

MINUTES OF THE REGULAR MEETING OF OCTOBER 22, 1992

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 22, 1992, at 7:30 P.M. in Room 115, County Council Chambers, in 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 October 8, 1992, as circulated.

PUBLIC HEARINGS

1. RE: C/U #1019 -- Earl & Lillian Holden

Earl Holden was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for Small Engine Repairs lying on the northeast side of Route 262, 2,300 feet northwest of Route 290 to be located on a parcel containing 2.48 acres more or less.

Mr. Lank summarized comments received from Del DOT, the Sussex conservation District, and Sussex County Engineering.

Mr. Holden advised the Commission that he resides on the premises and desires to operate a small engine repair shop from a garage on the property, that the small engine work will be performed on mostly chain-saws and lawn mowers, that his property runs from the road back to the railroad, that adequate space is available for parking, that the business will operate year round seven days per week, and that he would have no objection to being restricted to repairs on chain-saws, lawn mowers, and similar small engines.

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 Del DOT, that a traffic impact study was not recommended and that the level of service "A" of Route 262 could change to a level of service "B" if the site is developed commercially at an equivalent in per acre trip generation to discount shopping.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, Woodstown sandy loam, and Fallsington sandy loam, that the suitability of the Evesboro soils may vary from none to slight limitations, that the Woodstown soils may have moderate limitations, that the Fallsington soils may have severe limitations due to wetness if not adequately drained, that the evaluation of the soils with respect to erosion and sediment control may require the applicant 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 types is prime and of statewide importance, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any off-site drainage improvements, and that it may be necessary for on-site drainage improvements.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is west of the West Rehoboth Expansion area where County Council agrees to restrict zoning changes.

The Commission found that the applicant was present and plans to utilize the site for a small engine repair for maintenance of chain-saws and lawn mowers, that the repair shop will be located in an existing garage on the property, that the property runs from the road back to the railroad, that adequate space is available for parking, that the business will operate year round seven days per week, and that he would have no objection to being restricted to repairs on chain-saws, lawn mowers, and similar small engines.

The Commission found that no one appeared in opposition.

Motion by Mr. Smith, seconded by Mr. Magee, 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 small engine repair of chain-saws, lawn mowers, and similar small engines.
2. One unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.
3. No outside storage of materials, parts, or equipment shall be permitted.
4. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

2. RE: C/U #1020 -- Richard A. Roop, Jr. & Rose Roop

Richard A. Roop, Jr. and Rose Roop were present on behalf of their application to consider the Conditional Use of land in an AR-2 Agricultural Residential District in Broad Creek Hundred for Wholesale Cars and Vehicles lying on the southeast side of Route 488, 830 feet northeast of Route 62 to be located on a parcel containing 2.8 acres more or less.

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

Mr. Roop stated that the application was in error and that it should have referenced retail sales, not wholesale.

Mrs. Roop stated that she had filed the application as written.

Mr. Schrader advised the Commission that someone that may not be opposed to the wholesale dealership, may be opposed to a retail dealership with cars displayed, and that it would be in the best interest of the applicants to withdraw and reapply with a correct application.

There was a consensus of the Commission that the application fee could be waived, since there was an error in the application.

Mr. Roop withdrew his application.

3. RE: AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY RELATING TO THE ESTABLISHMENT OF AGRICULTURAL USE PROTECTIONS.

Mr. Lank read the proposed Ordinance.

Mr. Lank read letters in support from Donald V. Collins, President of Sussex County Farm Bureau, and from R. Stewart McKenzie of the Department of Agriculture.

Til Purnell, Mary Burton, Joe Calhoun, Harold Johnson, Allen Chorman, and Kenneth Short spoke in support of the Ordinance. All agreed that the Ordinance will benefit both the farmers and the adjoining homeowners, that the Ordinance will provide due notice to purchasers that a farm adjoins, and that people need to be made aware of farming activities. Mr. Chorman asked if the Ordinance should include a reference to aerial spraying.

Mr. Lank advised the Commission that a caller had expressed concern about the impact on additional setbacks on an individual lot sold from a farm.

No parties spoke in opposition.

At the Conclusion of the public hearing, the Chairman referred back to this Ordinance.

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

The Commission found that the Board of Directors of the Sussex County Farm Bureau support the Ordinance and feel that the deed restrictions provide protection not only for the farmer but for the landowner as well, and that the preservation and conservation of farm land is essential to protect the quality of life for all Sussex County citizens.

The Commission found that the Department of Agriculture supports the County's effort to require developers to warn potential home buyers of noise, dust and odors associated with modern farming and to bar construction within fifty (50) feet of farms, that the Ordinance will minimize the conflicts between new homeowners and farmers, and that the Ordinance will aid in the preservation of farmland and the protection of homeowners and will help ensure the viability of the State and County's top industry, agriculture.

Motion by Mr. Ralph, seconded by Mr. Magee, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be approved.

4. RE: AN 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 read the proposed Ordinance.

No parties spoke in support or in opposition.

At the Conclusion of the public hearings, the Chairman referred back to this Ordinance.

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

Motion by Mr. Magee, seconded by Mr. Smith, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that the Ordinance be approved.

III. OTHER BUSINESS

1. RE: Sea & Pines Consolidation Corp.

The Commission reviewed a request to subdivide 38.61 acres into two tracts on Route One.

Mr. Abbott advised the Commission that this subdivision requires the Commission action since the property is located on a major arterial roadway, that the two tracts would be 21.54 acres and 17.07 acres, that the two entrances have been approved by DelDOT, that the wetlands have been delineated, that the developer is going to apply for a permit to fill wetlands, and that the surveyor advised the staff that two major subdivision applications will be forthcoming.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the two parcel subdivision.

2. RE: James M. Cook

The Commission reviewed a request to create three lots and a fifty foot right of way on the north side of Route 258.

Mr. Abbott advised the Commission that the owner would like to create two lots for members of his family and keep the remaining lands for himself, that each lot as shown contains a minimum of one half acre, and questioned if this request has to be approved through the subdivision process.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the three lots and fifty foot right of way as submitted.

3. RE: Lewes Farmers Market

The Commission reviewed a commercial site plan for retail sales off of Dartmouth Drive approximately 350 feet north of Route One.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code, that the water tank and pump building will be relocated to the side of the building as requested by the contractor, that in the future there will possibly be a restaurant towards Route One, 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 a preliminary.

4. RE: C/U #982--Ronald Ritthaler

Mr. Abbott advised the Commission that a letter requesting a one year time extension has been received from Mr. Ritthaler.

Mr. Abbott advised the Commission that approvals have been received from DelDOT and the Sussex Conservation District, and that the Commission can grant two time extensions for Conditional Uses and that this is the first request.

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

5. RE: Angola Estates RPC

Mr. Lank advised the Commission that this project was approved by the Commission utilizing a buildable area concept for all improvements, that there are seventeen accessory structures that are not located in the buildable area, and since this is a RPC which requires site plan approval by the Commission, the Commission can approve the accessory structures as improvements on the land of the developers.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the site plan as submitted with the stipulation that if any of the seventeen accessory structures need to be replaced, that they conform to the buildable area concept plan.

6. RE: Carl King, Inc.

The Commission reviewed a commercial site plan on the east side of Route 24 for a convenience type store with gas islands.

Mr. Abbott advised the Commission that the site plan complies with the zoning code and noted that the interior driveways are required to be a minimum of twenty five foot in width.

Mr. Allen questioned if there is enough room to make the driveways twenty five feet.

Bob Nash of Charles Murphy Surveyors advised the Commission that there is enough room and that the site plan will be revised to reflect the twenty five foot drives.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve the site plan as a preliminary. Final approval is subject to this office receiving all required agency approvals and review by the staff.

IV. OLD BUSINESS

1. RE: C/U #1017--Townsend's, Inc.

Mr. Lank introduced the application of Townsend's, Inc. to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for Land Application of Sludge to Forested Land lying at the northwest corner of the intersection of Route 285 and Route 286 and to be located on a parcel containing 54.78 acres more or less.

This application was deferred at the September 24, 1992 and October 8, 1992 meetings.

The Commission discussed the issues raised during the public hearing.

Mr. Ralph stated that he feels that Townsend's, Inc. is one of the largest landowners in Sussex County and that Townsend's, Inc. should have land elsewhere in the County where sludge application would be less impacting on residential lands.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried 4 to 0 with Mr. Magee not participating, to forward this application to the Sussex County Council with the recommendation that it be denied.

2. RE: Subd. #91-12--W.G.C. III Development

Joseph Hudson, developer, was present on behalf of the application of W.G.C. III Development to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Baltimore Hundred by dividing 11.12 acres into 23 lots and a variance from the required 600 foot maximum cul-de-sac length, located on the west side of Route One, 2.2 miles north of Route 360.

Mr. Abbott advised the Commission that this application received preliminary approval on April 25, 1991 for 23 lots, a one year time extension on March 26, 1992, that the final record plat has been submitted reducing the number of lots to 21, that the record plat is in compliance with the Subdivision Code and that all required agency approvals and permits have been received, and that this application was deferred at the October 8, 1992 meeting so that Mr. Magee could further review the application file.

Mr. Magee advised the Commission that he has reviewed all the information in the file and that he is not going to make a motion.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried 3 to 1 with Mr. Allen opposed, and Mr. Magee abstaining to approve as a final for 21 lots.

3. RE: Subd. #91-8--S. & T. Estates

No one was present on behalf of the application of S. & T. Estates to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 95.1 acres into 35 lots, located on the southeast side of Route 277, 750 feet northeast of Route 285A.

Mr. Abbott advised the Commission that this application was deferred at the October 8, 1992 meeting pending additional comments from DNREC about the septic system.

Mr. Abbott advised the Commission that a letter was sent to DNREC on October 13, 1992 requesting additional written information and as of this date a response has not been received.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to defer action again pending additional comments from DNREC.

4. RE: Subd. #89-2--A.B.T.T.R., Inc.

No one was present on behalf of the application of A.B.T.T.R., Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred by dividing 68.2 acres into 87 lots, located on the east side of Route 278, 3,500 feet south of Route 277.

Mr. abbott advised the Commission that the final record plat for Phase II consisting of 45 lots has been submitted, that the plat complies with the subdivision code and that all approvals have been received.

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

5. RE: Subd. #92-5--Alvin Bunting and Lesley Burgess

No one was present on behalf of the application of Alvin Bunting and Lesley Burgess to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 5.0 acres into 4 lots, and as an extension to Lot 10 of Creekside Manor, located on the northwest side of Route 266, 585 feet south of Canary Creek and 0.4 miles north of Route 266A.

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Mr. Abbott advised the Commission that this application was deferred at the May 28, 1992 meeting pending receipt of a septic feasibility statement from DNREC.

Mr. Abbott advised the Commission that the feasibility statement has been received and that the lots are suitable for individual on site septic systems.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to approve this application as a preliminary.

Meeting adjourned at 8:50 PM