

MINUTES OF THE REGULAR MEETING OF AUGUST 8, 1991

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 8, 1991, at 7:30 P.M. in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Magee, Mrs. Monaco, Mr. Smith, Mr. Schrader - Assistant County Attorney, and Mr. Lank - Director.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to approve the minutes of July 11, 1991, and July 25, 1991, as circulated.

PUBLIC HEARINGS

1. RE: C/U #978--Charles Daisey

Todd Griffin, attorney, and Charles Daisey 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 Used Car Sales Facility lying on the northeast side of Route 213, 170 feet north of Route 565, and to be located on a parcel containing 1.37 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. Griffin stated this application was heard previously as a change of zone. Objections were raised concerning the uses allowed under commercial zoning, not the proposed use. Mr. Daisey has since talked with the neighbors and found they will not object to a Conditional Use application.

Mr. Griffin stated the applicant is proposing a 12 foot by 12 foot building to be used as his office. There would be a maximum of ten (10) cars displayed at a time. A parking area would be provided. There will be no servicing or repairs done on the site. There would be security lighting. There will be no employees other than the applicant.

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 existing level of service "B" of Route 213 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 to be Evesboro loamy sand and Kleig loamy sand; that the suitability of the soils for the intended use may have slight limitations; that the evaluation of the soils with respect to erosion and sedimentation control may have slight limitations during and after completion of 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 not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicant was present with legal counsel and plans to utilize the site for a used car sales facility.

The Commission found, based on comments received from the representatives of the application, that a used car sales lot will not be unsightly in the area; that other business and commercial uses exist within one half mile; that no adverse impact is anticipated on the agricultural residential area; that the site is adjacent to the applicants residence; that no negative impact is anticipated on any water resources; that no negative impact is anticipated on the neighborhood, property values, or roadways; that the maximum number of vehicles intended to be displayed is ten (10) vehicles; that a twelve (12) foot by twelve (12) foot building for an office is intended; that the parking area will be in front of the car display; that the business will be operated by the applicant; that no employees are intended; that no automotive repairs will be performed on-site; that no septic is proposed; that no fencing is proposed; that security lighting will be provided; and that the parking lot will be at least twenty five (25) feet from the front property line.

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 approved based on the record of support and with the following stipulations:

- A. The maximum number of vehicles to be displayed shall be ten (10).

- B. No automotive repairs shall be performed on-site.
- C. The parking area shall be at least twenty five (25) feet from the front property line.
- D. One on-premise sign, not exceeding 32 square feet on both sides or facings, may be permitted.

2. RE: C/U #979--Clifford A. and Florence Moore

Clifford and Florence Moore 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 Small Gift Shop and Yard Sale lying on the south side of Route 9, 200 feet west of Rogers Avenue, 1,100 feet east of Route 319, and to be located on a parcel containing 21,114 square feet more or less.

Mr. Lank summarized comments received from DelD.O.T., the Indian River School District, and the Sussex Conservation District.

Mr. Lank read a letter received from Almeda and James Donaway opposing this application.

Mrs. Moore stated they buy household items and some small furniture items at auctions, clean them up, and resell them. They have their yard sale every Friday and Saturday from 8:00 A.M. to 5:00 P.M. Customers park in front of their house along the road or in their driveway. They have been operating this business for three or four years. Their merchandise is stored in a shed at the rear of the property. Their residence is also on this site.

Mr. Moore presented a petition containing signatures of area residents not opposed to this application.

Rosalie and Barry Stein spoke in favor of the application.

Mary Louise Workman spoke in opposition due to traffic, the site is on a curve, and allowing this business would open the door for other businesses in the area.

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 comments were not received from DelD.O.T., since the use proposed already exists.

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 an impact on the district.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on-site are mapped as Woodstown sandy loam; that the suitability of the soils for the intended use may have 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 any construction; that the farm land rating of the soil type is prime; 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 that the applicants were present and plan to utilize the site for a small retail sale of second hand items, small furniture, and household items from an existing storage building and as a yard sale; that the business will operate from 8:00 A.M. to 5:00 P.M., Fridays and Saturdays; that approximately fifty percent of parking has been in the existing driveway and along Route 9; that the business has been in operation for approximately three (3) years; that the shed has been used as a part of the yard sale since December 1988; that a reduced speed limit of forty (40) miles per hour exists in front of the site; and that there has never been an accident near the site during a yard sale.

The Commission found that the applicants daughter and son-in-law were present in support and stated that the majority of the neighbors have no objection to the use and that a directional sign could be placed on-site to direct traffic to the rear of the driveway for parking.

The Commission found that one letter was received and that one person was present in opposition and that concerns were expressed in reference to negative impacts on property values; a precedent being established; traffic in general; summer traffic being hectic; the lack of adequate parking area; parking on Route 9; and the lack of sight visibility from Rogers Avenue, east of the site.

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 concerns expressed in opposition due to traffic safety concerns due to the curve of Route 9 and the lack of adequate parking.

3. RE: C/Z #1131--Charles M. and Emily M. Williams

John Sergovic, attorney, and Charles and Emily Williams were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Lewes and Rehoboth Hundred, located on the north side of Route 269, across from Route 276, to be located on a parcel containing 17,643 square feet more or less.

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

Mr. Sergovic stated the applicants plan to operate an office and storage facility for equipment for the medical profession.

Mr. Williams stated he operates a medical support service facility. He consults with hospitals and medical out-patient facilities to design equipment for the individual needs of each facility. The equipment would be fabricated elsewhere and delivered to Mr. Williams facility, where it would be assembled and held until the delivery location is ready for it.

Mrs. Williams stated the proposed building would have an office for Mr. Williams and an office for a part time secretary. There would be no other employees. The remaining facility would be used to assemble and store medical equipment. The proposed building would be approximately 50 feet by 90 feet.

Bruce Plummer, realtor, stated the surrounding area is mixed residential and business uses.

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 present level of service "B" of Route 269 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 Sassafras loam; 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 any construction; that the farmland

rating of the soil type is prime; 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 that the applicants were present with legal counsel and a realtor and plan to utilize the site for an office for their consulting practice and for a warehouse for storage of medical office equipment pending assembly and delivery to client job sites; that the applicants business is a support service for hospitals and medical professionals in the area; that the only employee intended is a part time secretary; that the site is a prime location to serve Beebe Hospital; that traffic is limited; that the majority of shipping is handled by United Parcel Service (UPS); that the surrounding area has mixed business and commercial uses; that no negative impact is anticipated on the neighborhood; and that the site will not be used for any manufacturing.

The Commission found that the applicants submitted a packet of documents consisting of a support facilities report from DelD.O.T., a letter from the Delaware State Police referencing no negative impact on Troop 7; a letter from Coldwell Banker Realty referencing the area's business and commercial uses; a letter from the Lewes Fire Department, Inc., referencing no negative impact on fire protection; letters from three neighbors referencing no objection; a sketch map of the area labelling commercial and business sites in the area; and a letter from legal counsel referencing proposed private deed restrictions.

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 approved based on the record of support.

4. RE: C/Z #1132--Herbert A. Woodland

Robert Witsil, attorney, and Herbert Woodland were 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 200 feet northeast of Route 113, and northwest of Route 432, to be located on a parcel containing 27,420 square feet more or less.

Mr. Lank summarized comments received from DelD.O.T., the Sussex Conservation District, and the Indian River School District.

Mr. Witsil stated the front portion of the proposed site is zoned C-1 General Commercial. This application is for the remaining portion of the parcel.

The applicant operates a business selling Amish built accessory buildings on the front portion of the site. He needs additional space to store more buildings. There is a sales office for the applicant's business and a VCR repair shop on the site. There are also two dwellings on the site. One is used as a real estate office. The other is presently vacant, but is for rent.

Mr. Witsil presented a letter in support of this application from Melvin Joseph and four (4) form letters signed by adjoining property owners stating they do not object to this application.

Mr. Woodland stated there would be no other employees other than himself. The business would be open six (6) 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 a traffic impact study was not recommended, and that the present level of service "B" of Route 113 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 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 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 this proposal will have a significant impact on the district.

The Commission found that the applicant was present with legal counsel and plans to utilize the site for expansion of the existing use on the existing commercially zoned portion of the site; that adequate space on-site is available for parking; that the existing commercial portion of the site is utilized for a realty office; a

VCR sales and repair facility; and storage building display and sales; that no septic or water is needed for the proposed expansion; that the business operates year round; that no additional employees are anticipated; that the site adjoins and is in close proximity to other commercial uses and districts; that no negative impact is anticipated on traffic; that the Coastal Sussex Land Use Plan Map labels the area for commercial; that no negative comments have been received from the Georgetown Volunteer Fire Company; and that no change in the commercial nature of the business is anticipated.

The Commission found that letters were submitted from four (4) area owners referencing no objection to the application.

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.

OTHER BUSINESS

1. RE: Robert L. and Lee B. Baker

The Commission reviewed and discussed a site plan for a four (4) lot subdivision on Route 484.

There was a consensus of the Commission that a public hearing would be required to consider four (4) lots on the fifty (50) foot wide right of way.

2. RE: Iachetta Builders, Inc.

The Commission reviewed and discussed a site plan for an office, warehouse, and retail stores on the north side of Route 54. Concerns were expressed in reference to entrances and parking along Route 54.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried 4-0-1, with Mr. Magee abstaining from voting, since he is an adjoining property owner, to defer action pending receipt of comments from DelD.O.T. in reference to the concerns.

OLD BUSINESS

1. RE: Windmill Subdivision Phase II

The Commission reviewed and discussed the proposal of Mr. and Mrs. Thomas Ford, the owner/developers, to change their street construction from public specifications to private specifications.

It was noted that the private streets will be improved with hot laid bituminous concrete.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the change in street specification. Final approval to record revised plot plans shall be subject to receipt of County Attorney approval of private deed restrictions for perpetual maintenance of streets and County Engineering Department approval of street design.

Meeting Adjourned at 9:30 P.M.

Lawrence B. Lank, Secretary