

MINUTES OF THE REGULAR MEETING OF NOVEMBER 4, 1993

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 4, 1993, at 7:30 P.M., in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mrs. Monaco, Mr. Magee, Mr. Phillips, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

otion made by Mrs. Monaco, seconded by Mr. Magee, and carried unanimously to approve the minutes of October 21, 1993, as circulated.

II. PUBLIC HEARINGS

1. RE: C/Z #1211--Peninsula Oil Co., Inc.

Donald Williams, Operations Manager of Peninsula Oil Co., Inc. and A. Dean Betts, Attorney, 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 northwest side of Route 54, northeast of Route 382, and west of Route 381, to be located on a parcel containing 3.86 acres more or less.

Mr. Magee advised the Commission that he will not participate in the hearing of this application.

Mr. Lank summarized comments received from the Delaware Department of Transportation, the Sussex Conservation District, the Office of the Secretary of the State DNREC, the Indian River School District, the DNREC Wetlands and Aquatic Protection Branch, the DNREC Water Supply Branch, the DNREC Underground Discharges Branch, the DNREC Pollution Control Branch, and the Sussex County Engineering Department.

Mr. Betts advised the Commission that the policy of the applicants is to located their business in areas of heavy traffic, that they do not generate traffic, but serve the existing traffic, that the site will serve the public travelling to and from the beach resorts and developments in the area, that area residents support the application, and that the applicants are contract purchasers of the site.

Mr. Betts submitted copies of a petition containing 108 signatures in support.

Mr. Williams advised the Commission that the proposed convenience store/deli will contain approximately 2,600 square feet of floor space, that the site will include gasoline sales, that no entrances will be created on Route 54, that the only entrances will be on Route 382 and Route 381, that each entrance



will have ingress/egress, that they will acquire all agency approvals and/or permits, that storage tanks will be underground, that as many trees as possible will be protected, and that no adverse impact is anticipated on the neighborhood.

Jesse Cobb, Peggy Timmons, Larry Brasure, Carroll Brasure, David Brasure, and several other area residents were present in support.

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 DelDOT, that the Department has funded a study to determine improvements necessary to minimize flooding and provide for emergency evacuation along this road segment, that the applicants have agreed to construct certain improvements and to dedicate right of way to public use, that the improvements will be necessary to maintain adequate levels of safety and provide for potential future widening of Route 54 and Route 20 (Route 382), that the Department waives the requirement for a traffic impact study, and reserves the right to request a traffic impact study, if warranted, during the plan approval process.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Klej loamy sand, that the Evesboro soils have slight limitations, that the Klej soils may have moderate limitations due to moderately high water table, that the applicant may be required to follow an Erosion and Sedimentation Control Plan and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil types are considered 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 some on-site drainage improvements.

The Commission found, based on comments received from the Office of the Secretary of the State DNREC, that comments have been requested from the DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, the Watershed Assessment Branch, the Pollution Control Branch, the Water Supply Branch, and the Underground Discharges Branch, the Department of Agriculture, and the Sussex Conservation District.



The Commission found, based on comments received from the Indian River School District, that at this time it does not appear that the proposal will have a significant impact on the District.

The Commission found, based on comments received from the DNREC Wetlands and Aquatic Protection Branch, that it does not appear that the rezoning will have a direct impact on wetlands or waterways, that any stormwater management facility located on the site should not be located in wetlands or waterways, that wetlands and waterways should be identified prior to site planning, and that high value wetlands and waterways should be avoided during development.

The Commission found, based on comments received from the DNREC Water Supply Branch, that the Branch has no objection to the proposal, that individual wells may be installed at the site provided that the requirements of the "Regulations Governing the Construction of Water Wells" are met.

The Commission found, based on comments received from the DNREC Underground Discharges Branch, that the Sussex County soil survey indicates that the soils are suitable for on-site wastewater disposal, that a site evaluation must be conducted prior to obtaining a construction permit, and that a minimum isolation distance and siting densities shall be maintained.

The Commission found, based on comments received from the DNREC Pollution Control Branch, that the Branch has no objection provided wastewater is managed and stormwater is controlled to minimize impacts to surface water quality.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in the proposed West Fenwick Sanitary Sewer District, that the area is identified as a Priority 2 Planning Area and will not receive sanitary sewer service within the next five years, that this particular property is located adjacent to the existing sanitary sewer pipeline at Road 381, and that the owners of the property may wish to investigate the feasibility of connecting to the pipeline if the property is annexed into the district.

The Commission found that the application was represented by the Operations Manager for the company and an attorney who advised the Commission that it is the policy of the company to locate their business in areas of heavy traffic, that they do not generate traffic, but serve the existing traffic, that the site will serve the public travelling to and from the beach resorts and developments in the area, that area residents support the



application, that the proposed convenience store/deli will contain approximately 2,600 square feet of floor space, that the site will include gasoline sales, that no entrances will be created on Route 54, that the only entrances will be on Route 382 and Route 381, that each entrance will have ingress/egress, that they will acquire all agency approvals and/or permits, that the storage tanks will be underground, that as many trees as possible will be protected, and that no adverse impact is anticipated on the neighborhood.

The Commission found that several area residents were present in support of the application.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried with four votes, with Mr. Magee not voting, to forward this application to the Sussex County Council with the recommendation that it be approved since the use would be an asset to the area and since the application is supported by area residents.

2. RE: C/Z #1213--Larry H. & Achsah Brasure

Larry Brasure, Carroll Brasure, and David Brasure were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Baltimore Hundred, located on the north side of Route 54, across from Route 394A, to be located on a parcel containing 4.53 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District, the Indian River School District, and DelDOT.

Larry Brasure submitted letters of support from three (3) area residents and the Chairman of the Board of Directors of Sound United Methodist Church.

Larry Brasure advised the Commission that they propose to build a 30' by 82' office building with an attached 48' by 153' garage for storage of equipment and vehicles utilized by the pest control and carpet service businesses, and that the garage will be large enough to store approximately 20 vehicles.

Carroll Brasure advised the Commission that the pest control business has seven full time employees with two employees in the office and that the business has been operated from another location for approximately 22 years.



David Brasure advised the Commission that the carpet service business has seven full time employees with four employees in the office and that the business has been operated from another location for approximately 10 years.

Carroll Brasure advised the Commission that the garage will be heated to protect liquids on the vehicles, that both businesses need to expand, that typical hours of business are from 8:00 A.M. to 5:00 P.M. with the pest control business operating 5.5 days per week, and the carpet service business operating 6 days per week, that approximately 100 to 150 gallons of chemicals are to be stored by each business, that two (2) chemical storage rooms are planned, that the building will be fire proofed and contain fire walls between the two businesses, that the storage areas will be environmentally safe and will meet all codes, that the businesses are off-site related with very little retail activity on site, that the existing sites will convert to residential use, that inspections are performed on the pest control business by the Department of Agriculture, that no adverse impact is anticipated on property values, the neighborhood, or traffic on Route 54, and that neighbors located within 200 feet of the site were notified.

Iris Collins, a resident across Route 54 questioned why the applicants had not contacted her.

At the conclusion of the public hearing 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 Sussex Conservation District, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any off-site drainage improvements, that it may be necessary for some on-site drainage improvements, that the soils are mapped as Rumford loamy sand and Osier loamy sand, that the Rumford soils have none to slight limitations, that the Osier soils have severe limitations, due to wetness, if not adequately drained, that the applicants may be required to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, and that the farmland rating of the soil types are of Statewide Importance.

The Commission found, based on comments received from the Indian River School District, that at this time it does not appear that the proposal will have a significant impact on the District.



The Commission found, based on comments received from DelDOT, that the Department has funded a study to determine improvements necessary to minimize flooding and provide for emergency evacuation along this section of Route 54, that the applicant has agreed to place deed restrictions on the property such that traffic intensive uses would not be developed and that a minimum building setback of 75 feet be created to allow for future widening of the roadway, and that the Department reserves the right of request a traffic impact study, if warranted, during the plan approval process.

The Commission found that the applicant and two sons were present and advised the Commission that they propose to build a 30' by 82' office building with an attached 48' by 153' garage for storage of equipment and vehicles utilized by a pest control business and a carpet service business, that the garage area will be large enough to store approximately 20 vehicles, that the pest control business has seven full time employees with two employees in the office and that the business has been in operation for approximately 22 years, that the carpet service business has seven full time employees with four employees in the office and that the business has been in operation for approximately 10 years, that the garage will be heated to protect liquids on the vehicles, that both businesses need to expand, that typical hours of business are from 8:00 A.M. to 5:00 P.M. with the pest control business operating 5.5 days per week and the carpet service business operating 6 days per week, that approximately 100 to 150 gallons of chemicals are to be stored by each business, that two chemical storage rooms are planned, that the building will be fire proofed and shall contain fire walls between the two businesses, that the storage areas will be environmentally safe and will meet all codes, that the businesses are off-site related with very little retail activity on site, that the existing sites, presently located elsewhere, will convert back to residential uses, that inspections are performed on the pest control business by the State Department of Agriculture, that no adverse impact is anticipated on property values, the neighborhood, or traffic on Route 54, and that neighbors located within 200 feet of the site were notified.

The Commission found that one area resident questioned why she was not notified by the applicants. The resident confirmed that the County did provide a notice of the application.

The Commission found that the applicants provided letters of support from three (3) area residents and a letter from the Chairman of the Board of Directors of Sound United Methodist Church.



Motion by Mr. Magee, seconded by Mr. Ralph, and carried four (4) votes to one (1), with Mr. Allen opposed, to forward this application to the Sussex County Council with the recommendation that it be approved.

### III. OTHER BUSINESS

#### 1. RE: Nolen Graves

The Commission reviewed a commercial site plan for a mini storage facility on the south side of Route 54, west of Route One.

Mr. Abbott advised the Commission that the setback requirements have been met for the building, but raised questions concerning the width of the interior drive, parking spaces being located in the front yard setback, and whether this parcel is considered a through lot since a street in Ocean City adjoins the lot.

Mr. Abbott advised the Commission that the parking area could be moved further back from Route 54 to be located in front of the building.

Mr. Lank advised the Commission that something should be received from Ocean City stating that the applicant can have an exit on the street.

Motion made by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to defer action pending comments received from Ocean City for the exit, and a survey signed and sealed showing the actual property line.

### IV. OLD BUSINESS

#### 1. RE: Subd. #93-6--Donald M. Martin

No one was present on behalf of this application to consider the subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 7.38 acres into 5 lots, located at the end of Pit Road, 1,300 feet southeast of Route 530.

Mr. Abbott advised the Commission that this application received preliminary approval for 3 lots only, and that all required agency approvals and permits have been received and that the record plat meets the requirements of the Subdivision Code.

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Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the 3 lots as a final.

Meeting adjourned at 8:50 P.M.