

MINUTES OF THE REGULAR MEETING OF DECEMBER 3, 1992

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 3, 1992, at 7:30 P.M. in Room 115, County Council Chambers, 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 Mrs. Monaco, and carried unanimously to approve the minutes of November 19, 1992, as circulated.

II. PUBLIC HEARINGS

1. RE: C/Z #1180 -- Phyllis Glenn

No one appeared on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broad Creek Hundred, located on the southeast corner of the intersection of Route 78 and Route 493, and to be located on a parcel containing 1.67 acres more or less.

Mr. Lank advised the Commission that written comments have been received from the DNREC Office of the Secretary, for the purpose of land use review and coordination, the Department of Transportation (DelDOT), DNREC Underground Discharges Branch, DNREC Pollution Control Branch, DNREC Water Supply Branch, DNREC Underground Storage Tank Branch, the Department of Agriculture, and the Sussex Conservation District.

Mr. Lank summarized a letter in opposition from William W. Pleasants.

Robert Witsil, an Attorney representing a group of residents from the Bethel area, John Patrick Murphy, Margaret Cubbage, Harvey Smoot, Joseph Kelly, Merlin Vandemarke, Rosaline West, James L. Lankford, Peggy Rogers, Mary Graves, David Lambrose, Cheryl Adams, and George Phillips, spoke in opposition to the rezoning request and expressed concerns in reference to depreciation of property values, traffic, traffic safety, the dangers of the intersection, loitering, uses permitted by the C-1 General Commercial District, loss of the agricultural/residential character of the area, lack of a need for another convenience store in the area, and that a business attracts more people, requiring more traffic, and creates a potential for more traffic accidents, and that the historical nature of the Town of Bethel should be preserved.

A petition containing 112 signatures in opposition was submitted for reasons of safety, aesthetics, and general welfare of the surrounding communities.

Mr. Witsil submitted two (2) pages of legal argument which referenced excerpts from the Western Sussex Land Use Plan, a chart of the area marked to show the locations of residents in opposition, nine (6) photographs of the immediate area, one (1) photograph of downtown Bethel, and two (2) photographs of business owned by the applicant's husband, and a copy of the letter received from the Department of Agriculture referenced by Mr. Lank.

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

The Commission found that the application had no representation by the applicants and that due to the lack of anyone being present to present the application, there is no record to support the application.

The Commission found that the DNREC Office of the Secretary, the Department of Transportation, the DNREC Underground Discharges Branch, the DNREC Pollution Control Branch, the DNREC Water Supply Branch, the DNREC Underground Storage Tank Branch, the Department of Agriculture, and the Sussex Conservation District have submitted comments on the application.

The Commission found, based on a letter received from William W. Pleasants, that he was writing on behalf of approximately 100 people opposed to the rezoning. The letter referenced that the site was a part of a sod farm, an agricultural use totally incompatible with a commercial use, that the commercial users should be subjected to spraying by crop dusting planes, dusting of lime and fertilizer, spraying of irrigation water, and the noise of farm machinery, that a more serious problem could be the disposal of wastewater from a food service operation, and stating that a more appropriate location for a commercial use would be in the Town of Laurel, where public sewer connection would be available.

The Commission found that thirteen (13) people spoke, of the seventy-six (76) people present in opposition, and expressed conflicts with the Western Sussex Land Use Plan, depreciation of property values, traffic, traffic safety, the dangers of the intersection, loitering, uses permitted by the C-1 General Commercial District, loss of the agricultural/residential character of the area, lack of a need for another convenience store in the area, that a business attracts more people, requiring more traffic, and creating a potential for more accidents, and that the historical nature of the Town of Bethel should be preserved.

The Commission found that a petition containing 112 signatures in opposition was submitted for reasons of safety, aesthetics, and the general welfare of the surrounding communities.

The Commission found that two (2) pages of legal arguments, referencing excerpts from the Western Sussex Land Use Plan, a chart of the area marked to show the locations of residents in opposition, photographs of the area, the store in Bethel, and business owned by the applicant's husband, and a copy of the letter received from the Department of Agriculture were submitted on behalf of the opposition.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied due to the lack of attendance by the applicant or a representative.

III. OTHER BUSINESS

1. RE: Bill Moyer - DNREC
Wetlands Discussion

Mr. Lank advised the Commission that this item has been removed from the agenda and will be rescheduled for the next meeting at the request of Mr. Moyer.

IV. OLD BUSINESS

1. RE: C/U #1023 -- William Turpin

No one was present on behalf of the 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.

The Commission discussed the points and issues raised during the public hearing on November 19, 1992.

Mrs. Monaco stated that she could see no difference in 4 display vehicles from 14 display vehicles, it would still be a commercial activity.

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 denied since the site is located in a residential area, and since the use does not conform to the Western Sussex Land Use Plan.

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

No one was 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.

The commission discussed the points and issues raised during the public hearing on November 19, 1992.

Motion by Mr. Magee, seconded by Mr. Smith, and carried four (4) votes to one (1), with Mr. Ralph opposed, to forward this application to the Sussex County Council with the recommendation that it be denied due to concerns about possible impacts on wetlands on the site, and since the site can be developed based on its present zoning, MR Medium Density Residential.

3. RE: Subdiv. #92-9 -- Nanticoke Homes, Inc.

No one was present on behalf of the application of Nanticoke Homes, Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred by dividing 7.28 acres into 10 lots, located on the south side of Route 36, 140 feet east of Route 619A.

Mr. Abbott advised the Commission that a septic feasibility statement has been received and that the site is suitable for a community wastewater disposal system and that the developer has agreed to erect a fence along the property line of William Gordon.

Mr. Allen questioned if the developer is going to erect a fence around the stormwater management area and stated that it should be a requirement.

Motion made by Mr. Magee, seconded by Mr. Smith, and carried unanimously to approve this application as a preliminary with the following stipulations:

1. A fence shall be erected along the lands of William Gordon.
2. A fence shall be erected around the Stormwater Management Area.

4. RE: Subdiv. #88-39 -- J. Howard Isaacs

No one was present on behalf of the application of J. Howard Isaacs to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred by dividing 16.45 acres into 21 lots, located on the southern end of Route 204

and adjacent to the southern limit of the Town of Slaughter Beach.

Mr. Abbott advised the Commission that the lot lines have been revised to meet the requirements of the DNREC Beach Preservation Section and that the limit is acceptable and that the number of lots have been reduced to 17 lots.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve this application as a preliminary.

5. RE: Subdiv. #90-35 -- Delmar Feed Mills, Inc.

Mr. Abbott advised the Commission that this application was voided on October 8, 1992 since there has not been any approvals submitted and no time extensions requested.

Mr. Abbott advised the Commission that the surveyor has sent a letter requesting that this application be returned to an active status, and that the applicant will submit a plan for preliminary approval within thirty (30) working days.

The Commission discussed this request and did not see any problems with returning this application to an active status.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to return this application to an active status with the stipulation that a plan be submitted to the staff within thirty (30) working days. Failure to do so will result in this application being voided.

6. RE: Subdiv. #91-8 -- S & T Estates

Mr. Abbott advised the Commission that the staff has received a letter from the Underground Discharges Branch of DNREC and that this subdivision is only feasible if a community on-site disposal system is used.

Mr. Abbott advised the Commission that at the public hearing, the applicant stated that a central system will be used and now they intend to install individual septic systems, and that only 34 percent of the lots could have individual septic systems.

Motion made by Mr. Smith, seconded by Mr. Magee, and carried unanimously to approve this subdivision with a central septic system only, not individual systems.

Meeting adjourned at 8:40 P.M.