

MINUTES OF THE REGULAR MEETING OF DECEMBER 27, 1990

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 27, 1990, at 7:45 P.M. in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

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

Motion made by Mr. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of December 13, 1990, as circulated.

PUBLIC HEARINGS

1. RE: C/Z #1103--Donald Bunting

Donald Bunting 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 northeast corner of the intersection of Route 280B and Route 285, and to be located on a parcel containing 1.48 acres more or less.

Mr. Lank summarized comments received from the Division of Highways, Mike Izzo of the Sussex County Engineering Department, Russ Archut of the Sussex County Engineering Department, and the Sussex Conservation District.

Mr. Bunting stated he plans to operate an office and small display of food service equipment from a proposed thirty (30) foot by thirty (30) foot building.

Mr. Bunting stated he presently operates his business from a leased site at Gravel Hill.

Mr. Bunting stated that most of his business contact is by phone. Few customers will come to the site. He would be open five (5) days per week. The only employees of the company are himself and his wife. No equipment repairs will be done on-site. Almost all equipment pickup and deliveries will be handled by the applicant. There will be little or no outside storage. Other businesses exist in the immediate area.

Bill Meyers and Charles Martin spoke in opposition, not to the intended use, but to other uses permitted in a B-1 Neighborhood Business District, that the area is residential, the size of the parcel to be rezoned, and possible increase in traffic.

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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 DelD.O.T., that a traffic impact study was not recommended and that the level of service "A" of Route 285 and Route 285A may change to level of service "B" if the site is developed at an equivalent in per acre trip generation to discount shopping.

The Commission found that an entrance permit was issued by DelD.O.T. on September 13, 1990.

The Commission found, based on comments received from the County Engineering Department, that the site is not located in the Groundwater Management Zone for the Angola Landfill, and that the site is in the area west of the West Rehoboth Expansion area where the County Council agreed to restrict zoning changes per the Memorandum of Understanding with the D.N.R.E.C.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on-site are Fallsington sandy loam with 0 to 2% slopes; that in reference to suitability of the soils for the intended use, severe limitations may be anticipated due to wetness if not adequately drained; that in reference to erosion and sediment control during construction, it will be necessary to use normal erosion/sediment control practices; and that after completion of any construction, it will be necessary to maintain vegetation; that the farmland rating of the soil type is of statewide importance; that Fallsington soil is a poorly drained soil with a seasonal water table at 0 to one foot below the surface from December to May; that no storm flood hazard area or tax ditch is affected; that it may not be necessary for any off-site drainage improvements; and that the site may need to be drained of excess water to be able to improve the site.

The Commission found that the applicant was present and plans to utilize the site for a thirty (30) foot by thirty (30) foot building for an office and display for food service equipment.

The Commission found, based on comments made by the applicant, that the business is presently run from leased property at Gravel Hill; that the majority of business contact is by phone; that very few customers will visit the site; that the business operates five (5) days per week; that the only employees of the company are the applicant and his wife; that no equipment repair activities are proposed; that almost all equipment handlings, pickups, and

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deliveries are handled by the applicant; that other small business exists in the immediate area; i.e.: upholstery shop and ceramic shop; and that no negative impact is anticipated on the area.

The Commission found that two (2) people spoke in opposition, not to the intended use, but to other uses permitted in a B-1 Neighborhood Business District; that the area is residential; possible increase in traffic; pollution from other uses; and the loss of control over the uses if approved.

Motion made by Mr. Smith, seconded by Mr. Hickman, 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 other businesses exist in the area, the area is fast growing, and a business area is needed to serve the area.

2. RE: Subdiv. #90-37--Ronald Hastings

Ronald Hastings was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 52.2 acres into 29 lots, located on the east side of Route 530, 2 miles south of Route 20, and as an extension to Rivers End Subdivision.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of December 17, 1990.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to defer action pending information from D.N.R.E.C.

3. RE: Subdiv. #90-38--Theodore B. Simpler

Theodore Simpler was present on behalf of this application to consider the Subdivision of land in a GR General Residential Zoning District in Nanticoke Hundred by dividing 8.0 acres into 16 lots, located on the northeast side of Route 526-A, 1,200 feet northwest of Route 525, and a variance from the 600 foot maximum cul-de-sac length requirement.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of December 17, 1990.

Mr. Simpler stated the proposed subdivision will have private streets.

Mr. Simpler stated he may revise his plan to reduce the number of lots so he would not be required to provide a central water supply.

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Mr. Moore summarized a letter of opposition received from Marie W. Phillips Ruhl.

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

4. RE: Subdiv. #90-39--David Webb

David Webb was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred by dividing 13.88 acres into 19 lots, located on the south side of Route 20, 1,600 feet west of Route 481.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of December 17, 1990.

Mr. Webb stated he plans to put a hedge along the D. P. & L. right of way line.

Ronald Hastings spoke in favor of the application.

No one was present in opposition.

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

5. RE: Subdiv. #90-40--Raymond L. Banks, Jr.

Don Miller, surveyor, was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred by dividing 16.19 acres into 24 lots, located on the north side of Route 382, 800 feet east of Route 340, and on the east side of Route 340, 500 feet north of Route 382.

Mr. Moore summarized comments from the Technical Advisory Committee meeting of December 17, 1990.

Mr. Miller stated the proposed subdivision would have public streets. The applicant would agree to put a fence or landscaping between the proposed subdivision and the feed mill if required to do so.

Curtis Flood spoke in favor of the application.

Jim Bennett spoke in opposition due to existing water problems, there are other existing lots in the area, and the surrounding area is predominantly farmland.

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

6. RE: ORDINANCE TO AMEND CHAPTER 115 (Zoning Procedures)

AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO ZONING PROCEDURES.

Mr. Lank introduced the Ordinance which references application withdrawals before the Board of Adjustment and/or the County Council. The Ordinance also addresses automatic withdrawal of an application if an applicant or representative does not appear at a public hearing.

Mr. Don Miller, surveyor, spoke in support of the ordinance as written.

Ms. Glenda Scott, Chairperson of Concerned Citizens for a Quality of Life, spoke in support but with concerns that once a public hearing is held, a decision should be rendered and that the Board of Adjustment or County Council should not be allowed to permit a withdrawal after a public hearing has been held.

The Commission discussed the Ordinance and questioned more information on the reason for the wording on majority votes to approve withdrawals.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to defer action and request the staff to contact the County Attorney for more information on the above.

OLD BUSINESS

1. RE: C/U #954--Edward J. Kaye

No one 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 a 102.87 Acre Expansion to an Existing Borrow Pit and Placement and Operation of a Stump Shredding Device and a Concrete Crushing Device 500 feet west of Route 525, 1,200 feet north of Route 526, and to be located on a parcel containing 102.87 acres more or less.

Mr. Lank summarized the memorandum sent to the Commission with some suggested stipulations.

The Commission discussed the points and issues of the public hearing and the suggested stipulations.

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Mr. Lank read a letter into the record from DelD.O.T. in reference to borrow pits.

Motion made 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 based on the record of support and since the site is an extension to an existing active borrow pit, since other borrow pit operations exist in the area, since a need exists for borrow material, since a need exists for recycling of materials, since a need exists for reduction of materials placed in landfills, and with the following stipulations:

1. The 500 foot strip shall be maintained as a setback to the edge of the buffer slope from Route 525 per the original site plan.
2. No wooded areas or wetlands shall be disturbed.
3. A minimum of 100 feet shall be maintained from the Gravelly Branch.
4. A minimum of 400 feet shall be maintained from any dwelling not on the premises.
5. No material shall be stored on any access roads or buffer areas within the project area.
6. No De-watering shall be permitted.
7. No fuel shall be stored on site.
8. A water truck shall be on site at all times of any use of the site for dust control.
9. The water table shall be established and the applicant cannot dig within five (5) feet of the water table.
10. The area where disturbance has already taken place shall be a part of the first phase.
11. Reclamation shall be a continuous process as a phase is dug, slopes and reclamation shall proceed.
12. A road maintenance agreement shall be obtained from the State D.O.T. for any damages to the road systems caused by the haulers.
13. The tree buffer shall meet the specifications of the State Forester.

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14. Concrete monuments shall be placed at all pit boundaries as phases are developed. The monuments should be placed by a licensed Delaware land surveyor.
15. The access road (entrance) shall be required to be re-evaluated by the Division of Highways.
16. Hours of operation shall not exceed 6:00 A. M. to 6:00 P.M. in the summer months; 7:00 A.M. to 5:00 P.M. in the winter months; and Saturdays, 7:00 A.M. to noon. No Sunday hours.
17. Bonding is recommended. Therefore reclamation is guaranteed.
18. Final approval of the site plan should include receipt of all agency approvals or permits.
19. The location of machinery and any storage of materials shall be in the pit areas, not the buffers. Stockpiling of materials shall not exceed ground level of the undisturbed areas.
20. All activities should require watering to help eliminate dust.
21. Only natural materials should be allowed to be shredded. Trees, stumps, brush, branches, etc..., not building materials. There would always be a residue of materials, nails, wiring, insulation, etc...

2. RE: C/U #955--M. J. Webb Farms, Inc.

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 Borrow Pit at the west end of a private road, 1,780 feet west of Route 595, 200 feet northwest Route 606, and to be located on a parcel containing 64.58 acres more or less.

The Chairman referred back to this application which has been deferred since December 13, 1990.

Mr. Lank advised the Commission that the letter read from DelD.O.T. in reference to the C/U #954--Edward J. Kaye, also referenced this project.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to defer action for review of DelD.O.T. comments. A copy of the DelD.O.T. letter to be forwarded to Commission members.

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3. RE: C/Z #1096--W. Nelson Hall

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Cedar Creek Hundred, located on the north side of Route 228, 200 feet west of Route 30, and to be located on a parcel containing 18.60 acres more or less.

The Chairman referred back to this application which has been deferred since November 15, 1990.

The Commission discussed the points and issues raised during the public hearing and expressed concern that this application encourages strip development.

Motion made by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since the intent is to strip develop the site.

4. RE: Subdiv. #90-25--Moore's Landing

The Commission reviewed the final subdivision plat for the proposed 15 lot subdivision.

Jim Fuqua, attorney, was present on behalf of the application.

Mr. Moore stated that all approvals have been obtained.

Motion made by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the subdivision as a final.

5. RE: Subdiv. #90-18--Hill & Dale

The Commission reviewed the preliminary subdivision plat for the proposed 40 lot subdivision.

Action had been deferred pending receipt of a feasibility from D.N.R.E.C. for on-site waste disposal.

Mr. Moore stated that the feasibility has been obtained.

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

6. RE: Gosling Creek
Recreation Area

The Commission reviewed the site plan for the proposed community recreation area for the Gosling Creek Subdivision.

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

7. RE: L & W Country Estates
Discussion

Mr. Moore stated that the County Council had referred the application back to the Planning and Zoning Commission to review the approval of the subdivision, specifically to review the State Fire Marshal's approval which did not require central fire protection.

It was the consensus of the Commission that the subdivision approval was done in compliance with the Subdivision Code.

Meeting Adjourned 11:45 P.M.

Lawrence B. Lank, Secretary