

MINUTES OF THE REGULAR MEETING OF JUNE 22, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 22, 1989, at 7:45 P.M. in the County Council Chambers, with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Witsil - County Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of May 18, 1989, as circulated.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of May 25, 1989, as circulated.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the minutes of June 8, 1989, as circulated.

PUBLIC HEARINGS

1. RE: C/U #907--Homestead Associates, Inc.

John Sergovic, attorney, and Leonard Leeds 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 an Extension to an Existing Manufactured Home Park located on the southeast corner of the intersection of Route 442 and Route 431, and to be located on a parcel containing 46.22 acres more or less.

Mr. Lank summarized comments received from the LUPA agencies contacted. Mr. Lank stated comments were received from the State Highway Department. They will not request a traffic impact study and expect no change in the existing level of service "A" of Route 431 or Route 442.

Mr. Sergovic stated the applicants are proposing 32 additional lots for manufactured homes and acreage for a sewage treatment facility for the additional lots.

Mr. Sergovic stated the proposed lots would be in front of the existing lots.

Mr. Sergovic presented a copy of the rental agreement and regulations.

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Mr. Sergovic presented letters, read into the record by Mr. Witsil, from the Delaware State Police and from the Georgetown Volunteer Fire Company, stating the proposed addition would have no negative impact on their services.

Mr. Leeds stated he planned to upgrade the park by implementing a marketing program which was successful for him at another location. The program was unsuccessful at the proposed location and has been abandoned.

Mr. Leeds stated the park still gets calls requesting lots for manufactured homes.

Rodney Mears, park manager, spoke in favor of the application.

Byron Jefferson stated 20.5 acres will be used for a waste water disposal system for the 32 proposed lots. The design for the system has not been completed.

Mr. Leeds stated the three (3) existing entrances will serve the proposed addition.

Mr. Leeds stated there are 17 vacant lots in the existing park.

Tom Marvel, realtor, and Kathy Mitchell, park resident, spoke in favor of the application.

Madeline Davis spoke in opposition due to the site being in an already congested area, property devaluation, no need for more lots since there are 17 vacant lots in the existing park, and the absence of a landlord at the site.

Dave Mandel, park resident, spoke in opposition due to existing problems within the park.

Brian Davis, Richard Stewart, Susan VanAuken, Terry Bradley, Carl Pheifle, and Sharon Montague spoke in opposition for similar reasons.

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 D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested from the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments received from the Division of Highways, that the level of service "A" of both Route 442 and Route 431 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the suitability of soils for the intended use are moderate to severe, that in respect to erosion and sediment control, only slight limitations are anticipated during and after construction, that the site farmland rating is prime and of statewide importance, and that in reference to drainage, no storm flood hazard area is affected, no off-site drainage improvements will be necessary, on-site drainage improvements will be necessary, and no tax ditch is affected.

The Commission found that the application was represented by one of the developers, legal counsel, the park manager, an environmental engineer, and real estate agent.

The Commission found, based on comments by representatives on behalf of the application, that a need exists for this type of housing, that the 32 unit addition is an extension to the existing 79 unit manufactured home park, that the large acreage is to be utilized for wastewater disposal, that the park was purchased last year with the intent of expansion and modernization, that the park rules and regulations have been revised, that a waiting list for space has always existed, that the new park rules and regulations have limited tenants, that the park has equipment for septic cleanup and removal, that no D.N.R.E.C. citations have ever been cited for overflow or hauling violations, and that property values should not decrease.

The Commission found that a resident of the park was present in support of the application since the existing park is quiet and well maintained and provides an affordable means of housing.

The Commission found, based on a letter presented by the applicants from the Georgetown Fire Co., Inc., that it will be no burden on the Fire Company if an additional 32 sites are added to the park.

The Commission found, based on a letter presented by the applicants from the Division of State Police, that the 32 site addition to the park would not place an undue strain on the services by the State Police.

The Commission found that eight (8) persons spoke in opposition and expressed concerns over devaluation of property values, the addition of 32 manufactured home sites to the area, infringement on private property rights, questioning the need for additional sites in a park with 16 vacant sites and 3 vacant units, that previous applications for this site stated that no manufactured home would be placed in the subject area, that the expansion would not be conducive to the area, that the park is not served by a resident manager and has an absentee landlord, concern for lack of recreational facilities in the existing park, rental increases with no new amenities, and that traffic will be increased.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied based on the record of opposition and since the need was questionable for additional sites and since 17 sites are still available in the existing park.

2. RE: C/Z #1006--Ben Kimmell

Steve Parsons, attorney, and Ben Kimmell were present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business in Baltimore Hundred, located on the north side of Route 26, 200 feet east of Route 351, within the Town of Millville, containing 8,475 square feet more or less.

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

Mr. Lank read into the record a letter in support of this application received from the Chamber of Commerce of Alexandria, Virginia.

Mr. Lank read into the record letters of opposition received from Grace Wolfe and from Clement and Loretta Shackle.

Mr. Parsons stated the applicant operates an antique business in Alexandria, Virginia. He plans to open a similar operation in the existing building on the proposed site. The business would be operated by the applicant's daughter, who would reside in a portion of the existing building.

Mr. Kimmell stated there will be no outside display, no sign, and no Sunday sales. Hours of operation would be 10:00 A.M. to 5:00 P.M., six (6) days a week. The business would be seasonal at first. There is adequate space for parking.

No one was present in opposition.

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

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils have only slight limitations for the intended use, that erosion and sediment control during and after construction have only slight limitations, that the land rating is of statewide importance, that in reference to drainage, no storm flood hazard area is affected, no on-site or off-site drainage improvements are necessary, and no tax ditch is affected.

The Commission found that the application was represented by the applicant and legal counsel and intends to utilize the site for an antique shop specializing in lamps, lighting fixtures, and some furniture.

The Commission found, based on comments by representatives of the application, that approximately 700 square feet of the existing structure will be utilized for the shop, that the shop will operate seasonally, six (6) days per week with hours of 10:00 A.M. to 5:00 P.M. and some by appointment, that the site has adequate space for parking, that the use will not substantially impact Route 26 or Millville, that no devaluation of property values is anticipated, that minimal traffic is anticipated, and that other rezonings have been approved on Route 26 in Millville recently.

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study was waived since the applicant agrees to restrict the use of the property to an antique shop until Route 26 in this vicinity is bypassed or significantly widened, that a traffic impact study will be required if any change of use is proposed, that the applicant will have a traffic impact study prepared, and that the applicant agrees to fund any roadway improvements recommended by a traffic impact study.

The Commission found, based on a letter received from the Alexandria, Virginia, Chamber of Commerce, that the applicant's shop in Alexandria is well recognized and reputable.

The Commission found that two (2) letters received in opposition expressed concern with increasing traffic, location of the site, size of the site, closeness of the site to the intersection of Route 351, traffic backups on Route 26 and Route 351, delay in response time by fire and rescue equipment, inadequate space for parking on-site, and the closeness of the structure to Route 26.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied based on the record of opposition and due to the narrowness of Route 26, excessive traffic, and limited parking area.

3. RE: C/Z #1007--P & M Partnership

Joseph Raskauskas, attorney, and John Perrin were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Baltimore Hundred, located on the south side of Route 54, containing 11,250 square feet more or less.

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

Mr. Raskauskas stated the applicant plans to operate an eat in/carry out pizzeria. The existing structure on the site will be removed and a new building constructed with approximately 1,600 square feet of patron area inside and a screened in deck approximately 650-700 square feet. They anticipate 13 to 15 employees year round.

Mr. Raskauskas presented a letter from Vera Blaser, realtor, in support of this application.

Mr. Raskauskas stated the proposed site is within the Fenwick Sanitary Sewer District.

William and Marian Adams spoke in opposition due to traffic congestion.

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 the suitability of soils for the intended use is severe, that in respect to erosion and sediment control, only slight limitations are anticipated during and after construction, and that in reference to drainage, storm flood hazard areas are affected, no off-site drainage improvements will be necessary, on-site drainage improvements will be necessary, and no tax ditch is affected.

The Commission found, that the application was represented by one of the developers and legal counsel, and plan to utilize the site for a pizza restaurant and carry out.

The Commission found, based on comments by representatives on behalf of this application that no wetlands exist on site, that the existing structure may be renovated, but a new structure may be probable, that seating for approximately 60 patrons is proposed, that 30 percent of the business is carryout, and that no increase in traffic is anticipated since existing Route 54 user traffic should be the majority of the customers.

The Commission found, based on a letter submitted by the applicant, that a realtor broker reported that Route 54 is becoming a commercially dominated and oriented strip, and that this rezoning will have no adverse results to the area.

The Commission found two (2) area residents were present in opposition and expressed concern over additional traffic generated, turning traffic in and out of Treasure Beach Campground, that the site is directly across from the ingress-egress to the campground, that the site is a poor location for a business, and the narrowness and size of the parcel.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied based on the record of opposition and due to the entrance location to Treause Beach, the size of the parcel, and the width of the parcel.

4. RE: C/Z #1008--Claudio and Louise P. Smarrelli

Kathy Karsnitz, attorney, and Claudio Smarrelli were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Lewes and Rehoboth Hundred, located on the east side of Route 269A, 143 feet north of Route 18, containing 17,682 square feet more or less.

Mr. Lank stated comments were received from the State Highway Department. They will not request a traffic impact study.

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

Ms. Karsnitz stated a single family dwelling and a two story garage containing two (2) apartments exist on the proposed site.

Ms. Karsnitz stated the applicants plan to construct a small building to be used as a print shop. The applicants plan to relocate their existing business to this site.

Mr. Smarrelli stated the proposed building would be approximately 20 feet by 40 feet, one (1) story, and would have sufficient parking space available. There will be no outside storage. There will be four (4) employees.

Ms. Karsnitz stated a portion of this site is already zoned C-1 General Commercial. There are other businesses in the area. The existing uses of the site will continue unchanged.

No one was present in opposition.

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

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

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study was not recommended, and that the existing level of service "A" of Route 269A will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the suitability of the soils for the intended use have only slight limitations, that in respect to erosion and sediment control, only slight limitations are anticipated during and after construction, that the site's farmland rating is prime, and that in reference to drainage, no storm flood hazard area is affected, no off-site or on-site drainage improvements will be necessary, and no tax ditch is affected.

The Commission found that the applicants were present with legal counsel and plan to utilize the site for a printing shop in addition to the existing dwelling and apartment on the premises.

The Commission found, based on comments by representatives on behalf of the application, that a portion of the parcel is already zoned C-1 General Commercial, that the adjoining lands to the

south are C-1 General Commercial and improved by several commercial uses (lounge and liquor store, used car sales, antique sales, auto body shop, etc...), that sufficient area is available for parking, that rezoning will create a conforming zoning for the existing apartment, that C-1 General Commercial zoning will create an extension to the existing C-1 District, that the parcel has access to a major thoroughfare, that no nuisance is anticipated by creation of a print shop at this location, and that the site is not conducive to a residential use due to the truck traffic from Atlantic Concrete.

No parties appeared in opposition.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support and since the rezoning will be an extension to an existing C-1 General Commercial District and since the rezoning will eliminate a small property with two zoning classifications.

5. RE: Subdiv. #89-17--C.P.P.S. Assoc.

Charles Adams, surveyor, and Patrick Cannon, developer, were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 28.46 acres into 39 lots, located on the southeast side of Route 266, 600 feet southwest of Route 266A.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of June 19, 1989.

Mr. Cannon discussed the proposed street design.

Mr. Adams stated a fire hydrant system will be installed.

No one was present in opposition.

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

OTHER BUSINESS

1. RE: Ocean Outlets  
Phase IV

The Commission reviewed the preliminary plan for a proposed retail sales complex.

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Andrew Beck, developer, was present on behalf of the site plan.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to grant preliminary approval.

2. RE: Sheila Proskow  
2 lots  
Route 315

The Commission reviewed a proposal to subdivide 4.6 acres into two (2) lots with access from a fifty (50) foot right of way.

No one was present on behalf of the proposal.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the two (2) lot subdivision.

3. RE: Ralph Evans  
2 lots  
Route 368

The Commission reviewed a proposal to subdivide two (2) acres into two (2) lots having frontages of 150 feet and 141 feet.

No one was present on behalf of the proposal.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the two (2) lot subdivision with the stipulation that approval be granted by the Highway Department prior to recordation.

4. RE: Jared McEachen  
3 lots  
Route 544

The Commission reviewed a proposal to subdivide 9.34 acres into three (3) lots with access from a fifty (50) foot right of way.

No one was present on behalf of the proposal.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the three (3) lot subdivision.

5. RE: James Cullen  
3 lots  
Route 361

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The Commission reviewed a proposal to create three (3) parcels having access from a fifty (50) foot right of way.

Mr. Moore stated that two (2) of the lots have been recorded by deed only, which is a violation of the Zoning Ordinance.

Mr. Moore stated that Mr. Witsil should notify the Sussex County Bar Association that survey approval must be obtained prior to the recordation of lots having less than 200 feet of frontage on a public road.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to deny the proposed three (3) lot subdivision.

#### OLD BUSINESS

##### 1. RE: Subdiv. #89-12--Fairway Villas

The Commission reviewed the preliminary subdivision plat for the proposed 96 lot development.

Action had been deferred at the May 25, 1989, meeting.

Donald Wilgus, developer, and Buck Smith, attorney, were present on behalf of the application.

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

##### 2. RE: Subdiv. #89-13--Gerald Steen

The Commission reviewed the preliminary plat for the proposed 17 lot subdivision.

Action had been deferred at the May 25, 1989, meeting pending further review.

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

##### 3. RE: Subdiv. #89-15--Wheatley Farms

The Commission reviewed the proposed 252 lot preliminary subdivision plat.

Action had been deferred at the May 25, 1989, meeting pending further review of the drainage and street design by the County Engineer.

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The Engineering Office is satisfied with the preliminary design.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to grant preliminary approval.

4. E: Subdiv. #89-16--Willard Griffith

The Commission reviewed the preliminary subdivision plat for the proposed 44 lot subdivision.

Action had been deferred at the May 25, 1989, meeting pending further review by the Highway Department.

The Highway Department is satisfied with the entrance location and design.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to grant preliminary approval.

5. RE: Subdiv. #88-14--Holly Cove

The Commission reviewed the final subdivision plat for the Holly Cove Subdivision.

Mr. Moore stated that all approvals have been obtained.

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

6. RE: Subdiv. #88-22--Old Church Landing II

The Commission reviewed the final subdivision plat for the 11 lot addition to the Old Church Landing Subdivision.

Mr. Moore stated that all approvals have been obtained.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the subdivision as a final.

7. RE: Subdiv. #88-24--Webb's Landing

Withdrawn from the agenda.

8. RE: Cedars Academy

The Commission reviewed the site plan for the proposed boarding school.

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Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a final with the stipulation that all required agency permits be obtained prior to the issuance of a construction permit.

Meeting Adjourned 10:50 P.M.

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Lawrence B. Lank, Secretary