

MINUTES OF THE REGULAR MEETING OF AUGUST 23, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 23, 1990, at 7:45 P.M. in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of August 2, 1990, as circulated.

PUBLIC HEARINGS

1. RE: C/U #947--George M. and Marian Parrott

James Griffin, attorney, and George Parrott were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for the Sale of Crafts and Antiques on the north side of Route 361, 1/4 mile northwest of Route 363, and to be located on a parcel containing 20,121 square feet more or less.

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

Mr. Parrott stated his residence is on the proposed site. They plan to use an existing 12 foot by 24 foot barn style garage to sell arts and crafts and antiques.

Mr. Parrott stated his wife makes dried flower arrangements and baskets. They refinish antiques for resale.

Mr. Parrott stated there will be no outside storage. There will be no furniture refinishing for others. There is sufficient space on the site for parking. They will have a small sign on the site. They plan to use the existing horseshoe driveway. They have no plans to enlarge the existing structures. They plan to be open from 10:00 or 11:00 A.M. to 6:00 P.M., five days per week, being open weekends and closed two days during the week.

Mr. Parrott stated he and his wife will manage the business.

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 the State Division of Highways, that a traffic impact study was not recommended, that capacity is controlled by one or more intersections, and that the present level of service "A" of Route 361 will not change as a result of this application.

The Commission found, based on comments received from the Indian River School District, that at this time, it does not appear that the proposed change will have a significant impact on the District.

The Commission found, based on comments received from the Sussex Conservation District, that the Pocomoke sandy loam soils on site have fair suitability for the intended use, that in reference to erosion and sedimentation control, slight limitations may be anticipated during construction and 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, based on information reported by Mr. Lank, that the applicants propose to sell antiques and crafts from an existing 12 foot by 24 foot accessory building located adjacent to their dwelling on the premises.

The Commission found, based on research reported by Mr. Lank, that no State or Federal wetlands are mapped on site, that the site is located in a Flood Zone B, which is an area between the 100 year and 500 year flood, or an area subject to the 100 year flood with average water depth of less than one foot, that the site is not within one mile of any areas of concern mapped by D.N.R.E.C. or landfill, that the site is not within a sanitary sewer district, that the site is located within the Millville Fire Company area, and that the site is located within the Coastal Conservation Zone in the Coastal Sussex Land Use Plan due to its close proximity to Assawoman Canal.

The Commission found that the applicant was present with legal counsel and that the applicant and his wife plan to utilize the site for sale of antiques, crafts and art.

The Commission found, based on comments by the applicant, that the home on the premises is their primary residence, that the wife makes dried flower arrangements and baskets, that the applicants restore antiques for sale, that all storage and sales shall be contained within the 12 foot by 24 foot barn style garage, that no outside storage or display is proposed, that they are not in the business of furniture refinishing, that adequate space is available for parking, that similar uses exist in the area and along Route 26, that no complaints have been received from neighbors, that hours of operation will be 10:00 A.M. to 6:00 P.M., five (5) days per week, that no bath facilities are proposed in the 12 by 24 garage, that the only anticipated expansion of the business may be display of antiques in the living room of the dwelling, and that no adverse impact is anticipated on traffic, property values, or the neighborhood.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to defer action so that some Commission members could reinspect the site.

2. RE: C/U #948--Paul T. McDermond and Arlone Bertone

Eleanor Brown, Lower Sussex Realty, 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 an Antique and Stained Glass Shop on the south side of Route 9, 2,970 feet east of Route 5 at Harbeson, and to be located on a parcel containing 1.17 acres more or less.

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

Ms. Brown stated the applicants plan to buy and sell antiques and restore and sell stained glass products in a 28 foot by 30 foot existing building.

Ms. Brown stated the site adjoins a parcel which has a Conditional Use approval for an antique shop.

Ms. Brown stated the business will be operated by the husband, wife, and mother. They plan to use the existing driveway. Twelve (12) parking spaces are proposed. They plan to be open year round, six (6) days per week, from 10:00 A.M. to 5:00 P.M. They will have one (1) small sign.

They plan to construct a dwelling for themselves before opening the business. At some future time, they plan to construct a new 28 foot by 60 foot, two (2) story sales building. All commercial buildings will be at least 150 feet from Route 9.

Ann Murphy questioned placement of the proposed buildings.

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 the State Division of Highways, that a traffic impact study was not recommended and that if the use changes, a traffic impact study will be required as a condition on the State entrance permit when granted.

The Commission found, based on comments received from the Indian River School District, that at this time, it does not appear that the proposed change will have a significant impact on the district.

The Commission found, based on comments received from the Sussex Conservation District, that the Rumford loamy sand soils on site have good suitability for the intended use, that in reference to erosion and sedimentation control, moderate limitations may be anticipated during construction and slight limitations may be anticipated after completion of any 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 information reported by Mr. Lank, that the applicants propose to buy and sell antiques, and to construct, restore, and sell stained glass products.

The Commission found, based on information reported by Mr. Lank, that the site adjoins a site occupied by a dwelling and an antique shop, a conditional use.

The Commission found, based on research reported by Mr. Lank, that no State or Federal wetlands are mapped on site, that the site is located in a Flood Zone C, which is an area of minimal flooding, that the site is not located within one (1) mile of any areas of concern mapped by D.N.R.E.C. or landfill, that the site is not within a sanitary sewer district, that the site is located within the Milton Fire Department area, that the site is within an agricultural district in the Coastal Sussex Land Use Plan, and that the site is located within the area of restrictive concern referenced in the Memorandum of Understanding between the Sussex County Council and D.N.R.E.C.

The Commission found that the applicant was represented by a realtor who advised the Commission that the applicants propose to utilize the existing 28 foot by 30 foot structure as their stained glass shop, that a dwelling is proposed to be built in front of the stained glass shop, that a 28 foot by 60 foot, two (2) story building is proposed for future shop expansion, that a twenty-five (25) foot drive is proposed with adequate parking, that no structures are proposed within 150 feet of Route 9, that the business will be operated by the applicants and family residing on the premises once the dwelling is constructed, that the applicants propose to be open year round, six (6) days per week, with normal hours 10:00 A.M. to 5:00 P.M., that the applicants would have no objection to an unlit sign of 32 square feet per facing as a restriction, and that no adverse impact is anticipated on Route 9, the neighborhood, or property values.

The Commission found that a neighbor spoke in support as long as the applicant develops the project with a 150 foot setback.

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 approved with the stipulation that a 150 foot setback be maintained from Route 9 for any commercial building.

3. RE: C/Z #1087--Charles and Donna Moore

Charles and Donna Moore were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Nanticoke Hundred, located on the west side of Route 600, across from Route 597, containing 5.0 acres more or less.

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

Charles Moore stated they reside on the proposed site. He plans to operate an auto repair and machine shop in an existing block building at the rear of the site. He may also have retail sales of small engine parts. The business will be operated by Mr. Moore and his son. He would like to be able to expand the business in the future. There are no other businesses in the immediate vicinity. There is a subdivision being developed across from the site.

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

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study was not recommended, that capacity is controlled by one or more intersections, and that the present level of service "A" of Route 600 may change to level of service "B" if the site is developed at an equivalent in per acre trip generation to discount shopping, with a possible increase in traffic of 217 vehicles.

The Commission found, based on comments received from the Sussex Conservation District, that the Woodstown sandy loam and Fallsington sandy loam soils on site have good to fair suitability for the intended use, that in reference to erosion and sedimentation control, moderate limitations may be anticipated 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, that it may not be necessary for any off site drainage improvements, and that it may be necessary for on site drainage improvements.

The Commission found, based on information reported by Mr. Lank, that the applicants propose to utilize the site for an auto repair and machine shop.

The Commission found, based on research reported by Mr. Lank, that no State or Federal wetlands are mapped on site, that the site is located in a Flood Zone C which is an area of minimal flooding, that the site is not within one mile of any areas of concern mapped by D.N.R.E.C. or landfill, that the site is not within a sanitary sewer district, that the site is located within the Greenwood Fire Company area and the Woodbridge School District, and that the site is located within a prime agricultural area in the 1970 Comprehensive Development Plan.

The Commission found that the applicants were present and plan to utilize the site for an automotive machine shop with some auto repair and parts sales, that the area is predominantly country and wooded (agricultural area), that a development (Doe Run) is being built across Route 600, that the site contains 5.0 acres and a large building adequate to operate the business, that they reside on the premises in a manufactured home, that they propose a family run business with no other employees, that seedlings have recently been planted along the southerly property line, that the closest commercial use is approximately two (2) miles north of Route 16, and that no adverse impact is anticipated on the neighborhood.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried 4 - 1, with Mr. Ralph opposed, to forward this application to the Sussex County Council with the recommendation that it be denied due to the agricultural character of the area and since the rezoning would be out of character with the area.

4. RE: Subdiv. #90-23--Horace A. Sagers

Jeff Clark, Land Tech, Inc., was present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in Baltimore Hundred by dividing 25.17 acres into 54 lots, located on the west side of Route 357, and on both sides of Yacht Basin Road, being 950 feet north of Route 359.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of August 20, 1990.

Mr. Clark stated central sewer and water systems are proposed. Man holes and sewer mains will be installed in anticipation of the sanitary sewer district being expanded to cover this area.

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.

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

5. RE: Subdiv. #90-24--Melvin L. Joseph

No one was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred by dividing 171.5 acres into 107 lots, located on the north side of Route 472, 0.3 mile west of Route 412A, and 0.4 mile west of Route 412, and an application for a variance from the maximum 600 foot cul-de-sac length.

Application Withdrawn.

6. RE: ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX (Signs)

AN ORDINANCE TO AMEND CHAPTER 115, THE CODE OF SUSSEX COUNTY, DELAWARE, BY AMENDING ARTICLES IV, V, VII, IX, X, AND XXI, WHICH MAKE REFERENCE TO REGULATIONS AND PERMITTED USES OF SIGNS.

Mr. Lank summarized the ordinance amendment.

Daniel Cramer spoke in opposition to the political sign section and specifically referenced the fact that no permit is proposed for 32 square foot political temporary signs.

Mr. Cramer also suggested that a news article in the News Journal of August 23, 1990, Morning Addition, be read by all. The article referenced recent political sign problems in New Castle County.

John Selby of "Selby Sign Co." spoke in support of the amendments and suggested two changes (1) that instead of permitting one (1) sign for each store, shop, office or similar unit, not exceeding one hundred (100) square feet, the ordinance should reference signs for each store, shop, office, or similar units shall not exceed one hundred (100) square feet, and that more than one (1) on premise sign should be permitted, if adequate spacing is available, every 300 feet on a parcel.

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 two (2) parties spoke in reference to the ordinance amendments, one opposing the political sign portion, and one suggesting changes in the number of signs per store, shop, office or similar unit and providing for spacing between on-premise signs on the same parcel.

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 as written with no amendments.

OTHER BUSINESS

1. RE: Dormitory
Discussion

Mr. Moore presented a letter from John Sergovic, attorney, requesting that the Commission consider a revision to the Code of Sussex County to provide "Dormitories" to be a permitted use in a C-1 General Commercial Zoning District and to establish the definition of a dormitory and the criteria for parking requirements.

Mr. Sergovic was present on behalf of the request.

The Commission discussed the merits of the request.

It was the consensus of the Commission to direct the staff and legal council to proceed with developing the amendment to the code to provide for dormitories as a permitted use in a C-1 General Commercial District.

2. RE: Anthony Miller
1 Lot, Route 275

The Commission reviewed a request to create one (1) parcel having access from an existing private road.

Mr. Moore presented the survey showing the proposed lot and existing road.

No one was present on behalf of the proposal.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the one (1) lot subdivision with the stipulation that no further subdivision of the one (1) lot occur.

3. RE: Wayne and Wanda Weber
Site Plan

The Commission reviewed the site plan for a proposed office and warehouse complex.

No one was present on behalf of the proposal.

Mr. Moore stated that all permits and approvals have been obtained.

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

4. RE: Charles Kruger
Shed Discussion

Mr. Moore submitted a letter from Charles Kruger requesting Commission approval to place an accessory structure on a vacant one (1) acre lot and to waive the requirement to construct a dwelling within six (6) months.

No one was present on behalf of the request.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to defer action pending further review of the situation.

5. RE: Ida Layton
1 Lot, Route 576

The Commission reviewed a proposal to create a five (5) acre parcel having access from an existing road.

Ms. Layton was present on behalf of the proposal.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the subdivision with the stipulation that no further subdivision of the five (5) acre parcel occur.

6. RE: Rosetta Billings
1 Lot, Route 62

The Commission reviewed a proposal to create a five (5) acre parcel having access from an existing road.

Ms. Billings was present on behalf of the proposal.

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 five (5) acre parcel occur.

OLD BUSINESS

1. RE: C/U #942--Homestead Associates, Inc.

Application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for an Extension to an Existing Mobile Home Park for 35 Additional Lots and an Area for Disposal Fields on the southeast corner of Route 442 and Route 431, and to be located on a parcel containing 46.22 acres more or less.

The Chairman referred to this application which has been deferred since July 12, 1990.

John Sergovic, attorney for the application asked the Commission to defer action until the next regular meeting.

It was the consensus of the Commission to proceed with rendering a decision since a deferral would exceed the 45 day recommendation process time.

The Commission discussed their concerns and views from the July 12, 1990, public hearing.

Mr. Smith stated that the application proposed 35 additional lots as an addition to an existing park, that the buffer areas are proposed to be landscaped, and that no manufactured home should be placed in front of the Davis residence per an original statement by a previous developer.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried 4 - 1, with Mr. Ralph opposed, to forward this application to the Sussex County Council with the recommendation that this application be approved with the following stipulations:

1. The sewerage disposal area to be adequate to serve any failing septic systems within the existing park.

2. Lots 104 thru 109 and the street serving said lots shall be eliminated from the application.

3. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

2. RE: Subdiv. #90-7--Windmill - Phase II

The Commission reviewed the final subdivision plat for the proposed 10 lot subdivision.

Mr. Moore stated that all permits and 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. #89-10--Crestfield
Time Extension

Mr. Moore presented a request from Ted Simpler, surveyor, to grant a one (1) year time extension for the preliminary approval of the subdivision.

Ted Simpler was present on behalf of the request.

Mr. Simpler asked the Commission to consider preliminary approval for a revised plat having 32 one (1) acre lots with individual wells, as opposed to 44 lots with central water.

By consensus, the Commission stated that they would be favorable to the revision, provided written approval could be obtained from D.N.R.E.C. to install individual wells.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the one (1) year time extension.

Meeting Adjourned 10:15 P.M.

Lawrence B. Lank, Secretary