

MINUTES OF THE REGULAR MEETING OF DECEMBER 28, 1989

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 28, 1989, at 7:45 P.M. in Room 115, Sussex County Council Chambers, 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. Smith, seconded by Mr. Hickman, and carried unanimously to approve the minutes of November 30, 1989, as circulated.

PUBLIC HEARINGS

1. RE: C/U #925--Robert J. Messick

Robert J. Messick was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Little Creek Hundred for an Extension to Conditional Use No. 507 for Retail Sales and Warehousing, 95 feet north of the northwest corner of Route 13A and Francis Street, north of Delmar, to be located on a parcel containing 15,024 square feet more or less.

Mr. Lank summarized comments received from the State Division of Highways and the Sussex Conservation District.

Mr. Messick advised the Commission that he needs additional warehousing space for feeds and farm products for sale on the premises, that the existing site has been utilized for a farm product store since the 1950's, that the site was made conforming by two (2) previous conditional uses, that a steel building is proposed for the addition, and that no adverse impact is anticipated on property values, the neighborhood or Route 13A.

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 Division of Highways, that a traffic impact was not recommended and that the level of service "A" will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area is affected, that it will not be necessary for any off site drainage improvements, that it may

be necessary for on site drainage improvements, that no tax ditch is affected, that the Woodstown and Keyport soils on site are suitable for the intended use, that in reference to erosion/ sediment control, slight to moderate limitation may be anticipated during construction and slight limitation after completion of construction.

The Commission found that the applicant was present and plans to utilize the site for additional warehousing for feed and farm products storage, that the existing site has been utilized for the same business since the 1950's, and that no adverse impact is anticipated on property values, the neighborhood, or Route 13A.

No parties were present in 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 approved based on the record of existing retail business for animal feeds and farm products, and with the stipulation that the site plan be reviewed and approved by the Planning and Zoning Commission.

2. RE: C/U #926--Mt. Zion A.M.E. Cemetery

Harold Truxon and Elsworth Coleman, Pastor, 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 cemetery 345 feet west of Route 213, 400 feet north of Route 16, and to be located on a parcel containing 2.01 acres more or less.

Mr. Lank summarized comments received from the State Division of Highways and the Sussex Conservation District.

Mr. Truxon advised the Commission that a need exists for cemetery space in the Ellendale area, that no cemetery plots are in the area for church members, that the church purchased the site behind the church with the intent to create the cemetery, that the Old School House Ditch was cleaned out and has corrected drainage on the westerly side of Ellendale, that the site has been under cultivation, and that no adverse impact on property values or the neighborhood are anticipated.

No parties 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.

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The Commission found, based on comments received from the State Division of Highways, that this application will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the Evesboro, Pocomoke, and Klej soils are not very suitable for the intended use, that slight limitations for erosion/sediment control may be anticipated during construction, that the farmland rating is of statewide importance, that the Pocomoke and Klej soils have a moderately high water table, that no storm flood hazard area is affected, that it may be necessary to provide off site and on site drainage improvements, that the School House Tax Ditch may be affected, and that depending on the existing drainage, there is a possibility for on and off site drainage improvements.

The Commission found, based on comments from representatives of this application, that cemetery space is needed in the Ellendale area, that the site was purchased with the intent to create a cemetery, that the Old School House Ditch has been cleaned out and drainage has been corrected on the westerly side of Ellendale, that the site has been under cultivation, and that no adverse impact on property values or the neighborhood are anticipated.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to defer action. The staff to verify regulations referencing cemeteries.

3. RE: C/Z #1039--Norris L. Niblett

Norris L. Niblett was present 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 southwest corner of Route 13 and Route 468, containing 4.35 acres more or less.

Mr. Lank summarized comments received from the State D.N.R.E.C. Land Use Planning Act Coordinator, the State Division of Highways, and the Sussex Conservation District.

Mr. Niblett advised the Commission that commercial areas and uses surround the site, that no specific use is intended, that the rezoning will add to the tax base, that the rezoning will benefit the area, and that no adverse impact is anticipated on the neighborhood.

No parties 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, based on comments received from the State D.N.R.E.C. Land Use Planning Act Coordinator that comments have been requested from 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 study is not recommended, and that the level of service "B" of Route 468 may change to level of service "C", and that the level of service "A" of Route 13 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, based on comments received from the Sussex Conservation District, that the Kenansville soils on site are suitable for the intended use, that slight limitations may be anticipated for erosion/ sediment control during and after completion of construction, that the farm- land rating is of statewide importance, that no storm flood hazard area is affected, that it will not be necessary for any off site drainage improvements, that it may be necessary for on site drainage improvements, and that no tax ditch is affected.

The Commission found, based on comments made by the applicant, that the site is surrounded by commercial uses and districts, that the rezoning will add to the tax base, that the rezoning will benefit the area, and that no adverse impact is anticipated on the neighborhood.

Motion made by Mrs. Monaco, seconded by Mr. Hickman, and carried 4 votes to 0, with Mr. Ralph abstaining, to forward this application to the Sussex County Council with the recommendation that it be approved since the rezoning will be compatible to the area, and since the rezoning will be an extension to a C-1 General Commercial District.

4. RE: C/Z #1040--Daniel G. McMunn

Daniel McMunn and David Rutt, attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Baltimore Hundred, located on the northwest side of Route 381, 0.3 mile east of Route 384, containing 1.38 acres more or less.

Mr. Lank summarized comments received from the Division of Highways and the Sussex Conservation District.

Mr. McMunn advised the Commission that he intends to open a hunting and fishing supply store, that the site is part of a 35 acre tract, that a 24 foot by 32 foot building is proposed, that other business and commercial uses are in close proximity, that no adverse impact on property values is anticipated, that a need exists for hunting supplies, that the building is proposed to have barred windows and an alarm system, that the site is capable of providing adequate parking, and that the hours of business are proposed to be 6 to 9 weekday evenings and 9 to 6 on Saturdays.

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Mr. McMunn submitted a petition in support containing 80 signatures.

No parties 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, based on comments received from the Division of Highways, that a traffic impact study is not recommended and that the level of service "A" of Route 381 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area is affected, that it will not be necessary for any off site or on site drainage improvements, that no tax ditch is affected, that the Evesboro soils on site are suitable for the intended use, that in reference to erosion/sediment, control, slight limitations may exist during construction, and that the farmland rating is of statewide importance.

The Commission found, based on comments made by the applicant, that he plans to utilize the site for a hunting and fishing supply store approximately 24 feet by 32 feet, that the site is part of a 35 acre tract, that other business and commercial uses are in close proximity, that a need exists for hunting and fishing supplies in the area, that the building shall be secured with barred windows and alarm systems, the space is available for adequate parking, that the business hours intended are 6 to 9 week day evenings and 9 to 6 on Saturdays, and that no adverse impact is anticipated on property values.

The Commission found that a petition containing 80 signatures was submitted in support of a store for retailing fishing and hunting supplies in the area.

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 denied since rezoning the site would be incompatible and out of character with the residential and agricultural area.

5. RE: C/Z #1041--James G. and Pamela J. Martin

James Martin and Eric Howard, attorney, were present on behalf of this application to amend the zoning map from GR General Residential to B-1 Neighborhood Business in Baltimore Hundred, located on the west side of Route 357, across from Route 359, containing 23,496 square feet more or less.

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Mr. Lank summarized comments received from the Division of Highways and the Sussex Conservation District.

Mr. Martin advised the Commission that he intends to utilize the site for an office for a cleaning and maintenance service, that adequate space for parking is available on site, that presently the firm operates from Ocean View on leased property, that the firm has eight (8) employees and six (6) vans, that numerous commercial and business uses and zones exist in the area, that business hours will run from 9 to 4 weekdays and 9 to 6 on Saturdays, that no adverse impact on property values or the neighborhood are anticipated, and that no major changes are proposed in the appearance of the dwelling except maintenance.

Mr. Martin submitted three (3) letters of support from neighbors.

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 Division of Highways, that a traffic impact study was not recommended and that the existing level of service "C" of Route 357 may change to level of service "D" if the site is developed at a use equivalent in per acre trip generation to discount shopping.

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

The Commission found, based on comments by the applicant, that he plans to utilize the site for an office for a cleaning and maintenance service business, that the site has adequate space for parking, that he employs eight (8) employees who operate six (6) vans, that no major changes are proposed in the dwelling except maintenance, that numerous commercial and business uses exist in the immediate area, that business hours are intended to be 9 to 4 weekdays and 9 to 6 Saturdays, and that no adverse impact is anticipated on Route 357, the neighborhood, or property values.

The Commission found that three (3) neighbors have written letters of no objection to the rezoning.

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 other commercial and business uses and zones exist in the immediate area, and since the Coastal Sussex Land Use Plan identifies the area as suitable for a village commercial center.

OLD BUSINESS

1. RE: C/Z #1036--Virginia Steele

No one was 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.

The Chairman referred to this application, which was deferred on December 14, 1989.

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

The Commission anticipates that the maximum storage capacity of the intended Dry Stack Storage Facility will be utilized in the off season.

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 the Coastal Sussex Land Use Plan designates the general area within an area for a village commercial center.

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

No one was 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.

The Chairman referred to this application, which was deferred on December 14, 1989.

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

Mr. Hickman expressed concern for traffic along Route 54.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried 4-1, with Mr. Hickman voting in opposition, 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 Coastal Sussex Land Use Plan designates the area within an area for multi-family use.

3. RE: ORDINANCE TO AMEND ORDINANCE NO. 97  
(amend width requirements and 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 to this Ordinance, which was deferred on November 30, 1989.

The Commission discussed the points and issues raised during the public hearing and the possibility of an additional amendment to provide for a twenty (20) foot separation from other improvements on neighboring lots.

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 approved with an additional amendment referencing separation from other improvements on neighboring lots as follows:

Article 5, Section 14.8 (5) No part of any dwelling or accessory structure shall be closer than two (2) feet from any side or five (5) feet from any rear boundary line; provided, however, that no part of any dwelling or addition thereto shall be closer than twenty (20) feet to any other dwelling or addition thereto.

4. RE: Salt Pond - MR - RPC  
Site Plan

No one was present on behalf of the site plan for this application to amend the zoning map from MR Medium Density Residential to RPC Residential Planned Community in Baltimore Hundred, located on the southeast corner of the intersection of Route 360 and Route 357, containing 378.77 acres more or less.

Motion made by Mr. Hickman, seconded by Mr. Smith, and carried unanimously to approve the site plan as a development plan only for recordation, with individual phase plans to be submitted as approvals by other agencies are obtained.

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5. RE: Hill 'N' Dale  
Street Discussion

Mr. Lank advised the Commission that the developer is requesting permission to develop a private street addition to the subdivision with public streets.

After some discussion it was the consensus of the Commission to defer action and request the staff to research the first two phases of the subdivision for information on the streets, the approvals and the Division of Highway comments.

Meeting Adjourned 9:30 P.M.

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Lawrence B. Lank, Secretary