

MINUTES OF THE REGULAR MEETING OF DECEMBER 14, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 14, 1989, at 7:45 P.M. in the County Council Chambers, Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Hickman, Mrs. Monaco, Mr. Smith, Mr. Berl - Attorney, and Mr. Lank - Director.

PUBLIC HEARINGS

1. RE: C/U #924--Ronald E. Hastings and W. W. Harper, Jr.

Ronald Hastings 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 an Expansion to an Existing Manufactured Home Park on the west side of Route 13, 1,800 feet south of Route 485 and to be located on a parcel containing 23.4 acres more or less.

Mr. Lank stated no comments were received from any of the agencies contacted.

Mr. Hastings stated he is the original developer of Pine Ridge Mobile Home Park. The park was under other ownership but now belongs to Mr. Hastings again. There is now a full time staff on site.

Mr. Hastings stated he is in the process of correcting existing problems and bringing the park into compliance with our regulations.

Mr. Hastings stated the park is at full capacity. The proposed addition is already developed. The approval of this application would help in bringing the park into compliance.

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 one of the applicants was present and plans to utilize the site for expansion of the Pine Ridge Manufactured Home Park.

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

The Commission found, based on comments by the applicant, that the proposed lot layout is the same as a plot submitted in 1976, that the property was repurchased in 1988, that stockade fencing and paved streets have been installed in most of the park, that central water exists on site, that additional amenities are proposed, that the total number of lots will be 47, and that a need exists for reasonably priced lots for lease.

The Commission found, based on comments by neighbors in support, that they support an improved park which is fenced to limit trespassing, where dumping is not permitted, and where all regulations are met.

Motion maded by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved with the following stipulations:

- a. A seven (7) foot high stockade fence shall be required on all property lines of the existing park and the proposed addition, excluding the property line along Route 13.
 - b. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
 - c. Final approval of the site plan shall be subject to receipt of certification from the State D.N.R.E.C. that all existing septic systems have valid permits, and that the undeveloped lots are feasible for septic systems.
 - d. Permits shall be obtained for all existing manufactured homes, additions, and accessory structures upon obtaining final approval and all necessary agency approvals.
2. RE: C/Z #1036--Virginia Steele

Eugene Bayard, attorney, and Wilmer Steele were 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 west side of Route 357, 1,600 feet north of Route 360, containing 8.8 acres more or less.

Mr. Lank summarized comments received from the State Highway Department.

Mr. Steele stated the proposed site is presently tilled. There are no wetlands on the site. The site adjoins Lynn Lee Mobile Home Park.

Mr. Steele stated they plan to operate a dry storage marina. Boats will be stored inside a building. There would be no cleaning, painting, or repairing of boats at this location. They plan to have fuel available with above ground tanks. There will be two (2) or three (3) employees. They will have on site well and septic system.

Mr. Steele stated there will be no restaurant at this location, no bait and tackle, and no alcohol will be sold.

Mr. Steele stated 80 parking spaces are proposed, but there is room for more if needed.

Horace Segars and Mr. Fitzgerald spoke in favor of the application.

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 the applicant was present with her son and legal counsel and that they plan to utilize the site for a dry stack boat storage facility.

The Commission found, based on comments received from the State D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested from the D.N.R.E.C. Division of Fish and Wildlife, the D.N.R.E.C. Division of Parks and Recreation, 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 Department of Transportation Division of Highways, that a traffic impact study would have been warranted due to summer traffic volumes and that since the applicants are in the process of dedicating additional right of way for intersection improvements at Route 357 and Route 360, enough has been done to mitigate any traffic impact.

The Commission found, based on comments by representatives of the application, that the site is tillable farmland, that the site involves only the marina building site, parking and loading areas and access; that there are no State or Federal 404 Wetlands within the site; that the site is 731 feet westerly of Route 357, 200 feet from the Fitzgerald residence, and 300 feet from the Sager property, a campground; that private on site water and sewer are proposed; that Delmarva Power and Light Co. provides electric; that the site is in the Millville Fire Co. service area; that sufficient parking and loading will be provided; that the building/marina design shall exceed the proposed State Marina Regulations; that a change in zoning was applied for since boat warehousing is proposed and since support commercial activities are anticipated, i.e.: upholstery and canvas shop; that the only boat washing services will be on boats being lifted from the lagoon; that a fueling operation may be installed, but no underground storage tanks; that the existing lagoon was dug out in the early sixties; that the dry boat stack storage facility is designed to be environmentally safe and without bulkheading; that no repair work, bait and tackle, or restaurant are proposed on site; that the applicants plan to manage the facility with two (2) or three (3) employees; that the facility will be operated basically during the summer season; that yearly storage of boats will be available; that approximately 500 boats may be stored depending on the size of the boats; and that no adverse impact is anticipated on Route 357, property values, or the neighborhood.

The Commission found that the referenced neighbors, Sager and Fitzgerald, were present in support of the need for boat storage facilities.

The Commission found that no parties were present in opposition.

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

3. RE: C/Z #1037--Gray Farm Farmers

John Sergovic, attorney, and Coleman Bunting were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to HR-2 Multi-Family Residential in Baltimore Hundred, located at the southern end of Route 58-B (west side), 0.7 mile north of the intersection of Route 54, containing 5.4 acres more or less.

Mr. Lank summarized comments received from the State Highway Department.

Mr. Bunting stated this proposal is an addition to Mallard Lakes. The addition will be developed at 7 units per acre, with a total of 50 new units. They will utilize some of the existing streets and the existing recreation area.

Mr. Bunting stated there will be a dry hydrant system to assist in fire protection. There will be on site security.

Dick Haber discussed the proposed road system and entrance.

Jerry Friedel discussed the proposed water and sewer plans.

Mary Bixler and Mr. Bixler spoke in favor of the application.

No one was present in opposition.

At the conclusion of the public hearing, the Chairman referred back to this application.

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

The Commission found that the application was represented by one of the owners, legal counsel and two (2) consultants and plan to utilize the site for fifty (50) units.

The Commission found, based on comments received from the State D.N.R.E.C. Land Use Planning Act Coordinator, that comments have been requested from the D.N.R.E.C. Division of Fish and Wildlife, the D.N.R.E.C. Division of Parks and Recreation, 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 Division of Highways, that a traffic impact will not be necessary if the access to the expansion is served via existing internal streets within Mallard Lakes and that no modifications will be necessary to the existing Route 54 entrance if existing internal streets are utilized.

The Commission found, based on comments from representatives of the application, that this application is an extension to the existing 477 unit project Mallard Lakes which has an overall density of approximately seven (7) units per acre; that access to this phase shall be via existing internal streets; that existing recreational amenities will serve the proposed expansion; that no buildings are proposed to be located within wetlands; that the site is designated in the 1988 Coastal Sussex Land Use Plan for high density uses; that adequate school capacity is available; that the site will be served by an on site security force; that the site is located in the Roxana Fire Co. service area and that the existing ponds in Mallard Lakes have dry hydrants for fire protection; that the site is located in the Fenwick Island Sanitary Sewer District; that Mallard Lakes central water system has capacity to serve the expansion; that existing stormwater retention ponds are adequate to serve the entire site; that

economical development of the site will provide units to reside in, jobs for construction workers, real estate and insurance agents and service oriented companies; that the site is a natural extension of an existing HR-2 Multi-Family Residential District; that almost all of the existing multi-family projects are substantially developed; that the areas in need of desirable housing varieties; and that the project conforms to the Coastal Sussex Land Use Plan for this type of housing at this location.

No parties were present in opposition.

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

4. RE: C/Z #1038--Jack C. Hallman and Anne W. Hallman

Lynn Moore was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Indian River Hundred, located on the south side of Route 24, approximately 1/4 mile east of Millsboro, containing 0.53 acre more or less.

Mr. Lank summarized comments received from the State Highway Department.

Mr. Moore stated the applicants plan to construct a one story building for four (4) offices or businesses. The area would be landscaped. There would be a hard surfaced parking area with 12 parking spaces. On site water and septic would be provided.

Mr. Moore stated Mrs. Hallman plans to locate her financial mangement and insurance company in one of the offices.

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, based on comments received from the State Division of Highways, that this request is minor in nature and that traffic would be insignificant, that the level of service is "E" during the summer, and that the Division will not object if Sussex County feels that there is a need for this type of zoning.

The Commission found that the applicants were present with legal counsel and a realtor on their behalf, and that they plan to utilize the site for four (4) professional office units.

The Commission found, based on comments made by representatives of this application that the area is mixed housing and other commercial and business uses and zoning classifications; that adequate space is available on site for parking; that the site has an approved site evaluation for septic; that no significant impact on traffic is anticipated; that an entrance plan has been submitted to DelD.O.T., and that an on site well is proposed.

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 of support and since several business and commercial uses and districts exist in the immediate area.

5. RE: ORDINANCE TO AMEND ORDINANCE NO. 97
(sludge)

AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, TO PROVIDE FOR A CONDITIONAL USE OF LAND FOR THE LAND APPLICATION OF SLUDGE.

Mr. Lank read the proposed Ordinance into the record.

Mr. Lank read into the record letters in support of the amendment from Sherry Smith, Myrna Smith, James and Patricia Deptula, and Virginia S. Headley.

Jim Baxter, Baxter Farms, spoke in opposition to the amendments stating the State has rules and guidelines covering sludge application.

Ronald Graber, D.N.R.E.C., spoke stating there is a need for education and information concerning sludge before any regulations are adopted.

Daryl Hudson, Gledna Scott, and Carroll Beard spoke in support of the proposed Ordinance.

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.

The Commission found that three (3) parties were present in support and that the office had received four (4) letters in support of an Ordinance for a Conditional Use process for sludge applications since State legal requirements for notification to area residents is not acceptable, and concerns that sludge

application takes place without public notice, health risk, water quality, that monitor wells should be required, and that neighbors may be environmentally economically affected by sludge application.

The Commission found that two (2) parties were present in opposition to the Ordinance and questioned the reasoning for the ordinance since the State D.N.R.E.C. already has jurisdiction, and stated that sludge must be tested and its ingredients listed prior to application, that soils are continuously tested for acceptability of the sludge, that sludge is useful in agriculture and should not be landfilled, that the Ordinance creates a double permit concept and there is no need for additional time delay and paperwork, that old septic systems pollute the water more than sludge application, questioned the difference between applying treated sludge to untreated chicken manure, that there is a need for communication and education on sludge application and that scientific facts should control use not public scares, that the state regulations give consideration to crops to be grown per site specific application, and that sludge was just a waste product being thrown away and can now be utilized under proper specification through the State D.N.R.E.C.

Motion made by Mr. Hickman, seconded by Mr. Ralph, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that it be denied and with the suggestion that the County Council recommend to the State D.N.R.E.C. to amend their notification process by advertising in local newspapers in general circulation and supply neighbors with notification.

OLD BUSINESS

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

No one was 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.

The Chairman referred to this application which had been deferred after public hearing on November 30, 1989.

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

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 approved based on the record of support and since the homes are scattered in the area, and with the following stipulations:

- a. A six (6) foot high safety fence shall be installed around the base of the tower.
- b. Any proven interference to radio, telephone, or television shall be corrected by the radio station.
- c. Any wetlands on site shall be confirmed and designated on the site plan. No improvements shall be placed in wetlands.
- d. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission. Final approval of the site plan shall be subject to verification of all appropriate agency approvals and/or permits.

2. 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.

The Chairman referred back to this proposed amendment which was deferred after public hearing on November 30, 1989.

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

The Commission discussed a possible additional concept for twenty (20) foot spacing between units, concern for a precedent being established, and questioned if an ordinance could be prepared that corrected only the Joanna Drive area of Mariner's Cove.

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

3. RE: Subdiv. #87-11--Ellis Pond Estates

No parties were present on behalf of this application of John and Mary West (Ellis Pond Estates) to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Little Creek Hundred by dividing 41 acres into 56 lots, located on the south side of Route 451, 800 feet west of Route 463.

Mr. Lank advised the Commission that the number of lots has been reduced to 52 and that Mr. Moore, Planner, has advised him that all necessary permits and/or approvals have been obtained by the developers for final approval.

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the Ellis Pond Estates Subdivision for 52 lots as a final.

4. RE: Nero Subdivision
Discussion

Mr. Lank presented the Commission with a concept to subdivide eight (8) acreage parcels from a farm with a cul-de-sac street which exceeds 600 feet in length.

There was a consensus of the Commission that when advertised for public hearing to subdivide, the advertisement shall include a variance reference for the street length.

5. RE: Richard Sapp
Letter

Mr. Lank advised the Commission that Mr. Sapp, who owns 2.59 acres located southwest of Route 549, approximately 2,900 feet northwest of Route 80 and four miles west of Seaford, has requested a permit to place an accessory structure on his property prior to beginning construction of his home. It may be several years before the home is completed.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the request.

6. RE: South Forest Subdivision
lands of John Tunnell

Mr. Lank advised the Commission that the owner/developer of South Forest has requested a three (3) month time extension for submitting final plans.

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to grant a three (3) month time extension.

7. RE: C. Kenneth Carter and Hitchens Bros.
Borrow Pit

Mr. Lank advised the Commission that the developers of Conditional Use #681, a borrow pit, have granted permission for an old diner building to be stored on the premises and have requested permission to either acquire a permit for the diner building to be considered a storage building on site as a revision to the site plan or to acquire permission to store the diner building on the premises until April 1990.

Motion made by Mr. Hickman, seconded by Mr. Ralph, and carried unanimously to deny the request.

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The Zoning Inspector shall advise the owners that the diner building shall have to be removed from the premises.

Meeting Adjourned 11:30 P.M.

Lawrence B. Lank, Secretary

ADDENDUM

PLANNING & ZONING COMMISSION MINUTES OF DECEMBER 14, 1989

C/U #923--application of William T. Sammons, Jr. 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.

A review of the tape recording of this hearing showed the vote was incorrectly reported in the minutes, and should be corrected as follows:

Motion made by Mr. Ralph, seconded by Mrs. Monaco, and carried 4-1, with Mr. Allen opposed, to forward this Ordinance to the Sussex County Council with the recommendation that it be approved based on the record of support and since the homes are scattered in the area, and with the stipulations as stated in the minutes.

Lawrence B. Lank 3.8.90
Lawrence B. Lank, Secretary