

MINUTES OF THE REGULAR MEETING OF AUGUST 26, 1993

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 26, 1993, at 7:30 PM, in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Magee, Mrs. Monaco, Mr. Phillips, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve the minutes of August 12, 1993, as circulated.

II. Public Hearings

The following public hearings are numbered as heard with their appropriate agenda reference number.

5. RE: APD #93-4 -- George J., Marlene H. & Mark C. Collins

George J. and Marlene H. Collins were present on behalf of their application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Little Creek Hundred for five (5) parcels totalling 601.85 acres more or less, located on the north side of Route 24, east of Route 498, west of Route 493, and south of Route 500 for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized comments received from the Sussex Conservation District that advised that the soils on the site are mapped as Kenansville, Evesboro, Klej, Matawan, and Fallsington, that all of the soil types have good suitability for the intended use, that the farmland rating of the soil types are either considered Prime or of Statewide 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.

Mr. Collins advised the Commission that his son, Mark, will continue to farm the properties, that they desire to protect and guarantee that the parcels stay in agricultural usage for at least 10 years.

Thomas Jarvis, an adjoining land owner, spoke in support of agriculture and the proposed district, and questioned the 50' setback.

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 by Mr. Ralph, seconded by Mr. Magee, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved as an Agricultural Preservation District.

1. RE: C/U #1053 -- Gilbert E. & Irene W. Passwaters

Gilbert E. Passwaters was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for Appliance Repair and Sales, Satellite Dish Sales, and an Electronics and Landscaping Office lying on the northside of Route 404, 550 feet southeast of Route 576, to be located on a parcel containing 1.25 acres more or less.

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

Mr. Passwaters advised the Commission that the application appropriately states his business intent, that he has owned the property for approximately two (2) years, that all of the junk and trash has been removed from the site, that the site had previously been utilized as a used appliance and junk storage yard, that a privacy fence is proposed to be erected to shield the view of the existing shed to the rear of the dwelling, that a satellite dish will be installed on the site, that a metal building, approximately 40 feet by 50 feet, is proposed for the business and office, that he operates the same type of business in Maryland, that the dwelling will be rented to someone willing to keep watch over the site, that the house will be separated from the business with split rail fencing, that the business does repair work on washers, dryers, televisions, and other appliances, and that no appliances will be stored outside.

No parties appeared 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 DelDOT, that the proposed action will have no significant impact on traffic.



The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Fallsington sandy loam which have severe limitations due to wetness if not adequately drained, that the applicant may be required to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type is Prime, that no storm flood hazard area or lex ditch is affected, that it may not be necessary for any off-site drainage improvements, and that it may be necessary for some on-site drainage improvements.

The Commission found that the applicant was present and plans to utilize the site for appliance repair and sales, satellite dish sales, and an office for electronics and landscaping, that they have owned the site for approximately 2 years, that the site was formerly a used appliance and junk storage yard, that all of the junk, debris and trash have been removed from the site, that a privacy fence is proposed to be erected to shield the view of the shed to the rear of the dwelling, that a satellite dish will be installed on the site, that a metal building, measuring approximately 40 feet by 50 feet, is proposed for the business and office, that they operate the same type of business in Maryland, that the dwelling will be rented to someone willing to keep watch over the site, that the house will be separated from the business with split rail fencing, that the business does repair work on washers, dryers, televisions, and other appliances, and that no appliances will be stored outside.

Motion 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, since there are no anticipated negative impacts, and with the following stipulations:

1. One on-premise ground sign, not exceeding 32 square feet per side or facing, may be placed on the site.
2. Any outside storage shall be enclosed within stockade type of fencing.
3. The final site plan shall be subject to review and approval by the Planning and Zoning Commission and shall conform to the sketch submitted with the application as far as the layout and uses.
4. The dwelling shall not be utilized for business purposes.



2. RE: C/U #1054 -- Tressler Mennonite Church, Inc.

Truman Schrock, Coordinator for the Tressler Mennonite Church, Inc., was present on behalf of the application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for a Cemetery lying on the south side of Route 16, 385 feet east of Route 611, to be located on a parcel containing 2.666 acres more or less.

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

Mr. Lank read a short letter in support from William S. Farlow.

Mr. Schrock advised the Commission that the Church plans to provide access to the cemetery from their existing parking area off of Route 603, that the cemetery will be developed in phases as needed, that a ditch along the property line connects with a tax ditch, that fencing is proposed to designate the cemetery boundaries, and that the cemetery will adjoin the church, and fellowship hall and Sunday School building.

Lloyd Benner, former Pastor of the Church, and Lowell Bectol, present Pastor of the Church, spoke in support.

No parties appeared 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 DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, Kenansville loam sand, and Woodstown sandy loam, that the Evesboro and Kenansville soils may have none to slight limitations, and that the Woodstown soils may have slight limitations in areas that have been drained, that the Church may have to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soils types vary from Prime to of Statewide 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 one neighbor sent a letter in support of the Conditional Use application.

The Commission found that the application was represented by a Church member who advised that the church plans to provide access to the cemetery from their existing parking area off of Route 603, that the cemetery will be developed in phases as needed, that a ditch along the property line connects with a tax ditch, that fencing is proposed to designate the cemetery boundaries, and that the cemetery will adjoin the church, and fellowship hall and Sunday School building.

The Commission found that a past and present Pastor of the Church were present in support of the application.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan be subject to review and approval of the Planning and Zoning Commission.

3. RE: C/Z #1206 -- Robert & Helen Littleton

Robert Littleton, owner and operator of Bob's Marine, was present on behalf of his application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Baltimore Hundred, located on the south side of Route 26, 500 feet northwest of Route 17 to be located on a parcel containing 5.43 acres more or less.

Mr. Magee abstained from participating in this application.

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

Mr. Littleton advised the Commission that he plans to build a showroom for boats on the site in the future, that the site will provide adequate space for the showroom building, storage, and parking, that the present building on an adjacent parcel does not have adequate space for a showroom due to parts sales and repair shop, that the present site has a minimal amount of outside boat display in the front yard, that boats are stored outside on the adjacent site, that he may store boats within chain link type fencing on this site or that he may not utilize the site until he is ready to build the showroom since the site is being tilled.



Shirley Price, an area resident, spoke in opposition to C-1 General Commercial zoning since it is broad based and permits a lot of objectionable uses. Mrs. Price added that she would not find a Conditional Use objectionable since it has a definite purpose and use.

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 DelDOT, that a traffic impact study was not recommended and that the existing level of service "D" of Route 26 would not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand which has none to slight limitations for the intended use, that the applicant may be required to follow as Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type is considered of Statewide Importance, that no storm flood hazard area is affected, that it may not be necessary for any off-site drainage improvements, that it may be necessary for some on-site drainage improvements, and that the St. Georges Tax Ditch runs along the southern property line with a 25 foot wide maintenance right of way.

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 that the applicant was present and plans to utilize the site for a boat showroom in the future, that the site will provide adequate space for the showroom building, storage, and parking, that the present building on an adjacent parcel does not have adequate space for a showroom due to parts sales and repair shop, that the present site has a minimal amount of outside boat display in the front yard, that boats are stored outside on the adjacent site, that he may store boats within chain link type fencing on this site or that he may not utilize the site until he is ready to build the showroom since the site is being tilled.



Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried with 4 votes, with Mr. Magee not voting, to forward this application to the Sussex County Council with the recommendation that it be approved since the site will be an extension to an existing C-1 General Commercial District and a commercial use owned by the applicant, and since other C-1 uses exist in the area.

4. RE: C/Z #1207 -- Jerry Lee Taylor, Sr.

Jerry Lee Taylor, Sr. was present on behalf of his application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Broad Creek Hundred, located on the east side of Route 13 approximately 290 feet south of Route 485A to be located on a parcel containing 1.25 acres more or less.

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

Mr. Taylor advised the Commission that he operates a retail business for sale of freshwater and saltwater fishing tackle, archery equipment, that he supports all local youth activities by supply archery and fishing equipment, that the site has been a business use since 1957 when it was opened as a florist shop, and that he applied for B-1 Neighborhood Business to establish conforming zoning for the uses on the site so that he would not have to apply for public hearings if he ever wanted to add to the building.

No parties appeared in opposition.

At the conclusion of the public hearing 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 DelDOT, that a traffic impact study was not recommended and that the existing level of service "B" of Route 13 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Fallsington sandy loam, and Pocomoke sandy loam, that the Evesboro soils have none to slight limitations, that the Fallsington and Pocomoke soils may have severe limitations due to wetness if not adequately drained, that the



owners may have to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soils types are Prime and of Statewide 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 and plans to continue his business of retail sales of freshwater and saltwater fishing tackle, and archery equipment, that he supports all local youth activities by supplying archery and fishing equipment, that the site has been a business use since 1957 when it was opened as a florist shop, and that his primary reason for the application was to establish conforming zoning for his business so that he would not have to apply for a public hearing if he wanted to expand his use or add to the building.

Motion 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 since the rezoning will establish conforming zoning for a business use on a site that has been occupied by a business use since 1957.

### III. Other Business

#### 1. RE: Gulls Way Campground

Mr. Abbott advised the Commission that a request to construct accessory structures in Gulls Way Campground has been received, that the sheds will be 8'x8'x8', that the maximum roof height will be ten feet, that all sheds will be located to the rear left corner of each lot, that all sheds will be similar in appearance, that the Zoning Code allows for sheds to be a maximum of 64 square feet in campgrounds and that the Commission has to approve these.

Mr. Magee questioned if any other campgrounds have sheds and was advised that they do.

Motion made by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve this request.

#### 2. RE: Simpson's Log Homes

The Commission reviewed a commercial site plan for a model sales home on the east side of Route 13.



Mr. Abbott advised the Commission that the site plan complies with the Zoning Code, that all required agency approvals and or permits have been received, and at this time only the model sales home will be built.

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

3. RE: C/U #1008--Briggs Enterprises, Inc.

The Commission reviewed the final site plan will a 14 lot expansion to an existing manufactured home park on Route 318.

Mr. Abbott advised the Commission that the final plat meets the requirements of the Zoning Code and that all stipulations imposed by the County Council have been addressed.

Motion made by Mr. Phillips, seconded by Mr. Magee, and carried unanimously to approve as a final.

IV. Old Business

1. RE: Ordinance to Amend Chapter 115 (Site Plan Requirements)

The Chairman referred back to this Ordinance deferred on August 12, 1993.

The Commission discussed the public hearing.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to defer action.

2. RE: Ordinance to Amend Chapter 99  
(Preliminary and Final Plat Requirements)

The Chairman referred back to this Ordinance deferred on August 12, 1993.

The Commission discussed the public hearing.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to defer action.

3. RE: Subd. #93-5--Ingram - Hudson Properties

Jeff Clark and Elton Murray of Land Tech, Inc. were present on behalf of the application of Ingram - Hudson Properties to consider the Subdivision of land in an AR-1



Agricultural Residential Zoning District in Indian River Hundred by dividing 76.40 acres into 86 lots, located on the north side of Route 24, 1,120 feet east of Route 313.

Mr. Abbott advised the Commission that preliminary was granted on May 27, 1993, and that all appropriate agency approvals have been obtained.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried 4 to 0, with Mr. Phillips not voting, to approve as a final.

4. RE: Subd. #93-6--Donald M. Martin

No one was present on behalf of the application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 7.38 acres into 5 lots, located at the end of Pit Road, 1,300 feet southeast of Route 530.

Mr. Abbott advised the Commission that this application was deferred at the March 25, 1993, meeting pending receipt of a septic feasibility statement from DNREC.

Mr. Abbott advised the Commission that Mr. Martin has revised the plat to 3 lots and that a septic approval has been granted by DNREC for each lot.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve as a preliminary for 3 lots only.

The Meeting adjourned at 9:00 P.M.