

MINUTES OF THE REGULAR MEETING OF MAY 12, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 12, 2005 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

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

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

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of April 14, 2005 and April 21, 2005 as amended.

OLD BUSINESS

C/Z #1572 – application of **RIVERVIEW, LLC** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying southeast of Road 346A, 3,100 feet east of Road 346, to be located on 79.432 acres, more or less.

The Commission discussed this application which has been deferred since March 31, 2005.

Mr. Smith stated that he has walked and inspected the site; that he listened to the tape recording of the public hearing; that he inspected some mitigation sites; that he is still concerned about evacuation; that evacuation will clearly cause trespass and impacts on adjacent properties; that he has a safety concern about the timber bridge and fires; that he has concerns about the future maintenance of the bridge and the use of preservatives; and that the bridge does not compare in magnitude to the bridge at Ellis Point.

Mr. Gordy stated that he also has a problem with the length of the bridge and the impacts on wetlands.

Mr. Allen and Mr. Wheatley agreed with Mr. Smith and Mr. Gordy.

Mr. Smith stated that he would move that the Commission recommend denial of C/Z #1572 for Riverview, LLC based on the record and for the following reasons:

- 1) Through the P.L.U.S. process, the State has expressed concerns about the potential impacts to the environment if this project moves forward.
- 2) The project is not located in a County maintained or operated sewer district.

- 3) The purpose of an RPC is to create "superior living environments" and to utilize "design ingenuity". In this case, neither has been established. The design appears to have the primary goal of establishing as many homes as possible on a very limited upland area of the parcel.
- 4) The project has only one means of ingress and egress via a timber bridge. Although the applicant has stated that emergency ingress and egress could occur over neighboring property, that may not actually be feasible depending on how the neighboring property is used (i.e. fenced, irrigation, ditches, substantial crops, etc.).
- 5) The access bridge would create a noise nuisance to neighboring homeowners and any owners of homes within the project.
- 6) Of the 72.4 acre site, only 16.18 acres of land is uplands, the rest are State and Federal wetlands. The upland portion of this project has no direct access to a County Road. The wetlands will be significantly disturbed by the need to provide access to the uplands for 72 homes.
- 7) The Subdivision Ordinances are incorporated into the Planning and Zoning Commission's consideration of an RPC application. I do not feel that the following considerations of the Subdivision Ordinance have been favorably addressed.
 - a. Minimal use of wetlands and flood plains.
 - b. Preservation of Natural and Historic features.
 - c. Provision for sewage disposal.
 - d. Provision for safe vehicular and pedestrian movement within the site and to adjacent ways.
 - e. Effect on area roadways and public transportation.
 - f. Effect on area waterways.
- 8) The proposed MR-RPC is not in accordance with the goals of the 2002 Comprehensive Plan Update because, it does not represent growth directed to an area where public infrastructure and services are available, and it is not designed to protect the existing natural environment's ability to accept the development.

Motion by Smith, seconded by Mr. Gordy and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated.

Motion carried 4 – 0.

C/U #1607 – application of **MYRA MITCHELL AND CLIFF BURRIS** to consider the Conditional Use of land in a GR General Residential District for a painting contractor's business to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 20,322 square feet, more or less, lying southwest of Argo's Corner Road (Road 14), 300 feet northwest of Route One, and being more particularly described as Lot 7 of the John Farens Subdivision.

The Commission discussed this application which has been deferred since April 21, 2005.

Mr. Allen stated that he has no problem with this application.

Mr. Wheatley stated that the site has been cleaned up and should not interfere with anything in the area.

Mr. Allen added that the applicants are only requesting a work area for 2 employees; that the large storage building already exists on the property; and that they only propose to paint trim work and shutters for housing.

Motion by Mr. Wheatley, seconded by Mr. Gordy and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved with the following conditions:

- 1) There shall be no more than 2 employees working at the site.
- 2) The activities shall be limited to painting of trim and shutters.
- 3) This approval is for the use of the existing storage building only.
- 4) One ground sign, not exceeding 32 square foot per side or facing, may be permitted.
- 5) All security lighting shall be directed into the site so as not to impact neighboring properties.
- 6) The site plan shall be subject to review and approval of the Planning and Zoning Commission.

Motion carried 4 – 0.

C/U #1609 -- application of **ROBERT RUTKOWSKI, JR.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for the sales of produce, nursery stock, flowers, and seafood to be located on a certain parcel of land lying and being in Gumboro Hundred, Sussex County, containing 11.7458 acres, more or less, lying north of Road 419, 900 feet east of Route 62.

The Commission discussed this application which has been deferred since April 21, 2005.

Mr. Gordy stated that he would move that the Commission recommend denial of C/U #1609 for Robert Rutkowski, Jr. based on the record and for the following reasons:

- 1) The applicant has not shown a need for the proposed use.
- 2) The applicant has previously violated County Ordinances, constructing the existing building without any permits, and apparently has been operating a business on the property without the necessary permits or licenses.
- 3) The applicant has not clearly shown what he plans to do with the property or how he will improve it if the Conditional Use is granted.
- 4) Based on the current condition of the property, I am not satisfied that the proposed Conditional Use will benefit the health, safety, convenience and welfare of County residents.

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 denied for the reasons stated.

Motion carried 4 – 0.

Subdivision #2003-14 – application of **H.M. PROPERTIES, ROUTE 23, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 240.81 acres into 352 lots, located at the southwesterly corner of the intersection of Road 286 and Road 285.

The Commission discussed the final site plan for this 325-lot subdivision.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to grant final approval of this 325-lot subdivision.

Motion carried 4 – 0.

PUBLIC HEARINGS

C/Z #1575 – application of **EDWARD J. CHIASSON** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying northwest of Route 54, across from Road 394A, and ¼ mile southwest of Route 20, to be located on 38,702 square feet, more or less.

Mr. Lank provided the Commission with copies of a survey/site plan of the property and a copy of an aerial photograph of the area.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service "E" of this road segment of Route 54 will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is not located within a County operated or maintained sanitary sewer or water district; that the site is adjacent to the Fenwick Island Sanitary Sewer District; that conformity to the South Coastal Area Planning Study Update 2004 will be required; that the site is currently within the West Fenwick Planning Area; that the rezoning may exceed capacity allocations made in the SCAPS 2004 Update; that the SCAPS Update allowed for 5 equivalent dwelling units on the property; that certain commercial developments or condominiums at 12 units per acre will exceed that capacity; and that the County currently has no schedule to provide sewer service to this parcel.

The Commission found that Edward J. Chiasson was present and stated in his presentation and in response to questions raised by the Commission that rezoning the property would not be spot zoning since he has commercial uses adjacent to the property on the west, commercial uses proposed across Route 54, a water tower on the adjacent property to the east and other business and commercial uses in close proximity; that he has a large dwelling on the premises and that he may convert the dwelling into a bed and breakfast inn, a pro-shop or a nautical gift shop; that he presently builds lighthouses and ships them all over the world; and that he did plan on selling the property, but has since decided to develop the site with either a bed and breakfast, a pro-shop or gift shop.

The Commission found that Mr. Chiasson provided 16 photographs of the area.

The Commission found that Cecilia Lewis, a Realtor, was present and stated that the contract to sell the property has ceased and that she has not yet removed the "For Sale" sign.

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

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

Mr. Smith stated that the applicant has been a little vague about what is proposed and noted that there was no opposition.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied as submitted and suggested that the County should waive the application fee if the applicant chooses to withdraw this application and apply for a Conditional Use. If the applicant does apply for a Conditional Use the application should be scheduled for public hearing for the earliest available dates.

Motion carried 4 – 0.

C/Z #1576 – application of **REYNOLDS POND, L.L.C.** to amend the Comprehensive Zoning Map 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 Cedar Creek Hundred, Sussex County, land lying at the intersection of Road 227 and Route 30, and southwest of Road 212, to be located on 826.84 acres, more or less.

Mr. Allen stated that he would be abstaining from any participation in this public hearing.

Mr. Lank provided the Commission with some revised site plans and a copy of an aerial photograph of the area.

The Commission found that the applicants had provided a copy of an exhibit booklet which contained some site data and information; utility commitment letters; a copy of a Declaration of Restrictions; an economic analysis; a developer's summary; a traffic impact study; a copy of the P.L.U.S. comments, dated July 15, 2004; a copy of the developer's responses to the P.L.U.S. comments from ECI, dated April 7, 2005; a P.L.U.S. letter, dated April 25, 2005; findings and conclusions from an Environmental Site Assessment with updates; a report from Eastern Shore Soil Service in reference to a soils reconnaissance; a preliminary geotechnical report from Geo-Technology Associates, Inc. (GTA); an endangered species correspondence and a cultural resource and natural heritage report; a wetlands delineation report and copy of an application to the U.S. Army Corps. of Engineers; a conceptual site plan; a County tax map with adjacent owners listing; correspondence from Beideman Road property owners; a project overview by Randall Arendt; and proposed conditions.

Mr. Lank advised the Commission that the applicants provided a cover letter and corrected sheets for pages 13, 14, Appendix A and a portion of Appendix B which were missing from Section 8 of the GTA report.

The Commission found that the Town of Milton had forwarded a copy of a letter sent to the Office of State Planning Coordination on June 29, 2004 which referenced the Town's concerns in regards to this development which stated that the area being developed does

not comply with the State spending strategies as being an area for growth; that this plan encourages sprawl developing away from a local town vs being located near or within the growth area of a town or municipality; that the area does not comply with the County Comprehensive Plan for growth; that the area is not within the Town of Milton future growth area; that the area does not comply with the goals and objectives of the State Livable Delaware Plan; that if this development is approved by the State and the County the State Livable Delaware Plan and the County Comprehensive Plan are null and void; and that it will be hard for the State and the County to stress the importance of a Comprehensive Plan to towns and municipalities if this development is approved.

The Commission found that a letter was received from Dean and Jill Malloy, residents living on Beideman Road, expressing their opposition to the application and expressing concerns that the use does not fit well with the area; that they are not in favor of relocating State roads; that they are concerns about the additional traffic; and that they are concerned about possible impacts on their existing well supply.

The Commission found that Glen Urquhart was present on behalf of the applicants with James Fuqua, Attorney, Ross Harris of ECI, Ed Launey of Environmental Resources, Inc., Derrick Kennedy of Orth-Rodgers & Associates, and Gerald Esposito of Tidewater Utilities, Inc. and that they stated in their presentations and in response to questions raised by the Commission that they had originally applied for MR-RPC in July of 2004; that the site plan has been modified to conform to AR density; that they now propose 1592 units, of which 1311 units are single-family dwellings, 158,874 square foot of retail, 71,800 square foot of office space, and 220 assisted living units; that a 6,000 square foot library, pools, tennis courts, athletic fields, community facilities, a clubhouse, and walking trails are also proposed; that the gross acreage on the site would allow for 1672 units (2 units per acre); that the net calculation for the MR-RPC allows for 1594 units; that they are proposing 1592 units; that they originally applied for MR-RPC to allow for smaller lot sizes; that by reducing the number of units and creating smaller lot sizes the project conforms to the AR requirements; that the MR zoning is not necessary; that all of the Isaacs property is zoned AR-1; that the County Comprehensive Plan Update places the site in a Low Density Area; that the purpose of AR-1 is to provide for a full range of agricultural activities, and to protect agricultural lands and to provide for low-density single-family residential development; that the new AR clustering ordinances allows for 7,500 square foot lots if central sewer and water are proposed; that they propose that central sewer and central water be operated by Tidewater Utilities, Inc.; that they considered a standard cluster subdivision of the parcels which provided for 1672 units and approximately 30% open space; that they propose to create a RPC project where residents can live, shop, and recreate without having to leave the site for a true community with less traffic and a higher quality of life; that the RPC will include 1592 units, of which 281 are townhouses, and a 220 unit assisted living facility; that they have received utility company commitment letters for all necessary infrastructure; that the site

is located in the Cape Henlopen School District; that the site is located within both the Ellendale and Milton fire districts; that a Homeowners Association will be created to provide for maintenance of all common areas; that the use will be an economic benefit to the County and the area; that an environmental assessment was performed as reported after Tabs 6,7,8,9, and 10 in the exhibit booklet; that no wetlands will be impacted; that the project creates no additional impact on traffic; that Milton is 3 minutes away; that Milford is 6 minutes away; that the towns in the area can provide health services and shopping needs; that the project should not create any impact on Route 9 or Route 1 traffic; that the project has been designed to be environmentally sensitive; that the applicants will create all improvements required by DelDOT; that the applicants will meet or exceed all agency requirements; that the revised project has a density of 1.9 units per acre and that residential development is appropriate in low density areas; that the Delaware Code references that the County government may, in accordance with the conditions and procedure specified in Title 9 Subchapter I 6902, regulate the location, height, bulk and size of buildings and other structures, the density and distribution of population, and the location and uses of buildings and structures; that Title 9 Subchapter II 6951 references that this subchapter shall be known and may be cited as the "Quality of Life Act of 1988" and that it is the purpose of this subchapter to utilize and strengthen the existing role, processes and powers of county governments in the establishment and implementation of comprehensive planning programs to guide and control future development, and that the land use map and map series forming part of the comprehensive plan as required by this subchapter shall have the force of law, and no development, as defined in this subchapter, shall be permitted except in conformity with the land use map or map series and with county land development regulations enacted to implement the other elements of the adopted comprehensive plan; that the County Comprehensive Plan Update references that in Low Density Areas low density single-family residential housing is appropriate, together with such churches, commercial, recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings; that Title 29 Subchapter 9206 references that nothing in this subchapter shall be construed to deny local jurisdictions their final decision making authority over proposed local land use planning actions; that Title 3 Chapter 9 The Delaware Agricultural Lands Preservation Act Subchapter 901 references that it is further recognized that a need exists to create sufficient economic incentives and benefits to encourage agricultural landowners to voluntarily place viable agricultural lands under protective restrictions through the creation of and participation in agricultural preservation districts and the sale of development rights; that Subchapter 907 references that any owner or owners of contiguous farmland and/or forestland containing at least 200 usable acres of such lands located in the State may submit on a voluntary basis, on such forms as the Foundation prescribes, an application for establishment of an Agricultural Preservation District; that Subchapter 910 provides for agricultural use protections; that the Department of Agriculture comments in the P.L.U.S. comments referenced that the preservation activity demonstrates the neighborhood's strong

agricultural and preservation ethic and preference; that some property owners have applied for Agricultural Preservation District voluntarily; that the applicants intend to provide \$500 contribution to the Sussex County Land Trust for each unit sale at settlement; that the majority of the site is in agriculture; that 90% of the soils on the site are suitable for sewer disposal; that the size of the project allows for alternative home types; that some of the lots proposed contain 5,000 square feet and some contain 10,000 square feet; that the applicants are aware that variances will be needed for the lots proposed that are less than 7,500 square feet; that commercial uses are laid out in a village center; that there are 9 miles of trails proposed; that 60 acres of wetlands exists on the site; that they have no intent to disturb any wetlands areas; that there are 152 acres of woodlands on the site; that 74% of the woodlands will remain undisturbed; that there are no water features proposed; that there are no uses proposed on Reynolds Pond; that no lots are located within flood plains; that they propose buffers from all adjoining agricultural lands; that there will be a minimum setback of 115 feet from all waterbodies around the site; that the golf course is being professionally designed; that they propose to create a site near the intersection of Route 30 and Road 212 for a future facility for emergency services; that a traffic impact study was performed; that all improvements required by DelDOT will be paid for by the applicants; that they propose to relocate Hummingbird Road and Beideman Road with Roundabouts per DelDOT suggestions; that they will comply with all of DelDOT requirements; that the soils on the site are suitable for recharge; that Tidewater Utilities, Inc. will supply central water; that the wastewater will be recharged into the soils around the golf course; that approximately 51% of the site is left in open space; that the sewer treatment facility will be located in a wooded area off of Road 212 away from any neighbors; that there will be no spray irrigation of wastewater in wooded areas; that drainage will be handled by use of stormwater ponds, infiltration, and bio-retention; that all run-off will be retained on the site for recharge; that the site is located within the Delaware Bay Watershed; that no State or Federal endangered species will be impacted; that the wooded area is suitable for the Delmarva Fox Squirrel, but none have been found in the area; that if the Federal government establishes regulations on habitat that is suitable for the Fox Squirrel, the applicants will comply with those regulations; that the golf cart paths are planned to be tunneled under Route 30; that the assisted living units will not have any cooking facilities within them; that the assisted living facility will have a dining facility; that some landowners have chosen to voluntarily submit into Agricultural Preservation Districts and some have chosen to subdivide; that there are several subdivisions in the general area; that the design of the project includes recreation, business, housing and fitness areas; that the design does not add to traffic congestion; that the site is not within the Inland Bays Watershed; that the use is consistent with the AR zoning; that the Comprehensive Plan Update projects a 41,000 increase in permanent households; that the Population Consortium projects a 45% increase in population; that this project does have the design components supported by Randall Arendt, a nationally renown consultant, with upland forest preservation, mixed use components, permanent open space, low density, a range

of housing types, assisted living facilities, and convenience to local towns; that revised plans have been submitted to P.L.U.S. for another review on May 25, 2005; that local roads will be widened if required by DelDOT; that the Roundabout on Route 30 is conceptual and subject to DelDOT review; that the golf cart tunnel will be designed per DelDOT standards; that deed restrictions will reflect no use of Reynolds Pond of any kind; that the size of this project is similar to Sea Colony, the Peninsula, and Americana Bayside which function under homeowners association and recreational associations; that some of the commercial area may be sold; that some will be maintained by the applicant; that the golf course may be public or semi-public; that they envision a rural community; that agricultural protections notices will be provided in the deeds; that more open space is created by clustering units and townhouses; that in respect to central wastewater and central water, all requirements of DNREC, Public Health, and the Fire Marshal will be met.

The Commission found that Richard Page, a resident of Beideman Road, spoke in support of the application and stated that he feels that development is going to happen, unless the land is put into a land trust; that he prefers this type of project with substantial amenities with less than 2 units per acre over a subdivision with no amenities; and that in reference to the Mayor of Milton comments the Commission should consider that all property between this site and the Town of Milton will probably be developed.

The Commission found that Dave Kenton, a Realtor, spoke in support and stated that he represented Earl Isaacs, now deceased, and that Mr. Isaacs wanted to develop the site and did not plan on preserving the farm; that people are coming to Delaware anyway; that he would prefer to see a community, rather than strip development; that the Isaacs family deserves the right of develop the property; that the State should not be allowed to say where people can live; and that the County should approve the application.

The Commission found that Mable Granke was present, submitted and read a letter in opposition and referenced that this application is in direct conflict with the State Strategies and counter to the goals of Livable Delaware; that it is inconsistent with the County Comprehensive Plan and outside of a development district; that a homeowners association cannot administer a development of this magnitude; that any governing body must have qualified staff to support overall administration as well as day-to-day needs; that insufficient infrastructure exists for a development of this size; that the applicants claim of 427 acres of open space seems to include stormwater management ponds and wetlands; questions what type of wastewater disposal is proposed; questions if the plant will be supervised and maintained; questions compliance with the Clean Water Act; that the Comprehensive Plan references that growth should be directed toward public systems and the use of private systems discouraged; that the Department of Agriculture is opposed to the project with just cause due to on-going agricultural activities and the existence of Agricultural Preservation Districts in the general area; that the assisted living

facility creates a public concern since the site is in a remote rural area, concerns for police protection, emergency services, and proximity to hospitals; that DNREC has expressed concerns about a need for 100 foot wide buffers; that protection of the Delmarva Fox Squirrel must be observed; that phasing must be presented; that 18 lots appear to infringe into the flood plain; that lots are infringing into forested areas; that the Citizens Action Foundation supports the position of the Town of Milton, and that DelDOT says that we have already reached the projected 2020 population.

The Commission found that Michael Tyler of the Citizens Coalition was present in opposition and requested that the public record be left open until the P.L.U.S. review.

The Commission found that Henry Glowiak of the Citizens Coalition was present in opposition and referenced that the project (a town) impacts the entire area; that farmland is a resource that needs protection; that the use is grossly out of character with the area; that the use does not comply with the Comprehensive Plan Update; that the Commission recently denied a cluster subdivision because it was out of character; that this project will impact all roads in the area for years; that the project will impact travel time for area residents; that the plan has no resemblance to a rural community; and that the project will impact Route One.

The Commission found that Harry Isaacs, Jr. was present in opposition, submitted a copy of a map of Agricultural Preservation Lands northwest of Milton, and stated that this is not a development, it is a town; that he can foresee 3,500 to 5,000 people and 4,500 vehicles to and from the project; that 70% of residents that live along golf courses do not play golf; that approximately 50% of the site is bounded by water, either stream or pond; that water quality is a concern; that the site adjoins agricultural preservation farms, chicken farms, horse farms, and Nature Conservancy lands; that the site is surrounded by agricultural lands; that the project is out of character; that the closest RPC is east of Milton near Route One; that Route 30 is a truck route used by poultry plants hauling live birds and processed birds; that there should not be a roundabout on Route 30; that Hummingbird Road and Beideman Road are used by heavy farm equipment and should not be relocated or altered with roundabouts; that the area does not need more people or traffic; and that if the project is approved he request that the Commission consider at least a 100-foot wide buffer from Reynolds Pond and deed restrictions referencing no use of Reynolds Pond.

The Commission found that Adele Chalabala was present in opposition, submitted and read a letter in opposition, and referenced that the environment needs to be preserved; that wildlife will be impacted; that birds are excellent indicators of the health of the environment; that if we work to preserve our bird populations, we will also be helping our environment; that if we take away the open space, then forest might as well be

developed; and that health care should be a major concern due to the rapid growth of the area and the lack of professionals and available beds for those needing care.

The Commission found that John Green, a resident living on Reynolds Pond Road, was present in opposition and expressed concerns relating to the impact on Reynolds Pond; that high tension power lines are being relocated; that a new dam or spillway is proposed; that the applicant should not be granted variances and should have to work with present ordinances; that the use has no community benefit; and that there are only two ways out from the area, Route 30 and local roads.

The Commission found that Wanda Smith, a resident of Beideman Road, was present in opposition and expressed concerns for childrens safety due to traffic.

The Commission found, by a show of hands, that 27 people were present in support and that 22 people were present in opposition.

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

Motion by Mr. Gordy, seconded by Mr. Smith, and carried with 3 votes to defer action and leave the record open for receipt of comments from P.L.U.S. and then for 15 days after receipt of the P.L.U.S. comments for any additional written comments.

Motion carried 3 – 0. Mr. Allen did not participate in the vote.

OTHER BUSINESS

Hart's Landing AR-1/RPC

C/Z #1533 – Final Record Plan – Route 24

Mr. Lank advised the Commission that this is a final record plan for a 144-lot single family residential planned community; that the record plan complies with the Subdivision and Zoning Codes and the 13 conditions of approval; that a landscaping plan has been provided; that all agency approvals have been received; and that the record plan is suitable for final approval.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to grant final approval of the record plan for this project.

Motion carried 4 – 0.

Rehoboth Landing
Multi-Family Site Plan – Route 24

Mr. Lank advised the Commission that this is a preliminary site plan for 73 multi-family units on 6.88 acres; that the site is zoned C-1 General Commercial; that the density is 10.61 units per acre; that the Zoning Code would permit up to 82 units; that there are 7 buildings with 8 units, 2 buildings with 6 units and 1 building with 5 units proposed; that 219 parking spaces are required and that 226 parking spaces have been provided which include attached garages for each unit; that there are 46 parking spaces located within the front yard setback that would need a waiver from the Commission to be permitted; that there is a proposed dumpster located within the front yard setback that should be relocated; that a landscape buffer has been provided along Route 24 and to the rear of the site; that a 60-foot dedicated connector road, as required by DelDOT, has been provided; that a swimming pool has also been provided; that a sidewalk connection to the Midway Acres Subdivision has been provided; that all building setbacks, lengths and separation distances meet the requirements of the Code; that there are no wetlands on the site; that the site is not located in a Flood Zone; that the Applicants have submitted an environmental assessment and public facility evaluation report which addresses drainage, water service, wastewater, traffic, endangered or threatened species, wetlands, open space, infrastructure, economic and recreational benefits, historic or cultural resources, and proposed mitigation; that the project has been reviewed by P.L.U.S.; that central sewer will be provided by the County; that Tidewater Utilities will provide central water; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all agency approvals.

The Commission discussed this application and expressed some concerns about parking spaces along Route 24, the location of the dumpster in the front yard setback and the location of the pool area near an adjacent subdivision.

Motion by Mr. Wheatley, seconded by Mr. Smith and carried unanimously to grant preliminary approval with the waiver for the parking spaces in the front yard setback, and with the following conditions:

1. The dumpster shall be relocated away from Route 24.
2. The swimming pool area shall be relocated to a more central area of the site plan or be screened with sound barrier fencing to screen the adjacent subdivision.
3. Final site plan approval shall be subject to the staff upon receipt of all appropriate agency approvals.

Motion carried 4 – 0.

There was a consensus of the Commission that the staff should discourage applicants from proposing parking in the front yard setback for future site plans.

Rite Aid – Fenwick Plaza
Commercial Site Plan – Route 54

Mr. Lank advised the Commission that this is a preliminary site plan for a 14,564 square foot pharmacy on 1.91 acres; that the site is zoned B-1 Neighborhood Business; that the site is located at the northeast corner of the intersection of Route 54 and West Fenwick Boulevard within Swann Cove Residential Planned Community; that the setbacks meet the requirements of the Zoning Code; that 59 parking spaces are required and that 73 parking spaces have been provided; that there are 27 parking spaces located within the front yard setback that will need a waiver from the Commission; that there are no wetlands on the site; that the site is not located within a Flood Zone; that central sewer will be provided by the County; that Artesian Water Company will provide central water; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all agency approvals.

The Commission discussed the parking layout.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to grant preliminary approval with the waiver for the parking spaces in the front yard setback. Final site plan approval shall be subject to the staff upon receipt of all appropriate agency approvals.

Motion carried 4 – 0.

There was a consensus of the Commission that the staff should discourage applicants from proposing parking in the front yard setback for future site plans.

Monica F. Malandrucolo
Lot and 50' Right-of-Way – Route 34

Mr. Lank advised the Commission that this is a concept to create a lot with access from a 50-foot right-of-way off of Road 34; that the owner proposes to widen an existing driveway to a 50-foot right-of-way to serve as access to the proposed lot; that the aerial photograph appears to show a farm lane; that a Zoning Inspector inspected the site and advised that the proposed right-of-way appears to be in a grass area that has been driven over; and that the Commission can approve the concept as submitted or require an application for a major subdivision.

The Commission found that Ms. Malandrucolo was present and stated that the driveway exists; that she proposes to build a home for her daughter on the lot and then a home on the remaining lands for herself; and that she has no plans to create additional lots.

Motion by Mr. Wheatley, seconded by Mr. Gordy and carried unanimously to approve the concept. A survey shall be required to be submitted to the staff for approval to record.

Motion carried 4 – 0.

James and Mary Tisher
Lot and 50' Right-of-Way -- Route 16

Mr. Lank advised the Commission that this is a concept to create a lot with access from a 50-foot right-of-way off of Route 16; that the owner proposes to widen an existing driveway to a 50-foot temporary easement to serve a 1.0 acre lot; that the remaining land is the subject of an application for a major subdivision; that if the subdivision application is approved, access to the proposed lot will be from one of the interior streets within the subdivision; that if the request is approved, the owner will have to apply for a special use exception to retain the manufactured home on less than 5.0 acres; that the Commission can approve the concept as submitted or require an application for a major subdivision.

Mr. Robertson stated that he will not be participating in the discussion.

The Commission found that Mark Davidson and Scott Dailey were present on behalf of the applicant and stated that the owner wants to retain one acre with access from a temporary easement; that the residual lands are proposed to be subdivided; that future access to the lot will be from the future subdivision street; and that the temporary access will be abandoned upon the creation of the access from the future subdivision street.

Mr. Allen voiced some opposition to the concept.

Motion by Mr. Wheatley, seconded by Mr. Gordy and carried unanimously to deny the concept. The staff shall advise the applicant that a major subdivision application shall be required.

Motion carried 4 – 0.

Meeting adjourned at 11:02 p.m.