

MINUTES OF THE REGULAR MEETING OF OCTOBER 11, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 11, 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. Hickman, 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 27, 1990, as circulated.

PUBLIC HEARINGS

1. RE: C/U #952--Ed Fleming

Eric Howard, attorney, and Ed Fleming were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for a Lawn Service Business on the northeast side of Route One, 0.7 miles southeast of Route 258, and 0.3 mile northwest of Route 264, and to be located on a parcel containing 2.3 acres more or less.

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

Mr. Fleming stated he plans to operate his lawn service business from the proposed site. He presently has his business on a leased site on Savannah Road. He stores his supplies and equipment at different locations. The proposed site would be large enough for storage of his nursery stock, fertilizers and materials, and equipment, as well as his office and retail sales of irrigation equipment. He has a conditional sales contract for the proposed site.

Mr. Fleming stated the proposed building would have a residential front with landscaping. There would be an operating irrigation system displayed. Mr. Fleming stated on an average, two to three customers per week come to the business.

Mr. Fleming stated he presently has ten (10) employees. This varies between four (4) and fifteen (15) depending on the season.

Mr. Fleming stated he would use the same 4 foot by 8 foot sign he has for his business now.

Mr. Fleming stated the existing hedgerow along one side of the property would remain as screening for the adjoining residential property.

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 Division of Highways, that a traffic impact study was not recommended, that capacity to the road segment is controlled by one or more intersections, and that the level of service "B" of Route One 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 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 may be anticipated after completion of construction, that the farmland rating of this 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 applicant was present with legal counsel and plans to utilize the site for a lawn service business specializing in landscaping, lawn irrigation systems, seeding and sod.

The Commission found that a recent application for commercial rezoning had been protested against zoning but not opposing the intended use.

The Commission found, based on comments made by the applicant, that the use intended will be consistent with the agricultural zoning classification, that the site will be utilized for an office, shop, storage and nursery stock, that the front yard will be landscaped and irrigated for display purposes, that the size of the site is adequate to serve the business, that the majority of traffic will be employees going to and from job sites in the morning and late afternoon, that the existing hedgerow along the east and south property lines is not intended to be disturbed, that they may employ 15 persons during peak seasons, that the business will be operated year round, that chemicals and fertilizers will be

stored indoors, that nursery stock will be maintained balled and burlaped, that other commercial and business uses exist in close proximity along Route One, and that no negative impact is anticipated on property values, the neighborhood, or Route One.

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 based on the record of support and with the following stipulations:

1. The site plan shall require the review and approval of the Planning and Zoning Commission.
 2. Signage shall be limited to 32 square feet per facing.
 3. The existing hedgerow on-site shall be retained.
2. RE: C/U #953--Gerald Hickman

Eugene Bayard, attorney, Jeff Clark, Land Tech, Inc., and Gerald Hickman 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 an 11.13 Acre Borrow Pit on the west side of Route 348, 1,450 feet north of Route 346, and to be located on a parcel containing 16.93 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways, the Indian River School District, the D.N.R.E.C. Land Use Planning Act Coordinator, the Sussex Conservation District, the County Engineering Department, and the D.N.R.E.C. Solid Waste, Waste Management Division.

Mr. Lank read into the record a letter of support from James Bennett, Bennett Orchards.

Mr. Clark stated the proposed site is presently two thirds wooded. The surrounding area is agricultural, either tilled or poultry operations, with some residences.

Mr. Clark stated there would be no need for a well, septic, or electric service on the site.

Mr. Clark stated the site is on a fifty foot right of way approximately 500 feet from the County road. When the pit is completed there will be three (3) single family lots fronting on a lake.

Mr. Hickman stated there will be a gate at the entrance to the pit for security. There will be no fuel storage on-site. The buffer around the pit will remain wooded. The pit should be completed in approximately ten (10) years.

Mr. Hickman stated all the dirt removed will be excavated and hauled by his own equipment and trucks. He plans approximately twelve (12) vehicle trips per day, approximately 200 days per year. Hours of operation would be 7:30 A.M. to 5:00 P.M., Monday through Friday, and Saturday until noon.

Bake Timmons, Ocean View Real Estate, spoke in support of the application.

Jack Hickman, Ted Stephens, and Robert Svenson spoke in support of the application.

Twenty-five (25) persons were present in support of the application.

Ellie Shackle spoke in opposition due to truck traffic, noise, and pollution.

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 Division of Highways, that no problems are anticipated at the location of the entrance.

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 school district.

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. Waste Management Section, 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 the D.N.R.E.C. Waste Management Section, that State regulations prohibit the burial of solid waste except at approved disposal facilities. This prohibition applies to trees, stumps, and other construction/demolition debris as well as to municipal and industrial waste.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro loamy sand soils on-site may have severe limitations during construction in reference to erosion and sediment control, that limitations could be severe after completion of construction unless adequate sediment and erosion control measures are taken, that a sediment and erosion plan shall be required, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any off-site or on-site drainage improvements.

The Commission found, based on comments from the County Engineering Department, that the site is located within the South Coastal Planning Area and will ultimately receive sanitary sewer services, and that the parcels should be developed in accordance with Land Use Plans.

The Commission found that a letter from Bennett Orchards had been received which referenced no objection to the application.

The Commission found that the applicant was present with legal counsel, a consultant, and a realtor.

The Commission found, based on comments made by representatives of the application, that the site is currently 2/3 wooded, that the area around the site is primarily agricultural (poultry farms and tilled lands), that several residential developments are in close proximity, that the access road also serves lands of Robert Svenson, that three residential lots are proposed after the borrow pit is reclaimed, that the borrow pit is designed to be reclaimed as a lake, that fifty (50) foot wide buffers are proposed, that slopes conform to standard borrow pit submittals, that an erosion/sediment control plan has been submitted, that an entrance permit has been requested, that no material will be brought in from off-site, that a wooded fringe shall be retained within the buffer areas, that a gate will be installed to control and restrict access to the site, that no fuel will be maintained or stored on-site, that the pit may reach 25 feet below grade with 20 feet of water, that an estimate of 227,000 yards of borrow may be removed, that the use is intended to serve the applicants business uses only, that 12 trips per day leaving the site are anticipated, that 200 days per year operation is anticipated, that the business will operate 5 1/2 days per week with no Sunday hours, that no future expansions to the site are anticipated, that no adverse impact is anticipated on the neighborhood or property values, and that operation of the business will begin immediately upon receipt of all approvals.

The Commission found that three (3) of the 25 persons present in support of the application spoke of no objection, and no anticipated nuisance due to the wooded area.

The Commission found that one person spoke in opposition and expressed concern over the impact on other areas and intersections by truck traffic, noise, debris, and road damage.

The Commission found that the applicant presented a packet containing 17 letters from neighbors in support, a map indicating the site and the neighbors in support properties, 22 letters from users and clients of the applicants, correspondence to DelD.O.T. and the Sussex Conservation District, and fact sheets of the proposed pit.

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 based on the record of support and with the following stipulations:

1. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
2. The vehicles used for hauling shall be only those vehicles belonging to the applicant.
3. RE: C/Z #1093--Brenda S. Walls

Brenda S. (Walls) Harper was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Broad Creek Hundred, located on the southeast side of Route 466, 900 feet northeast of Route 13, and to be located on a parcel containing 2.27 acres more or less.

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

Mrs. Harper stated she plans to operate a tanning salon in the garage attached to her residence. She will have two (2) tanning beds. Parking would be provided behind the garage.

Norris Benson and June Benson spoke in opposition due to increased taxes and setting a precedent for other businesses in the area.

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 Division of Highways, that a traffic impact study was not recommended, that capacity is controlled by one or more intersections, and that the level of service "A" of Route 465 will not change as a result of this application.

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 severe limitations may be anticipated in reference to erosion and sediment control and slight limitations after completion of construction, that the farm land 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 that the applicant was present with her husband and that they plan to expand their residence with a tanning salon, that two (2) tanning beds are proposed, that the business has not been operated on-site, that the garage is approximately 18 1/2 feet from the westerly property line, that parking area shall be provided behind the garage, that the residential appearance of the dwelling shall be maintained, that tanning appointments are scheduled approximately every 45 minutes, and that no adverse impact is anticipated on property values or the neighborhood.

The Commission found that two (2) neighbors spoke in opposition and expressed concerns over increases in taxes and fears of establishing precedents and changes in uses.

Motion made 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 denied since the rezoning would be out of character with the residential area and since the rezoning would not be conducive to the area.

4. RE: C/Z #1094--Elizabeth Lawrence

Application to amend the zoning map from UR Urban Residential to UB Urban Business in the Town of Millville, Baltimore Hundred, located on the north side of Route 26, 80 feet west of Route 351, and to be located on a parcel containing 0.88 acres more or less.

Stephen Parsons, attorney, was present on behalf of the applicant and withdrew the application due to the opposition present.

5. RE: C/Z #1095--Hugh F. and Cecilia Higgins

Jack Kleinstuber, real estate agent, was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Baltimore Hundred, located on the southwest side of Route 54, 1/2 mile southeast of Route 58B, and to be located on a parcel containing 9,600 square feet more or less.

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

Mr. Kleinstuber stated he would be representing the applicants and his firm has the proposed site listed for sale.

Mr. Kleinstuber stated the parcels adjoining the site on both sides are developed commercially.

No one was present in opposition.

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 school district.

The Commission found, based on comments received from the Sussex Conservation District, that the Fallsington loam soils on-site have fair suitability for the intended use, that moderate limitations may be anticipated during construction in reference to erosion and sediment control 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 a storm flood hazard area may be affected, 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, based on comments received from DelD.O.T., that a traffic impact study had originally been requested, but that the smallness of the property, at 0.22 acres, seems unreasonable to deny a request over a traffic issue, and that the size of the parcel and the surrounding uses make it useless as residential, giving adequate reasons of response to the DelD.O.T. memorandum of understanding.

The Commission found that the application was represented by a realtor who advised the Commission that the applicants hope to convey the property to an adjoining owner to expand their parking area, that the adjoining use to the west is a restaurant and to the

east is a real estate office, and that no adverse impact is anticipated on property values, the neighborhood, or Route 54.

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 denied due to its location on Route 54, traffic, and the limited lot size and width.

OTHER BUSINESS

1. RE: Gilbert Hense, Jr.
Route 280-B

The Commission reviewed a request to grant a waiver from the requirement that a dwelling be constructed within six (6) months after placing an accessory structure on the property.

Mr. Moore referenced a letter from Mr. Hense requesting two (2) accessory structures, one (1) on 4.6 acres to stable horses, the second on 1.7 acres as a mower shed.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the request.

2. RE: Don Martin
Route 520

The Commission reviewed a request to divide 1.6 acres into two (2) lots. The property is located on an existing sixty (60) foot right of way.

Mr. Moore stated that the road had been recently paved by the State.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the request.

OLD BUSINESS

1. RE: Subdiv. #90-8--Hidden Oaks

The Commission reviewed the final plot plan for the 14 lot subdivision.

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

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

2. RE: Subdiv. #90-16--Holston Farm

The Commission reviewed a revised preliminary plan for the proposed 44 lot subdivision.

The revision has a boulevard type street with turn around at 600 foot intervals, which eliminates the need for a variance from the maximum cul-de-sac length requirement.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried 3-1, with Mr. Allen voting in opposition, and Mr. Hickman not participating, to approve the subdivision as a preliminary.

3. RE: Subdiv. #90-15--Doe Run

The Commission reviewed the preliminary subdivision plan for the proposed 14 lot subdivision and a request for a variance from the required 600 foot maximum cul-de-sac length.

The subdivision had been deferred at the public hearing for a feasibility from D.N.R.E.C. for the on-site waste water disposal systems.

Mr. Moore stated that the feasibility had been obtained and that the cul-de-sac length was 850 feet.

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

4. RE: Townsends, Inc.
Bay Farm RPC

Mr. Lank submitted copies of a letter from Eugene H. Bayard, attorney, on behalf of Townsends, Inc., requesting a one year time extension for submittal of a final plan.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to grant a one year time extension until October 10, 1991.

Meeting Adjourned 9:25 P.M.

Lawrence B. Lank, Secretary