

MINUTES OF THE REGULAR MEETING OF NOVEMBER 17, 1994

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 17, 1994, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mrs. Monaco, Mr. Ralph, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray - Zoning Inspector II.

Motion made by Mrs. Monaco, seconded by Mr. Lynch, and carried unanimously to approve the minutes of November 3, 1994, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1094--Ernest & Nelsa Hosse

Ernest Hosse was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for Retail Sale and Wholesale Nursery Products, Farm Products, Fertilizers, Pots, Gardening Equipment and Etc. lying on the south side of Route 18, one mile southeast of Route 527, on a parcel containing 5.00 acres more or less

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

Mr. Hosse stated that he proposes retail and wholesale sales of nursery and farm products, fertilizers, pots, and related gardening equipment, that he anticipates no negative impact on the neighborhood, property values, or traffic, that he proposes greenhouses for bedding plants, outside stock for flowers, that the building will be 150' setback from the right of way of Route 18, that adequate parking will be provided in the front of the building, that his daughter will live on a lot immediately adjacent to the site, that some plants will be purchased from other, and that one entrance will serve the site.

Mr. Allen stated that there are several similar uses in the immediate area and questioned the need.

George Morris and Ray Atkins spoke in opposition and questioned if the site had deed restrictions similar to Mr. Morris' restrictions, and questioned the need since similar uses exist in the area and enough businesses exist in the area.

John Hamstead questioned if the applicant was going to operate the business or was he going to lease the business out.

Mr. Ralph questioned the legality of the restrictions referenced by Mr. Morris.

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 the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand and Woodstown sandy loam, that the Evesboro soils and some of the Woodstown soils are relatively free of limitations or that the limitations are easily overcome, and that some of the Woodstown soils have limitations that need to be recognized but can be overcome by careful design or special construction measures, that the applicant shall be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the Evesboro soils is of Statewide Importance and Hydric in small depressions, that the farmland rating of the Woodstown soils is Prime Farmland and Hydric in depressions, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found that the applicant was present and stated that he proposes retail and wholesale sales of nursery and farm products, fertilizers, pots, and related gardening equipment, that he anticipates no negative impact on the neighborhood, property values, or traffic, that he proposes greenhouses for bedding plants, outside stock for flowers, that the building will be 150' setback from the right of way of Route 18, that adequate parking will be provided in the front of the building, that his daughter will live on a lot immediately adjacent to the site, that some plants will be purchased from other, and that one entrance will serve the site.

The Commission found that two people spoke in opposition and questioned if the site had deed restrictions similar to other deeded parcels created from the same original parcel, and questioned the need since similar uses exist in the area and enough businesses exist in the area.

The Commission found that a person, who operates the same type of business in the area, stated that he does not object to competition, but questioned if the applicant was going to operate the business or was he going to lease the business out.

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

2. RE: C/Z #1244--Lloyd H. Hickman

Lloyd H. Hickman was present on behalf of his application to amend the zoning map from MR Medium Density Residential to C-1 General Commercial in Baltimore Hundred, located on the east side of Route 357 (Cedar Neck Road), 130 feet south of Route 359 (Hickman Road), to be located on a parcel containing 19,927.60 square feet more or less.

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

Mr. Hickman submitted pictures of the site and letters of support from adjoining owners.

Mr. Hickman advised the Commission that 15 businesses exist within 0.6 mile of the site, that the Coastal Sussex Land Use Plan recommends the area for a commercial center, that he intends to utilize the site for additional parking for his existing business' on the adjoining site, that he is eliminating the mini storage business, that no adverse impact is anticipated on the neighborhood, property values, or traffic, and that the dwelling on the site has recently been destroyed.

No one 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 the Sussex Conservation District, that the soils on the site are mapped as Rumford loamy sand, which are relatively free of limitations or limitations are easily overcome, that the applicant shall be required follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of any construction, that the farmland rating of the soil are of Statewide Importance, that no storm flood hazard area or tax ditch is affected, and that it may

not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the level of service "D" of Route 357 will not change as a result of this application.

The Commission found that the applicant submitted pictures of the site and three letters of support from area residents.

The Commission found that the applicant stated that 15 businesses exist within 0.6 mile of the site, that the Coastal Sussex Land Use Plan recommends the area for a commercial center, that he intends to utilize the site for additional parking for his existing business on the adjoining site, that he is eliminating the mini storage business, that no adverse impact is anticipated on the neighborhood, property values, or traffic, and that the dwelling on the site has recently been destroyed.

The Commission found that no one appeared in opposition.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the rezoning will be an extension to an existing C-1 General Commercial District and uses.

3. RE: Ordinance Amending Chapter 99 (Wetlands)

Mr. Lank introduced and read an Ordinance amending Chapter 99, Article I, Section 99-6 of the Code of Sussex County, providing that a disclosure statement be incorporated into deeds for lots within Subdivisions that contain wetlands.

Mr. Lank read a letter in support of the Ordinance from William F. Moyer of the Wetlands and Subaqueous Lands Section of the Delaware Department of Natural Resources and Environmental Control.

William F. Moyer spoke in support of the Ordinance and advised the Commission that more people are purchasing lots containing some wetlands and that they need to be advised that the wetlands exist on their site and that permits may be necessary to disturb the wetlands.

Mr. Schrader stated that some buyers don't read their restrictions or references in their deeds.

Albert Rizzo, representing the Department of Interior, Fish and Wildlife Service, spoke in support of the Ordinance and stated that any deed for a new lot should reference the existence of wetlands, that the disclosure will prevent some future problems with encroachments into wetlands, and that a real problem area that should be addressed is lots within minor subdivisions along public roads.

Charles Adams questioned if the Ordinance impacts all proposed lots within minor and major subdivisions.

Mr. Rizzo added that Sussex County does not presently require U. S. Army Corps. of Engineers verification of the accuracy of mapping of wetlands.

Jeff Clark supported the Ordinance and suggested that the Ordinance be revised to reference lots containing wetlands only.

Mr. Schrader questioned if minor subdivisions are included in the Ordinance.

Mr. Moyer stated that all lots containing wetlands should be referenced.

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.

There was a consensus of the Commission that the language of the Ordinance should be adjusted as recommended to reference lots containing wetlands.

Mr. Schrader recommended that the language be changed to read: When land being subdivided contains wetlands, either state or federal, the deeds for lots to be conveyed, containing wetlands, shall include a disclosure statement that reads: "This site contains regulated wetlands. Activities within these wetlands may require a permit from the U.S. Army Corps. of Engineers and/or the State of Delaware."

Motion by Mrs. Monaco, seconded by Mr. Lynch, and carried unanimously that this application be forwarded to the Sussex County Council with the recommendation that it be approved as amended.

III. OTHER BUSINESS

1. RE: Irene Carpenter Draper - 8 Lot Subdivision

The Commission reviewed a site plan deferred on November 3, 1994 for a legal opinion on the street.

Everett Moore, Attorney, and Jeff Clark of Land Tech, Inc. were present on behalf of the owners.

Mr. Lank read a letter from Maria Sadler of the State DNREC Shoreline & Waterway Management Section which referenced that all construction will be landward of the DNREC Building Line and that pedestrian dune crossovers must be shared crossovers.

Mr. Schrader stated that he had reviewed the Court Order and records on Lake Drive, that deeds shall be required to reference that Lake Drive is a public road with private maintenance, that the site plan should be modified with the same notation, and that the property lines may extend to the property line across Lake Drive.

Jeff Clark stated that the site plan would be so noted, and that wetlands and flood plains will be depicted on the final site plan.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously that the subdivision plan be approved subject to final review of corrected site plans by staff.

2. RE: Parsell, Atkins & Lodge Funeral Home

S. Keith Parsell was present on behalf of Parsell, Atkins & Lodge requesting site plan approval for a new funeral home on Route 268.

The Commission reviewed the site plan.

Mr. Lank advised the Commission that approvals have been received from DelDOT and the Office of the State Fire Marshal, and that approvals are needed from the Sussex Conservation District, Sussex County Building Code Department, and County Engineering or DNREC.

Motion by Mr. Lynch, seconded by Mrs. Monaco, and carried unanimously to approve the site plan. Issuance of building permits shall be subject to receipt of all appropriate agency approvals.

3. RE: Peninsula Oil Company

The Commission reviewed a site plan for a convenience store and related gas islands at the intersections of Routes 54 and 382 and Routes 54 and 381.

Mr. Lank advised the Commission that approvals have been received from DelDOT, the Sussex Conservation District, that the U.S. Army Corps. of Engineers have verified the wetlands, and that approvals are needed from the Sussex County Building Code Department and the Office of the State Fire Marshal.

Motion by Mr. Lynch, seconded by Mrs. Monaco, and carried unanimously to approved the site plan. Issuance of building permits shall be subject to receipt of all appropriate agency approvals. All parking spaces shall be provided with curb stops.

4. RE: Tunnell Properties

The Commission reviewed a site plan for office expansion for Conditional Use #754 on Route 22 (Long Neck Road).

Mr. Lank advised the Commission that Tunnell Properties are requesting an opinion as to whether a revised site plan is appropriate or will it be necessary for a new public hearing process to expand their existing office complex approved through Conditional Use #754.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to permit the owners to submit revised site plans, rather than another Conditional Use application, since the use was already established through public hearing processes and since the use is for office expansions, the same use as originally approved.

IV. OLD BUSINESS

1. RE: C/Z #1243--New Process Fiber Co., Inc.

No one was 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.

The Commission discussed this application deferred November 3, 1994.

Motion 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 approved since the rezoning will be an extension to an existing HI-1 Heavy Industrial District and an existing industrial use.

2. RE: Subdiv. #93-2--Harry, Jean & Stephen Seipp

Mr. Lank read a letter from Charles E. Adams, Jr., Surveyor, on behalf of the Seipp's, requesting a time extension for the subdivision through Section 99-35 (Approval of Modifications and Exceptions) of the Subdivision Ordinance.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to grant the time extension as requested. Final subdivision plans shall be required to be submitted by August 12, 1995.

ADDITIONAL BUSINESS

Mrs. Monaco asked Mr. Allen to read aloud a short letter whereby she wished to tender her resignation from the Commission effective December 31, 1994.

Meeting Adjourned at 9:45 P.M.