

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 27, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 27, 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, Mrs. Monaco, Mr. Smith, Mr. Berl - Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of September 13, 1990, as circulated.

PUBLIC HEARINGS

1. RE: C/U #951--Stephen C. Seipp

Dean Betts, attorney, and Stephen Seipp were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for a Private Airstrip (Landing Field) on the south side of Route 483, 0.8 mile east of Route 20 and to be located on a parcel containing 15.2 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways, the Sussex Conservation District, the D.N.R.E.C. Land Use Planning Act Coordinator, the U.S. Department of Transportation Federal Aviation Administration, and 19 notarized statements in support of the application signed by area residents.

Mr. Seipp stated he plans to have a private airstrip for his personal use only. There would be a grass runway. He plans to construct a pole shed type hangar to store his single engine plane. The building would be approximately 40 feet by 40 feet. He would be using this airstrip for his personal use, making one (1) or two (2) trips per week. No other planes would have access to this airstrip except in emergency situations.

Harry Seipp spoke in favor of the application.

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 D.E.D.O.T., that a traffic impact study will not be required and that no adverse impact is anticipated.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro loamy sand and Rumford loamy sand soils on-site have good suitability for the intended use, that in reference to erosion/sedimentation control, moderate limitations may be anticipated during any construction and slight limitations after completion of any construction, that the farmland ratings of the soil types are 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 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, the Sussex Conservation District, and the State Police Communications.

The Commission found, based on comments received from the D.N.R.E.C. Land Use Planning Act Coordinator, that the Waste Management Section stated that Delaware regulations prohibit the burial of solid waste anywhere except at disposal facilities that have a permit from the Department and that the Department encourages the reuse and recycling of waste materials whenever feasible.

The Commission found, based on comments from the Federal Aviation Administration in a letter to the applicant, that the applicants proposal for a landing area has been received and that an aeronautical study will be conducted.

The Commission found that the applicant was present with legal counsel and plans to utilize the site for a grass runway for his personal use with one (1) single engine aircraft.

The Commission found, based on comments made by the applicant, that a 40 foot by 40 foot pole shed hangar is proposed to be located northeast of the proposed runway, that one or two trips per week are anticipated, that no other users of the airstrip are intended, that the closest airstrip is approximately two miles away, and that no adverse impact is anticipated on the neighborhood or property values.

Motion made 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 with the stipulation that a hangar be permitted to house an aircraft owned by the applicant.

2. RE: C/Z #1091--D & D Investments

Don D'Aquila was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Seaford Hundred, located on the northeast corner of Route 13 and Route 46 and the southeast corner of Route 13 and Route 532, and to be located on a parcel containing 6.39 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways, the Sussex Conservation District, and 18 letters in support of this application from surrounding businesses and property owners.

Mr. D'Aquila stated they plan to construct a one (1) story motel with three (3) sections, two buildings having twelve (12) rooms each, and the center building for lobby and offices. The motel will be equipped with a built-in sprinkler system.

Mr. D'Aquila stated an existing two (2) story building will be rented for meeting rooms.

Mr. D'Aquila stated an existing one (1) story building will be used as a mini mall. Spaces will be rented to individuals selling arts, crafts, and collectibles. It will not be operated as a flea market.

Mr. D'Aquila stated the existing dwelling will be used as a residence for a full time grounds keeper.

Mr. D'Aquila stated there is adequate space for parking for all of the proposed uses.

Mr. D'Aquila stated they have no plan to expand the motel from the presently proposed size.

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, that capacity is controlled by one or more intersections, that the existing level of service "A" of Route 46 may change to level of service "C" and the existing level of service "A" of Route 532 may change to level of service "B" if the site is fully developed at an equivalent in per acre trip generation to discount shopping.

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 Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro loamy sand soils on-site have good suitability for the intended use, that in reference to erosion/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 or tax ditch is affected, that it may not be necessary for any on-site or off-site drainage improvements. The Commission found that the application was represented by one of the owners who plan to utilize the site for a twenty-four (24) unit motel, and an arts and crafts mini-mall.

The Commission found that eighteen (18) letters were submitted in support of the rezoning and intended uses.

The Commission found that the applicant submitted a brochure which contained an introduction, site plan, sixteen (16) of the referenced letters of support, nine (9) photographs of the site, the referenced Division of Highways Support Facilities Report, and soil evaluations.

The Commission found, based on comments made by the applicant, that the motel (inn) will consist of three (3) 70 foot by 50 foot one story buildings with twelve (12) rooms each in two (2) and offices in the third, that a sprinkler system is proposed throughout, that the former horse stable structure will be converted into an arts, crafts, and collectibles mini mall, that an existing two (2) story structure will be converted into meeting rooms, that a need exists for additional modern motel space in the area, that the soil evaluation advises that the soils are adequate for standard gravity septic systems, that adequate space is available on-site for parking, and that no adverse impact is anticipated on property values, the neighborhood or public roads.

Motion made 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 based on the record of support and since a need exists for additional modern motel space in the area.

3. RE: C/Z #1092--Bridgeville Auto Center, Inc.

Joe Johnson was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to HI-1 Heavy Industrial in Northwest Fork Hundred, located on the west side of Route 13, 0.22 mile north of Route 18, and to be located on a parcel containing 9.0 acres more or less.

Mr. Lank summarized comments received from DelD.O.T. and the Sussex Conservation District.

Mr. Lank stated this application had been heard previously as C/Z #1078. Since the applicant or a representative did not appear for the public hearing before the County Council, the application had been denied and the applicant was instructed to reapply.

Mr. Johnson stated his intent has not changed. He plans to expand his existing salvage yard. He plans to fence the area with fencing similar to what is around his existing salvage yard. He plans to construct a building inside the fence at the setback line to further screen the site from adjoining residences. There will be no additional lighting.

Mr. Lank stated the record of the previous public hearing for C/Z #1078 could be incorporated into the record for this hearing.

Dennis Williamson spoke in opposition stating the cars will still be visible from his residence if they are stacked.

Harold Jones spoke in opposition expressing concerns over possible pollution of wells on adjoining properties and property devaluation.

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 comments would not be necessary since the application is for an existing use and expansion of same.

The Commission found, based on comments received from the Sussex Conservation District, that the Sassafras sandy loam 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 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 application was represented by the owner of the auto center and that he intends to continue and to expand his automotive salvage operation, that he plans to construct a building along the southerly side of the property to help block the view of the vehicles in storage, that fencing shall be provided, that no additional lighting, except security lighting, is proposed, that no adverse impact is anticipated on property values, and that the record of the Commission public hearing for Change of Zone No. 1078 be included as part of the record.

The Commission found that two (2) persons were present in opposition and expressed concerns over stacked vehicles, environmental concerns for salvage operations (oils, greases, acids, antifreeze) affect on water quality, and that if approved, solid fencing should be required and that the opposition recorded with Change of Zone No. 1078 be included as part of the record.

Based on the record of Change of Zone No. 1078, the Commission records the following:

The Commission found, based on comments received 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, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found that the Division of Highways did not respond since the use already exists.

The Commission found that the application was represented by the owner and that the owner plans to utilize the site for an automotive salvage operation.

The Commission found, based on comments received from the applicant, that the existing use on the front four (4) acres is operating as a Conditional Use, that he needs space for another warehouse, that the adjoining parcel is zoned HI-1 Heavy Industrial, that the additional land is proposed for the additional

warehouse and storage, that a vehicle may remain on site for one year prior to removal, that the area will be fenced with chain link type fencing, that the proposed warehouse, approximately 50 feet by 150 feet, is proposed to be placed along the southerly property line and will help shield the view of the storage operation, that no additional lighting is planned, that the site has been utilized for the business of salvage for at least 30 years, that he presently employs seven (7) full-time employees and three (3) part time employees, that a need for two (2) additional employees will be created by the expansion, that no dismantled vehicles will be displayed in the front of the parcel, and that no adverse impact is anticipated on the neighborhood, the property values, or on Route 13.

The Commission found that one person appeared in opposition and expressed concern about junk cars being within sight of his residence.

The Commission found that one person appeared, not opposed, but with concerns in reference to depreciation of property values, and questioned whether additional expansions may be proposed in the future.

Motion made 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 based on the record of support, since the rezoning will create conforming zoning for an existing use, since the use is the same as the adjoining parcel to the north, since the rezoning provides for expansion of the existing use, and since the rezoning will be an extension to the HI-1 Heavy Industrial District adjoining.

4. RE: Subdiv. #90-25--Tri-Co Assoc.

James Fuqua, attorney, and James Webb were present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred by dividing 15.46 acres into 15 lots, located on the north side of Route 20, 1,100 feet west of Route 485.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of September 24, 1990.

Andy Lorenz, D.N.R.E.C., spoke concerning proposed changes in regard to water supply requirements for subdivisions.

Mr. Fuqua stated the applicants plan to subdivide the site into fifteen (15) single family lots with on-site septic systems. Individual on-site wells are proposed. Due to the proposed D.N.R.E.C. regulations, the plan may be reduced to fourteen (14) lots.

Mr. Fuqua stated that due to the shape of the property, there would be two (2) entrances.

Mr. Fuqua stated the 404 wetlands on the site are incorporated into the lots. There will be a common area with no improvements which will be owned by the property owners and will allow access to the river. Trees on the site will be retained as much as possible.

Mr. Fuqua presented a letter from Ronald Hastings, developer of Rivers End, a subdivision across the river, stating he did not object to this proposal if hunting is prohibited.

John Palmer, adjoining property owner, questioned the location of the entrances in relation to his entrance and his dwelling.

Mrs. Palmer questioned the effect of the proposed wells on her water supply which is sometimes inadequate.

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

5. RE: Subdiv. #90-26--George Adams, Jr.

George Adams was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred by dividing 215 acres into 270 lots, located on the southeast side of Route 625, on the east side of Route 42, and 700 feet south of the intersection of Route 42 and Route 625.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of September 24, 1990.

Mr. Adams stated the project will have public streets. They plan to preserve as many trees as possible. The project will be phased with approximately 75 lots in each phase. Buffers will be provided around the subdivision.

Joyce Greenlee and Jennifer Greenlee spoke in opposition due to the size and number of lots proposed.

Jules Jefferson spoke in opposition due to the effect on wildlife and the effect on the environment from removing the trees.

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

6. RE: Subdiv. #90-27--M. L. Joseph

Jeff Clark, Land Tech, Inc., and Melvin Joseph were 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 172.4 acres into 108 lots, located on the north side of Route 472, 1,700 feet west of Route 412A.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of September 24, 1990.

Mr. Clark stated the streets will be private built to State specifications and with the paved surface wider than required.

Mr. Joseph stated the project will be phased.

No one was present in opposition.

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

OTHER BUSINESS

1. RE: Merle Embleton--C/U #853
Site Plan Amendment

The Commission reviewed a proposal to construct a 60 foot by 30 foot storage facility for C/U #853, "Marble Works."

No one was present on behalf of the proposal.

Mr. Moore stated that the site is located within the setback requirements and the limits of the approved conditional use.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the proposed site plan amendment.

2. RE: Gilbert Hense, Jr.
Route 280B
Shed on Vacant Lots

The Commission reviewed a request to construct two (2) sheds on two (2) vacant lots, 1 lot being 1.4 acres, the second being 4.6 acres.

The reason for the request is that Mr. Hense wants to house mowing equipment and possibly animals on-site prior to construction of a dwelling within the required six month period.

No one was present on behalf of the proposal.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to defer action pending further information.

3. RE: Fish Hook Manufactured Home Park
C/u #200

The Commission reviewed a proposal to revise the approved site plan for the Fishhook Manufactured Home Park by deleting the designated recreation area and by deleting Lot #21 to create a recreation area and to create three (3) additional lots within the designated recreation area.

No one was present on behalf of the proposal.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the proposed amended site plan.

4. RE: Rehoboth Shores--C/U #639
Site Plan Amendment

Mr. Lank exhibited plats of Rehoboth Shores Mobile Home Park with lots marked showing violations.

Mr. Lank advised the Commission that a major portion of the violations may be correctable by revising the lot layouts and requested permission for the staff to work with the plats and data collected to make appropriate revision suggestions which will still comply with the Code.

There was a consensus of the Commission to work out whatever problems that can be resolved in compliance with the Code.

OLD BUSINESS

1. RE: Subdiv. #90-5--Nassau Woods

The Commission reviewed the final site plan for the proposed 14 lot subdivision.

Mr. Moore stated that all necessary approvals have been obtained.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the subdivision as a final.

2. RE: Subdiv. #90-10--Starlight Meadows

The Commission reviewed the preliminary plot for the proposed 39 lot subdivision.

The subdivision had been deferred at a previous hearing pending feasibility for an on-site waste water disposal system and to consider a request for a variance from the required 600 foot maximum cul-de-sac length.

Mr. Moore stated that the on-site feasibility had been granted.

Mr. Moore stated that prior to preliminary approval, the Commission must consider the variance request. Mr. Moore also stated that the street construction is proposed to be in compliance and dedicated to the State Highway Department. The State Highway Department permits cul-de-sac streets of 1,000 feet.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried 3 to 1, with Mr. Allen opposed, to approve the subdivision with the stipulation that the cul-de-sac not exceed 1,000 feet and that the residue be reserved for future development.

3. RE: Cool Branch Manufactured Home Park

The Commission reviewed a request for a second one (1) year time extension for the Cool Branch Manufactured Home Park, C/U #884.

Mr. Moore stated that final approvals were pending for the project.

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

4. RE: Robert Witsil
James Robinson Subdivision

Robert Witsil, attorney, and George Weikel, a property owner in James Robinson Subdivision were present to request a waiver in the required street construction requirement for the James Robinson Subdivision west of Route 347. The waiver would permit Mr. Weikel to construct a dwelling on his lot.

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There was a consensus of the Commission that the waiver cannot be granted since the action may jeopardize the County authority over street specification requirements.

Meeting Adjourned 10:55 P.M.

Lawrence B. Lank, Secretary