

MINUTES OF THE SPECIAL MEETING OF JULY 20, 1989

The Planning and Zoning Commission meeting was held Thursday evening, July 20, 1989, at 7:45 P.M. in the County Council Chambers, Room 115, Courthouse, Georgetown, Delaware, with the following present:

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

PUBLIC HEARINGS

1. RE: C/U #909--John L. and Marian Green,
t/a G. and E. Enterprises, Ltd.

John L. Green and William Chasanov, attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for an Expansion of Conditional Use No. 533 for a Saw Mill on the northeast side of Route 632, 653 feet southeast of Route 36, and to be located on a parcel containing 2.29 acres more or less.

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

Mr. Lank advised the Commission that the Division of Highways Support Facilities Report indicates that the proposed action will have no significant impact on traffic.

Mr. Lank read a letter in opposition from Robert D. Mitchell.

Mr. Chasanov submitted an entrance approval from the Division of Highways and a sketch of the area near the saw mill site.

Mr. Green stated that the original saw mill was located in an old dirt pit. The original mill was hand operated, was disassembled in November 1988, and is presently being stored at the rear of the premises. The site is presently used for a tree log storage yard.

Mr. Green stated that some of the new saw mill equipment is stored on the property, that the new mill may cause the hiring of ten (10) or more employees, that presently the logs are hauled approximately 30 miles and back for cutting for sale, that the site has been used for storage of wood products since the original saw mill was approved; that the operation will include a debark system, the operation may include a chipper; that no adverse impact is anticipated on the neighborhood, that no change is anticipated in property values, that no change is anticipated on Route 632, and that the site of Conditional Use No. 533 and the expansion site will be utilized for the saw mill facility.

Mr. Chasanov stated that the saw mill has existed on site for several years, that new residents have moved into the area since the mill was installed, that the applicants intend to continue the operation and expand and modernize the facility.

Mr. and Mrs. Horace Maloney, Kelly Nichols, Lester Beachy, and Shawn Pase spoke in opposition and expressed concerns over truck traffic, traffic safety, children and pedestrian safety, trucks being loaded on Route 632, devaluation of property values, noise, dust, impact on the environment, loss of the residential character of the area, unsuitability for residential uses, the probable prohibition for future residential development, and the poorly maintained appearance and condition 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 hearings.

Mr. Jones expressed concern with uses abandoned on a Conditional Use application site, and questioned if a Conditional Use was to operate a saw mill at a certain intensity, can a more industrial intensity be created.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to defer action for more information on the use, the use of the Green farm north of Route 36 for vehicle and equipment storage.

2. RE: C/U #910--Theodore D. Shaffer

Theodore D. Shaffer and William Shaub, attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for a Hair Salon located on the northeast corner of the intersection of Route 24 and Route 275, and to be located on a parcel containing 18,383 square feet more or less.

Mr. Lank summarized comments received from the State Division of Highways referencing a change in zoning proposed several months ago for the same site and that the Conditional Use method limits the use to a hair salon which eliminates the need for a traffic impact study at this time.

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

Mr. Shaub stated that several parties opposed the original rezoning due to other permitted uses, that this application is strictly for a three station hair salon, that the site is presently utilized as a dwelling for the applicant and a one station hair salon, a permitted home occupation, and that the Conditional Use will allow for two (2) additional employees.

Mr. Shaffer stated that the business has been in operation since January, 1989, in the westerly portion of the dwelling, that the business is operated primarily by appointment only, that the Conditional Use will allow for two (2) additional jobs, that open hours may expand to include some evening hours, six days per week, that parking is preferred on the existing driveway at the corner of Route 24 and Route 275, and that the existing septic system and well are adequate to serve the house and an expanded hair salon.

Wanda Murray spoke in support of the application and expressed a need for an additional salon in the area and that the expansion will extend income earnings.

Mr. and Mrs. John Hitch, Betty Taylor, Charles Carroll, and three others were present and expressed concerns in reference to changing ownership and uses for a Conditional Use site, permitted home occupation uses, increase in chair capacity and hours, and parking.

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 is not necessary since the intended use is limited to a hair salon.

The Commission found, based on comments received from the Sussex Conservation District, that in reference to drainage, no flood hazard area is affected, that no on site or off site drainage improvements are necessary and that no tax ditch is

affected; that in reference to soils, the site is suitable for the intended use; that in reference to erosion and sediment control, moderate limitations may exist during any construction, that slight limitations may exist after completion of any construction, and that the farmland rating is prime.

The Commission found that the applicant was present with legal counsel and proposes to expand an existing one (1) chair home occupation hair salon into a three (3) chair hair salon.

The Commission found, based on comments by the applicant, that the Conditional Use will allow for two (2) employees, that the business is operated primarily by appointment only, that open hours may expand to include some evening hours, six days per week, that parking is preferred on the existing driveway at the corner of Route 24 and Route 275, that space is available for parking in the rear yard with access from Route 275, that the existing septic system and well are adequate to serve the house and an expanded hair salon.

The Commission found, that one person was present in support and expressed a need for an additional hair salon in the area.

The Commission found that seven (7) parties were present and expressed concerns in reference to changing ownership and use of a Conditional Use site, permitted home occupation uses, increase in chair capacity, hours, and parking.

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 and with the following stipulations:

1. The hair salon shall be limited to three (3) operators.
2. The site plan shall be required to be reviewed by the Planning and Zoning Commission.
3. RE: C/Z #1013--Ronald J. Jackson

This application to amend the zoning map from MR Medium Density Residential to C-1 General Commercial in Baltimore Hundred, located on the east side of Route 357 (Cedar Neck Road), 650 feet south of Route 359, containing 2.81 acres more or less was withdrawn by the applicant's attorney on July 18, 1989.

4. RE: C/Z #1014--Derrickson and Neal Investments

J. D. Neal and Eugene Bayard, attorney, were present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business in Baltimore Hundred, located in the Town of Millville, on the north side of Route 26, 670 feet west of Route 349, containing 39,375 square feet more or less.

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

Mr. Lank advised the Commission that the State Division of Highways had originally requested a traffic impact study for this application, but found that the intended use would be less impacting on Route 26 than a fully developed UB Urban Business use. The Division of Highways waived the request for a traffic impact study and plan to control the use of the property through the DelD.O.T. entrance permit process.

Mr. Bayard stated that the site is between an existing Nuttle Lumber property, the Winterbottom Store and other business uses, and across from a sub shop and the Millville Fire Company.

Mr. Bayard stated that the applicants will prescribe to the agreement with DelD.O.T.

Mr. Neal stated that they plan to utilize the site for expansion of the lumber and hardware business and that they had purchased the property when the site was utilized for stock piled storage (lumber, gravel, store, etc.). Mr. Neal added that they propose to modernize the facility, that the house will be removed to provide more parking and better ingress/egress, that adequate water and septic are on site, that fire protection is immediately across Route 26, the Millville Fire Co., that no negative impact on traffic is anticipated, and no adverse impact is anticipated on the neighborhood, or property values.

No parties were 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 they waive their right to require a traffic impact study based on the understanding that the developer agrees to restrict the use of the property to a lumber yard until Route 26 in the vicinity is bypassed or widened, that any change in the use will be grounds for a traffic impact study, that the traffic impact study shall be prepared in accordance with DelD.O.T. regulations, and that the developer shall fund any road improvement which the traffic impact study recommends.

The Commission found, based on comments received from a representative of the Sussex Conservation District, that the soils on site are suitable for the intended use, that moderate limitations during construction are anticipated in reference to erosion and sediment control; that slight limitations after completion of construction are anticipated; that no storm flood hazard area is affected, that no off site or on site drainage improvements are necessary, and that no tax ditch is affected by this application.

The Commission found that one of the applicants was present with legal counsel and plans to continue utilizing the site for storage of lumber and other material related to the use of the adjoining property, a lumber/hardware business.

The Commission found, based on comments by representatives of the application, that the developers shall prescribe to the agreement with DelD.O.T., that the site was utilized for the intended use when purchased in 1987, that the site is adjacent to, across from, and in close proximity to several business uses, that they propose to modernize the facility by removal of the existing house and placement of improved parking, ingress/egress, that adequate water and septic exist on site, that fire protection is immediately across Route 26 at Millville Fire Co., that no negative impact on traffic is anticipated, and no adverse impact is anticipated on the neighborhood or property values.

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 and since the site is immediately adjacent, across from, and in close proximity to other UB Urban Business districts and uses.

5. RE: C/Z #1015--Derrickson and Neal Investments

J. D. Neal and Eugene Bayard, attorney were present on behalf of this application to amend the zoning map from MR Medium Density Residential to C-1 General Commercial in Baltimore Hundred, located 565 feet north of Route 26, 545 feet west of Route 349, containing 22,943 square feet more or less.

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

Mr. Lank advised the Commission that the comments on C/Z #1014 and this application from DelD.O.T. were incorporated together.

Mr. Bayard stated that this site is to the rear of the existing UB Urban Business site in the Town of Millville behind the existing Nuttle Lumber Company store. This application site is out of town limits, but it is a part of the original tract.

Mr. Bayard advised the Commission that he would like the information stated on C/Z #1014--Derrickson and Neal Investors, the previous application, be incorporated into the record of this hearing.

Mr. Neal stated that they had spent several thousands of dollars cleaning up the area around the ditch of debris left by previous owners, added fill, fencing and screening to shield the storage yard.

Mr. Bayard added that the intent of this application is to create commercial zoning of the entire parcel rather than have a split zoning.

No parties were 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 that the comments referenced in C/Z #1014--Derrickson and Neal Investments, from DelD.O.T. include this application.

The Commission found, based on comments received from a representative of the Sussex Conservation District, that the Evesboro soils on site are suitable for the intended use, that swamp soils are questionable, that moderate limitations during construction are anticipated in reference to erosion and sediment control; that slight limitations after completion of construction are anticipated, that no storm flood hazard area is affected, that no off site or on site drainage improvements are necessary, and that the Derrickson Tax Ditch runs along a property line.

The Commission found that the record of C/Z #1014--Derrickson and Neal Investments, could be made a part of the record for this application.

The Commission found that one of the applicants was present with legal counsel and plans to utilize the site for storage of lumber and other material related to the existing lumber/hardware business on the front of the property.

The Commission found, based on comments by representatives of the application, that the site is in close proximity to several business uses, that they propose to modernize the facility and expand the storage area, that adequate water and septic exist on site, that fire protection is immediately across Route 26 at the Millville Fire Co., that no negative impact on traffic is anticipated, and no adverse impact is anticipated on the neighborhood or property values.

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 site is a part of a parcel with an existing commercial use and zoning classification, and since the site is in close proximity to other commercial uses and zoning classifications.

At the conclusion of the public hearings, 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 the nominations for Chairman.

Motion made by Mr. Ralph, seconded by Mr. Hickman, to nominate Mr. Allen.

Motion adopted; 4 Yea, 1 not voting.

Vote by roll call: Mrs. Monaco, Yea; Mr. Ralph, Yea; Mr. Smith, Yea; Mr. Hickman, Yea; Mr. Allen, not voting.

Mr. Lank opened the nominations for Vice-Chairman.

Motion made by Mrs. Monaco, seconded by Mr. Hickman, to nominate Mr. Ralph.

Motion adopted; 4 Yea, 1 not voting.

Vote by roll call: Mrs. Monaco, Yea; Mr. Allen, Yea; Mr. Smith, Yea; Mr. Hickman, Yea; Mr. Ralph, not voting.

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. Moore to sign record plats for recordation.

Meeting Adjourned 10:15 P.M.