

MINUTES OF THE REGULAR MEETING OF NOVEMBER 19, 1992

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 19, 1992, at 7:30 PM in Room 115, County Council Chambers, in the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to approve the minutes of November 12, 1992, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1022--Mid-Atlantic Realty Management

Karen Farrow was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for Manufactured Home Sales and Display lying at the entrance of Rehoboth Shores, north of Route 22 (Long Neck Road), approximately 1.3 miles east of Route 22C to be located on a parcel containing 1.22 acres more or less.

Mr. Lank summarized comments received from the Sussex County Engineering Department Planning and Permits Division, the Indian River School District, and the Sussex Conservation District.

Miss Farrow advised the Commission that a sales office exist at this location, that the three units would be for temporary display, that the park has no objection to a limitation of three units for display, and that no negative impact is anticipated on neighborhood property values on Route 22.

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 the Sussex County Engineering Department Division of Planning and Permits, that the site is located in the Long Neck Sanitary Sewer District, that there is a gravity collection line located within the Route 22 right of way adjacent to the property where a connection can be made, that the property owner will need to make arrangements with the Utility Construction Division of the Sussex County Engineering Department to have a lateral installed, that the lateral will have to be paid by the owner, and that the sales office must be connected to the sanitary sewer facilities for

wastewater disposal.

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped to be Evesboro loamy sand, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain a vegetative cover after completion of any construction, that the farmland rating of the soil is of Statewide importance, that no storm flood hazard area is affected, that it may not be necessary for any off-site or on-site drainage improvements, and that no tax ditch is affected.

The Commission found, based on comments made by a representative of the application, that a sales office presently exists on the site, that the three units would be for temporary display purposes, that the park has no objection to a limitation of having only three units for display, and that no negative impact is anticipated on the neighborhood property values on Route 22.

The Commission found that no one appeared in opposition.

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

1. The display be limited to three (3) units.
2. RE: C/U #1023--William Turpin

William Turpin 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 the Sales of Motor Vehicles lying on the north side of Route 9, 1.0 mile west of Route 474, 0.75 mile east of Route 479 to be located on a parcel containing 39,027 square feet more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and a letter in opposition from Keith Yocum.

Mr. Turpin advised the Commission that he intends to sell motor vehicles on consignment, that the maximum number of cars at any onetime would be four (4), that cars are presently displayed on the site, that there is a manufactured home on the site occupied by a family member, that no signs are proposed unless to designate parking areas, that the business would operate seven (7) days per week with no set hours, that no additional lighting is required, that there would not be any repairs done on site, and that no negative impact is anticipated on property values or the neighborhood.

Robert and Rosemary Board spoke in favor of this application if the site is neatly maintained.

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 proposed change will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on site are to be Fallsington sandy loam and Kenansville loamy sand, that the suitability of the soils for the intended use may vary from none to slight limitations in the Kenansville soils and may have severe limitations due to wetness in the Fallsington soils if not adequately drained, that with respect to erosion and sedimentation control may require the applicant to follow an Erosion and Sedimentation Control Plan during any construction and to maintain a vegetative cover after completion of any construction, that the farmland rating of the soils are Prime and of Statewide importance, that no storm flood hazard area is affected, that it may not be necessary for any off-site drainage improvements, that it may be necessary for any on-site drainage improvements, and that no tax ditch is affected.

The Commission found, based on comments received from Keith Yocum, that he strongly opposes the application since the area is a quiet neighborhood, and that this proposal would negatively impact property values.

The Commission found, based on comments made by the applicant, that he intends to sell cars on consignment, that the maximum number of cars at any onetime would be four (4), that cars are presently displayed on site, that there is a manufactured home on the property occupied by a family member, that no signs are proposed unless to designate parking areas, that the business would be open seven (7) days per week with no set hours, that there would not be any additional lighting required, that no repairs will take place on site, and that no negative impact is anticipated on property values or the neighborhood.

The Commission found that two (2) people spoke in favor of this application if the site is neatly maintained.

The Commission found that no one appeared in opposition.

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

3. RE: C/Z #1177--Ruth B. & Thurman Adams, Jr.

Joseph Conaway, Realtor, was 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 southwest corner of the intersection of U.S. Route 13 and Route 40, to be located on a parcel containing 28.29 acres more or less.

Mr. Lank summarized comments received from DelDOT, DNREC Division of Water Resources Pollution Control Branch, DNREC Office of the Secretary for Land Use Review and Coordination, the Woodbridge School District, DNREC Division of Water Resources Water Supply Branch, DNREC Division of Water Resources Soil Evaluation Group of the Underground Discharges Branch, the Sussex Conservation District, DNREC Division of Water Resources Wetlands and Aquatic Protection Branch, and the State of Delaware Department of Agriculture Division of Resource Management.

Mr. Conaway advised the Commission that the applicants have owned the site since 1976, that the property is divided by the town limits of Bridgeville, that the applicants propose to develop the site for a shopping center, that the area is in need of a major food store, that the Bridgeville sewer facility is located across the Bridgeville Branch Tax Ditch, that the site conforms to the purpose of the C-1 General Commercial District, that the Western Sussex Land Use Plan refers to the site for a Town Center, that the ditch bank along the Bridgeville Branch Tax Ditch contains wetlands disturbed by creation of the outfall for the Sewer Treatment Plant, that water and sewer will be requested from the Town of Bridgeville, that the site is in close proximity to both State

Police and the Bridgeville Police, that the site is within one mile of the Bridgeville Fire Company, that the proposal is in keeping with the Zoning Ordinance, the Comprehensive Land Use Plan, the Western Sussex Land Use Plan, and the trends of development of the area.

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 agrees to waive the requirements for a Traffic Impact Study if the applicants agree to perform appropriate improvements to Route 40, Route 5 (13A), U.S. Route 13, and provide signal agreements, and that the Department reserves the right to request a Traffic Impact Study if necessary during the entrance approval process, and that plan approval is contingent on review and approval by the Department's Subdivision Section.

The Commission found, based on comments received from the DNREC Pollution Control Branch, that the office has no objection provided the use is compatible with the adjacent areas. The Branch suggested that the applicants should consider tying into the Bridgeville sewer system.

The Commission found, based on comments received from the DNREC Office of the Secretary, for the purpose of land use review and coordination, that comments have been requested from the DNREC Division of Water Resources - Pollution Control Branch, Watershed Assessment Branch, Water Supply Branch, Wetlands and Aquatic Protection Branch, and Underground Discharges Branch, the Department of Agriculture, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on letters received, that the Town of Bridgeville and the Woodbridge School District support the rezoning.

The Commission found, based on comments received from the DNREC Water Supply Branch, that the Branch has no objection to the proposal.

The Commission found, based on comments received from the DNREC Soil Evaluation Group of the Underground Discharges Branch, that the soils are suitable for on-site wastewater disposal, that a soil feasibility study must be conducted by a Class D licensed soil scientist using a 300 foot grid, and that the maximum siting density shall be 500 gallons per half acre.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Sassafras sandy loam and Fallsington sandy loam, that the suitability of the Sassafras soils may vary from none to slight limitations, that the suitability of the Fallsington soils may have severe limitations due to wetness if not adequately drained, that the evaluation of the soils with respect to erosion and sediment control may require the developer to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil types is Prime, that no storm flood hazard area 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, and that the Bridgeville Branch Tax Ditch runs along the southern property line of the site, and that a 16.5 foot wide maintenance right of way runs along the tax ditch.

The Commission found, based on comments received from the DNREC Wetlands and Aquatic Protection Branch, that wetlands regulated by the State of Delaware do not appear within the area of the development, that wetlands regulated by the U.S. Army Corp. of Engineers appear to be within the area of development, and that any activity such as filling, dredging, crossing with a road or placement of a structure may require permits.

The Commission found, based on comments received from the Department of Agriculture, that the Department has analyzed the application based on the Sussex County Land Evaluation and Site Assessment (LESA) system and that the proposal scored 166 points out of 300 points, which is average for the County, that the Land Evaluation score totaled 89 out of 100 points due to the abundance of Sassafras soils, that the Site Assessment score totaled 77 out of 200 points which reflects the proximity of sewer services, commercial activities and increasing development throughout the area, that the Department regrets the loss of any agricultural lands, but due to the proximity to the Town of Bridgeville and the low LESA score the prospect for long-term agriculture is questionable.

The Commission found, based on comments made by a representative of the application, that the applicants have owned the site since 1976, that the property is divided by the town limits of Bridgeville, that the applicants propose to develop the site for a shopping center, that the area is in need of a major food store, that the Bridgeville sewer facility is located across the Bridgeville Branch Tax Ditch, that the site conforms to the purpose of the C-1 General Commercial District, that the Western Sussex Land Use Plan refers to the site for a Town Center, that the ditch bank along the Bridgeville Branch contains wetlands disturbed by creation of the outfall for the Bridgeville sewer treatment plant, that water and sewer will be requested from the Town of Bridgeville, that the site is in close proximity to both State Police and the Bridgeville Police, that the site is within one mile of the Bridgeville Fire Company, that the proposal is in keeping with the Zoning Ordinance, the Western Sussex Land Use Plan, and the trends of development of the area.

The Commission found that no parties appeared in opposition.

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 it is an extension to an existing C-1 General Commercial District and due to its close proximity to other commercial activities in the area.

4. RE. C/Z #1178 -- John E. Schade, et. ux. & William B. Warrington, et. ux.

John Schade and John Sergovic, Attorney, were present on behalf of this application to amend the zoning map from MR Medium Density Residential to HR-2 High Density Residential in Baltimore Hundred, located on the west side of Route One, one mile north of Fenwick Island, to be located on a parcel containing 6.35 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Office of the Secretary for DNREC, the DNREC Pollution Control Branch, the Indian River School District, the Sussex Conservation District, the DNREC Wetlands and Aquatic Protection Branch, and the Sussex County Engineering Department.

Mr. Sergovic submitted a brochure containing an introduction, a reduced copy of the site plan for the site, a reduced copy of the tax map for the area, a correspondence to Sussex County Engineering Department, a correspondence from the Sussex county Engineering Department, a correspondence from Delmarva Power, a correspondence from DelDOT, a copy of the DelDOT Support Facilities Report, a correspondence from the Indian River School District, a

correspondence from the Bethany Beach Volunteer Fire Company, a correspondence from Kauffman Appraisal Service, a correspondence from Davis, Bowen & Friedel, Inc., a correspondence from the Department of Army Corps. of Engineers, and excerpts from the Coastal Sussex Land Use Plan.

Mr. Sergovic advised the Commission that a similar application was filed in February and later withdrawn since federal wetlands had not been verified by the U.S. Army Corps. of Engineers, that the application conforms to the Zoning Ordinance and the Coastal Sussex Land Use Plan, that the site is located close to several multifamily projects, that the application conforms to HR High Density Section of the code of Sussex County since the project will be served by central sewer and water, that the site is limited to 19 units due to the sewer availability, that a minimal impact is anticipated on DelDOT, that setbacks are proposed from wetlands, that no impact is anticipated on the school district, that fire protection is available from the Bethany Beach Fire Company, that central water is proposed on site, that the applicants are hopeful that a water district will be created in the Fenwick area, that it took approximately 18 months to obtain federal wetlands delineation approval, and that the application provides conformance to the Coastal Sussex Land Use Plan since the site is in close proximity to open space areas, since the housing type is appropriate for the area, and since the Plan suggest that 35 percent of housing should be multi-family.

Mr. Schade advised the Commission that they have owned the site for approximately 5 years, that they have tried several concepts for development of the site to conform to the development of the area and to protect the environment, that they propose to setback from wetlands, that single family lots are not appropriate for the site or economically, that the single family lots immediately adjacent have not sold and are still vacant, that multi-family use of the site is more appropriate due to the existing development in the area, and that multi-family use is more economically feasible than single family lots.

Mr. Chris Stewart, a realtor who specializes in marketing and sales, stated that the majority of owners in the area are absentee owners or second home oriented with maintenance provided, that there is little or no market for single family lots in this area, and that a market still exist for multi-family type projects.

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 discussed the points and issues raised during the public hearing.

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

The Commission found, based on comments received from the Office of the Secretary of DNREC, for the purpose of land use review and coordination, that comments were requested from the DNREC Division of Fish and Wildlife, the Division of Parks and Recreation, the Division of Water Resources - Pollution Control Branch, Watershed Assessment Branch, and Wetlands and Aquatic Protection Branch, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments received from the DNREC Pollution Control Branch, that the Branch objects to the change, and that the project appears to conflict with the land use plan.

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as coastal beach dune land and Tidal marsh, that the Coastal beach and dune land have severe suitability due to the fluctuating water table, tidal flooding, poor stability and storm hazards, that the Tidal marsh has severe suitability due to severe tidal flooding, that the evaluation of the soils with respect to erosion and sediment control may require the developers to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that a storm flood hazard area is affected, that no 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 DNREC Wetlands and Aquatic Protection Branch, that wetlands regulated by both the State and the U.S. Army Corps. of Engineers, appear to be within the area of development, and that any activity such as filling, dredging, crossing with a road or placement of a structure may require a permit from the State of the Corps.

The Commission found, based on comments received from the Sussex County Engineering Department, that the department has determined that sufficient capacity is available to accommodate 19 units, that Ordinance No. 38 procedures must be followed for the proper connection of the project, and that appropriate fees are required.

The Commission found, based on review of the Brochure submitted by a representative of the application, that Delmarva Power advises that the rezoning will not have a negative impact upon the Companies ability to service the area, that DelDOT advises that separate entrances may be created, that the Bethany Beach Volunteer Fire Company has no objection and may wish to install a dry hydrant at the site for emergency water supply, that the Kauffman Appraisal Service has reviewed the site and the proposal and find that the rezoning will not lower property values, that Davis, Bowen & Friedel, Inc., have researched the availability of potable water at the site and in the area and have researched the requirements for fire protection, and that the U.S. Army Corps. of Engineers have verified the wetlands determination on the site.

The Commission found, based on comments made by representatives of the application, that a similar application was filed in February and later withdrawn since federal wetlands had not been verified by the U.S. Army Corps. of Engineers, that the application conforms to the Zoning Ordinance and the Coastal Sussex Land Use Plan, that the site is located close to several multi-family projects, that the application conforms to the HR High Density section of the Code of Sussex County since the project will be served by central water and sewer, that the site is limited to 19 units due to sewer availability, that a minimal impact is anticipated by DelDOT, that setbacks are proposed from wetlands, that no impact is anticipated on the school district, that fire protection is available from the Bethany Beach Fire Company, that central water is proposed on site, that the applicants are hopeful that a water district will be created in the Fenwick area, that it took approximately 18 months to obtain federal wetlands delineation approval, that the application provides conformance to the Coastal Sussex Land Use Plan since the site is in close proximity to open space areas, since the housing type is appropriate for the area, and since the Plan suggest that 35 percent of housing should be multi-family, that the applicants have owned the site for approximately 5 years, that several concepts have been reviewed to develop the site to conform to the development trend of the area and the environment, that single family development of the site is not appropriate or economical, that multi-family use is appropriate due to the trend of development of the area, that multi-family use is more economically feasible than single family lots, that the majority of the owners in the area are absentee owners or second home oriented with

maintenance provided, that there is little or no market for single family lots in the area, and that a market exist for multi-family projects.

The Commission found that there were no parties present in opposition.

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

5. RE: C/Z #1179 -- James A. & Ovida D. Martin

James A. and Ovida D. Martin 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 west side of U.S. Route 13, 1,140 feet south of Route 583, to be located on a parcel containing 2.37 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Woodbridge School District, and the Sussex conservation District.

Mr. Lank advised the Commission that the applicants submitted letters in support from Deric J. Parker T/A Shore Shine Power Wash, Perdue Farms Incorporated, and ConAgra Broiler Company.

Mr. and Mrs. Martin advised the Commission that they intend to reside in the existing dwelling on the premises, that a 40 feet by 70 feet building is proposed to be built for warehousing, sales, and service, that the business provides pressure washing equipment, accessories, and cleaning compounds, that the business creates little noise and little traffic, that presently the office is in Bridgeville and the warehouse is in Laurel and relocation to the application site will make for better working conditions, and that no adverse impact is anticipated on property values or the neighborhood.

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 a traffic impact study was not recommended and that the level of service "A" of U.S. Route 13 may change to a level of service "B" assuming a development equivalent in per acre trip generation to discount shopping.

The Commission found, based on comments received from the Woodbridge School District, that the District supports the rezoning.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Sassafras sandy loam and Rumford loamy sand, that the suitability of the soils as mapped may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the developer to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soils vary from prime to statewide importance, that no storm flood hazard area is affected, that it may not be necessary for any on-site or off-site drainage improvements, and that the Grubby Neck Prong of Bee Branch Tax Ditch runs along the westerly property line with a 16.5 foot maintenance right-of-way.

The Commission found, based on letters submitted by the applicant, that Shore Shine Power Wash, Perdue Farms Incorporated, and ConAgra Broiler Company support the application for rezoning.

The Commission found, based on comments made by the applicants, that the applicants intend to reside in the existing dwelling on the premises, that a 40 feet by 70 feet building is proposed to be built for warehousing, sales, and service, that the business provides pressure washing equipment, accessories, and cleaning compounds, that the business creates little noise and little traffic, that presently the office is in Bridgeville and the warehouse is in Laurel, that relocation of the office and the warehouse will create better working conditions, and that no adverse impact is anticipated on property values or the neighborhood.

The Commission found that no parties appeared in opposition.

The Commission found that a Commercial entrance permit has already been issued for the site.

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.

III. OTHER BUSINESS

1. RE: The Plantations - Phase II

The Commission reviewed a revised conceptual site plan for Phase II of the Plantations MR/RPC in the east side of Route 275.

Mr. Abbott advised the Commission that a conceptual site plan was approved by the Commission on June 25, 1992 for this phase for single family lots and multi-family units, that the site plan approved had single family lots around the perimeter of the property and multi-family along Route 275 and in the interior, and that the total number of units approved for this phase is 370.

Mr. Abbott advised the Commission that the developers desire to create multi-family units along the northern side of the property and on the southern side.

Mr. Lank questioned if this proposed change would require the developer to go through another public hearing process.

Mr. Allen questioned the total number of units and stated that if the total number of units are the same, he sees no need for a public hearing.

Mr. Abbott advised the Commission that the same number of units are proposed as approved on June 25, 1992.

Motion by Mr. Smith, seconded by Mr. Monaco, and carried unanimously to approve the revised conceptual plan.

2. RE: Smith's Used Cars

The Commission reviewed a revised site plan for Conditional Use No. 320 on the west side of Route 46.

Mr. Abbott advised the Commission that the owner would like to add a 40 feet by 60 feet building on the site to be used for the business, that the Building Code Department and the Office of the State Fire Marshal have approved the building and that the setbacks comply with the Ordinance.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to approve the site plan as revised.

Meeting adjourned at 9:20 PM