

## MINUTES OF THE REGULAR MEETING OF JULY 8, 2004

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 8, 2004 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson and Mr. Wheatley with Mr. Robertson – Assistant County Attorney, Mr. Lank – Director, Mr. Abbott – Assistant Director, and Mr. Kautz – Land Use Planner.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the Agenda as circulated.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of June 10, 2004 as amended.

### OLD BUSINESS

C/U #1543 – application of **HERITAGE OPERATING, L.P.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a propane service and refilling center with an office and showroom to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.0 acres, more or less, lying south of Route 24 and 370 feet west of Route 309.

The Commission discussed this application which has been deferred since June 24, 2004.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1543 for Heritage Operating, L.P. for a Conditional Use to operate a propane service and refilling center with an office and showroom based upon the record made at the public hearing and for the following reasons:

- 1) The project is located within the Environmentally Sensitive Developing Area according to the 2002 Comprehensive Plan Update.
- 2) The project is for the relocation of an existing business from another property. This central location will reduce the travel time of delivery trucks on County roads.
- 3) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community, and there are other properties with commercial uses in the area.
- 4) The use is of a public or semi-public character and is desirable for the general convenience and welfare of the area and the County.
- 5) The design will meet all State and National Fire Regulations, and the on-site water supply holding pond will be made available to the local fire company.
- 6) This recommendation for approval is subject to the following conditions and stipulations:
  - 1) On-site water and septic shall be provided.

- 2) The hours of operation for the trucking operation shall be from 6:30 a.m. until 6:00 p.m., Monday through Saturday.
- 3) Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on any neighboring properties or Route 24.
- 4) The Site Plan shall be subject to approval of the Planning and Zoning Commission.
- 5) An unlighted sign shall be permitted on-site, not to exceed 32 square feet per side or facing.
- 6) A vinyl clad fence screening the parking area, storage areas, buildings and storage tanks shall be installed along Route 24 and neighboring properties. All of the tanks shall be set back at least 500 feet from Route 24.
- 7) A thirty- (30) foot vegetated buffer shall be established around the perimeter of the property, and no existing trees within the buffer area shall be disturbed.
- 8) No parking shall be within five (5) feet of any side property lines.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated.

Motion carried 4 – 0.

C/U #1544 – application of **CHARLES D. MURPHY ASSOCIATES, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for doctors offices to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 7.34 acres, more or less, lying at the northeast corner of Road 288A and Route 24.

The Commission discussed this application which has been deferred since June 24, 2004.

Mr. Johnson stated that he would move that the Commission recommend approval of C.U #1544 for Charles D. Murphy Associates, Inc. based on the record and for the following reasons:

- 1) The use will serve the Community.
- 2) The centralized location of this use on Route 24 should relieve some traffic on Route One.
- 3) The use is of a public character that will benefit the health, safety and welfare of residents of Sussex County.
- 4) The use will not have a significant adverse impact on traffic.

- 5) This recommendation is subject to the following conditions:
- 1) The site plan shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all agency approvals.
  - 2) A buffer of Leyland Cypress or similar vegetation will be planted along the property boundaries that border residential or agricultural property.
  - 3) Lighting for the parking lots and the property in general will be "down" lights mounted on poles or lighting pointing away from adjacent properties so that the lighting will not affect (or will have a minimum affect) on adjacent properties.
  - 4) The office hours will be from 8:00 a.m. until 6:00 p.m. Monday through Friday. The office will be closed on Sundays. There may be emergency office hours anytime.
  - 5) Required parking will be provided and handicapped parking will be marked.
  - 6) The building, stormwater management facilities, parking, well and septic shall all be located in such a way that, in the event that Route 24 is widened, the impact on the subject property will be minimal.
  - 7) The entrance to the project shall be relocated to the west away from Route 24 so that it is across from the front parking lot.
  - 8) There shall be on lighted sign on the property, not exceeding 32 square feet per side or facing, designating the doctor's office.
  - 9) Any additional development of the site shall require another Conditional Use application and public hearings.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried with three (3) votes with Mr. Allen opposing the motion, to forward this application to the Sussex County Council with the recommendation that the application be approved with the conditions stated.

Motion carried 3 – 1.

Subdivision #2003-36 – application of **DYER McCREA VENTURES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 66.66 acres into 66 lots, located east of Route 30, 2,255 feet south of Route 16.

Mr. Abbott advised the Commission that the final record plan has been reduced to 65 lots; that preliminary approval was granted on March 25, 2004 for 66 lots; that all agency approvals have been received; that the record plan complies with the subdivision code and the conditions of approval; and that the record plan is suitable for final approval.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve this application as a final.

Motion carried 4 – 0.

Subdivision #2003-44 – application of **MICHAEL AND KATHY MIXON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 13.51 acres into 10 lots, located west of Road 258, 1,790 feet south of Road 257.

The Chairman referred back to this application that has been deferred since June 10, 2004.

Mr. Wheatley stated that he would move that the Commission grant preliminary approval of Subdivision #2003 – 44, for Michael and Kathy Mixon, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County. There are also other subdivisions with similar characteristics in the vicinity of this application.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
3. The proposed subdivision is integrated into the existing terrain and surroundings.
4. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
5. The proposed subdivision will not adversely impact schools, public and community facilities or area roadways.
6. DNREC has issued a septic feasibility statement for the site.
7. This recommendation is subject to the following conditions:
  - The Applicant shall prepare and record Restrictive Covenants governing the development and creating a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, stormwater management facilities, and other common areas.
  - The stormwater management system shall meet or exceed the requirements of the State and County.
  - All entrances shall comply with all of DelDOT's requirements.
  - The Deed to each lot within the subdivision shall include the following notice: This property is located in the vicinity of land used as an airport. There may be frequent flights over the property conveyed in this deed that will generate noises associated with aircraft in flight or aircraft engines operating. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience, which may result from such normal airport uses and activities.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve



this application as a preliminary for the reasons and with the conditions stated.

Motion carried 4 – 0.

Subdivision #2003-46 – application of **GEORGELAS GROUP** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 210.342 acres into 272 lots, located north of Route 9, 1,860 feet east of Route 5 and east of Route 5, 1,700 feet north of Route 9.

The Chairman referred back to this application that has been deferred since June 24, 2004.

Mr. Johnson stated that he would move that the Commission grant preliminary approval for this application and asked Mr. Robertson to read his motion.

Mr. Robertson read that Mr. Johnson moves that the Commission grant preliminary approval of Subdivision #2003 – 46, for Georgelas Group, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County. It is also the same land that was previously approved for a RPC.
2. The land is zoned AR-1 which permits low-density single family residential development at a density of approximately 2 lots per acre. The proposed density is consistent with the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will be a restricted residential development that will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings or community facilities.
5. The Applicant has proposed an innovative design that integrates the land, existing vegetation and wetlands into the subdivision. It will also have a minimal impact on the wetlands.
6. Considerable open space will be provided within the Development, along with recreational facilities including trails, pools and community buildings.
7. The Applicant has stated that there will be no significant grade changes and that forested areas outside of the roadways and homesites will be maintained.
8. Private Central Sewer will be provided for the Project. The Applicants have stated that the sewer system will be designed with sufficient capacity for other property owners in the immediate vicinity to connect to.
9. This recommendation is subject to the following conditions:

- The Applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, the central sewer system, stormwater management facilities, recreational areas and other common areas.
- The Applicant shall maintain as many existing trees as possible. The undisturbed-forested areas shall be shown on the Final Site Plan.
- The Development shall be served by a Private On-Site Central Sewer System, designed with sufficient capacity to allow nearby property owners to connect to it, if necessary. The sewer system shall be designed and constructed in accordance with Sussex County's Ordinance No. 38 Standards.
- The stormwater management system shall meet or exceed the requirements of the State and County.
- No wetlands shall be included within any lot lines.
- All entrances and roadway improvements shall be constructed or funded in accordance with all of DelDOT's present and future requirements.
- A system of street lighting shall be provided throughout the project. The location of all streetlights shall be shown on the Final Site Plan.
- The network of sidewalks, nature trails and bike paths shall be shown on the Final Site Plan.
- The Final Site Plan shall clearly show all recreational amenities. This includes a Community Center and pool located within the portion of the Project on Route 9.
- The Restrictive Covenants for the project shall include the following notice:

This property is located in the vicinity of land used for commercial purposes, including large truck maintenance and sandblasting, that may have noise associated with them. The use and enjoyment of this land is expressly conditioned on acceptance of any annoyance or inconvenience, which may result from such activities or uses.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve this application as a preliminary for the reasons and with the conditions stated.

Motion carried 4 – 0.

## PUBLIC HEARINGS

Subdivision #2003-35 – reconsideration of the application of **ROUTE 30, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 30.25 acres into 28 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located at the southwest corner of the intersection of Routes 38 and 30.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on September 17, 2003 and that the report will be made a part of the record for this application; that a public hearing for this application was held on March 10, 2004 and that action was deferred; that the Commission denied this application as submitted on March 24, 2004; that the applicant wrote a letter to the Commission requesting reconsideration after addressing the Commissions concerns about the project and that on May 13, 2004 the Commission voted unanimously to rehear this application; that revised plans have been submitted with the proposed entrance to the site being relocated to Route 38; and that DelDOT has issued a letter of no objection in reference to the entrance location.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve this application as a preliminary since the entrance location has been relocated to Route 38, and that DelDOT has issued a letter of no objection.

Motion carried 4 – 0.

C/U #1546 – application of **JULIE AND JOSEPH SCHROECK** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an antique shop/art gallery to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 39,281 square feet more or less, lying south of Route 26, 0.6 mile east of Route 365.

The Commission found, based on comments received from the County Engineering Department on a previous application for the same site, Conditional Use #1496, that the site is not located in a County operated or maintained sanitary sewer district and/or water district, and that the County Engineering Department has no schedule for providing sewer service to this parcel at this time.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not required and that the level of service “E” of Route 26 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Fallsington sandy loam; that the Evesboro soils have slight limitations for development; that the Fallsington soils have severe limitations; that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of construction; that the Evesboro soils are considered of Statewide Importance and Hydric in small depressions; that the Fallsington soils are

considered of Statewide Importance, Prime Farmland and Hydric; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any off-site or on-site drainage improvements.

The Commission found that Julie Schroeck was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that she is doing minor renovation to the dwelling and plans on moving into the dwelling when the renovations are completed; that she plans on selling antiques and art into the detached garage that will be used for a showroom; that they do not do any refinishing on the site; that business hours are planned to be from 9:00 a.m. to 9:00 p.m. seven days per week seasonally; that she would like to erect a lighted sign on the premises; that her parents are partners in the project; and that adequate space is available on the site for parking.

The Commission found that Steven Horneyak, the applicant's father, spoke in support of the application and stated that his wife is handicapped and this project enables her to work; and that there should be no negative impact on the area.

The Commission found, by a show of hands, that there were 3 parties present in support of the application.

The Commission found that there were no parties present in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved since the use will not significantly impact traffic or the area, and with the following conditions:

- 1) The site plan shall be subject to review and approval of the Planning and Zoning Commission.
- 2) There shall be no refinishing of furniture performed on the site.
- 3) One lighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.
- 4) The shop shall be restricted to the existing detached garage. Any further expansion of the shop shall require another Conditional Use application.

Motion carried 4 – 0.



C/U #1547 – application of **VERIZON/DIAMOND STATE TELEPHONE CO.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for building expansion for equipment storage and warehouse to be located on a certain parcel of land lying and being in Gumboro Hundred, Sussex County, containing 0.92 acres, more or less, lying east of Route 26, approximately 950 feet south of Route 61 (Bald Branch Road).

The Commission found, based on comments received from the Sussex Conservation District, that sediment control and stormwater management plan approval has been issued for the project.

The Commission found, based on comments received from DelDOT, that final entrance plans have been approved for the project.

The Commission found that Gordon Meade of Davis, Bowen & Friedel, Inc. and James Anderson, Architect, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that a 2,600 square foot addition is proposed to be added to the existing 845 square foot equipment building; that they have received approvals from the Sussex Conservation District, DelDOT, and DNREC; that adequate space is available on the site for parking; that Verizon presently serves approximately 800 users in the area and that the expansion of switching equipment will provide for service for at least 25 years; that the building will primarily house switching equipment; that there will be no more traffic generated than the existing building; that no permanent employees will be located at the site; that periodic maintenance checks are performed on the site; that a work space is available in the building for repairs of equipment; that additional lands have been purchased to expand the site; and that no outside noise is associated to the use.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved since it is an expansion to an existing use; since the use will have no negative impact on the area; and with the condition that the Site Plan be subject to review and approval of the Planning and Zoning Commission upon receipt of all agency approvals.

Motion carried 4 – 0.

C/U #1566 – application of **LANE BUILDERS, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office building and storage building to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 29,348 square feet, more or less, lying southeast of Kings Highway (Route 268) 1,700 feet northeast of Gills Neck Road (Route 267).

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras sandy loam which has slight limitations for development; that the applicants will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that the soils are considered Prime Farmland; that there are no storm flood hazard areas or tax ditches affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from DelDOT, that a traffic impact study would be required for a rezoning, and that the applicants choose to apply for a Conditional Use.

The Commission found that David Rutt, Attorney, was present with Richard Blades, Keith Hastings, and Jeff Burton, the owners of Lane Builders, Inc. and that Mr. Rutt and Mr. Burton stated in their presentations and in response to questions raised by the Commission that they plan on converting an existing dwelling into office space and building a storage building; that the existing building was built prior to zoning and encroaches into setbacks; that they propose to renovate the dwelling with a colonial style to blend in with some of the homes in Lewes; that the applicants purchased the site in 2003; that the applicants build approximately 12 custom homes per year; that the office is intended for their business, not rental; that the storage building will be used to store records and materials left over from previous jobs for use on new jobs; that they have 3 employees that work in the office besides themselves; that they are presently leasing an office near Wescotts Corner; that there is adequate space on the site for parking; that there will normally be 3 employee vehicles on the site; that an on-site well and on-site septic system exists on the site; that no negative comments have been received from any agencies; that a florist shop exists on an adjoining property; that a strip shopping center exists across Kings Highway; that several other business uses exists in the immediate area; that the site adjoins an Agricultural Preservation District; that they would like to erect a 32 square foot sign on the site; that they have no business hours on weekends; that business hours are from 7:00 a.m. to 6:00 p.m.; that the business should not impact the character of the area; that the use should improve property values and will be a benefit to the area; that this should be a proper use of the site at this location due to the other business uses in the area; that there will be no outside storage; that they do not object to a limitation that the garage can only be used for storage and not a work shop; that the storage building will match colors with the dwelling renovations; that the small existing

garage will be used for general storage; that there may be one work vehicle parked on the site; that the storage building will be approximately 12 feet high; that they will not store chemicals on the site; and that the existing garage will be renovated and finished similar to the office building.

The Commission found that Mr. Rutt submitted some proposed conditions that the applicants would support.

The Commission found that Louder Mitchell and Sally Greg were present and expressed concerns about the impact on the adjoining Agricultural Preservation District; storage of chemicals for preservatives on wood, landscaping, parking, setbacks, and questioning if the existing garage would be improved.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action.

Motion carried 4 – 0.

C/Z #1543 – application of **VINCENT PROPERTIES, L.L.C.** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 89.41 acres, more or less, land lying south of Cave Neck Road (Route 88) and northeast of Sweetbriar Road (Route 261).

The Commission found that the Applicants had submitted an Exhibit Booklet prior to the meeting and that the Exhibit Booklet included an introduction, an Executive Summary, references to existing conditions, the residential planned community concept, construction phasing, a home owners association organization and management structure, development infrastructure, traffic and transportation, social influences, economic impacts, a response to the Office of State Planning Coordination Request for Review letter, architectural exhibits, and drawings. A report appendices was also submitted for the record and included a report of preliminary geotechnical exploration, the Phase I Environmental Site Assessment, utility company commitments for service, emergency service letters and a proffer letter, a Preliminary Traffic Impact Study and a proffer letter, a Preliminary Engineering Report for sewer expansion, and PLUS comments

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro sand, Rumford loamy sand, Sassafra sandy loam, Woodstown sandy loam and Woodstown loam; that the Evesboro soils have



moderate limitations for development; that the Rumford and Sassafras soils have slight limitations; that the Woodstown soils have slight to moderate limitations; that the Applicants will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that the Rumford soils are considered of Statewide Importance; that the Sassafras and Woodstown soils are considered Prime Farmland; that no storm flood hazard areas or tax ditches are affected; and that it may be necessary for some on-site and off-site drainage improvements because of the increase in impervious area and the presence of moderately well drained soils with seasonally high water tables at 24 inches.

The Commission found, based on comments received from DelDOT, that the Department had reviewed a Traffic Impact Study (TIS) for this project; that the TIS indicated that additional capacity will be needed to support summer weekend traffic at the Route 9 and Dairy Farm Road intersection; that the improvements identified for this intersection on the Hopkins-Natelli rezoning are appropriate for this project; that several improvements should also be made to the proposed site entrance on Cave Neck Road to provide safety and convenience for local motorists, pedestrians and bicyclists in the area; that if the project is approved certain items should be incorporated into the site design, reflected on the record plan and shall be completed prior to the issuance of building permits; that the developer should be required to enter an agreement whereby they would pay an equitable portion of the costs of installing a traffic signal at the intersection of Route One, Hudson Road and Steamboat Landing Road when DelDOT finds it appropriate to install such a signal; that sidewalks should be installed on both sides of the streets; that the developer should be required to provide a site driveway on Sweetbriar Road or a gated emergency access road onto Sweetbriar Road; that the developer should be required to improve Cave Neck Road from Sweetbriar Road to the east end of the site frontage, and Sweetbriar Road, from Cave Neck Road to the south end of the site frontage, to meet DelDOT local road standards; that these improvements should include sidewalks to accommodate pedestrians and five-foot wide shoulders to accommodate bicyclists; and that to accommodate these improvements, a 15-foot permanent easement adjacent to the dedicated right-of-way line will need to be shown on the record plan.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State first reviewed this project through a "Request for Review" meeting on April 16, 2003; that the developers stated that the existing house and outbuildings will be preserved; that the State asks that the County make sure that this is still the case and require to developer to note this on their site plan; that DNREC has offered that on-site central water is proposed by Tidewaters Utilities, Inc.; that the Carsyljan Acres Tax Ditch exists and that it should be noted that there is a 25-foot right-of-way from the top edge of the bank on the project side of the ditch; that the tax ditch requires that no permanent obstructions be placed in the right-of-way; that sidewalks



should be built fronting every residence; and that there are no Leaking Underground Storage Tank sites near the proposed project.

The Commission found that a letter was received from the Lewes Fire Department, Inc. stating that the proposed community will need to have travel lanes, cul-de-sacs, entrances, and roundabout circles large enough for safe travel and deployment of all emergency apparatus; that the community should be required to have streetlights throughout all streets, standard house number locations, and regular maintenance to keep trees along the streets from impeding with fire fighting operations in all areas of the community; and that the Lewes Fire Department, Inc. strongly recommends that the community not be approved without meeting certain financial obligations to the Lewes Fire Department, Inc.

The Commission found that a letter was received from Theodore and Evelyn Shaud expressing concerns about the impacts that this project would have on the surrounding area and referencing specifically traffic, sewer and water facilities.

It was noted that this project was reviewed by the Technical Advisory Committee on April 21, 2004 and that the Technical Advisory Committee Report for April 21, 2004 is a part of the record for this application.

The Commission found that Duane Zentgraf of Vincent Property, LLC was present with James Fuqua, Jr., Attorney, Kevin McBride of Morris & Ritchie Associates, Inc. and Derrick Kennedy of Orth-Rodgers and that they stated in their presentations and in response to questions raised by the Commission that an 89 acre parcel is proposed to be divided into 250 homesites with central recreational areas; that approximately 26 acres of open space are planned; that no multi-family units are proposed; that the property has been in the Vincent family for over 100-years; that the site is located in the Environmentally Sensitive Developing Area, a growth area, according to the 2002 Comprehensive Plan Update; that there should be minimal environmental impacts since the site is already cleared and farmed; that a Phase I Environmental Assessment was performed; that the site is located within the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District; that pipeline capacity is available for sewer; that the density proposed is less than that calculated by the County Engineering Department for the site; that central water will be provided by Tidewater Utilities, Inc.; that they have reserved a site on the parcel for a possible water tower site for future use; that an underground storage facility for propane gas is proposed to serve this project only; that the project is in character with other projects in the area; that the net density equals 3.3 lots per acre; that the site is in close proximity to other subdivision developments in the area and referenced Paynter's Mill, Pondview, Heronwood, Overbrook Shores, Creek Falls Farm; Carsyljan Acres, Sweetbriar, the Hopkins/Pettyjohn application site, and the proposed Vineyards; that the existing dwelling and out-buildings will remain; that they

will comply with all of DelDOT's recommendations; that bus stops are proposed within the development and along Cave Neck Road; that the developers have proffered to contribute \$250.00 per unit at settlement of each lot to the Lewes Fire Department, Inc. and will encourage the Homes Owners Association to annually contribute \$50.00 per unit and solicit potential volunteers for service; that shopping and medical services are available in the Lewes and Milton areas; that the project will be an economic benefit to the County and the community; that the project creates a sense of space for the owners with interconnection to open spaces and recreational areas centralized in the project; that development of this site is actually an in-fill between several projects; that lots take up approximately 53 percent of the site; that some landscape berms with native planting are proposed; that the gross density is calculated to be 2.8 dwelling units per acre; that the project is anticipated to be developed in 3 phases over a three year period; that the developers will be building a sewer pump station; that if the water tower site is not utilized for a water tower it will be converted to permanent open space and will not be made into a buildable lot; that stormwater management ponds will be developed in a series; that streets will be private and built to meet or exceed County specifications; that school buses are permitted to travel on improved private streets; and that the developers prefer to build a gated emergency access off of Sweetbriar Road, rather than an entrance that may attract through traffic in the development.

The Commission found that Mr. Fuqua submitted two aerial photographs of the site.

The Commission found that Mr. Fuqua submitted some proposed conditions to be made a part of the record for this application.

The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to defer action.

Motion carried 4 – 0.

OTHER BUSINESS

Tucker Industries  
C/U #1492 Discussion – Route 54

Mr. Abbott advised the Commission that the applicant has written a letter requesting an interpretation about conditions of approval numbers 4 and 5; that the applicant stated in his presentation that conditions 4 and 5 prohibit what the application was for; that a bakery was approved as a conditional use after the applicant's public hearing; that the proposed uses are what is currently being done in the first conditional use application that the applicant had approved; and requested that these two conditions be removed and that the Commission has the authority to delete them since they originated at the Commission's hearing.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to remove conditions of approval numbers 4 and 5. All other conditions of approval will remain in effect.

Motion carried 4 – 0.

Peninsula Oil Company, Inc.  
Commercial Site Plan – Routes 9 and 13

Mr. Abbott advised the Commission that the site plan is for 2 mini storage buildings on 1.74 acres; that the site is zoned C-1; that 1 building is 7,880 square feet and the other is 9,660 square feet; that an on-site well is proposed; that no restroom facilities are proposed; that there are not any wetlands on the site and the site is not located in a flood zone; that the setbacks meet the requirements of the zoning code; and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried 3 votes to none, with Mr. Wheatley not participating, to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 3 – 0 – 1.

Peninsula Oil Company, Inc.  
C/U #703 Revised Site Plan – Route 38

Mr. Abbott advised the Commission that the revised site plan is for a 30,000 gallon propane storage tank; that C/U #703 was approved on January 17, 1984 with 2 conditions; that the Office of the State Fire Marshal has granted their approval; and that

the Commission can approve the revised plan as submitted or require an amended Conditional Use application.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried 3 votes to none, with Mr. Wheatley not participating, to approved the revised site plan as submitted as a final.

Motion carried 3 – 0 – 1.

Peninsula Oil Company, Inc.  
Revised Site Plan – Route 26

Mr. Abbott advised the Commission that the revised site plan is for a 30,000 gallon propane storage tank; that the site is zoned C-1 and currently has bulk gas storage tanks; that the Office of the State Fire Marshal has granted their approval; and that the setbacks meet the requirements of the zoning code.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried 3 votes to none, with Mr. Wheatley not participating, to approve the site plan as submitted as a final.

Motion carried 3 – 0 – 1.

Subdivision #2002 – 43 - - Boca East, L.L.C.  
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on June 12, 2003 and August 21, 2003; that the extension is needed so that the developer can obtain all agency approvals; and that this is the first request for an extension.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to grant a one-year time extension.

Motion carried 4 – 0.

Don Wagner  
Lot and 50' Right of Way – Road 290

Mr. Abbott advised the Commission that this is a request to create a 2.0-acre parcel with access from a 50-foot right of way; that the existing road frontage is 51.06 feet; that the Commission can approve the request as submitted, require an application for a major subdivision or require an application for a variance from the Board of Adjustment.



Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the request as submitted as a concept.

Motion carried 4 – 0.

#### REORGANIZATION

Mr. Allen appointed Mr. Lank as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Lank opened nominations for Chairman.

Motion by Mr. Wheatley, seconded by Mr. Johnson to nominate Mr. Allen as Chairman.

Motion by Mr. Wheatley, seconded by Mr. Johnson that the nominations for Chairman be closed.

Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Allen as Chairman: 3 yea and 1 abstaining.

Vote by roll call:

Mr. Gordy	yea
Mr. Johnson	yea
Mr. Wheatley	yea
Mr. Allen	abstaining

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Johnson, seconded by Mr. Allen to nominate Mr. Wheatley as Vice-Chairman.

Motion by Mr. Allen, seconded by Mr. Gordy that the nominations for Vice-Chairman be closed.

Nominations for Vice-Chairman were closed.

Motion was adopted to nominate Mr. Wheatley as Vice-Chairman: 3 yea and 1 abstaining.

Vote by roll call:

Mr. Allen	yea
Mr. Gordy	yea
Mr. Johnson	yea
Mr. Wheatley	abstaining

The meeting was turned over to Mr. Allen, the re-elected Chairman.

Mr. Allen appointed Mr. Lank as Secretary for the Commission.

Mr. Allen authorized Mr. Lank, Director, Mr. Abbott, Assistant Director, and Mr. Shockley, Environmental Planner, to sign record plats for recordation on behalf of the Commission.

Meeting adjourned at 9:48 p.m.