the County Council for Conditional Use No. 939.

Mr. Calvenelli stated that all planes are based near Selbyville, that a ground crew stays at the site to set up banners and remove banners dropped off at the site, and that the poultry operation referenced in Conditional Use No. 939 has been removed.

Mr. Calvenelli submitted two letters of support from clients utilizing the banner advertising service.

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 the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils are mapped as Evesboro loamy sand and Rumford loamy sand, that the Evesboro and Rumford soils have slight limitations, that the applicants will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation, and that the farmland rating of the soil types is of Statewide Importance.

The Commission found that the application was represented by the President of Atlantic Coastal Aerial Advertising who advised the Commission that he has no objection to the existing stipulations placed by the County Council, but requested that the time limit be extended to 4:00 P.M. and that the five (5) year limitation be eliminated, that all planes are based near Selbyville, that a ground crew stays at the site to set up banners and remove banners dropped off at the site, and that the poultry operation referenced in Conditional Use No. 939 has been removed.

The Commission found that two letters of support were submitted from clients utilizing the banner advertising service.

The Commission found that no parties appeared in opposition.

There was a consensus of the Commission that the stipulations for Conditional Use No. 939 should remain as written with the exception of the hours and limitation on the number of years of use.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. Hours of operation shall be from 10:00 a.m. to 4:00 p.m., May 15 through September 15.
2. No aircraft shall be stored on site.
3. No aircraft shall utilize the airstrip other than the three (3) aircraft being used for the private business.
4. There shall be a ten (10) year limit to the use of the property as an airstrip.
5. Toilet facilities shall be located on site.
6. No advertising signs may be located on site.
7. One 8' x 10' building shall be permitted on site.
8. All aircraft shall be baffled.
9. There shall be no adverse impact on poultry operations.



2. RE: C/U #1117 -- Angola Community Partners, L.L.C.

Craig Hudson and John Sergovic, Attorney, were 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 Model Homes Sales and Display Lot (Maximum of Five Homes at a Time) lying on the southeast side of Route 24, 963 feet southwest of Route One on a parcel containing 1.21 acres more or less.

Mr. Lank summarized comments received from Del D.O.T., the Sussex Conservation District, and the County Engineering Department.

Mr. Sergovic stated that the Conditional Use method was chosen since the land is being leased, rather than purchased, that the site is across from and adjacent to lands zoned C-1 General Commercial, and that the site is more appropriate for commercial use due to the Rehoboth Mall entrance road.

Mr. Hudson stated that the site was chosen due to its location on Route 24 to promote the display and sale of manufactured homes and modular homes, and the promotion of Angola Beach and Angola Estates Communities being operated and developed by the partnership, that access is limited to the Rehoboth Mall entrance road and not from Route 24, that five (5) model homes will be displayed, that one of the models will also serve as a sales office, that a parking area will have access from the Rehoboth Mall entrance road.

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 Conservation District, that no storm flood hazard areas or tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils on the site are mapped as Sassafras loam which has slight limitations for the intended use, that the applicant will be required to



follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation, and that the farmland rating of the soil type is considered Prime Farmland.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is not within the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District, but adjacent to the boundaries of the District and an 8-inch sewer line, that connection to the line may be possible through a request by the property owner to expand the boundaries after 50 persons are connected to the existing sewered area, and that connections are expected to begin during the fourth quarter of 1995.

The Commission found that the application was represented by a partner and an attorney who advised the Commission that the Conditional Use method was chosen since the land is being leased, rather than purchased, that the site is across from and adjacent to lands zoned C-1 General Commercial, that the site is more appropriate for commercial use due to the Rehoboth Mall entrance road, that the site was chosen due to its location on Route 24 to promote the display and sale of manufactured homes and modular homes, and the promotion of Angola Beach and Angola Estates Communities being operated and developed by the partnership, that access is limited to the Rehoboth Mall entrance road and not from Route 24, that five (5) model homes will be displayed, that one of the models will also serve as a sales office, that a parking area will have access from the Rehoboth Mall entrance road.

The Commission found that no parties appeared in opposition.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously that this application be forwarded to the Sussex County Council with the recommendation that it be approved with the following stipulations;

1. Access to the site shall be limited to the Rehoboth Mall entrance road.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

3. RE: C/U #1118 -- Eastern Shore Crematorium, Inc.

S. Keith Parsell was present on behalf of this application to consider the Conditional Use of land in a C-1 General Commercial District in Lewes and Rehoboth Hundred for a Crematorium within a Funeral Home lying on the east side of Route 268, 629.73 feet northwest of Delaware Route One on a parcel containing 2.02 acres more or less.



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

Mr. Parsell stated that the crematorium equipment is currently operating within the Route 9 Industrial Center near Gravel Hill, that the equipment will be relocated to the funeral home presently under construction on Route 268, and that the crematorium will be located between the garage and museum room of the funeral home.

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 Sussex Conservation District, that no storm flood hazard area or tax ditch will be affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils are mapped as Evesboro loamy sand which has slight and moderate limitations for the intended use, that the applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation, and that the farmland rating of the soils are of Statewide Importance and a Hydric soil in depressions.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located within the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District, that sewer service should be available by the fourth quarter of 1995, that the County will accept holding tank wastewater at the Inland Bays or South Coastal Regional Wastewater Facilities in the interim, that a permit to discharge at either treatment facility can be obtained, and that additional capitalization fees may be required.

The Commission found that the application was represented by one of the owners who advised the Commission that the crematorium equipment is currently operating within the Route 9 Industrial Center near Gravel Hill, that the equipment will be relocated to the funeral home presently under construction on Route 268, and that the crematorium will be located between the garage and museum room of the funeral home.

The Commission found that no parties appeared in opposition.



There was a consensus of the Commission that a site plan submittal was not necessary since the equipment was proposed to be placed within the funeral home structure presently under construction.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved.

4. RE: C/U #1119 -- Samuel Burton Culver and Dona Helen Culver

Samuel Culver and Dona Culver were present on behalf of their application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for Sales and Repair of Firearms lying on the north side of Route 562, 2,659 feet northwest of Route 17 and 150 feet south of Route 560 on a parcel containing 38,572.38 square feet more or less.

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

Mr. and Mrs. Culver submitted two (2) petitions and fourteen (14) letters in support of their application.

Mr. and Mrs. Culver stated that the gunshop has existed since 1989, that he is disabled and makes a living repairing guns, that he sells shotguns, varmint guns, and some handguns, that he has a small inventory of 12 gauge shotguns shells and some 22 rifle bullets, that he does some testing of firearms after doing repairs on a 25 foot wide, 10 foot thick, and 20 foot high dirt bunker on the wife's farm next door to the site, that the building has steel doors, no windows, and is a secure building, and that all guns and ammunition are kept locked in the building.

Mr. Culver exhibited his Federal Firearms License, his Ammunition Sales License, his State Police Inspection Certificate, and his State Retailers License.

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 the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils on the site are mapped as Evesboro loamy sand which has slight limitations, that the applicants shall be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation, and that the farmland rating of the soil type is considered of Statewide Importance.

The Commission found that the applicants were present and submitted two (2) petitions and fourteen (14) letters in support of their application.

The Commission found that the applicants stated that the gunshop has existed since 1989, that he is disabled and makes a living repairing guns, that he sells shotguns, varmint guns, and some handguns, that he has a small inventory of 12 gauge shotgun shells and some 22 rifle bullets, that he does some testing of firearms after doing repairs on a 25 foot wide, 10 foot thick, and 20 foot high dirt bunker on the wife's farm next door to the site, that the building has steel doors, no windows, and is a secure building, and that all guns and ammunition are kept locked in the building.

The Commission found that the applicant has a Federal Firearms License, a Ammunition Sales License, a State Police Inspection Certificate, and a State Retailers License.

The Commission found that no parties appeared in opposition.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the use has existed since 1989 with no known objections.

5. Subd. #95-5--Pine Acres, Inc.

Dick Harrison was present on behalf of this application to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Indian River Hundred by dividing 26.45 acres into 63 lots located 110 feet northeast of the end of Rudder Road within Seafarers Village Subdivision approximately 1,460 feet north of Route 22 ( Long Neck Road ).



Mr. Abbott summarized the Technical Advisory Committee Report of May 17, 1995.

Mr. Harrison advised the Commission that the developers will comply with the recommendations of the Technical Advisory Committee, however the developers have concerns about the comments made by DelDOT in reference to the entrance having to be improved, that there have been other businesses approved on Long Neck Road in the last few years that did not have commercial entrances approved, that the developers are going to meet with DelDOT, and that there may be some revisions to the proposed deed restrictions.

Mr. Schrader advised the Commission that he has reviewed the proposed deed restrictions and found them to be acceptable.

No one was present 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.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve as a preliminary.

6. RE: AN ORDINANCE TO AMEND CHAPTER 115, THE CODE OF SUSSEX COUNTY, DELAWARE, BY AMENDING ARTICLES I, II, XVIII, AND XXV, RELATING TO FLOOD PRONE DISTRICTS.

Mr. Lank summarized the text of the Ordinance and advised the Commission that the Ordinance amendments were necessary for Sussex County to conform to Federal Emergency Management Agency regulations, that the amendments provide for some definitions describing changes in some of the flood map criteria and definitions of existing criteria not presently defined in Chapter 115, that some definitions had to be corrected to conform to changes in federal regulations, that the Ordinance eliminates references to some Towns no longer under County jurisdiction and provides for a date of adoption.

No parties appeared in opposition.

Mr. Lank read a letter from Michael S. Powell, State National Flood Insurance Coordinator, which advises that by adoption of the Ordinance Amendments Sussex County will be in full compliance with 60.3 of the National Flood Insurance Program Regulations.



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

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

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be approved as circulated.

7. RE: AN ORDINANCE TO AMEND CHAPTER 99, THE CODE OF SUSSEX COUNTY, DELAWARE, BY AMENDING ARTICLE I, RELATING TO FLOOD PRONE DISTRICTS.

Mr. Lank summarized the text of the Ordinance which quotes specific sections of Chapter 115 of the Code of Sussex County as it relates to subdivision proposals and developments.

Mr. Lank advised the Commission that Chapter 99, the Subdivision Ordinance, does not make any references to flood regulations and that he was advised by representatives of the Federal Emergency Management Agency and the State National Flood Insurance Program Coordinator that the references are required to be included in the Subdivision Ordinance.

Mr. Lank advised the Commission that the letter read from Michael Powell on the amendments to Chapter 115 also referenced this Ordinance.

Jeff Clark of Land Tech, Inc. questioned the reference to an architect certification in item (3) of the proposed Ordinance.

Mr. Lank advised the Commission that he would have to check with the representatives of the Federal Emergency Management Agency to confirm if an architect's certification is correct and if a surveyor's certification is acceptable.

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

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

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be approved as circulated.



### III. OTHER BUSINESS

#### 1. RE: Clearwater MR/RPC

Jeff Clark of Land Tech Inc. and Bob Harris, developer, were present as the Commission reviewed a concept to revise the master plan for Clearwater.

Mr. Clark advised the Commission that the Army Corps of Engineers will not allow the ditch to be relocated as planned, that the revision will not have any impacts on wetlands, that the tax ditch will not be filled and that the same number of approved units will be maintained.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve as a concept with the revised master plan to be submitted for review.

#### 2. RE: Blue Heron Estates

The Commission reviewed a concept to create four additional parcels to Blue Heron Estates subdivision.

Mr. Abbott advised the Commission that the area was designated as area for future development, that the lots would be accessed off of existing subdivision streets, and questioned if this would require the developer to go through a public hearing.

The Commission discussed the proposal.

It was the consensus of the Commission that the developer be required to file an application for a subdivision public hearing.

#### 3. RE: Queen Anne Station, Inc.

The Commission reviewed a commercial site plan for mini storage on Route 24 east of Millsboro.

Mr. Abbott advised the Commission that there are four buildings proposed, that the site will be developed in phases, that the existing buildings will be removed as the site is developed, that the site plan meets the requirements of the zoning code, and that as of this date, no agency approvals have been submitted.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried 4 to 0, with Mr. Wheatley not participating, to approve as a preliminary. Final approval shall be subject to the staff receiving all required approvals.



4. RE: Robert E. & Rada Mae Dukes

The Commission reviewed a concept to create two lots on Route 9.

Mr. Abbott advised the Commission that Route 9 is a major arterial roadway and that DelDOT has granted entrance approvals.

Motion made by Mr. Ralph, seconded by Mr. Lynch, and carried unanimously to approve the two lots.

5. RE: Bruce Daisey

The Commission reviewed a request to allow for a variance from the setbacks for a dwelling located next to agricultural lands.

Mr. Abbott advised the Commission that the applicant is receiving a lot from his parents and due to the size of the proposed dwelling the fifty foot setback from agricultural lands cannot be met and that the applicant is seeking to meet the standard AR-1 setbacks.

Mr. Abbott advised the Commission that since the setback is referenced in the Subdivision Code, the applicant cannot apply to the Board of Adjustment for a variance.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the variance.

6. RE: Jay Dolby

The Commission reviewed a concept to create a five acre lot with access from a fifty foot right of way off of Route 13.

Mr. Abbott advised the Commission that the applicant is going to extend the existing right of way and that the bank will only allow financing on a five acre parcel.

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

7. RE: Subd. #94-3--Fairways Oaks, Co.

The Commission reviewed a request for a one year time extension to receive final subdivision approval.

Mr. Abbott advised the Commission that this is the first request for a time extension.



Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to grant a one year time extension.

8. RE: C/U #1113--Patricia & Thomas Derrick

The Commission reviewed a commercial site plan for a miniature golf course located on Route One near Rehoboth.

Mr. Abbott advised the Commission that the setbacks meet the requirements of the zoning code, that the stipulations passed by County Council have been met, and that all required revised agency approvals have been received.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as amended as a final.

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 Commission discussed the application deferred since April 27, 1995.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the site is near or adjacent to several C-1 General commercial Districts and uses.

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

No one was 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 538A and south of Sussex Avenue, a private road, on a parcel containing 1.24 acres more or less.

The Commission discussed the application deferred since May 11, 1995.



Mr. Allen advised the Commission that all vehicles parked in violation have since been moved.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. Stockade fencing shall be installed to screen all vehicles stored.
2. All vehicles shall be parked or stored behind the stockade fencing.
3. There shall be no parking of vehicles on or along Sussex Avenue.
4. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

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

No one was 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.

The Commission discussed this application deferred since May 11, 1995.

Motion by Mr. Lynch, seconded by Mr. Phillips, 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 concerns, and the entrance proposal as it relates to route 206 and Route One.

4. RE: Subd. #95-4--Carpentry Unlimited, Inc.

No one was present on behalf of this application to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District and a C-1 General Commercial Zoning District in Dagsboro Hundred by dividing 6.11 acres into 9 lots, located on the south side of Route 20, 1,200 feet southeast of Route 113.

Mr. Abbott advised the Commission that the final plan is the same as submitted for preliminary approval, that the final plan meets all requirements of the County, and that all required agency approvals and permits have been received.



Minutes  
May 25, 1995  
Page 14

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve as a final as submitted.

Meeting adjourned at 10:15 P.M.



## MINUTES OF THE REGULAR MEETING OF MAY 25, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 25, 1995, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the minutes of May 11, 1995, as circulated.

### II. PUBLIC HEARINGS

#### 1. C/U #1116-Atlantic Coastal Aerial Advertising

Thomas J. Calvanelli was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for the Continued Use of a Private Airstrip for a Banner Towing Service (Conditional Use No. 939) lying on the east side of Route 303, 1,800 feet southwest of Route 303A on a parcel containing 9.86 acres more or less.

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

Mr. Calvenelli stated that he has no objection to the existing stipulations placed by the County Council, but requested that the time limit be extended to 4:00 P.M. and that the five (5) year limitation be eliminated.

Mr. Lank read the stipulations imposed by the County Council for Conditional Use No. 939.

Mr. Calvenelli stated that all planes are based near Selbyville, that a ground crew stays at the site to set up banners and remove banners dropped off at the site, and that the poultry operation referenced in Conditional Use No. 939 has been removed.

Mr. Calvenelli submitted two letters of support from clients utilizing the banner advertising service.

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 the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils are mapped as Evesboro loamy sand and Rumford loamy sand, that the Evesboro and Rumford soils have slight limitations, that the applicants will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation, and that the farmland rating of the soil types is of Statewide Importance.

The Commission found that the application was represented by the President of Atlantic Coastal Aerial Advertising who advised the Commission that he has no objection to the existing stipulations placed by the County Council, but requested that the time limit be extended to 4:00 P.M. and that the five (5) year limitation be eliminated, that all planes are based near Selbyville, that a ground crew stays at the site to set up banners and remove banners dropped off at the site, and that the poultry operation referenced in Conditional Use No. 939 has been removed.

The Commission found that two letters of support were submitted from clients utilizing the banner advertising service.

The Commission found that no parties appeared in opposition.

There was a consensus of the Commission that the stipulations for Conditional Use No. 939 should remain as written with the exception of the hours and limitation on the number of years of use.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. Hours of operation shall be from 10:00 a.m. to 4:00 p.m., May 15 through September 15.
2. No aircraft shall be stored on site.
3. No aircraft shall utilize the airstrip other than the three (3) aircraft being used for the private business.
4. There shall be a ten (10) year limit to the use of the property as an airstrip.
5. Toilet facilities shall be located on site.
6. No advertising signs may be located on site.
7. One 8' x 10' building shall be permitted on site.
8. All aircraft shall be baffled.
9. There shall be no adverse impact on poultry operations.



2. RE: C/U #1117 -- Angola Community Partners, L.L.C.

Craig Hudson and John Sergovic, Attorney, were 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 Model Homes Sales and Display Lot (Maximum of Five Homes at a Time) lying on the southeast side of Route 24, 963 feet southwest of Route One on a parcel containing 1.21 acres more or less.

Mr. Lank summarized comments received from Del D.O.T., the Sussex Conservation District, and the County Engineering Department.

Mr. Sergovic stated that the Conditional Use method was chosen since the land is being leased, rather than purchased, that the site is across from and adjacent to lands zoned C-1 General Commercial, and that the site is more appropriate for commercial use due to the Rehoboth Mall entrance road.

Mr. Hudson stated that the site was chosen due to its location on Route 24 to promote the display and sale of manufactured homes and modular homes, and the promotion of Angola Beach and Angola Estates Communities being operated and developed by the partnership, that access is limited to the Rehoboth Mall entrance road and not from Route 24, that five (5) model homes will be displayed, that one of the models will also serve as a sales office, that a parking area will have access from the Rehoboth Mall entrance road.

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 Conservation District, that no storm flood hazard areas or tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils on the site are mapped as Sassafras loam which has slight limitations for the intended use, that the applicant will be required to



follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation, and that the farmland rating of the soil type is considered Prime Farmland.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is not within the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District, but adjacent to the boundaries of the District and an 8-inch sewer line, that connection to the line may be possible through a request by the property owner to expand the boundaries after 50 persons are connected to the existing sewered area, and that connections are expected to begin during the fourth quarter of 1995.

The Commission found that the application was represented by a partner and an attorney who advised the Commission that the Conditional Use method was chosen since the land is being leased, rather than purchased, that the site is across from and adjacent to lands zoned C-1 General Commercial, that the site is more appropriate for commercial use due to the Rehoboth Mall entrance road, that the site was chosen due to its location on Route 24 to promote the display and sale of manufactured homes and modular homes, and the promotion of Angola Beach and Angola Estates Communities being operated and developed by the partnership, that access is limited to the Rehoboth Mall entrance road and not from Route 24, that five (5) model homes will be displayed, that one of the models will also serve as a sales office, that a parking area will have access from the Rehoboth Mall entrance road.

The Commission found that no parties appeared in opposition.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously that this application be forwarded to the Sussex County Council with the recommendation that it be approved with the following stipulations;

1. Access to the site shall be limited to the Rehoboth Mall entrance road.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

3. RE: C/U #1118 -- Eastern Shore Crematorium, Inc.

S. Keith Parsell was present on behalf of this application to consider the Conditional Use of land in a C-1 General Commercial District in Lewes and Rehoboth Hundred for a Crematorium within a Funeral Home lying on the east side of Route 268, 629.73 feet northwest of Delaware Route One on a parcel containing 2.02 acres more or less.



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

Mr. Parsell stated that the crematorium equipment is currently operating within the Route 9 Industrial Center near Gravel Hill, that the equipment will be relocated to the funeral home presently under construction on Route 268, and that the crematorium will be located between the garage and museum room of the funeral home.

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 Sussex Conservation District, that no storm flood hazard area or tax ditch will be affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils are mapped as Evesboro loamy sand which has slight and moderate limitations for the intended use, that the applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation, and that the farmland rating of the soils are of Statewide Importance and a Hydric soil in depressions.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located within the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District, that sewer service should be available by the fourth quarter of 1995, that the County will accept holding tank wastewater at the Inland Bays or South Coastal Regional Wastewater Facilities in the interim, that a permit to discharge at either treatment facility can be obtained, and that additional capitalization fees may be required.

The Commission found that the application was represented by one of the owners who advised the Commission that the crematorium equipment is currently operating within the Route 9 Industrial Center near Gravel Hill, that the equipment will be relocated to the funeral home presently under construction on Route 268, and that the crematorium will be located between the garage and museum room of the funeral home.

The Commission found that no parties appeared in opposition.



There was a consensus of the Commission that a site plan submittal was not necessary since the equipment was proposed to be placed within the funeral home structure presently under construction.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved.

4. RE: C/U #1119 -- Samuel Burton Culver and Dona Helen Culver

Samuel Culver and Dona Culver were present on behalf of their application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for Sales and Repair of Firearms lying on the north side of Route 562, 2,659 feet northwest of Route 17 and 150 feet south of Route 560 on a parcel containing 38,572.38 square feet more or less.

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

Mr. and Mrs. Culver submitted two (2) petitions and fourteen (14) letters in support of their application.

Mr. and Mrs. Culver stated that the gunshop has existed since 1989, that he is disabled and makes a living repairing guns, that he sells shotguns, varmint guns, and some handguns, that he has a small inventory of 12 gauge shotguns shells and some 22 rifle bullets, that he does some testing of firearms after doing repairs on a 25 foot wide, 10 foot thick, and 20 foot high dirt bunker on the wife's farm next door to the site, that the building has steel doors, no windows, and is a secure building, and that all guns and ammunition are kept locked in the building.

Mr. Culver exhibited his Federal Firearms License, his Ammunition Sales License, his State Police Inspection Certificate, and his State Retailers License.

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 the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements, that the soils on the site are mapped as Evesboro loamy sand which has slight limitations, that the applicants shall be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation, and that the farmland rating of the soil type is considered of Statewide Importance.

The Commission found that the applicants were present and submitted two (2) petitions and fourteen (14) letters in support of their application.

The Commission found that the applicants stated that the gunshop has existed since 1989, that he is disabled and makes a living repairing guns, that he sells shotguns, varmint guns, and some handguns, that he has a small inventory of 12 gauge shotgun shells and some 22 rifle bullets, that he does some testing of firearms after doing repairs on a 25 foot wide, 10 foot thick, and 20 foot high dirt bunker on the wife's farm next door to the site, that the building has steel doors, no windows, and is a secure building, and that all guns and ammunition are kept locked in the building.

The Commission found that the applicant has a Federal Firearms License, a Ammunition Sales License, a State Police Inspection Certificate, and a State Retailers License.

The Commission found that no parties appeared in opposition.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the use has existed since 1989 with no known objections.

5. Subd. #95-5--Pine Acres, Inc.

Dick Harrison was present on behalf of this application to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Indian River Hundred by dividing 26.45 acres into 63 lots located 110 feet northeast of the end of Rudder Road within Seafarers Village Subdivision approximately 1,460 feet north of Route 22 ( Long Neck Road ).



Mr. Abbott summarized the Technical Advisory Committee Report of May 17, 1995.

Mr. Harrison advised the Commission that the developers will comply with the recommendations of the Technical Advisory Committee, however the developers have concerns about the comments made by DelDOT in reference to the entrance having to be improved, that there have been other businesses approved on Long Neck Road in the last few years that did not have commercial entrances approved, that the developers are going to meet with DelDOT, and that there may be some revisions to the proposed deed restrictions.

Mr. Schrader advised the Commission that he has reviewed the proposed deed restrictions and found them to be acceptable.

No one was present 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.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve as a preliminary.

6. RE: AN ORDINANCE TO AMEND CHAPTER 115, THE CODE OF SUSSEX COUNTY, DELAWARE, BY AMENDING ARTICLES I, II, XVIII, AND XXV, RELATING TO FLOOD PRONE DISTRICTS.

Mr. Lank summarized the text of the Ordinance and advised the Commission that the Ordinance amendments were necessary for Sussex County to conform to Federal Emergency Management Agency regulations, that the amendments provide for some definitions describing changes in some of the flood map criteria and definitions of existing criteria not presently defined in Chapter 115, that some definitions had to be corrected to conform to changes in federal regulations, that the Ordinance eliminates references to some Towns no longer under County jurisdiction and provides for a date of adoption.

No parties appeared in opposition.

Mr. Lank read a letter from Michael S. Powell, State National Flood Insurance Coordinator, which advises that by adoption of the Ordinance Amendments Sussex County will be in full compliance with 60.3 of the National Flood Insurance Program Regulations.



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

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

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be approved as circulated.

7. RE: AN ORDINANCE TO AMEND CHAPTER 99, THE CODE OF SUSSEX COUNTY, DELAWARE, BY AMENDING ARTICLE I, RELATING TO FLOOD PRONE DISTRICTS.

Mr. Lank summarized the text of the Ordinance which quotes specific sections of Chapter 115 of the Code of Sussex County as it relates to subdivision proposals and developments.

Mr. Lank advised the Commission that Chapter 99, the Subdivision Ordinance, does not make any references to flood regulations and that he was advised by representatives of the Federal Emergency Management Agency and the State National Flood Insurance Program Coordinator that the references are required to be included in the Subdivision Ordinance.

Mr. Lank advised the Commission that the letter read from Michael Powell on the amendments to Chapter 115 also referenced this Ordinance.

Jeff Clark of Land Tech, Inc. questioned the reference to an architect certification in item (3) of the proposed Ordinance.

Mr. Lank advised the Commission that he would have to check with the representatives of the Federal Emergency Management Agency to confirm if an architect's certification is correct and if a surveyor's certification is acceptable.

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

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

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be approved as circulated.



### III. OTHER BUSINESS

#### 1. RE: Clearwater MR/RPC

Jeff Clark of Land Tech Inc. and Bob Harris, developer, were present as the Commission reviewed a concept to revise the master plan for Clearwater.

Mr. Clark advised the Commission that the Army Corps of Engineers will not allow the ditch to be relocated as planned, that the revision will not have any impacts on wetlands, that the tax ditch will not be filled and that the same number of approved units will be maintained.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve as a concept with the revised master plan to be submitted for review.

#### 2. RE: Blue Heron Estates

The Commission reviewed a concept to create four additional parcels to Blue Heron Estates subdivision.

Mr. Abbott advised the Commission that the area was designated as area for future development, that the lots would be accessed off of existing subdivision streets, and questioned if this would require the developer to go through a public hearing.

The Commission discussed the proposal.

It was the consensus of the Commission that the developer be required to file an application for a subdivision public hearing.

#### 3. RE: Queen Anne Station, Inc.

The Commission reviewed a commercial site plan for mini storage on Route 24 east of Millsboro.

Mr. Abbott advised the Commission that there are four buildings proposed, that the site will be developed in phases, that the existing buildings will be removed as the site is developed, that the site plan meets the requirements of the zoning code, and that as of this date, no agency approvals have been submitted.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried 4 to 0, with Mr. Wheatley not participating, to approve as a preliminary. Final approval shall be subject to the staff receiving all required approvals.



4. RE: Robert E. & Rada Mae Dukes

The Commission reviewed a concept to create two lots on Route 9.

Mr. Abbott advised the Commission that Route 9 is a major arterial roadway and that DelDOT has granted entrance approvals.

Motion made by Mr. Ralph, seconded by Mr. Lynch, and carried unanimously to approve the two lots.

5. RE: Bruce Daisey

The Commission reviewed a request to allow for a variance from the setbacks for a dwelling located next to agricultural lands.

Mr. Abbott advised the Commission that the applicant is receiving a lot from his parents and due to the size of the proposed dwelling the fifty foot setback from agricultural lands cannot be met and that the applicant is seeking to meet the standard AR-1 setbacks.

Mr. Abbott advised the Commission that since the setback is referenced in the Subdivision Code, the applicant cannot apply to the Board of Adjustment for a variance.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the variance.

6. RE: Jay Dolby

The Commission reviewed a concept to create a five acre lot with access from a fifty foot right of way off of Route 13.

Mr. Abbott advised the Commission that the applicant is going to extend the existing right of way and that the bank will only allow financing on a five acre parcel.

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

7. RE: Subd. #94-3--Fairways Oaks, Co.

The Commission reviewed a request for a one year time extension to receive final subdivision approval.

Mr. Abbott advised the Commission that this is the first request for a time extension.



Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to grant a one year time extension.

8. RE: C/U #1113--Patricia & Thomas Derrick

The Commission reviewed a commercial site plan for a miniature golf course located on Route One near Rehoboth.

Mr. Abbott advised the Commission that the setbacks meet the requirements of the zoning code, that the stipulations passed by County Council have been met, and that all required revised agency approvals have been received.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as amended as a final.

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 Commission discussed the application deferred since April 27, 1995.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the site is near or adjacent to several C-1 General commercial Districts and uses.

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

No one was 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 538A and south of Sussex Avenue, a private road, on a parcel containing 1.24 acres more or less.

The Commission discussed the application deferred since May 11, 1995.



Mr. Allen advised the Commission that all vehicles parked in violation have since been moved.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. Stockade fencing shall be installed to screen all vehicles stored.
2. All vehicles shall be parked or stored behind the stockade fencing.
3. There shall be no parking of vehicles on or along Sussex Avenue.
4. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

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

No one was 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.

The Commission discussed this application deferred since May 11, 1995.

Motion by Mr. Lynch, seconded by Mr. Phillips, 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 concerns, and the entrance proposal as it relates to route 206 and Route One.

4. RE: Subd. #95-4--Carpentry Unlimited, Inc.

No one was present on behalf of this application to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District and a C-1 General Commercial Zoning District in Dagsboro Hundred by dividing 6.11 acres into 9 lots, located on the south side of Route 20, 1,200 feet southeast of Route 113.

Mr. Abbott advised the Commission that the final plan is the same as submitted for preliminary approval, that the final plan meets all requirements of the County, and that all required agency approvals and permits have been received.



Minutes  
May 25, 1995  
Page 14

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve as a final as submitted.

Meeting adjourned at 10:15 P.M.