

MINUTES IF THE REGULAR MEETING OF JUNE 10, 1993

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 10, 1993, at 7:30 P.M., in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mrs. Monaco, Mr. Ralph, Mr. Smith, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner I.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of May 27, 1993, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1041 -- Rehoboth Mall Limited Partnership

Richard Derrickson, proposed tenant, and David Westerland, representing the Cordish Company, were present on behalf of the Rehoboth Mall Limited Partnership to consider the Conditional Use of land in a C-1 General Commercial District in Lewes and Rehoboth Hundred for Movie Theaters within an Existing Mall lying on the southwest side of Route One, 800 feet southeast of Route 24, to be located on a parcel containing 19.10 acres more or less.

Mr. Lank advised the Commission that comments have been submitted from the Sussex Conservation District and that the comments reference any construction. Mr. Lank advised the Commission that all construction planned is within the existing building.

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

Mr. Lank advised the Commission that the applicants intend to utilize 29,000 square feet of floor area within the existing mall for 6 movie theaters.

Mr. Derrickson stated that 6 theaters are proposed with 1,334 seats, that they hope that the theaters will help revive the atmosphere of the mall, that adequate parking is available for the theaters to the rear of the mall with access from Route 24, and that no additional impact is anticipated on traffic by creation of the theaters.

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 County Engineering Department, that the site is located within the proposed West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, that the current schedule for the project calls for sanitary sewer service to begin in September 1995, and that the site is in the State DNREC septic moratorium area.

The Commission found, based on comments made by representatives of the application, that 6 theaters are proposed with 1,334 seats, that the applicants hope that the theaters will help improve the atmosphere of the mall, that adequate parking is available for the theaters to the rear of the mall with access from Route 24, and that no additional impact is anticipated on traffic by creation of the theaters.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the use is to be located within the existing mall. There was a consensus of the Commission that review of the site plan shall not be necessary since the use is within the existing mall and since no exterior additions are proposed.

2. RE: C/U #1042 -- Richard W. & Susan M. Baker

Richard W. Baker was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for Minor Automotive Repair lying on the west side of Route 431, 1,600 feet south of Route 325, to be located on a parcel containing 0.88 acres more or less.

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

Mr. Baker advised the Commission that he proposes to operate a general automotive and light truck repair shop, that the business will be open 5 or 5 and 1/2 days per week with no Sunday hours, that he is self employed, that he may add one additional service bay to the rear of the building in the future, that he intends to do general brake, exhaust, and service work on vehicles, that presently he stores waste oils in 5 gallon cans and transports the cans to the landfill and disposes on the oils in the igloos, that in the future he may install a 55 gallon drum for the waste oils for handling by a waste handler, and that the maximum number of vehicles on the premises will not exceed 10 vehicles, including his personal vehicles.

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 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 have been mapped as Woodstown sandy loam and Fallsington sandy loam, that the Woodstown and Fallsington soils may have moderate limitations for the intended use, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow and Erosion and Sedimentation Control Plan during any construction and to maintain vegetative cover after completion of any construction, and that the farmland rating of the soils as mapped is Prime.

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

The Commission found, based on comments made by the applicant, that he proposes to operate a general automotive and light truck repair shop, that the business will be open 5 or 5 and 1/2 days per week with no Sunday hours, that he is self employed, that he may add one additional service bay to the rear of the building in the future, that he intends to do general brake, exhaust, and service work on vehicles, that presently he stores waste oils in 5 gallon cans, transports the cans to the landfill and disposes of the oil in igloos, that in the future he may install a 55 gallon drum for the waste oils for handling by a waste handler, and that the maximum number of vehicles on the premises will not exceed 10 vehicles, including his personal vehicles.

Motion by Mr. Smith, 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 following stipulations:

1. The maximum number of vehicles, on the site, shall not exceed ten (10).
2. There shall be no Sunday hours.

3. One unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.

3. RE: C/U #1043 -- Indian River School District

Joseph T. Conaway of Consultants Unlimited, Richard Harrison, a member of the Indian River School District, Richard Moretti and Norman Bunting of the Indian River School District, Gary Blant of SHWC, Inc., Planners, and Steve Crum, an Engineer, were present on behalf of this application to consider the Conditional Use of land in a GR General District and an AR-1 Agricultural Residential District in Indian River Hundred for a Public School lying on the northwest side of Route 298, 800 feet southwest of Route 23 (Long Neck Road), to be located on a parcel containing 17.22 acres more or less.

Mr. Lank summarized comments received from the Office of the Secretary of the State DNREC, the DNREC Underground Discharges Branch, the Office of the State Fire Marshal, Delaware Health and Social Services Division of Public Health, the Sussex County Engineering Department, the DNREC Division of Water Resources Water Supply Branch, the Sussex Conservation District, the Department of Agriculture, and the DNREC Wetlands and Aquatic Protection Branch.

Mr. Lank read a letter in support from Robert W. Tunnell, Jr. of Tunnell Companies, L.P.

Mr. Conaway submitted a packet of information for the Commission's review.

Mr. Conaway stated that the District proposes to construct an elementary school for 720 pupils, that the State Board of Education has approved the District's purchase of the property, and that the school building proposed contains 53,542 square feet.

Mr. Harrison described the school, the floor plans, multi-purpose space and the library, and stated that the interior design was generated by a community committee, that the site will retain as much of its natural environment as possible, and that the school will serve pupils from kindergarten through fifth grade.

Mr. Moretti stated that the site will include general purpose play areas with playfields, a ballfield, tot-lots, and that very few extracurricular activities take place after regular school hours.

Mr. Conaway stated that the site is entirely wooded, that the site has a slight slope from north to south, that drainage plans will be submitted, that no wetlands exist on the site, that no known hazardous dump sites exist on the site, that water will be supplied by the Public Water Supply Co., that sewer service is proposed to be obtained from the Long Neck Sanitary Sewer District, that ingress/egress is proposed from Route 298 with a future access from Route 23, that the school will be fully sprinkled for fire protection, that no critical natural areas or historic sites exist on the site, that the site is within the Development Zone of the Coastal Sussex Land Use Plan where public improvements should be provided, that the District is one of the top 50 employers in Sussex County, that no adverse impact is anticipated on prime agricultural land, that a tree buffer will be retained along agricultural lands, and that the use promotes the present and future needs in Sussex County.

Mr. Conaway stated, that as a Realtor, it is his opinion that the use will enhance property values and will have a positive impact on the area.

Mr. Harrison stated that the Board of Education chose to limit the school to approximately 700 pupils, that the building is designed to allow expansion from corridors within the building, that the school will be helpful to the Long Neck Sanitary Sewer District since the school is operational during the off-season months, and that major traffic problems shouldn't exist during the regular school year.

Charles Watts, a resident of the Oak Orchard Area questioned if all traffic will stop to allow buses to leave the site, similar to the control at the Sussex Central Middle School at Millsboro.

Mr. Bunting advised the Commission that the traffic control at Millsboro is controlled by the Town of Millsboro, that 24 buses leave the Millsboro site at one time, and that the traffic light is controlled for approximately 3 to 5 minutes.

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 Office of the Secretary of the State DNREC, that comments have been requested from the DNREC Division of Parks and Recreation, the DNREC Division of Water Resources - Water Assessment Branch, Wetlands & Aquatic Protection Branch, Water Supply Branch,

Underground Discharges Branch, the Department of Agriculture, the Delaware State Historic Preservation Office, the Delaware Health and Social Services - Division of Public Health, the Department of Transportation, the Office of the State Fire Marshal, the State Police Headquarters Communications, and the Sussex Conservation District.

The Commission found that the DNREC Underground Discharges Branch had no comment since wastewater disposal is proposed via the Long Neck Sanitary Sewer District.

The Commission found that the Office of the State Fire Marshal has no objection to the Conditional Use.

The Commission found that the Division of Public Health will require submission of plans on the potable water system.

The Commission found that the Sussex County Engineering Department has reviewed the application, that the District has requested sanitary sewer service, and that the service will be provided.

The Commission found that the DNREC Water Supply Branch has no objection to the application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type is of Statewide Importance, that no storm flood hazard areas or tax ditches are affected, that it may not be necessary for any off-site drainage improvements, and that it may be necessary for some on-site drainage improvements.

The Commission found that the Department of Agriculture does not anticipate any negative impacts to agriculture due to the increasing amount of development in the area, and that the Department request that trees serving as a natural buffer between the site and agricultural lands remain undisturbed.

The Commission found, based on comments received from the DNREC Wetlands and Aquatic Protection Branch, that information provided to their Office was insufficient for making a preliminary wetlands determination and that they assume that wetlands may be present on the site, and that if any wetlands exist on the site permits may be required from the U.S. Army Corp. of Engineers.

The Commission found that Tunnell Companies, L.P. submitted a letter in support of the application.

The Commission found that the application was represented by a member of the School Board for the District, two administrative employees of the District, a Consultant, an Engineer, and a Planner. A packet of information was submitted which included a general location map, a letter from the State Board of Education in support of the purchase of the site, a survey of the site, a preliminary site plan, a design statement, a list of members of the School Building Design Committee, a copy of a preliminary geotechnical investigation of the site relating to soils, wetlands, and flood plains which established that no wetlands exist on the site, a topographic map, a soils map, a wetlands inventory map, a copy of a preliminary environmental hazard assessment, a list of historic ownership of the site, a copy of a previously referenced letter from Sussex County Engineering, copies of a Historic Sites map, a Critical Natural Areas map, a Future Land Use map, from the Coastal Sussex Land Use Plan, a chart of enrollment projections and a school capacity analysis for the East Millsboro Elementary and Georgetown Elementary Schools, a copy of an Agricultural Lands map from the Coastal Sussex Land Use Plan, and a copy of a previously referenced letter from the Department of Agriculture.

The Commission found, based on comments made by representatives of the application, that the proposed elementary school will provide space for 720 pupils, that the proposed building contains 53,542 square feet, that the interior of the building was generated by a community committee, that the site will retain as much of its natural environment as possible, that the school will serve pupils from kindergarten age to fifth grade, that the site will include general purpose play areas with playfields, a ballfield, and tot-lots, that very few extracurricular activities will take place after regular school hours, that the site is presently wooded and has a slight slope from north to south, that drainage plans will be submitted, that no wetlands exist on the site, that there are known hazardous dumps sites on the site, that water will be supplied by the Public Water Supply Co., that sewer service is proposed to be obtained from the Long Neck Sanitary Sewer District, that ingress/egress is proposed from Route 298 with a future access from Route 23, that the school building will be fully sprinkled for fire protection, that no critical natural areas or historic sites exist on the site, that the site is within the Development Zone of the Coastal Sussex Land Use Plan where public improvements should be provided, that the District is one of the top 50 employers in Sussex County, that no adverse impact is anticipated on prime agricultural land, that a tree buffer will be retained along agricultural lands, that the use promotes the present and future needs in the County, that the building is

designed to allow expansion of the floor plan at the location of the corridors within the building, that the school will be helpful to the Sewer District since the school is operational during the off-season months, and that the school should not create any major traffic problems during the regular school year.

The Commission found that the Consultant present was also a Realtor and that it was his opinion that the use will enhance property values and will have a positive impact on the area.

The Commission found that one person present questioned if all traffic will stop to allow buses to leave the site, similar to the traffic control at the Sussex Central Middle School in Millsboro.

The Commission found that traffic control at the Millsboro School is controlled by the Town of Millsboro, that 24 buses leave the Millsboro site at one time, and that the traffic light is controlled for approximately 3 to 5 minutes.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved since a need exist for a school in the area and with the stipulation that the site plan shall be required to be approved by the Planning and Zoning Commission.

4. RE: C/Z #1198 -- Best Drywall, Inc.

Holly Carmack, owner, and James Fuqua, attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Baltimore Hundred, located on the southwest side of Route 382, 500 feet south of Route 383 to be located on a parcel containing 4.0189 acres more or less.

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

Mr. Fuqua stated that the site is presently occupied by a 2,600 square foot office building and a 5,000 square foot warehouse utilized by the drywall business, that the property was approved for the use in 1979 as a Conditional Use, that the office and warehouse were built in 1982, that the office was expanded in 1989, that the business has been successful, that the company works from Dover to Salisbury, that the company employs 75 full-time employees, that the use is served by an on-site well and septic, that solid waste is handled by a private hauler, that no environmental impact is anticipated, that the Roxana Fire Department is within one (1) mile of the site, and that the owners

propose to expand the use of the site by creating a tool and equipment rental and retail sales of drywall related products on the site, that mini storage may be constructed in the future, that rezoning will increase the value of the property and the line of credit for the business, that the nature of rezoning has changed since the original Conditional use was approved based on the number of rezonings that have occurred in the area, and that several C-1 and B-1 Districts exist in close proximity.

Mr. Fuqua submitted pictures of the site, the buildings on the site, and area business uses, a reduced copy of the Tax Map marked with zonings, and copies of minutes of the referenced rezonings.

Mr. Allen questioned if any residences existed on the site and if the present entrance is adequate to serve any expansion.

Ms. Carmack advised the Commission that no residences exist on the site and that adequate space is available for parking on the site.

Mr. Lank advised the Commission that the Division of Highways will evaluate the entrance for any expansion to 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 the DelDOT Division of Highways that a traffic impact study was not recommended and that the present level of Service "B" of Route 20 (Road 382) may change to a level of service "C" assuming development as discount shopping generating on a per acre basis.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand and Pocomoke sandy loam, that the Evesboro soils suitability may vary from none to slight limitations, that the Pocomoke soils may have moderate limitations if drained, that the evaluation of the soils with respect to erosion and sediment control may require the applicants to follow an Erosion and Sedimentation Control Plan during any construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil types is considered Prime and of Statewide Importance, 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, that the Batson Branch Tax Ditch runs along the northwest and southwest property lines, and that a 25 foot wide right of way exist along the tax ditch for maintenance work.

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

The Commission found, based on comments made by representatives of the application, that the site is presently occupied by a 2,600 square foot office building and a 5,000 square foot warehouse utilized by the drywall business, that the drywall business was approved as a Conditional Use in 1979, that the office and warehouse were built in 1982, that the office was expanded in 1989, that the business operates from dover to Salisbury with 75 full-time employees, that the site is served by on-site water and sewer, that solid waste is handled by a private hauler, that no environmental impact is anticipated, that the Roxana Fire Department is located within one (1) mile of the site, that the owners propose to expand the use of the site by creating a tool and equipment rental and retail sales of drywall related products, that mini storage may be constructed in the future, that rezoning will increase the value of the property and the line of credit for the business, that the nature of rezoning has changed since the original Conditional Use was approved based on the number of rezonings that have occurred in the area, that several C-1 and B-1 Districts exist in close proximity, that no residences exist on the site, and that adequate space is available for parking on the site for any expansions.

The Commission found that no parties appeared in opposition.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the site is in close proximity to other business and commercial uses, and since the rezoning will allow for expansion of the existing uses on the premises.

5. RE: C/Z #1199 -- Oak Orchard - Riverdale American Legion
Post No. 28

Joe Ironside 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 southwest side of Route 298, 365 feet east of Route 24 to be located on a parcel containing 0.99 acres more or less.

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

Mr. Ironside stated that the rezoning will allow for additional parking area to serve the Post building presently being enlarged, that the Post presently has approximately 800 members and 300 auxiliary members, that the facility is utilized by the Post members and other area organizations.

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 present level of service of Route 298 will not change as a result of this application.

The Commission found that a Detailed Sediment and Stormwater Management Plan has been approved by the Sussex conservation District for the building additions and parking lot.

The Commission found that the application was represented by a member of the Post who advised that the rezoning will allow for additional parking area to serve the Post building presently being enlarged, that the Post presently has approximately 800 members and 300 auxiliary members, and that the facility is utilized by the Post members and other area organizations.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the rezoning will be an expansion to the existing zone and use.

III. OTHER BUSINESS

1. RE: Donald W. & Christine Records

The Commission reviewed a concept to create two acreage tracts and a 50 foot right of way located on the south side of Route 32 in Northwest Fork Hundred.

Mr. Abbott advised the Commission that the owner wants to refinance his property and that the bank will not loan money on a parcel this size and that he needs to create a smaller parcel for the dwelling or will have to apply for a commercial loan.

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

2. RE: C/U #1037 -- Salt Pond Associates

The Commission reviewed a site plan for a miniature golf course at the Salt Pond Development.

Mr. Abbott advised the Commission that the setbacks for the snack bar and arcade meet the requirements of the Code, that the individual holes are not referenced on the site plan, and questioned if the holes have to meet the setback requirements of the Code.

Mr. Lank advised the Commission that other miniature golf courses have been required to meet the setback requirements.

There was a consensus of the Commission that the holes should meet setback requirements.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the site in concept with the stipulations that the staff may approve the site plan as a final when the site plan shows that no holes are located within forty (40) feet of Route 357 or within fifteen (15) feet of Bethany Loop within the Salt Pond Development.

Meeting adjourned at 9:20 P.M.