

MINUTES OF THE REGULAR MEETING OF JANUARY 25, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 25, 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. Berl - 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 circulated.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of January 11, 2001 as amended.

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

IV. PUBLIC HEARINGS

SUBDIVISION #2001-1 -- application of **HARRY F. FAUST, JR. AND JANET N. FAUST** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 12.50 acres into 3 lots, and a variance from the allowed cul-de-sac length of 1,000 feet located north of Road 280, 610 feet southeast of Road 290.

Mr. Lank advised the Commission that this application was reviewed by the Technical Advisory Committee on January 17, 2001 and requested that the report be made a part of the record for this application.

The Commission found that Harry Faust, Jr. was present and stated in his presentation and in response to questions raised by the Commission that he would like to give the proposed lots to his children; that he does not want a large development to take place on this land; that the proposed street will probably be built in phases; that the right of way is 1,010 feet in length; and that he will work with the Sussex Conservation District and Sussex County Engineering Department on the stormwater design.

The Commission found that no parties appeared with interest to this application.

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.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to **approve this application as a preliminary and to approve the variance requested.**

Vote carried 5 - 0.

C/U #1382 -- application of **JAMES J. AND MARTHA G. TURNER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.80 acres, more or less, lying south of Route 54, 1/4 mile east of Road 58-B.

The Commission found, based on comments received from DelDOT, that the Department was originally opposed to the rezoning of the parcel; that the applicants pointed out that the developable area of the lot only contained approximately 0.03 acre; that given the small amount of developable area, the Department is confident that any use of the parcel will generate negligible amounts of traffic; that the Department withdraws its recommendations both for denial and for the requirement for a traffic impact study; that the application should be decided on some basis other than traffic; and that a traffic impact study for a development this small would not be meaningful.

The Commission found, based on comments received from the County Engineering Department - Planning and Permits Division, that the site is located in the Fenwick Island Sanitary Sewer District; that wastewater capacity is available for the project; that the System Connection Charge Rate is \$2,389.00 per EDU; that the parcel is served with one (1) six-inch lateral; and that the current dwelling was connected to the sewer on January 26, 1983, by permit #1070.

The Commission found that James and Martha Turner were present and stated in their presentations and in response to questions raised by the Commission that they had originally proposed to rezone the site to B-1 Neighborhood Business and that the Commission and the County Council opposed the request; that it was suggested that a Conditional Use may be more appropriate since stipulations could be placed on the use and the activities; that they propose to use the structure for an office; that the only developable area of the parcel is already improved by the house and the parking area; that adequate space exists on the site for parking of four (4) vehicles; that they had been contacted by an individual interested in using the structure for an office and another individual interested in using the structure for living quarters and a study for an author; that Route 54 is being realigned approximately nine (9) feet to the north and reconstructed; and that DelDOT provided a drawing showing them how Route 54 will be realigned.

The Commission found that no parties appeared 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.

The Commission noted that there does not seem to be any change in the proposal since the last public hearing; that an author could live on the site and have a study; and that the parking layout does not work for a vehicle making one turning movement.

Motion by Mr. Lynch, seconded by Mr. Gordy, 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 #1383 -- application of **GREGORY P. ALLEN AND CHRISTOPHER P. ALLEN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for offices, warehouse, and storage for a heating/air conditioning/plumbing/electrical business to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 4.1033 acres, more or less, lying at the northwest corner of the intersection of Road 371 and Route 17.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the level of service "A" of Road 371 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 parcel is located in the Rural Area of the Strategies for State Policies and Spending map approved by the Cabinet Committee on State Planning Issues in December 1999; that in the Rural Areas, State policies encourage the preservation of a rural lifestyle and discourage new development; that the State feels that offices for such a business would be better in or around community areas; that the State recommends that this application be denied; that the soils in the vicinity of the site are Woodstown, a moderately well drained upland soil with moderate limitations for development, and Fallsington, a poorly drained (hydric) soil associated with wetlands that have severe limitations for development; that Fallsington soils appear to be the predominant soil type on the parcel; and that if the County approves the application, the applicant should be reminded that they must avoid construction/filling activities in those areas containing hydric soils, since they are subject to regulatory provisions governing jurisdictional wetlands.

The Commission found that Gregory P. Allen and Christopher P. Allen were present with Stephen Parsons, Attorney, and stated in their presentations and in response to questions raised by the Commission that this application applies to two (2) parcels of land; that traffic should not be affected; that one (1) parcel was approved for a Conditional Use several years ago for a radio station; that the applicants are presently leasing office space off of Route 20; that the company serves the general area of Sussex County and Ocean City; that they propose to utilize the existing building for office space and warehousing; that no entrances are proposed onto Route 17; that they hope to build a pole building for

warehousing in the future on Lot A; that the stormwater pond exists on Lot B; that they have no objections to fencing any outside storage areas; that they do some sales on the site; that no repairs are performed on the site; that the majority of their work is residential, which is performed at job sites; and that the company has ten (10) vehicles of which the majority are driven home by employees.

The Commission found that Leah Clark was present with concerns about the possible impact on property values; noise levels; that she has no objection to the use of the existing building for office space; that she is concerned about the size of the proposed pole building warehouse; and that she is concerned that the appearance of the warehouse will impact her property values.

The Commission found that Mr. Parsons read and submitted proposed conditions that the applicants have no objection to if the County approves the use, which includes: 1) The use of the property shall be limited to offices, warehouse and storage for heating, air-conditioning/plumbing/electrical business. 2) Business hours shall be from 7:00 A.M. to 7:00 P.M., Monday through Saturday. 3) One lighted sign, not exceeding 32 square feet shall be permitted. 4) Site plan shall be subject to review and approval of Planning and Zoning Commission upon receipt of the appropriate agency approvals.

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 the use should be limited to Parcel "B" since no improvements were depicted on Parcel "A".

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

- 1) **This Conditional Use shall be limited to the use of Parcel "B", containing 2.0519 acres.**
- 2) **The use of the property shall be limited to offices, warehouse and storage for heating/air-conditioning/plumbing/electrical business.**
- 3) **Business hours shall be from 7:00 A.M. to 7:00 P.M., Monday through Saturday with no Sunday hours.**
- 4) **One lighted sign, not exceeding 32 square feet per side or facing shall be permitted.**
- 5) **All outside storage shall be contained within a solid fence.**
- 6) **The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.**

Vote Carried 5 - 0.

C/U #1384 -- application of **CATHOLIC CEMETERIES, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a cemetery to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 62.10 acres, more or less, lying at the southwest corner of the intersection of Route 26 and Road 343.

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 Route 26 and the level of service "B" of Road 343 will not change as a result of this application.

The Commission found that Mark A. Christian, Executive Director, and Tom Cane of Catholic Cemeteries, Inc. were present with Tom Ford of Land Design, Inc. and James Fuqua, Attorney, and stated that they propose a cemetery and related cemetery accessory uses; that approximately 1.5 acres of the site contains jurisdictional wetlands; that the area is generally agricultural; that some residential uses exists in close proximity; that some commercial uses exists in close proximity; that it has been determined that a need exists in Sussex County for a large Catholic cemetery; that the site has been extensively soil tested; that stormwater impacts should be minimal; that wetlands are to be left undisturbed; that traffic impacts should be minimal; that the use of a cemetery is less impacting than an AR-1 subdivision; that family plots are designed within a 20-foot by 20-foot envelope; that the cemetery administrative offices may be located within the existing farmhouse, dependent on the structure; that the cemetery will include accessory garage and storage; that a small chapel will be built on the site in the future; that no cremation facilities are proposed; that interior roads will be 22-feet wide; that a 6-foot high open fence is proposed along road perimeters; that the Diocese of Wilmington operates two large cemeteries in northern Delaware and several small chapel cemeteries; that they are aware that arrangements are required for perpetual maintenance of the cemetery; that the entrance design is subject to DelDOT; that a portion of the woodlands will be cleared for cemetery plots; that a minimum of 50-foot of buffer shall be provided; that the chapel will be used for some funeral services and mass presentations remembering the deceased; that a borrow pit exists to the southwest of the site; that a typical cemetery may create 1,000 burial plots per acre; that this site should be adequate to serve the area for approximately 100 years; that due to the size of the parcel stormwater management will be established for quality of runoff, not quantity; and that the driveways will be paved.

The Commission found that Mr. Fuqua submitted a brochure in reference to Catholic Cemeteries, Inc. titled "A Religious Sanctuary in a Secular World".

The Commission found that no parties appeared in support of or in opposition to this application.

Motion by Mr. Lynch, seconded by Mr. Wheatley, 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 be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.**

Vote Carried 5 - 0.

C/Z #1420 -- application of **REHOBOTH GOLF PROPERTIES LLC.** 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 certain parcels of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying on the northwesterly side of Road 273 (Country Club Road), 0.2 mile south of Kingsbridge Road within Rehoboth Beach Yacht and County Club, to be located on 52.7027 acres, more or less.

The Commission found that the applicant had provided a brochure which included a cover letter from John Sergovic, Jr., Attorney, with 1) a profile of the rezoning application, 2) a proposed development plan with: a) Architectural Theme, b) Density Guidelines, c) Development Phasing, d) Sub-Neighborhoods: (i) Village Neighborhood, (ii) Lakeside Neighborhood, (iii) Estate Neighborhood, (iv) Duplex Neighborhood; e) Community Conservation Easements and Buffers, f) Community Open Space and Amenities; 3) Neighborhood Trends: a) Existing Development Patterns, b) Development Density, c) Zoning Patterns, d) Guidelines for Zoning Classification of Property; 4) Sussex County Comprehensive Land Use Plan, 5) Proposed Zoning District, 6) Traffic Evaluation, 7) Utilities, 8) Stormwater Management - Erosion and Sediment Control, 9) Environmental Assessment, 10) Economic Evaluation, 11) Residential Planned Community Organization and Management Structure, 12) Regulatory Comment and Technical Advisory Committee Comments, 13) Ability to Serve Letters, and an Appendix which included a Traffic Impact Study, a U.S. Corps. of Engineers Approval Letter, Wetlands Study, Environmental Site Assessment, and the Technical Advisory Committee Comment Package. Inserted in the brochure were copies of a draft of the Declaration of Restrictions of Kinsale Glen and copies of the applicant's proposed findings for the Planning and Zoning Commission's recommendation.

The Commission found that the Technical Advisory Committee reviewed the site plan for the project on December 20, 2000 and that the Technical Advisory Committee Report on the project is made a part of the record for this application.

The Commission found, based on comments received from the Natural Resources Conservation Service that the soils are mapped as Rumford loamy sand and Sassafras sandy loam, which have slight limitations and that the Service provided a Soil

Interpretation Guide, a copy of an aerial photograph of the area, and a copies of Soil Sheets #29 and #37 of the area.

The Commission found, based on comments received from DelDOT, that because of the existing and projected congestion on County Club Road approaching Route 1 during Summer Saturday peak hours, the Department recommends that the County deny this proposed rezoning; that if the County chooses to approve the rezoning despite the Departments recommendation to the contrary, the Department has certain recommendations to offer regarding the plan for the development; that the Departments comments included references to: A Project Description and Background; the Statewide Long Range Transportation Plan; Shaping Delaware's Future; Trip Generation; an Overview of the Traffic Impact Study; SR 1, County Club Road, and Service Road (Sussex Road 15A); SR 1 and Shuttle Road; County Club Road and the Golf Course Entrance; County Club Road and the Residential Entrance; the SR 1 Grid Study; Transit, Bicycle and Pedestrian Facilities; and Conclusions and Recommendations, and that the Department recommends that if the County chooses to approve the rezoning it should require the following: 1) Prior to plan approval, the applicant should be required to provide a letter from the Delaware Transit Corporation indicating what improvements would be needed to provide adequate transit service to the proposed residential development. The applicant should then be required to show those improvements by note or illustration on the plan. A note on the plan should obligate the applicant to build them before building permits are issued; 2) The deceleration lane at the entrance to the proposed residential development should be an extra five feet wide to accommodate a separately striped bicycle lane through the intersection; 3) Sidewalks should be provided in three locations: a) along the streets in the proposed residential development; b) along the edge of the parking lots in the condominium areas; and c) along the property's frontage on Country Club Road as well. Construction of the sidewalk along the frontage should be required as a precondition to any building permits. For the internal sidewalks if may be appropriate to break the project into phases, and to require the sidewalks in each phase in advance of the building permits for that phase.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is located partially in a Community Area, partially in a Developing Area and partially in an Environmentally Sensitive Area of the Strategies for State Policies and Spending map approved by the Cabinet Committee on State Planning Issues in December 1999; that the State feels that a residential development is appropriate if placed in a Community and Developing Area, however, it is also in an Environmentally Sensitive Area and the County should consider that according to the DNREC, because the project is an RPC in an area with existing water and wastewater infrastructure (not rural), and if proper management of both non-point and point nutrient sources are instituted, this projects proposal could satisfy the concerns of DNREC; that DNREC does recommend careful environmental planning concepts for the project; that this project is within the

Inland Bays watershed, which has been designated to contain Waters of Exceptional Recreation or Ecological Significance which shall be accorded a level of protection and monitoring in excess of that required by most other waters in Delaware; that both non-point and point nutrient sources of these waters are recommended to be controlled through Best Management Practices which should include preserving or enhancing existing uptake/absorption and vegetative entrapment; that Tidewater Utilities, Inc. holds a Certificate of Public Convenience and Necessity to legally supply water to the site; that if the developers determine that wells are needed on the site for construction, the wells must be approved by DNREC via a well permit; that pumping of ground water from a natural body or a man-made excavation is also regulated and must be approved by the Water Allocation Branch; that the Department of Education has recommended that the applicant make a presentation to the local school district for informational purposes and additional feedback; that the Office agrees with the recommendations of DelDOT; that the State asks that the County recognize that this proposal is located in an area that is already very heavily developed and experiences a great amount of traffic congestion during the peak months; that the State would normally support a proposal in the Community and Developing Areas, with no road improvements under consideration or likely before 2010; and that the State asks that the County consider the effects of this development on the already overburdened infrastructure when making its decision.

The Commission found that six (6) letters were received prior to the public hearings, and included letters from: the Rehoboth Beach Yacht and Country Club Property Owners Association, signed by Blanche J. Davis, President; the Kings Creek Residential Community Homeowners Association, signed by John P. Gaul, President; Silver View Farm, Inc., signed by James S. Truitt, Jr.; Nancy G. Fifer; Mark and Ellen J. Gundersen; and Carolyn and Paul Shriver. The letters referenced that the property should be developed as it is already zoned; concerns about traffic; concerns about environmental impacts; concerns that the project would have a negative effect on the surrounding area; that the duplex style construction and small lot sizes would be out of character with the surrounding neighborhoods; that approval of this project could establish a bad precedent for the future; that Country Club Road is not built to handle the additional traffic; that the project may overwhelm the infrastructure in the area; that the density should be limited to two units per acre; that the buffer along Silver View Farms should remain a separate buffer from the project and not be a part of proposed lots; and that the density may impact the school district.

The Commission found that John Sergovic, Attorney, and Tony Wiles were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they request that the brochure that they submitted be made a part of the record; that they intend to convert the property from a commercial recreational use to a viable residential project; that the predominant housing type of the area is single family residential with medium density lot sizes; that they have determined

that a residential planned community is an appropriate use of the property; that residential planned community projects are supported in the Comprehensive Plan; that they propose 2.81 units per acre with recreational amenities; that approximately 12% of the site will be open space; that the applicant has tried to meet with the homeowners associations in the area; that the applicant has tried to blend the project in with the neighboring properties; that they have no objections to some of the request made in letters of opposition; that they propose to retain the buffer from the Silver View Farm Mobile Home Park as a non-buildable area of the lots proposed; that an AR-1 subdivision would be inconsistent with the surrounding area; that 46 duplex units and 102 single family detached homes are proposed; that a traffic impact study was performed during summer months; that the site is located within the Development District according to the Comprehensive Plan; that central water and sewer is available to the project; that they anticipate minimal impacts on environmental conditions; that they have reviewed the neighborhoods, lot sizes, densities, and development trends of the area; that the site is in close proximity to Kings Creek Subdivision, Rehoboth Beach Yacht and Country Club, Bay Vista, Silver View Farm Mobile Home Park, the Part & Ride, and the commercial outlets along Route 1; that the area is mixed with single family residential, multi-family residential, a mobile home park, a camping area, the golf park, and some vacant agricultural lands; that approximately 1,000 units exists in the study area, of which approximately 750 are located within the MR Medium Density Residential District and 250 are located within the AR-1 Agricultural Residential District; that lots sizes vary from 6,000 square feet in Silver View Farm Mobile Home Park to 22,000 square feet, or more, in Kings Creek Subdivision; that they propose to create neighborhoods within the project with larger lots along Kings Creek Subdivision, smaller lots along Silver View Farms Mobile Home Park, and duplex units along the vacant land to the east of the project; that they propose a conservation easement along the woodlands separating the site from Kings Creek Subdivision; that the majority of the heavy trees on the site will remain; that the Lakeside Neighborhood lots, along the large lake and Kings Creek Subdivision, will average approximately 17,400 square feet; that the Village Neighborhood lots, along Silver View Farms Mobile Home Park and Rehoboth Beach Yacht and Country Club, will average 10,000 square feet; that the duplex area will include 23 buildings, a total of 46 units, to be maintained as a condominium style ownership; that the duplex buildings will be designed with the appearance of a large single family dwelling; that the overall lot average is approximately 13,250 square feet and that a lot of the lots are substantially larger than lots within the Rehoboth Beach Yacht and Country Club; that an environmental assessment of the site has been performed; that buffers are proposed; that the two existing lakes on the site are lined; that most of the stormwater management will utilize existing piping; that the proposed entrance is approximately 600-feet from the Kingsbridge Road entrance; that they propose a gated community; that they propose to accommodate transit use within the community, rather than out on Country Club Road; that bikepaths and sidewalks are proposed throughout the community; that they will build sidewalks, as requested by DelDOT, along Country Club Road; that they propose trails throughout the

project along with a tot lot, pools, tennis, and a small park and pier at the large lake; that the level of service of Country Club Road will not change as a result of this application; that they cannot change the traffic on Route 1; that the site is located in a resort area where growth will continue and traffic will continue; that the duplex units provide a greater count in the number of units and relate to the recommendations of the Comprehensive Plan for residential uses in a Development District; that 23 acres of the golf park will remain in use as an instructional golf facility since that portion of the site is leased land; that the proposed entrance is located at the best location and provides maximum site distance views for motorist leaving the site; that they propose to phase the project with three phases; and that they will be developing approximately 30 units per year over a 3 to 4 year period.

The Commission found that David Jamison, the professional engineer that prepared the traffic impact study, was present and described the traffic impact process. The traffic impact study is a part of the appendix to the brochure submitted by the applicant.

The Commission found that Blanche Davis, President of the Rehoboth Beach Yacht and Country Club Property Owners Association; Glen Ruark, Charles McCormick, James Morrison, Richard Anthony, representing the Southern Delaware Group of the Sierra Club; John Gaul, President of the Kings Creek Property Owners Association, Mable Granke, representing the Citizens Coalition, Inc., James Truitt, President of Silver View Farms, and Anthony Masonne were present in opposition and expressed concerns relating to a 125% increase in the density over what the existing acreage would permit; that traffic is already strained along Country Club Road; that adding to the seasonal tourist traffic merging with local traffic conditions will seriously stall the delivery of emergency services in the area; that the site should be developed as presently zoned; that future hearings on land usage along Country Club Road should be deferred pending the results of the 2002 Comprehensive Plan; that the proposed entrance location is a concern due to the location near a curve; that travel trailers travelling along Country Club Road is a problem now and will worsen; that water and sewer infrastructure should not be compromised and should be able to be developed in a sustainable manner; that continued development in the area could cause a potential adverse effect on the quality and quantity of the water supply; that some salt water intrusion has been reported in Sussex County; that the applicant's use of averages in his presentation is questionable; that lot sizes are too small; that trying to subsidize an unsuccessful business does not justify rezoning the site; that the buffer along Silver View Farm Mobile Home Park should be a buffer area and not a part of the lots and should be maintained by a homeowners association; and that, if the site is going to be developed, it should be developed under it's present zoning category, AR-1 Agricultural Residential, or as an AR-1/RPC.

The Commission found that Mrs. Davis submitted a letter and petitions in opposition to the application containing 425 signatures for the record.

The Commission found that Mr. McCormick, Mr. Anthony, and Ms. Granke submitted written comments in opposition to the application for the record.

By show of hands there were 78 parties present in opposition.

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. Wheatley, and carried unanimously to **defer action**.

Vote carried 5 - 0.

V. OLD BUSINESS

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 discussed this application, which had been deferred on January 11, 2001. There was a consensus of the Commission that there is not much difference between this plan and the plan previously submitted, except for the relocation of the entrance; that the cross connection between Sea Chase and Sea Chase II is in the same location, still impacting the same buildings with traffic; and that it appears that an entrance onto Road 275 would be more appropriate for access to the site and would not impact the existing project.

Motion by Mr. Lynch, seconded by Mr. Gordy, 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 discussed this application, which was deferred on January 11, 2001. It was noted that the campers for sale are not on the site of the application, and that it appears that the way the site is being developed could be considered a bad situation getting worse.

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

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 discussed this application, which was deferred on January 11, 2001. The Commission expressed concerns about the safety of pedestrians and cyclists from this project travelling along Road 275 from this site to The Plantations recreational center; that the use is out of character with the single-family residential subdivisions adjoining; that no recreational uses are proposed to accommodate the residents on the site; and that just recently the Commission had approved a subdivision in the AR-1 Agricultural Residential District adjoining the site, and that this application could also impact the subdivision.

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

Vote carried 5 - 0.

C/Z #1359--application of **BRYCE M. LINGO AND T. WILLIAM LINGO** 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 Lewes and Rehoboth Hundred, Sussex County, land lying northeast of Hebron Road, 1,800 feet northeast of Route One and west of the Lewes and Rehoboth Canal, to be located on 62.60 acres, more or less.

Mr. Abbott advised the Commission that this site plan received preliminary approval on May 13, 1999; that 164 total units are proposed; 99 single family lots, 14 multi-family duplex units, and 51 multi-family townhouse units; that 177 units are permitted by the

County Council's approval; that the site plan complies with the conditions of approval for Ordinance No. 1279 and the zoning code; that all agency approvals have been received; and that the final site plan is suitable for final approval.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously that the site plan be **approved as a final site plan.**

Subdivision #99-16 -- application of 1ST **STATE STORAGE CO.** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District and a C-1 General Commercial Zoning District in Georgetown Hundred, by dividing 65.3 acres into 39 lots, located south of Route 9, across from Road 249.

Mr. Abbott advised the Commission that the public hearing for this application was held on August 26, 1999 and that action was deferred pending receipt of the septic feasibility statement from DNREC; that the Commission granted preliminary approval for 39 lots on May 25, 2000; that the final record plan has been reduced to 34 lots; that the street layout is similar to the preliminary approval and that French Road has been shortened; that lots 21 and 22 are 0.70 acres and had a variance granted by the Board of Adjustment at Case No. 7219; that the final record plan complies with the subdivision and zoning codes; that all agency approvals have been received; and that the final record plan is suitable for final approval.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously that the revised site plan for 34 lots be **approved as a final site plan.**

VI. OTHER BUSINESS

- 1) Herring Chiropractic
C/U # 1375 - Site Plan - Route 24

The Commission reviewed a site plan for a chiropractic practice located off of Route 24 east of Love Creek Bridge.

Mr. Abbott advised the Commission that the site plan is the same as what was submitted for the public hearing; that 4 parking spaces are located to the rear of the office; that the office will be open Monday through Saturday with no Sunday hours; that a 32 square foot sign is permitted; and that all agency approvals have been received.

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

- 2) David C. Blackwell
C/U #1320 - Time Extension - Road 462

The Commission reviewed a request for a one-year time extension for Conditional Use No. 1320.

Mr. Abbott advised the Commission that this application was approved on February 1, 2000 and that this is the first request for a time extension.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve a one-year time extension.

- 3) McClung - Logan
Commercial Site Plan - U.S. Route 13

The Commission reviewed a commercial site plan for heavy equipment sales located on the east side of U.S. Route 13, south of Route 40.

Mr. Abbott advised the Commission that the site is zoned C-1 General Commercial; that a 9,800 square foot building is proposed with a 60' x 40' wash pad; that 8 paved parking spaces are proposed; that 12 gravel spaces are proposed for display sales; that there is a 50' cross access easement to the north and south sites; that the setbacks meet the requirements of the zoning code; and that all agency approvals have been received.

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

- 4) DMV Partnership
C/U #1306 - Time Extension - Road 360

The Commission reviewed a request for a one-year time extension.

Mr. Abbott advised the Commission that the site plan for this application was approved by the Commission on November 30, 2000 for 15 multi-family units and that the request is due to the weather.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve a one-year time extension retroactive to the original approval date. The extension is valid until October 12, 2001.

5) Capano Shopping Center
Preliminary Commercial Site Plan - Route One and Road 270-B

Louis Capano III and Jim Fuqua, Attorney, were present as the Commission reviewed a commercial site plan for a shopping center near Rehoboth.

Mr. Abbott advised the Commission that the site is 9.08 acres; that the site is zoned C-1 General Commercial and located within the Highway Corridor Overlay Zone and the Large Scale Use section of the zoning code; that two buildings are proposed - 30,944 square feet and 59,670 square feet; that both buildings are one story; that the site plan meets the requirements of 115-220-Preliminary site plan requirements and 115-194.1 Highway Corridor Overlay Zone; that transit accommodations need to be shown on the plan and that there is a note on the plan that these improvements will be shown; that the plan meets the requirements of 115-77.1 Large Scale Uses; that the parking and landscaping requirements have been met; and that the plan meets the recommendations made by DelDOT.

Mr. Fuqua advised the Commission that the engineers have received a letter from DART in reference to the transit accommodations and will comply with the recommendations and that the entrance has not yet been approved by DelDOT.

Roger Gross, Engineer with Meridian Consulting, advised the Commission that the stormwater will be an underground infiltration design.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to approve the site plan as submitted as a preliminary.

6) Albert J. Bierman / American Tower Corporation
150' Tower Site Plan - Road 431 - Reconsideration

Mr. Abbott advised the Commission that Mr. Fuqua has sent a letter requesting that the Commission reconsider their denial of this site plan on December 14, 2000.

Mr. Fuqua advised the Commission that he has no knowledge of the other meetings except what he has read in the minutes; that the plan meets the requirements of the zoning code; that the use is permitted and should be approved; that all agency approvals have been received; and that just because people don't like the site plan, it should be approved since it is permitted.

Mr. Berl advised the Commission that if the site plan meets the requirements of the zoning code, the Commission cannot deny a permitted use and that if the project were to be appealed, a judge would rule that the denial would be arbitrary and capricious.

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

Meeting adjourned at 10:50 P.M.