

MINUTES OF THE REGULAR MEETING OF JANUARY 11, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 11, 2001 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, Mr. Lynch, Mr. Wheatley, with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as amended with the withdrawal of Old Business - Subdivision #2000-32 - Seashore Enterprise, the withdrawal of Other Business - Capano Shopping Center, and by adding Additional Business to discuss an additional meeting in March.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of December 14, 2000 as amended.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of December 28, 2000 as amended.

Mr. Schrader described how the agenda and hearings would be conducted.

IV. PUBLIC HEARINGS

C/U #1379 - application of **ROBINO SEACHASE, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for multi-family dwelling structures (76 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 10.9 acres, more or less, lying at the northwest corner of the intersection of Road 275 and Road 274.

The Commission found that the applicants had supplied a booklet of exhibits, which included a copy of the Ordinance approving Sea Chase (C/Z #1276) on the adjoining parcel; a copy of a letter of withdrawal for C/U #1340; letters dated October 26, 2000 and January 5, 2001 to Sea Chase owners; a copy of a letter from Tidewater Utilities dated March 3, 2000; sections of the 1997 Sussex County Comprehensive Plan Map and text; sections of the 1999 State Strategies Map and text; a copy of 9 Delaware Code Section 6959 referencing Comprehensive Plans; a copy of an agreement between Leroy Mears and DelDOT, dated December 19, 1995, providing for mitigation of traffic impacts by the Sea Chase project; DelDOT letters dated April 20, 2000 and July 24, 2000 referencing Sea Chase II and a traffic impact study; a letter from the Office of State Planning Coordination, dated July 10, 2000; pictures of the proposed duplexes; a sketch of the two parcels; and proposed conditions of approval if the use is approved.

The Commission found, based on comments received from DelDOT, that on January 8, 2001 the Department advised the staff that the Department has no objection to the entrance location only; that the letter does not constitute an endorsement of the project; and that the Department's position regarding the Conditional Use proposal remains as stated in the Department's letter of April 20, 2000.

The Commission found, based on DelDOT's letter of April 20, 2000, that the Department has completed its review of a traffic impact study prepared by Tetra Tech, Inc.; that this project would be in a Multimodal Investment Area with respect to the Department's Statewide Long Range Transportation Plan; that the Department would normally not be opposed to development in these areas; that balancing its location in a Multimodal Investment Area, to a significant extent, is the fact that the traffic impact study indicates high volumes of traffic and poor levels of service for certain turning movements at several of the study intersections during the summer Saturday mid-day peak hours; that proposed traffic from this development would be minimal compared to that of other projects analyzed in this area; that the development of this site would still add more traffic to those already high volumes, and that the Department would prefer that that did not happen; that it is the conclusion of the study that the effect of the proposed site would be minimal on the surrounding traffic situation and that no system alterations are required at this time; that the Department's review of the study indicates poor levels of service at the intersections of Delaware Route 24 and Warrington Road (Road 275), Old Landing Road (Road 274) and Warrington Road, and Delaware Route One and Old Landing Road; that the Department's review also found poor levels of service for turning movements at the intersections of Delaware Route One and Martins Road (Road 275-A), and Old Landing Road and Martins Road; that the Department recommends that the County deny this application; that the Department's review of the traffic impact study referenced: the project description and background; comprehensive planning documents; trip generation; an overview of the traffic impact study; changes in highway capacity manuals and software; intersections analyzed in the traffic impact study; transit, bicycle, and pedestrian facilities; the SR 1 Grid Concept Study; and conclusions and recommendations. In conclusion, the Department stated that should the County choose to approve this project, the following items should be incorporated into the site design, reflected on the Record Plan, and completed prior to the issuance of certificates of occupancy: 1) The developer should be required to design and build a southbound left-turn lane on Warrington Road at Old Landing Road; 2) The developer should be required to provide sidewalks along the Old Landing Road and Warrington Road frontages. That these sidewalks should extend into the development and provide direct connection to the existing condominium complex; and 3) the developer should be required to execute signal agreements for the intersections of Old Landing Road with Warrington Road and Martins Road. DelDOT will install the traffic signals only after finding them to be warranted.

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

The Commission found, based on comments received from the County Engineering Department's Public Works Division, that the project should be reviewed by the Technical Advisory Committee; that the roads should be designed and constructed in accordance with the street design requirements of Chapter 99; that the street construction should include sidewalks, concrete curbing and should use a curb and gutter drainage system; and that sidewalks would provide additional safety for pedestrians and would not require pedestrians to walk within the streets to access the pool.

The Commission found, based on comments received from the County Engineering Department's Planning and Permits Division, that the project is not within a County operated and maintained sanitary sewer or water district; that wastewater capacity is available for the project if the developer installs a subregional pump station and force main or proposes a suitable alternative; that the project will be required to be built to Ordinance No. 38 standards; that there are no system connection credits for this project; that system connection charges will be required; that the current system connection charge rate is \$2,954.00 per EDU; that the force main will connect to a 27 inch pipeline at manhole #22; that the project is within the West Rehoboth Moratorium Area; that the project is adjacent to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; and that conformity to the West Rehoboth Expansion Area Planning Study or undertaking an amendment will be required.

The Commission found that a letter in support was received from Marie H. Leister referencing the need for more townhomes of this caliber.

The Commission found that letters in opposition were received from Carmen and Rochelle DiLauro, Leo Zwolski, Alfred and Kathleen Boyle, and William Winters referencing the additional burdens that this application will place on air, water, roads, wildlife, and daily living; that the welfare of the residents and tourists should be considered; that the cost and problems involved in further expansions should be considered; that further development should be denied in lieu of protecting and patching what remains, alleviating much of the burdensome taxes and expenses levied on residents who do not benefit in any way; that as daily traffic continues to worsen, emergency vehicles are impacted; that traffic congestion is a problem; and that there is a strain on the ecological resources and a deterioration in the quality of life.

The Commission found that Jim Yori, Attorney, Paul Robino, Developer, and Ross Harris of ECI, Environmental Consultants International Corporation, were present and stated in their presentations and in response to questions raised by the Commission that they are applying for 76 residential units within 38 duplex buildings with a swimming pool and clubhouse; that the project adjoins Sea Chase, a 69 unit multi-family project being developed by the applicants; that the area is developing residentially; that several subdivisions and residential planned communities exists or are being developed in the area; that Sea Chase was approved for rezoning in July 1996 to a HR-2 High Density Residential District; that they are not asking for a change of zone, but a Conditional Use, to allow the County to control how the site is developed; that the findings of Ordinance No. 1097, the ordinance for the change of zone for Sea Chase, are appropriate for this application; that the findings include, but are not limited to: 1) HR-2 zoning is appropriate for this parcel of land. The purpose of a HR-2 zoning district is to permit a variety of housing types and provide for residential densities appropriate for areas which are or will be served by public sanitary sewer and central water systems and which are well-located with respect to major roads, shopping facilities and centers of employment. 2) The proposed change of zone and proposed development are in accordance with the Coastal Sussex Land Use Plan in that: a. they are located in the designated development district and central water and sewer are available. b. There are no negative environmental effects and the change of zone and development will provide housing, economic benefits and employment. c. They are located near commercial development and will serve as a buffer between that commercial development and the nearby lower-density residential developments. d. They are not in the Agricultural Zone or the Coastal Conservation Zone. e. The density and type of development proposed are in accordance with the development anticipated by the Plan, which recognizes that development should be concentrated in those areas where central water and sewer are available. f. The applicant has shown that the proposed use is appropriate and in conformity with the Plan and the intent of the Land Use Map. 3) The request promotes the health, safety, morals, convenience, order, prosperity and general welfare based on the evidence and testimony presented by the applicant including the following: a. The applicant has entered into an agreement with the State of Delaware, Department of Transportation, requiring the applicant to make certain improvements to County Road 274, which improvements will fully mitigate the impact of the development on County Road 274 and will not adversely impact traffic or the level of service on County Road 274 and nearby intersections; that Sea Chase II is an extension of Sea Chase; that Sea Chase was originally started by Leroy Mears; that the project was purchased by the Robino company in 1999 to complete the remainder of the project; that they are now in completion of the approved 69 units; that Sea Chase II proposes similar type and style of units in a duplex design; that Mr. Mears, the original developer, agreed with DelDOT to provide interconnection to adjoining properties; that on July 13, 2000 the Commission held a public hearing for this site; that on July 27, 2000 the Commission recommended that the application be denied; that on July 31, 2000 the applicants withdrew their application so that they could respond to the

concerns of the Commission and the concerns of the citizens; that the applicants have met with DelDOT and some of the residents of Sea Chase; that sewer service will be available through the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that central water service is available from Tidewater Utilities, Inc; that they anticipate no adverse environmental impacts; that there are no State or Federal Wetlands on the site; that State Police are trooped on Route One; that the site is within the Rehoboth Beach Volunteer Fire Department's service area; that shopping and medical facilities are in close proximity; that they anticipate no adverse impact on schools; that the project will have a positive economic impact on the County with transfer taxes, sewer impact fees, and increases in property taxes; that the site is in a Development District according to the 1997 Comprehensive Plan, which states that the purpose of the district is to concentrate development in areas where public water and wastewater systems are available or planned and where past trends indicate that growth will occur, and that housing types appropriate in the Development District include single-family detached homes, townhouses, apartments, condominiums, and manufactured housing, where permitted by ordinance; that the site is in a community area approved for development according to the State Strategies Map where population is concentrated, commerce is bustling and a wide range of housing types already exists and where state policies will encourage redevelopment and reinvestment; that in reference to the legal status of the Comprehensive Plan, 9 Delaware Code - Section 6959 references that nothing in this subchapter shall serve to invalidate any comprehensive plan, land development regulation, land use, development, development order or development permit which presently exists or which hereafter validly comes into existence prior to the date when full compliance with this subchapter is required, and that any application for a development permit filed or submitted prior to adoption or amendment, under this subchapter, of a comprehensive plan or element thereof shall be processed under the comprehensive plan, ordinances, standards or procedures existing at the time of such application; that according to a letter from John L. Connor of Mann Associates, dated October 10, 2000, the intent of the plans for Sea Chase were to have a through-way to the adjacent Lowe property, the site of Sea Chase II, between units 6, 7, and 8, and 9, 10, and 11; that there is a clear intent of the original developer that connection be made with adjacent parcels; that they intend to close the existing Sea Chase entrance and to create a new entrance into Sea Chase II with cross access connection to Sea Chase; that the proposed density equals 6.7 units per acre, the same as Sea Chase; that they propose 43% of open space and 8% of open space for stormwater management; that 49% of the site will be for buildings, streets, and parking; that the existing entrance will be closed except to emergency vehicles; that the burden of maintenance of all traffic will be on Sea Chase II; that stormwater problems will be corrected with the new entrance; that Sea Chase was not required to do a traffic impact study; that the applicant is willing to comply with all of DelDOT requirements as referenced in the DelDOT comments; that the applicants are contract purchasers; that approximately 22 units could be developed on this parcel as an

AR-1 Subdivision in a sewer district; that DelDOT has advised them that an ingress/egress onto Road 275 will not be considered; that the relocation of the entrance drive through Sea Chase II reduces the number of vehicle trips through the cross access easement between Sea Chase and Sea Chase II; that the company has built approximately 16,000 homes on the east coast; and that the applicants have provided proposed conditions that include: 1) The maximum number of residential units shall not exceed 76 units comprised of 38 duplex buildings; 2) The development shall be served as part of the Sussex County Sewer System; 3) The development shall be served by Tidewater Utilities, Inc. providing central water for consumption and fire protection per applicable regulations and approvals of DNREC, the State Fire Marshal, and the Public Service Commission; 4) All entrance, intersection and roadway improvements required by DelDOT, as set forth in DelDOT's letter dated April 20, 2000 shall be completed by the applicant; 5) Site Plan of the development, including landscaping plans, shall be reviewed and approved by the Sussex County Planning and Zoning Commission; 6) Applicant will construct the clubhouse and swimming pool by completion of the 38th residential unit; 7) The development will utilize a combined entrance to Sea Chase I and Sea Chase II for ingress and egress to County Road 274.

The Commission found that Mary Jo Zenser was present on behalf of Colleen Lowe, the present landowner, and submitted and read a letter in support of the application.

The Commission found that Sondra Ware, a resident of Sea Chase, was present on behalf of her parents and stated that they are in support of the same type of housing as in Sea Chase, and that this type of housing is suitable for the area.

The Commission found that Fern Bennett, a resident of the Plantations, was present in opposition and expressed traffic concerns; that too many homes are proposed on such a small parcel; that developers should be required to show accountability; that more roads are needed in the area; that continued development puts a burden on the infrastructure; and that it is time to slow down development.

The Commission found that Rich Anthony, was present on behalf of the Southern Delaware Group of the Sierra Club, was present in opposition, submitted written comments in reference to DelDOT comments, and expressed concerns relating to the existing permitted density versus the proposed density; that the site is at the outmost extreme of the 1997 Comprehensive Plan Development District; that the growth rate should be a concern; that the State Strategies Map is not a part of the 1997 Comprehensive Plan; that the applicant has failed to establish justifiable reasons to rezone the parcel; that the proposal is not of a public or semi-public character; and that the application should be denied.

The Commission found that Lynn Lashe, Karen Smalley, Mike Tyler, and Joan Deaver were present in opposition and expressed concerns that the cross access easements were not reported to buyers of Sea Chase; that the access way should have been wider to allow for expansion of additional lands; that an entrance exists to the site at the Lowe residence on Road 275; that driveway widths are not adequate; that the density is higher than Sea Chase; that the project will negatively impact the neighborhood; that the project will place pressures on all infrastructure, i.e. roads, sewer, electric, etc... that the units are proposed to be too close together; that Road 274 was not widened, only a bike path was provided; and that the traffic generated will add additional burdens on Road 274, Road 275, Road 275-A, and all other roads in the area.

The Commission found that Betty Mann Beebe asked to provide some information on incorrect statements made by some of the opposition, and advised the Commission that Mr. Mears, the original developer, did not purchase the land from the Lowe family and that he purchased the land from Herbert Shutt, Jr., and that Mr. Shutt had stated that he could not get his farming equipment to the site due to traffic; and that she was one of the realtors involved with sales of the units within Sea Chase and that to the best of her knowledge the majority of the purchasers were informed of the cross access easements to the Lowe property and the Hood property.

The Commission found that Ms. Deaver submitted photographs of units within Seabright, a multi-family project off of Road 270-A, showing buildings that she considers too close together.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to **defer action** so that the Commission can review the documentation submitted.

Motion carried 5 - 0.

C/U #1380 - application of **MICHAEL G. REYNOLDS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a used car sales facility to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 6.38 acres, more or less, lying north of Route 16, 640 feet west of U.S. Route 113.

The Commission found that the application included a site plan showing the entire parcel with an area set aside for the uses car sales facility and other existing improvements on the site.

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 16 will not change as a result of this application.

The Commission found, based on comments received from the Office of State Planning Coordination, that the site is located in the Secondary Developing Area of the Strategies for State Policies and Spending Map approved by the Cabinet Committee on State Planning Issues in December 1999; that these areas were included in the Strategies because they were designated by the County Comprehensive Plan, but not included in the State's developing areas; that in these areas, State policy will be to promote efficient, orderly development and the coordinated phasing of infrastructure investment; that the State does not object to this proposal, but is concerned that the site is located on the same parcel as the Coleman Farmstead/A. Dickinson Estate House as shown on the Beers Atlas of 1868; that across the road from the site is the Robert Short House; that there is a low potential for historic archaeological sites and there is almost certainly a historic archaeological site associated with the Coleman Farmstead; that the addition of a used car facility will have an adverse visual effect on the Coleman Farmstead; that if construction of a parking lot or sales building is part of the planned project, there would be adverse effects to the historic archaeological site; and that the State asks that the County require the developer to work with the State Historic Preservation Office on this issue.

The Commission found, based on comments received from the Sussex Conservation District, that there are no storm flood hazard areas or tax ditches affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Fallsington sandy loam and Kenansville loamy sand; that the Fallsington soils have severe limitations; that the Kenansville soils have slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the Fallsington soils are considered Prime Farmland and of Statewide Importance; and that the Kenansville soils are considered Prime Farmland.

The Commission found that Michael Reynolds was present and stated in his presentation and in response to questions raised by the Commission that he proposes to sell a few cars; that he proposes to use the existing driveways to get to the site; that he proposes to use an existing shed for an office and that the shed will be improved with new siding; that he plans to display from 20 to 30 vehicles for sale; that detailing of the cars will be performed on the site; that repair work will be done off the site; that he has always tinkered with cars, but has no experience in car sales; that the nearest car sales facility is near Redden; that security lighting will be provided; that he works full-time elsewhere and will be open for business during evening hours and Saturdays; that he will not be open on Sundays; that the driveway will be stoned and hopefully in the near future surfaced with tar/chip; and that the barn to the rear of the site is used for storage of farm equipment in relationship to the poultry house on the site.

The Commission found that no parties appeared in support of the application.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

There was a consensus of the Commission that 20 to 30 cars for sale on one site is more than a sideline job, and that the site could cause an impact on traffic during summer months.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be **denied**.

Vote carried 5 - 0.

C/U #1381 - application of **DELMARVA CONSIGNMENT SALES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District to amend Conditional Use No. 783 (used car sales) by adding camper and mobile home sales, and dismantling of mobile homes and campers to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 5.28 acres, more or less, lying west of Route 16, 1,165.22 feet northwest of Route 587.

The Commission found that the application included a sketch showing some of the existing improvements on the site.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in the Bridgeville Service Area according to the Western Sussex Water and Sewer Study, and that the applicant should contact the Town of Greenwood concerning the availability of water and sewer service.

The Commission found, based on comments received from the Sussex Conservation District, that there are no storm flood hazard areas or tax ditches affected; that it may be necessary for some on-site and off-site drainage improvements because of the presence of moderately well drained and poorly drained soils; that jurisdictional wetlands regulated by the Army Corp. of Engineers may be present; that the soils are mapped as Fallsington sandy loam, Sassafras sandy loam, and Woodstown sandy loam; that the Fallsington soils have severe limitations; that the Sassafras soils have slight limitations; that the Woodstown soils have slight to moderate limitations; that the applicant will have to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the Fallsington soils are considered Prime Farmland and of Statewide Importance; that the Sassafras soils are considered Prime Farmland; and that the Woodstown soils are considered Prime Farmland.

The Commission found that Leonard Murphy was present and stated in his presentation and in response to questions raised by the Commission that he came to the public hearing last year and received approval; that he forgot to go to the County Council public hearing and was denied for lack of support; that there is a need to get rid of some travel trailers and mobile homes in the County; that he has nothing to do with the Warren Conditional Use on the parcel to the north; that he proposes the sale of travel trailers; that the dismantling will be performed on site; that all aluminum and steel will be removed from the mobile homes and travel trailers and sold for recycling; that the insulation can be reused or sold; that some appliances will be sold; that approximately 80% of the appliances are usable; that the 200-foot by 50-foot shed will be utilized for storage; that all dismantling will be performed to the rear of the shed; that the original recommendation of the Commission was that no more than eight mobile homes may be on the site for dismantling at any one time; that he has some travel trailers for sale on the premises; and that dismantling of mobile homes has stopped until a decision is rendered on this application.

Mr. Johnson stated that fencing should be provided to screen the site.

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 the points and issues raised during the public hearing.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to **defer action** until the next regular meeting to allow the Commission time to review the stipulations recommended during last year's public hearing.

Vote carried 5 - 0.

C/Z #1419 - application of **ELMER FANNIN** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-1 High Density Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying east of Road 275, 2,700 feet south of Road 283, to be located on 30.63 acres, more or less.

The Commission found, based on comments received from the Sussex County Engineering Department's Public Works Division, that the proposed project should be reviewed by the Technical Advisory Committee; the roads should be designed and constructed in accordance with the street design requirements of Chapter 99; and that the street construction should include concrete curbing and should use a curb and gutter drainage system.

The Commission found, based on comments received from the Office of State Planning Coordination, that the site is located in a Developing Area of the Strategies for State Policies and Spending map approved by the Cabinet Committee in 1999 where State investments and policies will be targeted to accommodate existing development and orderly growth; that the State agrees that the Developing Area is the appropriate place for condominiums, however, the amount of development occurring in this area bring about some concerns; that the State agrees with the recommendations of the State DelDOT; that the State Historic Preservation Office has noted that across from the site is the W. D. Paynter House and what may be the John Marsh House; that this project would have adverse visual effects on these parcels; that if the project is approved, the State urges the County to require the developer to work with the State Historic Preservation Office on ways to mitigate this visual effect; that the State asks that the County deny this rezoning request due to the fact that the area in which this development is proposed is already under considerable development and that the level of service will be "D" by 2002, even if no additional development is approved; that in accordance with an agreement between the State and the County, the lowest level of service would be "D"; and that if the County does approve this application, the State asks that the County require the developer to follow the requests of DelDOT.

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

The Commission found, based on comments received from the Sussex County Engineering Department's Planning and Permits Division, that the site is not within a County operated and maintained sanitary sewer and/or water district; that wastewater capacity is available for up to 234 units; that if the project exceeds 234 units the developer must take steps to comply with the approved regional plan or undertake to develop an approved amendment to the regional plan; that the developer will be responsible for all cost to prepare the amendment as well as any improvements; that the current System Connection Charge Rate is \$2,954.00 per EDU; that the project is adjacent in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that conformity to the West Rehoboth Expansion Area Planning Study will be required; and that it is recommended that the project be presented to the Technical Advisory Committee as part of the site plan approval process.

The Commission found, based on a letter received from DelDOT, that the Department has reviewed a preliminary site plan, last revised January 10, 2001, and has no objection to the entrance location only; that this letter does not constitute an endorsement of the

project; that the Department's position regarding this proposal remains as stated in the Department's November 20, 2000 letter; and that if the County approves the rezoning, entrance plans will have to be developed in accordance with DelDOT specifications.

The Commission found, based on a letter received from DelDOT, dated November 20, 2000, that on October 16, 2000 the Department recommended that a traffic impact study be done; that the Department offered this recommendation because they are concerned about encouraging more traffic in an area that has been identified as operating at unacceptable levels of service during the summer peak hours; that they have enough information from a traffic impact study from another project to offer recommendations; that the Department recommends that the County deny this application; that it is incumbent on the Department, since their role is advisory, to seek certain items even though they are opposed to the application; that these items, while not providing the level of service standard required by the agreement with the County, will help mitigate the impact on the roadway system if the County approves the application; that the letter included references to a Background and Description, Comprehensive Planning Documents, an Explanation of Change in Position, references to the SR 1 Grid Concept Study, Site Access, Bicycle, Pedestrian, and Transit Considerations, and recommending that certain conditions, while not providing the level of service standard required, will help to mitigate the impact on the roadway system and referenced the following: 1) The dedication of a 50-foot right-of-way through the property for the future construction of a north-south local road. The location should be subject to DelDOT review and approval in the site plan review process; 2) The dedication of either rights-of-way or easements at and around the site entrance such that if the site entrance is built onto Road 275 others can subsequently connect it to a future street to the north without obtaining further easements or rights-of-way from the subject property; 3) The design and construction of the site entrance in a manner that will accommodate bicycle traffic on Road 275; and 4) The design and construction of sidewalks along the project's internal streets; and that the Department may have additional comments on the site plan if the County approves the rezoning.

The Commission found that a letter has been received from the Maplewood Property Owners Association Board of Directors supporting the application as long as a 50-foot wide buffer of existing trees is retained along Maplewood Subdivision.

The Commission found that a copy of a letter has been received from 1600 Limited Partnership, the developers of The Plantations, addressed to Ms. Ann Canby, Secretary of the DelDOT, expressing concerns that since the shoulders have been paved along Road 275 vehicle speeds have increased, especially during the Summer and Fall when the areas population increases and Road 275 is used as a Route 1 by-pass; that vehicles are also using the paved shoulder to pass other vehicles on the right; and that the citizens of The

Plantations are becoming increasingly concerned about their own safety, as well as that of their family, friends, and neighbors.

The Commission found that additional letters have been received in opposition to the application from Fern Bennett, Carmen and Rochelle DiLauro, Bill and Joan Deaver, Shirley E. Dalrymple, Robert and Barbara McGowan, Alfred and Kathleen Boyle, and Lee Zwolski expressing concerns about the existing heavy traffic; the additional burden it may place on air, water, roads, wildlife, and daily living; that the plan is overcrowded and out of character with surrounding communities of detached single-family dwellings; that additional parking is needed; that DelDOT recommends denial; that DelDOT has warned that the roads cannot properly handle planned growth; that it is in the interest of public safety that we slow down development; that the proposed Grid Study roads attract density that will dump more traffic onto Route 24 and Postal Lane; questioning how the law assures the people of Maplewood that the buffer will remain intact; questioning the impact on drinkable water supplies; and expressing concerns about the amount of time it takes to get out of driveways because of traffic.

The Commission found that Jim Griffin, Attorney, Elmer Fannin, with Ken Christenbury of Design Consultants Group were present and stated in their presentations and in response to questions raised by the Commission that the site is located in a Development District within the 1997 Comprehensive Plan; that the purpose of the Development District is to concentrate development in areas where public water and wastewater systems are available or planned and where past trends indicate that growth will occur; that by encouraging higher residential densities, the pressure for development in the natural areas and agricultural areas will be reduced; that townhouses, condominiums, and apartments are appropriate housing types in Development Districts; that the Comprehensive Plan suggest that where public wastewater systems exists the density for townhouses may be up to ten units per acre; that according to the State Strategies for Policies and Spending Map the type of housing is permitted; that the type of housing is appropriate within HR-1 High Density Residential districts; that the project will be connected to a County operated sanitary sewer system; that central water is available; that pedestrian and bike paths will be provided; that shopping areas are in close proximity; that housing will be clustered; that the developers will provide berms with landscaping along Road 275, and landscaping throughout the project; that no commercial uses are proposed with this application; that the entrance will become a joint entrance with the adjoining property to the north when that parcel is developed; that the developer will comply with the requested DelDOT improvements in the November 20, 2000 letter; that the applicant will provide the SR 1 Grid Study road as requested; that the Grid Study road will allow for vehicular traffic and bicycle access to Route 24 and shopping areas off of Postal Lane; that sewer connection will tie into the sewer district at Radcliffe Drive of Maplewood Subdivision; that the project will be served by a gravity sewer system and will not require a pump station; that capacity is available for the project within the sewer

district; that central water will be provided by Tidewater Utilities, Inc.; that all runoff will be captured on site for infiltration through swales, small storage areas, and landscaping areas; that the Sassafras soils are suitable for development; that the plan is consistent with DelDOT's Grid Study; that the Grid road has been moved 200 feet from Maplewood; that a sewer easement has been purchased from Maplewood; that the County will not have any expenses for the sewer or water improvements; that pedestrian and bike paths will be provided throughout the project; that all landscaping will be at the cost of the developer; that they propose to build approximately 30 to 40 units per year; that they propose less than 7 units per acre; that they propose similar style buildings as those built in The Plantations West in cluster arrangements; that there should be a positive impact to the County with plan review fees, transfer taxes, property taxes, and sewer impact fees totaling approximately 18.3 million dollars; that perpetual maintenance of the project will be turned over to a homeowners association; that the area is mixed with single-family, multi-family, commercial, and agricultural uses; that they will provide a park and pavilion; that no recreational facilities are proposed on the site; that The Plantations project recreational facilities are available for use and adequate to serve this project; that they anticipate no negative impact on the neighborhood; that they feel that they have addressed all of the concerns expressed in the previous hearings in 1999; and that the applicant has owned the site for approximately 2 years.

The Commission found that Mr. Griffin submitted copies of sections of the 1997 Comprehensive Plan, a copy of the January 11, 2001 letter from DelDOT, a copy of the comments received from the County Engineering Department's Planning and Permits Division, a preliminary site plan, a preliminary site plan marked with proposed sanitary sewer lines and water lines, a site plan depicting a landscape plan for the project, a copy of a December 11, 2000 memorandum within DelDOT Departments referencing a Home Depot's traffic impact study, and photographs of the site, the soils, and stormwater management facilities on several projects in the area.

The Commission found that Paul Carey, a resident of The Plantations and a Realtor, was present in support of the project and stated that traffic is a concern; that traffic is not from the residents, but beach traffic that has found Plantations Road; that the area will continue to be developed; that The Plantations is selling out; that a demand exists for condominiums in the Lewes area; and that the public should have a choice for where they want to live.

The Commission found that Rich Anthony, present on behalf of the Southern Delaware Group of the Sierra Club, spoke in opposition and expressed concerns that the site plan for the requested HR zoning cannot be enforced; that there is no guarantee that the site plan will be developed as submitted; that the site plan is only a conceptual drawing; that other uses are allowed in HR districts, including hotels, motels, etc... that the fact that the parcel is adjacent to or in close proximity to a similar use does not guarantee

approval; that the closest towns are Lewes and Rehoboth Beach; that the boundary of the Development District ends at Road 275; that the intent of the Comprehensive Plan is to encourage higher residential densities in the Town Centers, with densities reducing as development moves further away from the Town Centers; that the intent of the Comprehensive Plan is not to maximize density, but to cluster density; that DelDOT's comments are questionable; that a proposed future school and health facility will also impact the area's traffic; that the Office of State Planning Coordination references that the area is to be urban in nature; that the sewer capacity should be questioned; and that if the site is developed it should be a single-family residential lot subdivision.

The Commission found that Mike Tyler, President of the Citizen's Coalition, was present in opposition and expressed concerns that the area is developing with rapid and uncontrolled growth; that this request for high density is inappropriate; that the current road infrastructure is inadequate to handle the traffic it will generate; that sewer, water, and power generation will be impacted; that the site has been productive farmland; and that development that is allowable under the AR zoning should be permitted, not multi-family.

The Commission found that Robert Blumquist, Don Prehuss, Carl Thomas, Pat Torelli, and Joan Deaver were present in opposition and expressed concerns about traffic on Road 275; the use of The Plantations recreational amenities; high density uses; that the County should look at the big picture, not individual request; that the rezoning could be considered spot zoning; that the recreational facilities at The Plantations is crowded on weekends; that if the children's swimming pool is full, the adult pool will be closed to adults for several hours to allow the children to use the adult pool; that vehicles are using interior streets within Sandy Brae for short-cuts from Road 275 to Postal Lane and Route 1; that additional traffic will cause safety problems for pedestrians and bikers on the bike paths; and that group rentals should be a concern.

The Commission found that Pat Torelli submitted a letter in opposition on behalf of her family.

The Commission found that Frank Murphy, present on behalf of 1600 Limited Partnership, stated that his letter to Ann Canby, Secretary of DelDOT, was taken out of context; that the general public uses The Plantations recreational facilities because the occupants of the units in The Plantation have not supported the recreational facilities and that it is necessary that users be solicited from off site to be able to maintain the uses on the site; and that if this project is approved, the occupants will be able to use The Plantations recreational facilities.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

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

Motion carried 5 - 0.

OLD BUSINESS

Subdivision #2000-32 - application of **SEASHORE ENTERPRISE** to consider the Subdivision of land in a MR Medium Density Residential District in Lewes and Rehoboth Hundred, by dividing 4.40 acres into 3 lots, located south of Bay Reach and west of Back Bay within Country Manor/Pine Bay Subdivision.

The Commission found that this application has been withdrawn.

OTHER BUSINESS

1. Capano Shopping Center
Preliminary Commercial Site Plan - Route One and Road 270-B

The Commission found that this site plan has been withdrawn.

2. Stone Wood Chase
Final - Multi-Family Site Plan - Road 274

The Commission reviewed the final site plan for a 27 unit multi-family project located off of Road 274 near Midway.

Mr. Abbott advised the Commission that this project received preliminary approval on September 7, 2000; that the final site plan is similar to the one that received preliminary approval and complies with the zoning code; that the developer and engineer have submitted all required agency approvals; and that the site plan is suitable for final approval.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a final.

3. Proposed Ordinance on Commercial Communication Towers and Antennas
Discussion

The Commission discussed a proposed ordinance referencing commercial telecommunications towers.

Mr. Allen advised the Commission that he does not have any concerns with the proposed ordinance as written.

Mr. Johnson raised questions about demonstrating a need for towers, setback distances and available sites.

Mr. Schrader advised the Commission that Mr. Johnson's concerns are included in the ordinance.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to forward the proposed ordinance to the County Administrator for the proper procedures.

4. Rules of the Planning and Zoning Commission
A. Amend Rule 2.2

The Commission reviewed a revised rule amending the starting time of the Planning and Zoning Commission meetings from 7:30 P.M. to 7:00 P.M.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the rule change as amended.

B. Amend Rule 15

The Commission reviewed a new rule requiring all submissions for public hearings, site plan review, etc. to be submitted no later than 72 hours prior to the meeting.

It was the consensus of the Commission that this would be enough time for submitting items.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to adopt this rule effective immediately.

ADDITIONAL BUSINESS

The Commission discussed the possibility of having a special meeting in March to reduce the scheduling time for applications already received.

There was a consensus of the Commission to have hearings on March 8, March 22, and March 29.

Meeting adjourned at 11:38 P.M.