

MINUTES OF THE REGULAR MEETING OF NOVEMBER 3, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 3, 1994, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mrs. Monaco, Mr. Phillips, Mr. Ralph, Mr. Schrader - Assistant County Attorney, Mr. Abbott - Planner II, and Mrs. Mowbray - Zoning Inspector.

Motion made by Mrs. Monaco, seconded by Mr. Lynch, and carried unanimously to approve the minutes of October 27, 1994, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1093--Earl & Lillian Holden

Earl Holden was present on behalf of this application to consider the Conditional Use of Land in an AR-1 Agricultural Residential and a GR General Residential District in Broadkill Hundred for an Expansion of Conditional Use No. 1019 to Permit Automotive Sales and Maintenance lying on the northeast side of Route 262, 2,300 feet northwest of Route 290, on a parcel containing 2.48 acres more or less.

Mr. Abbott summarized comments received from the Sussex County Engineering Department.

Mr. Holden advised the Commission that he presently has a Conditional Use for small engine repairs, that he is unable to work due to disability and that he has a letter from a doctor that he can't return to work, that he would like to be able to sell cars for extra income, that he resides on the site, that he has a two car garage, that he has not had any complaints on the existing Conditional Use, that there is adequate area to display the cars in the front, that there would be no more than ten cars on the site, that at night the cars would be moved to the rear of the property, that he has existing security lighting, that no additional lighting would be required, and that he can not due any major automotive repairs due to his disability.

There was no one present in opposition to this application.

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 from the Sussex County Engineering Department, that the site is located in the area west of the West Rehoboth Expansion Area, where the County

Council agreed to restrict zoning changes and conditional uses in subdivision approval, and that this agreement is outlined in the Memorandum of Understanding signed between the State of Delaware Department of Natural Resources and Environmental Control and the Sussex County Council.

The Commission found that the applicant was present and that comments made by the applicant that he presently has a conditional use for small engine repairs, that he is unable to work due to a disability, that he has a letter from a doctor stating that he can't return to work, that he would like to be able to sell cars for extra income, that he resides on the site, that there is an existing two car garage, that he has not had any complaints on the existing Conditional Use, that there is adequate area in the front to display the cars, that there would be no more than ten cars on the site, that at night the cars would be moved to the rear of the property, that existing security lighting is provided, that no additional lighting would be required, and that no major automotive repairs will be conducted.

The Commission found that no one was present in opposition.

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

1. All stipulations of Conditional Use No. 1019 shall continue.
 2. No more than ten (10) cars shall be permitted on site.
 3. At night the cars shall be moved to the rear of the site.
 4. No additional lighting shall be permitted.
2. RE: C/Z #1243--New Process Fiber Co., Inc.

Henry Peters and Stan Busby were present on behalf of this application to amend the zoning map from MR Medium Density Residential and AR-1 Agricultural Residential to HI-1 Heavy Industrial in Northwest Fork Hundred, located on the east side of Route 589, 0.27 mile south of Route 589A, to be located on a parcel containing 2.8197 acres more or less.

Mr. Abbott summarized comments received from the Delaware Department of Transportation (DelDOT) and the Sussex Conservation District.

Mr. Peters advised the Commission that he is seeking the rezoning for expansion of the existing business, that a proposed 80' x 124' would be built on the site, that the building would be used for extruding plastic, that the company presently has two extruder machines and are expecting a third to arrive in the near future, that there is not adequate space to build the building on the existing HI-1 Heavy Industrial zoned land due to low spots and wetlands along the ditch branch and the location of the septic system, that he owns the land, that the old buildings are used for storage, that the trailers are used for storage, that the company presently employs 45 people, and submitted a brochure on how the company operates.

Four people were present in support of this application.

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 made by DelDOT, that a traffic impact study was not recommended and that the existing level of service A will not change as a result of this application.

The Commission found based on comments from the Sussex Conservation District, that an approved Sediment and Stormwater Management Plan has been issued.

The Commission found that the applicant was present and based on comments made by the applicant, that he is seeking the rezoning for expansion of the existing business, that a 80' x 124' building is proposed, that the building would be used for extruding plastic, that the company presently has two extruder machines and is expecting arrival of a third in the near future, that there is not adequate space to build the building on the existing Heavy Industrial zoned land due to low spots, wetlands along the ditch branch and the location of the existing septic system, that he owns the land, that the old buildings and trailers are used for storage, that the company currently employs 45 people, and that the applicant submitted a brochure on how the company operates.

The Commission found that four (4) persons were present in support of this application.

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

III. OTHER BUSINESS

1. RE: Irene Carpenter Draper Heirs

The Commission reviewed a proposed 8 lot subdivision located on Lake Drive near Silver Lake.

Mr. Abbott advised the Commission that this is a preliminary plan, that the minimum lot requirements have been met, that there is additional information that will be required on the final plot, questioned if the 50' right of way of Lake Drive could be included in the area of the 8 lots, and advised the Commission that Lake Drive was approved by a Court decision.

David Rutt, Attorney, advised the Commission that the original deed for this property runs to the edge of Silver Lake, that the deed calls for riparian rights, and that the plan submitted complies with the deed.

Mr. Schrader advised the Commission that the Vice Chancellor decision states the Lake Drive is a public thoroughfare and that the street was built to the specifications of Sussex County and approved by the Sussex County Engineering Department.

Jeff Clark, of Land Tech Inc., advised the Commission that the street was built to County specifications and approved by Engineering, and that the street does not meet the specifications of a public road which would be maintained by DelDOT.

Mr. Schrader referenced the Court decision stating that the street is a public thoroughfare, and that the street is dedicated to public use.

Mr. Clark stated that if the street is dedicated to public use, the State would maintain it, and that it was built to private specifications.

Mr. Rutt advised the Commission that the public can use the street, that the individual lot owners cannot deny ingress/egress, and that the deed provides for a fifty foot access.

Mr. Lynch questioned if the plot has been approved by the DNREC Shoreline and Waterway Management Section.

Mr. Clark advised the Commission that he was under the impression that the individual lot owners obtain approvals from DNREC.

Mr. Abbott advised the Commission that he received a telephone call from Maria Sadler of DNREC stating that they would like the opportunity to review the plot plan to verify the accuracy of the Building Restriction Line prior to the Commission approving the plan and that he mailed a copy of the plot to DNREC.

Motion made by Mr. Lynch, seconded by Mrs. Monaco, and carried unanimously to defer action so that Mr. Schrader can review the Court decision.

IV. OLD BUSINESS

1. RE: C/Z #1242--Vines Creek Marina, L.P.

Michael Jahnigan and David Rutt were present on behalf of the application to amend the zoning map from AR-1 Agricultural Residential to M Marine in Baltimore Hundred, located on the west side of Route 341B, 125 feet northeast of Linn Woods Lane in Linn Woods Development, to be located on a parcel containing 18.28 acres more or less.

The Chairman referred back to this application which was deferred at the October 27, 1994, meeting.

Mr. Rutt advised the Commission that the designer has revised the plan and that the setbacks can be met, that the owner has agreed to delete lot 13A from the rezoning request and this lot will remain AR-1 Agricultural Residential, and that the developers have met with the Linn Woods Homeowners Association and that they have no objection to the revised rezoning application.

Motion made by Mr. Lynch, seconded by Mrs. Monaco, and carried unanimously to forward this application to the County Council with the recommendation that the revised plan date November 1, 1994, which deletes lot 13A from the original plan submitted, be approved, and that lot 13A remain AR-1 Agricultural Residential.

Meeting adjourned at 8:30 P.M.