

MINUTES OF THE REGULAR MEETING OF JULY 11, 1996

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 11, 1996, at 7:30 P.M., in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Ralph, Mr. Wheatley, Mr. Schrader
- Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray
- Zoning Inspector II.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the minutes of June 27, 1996 as amended.

Mr. Schrader explained how the public hearings and agenda items will be processed.

II. PUBLIC HEARINGS

1. RE: C/U #1159--Acorn Properties, Ltd.

Mr. Lank advised the Commission that Norman Barnett, Attorney for the applicant, withdrew the application this morning, July 11, 1996.

2. RE: C/U #1160--H.R. Phillips, Inc.

Don Steiner of H. R. Phillips, Inc., and Robert Nash of Charles Murphy Surveying, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for Propane Storage Tanks (Expansion to an Existing Petroleum Storage Facility) 250 feet north of Route 36 and east of Route One and south of the Mispillion River, located on a parcel containing 8.9 acres more or less.

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

Mr. Nash advised the Commission that the applicants propose to install five (5) 30,000 gallon propane storage tanks on the site with existing petroleum storage, that the site plan was recently revised to relocate the tanks 90 degrees to the property line, that the tanks will conform to all setbacks, that no stormwater management plan is required since they do not propose to disturb 5,000 square feet, and that concrete saddles are built to support the tanks.

Mr. Allen questioned if the saddles are required to be anchored.

Mr. Steiner advised the Commission that the Office of the State Fire Marshal has jurisdiction over the facility, that the expansion will serve additional homes with propane for heat, and

that the material is trucked in from large storage facilities off-site.

Edward Olson, an adjacent landowner, stated that he still has some safety concerns, that the cylinders are manufactured as one piece and then caps are added, requested more information on inspections and specifications, the location of the tanks, and the area of concern impacted of a cap blew off since his home is within 250 feet of the proposed tank location, and asked for a certification on the tanks and welds and on required maintenance and inspections.

Donald Sapp, an area landowner, spoke in opposition and relayed questions from Sudler Lofland questioning if the land is suitable for this use due to the proximity to the Mispillion River and wetlands, questioning the elevation of the land and at what height the tanks would be mounted, questioning if the tanks could be disrupted during a storm and become a hazard, questioning how large the facility will be, questioning if another site could be inspected by the neighbors, questioning what safety features will be implemented, questioning if there will be any odors, questioning how much additional truck traffic will be generated and at what hours, questioning the fire district jurisdiction, questioning if the fire company is equipped to handle a propane emergency that may occur on the site, questioning if there is a written opinion from the fire company, questioning if there is a danger that a field fire started by a piece of farm equipment could endanger the facility, questioning what type of screening will be installed to screen the facility from view from Route One and Road 36, questioning what agencies monitor the safety aspects of the facility and the scheduling of safety inspections, and questioning what agency would handle complaints that may arise, and added that he is concerned about possible depreciation of property values.

Mr. Sapp submitted a copy of the Memorandum from Sudler Lofland and a petition, signed by 13 individuals, in opposition to the use on this site.

At the conclusion of the agenda 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 on the site are mapped as Kenansville loamy sand which has slight limitations, Keyport fine sandy loam which has a variety of slight, moderate, and severe limitations, and Borrow which has severe limitations,

that the applicants will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the Kenansville soil is Prime, the Keyport soil is of Statewide Importance, and the Borrow is a Hydric soil in the pit floor, that no storm flood hazard area is affected, that no 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 made by the representative of the applicants, that the applicants propose to install five (5) 30,000 gallon propane storage tanks on the site with existing petroleum storage, that the site plan was recently revised to relocate the tanks 90 degrees to the property line, that the tanks will conform to all setbacks, that no stormwater management plan is required since they do not propose to disturb 5,000 square feet, and that concrete saddles are built to support the tanks, that the Office of the State Fire Marshal has jurisdiction over the facility, that the expansion will serve additional homes with propane for heat, and that the material is trucked in from large storage facilities off-site.

The Commission found that an adjacent landowner stated that he has some safety concerns, that the cylinders are manufactured as one piece and then caps are added, requested more information on inspections and specifications, the location of the tanks, and the area of concern impacted of a cap blew off since his home is within 250 feet of the proposed tank location, and asked for a certification on the tanks and welds and on required maintenance and inspections.

The Commission found that an area landowner spoke in opposition and relayed questions from Sudler Lofland questioning if the land is suitable for this use due to the proximity to the Mispillion River and wetlands, questioning the elevation of the land and at what height the tanks would be mounted, questioning if the tanks could be disrupted during a storm and become a hazard, questioning how large the facility will be, questioning if another site could be inspected by the neighbors, questioning what safety features will be implemented, questioning if there will be any odors, questioning how much additional truck traffic will be generated and at what hours, questioning the fire district jurisdiction, questioning if the fire company is equipped to handle a propane emergency that may occur on the site, questioning if there is a written opinion from the fire company, questioning if there is a danger that a field fire started by a piece of farm equipment could endanger the facility, questioning what type of screening will be installed to screen the facility from view from Route One and Road 36, questioning what agencies monitor the safety aspects of the facility and the

scheduling of safety inspections, and questioning what agency would handle complaints that may arise, and added that he is concerned about possible depreciation of property values, and submitted a copy of the Memorandum from Sudler Lofland and a petition, signed by 13 individuals, in opposition to the use on this site.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved.

III. Other Business

1. RE: Douglas & Patricia Blizzard

Douglas Blizzard and Otha Furness were present to discuss development of a recorded 4 lot subdivision within Carsyljan Acres off of Road 261 near Red Mill Pond.

The Commission had deferred action on June 27, 1996 pending review of recorded plots.

Mr. Lank advised the Commission that he has reviewed the record plan for the subdivision and found that the 4 lots are to be served by Jeany Lane, that only one of the lots remains vacant and that the street has never been constructed to any specification.

Mr. Blizzard and Mr. Furness requested permission to create a 25 foot wide access across lot 12D to get to lot 12C rather than build Jeany Lane. Mr. Furness questioned why some of the streets within Carsyljan Acres have not been built to specification.

Mr. Lank advised the Commission that some of the streets within Carsyljan Acres have been accepted into State Maintenance and other streets were built to a private specification, and that the office inspected the street for construction on August 31, 1982 and that the street had not been constructed.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to deny the request for a 25 foot access.

2. RE: Arnold & Ruth Steele

Mr. Lank advised the Commission that the Steele's are requesting to utilize a 50 foot wide right of way off of Road 48 through Dogwood Trailer Park as access to a manufactured home, and that the manufactured home has been permitted to remain on a 0.52 acre lot by the Board of Adjustment.

Motion by Mr. Lynch, seconded by Mr. wheatley, and carried unanimously to approve the lot and right of way as surveyed.

3. RE: Neil & Joyce Brasure

Mr. Lank advised the Commission that the Brasure's have requested permission to extend a private 50 foot right of way to a 1.28 acres lot off of the dead end of Road 345. Mr. Lank added that the private right of way serves other land owners east of the site.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the lot in concept.

4. RE: Omni Mini Storage

The Commission reviewed a site plan for development of 6 mini storage buildings off of Route 26 and east of Dagsboro.

Mr. Lank advised the Commission that the site will continue to be utilized for the existing Omni Satellite Systems office and display.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan. Issuance of building permits shall be subject to receipt of all appropriate agency permits and/or approvals by the staff.

5. RE: Subdivision #94-6--Donald Miller

Mr. Lank advised the Commission that Mr. Miller has requested a time extension to prepare final plans and to acquire agency permits.

Motion by Mr. Ralph, seconded by Mr. Lynch, and carried unanimously to grant a one year time extension. The one year time extension will expire on June 22, 1997, the anniversary date of the preliminary approval.

6. RE: Subdiv. #95-3--Lucy Koon & Jim Riordan

Mr. Lank advised the Commission that Mann Associates, Inc. have requested a time extension to prepare final plans and to acquire agency permits.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to grant a one year time extension. The one year time extension will expire on July 27, 1996, the anniversary date of the preliminary approval.

At the conclusion of the meeting, 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 by Mr. Ralph, seconded by Mr. Lynch, to nominate Mr. Allen as Chairman.

Motion adopted; 3 yea, and 1 not voting.

Vote by roll call: Mr. Wheatley, yea; Mr. Ralph, yea; Mr. Lynch, yea; and Mr. Allen, not voting.

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Wheatley, seconded by Mr. Lynch, to nominate Mr. Ralph for Vice-Chairman.

Motion adopted; 3 yea, and 1 not voting.

Vote by roll call: Mr. Wheatley, yea; Mr. Allen, yea; Mr. Lynch, yea; and Mr. Ralph, not voting.

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

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

Mr. Allen authorized Mr. Lank and Mr. Shane Abbott, Assistant Director, to sign record plats for recordation on behalf of the Commission.

Meeting adjourned at 8:55 P.M.