

MINUTES OF THE REGULAR MEETING OF NOVEMBER 30, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 30, 1989, at 7:45 P.M. in the Court of Common Pleas, Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Jones - Acting County Attorney, Mr. Lank - Director, and Mr. Moore - Planner I.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of October 26, 1989, as circulated.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of November 9, 1989, as circulated.

PUBLIC HEARINGS

1. RE: C/U #923--William T. Sammons, Jr.

James Fuqua, attorney, and William Sammons were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for a Radio Station and 322 Foot Antenna on the northwest side of Route 626, 1.1 mile southwest of Route 36 and to be located on a parcel containing 5.0 acres more or less.

Mr. Lank summarized comments received from the LUPA agencies contacted and the Division of Historical Affairs.

Mr. Lank read into the record letters of opposition received from G. Scott Rose and Spyro Stamat.

Mr. Lank stated a petition of area residents opposing this application was received containing 184 signatures.

Mr. Fuqua stated the proposed site will be used for a radio station and 322 foot antenna. The surrounding area is agricultural and wooded, with some residences.

Mr. Fuqua stated there are four (4) existing buildings on the proposed site.

Mr. Sammons stated the proposed station would be a low powered station to serve Milford and the surrounding area. Due to regulations, the power could not be increased. The program format would be 75% music and 25% talk shows, syndicated programs, and community service information. The station would operate 24 hours a day and have eight (8) to ten (10) full time and three (3) to four (4) part time employees.

Mr. Sammons stated two (2) of the existing buildings would be removed. The other two (2) would be renovated and used as a studio and storage building.

Mr. Sammons stated the proposed 322 foot tower would be guyed at three (3) locations and painted red and white with a lighted beacon on top. A six (6) foot chain link fence will enclose the base of the tower. Any interference caused by the antenna would be resolved by the applicant.

Mr. Fuqua presented letters in support of this application.

Lawrence Isaacs and Albert Young spoke in favor of the application.

Thirty-three (33) persons were present in favor of the application.

Dr. Graybeal, Norma Lee Messick, Gail Parsons, Mr. Carter, Scott Rose, Dr. Moore, Mary Cahall, Spiro Stamat, Robert Young, and Howard Moore spoke in opposition expressing concerns about property devaluation, danger to agricultural spray planes, television interference, and danger of health problems caused by the antenna.

Thirty (30) persons were 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 was present with legal counsel and plans to utilize the site for a radio station with a 322 foot high tower antenna.

The Commission found, based on comments received from the Land Use Planning Act Coordinator of the State D.N.R.E.C. has requested comments from the D.N.R.E.C. Division of Fish and Wildlife, the Bureau of Archaeology and Historic Preservation, the Department of Transportation, and the Sussex Conservation District.

The Commission found, based on comments received from the Bureau of Archaeology and Historic Preservation, that there are no historic and/or archaeological resources within the area of the proposed construction on site.

The Commission found, based on presentations by representatives of the application, that the site was previously used in connection with agricultural uses, that a dilapidated vegetable washing building and three laborer housing buildings are on site, that the vegetable washing building and one migrant labor housing building are planned to be demolished and removed; that the two remaining buildings are to be renovated into a radio studio and a storage building; that a 322 foot high transmission tower, 28 inches in width is proposed to be supported by three guy wires, fenced in a six foot chain link enclosure area, painted red and white and will have a series of lights for identification; that on site water and sewer will meet D.N.R.E.C. regulations; that Storm Water Management will conform to Sussex Conservation District regulations; that Solid Waste will be disposed of by a private hauler; that traffic impact will be minimal; that the radio station will broadcast and serve the greater Milford area of Sussex and Kent Counties; that the radio station will employ up to nine full time and four part time employees; that the station's format will be family oriented Christian broadcasting, news, weather, sports, and community services; that the proposed use will not adversely affect the values or uses of other properties in the area; that the removal of the delapidated buildings and planned renovation will be beneficial to the area and the site; that the station will operate 24 hours a day; that the majority of the trees on site will remain; that no radio interference is anticipated; that television interference is rare and will be corrected if interference occurs, that no obstruction of aircraft airways is anticipated; and that it is more feasible to maintain radio studio and antenna tower on the same site, rather than on separate sites.

The Commission found that the applicant submitted the following for the record; a copy of an F.A.A. form for Notice of Proposed Construction or Alteration, a copy of the letter from Faye L. Stocum of the Bureau of Archaeology and Historic Preservation referenced in correspondence, a reduced xerox copy of the County Tax Map of the area, a map of the general area to be served, a list and map of approved Conditional Uses for antennas in Sussex County, copy of a letter from Stainless, Inc. referencing antenna fall areas, a copy of a letter from WZBH and WSEA referencing RF Radiation Standards, a copy of a letter from Shively Labs referencing antenna interference, a copy of a letter from Radio Systems, Inc. referencing the ability of transmitters that prevent interference, a site plan, and letters from Indian River Land Co., Inc., and Wells Agency, Inc. Realtors, which referenced property values, and a declaration of intent to correct any interference, and photographs of the site and adjoining properties were introduced.

Thirty-three (33) persons were present in support.

Thirty (30) persons were present in opposition.

The Commission found, based on correspondence and statements made by persons in opposition, that concerns were expressed in reference to the change of the agricultural residential area, that the area is not remote as suggested by the applicant, that the area is expanding for residential uses, depreciation of property values, the application of chemicals by spray planes, that the past use of the site was agricultural oriented, no commercial; that trees will not block the view of a 322 foot high antenna tower; that the use of the station broadcast cannot be limited to Christian broadcasting; television interference, that the use is not compatible to the area, that the application is an inconsistent commercial use of agricultural residential land, that concerns were expressed for two low level military flight paths over the area, and that if approved, the tower lights will become navigational aid points for pilots.

The Commission found that persons opposed submitted two letters and area planning maps for military training routes, a news article referencing health and electromagnetic fields, a news article referencing the proposed radio station, a news classified referencing the F.C.C. application for the station, and a petition containing 184 signatures opposed.

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

2. RE: C/Z #1035--A. Douglas Melson

Douglas Melson was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Indian River Hundred, located on the north-east corner of the intersection of Route 24 and Route 22, containing 3.01 acres more or less.

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

Mr. Melson stated he owns the funeral home on the parcel adjoining this site. He purchased this site to assure it would be developed with a use compatible with the funeral home.

Mr. Melson stated he plans to construct five (5) professional offices on this site. Seventy-three parking spaces are proposed.

Mr. Melson stated he plans to dedicate an additional easement to the Highway Department to improve visibility at the intersection. The existing dwelling would be removed.

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 was present and plans to utilize the site for professional offices.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro Loamy Sand is suitable for the intended use, that in reference to erosion and sediment control, slight limitations may be anticipated during and after construction, that the Evesboro Loamy Sand on site is of statewide importance in reference to a farmland rating, that no storm flood hazard area or tax ditch is affected, and that no on site or off site drainage improvements will be necessary.

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

The Commission found, based on comments received from the Division of Highways, that the Developer has performed a traffic impact study and has agreed to dedicate additional right of way which is sufficient to mitigate the traffic impact.

The Commission found, based on comments made by the applicant, that the site is surrounded by business and commercial uses and districts, that he is not proposing a high density commercial impact, that the entrance and exits will be located at the most easterly acceptable location on Route 24, that an exit only will be provided on Route 22, and that the existing structures, that are much closer to the public roads, will be removed.

No parties were present in opposition.

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 and since other commercial and business uses and districts are immediately adjacent or in close proximity.

3. RE: ORDINANCE TO AMEND ORDINANCE NO. 97
(include manufactured home when referencing permits)

AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF SUSSEX COUNTY, BY AMENDING ARTICLE 14 TO INCLUDE A MANUFACTURED HOME WHEN REFERENCING PERMITS.

Mr. Lank summarized the proposed changes to Ordinance No. 97.

No one was present in support or opposition to this amendment.

At the conclusion of the public hearings, the Chairman referred back to this Ordinance.

The Commission discussed the Ordinance to Amend Article 14 to include manufactured home when referencing permits.

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

4. RE: ORDINANCE TO AMEND ORDINANCE NO. 97
(amend width requirements & setback lines)

AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, BY AMENDING ARTICLE 5, SECTIONS 14.6, 14.7 AND 14.8 TO PROVIDE FOR AMENDING MINIMUM WIDTH REQUIREMENTS, REDUCING SIDE SET BACK LINES, AMEND REGULATIONS REGARDING MAXIMUM DWELLING SIZES AND TO ELIMINATE GROSS AREA COVERAGE REQUIREMENTS.

Kathy Karsnitz, attorney, summarized the proposed amendment and the specific problems the adoption of this ordinance would correct.

Ms. Karsnitz stated Mariner's Cove is the only VRP District in Sussex County. Housing type and size have changed over the years, causing problems with the existing setback requirements. The majority of the developed lots are presently in violation. There are 100 undeveloped lots.

No one was present in opposition.

At the conclusion of the public hearings, the Chairman referred back to this Ordinance.

The Commission discussed the Ordinance to Amend Article 5, Section 14.6, 14.7, and 14.8 to provide for amending minimum width requirements, reducing side setback lines, amending regulations regarding maximum dwelling sizes and to eliminate gross area coverage requirements.

The Commission found that Kathy Karsnitz, attorney, was present on behalf of the developer of Mariner's Cove, the only VRP Vacation-Retirement-Residential Park District in Sussex County, and that the proposed amendments are not intended to violate good zoning practices, that the desirable homes in the development are now doublewide or modular homes, not 14 foot wide manufactured homes; that the 50 foot lot width does not provide for additions and accessory building areas for sheds, decks or storage, that no adverse impact is anticipated on the community if the proposed amendments are approved.

Several tenants from Mariner's Cove were present in support of the proposed amendments.

Motion made by Mr. Hickman to recommend approval.

Motion died for lack of second.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried 4-0, with Mr. Hickman not voting, to defer action.

5. RE: ORDINANCE TO AMEND ORDINANCE NO. 97
(eliminating VRP)

AN ORDINANCE TO AMEND ORDINANCE NO. 97, THE COMPREHENSIVE ZONING ORDINANCE OF SUSSEX COUNTY, AS AMENDED, BY AMENDING ARTICLE 5, SECTION 14, BY ELIMINATING THE POSSIBILITY OF ANY FURTHER VRP VACATION-RETIREMENT-RESIDENTIAL PARK DISTRICTS.

Mr. Lank summarized the proposed amendment.

No one was present in support or opposition to this amendment.

At the conclusion of the public hearings, the Chairman referred back to this Ordinance.

The Commission discussed the Ordinance to Amend Article 14 by eliminating the possibility of any further VRP Vacation-Retirement-Residential Park Districts.

No parties were present in opposition.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this Ordinance Amendment to the Sussex County Council with the recommendation that it be approved.

OLD BUSINESS

1. RE: Subdivision #89-15--Clearbrook Estates

The Commission reviewed the final plat for the proposed 246 lot subdivision.

Mr. Moore stated that all necessary approvals have been obtained, with the exception of a final check list from County Engineering.

Mr. Moore stated that the check list was submitted to the Engineering Office, however, final review has not been completed.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the subdivision as a final, with the stipulation that the plat not be recorded prior to final sign off of the check list by the County Engineer.

2. RE: Subdiv. #89-16--Blue Heron Estates

The Commission reviewed the final subdivision plat for a proposed 44 lot subdivision.

Mr. Moore stated that all necessary approvals have been granted.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the subdivision as a final.

3. RE: Subdiv. #89-14--Owl's Nest

The Commission reviewed the final subdivision plat for a proposed 17 lot subdivision.

Mr. Moore stated that all necessary approvals have been obtained.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the subdivision as a final.

4. RE: Subdiv. #88-11--New Road Estates

The Commission reviewed the final subdivision plat for a proposed 9 lot subdivision.

Mr. Moore stated that all necessary approvals have been obtained.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the subdivision as a final.

5. RE: Subdiv. #89-7--Fenwick Farms

The Commission reviewed the final subdivision plat for a proposed 30 lot subdivision.

Mr. Moore stated that all necessary approvals have been granted.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the subdivision as a final.

OTHER BUSINESS

1. RE: Thomas Stevenson
1 additional lot
50 foot right of way
Route 341 and Route 342

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The Commission reviewed a proposal to create one (1) additional lot on an existing fifty (50) foot right of way, for a total of three (3) lots.

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

Meeting Adjourned 11:25 P.M.

Lawrence B. Lank, Secretary