

MINUTES OF THE REGULAR MEETING OF JANUARY 11, 1996

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 11, 1996, at 7:30 PM, in Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the minutes of December 28, 1995, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1140--William R. & Lenore J. Hickman

William R. Hickman, Lenore J. Hickman, and James Griffin, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for Expansion to Conditional Use No. 8 to Permit a Restaurant lying on the east side of Route 381, 2,400 feet north of Route 54, on a parcel containing 0.827 acres more or less.

Mr. Lank summarized comments received from the Sussex County Engineering Department and DelDOT.

Mr. Lank read a letter received from Jeff Mumford.

Mr. Griffin stated that the Hickman's applied for an on premise license for the sale of alcoholic beverages last fall and that at that time the neighbors began to voice objection to the restaurant, described the Delaware Alcoholic Beverage Commission requirements, made reference to letters from the Director of Planning and Zoning to Delaware Alcoholic Beverage Commission, stated that the Hickman's applied and received a building permit for a storage building and later converted the building to additional dining area by installing seven (7) booths for twenty-eight (28) seats, and added that the restaurant has been in use in excess of ten (10) years.

Mr. Hickman, in response to questions raised by Mr. Griffin and Commission members, stated that he obtained a Conditional Use for a general store in 1971, that he operated the general store for approximately one year, that he then converted the store to primarily seafood sales and carry-out, that he leased the building to others as a seafood sales and carry-out restaurant for two or three years, that he started the restaurant activity around 1985, that the business in open seasonally from May to September, that the original intent of the storage building was for freezer storage for the restaurant, that a friend offered

them some restaurant booths and the booths were installed in the storage building for expansion to the restaurant, that the existing restaurant serves approximately 40 patrons, that the expansion provides an additional 28 patron seats, that he and his wife, and grand-daughters operate the family business, that the new dining room was utilized twice this summer, that the original building was built in the late 1960s, that the original general store included sandwich sales, that the business typically closes at 11:00 P.M. and 12:00 A.M. at the latest, that security lighting exist on the site, that the lot is cleared, that the septic system is not within the proposed parking area, and that the business is in compliance with all state regulations and has never received any violations.

Jeff Mumford, James Swann, Nancy Swann, George Rice, and June Williams spoke with concerns toward the application and expressed concerns by questioning if the septic has been upgraded, questioning if the building is handicap accessible, questioning if the entrance has been upgraded, hoping that the applicants are required to comply with all regulations - State and County, expressing concerns about future use and operators of the business if the applicants retire, stating that the building was utilized for ceramic classes in 1984, stating that the building as continually increased in size, expressing concerns about odors from dumpsters and trash on roadways, expressing concerns with future uses along Road 381, and expressing concerns about this expansion and future expansion of the site causing impacts on the neighborhood.

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 Sussex County Engineering Department, that the site is located in the proposed West Fenwick Sanitary Sewer District, that the area is identified as a Priority 2 Planning Area and is not anticipated to receive sanitary sewer service within the next five years.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of Road 381 will not change as a result of this application.

The Commission found that the attorney representing the applicants stated that the applicants applied for an on premise license for the sale of alcoholic beverages last fall and that at that time the neighbors began to voice objection to the restaurant, described the Delaware Alcoholic Beverage Commission requirements, made reference to letters from the Director of Planning and Zoning to Delaware Alcoholic Beverage Commission, stated that the Hickman's applied and received a building permit for a storage building and later converted the building to additional dining area by installing seven (7) booths for twenty-eight (28) seats, and added that the restaurant has been in use in excess of ten (10) years.

The Commission found that the applicant, in response to questions raised by his attorney and Commission members, stated that he obtained a Conditional Use for a general store in 1971, that he operated the general store for approximately one year, that he then converted the store to primarily seafood sales and carry-out, that he leased the building to others as a seafood sales and carry-out restaurant for two or three years, that he started the restaurant activity around 1985, that the business in open seasonally from May to September, that the original intent of the storage building was for freezer storage for the restaurant, that a friend offered them some restaurant booths and the booths were installed in the storage building for expansion to the restaurant, that the existing restaurant serves approximately 40 patrons, that the expansion provides an additional 28 patron seats, that he and his wife, and grand-daughters operate the family business, that the new dining room was utilized twice this summer, that the original building was built in the late 1960s, that the original general store included sandwich sales, that the business typically closes at 11:00 P.M. and 12:00 A.M. at the latest, that security lighting exist on the site, that the lot is cleared, that the septic system is not within the proposed parking area, and that the business is in compliance with all state regulations and has never received any violations.

The Commission found, based on a letter from an area resident and statements made by four (4) area residents with concerns toward the application, that they were questioning if the septic has been upgraded, questioning if the building is handicap accessible, questioning if the entrance has been upgraded, hoping that the applicants are required to comply with all regulations - State and County, expressing concerns about future use and operators of the business if the applicants retire, stating that the building was utilized for ceramic classes in 1984, stating that the building as continually increased in size, expressing concerns about odors from dumpsters and trash on roadways, expressing concerns with future uses along

Road 381, and expressing concerns about this expansion and future expansion of the site causing impacts on the neighborhood.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the Conditional Use shall be subject to all applicable State, County, or other regulations relating to restaurants.

2. RE: C/U #1141--The Fraternal Order of Police
Sussex County Lodge No. 2, Inc.

Mike Walls, President of the Lodge, and David Rutt, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for a Meeting Place for the Fraternal Order of Police lying on the south side of Route 9, 0.8 mile east of Route 5, on a parcel containing 40,500 square feet more or less.

Mr. Lank summarized comments received from the Sussex County Engineering Department and DelDOT.

Mr. Rutt stated that the property is owned by Celia Green and is leased to the Lodge, that the purpose of the application is to establish a meeting place and small office for the Lodge, that the Board of Adjustment has approved the manufactured unit, and that the unit has been parked on the site for some time.

Mr. Walls stated that the Lodge meets once a month from 7:00 P.M. to 10:00 P.M. with typically 10 or 12 members in attendance, that the manufactured unit has been parked on the site for approximately one year, that a block foundation is proposed, that the office will provide space for the officers of the Lodge to perform their duties, that the Lodge membership is 140 members strong, that the Lodge serves the area east of U.S. Route 113 from Milford south to the Maryland line and represents 15 police departments, that the site is centrally located to serve the Lodge area, that the use is intended for Lodge use only and will not be utilized by others, that no adverse impact is anticipated on the neighborhood, property values, or the character of the area, that an unlighted sign, measuring 4' by 7' is proposed to be erected on the site, that no increase in traffic is anticipated, that on site private water and sewer will be provided, that adequate space is available for parking, and that the Lodge is a non profit organization with charitable activities.

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 Sussex County Engineering Department, that the site is located in the area west of the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District where the County Council agreed to restrict zoning changes and conditional uses as outlined in a Memorandum of Understanding between the Council and the State DNREC.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found that the attorney present on behalf of the applicant stated that the property is owned by Celia Green and is leased to the Lodge, that the purpose of the application is to establish a meeting place and small office for the Lodge, that the Board of Adjustment has approved the manufactured unit , and that the unit has been parked on the site for some time.

The Commission found that the President of the Lodge was present and stated that the Lodge meets once a month from 7:00 P.M. to 10:00 P.M. with typically 10 or 12 members in attendance, that the manufactured unit has been parked on the site for approximately one year, that a block foundation is proposed, that the office will provide space for the officers of the Lodge to perform their duties, that the Lodge membership is 140 members strong, that the Lodge serves the area east of U.S. Route 113 from Milford south to the Maryland line and represents 15 police departments, that the site is centrally located to serve the Lodge area, that the use is intended for Lodge use only and will not be utilized by others, that no adverse impact is anticipated on the neighborhood, property values, or the character of the area, that an unlighted sign, measuring 4' by 7' is proposed to be erected on the site, that no increase in traffic is anticipated, that on site private water and sewer will be provided, that adequate space is available for parking, and that the Lodge is a non profit organization with charitable activities.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan shall be subject to review and approval of the Planning and Zoning Commission.

3. RE: C/U 1142--Richard E. Tucker

Richard Tucker was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for a Commercial/Business Storage and Rental Warehouse lying on the south side of Route 54, 1,950 feet west of Route 389, on a parcel containing 36,030 square feet more or less.

Mr. Lank summarized comments received from DelDOT.

Mr. Tucker stated that he proposes to build a steel structure with concrete flooring for his use and some rental bays for the use of others, that DelDOT has been contacted and that he has been advised that the existing entrance to the driving range, a special use exception approved by the County Board of Adjustment, may be utilized for the first phase, that the building will be 14' high with private overhead door access to each unit, and the project may be developed in three phases.

Mr. Tucker submitted a revised site plan.

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 DelDot, that a traffic impact study was not recommended and that the level of service "C" of Route 54 will not change as a result of this application.

The Commission found that the applicant was present and stated that he proposes to build a steel structure with concrete flooring for his use and some rental bays for the use of others, that DelDOT has been contacted and that he has been advised that the existing entrance to the driving range, a special use exception approved by the County Board of Adjustment, may be utilized for the first phase, that the building will be 14' high with private overhead door access to each unit, and the project may be developed in three phases.

The Commission found that the applicant submitted a revised site plan to show future buildings.

The Commission found that no parties appeared in opposition.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan shall be subject to review and approval of the Planning and Zoning Commission.

4. RE: C/Z #1270--Luis F. & Lucille Tiro

Luis and Lucille Tiro, and James Griffin, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Indian River Hundred, located on the northwest side of Route 24, 433 feet north of Route 5, to be located on a parcel containing 1.17 acres more or less.

Mr. Lank summarized comments received from the Sussex County Engineering Department and DelDOT.

Mr. Griffin described cross easements that have been established between the applicants and the adjoining shopping center for access between the two parties and for utility construction, and stated that the applicants propose to convert the existing dwelling to an antique shop, that commercial and business uses exist immediately adjacent to the site and near the site, that the area is predominantly commercial, that the closest agricultural activity is several hundred yards northeast of the site along Route 24, and that since the use is the same type of use that exist on parcels adjacent, across from the site and in close proximity, the use is consistent with the development of the area.

Mr. Tiro added that he anticipates no adverse impact on property values or the character of the area.

No parties appeared in opposition.

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

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

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is an

extension of the Long Neck Sanitary Sewer District, that a connection is not immediately available to the site and that the Department will not object to the temporary use of a septic system for the site, that efforts are being made to provide service to the parcel, and that if a sewer connection becomes available the property will be required to connect.

The Commission found, based on comments received from DelDOT, that inadequacies of Route 24 in this vicinity and its intersection with Route 5 have been documented in previous reports and the traffic impact study performed for the adjoining shopping center, that a traffic impact study for this rezoning would be of little additional benefit and that the Department waives the requirement, that there are no improvements scheduled for this area in DelDOT's six year Capital Improvement Program, and that DelDOT reserves the right to request a traffic impact study should this rezoning be approved by Sussex County.

The Commission found that the applicants and their attorney were present and described cross easements that have been established between the applicants and the adjoining shopping center for access between the two parties and for utility construction, and stated that the applicants propose to convert the existing dwelling to an antique shop, that commercial and business uses exist immediately adjacent to the site and near the site, that the area is predominantly commercial, that the closest agricultural activity is several hundred yards northeast of the site along Route 24, that since the use is the same type of use that exist on parcels adjacent, across from the site and in close proximity, the use is consistent with the development of the area, and that no adverse impact is anticipated on property values or the character of the area.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since other commercial and business activities exist immediately adjacent to, across from, and in close proximity to the site.

5. RE: C/Z#1271--New Development Corp.

No parties appeared on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Northwest Fork Hundred, located on the west side of U.S. Route 13, across from Road 532, to be located on a parcel containing 4.50 acres more or less.

Mr. Lank summarized comments received from DelDOT.

It was noted that no parties were present on behalf of this application.

There were no parties present in opposition.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied due to the lack of a representative for the application, therefore there was no record of support for the application.

III. OTHER BUSINESS

1. RE: Joseph Crapper

Mr. Abbott advised the Commission that this item was removed from the agenda on January 5, 1996.

2. RE: Webster Furniture Warehouse

The Commission reviewed the final site plan for a commercial warehouse on Road 275A.

Mr. Abbott advised the Commission that all required agency approvals have been received, and that the final plan will have a property line relocated to meet the setback requirements for the site to the north of this site.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve as a final subject to the revised plan being received by the staff.

3. RE: Americinn Rehoboth

The Commission reviewed the final site plan for a motel on Road 275A.

Mr. Abbott advised the Commission that all required agency approvals have been received and that the plan will be revised so that the minimum five foot setback requirement for the rear property line will be met.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approval as a final subject to the revised plan being received by the staff.

Meeting adjourned at 9:45 PM.

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Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner II.

Motion made by Mr. Phillips, seconded by Mr. Ralph, and carried unanimously to approve the minutes of December 28, 1995, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1140--William R. & Lenore J. Hickman

William R. Hickman, and James Griffin, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for Expansion to Conditional Use No. 8 to Permit a Restaurant lying on the east side of Route 381, 2,400 feet north of Route 54, on a parcel containing 0.827 acres more or less.

Mr. Lank summarized comments received from the Sussex County Engineering Department and DelDOT.

Mr. Lank read a letter received from Jeff Mumford.

Mr. Griffin stated that the Hickman's applied for an on premise license for the sale of alcoholic beverages last fall and that at that time the neighbors began to voice objection to the restaurant, described the Delaware Alcoholic Beverage Commission requirements, made reference to letters from the Director of Planning and Zoning to Delaware Alcoholic Beverage Commission, stated that the Hickman's applied and received a building permit for a storage building and later converted the building to additional dining area by installing seven (7) booths for twenty-eight (28) seats, and added that the restaurant has been in use in excess of ten (10) years.

Mr. Hickman, in response to questions raised by Mr. Griffin and Commission members, stated that he obtained a Conditional Use for a general store in 1971, that he operated the general store for approximately one year, that he then converted the store to primarily seafood sales and carry-out, that he leased the building to others as a seafood sales and carry-out restaurant for two or three years, that he started the restaurant activity around 1985, that the business is open seasonally from May to September, that the original intent of the storage building was for freezer storage for the restaurant, that a friend offered

them some restaurant booths and the booths were installed in the storage building for expansion to the restaurant, that the existing restaurant serves approximately 40 patrons, that the expansion provides an additional 28 patron seats, that he and his wife, and grand-daughters operate the family business, that the new dining room was utilized twice this summer, that the original building was built in the late 1960s, that the original general store included sandwich sales, that the business typically closes at 11:00 P.M. and 12:00 A.M. at the latest, that security lighting exist on the site, that the lot is cleared, that the septic system is not within the proposed parking area, and that the business is in compliance with all state regulations and has never received any violations.

Jeff Mumford, James Swann, Nancy Swann, George Rice, and June Williams spoke with concerns toward the application and expressed concerns by questioning if the septic has been upgraded, questioning if the building is handicap accessible, questioning if the entrance has been upgraded, hoping that the applicants are required to comply with all regulations - State and County, expressing concerns about future use and operators of the business if the applicants retire, stating that the building was utilized for ceramic classes in 1984, stating that the building as continually increased in size, expressing concerns about odors from dumpsters and trash on roadways, expressing concerns with future uses along Road 381, and expressing concerns about this expansion and future expansion of the site causing impacts on the neighborhood.

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 Sussex County Engineering Department, that the site is located in the proposed West Fenwick Sanitary Sewer District, that the area is identified as a Priority 2 Planning Area and is not anticipated to receive sanitary sewer service within the next five years.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of Road 381 will not change as a result of this application.

The Commission found that the attorney representing the applicants stated that the applicants applied for an on premise license for the sale of alcoholic beverages last fall and that at that time the neighbors began to voice objection to the restaurant, described the Delaware Alcoholic Beverage Commission requirements, made reference to letters from the Director of Planning and Zoning to Delaware Alcoholic Beverage Commission, stated that the Hickman's applied and received a building permit for a storage building and later converted the building to additional dining area by installing seven (7) booths for twenty-eight (28) seats, and added that the restaurant has been in use in excess of ten (10) years.

The Commission found that the applicant, in response to questions raised by his attorney and Commission members, stated that he obtained a Conditional Use for a general store in 1971, that he operated the general store for approximately one year, that he then converted the store to primarily seafood sales and carry-out, that he leased the building to others as a seafood sales and carry-out restaurant for two or three years, that he started the restaurant activity around 1985, that the business is open seasonally from May to September, that the original intent of the storage building was for freezer storage for the restaurant, that a friend offered them some restaurant booths and the booths were installed in the storage building for expansion to the restaurant, that the existing restaurant serves approximately 40 patrons, that the expansion provides an additional 28 patron seats, that he and his wife, and grand-daughters operate the family business, that the new dining room was utilized twice this summer, that the original building was built in the late 1960s, that the original general store included sandwich sales, that the business typically closes at 11:00 P.M. and 12:00 A.M. at the latest, that security lighting exist on the site, that the lot is cleared, that the septic system is not within the proposed parking area, and that the business is in compliance with all state regulations and has never received any violations.

The Commission found, based on a letter from an area resident and statements made by four (4) area residents with concerns toward the application, that they were questioning if the septic has been upgraded, questioning if the building is handicap accessible, questioning if the entrance has been upgraded, hoping that the applicants are required to comply with all regulations - State and County, expressing concerns about future use and operators of the business if the applicants retire, stating that the building was utilized for ceramic classes in 1984, stating that the building as continually increased in size, expressing concerns about odors from dumpsters and trash on roadways, expressing concerns with future uses along

Road 381, and expressing concerns about this expansion and future expansion of the site causing impacts on the neighborhood.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the Conditional Use shall be subject to all applicable State, County, or other regulations relating to restaurants.

2. RE: C/U #1141--The Fraternal Order of Police
Sussex County Lodge No. 2, Inc.

Mike Walls, President of the Lodge, and David Rutt, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for a Meeting Place for the Fraternal Order of Police lying on the south side of Route 9, 0.8 mile east of Route 5, on a parcel containing 40,500 square feet more or less.

Mr. Lank summarized comments received from the Sussex County Engineering Department and DelDOT.

Mr. Rutt stated that the property is owned by Celia Green and is leased to the Lodge, that the purpose of the application is to establish a meeting place and small office for the Lodge, that the Board of Adjustment has approved the manufactured unit , and that the unit has been parked on the site for some time.

Mr. Walls stated that the Lodge meets once a month from 7:00 P.M. to 10:00 P.M. with typically 10 or 12 members in attendance, that the manufactured unit has been parked on the site for approximately one year, that a block foundation is proposed, that the office will provide space for the officers of the Lodge to perform their duties, that the Lodge membership is 140 members strong, that the Lodge serves the area east of U.S. Route 113 from Milford south to the Maryland line and represents 15 police departments, that the site is centrally located to serve the Lodge area, that the use is intended for Lodge use only and will not be utilized by others, that no adverse impact is anticipated on the neighborhood, property values, or the character of the area, that an unlighted sign, measuring 4' by 7' is proposed to be erected on the site, that no increase in traffic is anticipated, that on site private water and sewer will be provided, that adequate space is available for parking, and that the Lodge is a non profit organization with charitable activities.

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 Sussex County Engineering Department, that the site is located in the area west of the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District where the County Council agreed to restrict zoning changes and conditional uses as outlined in a Memorandum of Understanding between the Council and the State DNREC.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found that the attorney present on behalf of the applicant stated that the property is owned by Celia Green and is leased to the Lodge, that the purpose of the application is to establish a meeting place and small office for the Lodge, that the Board of Adjustment has approved the manufactured unit, and that the unit has been parked on the site for some time.

The Commission found that the President of the Lodge was present and stated that the Lodge meets once a month from 7:00 P.M. to 10:00 P.M. with typically 10 or 12 members in attendance, that the manufactured unit has been parked on the site for approximately one year, that a block foundation is proposed, that the office will provide space for the officers of the Lodge to perform their duties, that the Lodge membership is 140 members strong, that the Lodge serves the area east of U.S. Route 113 from Milford south to the Maryland line and represents 15 police departments, that the site is centrally located to serve the Lodge area, that the use is intended for Lodge use only and will not be utilized by others, that no adverse impact is anticipated on the neighborhood, property values, or the character of the area, that an unlighted sign, measuring 4' by 7' is proposed to be erected on the site, that no increase in traffic is anticipated, that on site private water and sewer will be provided, that adequate space is available for parking, and that the Lodge is a non profit organization with charitable activities.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan shall be subject to review and approval of the Planning and Zoning Commission.

3. RE: C/U 1142--Richard E. Tucker

Richard Tucker was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for a Commercial/Business Storage and Rental Warehouse lying on the south side of Route 54, 1,950 feet west of Route 389, on a parcel containing 36,030 square feet more or less.

Mr. Lank summarized comments received from DelDOT.

Mr. Tucker stated that he proposes to build a steel structure with concrete flooring for his use and some rental bays for the use of others, that DelDOT has been contacted and that he has been advised that the existing entrance to the driving range, a special use exception approved by the County Board of Adjustment, may be utilized for the first phase, that the building will be 14' high with private overhead door access to each unit, and the project may be developed in three phases.

Mr. Tucker submitted a revised site plan.

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 DelDot, that a traffic impact study was not recommended and that the level of service "C" of Route 54 will not change as a result of this application.

The Commission found that the applicant was present and stated that he proposes to build a steel structure with concrete flooring for his use and some rental bays for the use of others, that DelDOT has been contacted and that he has been advised that the existing entrance to the driving range, a special use exception approved by the County Board of Adjustment, may be utilized for the first phase, that the building will be 14' high with private overhead door access to each unit, and the project may be developed in three phases.

The Commission found that the applicant submitted a revised site plan to show future buildings.

The Commission found that no parties appeared in opposition.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan shall be subject to review and approval of the Planning and Zoning Commission.

4. RE: C/Z #1270--Luis F. & Lucille Tiro

Luis and Lucille Tiro, and James Griffin, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 Neighborhood Business in Indian River Hundred, located on the northwest side of Route 24, 433 feet north of Route 5, to be located on a parcel containing 1.17 acres more or less.

Mr. Lank summarized comments received from the Sussex County Engineering Department and DelDOT.

Mr. Griffin described cross easements that have been established between the applicants and the adjoining shopping center for access between the two parties and for utility construction, and stated that the applicants propose to convert the existing dwelling to an antique shop, that commercial and business uses exist immediately adjacent to the site and near the site, that the area is predominantly commercial, that the closest agricultural activity is several hundred yards northeast of the site along Route 24, and that since the use is the same type of use that exist on parcels adjacent, across from the site and in close proximity, the use is consistent with the development of the area.

Mr. Tiro added that he anticipates no adverse impact on property values or the character of the area.

No parties appeared in opposition.

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

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

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is an

extension of the Long Neck Sanitary Sewer District, that a connection is not immediately available to the site and that the Department will not object to the temporary use of a septic system for the site, that efforts are being made to provide service to the parcel, and that if a sewer connection becomes available the property will be required to connect.

The Commission found, based on comments received from DelDOT, that inadequacies of Route 24 in this vicinity and its intersection with Route 5 have been documented in previous reports and the traffic impact study performed for the adjoining shopping center, that a traffic impact study for this rezoning would be of little additional benefit and that the Department waives the requirement, that there are no improvements scheduled for this area in DelDOT's six year Capital Improvement Program, and that DelDOT reserves the right to request a traffic impact study should this rezoning be approved by Sussex County.

The Commission found that the applicants and their attorney were present and described cross easements that have been established between the applicants and the adjoining shopping center for access between the two parties and for utility construction, and stated that the applicants propose to convert the existing dwelling to an antique shop, that commercial and business uses exist immediately adjacent to the site and near the site, that the area is predominantly commercial, that the closest agricultural activity is several hundred yards northeast of the site along Route 24, that since the use is the same type of use that exist on parcels adjacent, across from the site and in close proximity, the use is consistent with the development of the area, and that no adverse impact is anticipated on property values or the character of the area.

The Commission found that no parties appeared in opposition.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since other commercial and business activities exist immediately adjacent to, across from, and in close proximity to the site.

5. RE: C/Z#1271--New Development Corp.

No parties appeared on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Northwest Fork Hundred, located on the west side of U.S. Route 13, across from Road 532, to be located on a parcel containing 4.50 acres more or less.

Mr. Lank summarized comments received from DelDOT.

It was noted that no parties were present on behalf of this application.

There were no parties present in opposition.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied due to the lack of a representative for the application, therefore there was no record of support for the application.

III. OTHER BUSINESS

1. RE: Joseph Crapper

Mr. Abbott advised the Commission that this item was removed from the agenda on January 5, 1996.

2. RE: Webster Furniture Warehouse

The Commission reviewed the final site plan for a commercial warehouse on Road 275A.

Mr. Abbott advised the Commission that all required agency approvals have been received, and that the final plan will have a property line relocated to meet the setback requirements for the site to the north of this site.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve as a final subject to the revised plan being received by the staff.

3. RE: Americinn Rehoboth

The Commission reviewed the final site plan for a motel on Road 275A.

Mr. Abbott advised the Commission that all required agency approvals have been received and that the plan will be revised so that the minimum five foot setback requirement for the rear property line will be met.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approval as a final subject to the revised plan being received by the staff.

Meeting adjourned at 9:45 PM.