

MINUTES OF THE REGULAR MEETING OF JUNE 8, 1995

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 8, 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 Ms. Mowbray - Zoning Inspector II.

No action was taken on the minutes of May 25, 1995.

II. Public Hearings

1. RE: C/U #1120--Sara Thoroughgood

Sara Thoroughgood and Frank William Thoroughgood were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for a Truck Repair Shop lying on the northwest corner of the intersection of Road 333 and Railroad, and 1/2 mile north of Road 334 on a parcel containing 3.48 acres more or less.

Mr. Lank summarized comments received from DelDOT.

Mr. Thoroughgood stated that they intend to establish a truck repair garage to maintain their company trucks, that they presently have four (4) trucks, that they do not do oil changes, that no fuel will be stored on the site, that the building will not be used as a terminal, that the proposed building will have a 16 foot clearance, that the use has nothing to do with Thoroughgood Concrete, that the repair work will be minor repair and service only, and that no major engine and transmission work will be performed on the site.

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 "A" of Route 333 may change to a level of service "B" assuming development as General Light Industry, that the Department is concerned about the potential for heavy truck traffic to damage the Roadway, and that the use should be limited to truck repair only.



The Commission found that the applicant and her husband were present and stated that they intend to establish a truck repair garage to maintain their company trucks, that they presently have four (4) trucks, that they do not do oil changes, that no fuel will be stored on the site, that the building will not be used as a terminal, that the proposed building will have a 16 foot clearance, that the use has nothing to do with Thoroughgood Concrete, that the repair work will be minor repair and service only, and that no major engine and transmission work will be performed on the site.

The Commission found that no parties appeared in opposition.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan be reviewed and approved by the Planning and Zoning Commission.

2. RE: C/Z #1259--Minos E. Givens

Brett Givens, Vice President of West Side Auto Parts, was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to HI-1 Heavy Industrial in Little Creek Hundred, located on the south side of Route 24, 121 feet west of Road 498, to be located on a parcel containing 9.92 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Delaware Department of Agriculture.

Mr. Givens stated that all lubricants, oils, antifreezes and other liquids are drained from all vehicles upon entry into the salvage yard, that the vehicles are dismantled, that all waste oils are picked up by a licensed waste oil handler, that they have volunteered for environmental testing and passed all test, that they propose to construct additional buildings for the housing of parts, rather than store parts out of doors, that the parts business is computerized national network of parts handlers, that no vehicles are stored on the site with engines, transmission, or radiators, that they purchase late model vehicles only, that the use has existed since the 1960's, that the family purchased the business in 1972, that the average life span of a vehicle stored on the site is 2.5 years or less, and that some crushing of vehicles is performed on the site by an independent contractor who clears the site, used for the crushing, of all debris.

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 is not recommended and that the level of service "A" will not change as a result of this application.

The Commission found, based on comments received from the Division of Resource Management of the Delaware Department of Agriculture, that the proposed use should not greatly affect the surrounding agricultural area, that an auto salvage business does not usually interfere with agricultural operations, that the site is near the Collins Agricultural Preservation District, that the rezoning could permit potentially conflicting uses in the future, that the Department is concerned about the potential for other businesses permitted in the HI-1 Heavy Industrial District, that the site is depicted as an agricultural district on the Western Sussex Land Use Plan, and that spot zoning should be discouraged in agricultural areas.

The Commission found that the Vice President of West Side Auto Parts was present and stated that all lubricants, oils, antifreezes, and other liquids are drained from all vehicles upon entry into the salvage yard, that the vehicles are dismantled, that all waste oils are picked up by a licensed waste oil handler, that they have volunteered for environmental testing and passed all tests, that they propose to construct additional buildings for the housing of parts, rather than store parts out of doors, that the parts business is computerized with a national network of parts handlers, that no vehicles are stored on the site with engines, transmission, or radiators, that they purchase late model vehicles only, that the use has existed since the 1960's, that the family purchased the business in 1972, that the average life span of a vehicle stored on the site is 2.5 years or less, and that some crushing of vehicles is performed on the site by an independent contractor who clears the site, used for the crushing, of all debris.

The Commission found that no parties appeared in opposition.

Motion by Mr. Ralph, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the use is existing and since the rezoning will allow for the expansion of additional buildings for parts storage.



3. RE: C/Z #1260--Helena Chemical Company

Allen Hill, Project Manager, and Jerry Poore, On Site Manager for Helena Chemical, and Joseph Conaway of Consultants Unlimited, were present on behalf of this application to amend the zoning map from C-1 General Commercial to LI-2 Light Industrial in Northwest Fork Hundred, located on the east side of U.S. Route 13, 600 feet south of Route 40, to be located on a parcel containing 5.5 acres more or less.

Mr. Lank summarized comments received from DelDOT.

Mr. Conaway stated that the company presently leases from Laurel Grain on Route 13A, that the intended use is not a chemical plant, that fertilizer storage is proposed, and that no manufacturing or processing is proposed.

Mr. Hill stated that they proposed to construct an office building measuring 30' by 55', and a 10,000 square foot heated warehouse, that concrete slabs will be created in loading and storage areas with 4 inch curbing, that any spills will be contained in warehouse, that semi-truck loading areas will be concrete lined, that the site will be fenced, that they propose compacted gravel drives, that herbicides will be stored in 2,000 and 4,000 gallon tanks behind the warehouse, that the fertilizer tank farm will have a concrete dike and loading area, that all fertilizers are proposed to be liquid type, not dry, that if a spill occurs the company reacts immediately, that the company has a contract with a clean-up company specializing in chemical spills, that some minor spills have occurred at the Laurel Grain site, that the company has been located at the Laurel Grain site since 1988.

Mr. Poore stated that the company purchased Chem-Pro in 1987 at the Laurel Grain Site, that the present operation is to supply growers with agricultural chemicals, both packaged and bulk, that they recently started handling liquid nitrogen and started fertilizers, that the company has 12 employees, that the peak season is from April to June, that the service area included all of Delmarva north of Princess Anne, Maryland, that the company also sells small grain seed, that the State Department of Agriculture inspects the site at least twice a year, and that the Laurel Grain site has never been violated by the State.

Mr. Conaway added that a seven acre site exist south of the site which separates the site from the tax ditch, that east of the site is a Limited Industrial district occupied by a window and door manufacturer, that north of the site is a vacant parcel proposed to be a repair facility for truck trailer repair and



sales, that the Western Sussex Land Use Plan depicts the site within a Town Center which provides for industrial activities and development activities, that no wetlands exist on the site, that the site is not in a flood area, that no critical natural areas exist in the area, that fire and ambulance services will be provided by the Bridgeville Fire Company, that a Delaware State Police Troop is located within 1/2 mile north of the site, that the application will have no impact on the Woodbridge School District, that no negative impact is anticipated on the area, that the use is in keeping with development trends of the area, that access is from a major thoroughfare, that the use supports agriculture business.

Mr. Hill, Mr. Poore, and Mr. Conaway, while answering questions from the Commission, stated that a spill dike must hold 125% of the capacity of the largest tank within the dike, that plans are submitted for approval prior to any construction, that the Laurel Grain site is not adequate for indoor storage of their products, that the new facility will establish faster and better service to the customer, that 99% of products sold are for agricultural use, that 1% of products sold serve golf courses and nurseries, that employee and customer parking will be included on the final site plan, that equipment will be parked behind the facility, that the site will be served by an on-site well, that the company has approximately 200 facilities nationwide, that the bulk storage area is not proposed to have a roof over it, but could be roofed sometime in the future, that rain water in the dikes is pumped out into rinse tanks and uses in fertilizer applications, that the Department of Agriculture Pesticide Control Division and DNREC inspect the sites, that all control valves on tanks are manually operated, that all application equipment is transported empty and filled on application sites, and that washdowns are performed on application sites, not in the facilities yard.

Thomas Smith, a neighbor in the area and one of the owners of T.S. Smith & Sons, apple and peach producers, expressed concerns about depreciation of property values, questioned how neighbors are contacted if a fire occurs on the site, expressed concerns that if a fire occurs certain chemicals can wipeout an apple crop, that prevailing winds can carry chemicals to the orchards and destroy crops, questioned the hours of operation, odors, and expressed a concern for the health and safety of his family due to the storage of hazardous chemicals.

Mr. Poore responded that during planting hours the business operates from 7:00 AM to 7:00 PM and during the off-season the hours of operation are from 8:00 AM to 4:30 PM.



Donald Moore, owner of a farm in the Bridgeville area spoke in support of the location to serve the farming community of the Bridgeville area.

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 "A" of U.S. Route 13 will not change as a result of this application.

The Commission found that two company representatives and a consultant were present and stated that the company presently leases from Laurel Grain on Route 13A, that the intended use is not a chemical plant, that fertilizer storage is proposed, that no manufacturing or processing is proposed, that they proposed to construct an office building measuring 30' by 55', and a 10,000 square foot heated warehouse, that concrete slabs will be created in loading and storage areas with 4 inch curbing, that any spills will be contained in warehouse, that semi-truck loading areas will be concrete lined, that the site will be fenced, that they propose compacted gravel drives, that herbicides will be stored in 2,000 and 4,000 gallon tanks behind the warehouse, that the fertilizer tank farm will have a concrete dike and loading area, that all fertilizers are proposed to be liquid type, not dry, that if a spill occurs the company reacts immediately, that the company has a contract with a clean-up company specializing in chemical spills, that some minor spills have occurred at the Laurel Grain site, that the company has been located at the Laurel Grain site since 1988, that the company purchased Chem-Pro in 1987 at the Laurel Grain Site, that the present operation is to supply growers with agricultural chemicals, both packaged and bulk, that they recently started handling liquid nitrogen and starter fertilizers, that the company has 12 employees, that the peak season is from April to June, that the service area included all of Delmarva north of Princess Anne, Maryland, that the company also sells small grain seed, that the State Department of Agriculture inspects the site at least twice a year, and that the Laurel Grain site has never been violated by the State, that a seven acre site exist south of the site which separates the site from the tax ditch, that east of the site is a Limited Industrial district occupied by a window and door manufacturer, that north of the site is a vacant parcel proposed to be a repair facility for truck trailer repair and sales, that the Western Sussex Land Use Plan depicts the site



within a Town Center which provides for industrial activities and development activities, that no wetlands exist on the site, that the site is not in a flood area, that no critical natural areas exist in the area, that fire and ambulance services will be provided by the Bridgeville Fire Company, that a Delaware State Police Troop is located within 1/2 mile north of the site, that the application will have no impact on the Woodbridge School District, that no negative impact is anticipated on the area, that the use is in keeping with development trends of the area, that access is from a major thoroughfare, that the use supports agriculture business, that a spill dike must hold 125% of the capacity of the largest tank within the dike, that plans are submitted for approval prior to any construction, that the Laurel Grain site is not adequate for indoor storage of their products, that the new facility will establish faster and better service to the customer, that 99% of products sold are for agricultural use, that 1% of products sold serve golf courses and nurseries, that employee and customer parking will be included on the final site plan, that equipment will be parked behind the facility, that the site will be served by an on-site well, that the company has approximately 200 facilities nationwide, that the bulk storage area is not proposed to have a roof over it, but could be roofed sometime in the future, that rain water in the dikes is pumped out into rinse tanks and uses in fertilizer applications, that the Department of Agriculture Pesticide Control Division and DNREC inspect the sites, that all control valves on tanks are manually operated, that all application equipment is transported empty and filled on application sites, that washdowns are performed on application sites, not in the facilities yard, and that during planting seasons business hours are from 7:00 AM to 7:00 PM and during the off season business hours are from 8:00 AM to 4:30 PM..

The Commission found that a neighbor in the area who is a commercial apple and peach producer, expressed concerns about depreciation of property values, questioned how neighbors are contacted if a fire occurs on the site, expressed concerns that if a fire occurs certain chemicals can wipeout an apple crop, that prevailing winds can carry chemicals to the orchards and destroy crops, questioned the hours of operation, odors, and expressed a concern for the health and safety of his family due to the storage of hazardous chemicals.

The Commission found that an owner of a farm in the Bridgeville area spoke in support of the location to serve the farming community of the Bridgeville area.

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



4. RE: APD #95-3--Thomas H. Draper

No one was present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential District in Cedar Creek Hundred for a parcel containing 243.17 acres more or less, located on both sides of Route 38, 3,300 feet east of Route 30, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Criteria Checklist and Staff Report received from the Foundation.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with a recommendation of approval.

5. RE: APD #95-4--Wheatley Farms, Inc.

No one was present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential District in Northwest Fork Hundred for four (4) parcels totalling 481.09 acres more or less, located on the east side of Route 573, and the north side of Route 31, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Criteria Checklist and Staff Report received from the Foundation.

Harold Burris, an adjoining lot owner, questioned the possible impact on his lot.

Mr. Allen advised Mr. Burris that the farming activities are not intended to change, and that the parcels cannot be developed for ten (10) years, and that the owner will benefit from some taxation breaks.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with a recommendation of approval.



III. Other Business

1. RE: Herbert Zinszer

The Commission reviewed a concept to divide a 20.05 acre parcel into two (2) large parcels, one having access from Pine Bark Lane, and the other having access from Penn Del Avenue.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the concept.

2. RE: Latrina R. Clark

The Commission reviewed a concept to create a lot off of a fifty (50) foot wide right of way, driveway, northwest of Route 285. Mr. Lank advised the Commission that a dwelling exist on the front parcel, that a dwelling exist on the rear parcel which is served by the driveway, and that a lot is proposed to be created for a sister between the two homes.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the concept.

3. RE: C/U #1106--Eric Ritter

The Commission reviewed the site plan for Conditional Use #1106 for a boat repair and storage yard northeast of Route 395. Mr. Lank read the stipulations established by the County Council.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary. Final approval may be granted by staff upon receipt of all appropriate agency approvals and/or permits.

4. RE: Subdiv. #93-12--Dr. James Beebe, Jr.

Mr. Lank advised the Commission that the Office had received a request for a time extension for Subdiv, #93-12 by fax on June 6, 1995, that the preliminary subdivision approval was valid until June 9, 1995, and that the applicant has received almost all necessary permits and/or approvals.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to grant an one (1) year time extension.

Meeting adjourned at 9:35 P.M.