

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 10, 1992

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 10, 1992, at 7:30 PM in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of August 27, 1992, as revised.

PUBLIC HEARINGS

1. RE: C/Z #1172--Donald Ward

Donald Ward, and Lynn Moore, a Real Estate Broker, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Broad Creek Hundred, located on the west side of Route 62, across from Route 472 and 130 feet north of Route 437A, to be located on a parcel containing 7.2165 acres more or less.

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

Mr. Moore advised the Commission that Mr. Ward had purchased two (2) tracts of land and proposes to divide the two (2) tracts into five (5) building lots, that the lots will be restricted, that the restrictions will permit a site built home, a modular, or a manufactured home, that the soils have been approved for cap and fill septic systems on all five (5) lots, that the area is mixed with single family dwellings and manufactured homes, that 10 to 12 manufactured homes exist within a one-half mile radius, that rezoning the site will fill a need in the area for land that can be purchased and utilized for a manufactured home, and that the applicant has cleaned up the site since purchasing the land.

Mr. Moore submitted a booklet which included some proposed restrictions, a tax map of the area, a reduced copy of the original survey, a copy of the five (5) lot subdivision which delineates the federal wetlands, a copy of the deeds to the property, copies of the soil feasibility for the lots, photographs of the site before cleanup, and photographs of manufactured homes in the area.

Mr. Moore added that, as an appraiser, he could anticipate no adverse impact on property values or the neighborhood.

Mr. Ward advised the Commission that common entrances are proposed and that he has no objection to establishment of a deed restriction that no further subdivision of the lots is permitted.

Christine Larrimore spoke in opposition and expressed concerns that the property may not support five (5) septic systems, drainage overflowing onto her land which is immediate to the south of the site, resubdividing of lots, and disturbance to her horses.

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 Level of Service of Route 62 at this road segment 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 the site are Evesboro loamy sand and Johnston silt loam, that the suitability of the Evesboro soils may vary from none to slight limitations, that the suitability of the Johnston soils may have severe limitations, that the evaluation of the soils with respect to erosion and sediment control may require the developer to follow an Erosion and Sedimentation Control Plan during any Construction and to maintain a vegetative cover after completion of any construction, that the farmland rating of the soil is of statewide importance, that no 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 a Real Estate Broker, and that the applicant plans to develop the site into five (5) building sites.

The Commission found, based on comments made by representatives of the application that the developer purchased two (2) tracts with the intent to develop five (5) building sites, that the lots will be restricted, that the restrictions will permit either a site built home, a modular home, or a manufactured home, that the soils have been approved for cap and fill septic systems on all five (5) lots, that the area is mixed with single family dwellings and manufactured homes, that 10 to 12 manufactured homes exist within a one-half mile radius, that rezoning of the site will fill a need in this area for land that can be purchased and utilized for a manufactured home, that the applicant has cleaned up the site since purchasing the property, that common entrances are proposed per DelDOT requirements, and that the applicant has no objection to incorporating a deed restriction that no further subdivision of the lots is permitted.

The Commission found that the Real Estate Broker is also an Appraiser and that he anticipates no adverse impact on property values or the neighborhood.

The Commission found that one (1) person spoke in opposition and expressed concerns that the property may not support five (5) septic systems, drainage overflowing onto her land, resubdividing of the lots, and disturbance to her horses.

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 since the rezoning will be compatible with the area which has a mixture of residential housing types including manufactured homes.

2. RE: C/Z #1173--Jimmie Nanney

Jimmie Nanney 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 west side of Route 5, 1/4 mile north of Route 9, to be located on a parcel containing 1.28 acres more or less.

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

Mr. Nanney advised the Commission that he intends to operate a boat engine repair business, that a boat canvas shop and seasonal boat storage site exist across Route 5, that the adjoining site was formerly utilized as an upholstery shop, that a 40' by 60' building existing on the site will be utilized for the repair shop, that the business will be operated full time upon the applicant's retirement within 2 years, the fencing will be provided for the boat storage, that the majority of the repair work will be on engines and outdrives, that no adverse impact is anticipated on property values, that a maximum of 15 to 20 boats will be stored, and that approximately 1/2 acre is available for boat storage.

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 Level of Service "B" of Route 5 at this location 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 to be 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 sediment control may require the developer to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating is 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, 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 that the applicant was present and plans to utilize the site for boat engine repair and boat storage, that a boat canvas shop and boat storage site exist across Route 5, that the adjoining land was formerly use as a upholstery shop, that a 40' by 60' building, existing on the site, will be utilized for the repair shop, that the business will operate full time upon the applicant's retirement within 2 years, that fencing will be provided for the boat storage area, that the majority of the repair work will be on engines and outdrives, that no adverse impact is anticipated on property values, that a maximum of 15 to 20 boats will be stored, and that approximately 1/2 acre is available for boat storage.

The Commission found that no one appeared in opposition.

Motion 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 since the use will be compatible with the area, and since C-1 General Commercial exist across Route 5.

OTHER BUSINESS

1. RE: Richard Huston

The Commission reviewed a request to create a 1.61 acre parcel on the southern side of Route 20.

Mr. Abbott advised the Commission that this request was deferred at the August 27, 1992 meeting.

Mr. Abbott advised the Commission that Mr. Huston advised the staff that he may want to keep only fifty (50) feet of road frontage and sell the remaining eighty-four (84) feet to the adjoining property owner and that the 1.61 acre parcel will have a separate entrance.

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

2. RE: John C. Hopkins

The Commission reviewed a concept to create a three (3) parcel Commercial Subdivision on the Southern side of Route 545, east of Route 13.

Mr. Lank advised the Commission that there are presently five (5) businesses existing on the parcel, that there is a twenty-five (25) foot wide paved road with a cul-de-sac at the end, that there are swales for drainage, that the road is wider than what is required, and that the old policy would have permitted the owner to create three (3) parcels and a fifty (50) right of way.

It was the consensus of the Commission that this request be required to go through the public hearing process for Subdivisions. The Commission waived the requirement of the preliminary plat showing the topography if the plat contains less than three (3) lots.

3. RE: Schooner Village @ The Salt Pond

Ted Simpler, Surveyor, was present representing the Salt Pond on the request to revise Phase One, Schooner Village @ The Salt Pond.

Mr. Abbott advised the Commission that Phase One received final approval on March 26, 1992 for 54 multi family units, and that now the developers would like to revise this section for a townhouse concept.

Mr. Simpler advised the Commission that this concept is the result of problem caused by the Federal National Mortgage Association (FNMA) for financial reasons.

Mr. Abbott advised the Commission that the lot area, aggregate yards and setbacks comply with the Zoning Code.

Mr. Lank advised the Commission that there will not be any change in the structures, and that each lot is required to be monumented.

Mr. Simpler advised the Commission that there are some units in this phase that cannot meet the requirements for townhouses and that they will remain as multi family units, and that other phases of the Salt Pond will be submitted using the townhouse concept.

Motion made by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve Phase One, Schooner Village @ The Salt Pond as revised as submitted.

4. RE: Bridgeville Tourist Information Center

The Commission reviewed a preliminary site plan for a tourist information center on Route 13, south of Route 404.

Mr. Tom Carroll of Landmark Engineering was present on behalf of the site plan.

Mr. Abbott advised the Commission that the site plan complies with the Zoning Code for setbacks, parking and interior driveway requirements and use.

Mr. Carroll advised the Commission that DelDOT will construct and maintain the site, that the State Chamber of Commerce will staff and maintain the 2,500 square foot structure, that the water and sewer will be provided by the Town of Bridgeville, that all appropriate agency approvals will be obtained, and that DelDOT does not want a left turn lane onto Route 13.

Mr. Carroll advised the Commission that the Zoning Code does not specifically reference off street parking for an information center, and noted that 69 parking spaces are provided and that there is additional space reserved for future parking.

Mr. Lank advised the Commission that the closest use for determining the parking area would be an office type use.

Mr. Allen questioned if there would be a picnic area provided and Mr. Carroll advised the Commission that the Chamber of Commerce has not expressed an interest in providing one.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a preliminary. Final approval is subject to receiving all agency approvals and/or permits and final site plan review by the Commission.

5. RE: Steele Restaurant

The Commission reviewed a preliminary site plan for a restaurant on Route 357.

Mr. Abbott advised the Commission that the setbacks for the restaurant meet the requirements of the Zoning Code, but noted that the parking and interior driveway has to be revised and that the engineering firm is aware of this.

Mr. Abbott advised the Commission that the site plan also shows an area for future boat storage, and that as of this date, no agency approvals and/or permits have been received.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the site plan as submitted as a preliminary. Final approval is subject to receiving all agency approvals and final site plan approval by the Commission.

OLD BUSINESS

1. RE: C/U #1015--Joe C. & Toni Johnson

Mr. Lank introduced the application of JOE C. AND TONI JOHNSON T/A BRIDGEVILLE AUTO CENTER to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for an Extension and Expansion to Conditional Use No. 786 for an Auto Recycling Center lying 350 feet west of U. S. Route 13, 0.22 mile north of Route 18 and to be located on a parcel containing 5.0 acres more or less.

The Commission discussed that points and issues raised during the public hearing on August 27, 1992.

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 use has existed for approximately 30 years and since the intent is to enlarge and expand an existing use, a salvage yard, with the following stipulations:

1. No additional lighting shall be installed except for security lighting.
2. Stockade fencing shall be provided for screening.

2. RE: C/U #1016--Jefferson Learning Foundation

Mr. Lank introduced this application to consider the Conditional Use of land in a C-1 General Commercial District in Lewes and Rehoboth Hundred for an Independent School lying at the northeast corner of Route One and Route 271 and to be located on a parcel containing 40,651 square feet more or less.

The Commission discussed the points and issues raised during the public hearing on August 27, 1992.

Motion by Mr. Magee, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The use shall be limited to one (1) year from the date of approval.
2. The use shall be designated as an independent school with administrative offices.

3. RE: C/Z #1171--Jack Mears, Jack Reynolds, and Bruce Moore

Mr. Lank introduced this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Seaford Hundred, located 450 feet northwest of Route 535 (Middleford Road), approximately 1,420 feet southwest of Route 46, to be located on a parcel containing 30.54 acres more or less.

The Commission discussed the points and issues raised during the public hearing on August 27, 1992.

Mrs. Monaco advised the Commission that she had asked Mr. Abbott to review the County records for the number of vacant lots within a five (5) mile radius of the site and that the records indicate that of approximately 1146 parcels found 450 parcels are vacant.

Motion by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since approximately 450 recorded vacant lots exist within GR General Residential Districts in the area, therefore a need could not be justified.

4. RE: Subd. #91-22--Donald C. Birch & Walter J. Singier

No one was present on behalf of the application of Donald C. Birch and Walter J. Singier (Deer View Meadows) to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 30.80 acres into 23 lots, located on the southeastern side of Route 530, 200 feet northeast of Chestnut Lane.

Mr. Abbott advised the Commission that preliminary approval was granted on September 12, 1991 for 23 lots, that the final record plat has been reduced to 22 lots, that the record plat complies with Chapter 99 of the Code of Sussex County, and that all agency approvals and permits have been received.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the record plat as submitted as a final.

5. RE: Subd. #90-14--H. Wayne Kraeer

Mr. Abbott advised the Commission that a request for a one year time extension has been received, that preliminary approval was granted on November 15, 1990, that a one year time extension was granted on September 26, 1991, and that the developer is in the process of obtaining final approvals from the Sussex Conservation District, Sussex County Engineering and DelDOT.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to grant a one year time extension.

6. RE: Subd. #90-16--Holston Farm Assoc.

Mr. Abbott advised the Commission that a request for a one year time extension has been received, that preliminary approval was granted October 11, 1990, that a one year time extension was granted on September 26, 1991, and that the only agency approval received is from DNREC for septic.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried 4 to 1 with Mr. Allen opposed, to grant a one year time extension.

7. RE: Proposed Ordinances

A. re: A proposed ordinance to amend Chapter 115 of the Code of Sussex County, the Zoning Ordinance, to provide for circus, carnival grounds, amusement park, or midway, permanent or temporary for a specified time period as a Conditional Use in certain zoning districts, and to provide for tents for special purposes as special use exceptions in certain zoning districts.

Mr. Lank advised the Commission that the County Council asked him to present the proposed ordinance for discussion prior to the ordinance being introduced for public hearing scheduling.

Mr. Lank advised the Commission that one section of the ordinance proposes to change the Director's right of approval from 2 days to 3 days for activities for a nonprofit organization, and that one section provides that the Director be able to grant approval for placement of a tent for special purposes (revival, reception, or tent sale as an accessory to a business or commercial use, etc...) for 3 days 3 times a year on a site.

There was a consensus of the Commission that they had no objection to the ordinance being introduced for scheduling.

B. re: A proposed ordinance to amend Chapter 99 of the code of Sussex County relating to the establishment of Agricultural Use Protections.

Mr. Lank advised the Commission that the County council asked him to present the proposed ordinance for discussion prior to the ordinance being introduced for public hearing scheduling.

Mr. Lank advised the Commission that the ordinance provides that the subdivision ordinance should make reference to agricultural uses and activities and provide for restrictions that any new subdivision within 300 feet of the boundary of land used primarily for agricultural purposes shall provide due notice to buyers that the lot is located in the vicinity of agricultural land and that the buyer may experience objectionable odors, noise, dust, the use of agricultural chemicals and nighttime farm operations.

Mr. Lank advised the Commission that the ordinance also provides for any new subdivision within 50 feet of the boundary of land used primarily for agricultural purposes that no improvements requiring an occupancy approval for a residential type of use shall be within 50 feet of the boundary of such land.

There was a consensus of the Commission that they had no objection to the ordinance being introduced for scheduling.

7. RE: C/U #988--John E. and Janet E. Macklin

Mr. Lank presented a report on the Conditional Use for the operation of a Tire Sales and Service Business, Demolition and Landscaping Business near Lincoln. Mr. Lank summarized the Ordinance and stipulations of the County Council when the use was approved in November 1991 and the history of complaints, inspections, letters, and reports on the use.

Mr. Lank advised the Commission that based on a stipulation of the County Council that he had voided the Conditional Use, and that the owners have attempted to correct the violations and wish to reopen the business.

Mr. Lank advised the Commission that he would evaluate the site for compliance and require that all stipulations of the County Council be met prior to scheduling site plan review with the Commission, and that the business shall not be granted permission to reopen until final site plan approval is granted.

Meeting adjourned at 10:00 P.M.