

MINUTES OF THE REGULAR MEETING OF NOVEMBER 9, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 9, 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, and Mr. Lank - Director.

PUBLIC HEARINGS

1. RE: C/Z #1032--Hilda W. Achilles Child

Steve Parsons, attorney, and Hilda Child were present on behalf of this application to amend the zoning map from UR Urban Residential to UB Urban Business in Baltimore Hundred, located on the south side of Route 26, 500 feet east of Route 347, in the Town of Millville, containing 1.0 acre more or less.

Mr. Lank summarized comments from the State Highway Department.

Mr. Lank read into the record a letter from the applicant explaining the reason for this application.

Mr. Lank read into the record a letter from Loretta and Clement Shackle in support of this application.

Mr. Lank read into the record a letter from the Commissioners of the Town of Millville opposing this application.

Mrs. Child stated the site has an existing dwelling, garage, and an apartment over the garage. The apartment has been rented out for over 30 years.

Mrs. Child stated they need to sell their property and move to a one story home due to her husband's health. Due to the mini storage facility across the street from their property, they have been unable to sell the site for residential use.

Mr. Parsons presented a copy of a conditional sales contract for this site.

Mrs. Margaret Mengel stated she plans to purchase this property and use the first floor of the dwelling as an antique and craft shop. Her daughter will help with the business and reside in the second floor of the dwelling. She would continue to rent the garage apartment.

Wilmer Rogers, real estate agent, spoke in favor of this application.

Mr. Parsons presented a letter from John and Sally Webb, and a letter signed by six (6) area residents in support of this application.

Butch Evans, Mayor of the Town of Millville, and Gary Willey, Secretary for the Town of Millville, spoke in opposition to rezoning as speculation and increased traffic.

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 and the contract purchaser and that the contract purchaser plans to create an antique and craft gift shop on the first floor of the home on the premises.

The Commission found, based on comments received from the State Division of Highways, that the intended use is insignificant to impact Route 26 and that the Division of Highways can restrict the use thru a condition on the entrance permit.

The Commission found, based on a letter received from the Commissioners of Millville, that the Town Commissioners requested denial of the application.

The Commission found, based on comments by representatives of this application, that the site is occupied by a dwelling and a garage apartment, that a mini storage project, an ice cream parlor, and other business and commercial uses and districts are in close proximity, that no impact on traffic is anticipated by the intended use, that no further devaluation of property values is anticipated, that water and sewer on site are adequate, and that the proposal is in keeping with the neighborhood.

The Commission found, that two (2) letters and a petition were submitted in support of the application.

The Commission found, based on information on two (2) previous rezoning applications within the Town of Millville, that the Town Commissioners supported the rezoning applications.

The Commission found that the Mayor and Secretary of the Town of Millville were present in opposition since the application is based on speculation, that Route 26 is already overburdened, that any turning onto Route 26 is a hazard, and questioned what may happen to Route 26 (existing) if a bypass is created.

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 since five or six business or commercial uses exist in close proximity and since the rezoning would not be out of character with the area.

2. RE: C/Z #1033--Abel A. Rodriguez and Stephen W. Rodriguez

No one was 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 east side of Route 382, 688 feet north of Route 17, containing 2.89 acres more or less of a 7.93 acre tract.

Application withdrawn prior to meeting.

3. RE: C/Z #1034--John C. Street

John Street, Sr. and John Street, Jr. were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Northwest Fork Hundred, located on the east side of Route 13, 1/2 mile south of Route 404, containing 1.01 acres more or less.

Mr. Lank summarized comments received from the LUPA agencies contacted and the State Highway Department.

Mr. Street stated they plan to develop the site with greenhouses, nursery, and a building for the sale of plants grown on the site and resale of items brought from elsewhere.

Mr. Street stated they plan to be open until 9:00 P.M. during the summer and 6:30 or 7:00 P.M. in the fall. They will be open through Christmas. The site adjoins their produce stand which is operating under conditional use approval. They plan to increase the parking area. The site will have on site well and septic system. There are other commercial uses in the area.

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 and his son were present on behalf of this application and plan to utilize the site for a produce market, a commercial greenhouse, and area for wholesale and retail sales of nursery stock.

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 Department of Transportation, the Department of Agriculture, and the Sussex Conservation District.

The Commission found, based on comments received from the State Division of Highways, that a traffic impact study was not recommended, and that the existing level of service "A" of Route 13 will not change as a result of this application.

The Commission found, based on comments made by the applicants, that they are operating a produce stand on adjacent lands with minimal parking and that this rezoning site will provide for additional parking space, that both parcels will be utilized for the business, that the combined sites will provide adequate space for the necessary buildings and parking, and that other commercial uses exist in close proximity.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be granted since the use is not out of character to the area which contains other business and commercial uses, and since no negative impact is anticipated on the area.

4. RE: ORDINANCE TO AMEND ORDINANCE NO. 97  
(Porches, Platforms and Steps)

AN ORDINANCE TO AMEND ORDINANCE NO. 97, THE COMPREHENSIVE ZONING ORDINANCE OF SUSSEX COUNTY, AS AMENDED, BY AMENDING ARTICLE 5, ARTICLE 9, AND ARTICLE 10, TO PROVIDE ADDITIONAL REGULATIONS FOR OPEN UNENCLOSED PORCHES, PLATFORMS AND STEPS.

Mr. Lank summarized the proposed changes which would allow open unenclosed decks and steps to encroach some front, side, and rear yard setbacks.

No one was present in opposition.

The Commission found, based on comments from the Director, that the Ordinance gives consideration to front yards and side yards in VRP Vacation Retirement Residential Park Districts, Manufactured Home Parks, and yard spaces within residential lots.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to forward these Ordinance Amendments to the Sussex County Council with the recommendation that they be approved.

5. RE: ORDINANCE TO AMEND ORDINANCE NO. 97  
(Airport Hazard Zoning)

AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, ARTICLE 5 BY ADDING SECTION 17 WHICH REFERENCES ESTABLISHING AN AIRPORT HAZARD ZONING ORDINANCE.

Mr. Lank summarized the proposed Ordinance which was recommended by the Sussex County Engineering Department.

Robert Wood, County Engineering Department, explained in detail the proposed Ordinance.

Mr. Wood stated the Ordinance pertains only to the Sussex County Airport. Any existing structures or towers exceeding the proposed height limitations could be lighted at County expense.

Preston Elliott and Mr. Truitt spoke questioning whether the proposed ordinance would limit construction of homes.

No one was present in opposition.

The Commission found, based on comments from the Director, that the County Engineer has recommended regulations which will regulate and restrict the height of structures and objects of natural growth in the vicinity of the Sussex County Airport, and will create appropriate zones and their boundaries.

The Commission found that the County Engineer, Robert Wood, was present and discussed in general the use of land based on the provisions of the Ordinance, and that no use may be made within any established zones that could create electrical interference with navigational signals or radio communications between the airport and aircraft, difficulties for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots, impair visibility in the vicinity of the airport or otherwise create a hazard or endanger the landing, take off, or maneuvering of aircraft intending to use the airport.

The Commission found that two (2) parties were present and questioned the impact on adjacent farmland and building permits.

The Commission found that the Ordinance creates a maximum height of 150 feet within certain areas from the primary runway at the Sussex County Airport.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to forward the Ordinance Amendments to the Sussex County Council with the recommendation that they be approved.

OTHER BUSINESS

1. RE: Moore's Borrow Pit

Peter E. Loewenstein, surveyor, was present on behalf of Joseph and Daniel Moore for the review of the site plan for C/U #891.

Mr. Lank advised the Commission that erosion and sediment control plans and entrance plans have been approved by the appropriate agencies.

Mr. Lank advised the Commission that the Sussex County Council stipulated by Ordinance that a performance bond be provided to ensure adequate protection of roadways and restoration of the land.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously that the site plan be approved as submitted and that issuance of a notice to proceed shall be subject to acceptance of an appropriate bonding method which guarantees reclamation of the roadway and site plan at 125% of the reclamation design cost.

2. RE: Mike Mock

The Commission reviewed a concept for 8 lots on Route 292. Two (2) lots would be served by a common entrance and two (2) groups of three (3) lots would have access from a 100 foot by 100 foot access road entrance.

The Commission questioned the design proposal and number of entrance roads.

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

3. RE: Jerome Butler

Jerome Butler was present to discuss his proposed three (3) lot subdivision on Route 554.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the three (3) lot subdivision with access controlled to a fifty (50) foot wide private road right of way.

4. RE: Barry Whayland

The Commission reviewed a proposal to subdivide a 30,000 square foot lot with access to Brookside Drive of Branchview.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the lot subject to receipt of verification of approval of the lot by the Branchview Home Owners Association.

5. RE: Tall Pines Camper Park

Mr. Lank presented a proposal for a 6 foot by 10 foot barn type shed for the camper section of Tall Pines to be located in compliance with the Comprehensive Zoning Ordinance.

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

6. RE: Lennie Rust

Mr. Lank presented a proposal for a 30 foot by 40 foot accessory building to be located on a 1.6 acre parcel pursuant to Article 4, Section 4 of the Comprehensive Zoning Ordinance.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to grant permission to construct the accessory building one (1) year prior to beginning construction of the dwelling rather than six (6) months prior.

7. RE: Dr. Ramachandra and Kusuma Hosmane

The Commission reviewed a concept sketch to relocate three (3) handicap parking spaces into an area in front of the doctors office for closer access to the ramp in front of the office for C/U #581.

Motion made by Mr. Hickman, seconded by Mr. Ralph, and carried unanimously to defer action. The staff shall review the site and report back to the Commission at the next meeting.

OLD BUSINESS

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

No one 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 south side of Route 54, 0.9 mile east of Route 381, containing 23,025 square feet more or less.

Minutes  
November 9, 1989  
Page 8

The Chairman referred back to this application which had been deferred on October 26, 1989.

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

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 since other commercial and business uses and districts exist in close proximity and since the zoning to B-1 Neighborhood Business would not be out of character with the area.

Meeting Adjourned 9:50 P.M.

---

Lawrence B. Lank, Secretary