

MINUTES OF THE REGULAR MEETING OF JULY 11, 1991

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 11, 1991, at 7:30 P.M. in the Court of Common Pleas, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Magee, Mrs. Monaco, 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 June 27, 1991, as circulated.

PUBLIC HEARINGS

1. RE: C/U #973--Harbor Properties, Inc.

Kathy Karsnitz, attorney, and David Tranberg were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Georgetown Hundred for a Campground lying on the east side of Route 30, approximately 900 feet south of Route 295, and to be located on a parcel containing 15.79 acres more or less.

Mr. Lank summarized comments received from the D.N.R.E.C. Land Use Planning Act Coordinator, the D.N.R.E.C. Division of Air and Waste Management, the Sussex Conservation District, the Indian River School District, the Division of Highways, and the Department of Transportation.

Mr. Lank summarized letters of opposition received from William and Denise Willis, Gerald Barnett, Howard Layton, Ronald Moore, Wendy Seiberlich, Mark R. Masten, and Deborah Strunk.

Ms. Karsnitz stated the applicants plan to operate a campground with 94 sites, a general store, laundry, bathhouse, and a pool. The only on-site septic that would be required would be for the bathhouse, laundry, and the residence of the on-site manager.

Ms. Karsnitz stated there would be water and electric hook-ups at each camp site, but no septic. The park would be for self contained motor homes and travel trailers. No tents would be allowed. There would be a holding tank for self contained units to dump their waste water. The holding tank would be emptied regularly and transported to an approved treatment plant. Camp fires would be limited.

Mr. Tranberg stated the park would be seasonal, no fires would be allowed at individual camp sites, a shuttle bus would be provided to the beach, no playground is proposed, no storage buildings would be allowed on the camp sites, the number of vehicles allowed on each camp site would be restricted, and the resident manager would be on-site year round for security.

Pete Loewenstein, surveyor, stated the street would not be paved, ditches and a detention basin would be provided for water run off, and there are no wetlands on the proposed site.

Marge Skowran, William Skowran, Quinton Johnson, Mark Masten, Pam Beckman, Harold Johnson, Dennis Wells, Chris Beckman, and Darlene West spoke in opposition due to additional traffic, existing drainage problems on the site, trespassing on private adjoining properties, danger to children and pets, danger of fires, the proposed use is not compatible with the surrounding residential area, trash, mini bikes, and septic problems.

Mark Masten presented a petition containing 92 signatures of area residents opposed to this 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.

The Commission found, based on comments received from the D.N.R.E.C. Land Use Review and Coordination Office, that comments have been requested from the D.N.R.E.C., Division of Air and Waste Management-Waste Management Section, Solid Waste Branch and Underwater Storage Tank Branch, the Division of Parks and Recreation, the Division of Soil and Water Conservation, the Division of Water Resources-Water Supply Branch, Underground Discharges Branch, the Department of Agriculture, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments received from the D.N.R.E.C., Division of Air and Waste Management-Waste Management Section, that State regulations prohibit the burial of construction/demolition debris, including trees and stumps, except where approved or permitted.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Fallsington sandy loam; that the suitability of the soils for the intended use may have severe limitations due to inadequate drainage systems and a high water table; that the evaluation of the soils

with respect to erosion and sedimentation control, may have moderate limitations during construction and slight limitations after completion of any construction; that the farm land 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 be necessary for on-site and 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, based on comments received from DelD.O.T., that the proposal will have no significant impact on traffic and that an entrance design has been approved.

The Commission found that one of the owners was present with legal counsel and a surveyor, and that the owners plan to develop the site with 94 campsites.

The Commission found, based on comments made by representatives of the application, that no significant impact on traffic is anticipated; that the only septic will be for the bathhouse and resident manager's residence; that security will be provided on-site; that no bon-fires will be permitted; that a need exists for camping areas in the area; that the applicant proposes to operate the camp ground similar to the camp sites in State Parks; that the majority of the trees on-site will be retained; that the camp ground will be operated seasonally from late spring to early fall for motor homes and travel trailers with no tent camping; that a shuttle bus service may be provided to the beach area; that each site will be served with water and electric; that a dump station will be available for disposal of camper waste; that a year round manager will reside on-site; that a minimum impact is anticipated on the neighborhood; that 6,200 licensed vehicles are registered in Delaware for camping use; that post development runoff will be controlled by detention in side ditches and drainage basins; that no wetlands exist on-site; that no adverse impact is anticipated on property values; that no storage buildings are proposed; that the maximum stay for a camper will be 14 days; that no seasonal rentals are intended; that adequate space exists on-site for campers and visitors; that the only planned recreational amenities are nature walks and entertainment; that a pool may be an amenity; that fencing will be provided if required; that all agency approvals will be obtained prior to beginning any on-site work; and that tenants actions and conduct will be subject to park restrictions.

The Commission found, based on seven (7) letters received in opposition and statements made by nine (9) of the twenty-seven (27) people present that concerns were expressed in reference to traffic; wetlands; disturbance of drainage; trespassing; use of holding tanks; tent camping; loss of trees; distance from campsites to dump station; fire safety; that the use is out of character with the area; trash; fencing; disrespect of users to property and property values; noise; security; the loss of the present quiet rural neighborhood atmosphere; loss of property values; drugs; and vandalism.

The Commission found that a petition containing approximately 95 signatures in opposition was submitted.

Motion made 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 denied based on the record of opposition; since the site is in a farming area; and since the use would be out of character with the agricultural residential area.

2. RE: C/U #974--Doris J. Bunting Savage

No one was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for a Boat Storage and Mini Storage Facility lying on the north side of a private road, 630 feet north of Route 396, and 3,370 feet southwest of Route 389, and to be located on a parcel containing 4.87 acres more or less.

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

Mr. Lank stated the application is for a proposed boat storage and mini storage facility.

Richard Hitchens, Guy Peck, William Hettinger, Andy Eshram, Bill Davis, and Nancy Davis spoke in opposition due to the existing condition of the site, questionable access to the site, and the existing use of the 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.

The Commission found, based on comments received from DelD.O.T., that the proposed action will have no significant impact on traffic or Route 396.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Kleig loamy sand and 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 sedimentation control may have moderate limitations during construction and slight limitations after completion of 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 no one appeared on behalf of or in support of the application.

The Commission found that seven (7) people spoke in opposition to the application and expressed concerns in reference to existing D.N.R.E.C. concerns on-site due to dumping in the borrow pit on-site; limited access to property across lands of others; loss of farmland; the existing condition of the property; questionable legality of access; soil and water contamination; dust; vehicular trespassing due to limited access width; setbacks; and that the use is out of character with the agricultural residential area.

Motion made by Mr. Magee, 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; since no one appeared on behalf of the application to create a record of support; since the use would be out of character with the area; since the right of way access is questionable; and due to concerns referencing illegal dumping.

3. RE: C/U #975--Tyler L. Folke

Tyler Folke was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for a Retail Store (Convenience and Produce) lying on the east side of Route 319, 600 feet south of Route 251, and to be located on a parcel containing 1.67 acres more or less.

Mr. Lank summarized comments received from the Division of Highways and the Sussex Conservation District.

Mr. Folke stated he operates a retail store where he sells produce and seafood and some convenience products. He plans to add a ten (10) foot by ten (10) foot walk in refrigeration box to be attached to the existing building. There may also be a future addition for gun repairs. The store would be open from 12:00 P.M. to 6:00 P.M., seven (7) days per week, year round.

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 DelD.O.T., that the proposed action will have no significant impact on traffic or Route 319.

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 Rumford 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 in respect to erosion and sedimentation control may have severe limitations during construction and slight limitations after completion of any construction; that no storm flood hazard area or tax ditch will be affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicant was present and proposes to utilize the site for a retail store for the sale of convenience products, seafood and produce, that business hours will be 12:00 noon to 6:00 P. M., seven (7) days per week, year round; that no adverse impact on property values, the neighborhood, or traffic on Route 319 is anticipated; that gun repair may be a future use; and that a ten (10) foot by ten (10) foot walk-in box may be attached in the near future.

Motion made by Mr. Smith, seconded by Mr. Magee, 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 with the stipulation that a ten (10) foot by ten (10) foot walk-in box may be included in the application as a future addition.

4. RE: C/Z #1128--C. E. Rupert Smith, III and Nancy E. Smith

James Fuqua, attorney, and Nancy Smith were present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business and from AR-1 Agricultural Residential to B-1 Neighborhood Business in Baltimore Hundred, located in the Town of Millville, on the northeast side of Route 26, 417 feet west of Route 350, to be located on a parcel containing 6.25 acres more or less.

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

Mr. Lank read a letter received from the Mayor or the Town of Millville in opposition to this application.

Mr. Fuqua stated a portion of this site is zoned UB Urban Business. A portion of the site is within the Town Limits of Millville, and a portion of the site is outside the Town Limits. The site is surrounded by commercial uses and zonings. The applicants want to have the zoning changed to conform with the surrounding uses and zonings.

Mr. Fuqua stated the site would have on-site water and septic system. They would cooperate with any agency requirements.

Mr. Fuqua stated they are not proposing to develop the site at this time.

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 DelD.O.T., that originally a traffic impact study had been requested due to the poor level of service of Route 26, that DelD.O.T. has a project proposal to improve Route 26 from Clarksville to Route One; that DelD.O.T. would support a larger area of combined parcels for rezoning if access could be controlled; and that strip commercial rezonings will continue to be opposed on Route 26.

The Commission found, based on comments received from the Mayor of Millville, that the Town Council and Town Planning Commission oppose the rezoning requested since they are in the process of creating a land use plan and ordinances.

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 may vary from none to slight limitations; that the evaluation of the soils in respect to erosion and sedimentation control may have moderate limitations during construction and slight limitations after completion of any construction; 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 a moratorium has existed in Millville on rezoning applications since April 23, 1991, and that this application was filed prior to the creation of the moratorium.

The Commission found that Mrs. Smith was present with legal counsel; that the Town of Millville recently supported rezoning of the adjoining property; that a portion of the property is already zoned UB Urban Business; that the site can provide adequate area for parking for any possible commercial uses; that the site is presently occupied by a dwelling; that the area is mixed with commercial and business uses and districts; that on-site water and sewer exist; that no wetlands are mapped on-site; that DelD.O.T. suggests rezoning to business if a service road is created; that the applicants will cooperate with necessary permits from DelD.O.T.; that no immediate intent is proposed to develop the site; that rezoning is requested for compatible zoning to adjoining parcels and the existing trend of rezoning in the area; that no development of the site is planned until Route 26 improvements are completed; that approximately twenty (20) business uses exist along Route 26 in Millville; and that the pond on-site can be utilized for drainage improvements.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried 2 votes in favor and 3 votes opposed to the motion to deny the application.

Motion defeated.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried 3 votes in favor and 2 votes opposed, to forward this application to the Sussex County Council with the recommendation that it be approved since the front of the parcel is already zoned UB Urban Business, since the rezoning will be an extension to the existing UB Urban Business District; and since the rezoning will be compatible to the area zoning.

5. RE: C/Z #1129--Charles T. Wolstenholme
T/A Milton Canvas Products

Charles Wolstenholme was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the east side of Route 5, 832 feet north of Route 9 at Harbeson, to be located on a parcel containing 6.15 acres more or less.

Mr. Lank summarized comments received from the Division of Highways, the D.N.R.E.C. Land Use Planning Act Coordinator, the Sussex Conservation District, and the Indian River School District.

Mr. Lank stated two (2) petitions containing a total of 12 signatures of area residents not opposed to this application, have been received.

Mr. Wolstenholme stated he operates an upholstery repair business. He repairs boat top covers, automobile interiors, etc. The business would be open year round, 8:00 A.M. to 5:00 P.M., six (6) days per week. There is one existing dwelling on the proposed site.

Mr. Wolstenholme stated he may operate a boat storage facility on the rear of the site at some future time. There would be no buildings for the storage of boats. The facility would be open seven (7) days per week.

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 DelD.O.T., that a traffic impact study was not recommended and that the level of service "B" of Route 5 will not change as a result of this application.

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 may vary from none to slight limitations; that the evaluation of the soils in respect to erosion and sedimentation control may have moderate limitations during construction and slight limitations after completion of any construction; 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 two (2) petitions containing 15 signatures from area residents, were submitted in support of the intended use.

The Commission found that one of the applicants was present and plans to utilize the site for an upholstery repair business for boat covers, canvas work, and dry boat storage; that the dry boat storage will utilize the open area; that the dry boat storage area will be fenced with chain link fencing; that the upholstery shop will be operated year round from 8:00 A. M. to 5:00 P. M., six (6) days per week; and that no adverse impact is anticipated on the area.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to forward this application to the Sussex County Council with the recommendation that 5.56 acres (being referred to as Tax Map 2-35-30 parcels 21 and 22) be approved and that tax map 2-35-30 parcel 22.1 be denied since it is not owned by the applicant.

OTHER BUSINESS

1. RE: Creative Concepts
Site Plan

The Commission reviewed a site plan for a warehouse and two (2) additions to a furniture store on the northeast side of Route One and Tulip Drive.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the site plan as submitted in concept. Final approval is contingent upon receiving all necessary agency approvals.

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2. RE: Rehoboth Shores
Expansion Area

Mr. Lank advised the Commission that there are numerous errors in the site plan, and the project was removed from the agenda.

OLD BUSINESS

1. 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 Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to deny the request.

2. RE: Subdiv. #90-36--John and Robert Furbush

Application of Robert and John Furbush to consider the subdivision of land in an AR-1 Agricultural Residential zoning district in Baltimore Hundred by dividing 34.3 acres into 24 lots, located on the west side of Route 345, 2,950 feet north of Route 26.

Mr. Abbott advised the Commission that the septic feasibility approval has been received from D.N.R.E.C.

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

ADDITIONAL BUSINESS

1. RE: Sea Breeze Limited Partnership
T/A Sea Air Mobile City

Mr. Lank advised the Commission that he has received a request from Sea Breeze Limited Partnership requesting six (6) foot by eight (8) foot sheds in the travel trailer section of Sea Air Mobile City.

Motion made by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve the request with the stipulations that the sheds be uniform in design and no larger than six (6) feet by eight (8) feet in size.

2. RE: Donald Hovatter

Mr. Lank advised the Commission that he has received a request to place a shed on a vacant parcel of land on Route 13A.

It was the consensus of the Commission to have the request put on the agenda for the July 25, 1991, meeting.

At the conclusion of the public hearing, the Commission met to reorganize.

Mr. Allen appointed Mr. Lank as Acting Chairman for the purpose of holding an election of officers.

Mr. Lank opened nominations for Chairman.

Motion made by Mr. Smith, and seconded by Mr. Ralph, to nominate Mr. Allen for Chairman.

Motion adopted: 4 Yea. 1 Nay.

Vote by roll call: Mrs. Monaco, Yea; Mr. Ralph, Yea; Mr. Smith, Yea; Mr. Magee, Yea; Mr. Allen, Nay.

Mr. Lank opened nominations for Vice Chairman.

Motion made by Mr. Magee to nominate Mr. Ralph.

Mr. Ralph declined.

Mr. Magee withdrew his motion.

Motion made by Mr. Allen, seconded by Mr. Ralph, to nominate Mr. Magee for Vice Chairman.

Motion adopted: 5 Yea.

Vote by roll call: Mrs. Monaco, Yea; Mr. Ralph, Yea; Mr. Allen, Yea; Mr. Smith, Yea; Mr. Magee, Yea.

Mr. Lank turned the meeting over to Mr. Allen.

Mr. Allen appointed Mr. Lank as secretary for the Commission.

Mr. Allen authorized Mr. Lank and Mr. Abbott to sign record plats for recordation.

Meeting adjourned at 11:00 P.M.