

MINUTES OF THE REGULAR MEETING OF OCTOBER 26, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 26, 1989, at 7:45 P.M. in the County Council Chambers with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Jones - Acting County Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of October 12, 1989, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #1029--J. Max Trapp, Jr. and Anita H. Trapp

Ray Tomassetti, attorney, and Max Trapp were 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 south side of Route 54, 0.9 mile east of Route 381, containing 23,025 square feet more or less.

Mr. Lank summarized comments received from the State Highway Department and the Sussex Conservation District.

Mr. Trapp stated he operates a plumbing business on the proposed site. The business started as a family business and has grown to the point where he needs to hire employees.

Mr. Trapp stated there is very little storage of materials at the site. He does residential and commercial service work.

Mr. Trapp stated he resides at this location. The first floor of their residence is used as an art gallery for display and sale of crafts and sculptures made by Mr. Trapp.

Mr. Trapp stated he plans to down grade his business. Sufficient parking space is available. Hours of operation would be 8:00 A.M. to 4:30 P.M., five (5) days per week.

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 that the applicants were present with legal counsel and J. Max Trapp, III, and plan to continue utilizing the site for a plumbing service and an arts and crafts supply.

The Commission found, based on comments received from the Sussex Conservation District that the Woodstown Sandy Loam on site is suitable for the intended use, that there may be slight limitations in reference to erosion and sediment control during and after completion of any construction, that the farmland rating is prime, that no storm flood hazard area is affected, that no on site or off site drainage improvements will be necessary, and that no tax ditch is affected.

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study is not recommended, and that the level of service of Route 54 will not change as a result of this application.

The Commission found, based on comments by the applicants, that the plumbing service business originally started as a family business with no hired employees, that the art crafts have been permitted as a home occupation, that the plumbing business is primarily service oriented, that one additional employee has been hired on site, that very little storage is maintained on site, that most of the service parts and equipment are maintained in the service vans, that most of the services provided are for residential, small business and multi-family projects, that the art crafts are sculptures made from plumbing parts, that the art gallery on site provides for display of the sculptures and exhibiting art works by others, that picture framing is also performed on site, that the Roxana Fire Company Substation across Route 54 takes away from the residential character of the area, that other commercial and business uses exist in close proximity, that recent changes in the character of the area have affected property values, and that no impact on traffic is anticipated.

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

2. RE: C/Z #1030--William L. Tribbitt

William Tribbitt was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Cedar Creek Hundred, located on the north side of Route 16, 0.9 mile west of Route 113 and 500 feet west of Route 595A, containing 1.28 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District and the State Highway Department.

Mr. Tribbitt stated they plan to relocate existing buildings from the rear of their property to use as a country decorating and craft shop. Three (3) buildings will be used for display. They plan to sell antiques, crafts, gifts, and collectable items.

There will be no outside display. They plan to be open from 10:00 A.M. to 6:00 P.M., six (6) days per week, ten (10) months a year. There will be no need for additional water or septic.

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 that the applicant was present and plans to utilize the site for a craft shop.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area is affected, that no on site or off site drainage improvements will be necessary, that no tax ditch is affected, that the Evesboro Loamy Sand on site is suitable for the intended use, that there may be slight limitations in reference to erosion and sediment control during and after completion of any construction, and that the farmland rating is of Statewide importance.

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study was not recommended, and that the level of service "B" of Route 16 may change to level of service "C" if the site is developed to a use equivalent in per acre trip generation to discount shopping.

The Commission found, based on comments by the applicant, that the applicant's wife does craft work, that existing structures on site will be renovated into a shop, that a low impact is anticipated on Route 16 and the neighborhood, that adequate parking is available on site, that the intended hours are 10:00 A.M. to 6:00 P.M., six (6) days per week, that no immediate residence or businesses are in close proximity, that the area is primarily agricultural, and that the closest business is at the intersection of Route 113 and Route 16.

No parties were present in opposition.

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.

3. RE: C/Z #1031--Bryce M. Lingo

Eugene Bayard, attorney, and Bryce Lingo were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to MR Medium Density Residential - RPC Residential Planned Community in Indian River Hundred, located on the south side of Route 22, containing 31.2 acres more or less.

Mr. Lank summarized comments received from the LUPA agencies contacted, the Sussex Conservation District, and the State Highway Department.

Mr. Lingo stated the proposed site is wooded. They are proposing 41 lots for single family homes, a recreation center, and common area. Lots will be sold. There will be no commercial areas. Central water will be provided. Sewer lines would be installed for use when the proposed sewer district is available. Streets will be built to state specifications.

Mr. Bayard presented copies of proposed deed restrictions and landscaping requirements.

Mr. Lingo stated the recreation area would include a pool, bathhouse, and gazebo. There would be a pier for crabbing and fishing only. There will be no marina facility. The surrounding area is mostly manufactured home developments.

Paul Harmon and Sandra Sharkey spoke in opposition due to drainage problems, future boat docks, increased traffic, and septic problems.

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 that the applicant was present with legal counsel, a landscape planner, and a surveyor, and plans to utilize the site for a 41 lot single family residential planned community.

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 Division of Fish and Wildlife, the Division of Parks and Recreation, 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 received from the Sussex Conservation District, that no storm flood hazard area is affected, that no off site drainage improvements will be necessary, that on site drainage improvements may be necessary, that no tax ditch is affected, that the Evesboro Loamy Sand on site is suitable for the intended use, that the tidal marsh on site is unsuitable for the intended use, that there may be moderate limitations during construction and slight limitations after completion of construction in reference to erosion and sediment control, and that the farmland rating of the Evesboro Loamy Sand is of Statewide importance.

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study is not recommended, and that the level of service "C" of Route 22 will not change as a result of this application.

The Commission found, based on comments made by representatives of the application, that the site adjoins Indian River Bay to the south, manufactured home parks to the north and east, and agricultural lands to the west, that the area is a densely developed residential area, that the MR-RPC type application was proposed for single family residential lots with restrictions for building and landscaping, that the use will have a positive impact on the area by providing an alternative lifestyle, less impacting than a manufactured home park, that dry sewer lines shall be provided pending construction of the Long Neck Sewer System, that no negative impact is anticipated, that no commercial uses are proposed, that streets are proposed to be constructed to State standards for State maintenance, that central water is proposed, that 13.9 acres of the 31.2 acre site are developable, that the building restriction line shall be the Federal Wetlands line, that 3.5 acres of recreational and open space are proposed, that no marina facility is planned, and that an entrance design has been submitted.

The Commission found that the applicant submitted proposed deed restrictions and landscaping restrictions, a letter from Public Water Supply Company, Inc. referencing water service, a letter from the Division of Highways referencing general entrance comments, a letter from Soule and Associates referencing holding tanks and a dry wastewater collection system, and a letter from Simmons Cable TV referencing the availability of cable service.

The Commission found that two (2) parties were present in opposition and expressed concern in reference to wetlands, water supply, that the site is not suitable for the intended use, and any marina activity.

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 the rezoning be approved based on the record of support, and since central sewer and water will be available, and since the use should upgrade the area, and with the following stipulations:

- (a) No marina or boat ramp shall be permitted.
- (b) No commercial activity shall be permitted.
- (c) Dry sewer shall be installed per Sussex County specifications.
- (d) The maximum number of lots shall not exceed 41.
- (e) All necessary agency approvals shall be obtained prior to review of final plans by the Planning and Zoning Commission.

4. RE: Subdiv. #89-21--Melvin Joseph

Melvin Joseph was 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 12.2 acres into 19 lots, located on the south side of Lake View Drive, within the Lake View Estates Subdivision.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of October 16, 1989.

Mr. Joseph stated this proposal would be an addition to the Lakeview Subdivision. No additional streets are proposed. The new section would have a different entrance.

No one was present in opposition.

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

5. RE: Subdiv. #89-22--William Gordy

James Fuqua, attorney, and William Gordy were present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in Little Creek Hundred by dividing 17.17 acres into 24 lots, located on the east side of Route 68, 800 feet south of Route 452.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of October 16, 1989.

Mr. Fuqua stated the subdivision plot has been amended to show only 16 lots, with no lots fronting on the County road. On site individual wells and septic systems are proposed. Private restrictions will be imposed.

Beverly Blades, realtor, spoke in favor of the application.

No one was present in opposition.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the proposed subdivision as a preliminary with the stipulation that the subdivision be limited to 16 lots and that any Federal Wetlands on the site be delineated.

6. RE: Subdiv. #89-23--George W. Marshall, II

George Marshall was present on behalf of this application to consider the Subdivision of land in an MR Medium Density Residential Zoning District in Cedar Creek Hundred by dividing 55 acres into 70 lots, located on the northwest side of Route 619, 2,400 feet northeast of Route 36.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of October 16, 1989.

Mr. Marshall stated there will be no recreation area, streets will be private. A hydrant system will be installed. Lots will be sold. Lots will have individual septic systems.

Timmy Webb, George Haskin, Carl Webb, Francis Webb, James McIlvain, and Charles West spoke in opposition due to septic and drainage problems and increased traffic.

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

OTHER BUSINESS

1. RE: Yvonne Freck
4 lots, Route 248

The Commission reviewed a proposal to create four (4) lots on Route 248; one lot having access to Route 248 and three lots having access from a fifty (50) foot right of way.

No one was present on behalf of the proposal.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the four (4) lot subdivision as submitted.

OLD BUSINESS

1. RE: C/U #920--Jeffrey L. Premo

No one was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broad Creek Hundred for an Accounting Office on the west side of Johnson's Drive, 1/4 mile west of Cannon Drive, in Patty Cannon Estates and to be located on a parcel containing 26,400 square feet more or less.

The Chairman referred to this application which had been deferred on October 12, 1989.

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

The Commission found, based on research by the staff, that Patty Cannon Estates has recorded deed restrictions which include references to commercial activities.

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 use would be out of character with the subdivision's residential character.

2. RE: ORDINANCE TO AMEND ORDINANCE NO. 97
(Minimum Lot Width)

AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, BY AMENDING ARTICLE 5, TO PROVIDE FOR A MINIMUM LOT WIDTH OF 300 FEET FOR LOTS FRONTING ON NUMBERED ROADS SHOWN ON THE GENERAL HIGHWAY MAP FOR SUSSEX COUNTY OF 1964, AS REVISED.

The Chairman referred to this Ordinance which had been deferred on October 12, 1989.

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

There was a consensus of the Commission that a width of 150 feet was more reasonable than 300 feet and that 300 feet of width created a waste of land and an increased lot square footage.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be approved with amendments to create a minimum lot width of one hundred fifty (150) feet in the proposed Ordinance referencing AR-1 Agricultural Residential, MR Medium Density Residential, GR General Residential, HR Multi-Family Residential, B-1 Neighborhood Business, C-1 General Commercial, and M Marine; that the proposed amendments referencing UR Urban Residential, UB Urban Business, LI-1 Limited Industrial, LI-2 Light Industrial, and HI-1 Heavy Industrial be deleted; and that the proposed amendments Section 16, which proposes to amend Article 5, Section 16, be amended to provide a footnote "10" following the words "Width of Lot in Feet" where referencing Sections 1, 2, 3, 4, 7, 8, and 9 and amending the added language to reference a minimum width of one hundred fifty (150) feet.

3. RE: Western Sussex Land Use Plan

Mr. Lank advised the Commission that in their information packet is a copy of a memo to the Advisory Committee, a copy of the minutes of the first Advisory Committee meeting of October 18, 1989, and a list of Advisory Committee members.

Mr. Lank discussed the committee meeting, meetings held with the consultants' representatives, and the representatives of the towns of Seaford, Milford, Georgetown, Blades, Laurel, Delmar, and Bridgeville, and a general tour of the study area with Mr. Haskins of Whitman, Requardt and Associates.

4. RE: Bay Farm - C/Z #960 - Townsends, Inc.

Eugene Bayard, Esquire, was present representing Townsends, Inc. and requesting the Commission to permit the applicant nine (9) months after the adoption of State D.N.R.E.C. Marina Regulations.

Motion made by Mr. Hickman, seconded by Mr. Ralph, and carried unanimously to grant the requested time extension.

5. RE: G & E Farms
C/U #909
Site Plan

The Commission reviewed the site plan for a proposed saw mill.

Mr. Moore stated that all permits have been obtained.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to defer action pending a review of the property.

6. RE: Poultry House in C-1 General Commercial

The Commission discussed errors in the Ordinance referencing permitted uses and setbacks in reference to commercial poultry houses.

There was a consensus of the Commission that it was not the intent of the ordinance to permit commercial poultry houses in C-1 General Commercial Districts.

7. RE: C/U #413--Dr. Francisco

Mr. Lank read a letter from Jeff Todd, the owner of Sunsations Plus, requesting a change of use for a Conditional Use for a doctors office to permit the placement of a Tanning Salon in one of the offices.

There was a consensus of the Commission that an application for public hearings shall be required for an amendment to the Conditional Use for the Tanning Salon.

Meeting Adjourned 10:45 P.M.

Lawrence B. Lank, Secretary