

MINUTES OF THE REGULAR MEETING OF JULY 27, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 27, 1989, at 7:45 P.M. in the County Council Chambers, with the following present:

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

PUBLIC HEARINGS

1. RE: C/U #911--Frederick Golden

Frederick Golden was present on behalf of this application to consider the Conditional Use of land in an MR Medium Density Residential District in Cedar Creek Hundred for Reconstruction and Restoration of Antique and Custom Cars on the northwest side of Route 36, 70 feet southwest of Route 621, and to be located on a parcel containing 0.81 acre more or less.

Mr. Lank stated comments were received from the State Highway Department. They expect no significant impact on traffic on Route 36 as a result of this application.

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

Mr. Golden stated he plans to operate a body shop for the restoration of antique and custom cars. It originally started as a hobby and progressed into a part time business.

Mr. Golden stated he plans to operate his business five (5) days per week from 8:00 A.M. to 5:00 P.M. There will be no additional lighting. There will be no more than three (3) cars being worked on at any one time. There will be no employees. He does not want to change the residential character of the neighborhood.

Mr. Golden presented a petition signed by neighbors in favor of this application if the following conditions are included in the approval:

Minutes  
July 27, 1989  
Page 2

No additional structures to be built.  
No expansion of the fence.  
No outside storage.

Leroy Hitchens spoke in favor of the application.

Seven (7) persons were present in favor of the application.

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 a representative of the State Division of Highways, that the proposed action will have no significant impact on traffic.

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

The Commission found that the applicant was present and plans to utilize the site for an auto body shop for reconstruction and restoration of antique and custom cars.

The Commission found, based on comments made by the applicant, that he offered some proposed restrictions which include: no further square footage expansions of the garage, no further expansion of the stockade fence in the rear of the garage, and no motor vehicles, no motor vehicle parts and accessories to be stored behind the stockade fence and garage.

The Commission found, based on comments made by the applicant, that if the business enlarges, he will move to another location, that the area is predominantly residential, that normal hours are intended to be 8:00 A.M. to 5:00 PM., five (5) days per week, that no adverse impact is anticipated on the neighborhood or property values.

Minutes  
July 27, 1989  
Page 3

The Commission found that fifteen (15) area residents signed a petition in support of the application subject to the restrictions proposed by the applicant.

The Commission found that one neighbor spoke in support of the application and that six (6) others were also present in support.

The Commission found that no parties were present in opposition.

The Commission found, based on concerns expressed by Mr. Jones, that the application cannot be processed since this type of Conditional Use is not permitted in an MR Medium Density Residential District.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied based on Mr. Jones' findings.

It was the consensus of the Commission that the applicant should be refunded his application fee.

2. RE: C/U #912--Murray W. Kronick

Hal Dukes, attorney, and Murray Kronick were present on behalf of this application to consider the Conditional Use of land in an MR Medium Density Residential District in Baltimore Hundred for a Four (4) Unit Multi-Family Dwelling Structure on the south side of Cove Road, 200 feet west of Ocean Road, and to be located on a parcel containing 11,161 square feet more or less.

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

Mr. Lank read into the record a letter of opposition received from William Sher.

Mr. Dukes presented the proposed parking plan.

Mr. Dukes stated there are other condo projects in the area. The proposed site has existing condo projects on all sides of it. The proposed project will be similar to existing units.

Mr. Dukes stated water would be provided by Sussex Shores Water Company. Enough E.D.U.'s exist to serve the proposed project with sewer.

Minutes  
July 27, 1989  
Page 4

Randall Godwin spoke in favor of the application.

Paul Klinkowski spoke in opposition due to the proposed density.

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 a representative of the Sussex Conservation District, that soils on site are suitable for the intended use, that in reference to erosion and sediment control, slight limitations are anticipated during construction and after completion, that no storm flood hazard area is affected, that no on site or off site drainage improvements are necessary, and that no tax ditch is affected.

The Commission found that the applicant was present with legal counsel and plans to utilize the site for a four (4) unit multi-family dwelling structure.

The Commission found, based on comments of representatives of the application, that approximately ten (10) feet was removed from Lot 47 to provide a ten (10) foot setback from the existing multi-family structure on Lot 48, that revised plans of Atlantis II and Atlantis III have been approved with a revised declaration plan with the appropriate density allowed in April 1972, that the site is surrounded by multi-family structures, that the predominant residential use of Tower Shores is multi-family dwelling structures, that the density is similar to the multi-family character of the development, that sewer capacity is available in the North Bethany Area Wastewater collection and Transmission Facilities, that central water is available from Sussex Shores Water Co., that the majority of Cove Road has a density of four (4) units per lot, and that four (4) units per lot were originally proposed by the developers of Tower Shores.

The Commission found that an owner of parcels in Tower Shores was present and supported the density proposed and submitted copies of the original Tower Shores plat and restrictions which referenced four (4) dwelling units per each lot.

The Commission found that one letter of opposition was received expressing concern over increased density of the Atlantis II and Atlantis III site if approval is granted for this application.

Minutes  
July 27, 1989  
Page 5

The Commission found that an owner of a lot in Tower Shores was present in opposition and expressed concern that the density proposed was not concurrent with recent applications, that most of the existing condominiums were created prior to zoning, that the Atlantis II and Atlantis III site for 12 units was approved on 6 lots, that the site is a part of the Atlantis II and Atlantis III and should not be utilized for additional units, and that the zoning code should be enforced as written.

Motion made by Mr. Hickman, seconded by Mr. Ralph, 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 stipulations that the Board of Adjustment review the density per unit and that the site plan be reviewed by the Commission after consideration by the Board of Adjustment.

3. RE: C/Z #1016--John H. Parker

John Parker, Sr. was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Dagsboro Hundred, located on the southwest side of Route 334, 600 feet southwest of Route 333, containing 4.92 acres more or less.

Mr. Lank summarized comments received from the LUPA agencies contacted.

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

Mr. Parker stated a portion of the site is zoned C-1 General Commercial and contains a medical center. If this application is approved, it would allow another access to the medical center. The Highway Department has indicated they would approve a commercial entrance at this location.

Mr Parker stated he may develop the site with stores at some future time.

Dolores and Gerald Dorman spoke in opposition expressing concerns about traffic, no need for more commercial zoning, commercial use in a residential area, and a proposed use for the site was not presented.

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 from the State D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested from the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments from the Sussex Conservation District, that no storm flood hazard area is affected, that no off site drainage improvements will be necessary, that no tax ditch is affected, that the soils on site are Pocomoke Sandy Loam and Evesboro Loamy Sand, which are suitable for the intended use, that in reference to erosion and sediment control, moderate limitations may exist during construction, that slight limitations may exist after completion of construction, and that the farmland rating is of statewide importance.

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study was not recommended and that the existing level of service "D" of Route 334 will not change as a result of this application.

The Commission found that the applicant was present and plans to utilize the site for access to existing commercial activities on his property on adjoining lands along Route 113.

The Commission found, based on comments by the applicant, that a medical center and fitness center exist on the parcel fronting Route 113, that a sixty (60) foot entrance on Route 334 has been installed by DelD.O.T. in early 1989 with permits, that the site is now being timbered, that the rezoning should improve the neighborhood, and not adversely affect the neighborhood or Route 334, and that the rezoning should increase property values.

The Commission found that two (2) parties were present in opposition and expressed concern over changing the character of the area, which is predominantly residential, concerns for children safety, security, trash, type of commercial uses permitted, and increase in traffic.

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 denied based on the record of opposition and since no need was shown for additional commercial area and since the rezoning would be out of character with the residential area along Route 334.

4. RE: C/Z #1017--Walt Ashley and Linda

Walt Ashley was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Cedar Creek Hundred, located on the southwest side of Route 214, 127 feet north of Route 224, containing 1.02 acres more or less.

Mr. Lank stated comments were received from the State Highway Department. They will not request a traffic impact study and expect no change in the existing level of service "A" of Route 214 as a result of this application.

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

Mr. Ashley stated he plans to operate an auto transmission repair shop in an existing 32 foot by 50 foot building.

Mr. Ashley stated there are other businesses in the area, but no businesses of this type.

Mr. Ashley stated he plans to be open from 9:00 A.M. to 6:00 P.M., five (5) days per week. He will be closed Sundays and Mondays.

Mr. Ashley stated he plans to have one (1) employee.

Mr. Ashley presented a petition of area residents not opposed to this application.

Joseph Postles, Tamara Postles, Alton King, and Floyd Moore spoke in favor of this application.

Frankie Carol Downes spoke 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 from the Sussex Conservation District, that the Evesboro Loamy Sand on site is suitable for the intended use, that in reference to Erosion and Sediment Control, moderate limitations may exist during construction, slight limitations may exist after completion of construction, that the farmland rating is of statewide importance, that no storm flood hazard area is affected, that no on site or off site drainage improvements will be necessary, and that no tax ditch is affected.

Minutes  
July 27, 1989  
Page 8

The Commission found, based on comments from the State Division of Highways, that a traffic impact study was not recommended, and that the existing level of service "A" will not change as a result of this application.

The Commission found that the applicant was present and plans to utilize the site for an auto transmission shop in an existing two (2) bay garage.

The Commission found, based on comments by the applicant, that the site is adjacent to a convenience store, that the garage was originally built to do work on personal vehicles, that there are no independent transmission operators in the Milford/Lincoln area, that hours of operation will be 9:00 A.M. to 6:00 P.M., Tuesday through Saturday, that the application was initiated due to a zoning inspector's violation notice, that the sign on site was removed upon receipt of the violation notice and work has ceased on vehicles of patrons.

The Commission found that a petition of support was submitted by the applicant with 51 signatures of area residents.

The Commission found that four (4) area residents were present in support of the application for the intended use, that the applicant maintains an attractive site, that the shop is partly concealed by a buffer of trees, that no adverse impact is anticipated on the neighborhood, and that adequate parking area is available on site.

The Commission found that one area resident was present and expressed concern in reference to her view of the back of the site, concern of cars and parts stored to the rear of the shop, noise, and early hour motor running.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action.

#### OTHER BUSINESS

1. RE: Richard Jack, Jr.

The Commission reviewed a proposed four (4) lot subdivision of five (5) acres south of Route 297.

It was noted that a dwelling exists at the westerly corner of the front parcel with existing entrance and that three (3) lots are proposed with access to a fifty (50) foot private right of way.

Minutes  
July 27, 1989  
Page 9

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the subdivision concept.

2. RE: Breakwater Beach

No action was taken on the proposed subdivision revisions.

3. RE: Robert Rykiel

Robert Rykiel was present to discuss his intent to subdivide his property north of Route 333 into five (5) lots. It was noted that two (2) of the lots utilize existing entrance on Route 333, and that one lot is improved by an existing dwelling.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the five (5) lots with two (2) lots fronting on Route 333 and the remainder being divided into three (3) lots with access from a fifty (50) foot right of way.

4. RE: Glenn Bowen

Glenn Bowen was present to discuss his proposal to subdivide 17.6 acres into four (4) parcels with access from a fifty (50) foot right of way from Route 530. It was noted that the only frontage is along Route 530.

It was the consensus of the Commission that a major subdivision application shall be necessary to consider four (4) lots having access to a street.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve a maximum of three (3) parcels with access to a fifty (50) foot right of way. Any further subdivision shall require a major subdivision application.

5. RE: Flag Ship Motel

Edward Buckhurst was present on behalf of this site plan for an 88 unit motel at the northwest corner of the intersection of Route 13 and Route 20 (Concord Road).

The Commission found that the site plan proposes 97 parking spaces rather than the normally required 134 parking spaces. It was noted that since 1982, one and one half spaces per unit have been required for motels in the unincorporated areas of Sussex County. All motels built have been in the resort area.

It was the consensus of the Commission that a motel on Route 13 will attract travelling patrons and that the majority of patrons will be utilizing one vehicle.

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

Final plans shall be required to be submitted for Commission review upon receipt of all necessary agency approvals.

#### OLD BUSINESS

##### 1. RE: C/U #908--William and Patricia A. Stewart

No one was present on behalf of this application of William J. and Patricia A. Stewart to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for a Private Airstrip located on the southeast side of Route 567B, 1,530 feet southeast of Route 567A, and to be located on a parcel containing 9.12 acres more or less.

The Commission discussed the points and issues raised on this application during the July 13, 1989, public hearing, and the site inspection performed by some of the Commissioners since the public hearing.

There was a consensus of the Commissioners that the area is a rural farming area, and that no adverse impact is anticipated on property values if the use is limited to one aircraft.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, 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 the private airstrip use be limited to the owner of the property for one airplane only.

##### 2. Subdiv. #88-13--John Satterfield

The Commission reviewed the final plat for the proposed 24 lot subdivision.

Mr. Lank stated that Michael Moore, Planner I, had advised him that all necessary approvals have been obtained.

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

3. RE: Subdiv. #87-15--Wharton's Cove Garth

The Commission reviewed the final plat for the proposed six (6) lot subdivision.

Mr. Lank stated that Michael Moore, Planner I, had advised him that all necessary approvals have been obtained.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to defer action.

4. RE: Lewis West

The Commission reviewed the concept of subdividing three (3) parcels south of Route 226 with a fifty (50) foot private right of way.

Mr. Lank advised the Commission that DelD.O.T. has issued an entrance permit for Lot A on Route 226 and the two (2) rear lots on the fifty (50) foot private right of way.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the subdivision with the stipulation that no further subdivision of the parcels shall be permitted and that Lot A shall have no access to the private fifty (50) foot right of way.

5. RE: C/U #828--Everett Dennis

Mr. Lank advised the Commission that Mr. Dennis has not completed the work of the Borrow Pit and that the applicant was requesting a one (1) year extension of time to complete the borrow pit and reclamation. A one year extension was granted last year.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to grant a one year extension of time. It was noted that the application cannot be extended any further.

Meeting Adjourned 11:00 P.M.

---

Lawrence B. Lank, Secretary