

MINUTES OF THE REGULAR MEETING OF JUNE 27, 1991

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 27, 1991, at 7:30 P.M. in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Ralph, Mrs. Monaco, Mr. Hickman, Mr. Smith, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planning Technician.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of June 13, 1991, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #1126--Timothy A. & Crystal (Mitchell) Hudson

Timothy and Crystal Hudson were present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business in Dagsboro Hundred, located on the east side of Franklin Avenue, 140 feet south of Main Street, and northeast of the railroad, within the Town of Frankford, and to be located on a parcel containing 21,145 square feet more or less.

Mr. Lank summarized comments from the Sussex County Engineering Office, the Sussex Conservation District, the Division of Highways, and the Indian River School District.

Mr. Hudson stated they intend to operate a shop to sell crafts made by Mrs. Hudson. Their craft shop will be in an existing building which was formerly a barber shop.

Mr. Hudson stated they contacted the Town of Frankford Town Council and found no objection to their proposal.

Mrs. Hudson stated they will be open six (6) days per week. They may also sell crafts made by others.

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 County Engineering Department, that the change of zone does not appear to significantly affect the wastewater capacity of the proposed sanitary sewer pipelines of the Dagsboro-Frankford Sanitary Sewer District; and that wastewater capacity will be available to serve the proposal.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Evesboro loamy sand; that the suitability of the soils for the intended use vary from none to slight limitations; that the evaluation of the soils with respect to erosion and sedimentation control during construction and after completion of any construction may have slight limitations; that the farm land rating of the soil type is of state wide importance; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any off-site or on-site drainage improvements.

The Commission found, based on comments received from the State Department of Transportation, that a traffic impact study was not recommended; and that the level of service "B" of Frankford Avenue will not change as a result of this application.

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 that the applicants were present and plan to utilize the site for a craft shop; that the building has been used historically for a barber shop; that the applicants will reside on the premises; that the shop will be open six (6) days per week; that the applicants will sell crafts made by themselves and others; that a variety store exists across the street and a railroad adjoins; and that no adverse impact is anticipated on the neighborhood.

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 approved based on the record of support, since a business has historically existed on-site, and since the site adjoins a railroad.

2. RE: C/Z #1127--Margaret and Edgar Duvall

David Rutt, attorney, and Edgar Duvall were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Indian River Hundred, located on the north side of Route 24, 0.25 mile west of

Route 309, and to be located on a parcel containing 3.79 acres more or less.

Mr. Lank summarized comments received from the Division of Highways, the Department of Transportation, the Sussex Conservation District, and the Indian River School District.

Mr. Rutt stated the applicants plan to operate a day care center and an office for Mr. Duvall's construction business on the proposed site. There will be only one entrance to serve both uses. The site is presently wooded.

Mr. Duvall stated his wife would run the day care center. They anticipate four (4) employees. They have moved a building to the site to be used for the day care center. They will renovate the building and make necessary additions to bring the building up to State codes.

Mr. Lank advised the applicant that a Board of Adjustment approval for the day care center would be required.

Mr. Duvall stated he presently operates his construction office from his home. He plans to relocate his office and store the business vehicles and some equipment at this location. There will be no outside storage.

Mr. Duvall stated he presently has five (5) employees, with a maximum of 15 employees. Most employees report directly to the job site, not to the office.

Mr. Duvall stated there is adequate space for parking for both proposed uses.

Mr. Duvall stated they plan to reside in the adjacent proposed subdivision.

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 Department of Transportation, that originally a traffic impact study had been requested; that entrance designs were submitted by the applicant for review; that if the County finds the zoning appropriate, the Department will waive its request for an

impact study with the understanding that an impact study will be required if the use changes; and that a single entrance design has been found acceptable to provide access to the two intended uses.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped to be Evesboro loamy sand and Kenansville loamy sand; that the suitability of the soils for the intended use vary from none to slight limitations; that the evaluation of the soils with respect to erosion and sedimentation control have slight limitations during and after completion of any construction; that the farmland rating of the soil type is of state wide 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, based on comments received from the Indian River School District, that at this time it does not appear that the proposal will have a significant impact on the district.

The Commission found that the applicant was present with legal counsel; that the applicants propose to utilize the site for a day care center and a construction company office; that the applicants operate a general construction contracting business specializing in commercial and residential structures; that the site is in close proximity to an industrial site (Townsend's processing plants and hatcheries) and a commercial garden center; that the site is presently wooded and adjoins tilled farm land; that if approved, an office and garage will be built to serve the construction company; that no outside storage is intended; that the seasonal employment varies from 5 to 15 employees; that the day care center, if approved, will be operated by Mrs. DuVall; that adequate area is available on-site for both intended uses; that a need exists in the area for a day care center; that no wetlands are mapped on-site; that no adverse impact is anticipated on property values, the neighborhood, or traffic on Route 24.

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 approved based on the record of support, since the owners will reside in the proposed subdivision adjoining, and since scattered commercial activities exist in close proximity.

3. RE: Subdiv. #91-16--Target Properties

Charles Murphy and Robert Seigler, surveyors, were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Little Creek Hundred by dividing 96.25 acres into 54 lots, located on the west side of Route 506, 3,580 feet north of Route 24.

Mr. Lank summarized the Technical Advisory Committee Report for Monday, June 24, 1991.

Mr. Lank read comments received from the D.N.R.E.C. Groundwater Management Section.

Mr. Murphy and Mr. Seigler stated that a major change in the plan was created by shortening "Owens Reach", a cul-de-sac, for better engineering; that the owners/developers were not present due to their residency in New York State; that fencing can be provided along the Phillips property due to an irrigation pond; that private restrictions will be created; that it is not the developers intent to create low income housing or mobile home lots, and that the entire wetlands area may be dedicated to a conservation group.

Mr. Murphy submitted a copy of some proposed restrictions.

Charles Phillips and Keith Gardner were present and expressed concerns in reference to square footage of houses, trespassing and liabilities due to the irrigation pond adjoining.

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 Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to approve the subdivision as a preliminary with the stipulation that fencing be provided along the Phillips property line due to the close proximity to an irrigation pond. Final plans shall be required to be submitted to the Commission upon receipt of all appropriate agency comments.

4. RE: Subdiv. #91-17--John Huber

John Huber and Danny Morris of Coast Survey, 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 24.63 acres into 38 lots, located on the south side of Route 265, 2,574 feet south of Route One.

Mr. Lank summarized the Technical Advisory Committee Report for Monday, June 24, 1991.

Mr. Lank read comments received from the D.N.R.E.C. Water Supply Branch and the Underground Discharges Branch. The report from the Underground Discharges Branch indicated that the site is feasible under current regulations governing the design,

installation and operation of on-site wastewater treatment and disposal systems.

Mr. Huber stated that he intends to comply with all agency requirements; that private deed restrictions will require a minimum of 1,000 square feet for one story homes and 1,500 square feet for two story homes; and that an owners association will be created for street maintenance.

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. Smith, seconded by Mr. Hickman, and carried unanimously to approve the subdivision as a preliminary. Final plans shall be required to be submitted to the Commission upon receipt of all appropriate agency approvals.

5. RE: Subdiv. #91-18--Edgar P. DuVall

Mr. DuVall and David Rutt, attorney, were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred by dividing 4.01 acres into 5 lots, located on the north side of Route 24, 2,112 feet west of Route 309.

Mr. Lank summarized the Technical Advisory Committee Report for Monday, June 24, 1991.

Mr. Lank read comments received from the D.N.R.E.C. Water Supply Branch.

Mr. Rutt requested that the record of C/Z #1127 be made a part of the record for this subdivision; that no problems in reference to the entrance have been reported by the Department of Transportation; and that no wetlands exist on-site.

Mr. DuVall stated the majority of the site will remain wooded except for road clearing and dwelling locations; that houses will contain a minimum of 1,700 square feet; that on-site wells and septic systems are proposed; that he intends to build on Lot 3 and his son intends to build on Lot 4; that all agency requirements will be met; that additional right of way will be dedicated to Route 24 as requested by DelD.O.T.; that the street will be dedicated to the property owners for maintenance; and that no adverse impact is anticipated on the neighborhood.

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. Smith, seconded by Mr. Hickman, and carried unanimously to approve the subdivision as a preliminary. Final plans shall be required to be submitted to the Commission upon receipt of all appropriate agency approvals.

OTHER BUSINESS

1. RE: W. Wayne Baker - Exxon Service Center

The Commission reviewed a site plan for a convenience store and service center at the intersection of Route 13 and Route 534.

Motion made by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to approve the site plan as submitted as a final.

2a. RE: Rehoboth Shores - Section One

The Commission reviewed the revised site plan of Rehoboth Shores to correct existing violations in the park.

Motion made by Mr. Hickman, seconded by Mrs. Monaco, and carried unanimously to approve the site plan of Section One as submitted as a final.

2b. RE: Rehoboth Shores - Lots 121 - 139 Old Section

The Commission reviewed the revised site plan of Rehoboth Shores to correct existing violations in the park.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the site plan of the Old Section as submitted as a final.

3. RE: Carl Kemp

The Commission reviewed a site plan for an amendment to Conditional Use 368 for a produce stand, bait and tackle and craft shop at Route 16 and Route 30.

It was the consensus of the Commission to deny the request and advise the applicant to apply for an amended Conditional Use with a public hearing.

4. RE: Larry Willey

The Commission reviewed a site map to place a shed on a vacant lot on Route 493 near Broad Creek Estates.

Motion made by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to defer action on this request.

OLD BUSINESS

1. RE: ORDINANCE AMENDING CHAPTER 115
(Buffer Zone)

AN ORDINANCE AMENDING CHAPTER 115, ARTICLE XXV, OF THE CODE OF SUSSEX COUNTY, PROVIDING FOR AN AMENDED BUFFER ZONE, CLARIFYING A GRANDFATHERING PROVISION, AND CREATING A BUILDING SETBACK LINE AT FEDERAL WETLANDS.

Mr. Lank summarized the proposed Ordinance referencing setbacks from State designated wetlands, the establishment of a building restriction line at Federal wetlands and grandfathering provisions.

Mr. Lank summarized the amended Ordinance.

Section 3 of the proposed Ordinance shall be amended as follows:

E. Commencing upon the effective date hereof, the building setback line on any lot shall not extend into Federal 404 designated wetlands except as provided for in Section 115-193 [E].

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the Ordinance as amended.

2. RE: Subdiv. #90-20--D & D Investments

Application of D & D INVESTMENTS (Marathon Estates) to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred by dividing 31.2 acres into 24 lots, located on the southeast side of Route 532, 1,800 feet northeast of Route 13.

Mr. Abbott advised the Commission that all appropriate agency approvals have been received.

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

3. RE: Subdiv. #91-4--Samuel P. Alloway

Application of SAMUEL P. ALLOWAY (Little Creek Acres) to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Little Creek Hundred by dividing 10.14 acres into 6 lots, located on the south side of Route 492, 700 feet west of Laurel Town Limits.

Mr. Abbott advised the Commission that all appropriate agency approvals have been received.

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

Meeting adjourned at 9:30 P.M.

Lawrence B. Lank, Secretary