

MINUTES OF THE REGULAR MEETING OF JUNE 25, 1998

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 25, 1998, at 7:30 P.M., in the County Council Chambers, Sussex County Administrative Building, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Hastings, Mr. Lynch, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion made by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the minutes of June 11, 1998 as circulated.

Mr. Schrader explained the meeting process.

II. PUBLIC HEARINGS

C/U #1250--application of ANTHONY AND PAULINE ROSS to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an auto repair shop to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 33,718 square feet, more or less, south of Road 64, across from Road 70, and 900 feet east of Road 454C.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that the level of service "E" of Route 113 will not change as a result of this application; and that the Department has no objection to the site plan submitted.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Fallsington sandy loam and Kenansville loamy sand; that the Fallsington soils have severe limitations; that the Kenansville soils have slight limitations; that the applicant shall be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that both soil types are considered Prime Farmland; that the Fallsington soils are also considered of Statewide Importance; that no storm flood hazard area is affected; that a tax ditch is adjacent to the property; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Anthony Ross, and Joseph T. Conaway of Consultants Unlimited, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the site is being purchased from Mr. Ross's brother; that the applicant will operate an auto repair shop; that the applicant has operated an auto repair shop for 18 years on Parcel 53; that the original building was destroyed by fire in March 1998; that the site will be purchased

if the use is approved; that a 56' by 30' building is proposed; that the applicant has lived in the neighborhood since 1962; that growth of the area has occurred since the original auto repair business started; that automobiles and pickups will be repaired; that the building will be a pole building construction with a concrete floor; that the doors will all be located to the rear of the building; that landscaping will be provided in the front yard; that an unlighted 4' by 8' sign and approximately 10' high may be erected in the front yard; that business hours will be from 8:00 am to 8:00 pm weekdays, and 8:00 am to 12:00 (noon) on Saturdays, with no Sunday hours; that all vehicles will be parked to the rear of the building; that no large equipment will be repaired, i.e. heavy construction equipment, tractors, combines, tractor trailers, etc...; that the shop that burned was behind his home; that the applicant is self employed; that a 30' wide stone driveway will be provided; that no auto sales or body work will be performed on the site; that security lighting will be provided; that 6 to 8 vehicles may be stored while waiting for repairs; that the nearest commercial business is a body shop and a limestone distributor; that waste oils are stored in 50 gallon drums and picked up by a licensed waste oil handler; that the DelDOT comments indicate that there are no adverse impacts on roads; that no septic or well permits are necessary since he lives next door to the site; that he will comply with all agency requirements; that no timberlands or wetlands exists on the site; that the site is within the 8 minute response time for emergency services; that no impacts are anticipated on land values; that the use meets the requirements for a Conditional Use since it will provide a service to the area; and that there should be no impact on agricultural lands since the parcel is separated from the adjoining farms by a tax ditch.

Laura McDaniel, one of the 17 people present in support of this application, stated that she is a 30 year resident of the area; that she has no objection to the garage; and that the same traffic utilizing the original garage will be using the new location.

Kevin Gross, a resident living across Road 64, spoke in opposition to the application, and stated that he moved into the area and the shop was down the road; that the original shop had a lot of vehicles in the yard; that some vehicles have been stored in excess of 30 days on the original site; that some vehicles are being stored on the temporary site; and questioned why a one man operation needs a 30' by 50' building. Mr. Gross submitted some photographs of the original site.

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. Hastings, 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. All parking and storage of vehicles shall be to the rear of the building. No parking shall be permitted in the front yard between the building and the right of way of Road 64.
2. No long term storage of vehicles shall be permitted outside (no longer than 2 weeks).
3. Business hours shall be from 8:00 am to 8:00 pm Monday through Saturday, with no Sunday hours.
4. No body work or painting shall be permitted.
5. Outside lighting shall be security lighting only.
6. One (1) unlighted two-sided sign, not exceeding 32 square feet per side or facing, may be permitted.
7. All entries to the building shall be to the rear of the building.
8. All business activities shall be conducted behind the front of the building.
9. A landscaping plan shall be submitted with the final site plan.
10. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

C/U #1251--application of DALE J. AND MARY GRAY, T/A GRAY'S PAVING, INC. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a paving business with equipment storage to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 0.98 acres, more or less, east of U.S. Route 113 and 200 feet south of Road 432.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the level of service "B" of Route 113 at this location will not change as a result of this application.

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

The Commission found that Mary Gray and Steve Parsons, Attorney, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that they are requesting permission to continue operating their paving business that they have operated for 7 years; that they thought that the zoning was C-1 General Commercial; that several business uses exists in the general area along or near Route 113, i.e. a tavern, automotive repairs, retail sales, used car sales facilities, and a construction company, etc...; that they employ 10 full-time employees; that no additional buildings are proposed; that storage of some materials will be to the rear of the site; that during the majority of the time, equipment is not stored on the site, it is stored on job sites; that they have several pieces of equipment, i.e. pavers, dump trucks, service truck, bob cats, trailers, and rollers, etc...; that they perform minor maintenance on their vehicles; that all recyclable waste oil is taken to the solid waste authority; that the only outside lighting will be security lighting; that they have enough business to not need to advertise; that they purchased the site with the intent to operate the business; that homes exists on both sides of the site; that both immediate neighbors support the business; that some used asphalt is stored on the site; that the wider driveway is utilized for the business, and the smaller driveway is utilized for the home.

The Commission found that Mrs. Gray submitted six (6) letters in support of the application, and some photographs of the site and business uses in the area.

The Commission found that Mr. Parsons submitted some suggested stipulations which are made a part of the record.

The Commission found that Irene Gray, mother to one of the applicants, and Robert Heinbock, a neighbor, spoke in support of the rezoning. Mr. Heinbock added that the garage encroaching onto the lot has existed in excess of 40 years.

The Commission found that no parties appeared in opposition to the 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 by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to defer action.

III. OTHER BUSINESS

1. RSC Landscaping, Ltd.
C/U #1242 Site Plan
Road 308

Mr. Abbott advised the Commission that the site plan is the same plan that was submitted for the public hearing; that the proposed use is for the retail sales of landscaping supplies that are not produced on the site; and that no agency approvals are required since the use has been in existence.

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

2. Quality Mechanical
C/U #1233 Site Plan
U.S. Route 13

Mr. Abbott advised the Commission that the site plan is for a heating and plumbing business; that a 80' x 125' building is proposed; that 28 parking spaces are provided with interior drives; that the parking and drives are proposed to be crusher run stone; that the setbacks meet the requirements of the zoning code; that the staff has received approvals from DelDOT and the Sussex Conservation District; and that approvals are required from the Office of the State Fire Marshal and DNREC.

Motion made by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve the site plan as submitted as a preliminary. Final approval shall be subject to receipt of all agency approvals by the staff.

3. Michael J. Evans
C/U #1195 Site Plan
Route 24

Mr. Hastings did not participate in the review of this item.

Mr. Abbott advised the Commission that this site plan is for a produce stand for produce grown and not grown on the site; and that DelDOT has granted an entrance permit for ingress/egress to both Route 24 and Road 24.

Motion made by Mr. Wheatley, seconded by Mr. Lynch, and carried three votes to none, with Mr. Hastings abstaining, to approve the site plan as submitted as a final.

4. Indian River Marina Pier, Inc.
C/U #1188 Time Extension
Road 312

Mr. Abbott advised the Commission that the staff has received a request for a one year time extension; that this is the first request for a time extension; and that the time extension is requested because the applicants have used their excess funds to repair storm damage.

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

5. Raymond K. Conaway
Subd. #97-2 Time Extension
Road 610

Mr. Abbott advised the Commission that a request for a three month time extension to obtain final approval has been received; that the septic application has been filed with DNREC; that the deed has been prepared and signed; and that there are minor revisions to be made to the subdivision plat.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve a three month time extension.

6. Holly Ridge Terrace Section 1
Revised Subdivision Plan
Terrace Road

John Sergovic, Attorney, and Irwin Pack were present as the Commission reviewed a revised subdivision plan for Holly Terrace Subdivision.

Mr. Sergovic advised the Commission that Terrace Road is a recorded street with a cul-de-sac that has never been built; that Mr. Pack is requesting that the unbuilt cul-de-sac be abandoned and become a part of Mr. Pack's lot; that the existing septic system is located within the cul-de-sac right of way; that if the cul-de-sac were built, Mr. Pack's front steps would be very close to the street; that the Office of the State Fire Marshal has no objections to the proposed request; that they have contacted the trash hauler and that the trucks will back in to pick up trash; that there would be no change in the day to day use if the cul-de-sac were closed; and that they are aware of opposition to this request.

John Stewart, an adjoining property owner, spoke in support of this request.

Steve Parsons, Attorney, Joseph Semasek, and Marion Winkler were present in opposition to this request and submitted photographs referencing the street and stated that they use Terrace Road.

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

7. Dewey E. Sapp, Jr.
Lot and 50' Right of Way
Road 208

The Commission reviewed a concept to create a lot and to widen an existing dirt road to fifty feet for access to the lot off of Road 208.

Motion made by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the lot and fifty foot right of way as a concept.

8. Techgas
Judgement of Use in LI-2 District
Industrial Air Park (Sussex County)

Mr. Lank asked the Commission for a judgement on a proposed business at the Industrial Air Park that proposed to transfer oxygen, carbon dioxide, and products into tanks for distribution to business use, hospitals, etc...

Mr. Lank read the purpose of the LI-2 District and the first paragraph of the permitted uses referenced in an LI-2 District.

The Commission discussed the proposal.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously that the use is considered similar to other uses in an LI-2 District.

OLD BUSINESS

C/Z #1338--application of KINGS CREEK ASSOCIATES, INC. to amend the comprehensive zoning map from an AR-1 Agricultural Residential District to a MR Medium Density Residential District in Lewes and Rehoboth Hundred, located west of Road 273 and south of Patriots Way (Kings Creek County Club Entrance) 700 feet southwest of Route One, to be located on 1.98 acres, more or less.

The Chairman referred back to this application which was deferred on May 11, 1998.

Motion by Mr. Lynch to recommend approval.

Motion died for the lack of a second.

Motion made by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to defer action pending participation by all members of the Commission.

C/U #1247--application of KINGS CREEK ASSOCIATES, INC. to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (16 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth hundred, Sussex County, containing 1.98 acres, more or less, west of Road 273 and south of Patriots Way (Kings Creek Country Club Entrance) 700 feet southwest of Route One.

The Chairman referred back to this application which was deferred on May 11, 1998.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to defer action pending participation by all members of the Commission.

Meeting adjourned at 9:45 pm