

MINUTES OF THE REGULAR MEETING OF AUGUST 24, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 24, 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.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of July 27, 1989, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #1020--Thomas Ream

Thomas Ream was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the south side of Route 9, 2,000 feet east of Route 262, and 2,000 feet west of Penn Central Railroad, containing 42,135 square feet more or less.

Mr. Lank summarized comments received from the State Highway Department and the Sussex Conservation District.

Mr. Ream stated he plans to use the proposed site for a warehouse and small office for his roofing business. There will be on site well and septic, and security lighting. There will be two (2) trucks and approximately four (4) cars using this site each day.

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 from a representative of the Sussex Conservation District, that no storm flood hazard area is affected, that no on site or off site drainage improvements will be necessary, that no tax ditch is affected, that the Evesboro Loamy Sand is suitable for the intended use, that in reference to erosion/sedimentation control, moderate limitations may exist during construction and slight limitations may exist after completion of construction, and that the farmland rating is of statewide importance.

The Commission found, based on comments from representatives of the State Division of Highways, that the Division has withdrawn its request for a traffic impact study provided that the applicant provides for cross-easements so that adjoining properties could share his entrance onto Route 9.

The Commission found that the applicant was present and plans to utilize the site for an office and warehouse for a roofing business.

The Commission found, based on comments by the applicant, that on site septic and water shall be provided, that no railroad siding is proposed, that adequate area is available on site, that security lighting is proposed, that fencing may be provided in the future, that no adverse impact is anticipated on Route 9, property values, or the neighborhood.

The Commission found that no parties were present in opposition.

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 since no residential area is in close proximity, the site is appropriate for C-1 General Commercial uses, and since the railroad at the rear of the site is not conducive to residential use.

2. RE: C/Z #1021--Woodin, Wentling, & Associates

Richard Woodin was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to RPC Residential Planned Community in Lewes and Rehoboth Hundred, located on the west side of Route 274, 1.5 miles south of Route One, containing 90.01 acres more or less.

Mr. Lank summarized comments received from the LUPA agencies contacted, the State Highway Department, and the Sussex Conservation District.

Mr. Woodin stated their proposed development is below the permitted density. Lots are arranged to try to preserve the wooded portion of the site. Streets will be State maintained. There will be no commercial area. The plan proposes 140 single family residences.

Mr. Woodin stated he understands the site is subject to the proposed D.N.R.E.C. moratorium.

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 from representatives of the State Division of Highways, that the Division has waived its request for a traffic impact study since the RPC request is for less than 215 units.

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 D.N.R.E.C. Division of Air and Waste Management-Waste Management Section, the Division of Fish and Wildlife, the Division of Parks and Recreation, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, the Department of Agriculture, and the Sussex Conservation District.

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

The Commission found, based on comments received by the applicant from Groundwater Management Section of the State D.N.R.E.C., that the wastewater disposal plan submitted by the applicants for the subdivision is feasible under current regulations adopted January 4, 1985.

The Commission found that two (2) partners of the corporation were present on behalf of the application and propose to utilize the site for a maximum of 140 single family residential lots.

The Commission found, based on comments in support of the application, that the RPC Residential Planned Community form of application was chosen not to increase density, but to preserve wooded area wetlands as open space, that the plan is designed to be environmentally sensitive, that no commercial activities are proposed, that the streets are proposed to be built to State specifications and dedicated to public use, and that no adverse impact is anticipated on Route 274, the neighborhood, or property values.

The Commission found that no parties were present in opposition.

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

3. RE: C/Z #1022--Leonardo and Maria Isabel Rodriguez

Steve Parsons, attorney, and Leonardo Rodriguez were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Baltimore Hundred, located on the east side of Route 381, 465 feet north of Route 54, containing 1.0 acre more or less.

Mr. Lank summarized comments received from the State Highway Department, Indian River School District, and the Sussex Conservation District.

Mr. Parsons stated the applicants plan to use the site to rent storage space to contractors for storage of supplies. The site will be fenced with a locked gate. There will be no outside storage. They will use the existing entrance.

Mr. Parsons presented a statement signed by neighbors stating they have no objection to the proposed use.

Mr. Rodriguez stated he may construct another building at some future time to be used for the same purpose.

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 is not recommended and that the level of service "A" 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 application will have a significant impact on the District.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area is affected, that no on site or off site drainage improvements will be necessary, that no tax ditch is affected, that in reference to erosion/sediment control, slight limitations may exist during construction and after completion of construction, and that the farmland rating is of statewide importance.

The Commission found that the applicant was present with legal counsel and plans to utilize the site for contractors warehousing.

The Commission found, based on comments by representatives of the application, that warehousing exists on the premises under a Conditional Use, that no adverse impact is anticipated on Route 381, traffic, property values of the neighborhood, that the existing entrance is planned to be utilized for the expansion, that the site is in close proximity to an electrical power substation, and a sewer pumping station.

The Commission found that three (3) letters were submitted in support of the need for warehousing in the area from three (3) construction firms.

The Commission found that a petition containing three (3) signatures from area residents was submitted in support of the application.

The Commission found that no parties were present in opposition.

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 since the use has already been established on site, the site is in close proximity to an electrical substation and a sewer pumping station making the site less conducive to residential use.

4. RE: C/Z #1023--Merritt Burke, III

Sam Burke, attorney, was present on behalf of this application amend the zoning map from AR-1 Agricultural Residential to HI-1 Heavy Industrial in Georgetown Hundred, located on the northwest side of Route 319, south of Conrail Railroad, containing 56.53 acres more or less.

Mr. Witsil replaced Mr. Jones as attorney for this hearing.

Mr. Lank summarized comments received from the LUPA agencies contacted, Indian River School District, the Department of Agriculture, and the Sussex Conservation District.

Mr. Lank read into the record a letter received from the Town of Georgetown opposing this application.

Mr. Burke stated an industrial park is proposed for this site. The site is along the Conrail Railroad and adjacent to industrial zoned land, the Sussex County Airport, and the Emergency Operations Center.

Mr. Burke stated the proposal is conceptual with no plans for immediate development.

Mr. Burke stated a buffer is proposed.

Alisa West spoke in opposition due to the uses permitted under HI-1 Heavy Industrial zoning.

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 State D.N.R.E.C. Division of Air and Waste Management, the Division of Fish and Wildlife, the Division of Parks and Recreation, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, the Department of Agriculture, and the Sussex Conservation District.

The Commission found, based on comments received from the Indian River School District, that the proposed change may have an impact upon the District since the addition of the industry will contribute to the tax base.

The Commission found, based on comments received from the Department of Agriculture, that the LESA Analysis scores well below average, reflecting the close proximity to Georgetown, and indicated that the parcel is unlikely to remain in long term agricultural production.

The Commission found, based on comments from the Sussex Conservation District, that the soils on site are suitable for the intended use, that in reference to erosion/sediment control, moderate limitations may exist during construction and 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 off site drainage improvements will be necessary, that on site drainage improvements will be necessary, that the Eli Walls Tax Ditch provides drainage to the site.

The Commission found that the Town of Georgetown submitted a letter in opposition expressing concern for the sites' need for central sewer and water, traffic, truck traffic, and that the application may be purely speculative.

The Commission found that the application was represented by Merritt Burke, Esquire.

The Commission found, based on comments made by Mr. Burke, that the plans submitted are conceptual, that he anticipates a railway spur travelling through the subdivision plan, that the site adjoins a railroad, that the site is across from the Sussex County Airport and the Emergency Operations Center, that the site is a natural location for industrial use due to its location, that a natural buffer is proposed along Route 319, that additional industrial lands are needed along railways, that a need exists for HI-1 Heavy Industrial lands, that the impact on the school district will be beneficial to the tax base, that no impact is anticipated on roads, and that the Town of Georgetown should benefit by the additional business in town.

The Commission found that one person was present in opposition and expressed concerns over the number of uses in HI-1 Heavy Industrial districts, the limited notices sent within 200 feet of the site, hazardous uses, the impact on area residents and a school is in close proximity.

The Commission found that Mr. Witsil requested that the record be kept open pending receipt of DelD.O.T. comments.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to defer action pending receipt of Highway comments.

5. RE: C/Z #1024--Merritt Burke, III

Sam Burke, attorney, was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to LI-2 Light Industrial in Georgetown Hundred, located on the southwest side of Route 319, northwest of the Sussex County Industrial Park, containing 92.63 acres more or less.

Mr. Lank summarized comments received from the LUPA agencies contacted, the Department of Agriculture, the Sussex Conservation District, Indian River School District, and the Town of Georgetown.

Mr. Burke stated he would like the comments from the last hearing incorporated into the record for this hearing.

Mr. Burke stated the site plan presented is a concept only. The site is for future development.

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 that the comments from the Town of Georgetown, the D.N.R.E.C. Land Use Planning Act Coordinator, the Indian River School District, the Department of Agriculture, and the Sussex Conservation District, were the same as the comments on Change of Zone #1023.

The Commission found that the application was represented by Merritt Burke, Esquire.

The Commission found that Mr. Burke requested that all comments expressed on Change of Zone #1023 be made a part of the record for this application with the exception that the proposed zoning be for light industrial uses.

The Commission found that Mr. Witsil requested that the record be kept open pending receipt of DelD.O.T. comments.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to defer action pending receipt of Highway comments.

OTHER BUSINESS

1. RE: Stephen Anderson

The Commission reviewed a proposed three (3) lot subdivision of 43.01 acres west of Route 265 on lands Mr. Anderson is under contract to purchase.

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

2. RE: Myers Grocery

The Commission discussed the proposal to remove a non-conforming convenience store from its structure and to relocate the store within the existing dwelling on the premises.

It was a consensus of the Commission to defer action and to ask Mr. Jones to research the concept since the use is non-conforming.

3. RE: Victor Evans

The Commission reviewed a proposed three (3) lot subdivision of 20.11 acres northeast of Route 395.

John Messick, attorney, was present on behalf of the property owner, and advised the Commission that the fifty (50) foot private right of way will provide access to the 18.31 acre tract.

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

OLD BUSINESS

1. RE: C/U #913--Delaware Electric Cooperative, Inc.

No one was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for a Public Utility Electrical Substation on the north side of Route 346, 210 feet west of Route 348, and to be located on a parcel containing 40,292.68 square feet more or less.

The Chairman referred to this application which had been deferred on August 10, 1989.

The Commission discussed the points and issues raised during the public hearing.

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 since the area is growing and will need additional electrical supply to handle the growth, since the site is an appropriate location for the use, and since the evidence provided by the opponents that this Conditional Use would detrimentally affect their property values, was not credible and is out weighed by the evidence of need presented by the applicant.

2. RE: ORDINANCE TO REPEAL ORDINANCE NO. 596 AND
AMEND ORDINANCE NO. 97 (SIGNS)

AN ORDINANCE TO REPEAL ORDINANCE NO. 596 AND TO AMEND ORDINANCE NO. 97, THE COMPREHENSIVE ZONING ORDINANCE OF SUSSEX COUNTY, AS AMENDED, BY AMENDING ARTICLE 5, ARTICLE 6, AND ARTICLE 11, WHICH MAKE REFERENCE TO REGULATIONS AND PERMITTED USES OF ADVERTISING SIGNS AND BY PROVIDING FOR THE ADOPTION OF PERMIT FEES THEREFORE.

The Chairman referred to the proposed Ordinance and amendments, which were deferred on August 10, 1989.

The Commission discussed the points and issues raised during the public hearing.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action and that a special meeting be held on August 31, 1989, at 7:00 P.M. in Council Chambers to discuss the Ordinance and amendments.

Mr. Allen asked Mr. Lank to research other regulations on illuminated awnings and to check with the County Administrator on how the fee process will be handled and if a F.A.X. permit process is acceptable.

3. RE: Subdiv. #86-9--William Warrington

Application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred by dividing 20.35 acres into 31 lots, located at the southeast intersection of Route 26 and Route 343.

The Commission reviewed the revised final plats for 30 lots.

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Mr. Lank advised the Commission that Mr. Moore had advised him that all necessary permits or approvals have been obtained.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the 30 lot subdivision as a final.

Meeting Adjourned 9:45 P.M.

Lawrence B. Lank, Secretary