

MINUTES OF THE REGULAR MEETING OF MARCH 11, 1993

The regular meeting of the Planning and Zoning Commission was held Thursday evening, March 11, 1993, at 7:30 PM, Room 115 of the Courthouse, Georgetown, Delaware, with the following present:

Mr. Magee, Mrs. Monaco, Mr. Ralph, Mr. Smith, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner I.

Motion made by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the minutes of February 25, 1993 as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1031 -- Henry E. Fisher

Henry Fisher was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for a Vacuum Cleaner Repair Service lying on the north side of Route 331, 400 feet southeast of Route 333 to be located on a parcel containing 38,656 square feet more or less.

Mr. Lank summarized comments received from DelDOT, and the Sussex Conservation District.

Mr. Fisher advised that Commission that he has been in business in the Town of Millsboro for approximately nine (9) years, that his present space is limited in size and has poor access, that he proposes to construct a 24' by 24' building for a shop, that he proposes to blacktop the drive and parking area, that customers can be better served with the proposed building adjacent to his residence, that no objectionable noise is generated by the business, that he uses only small tools, that he recently established a vacuum drop-off at his dwelling so that customers could drop-off and pick-up vacuums without having to go into his shop in Millsboro, that he operates the business from 9:00 AM to 4:00 PM weekdays and 9:00 AM to 12:00 noon on Saturdays, that he has no employees, and that he may place a sign on the building when completed.

James Scott, Lynn Ennis, Bill Marshall, Lawson Pierce, Gerald Timmons, John Green, and Lisa Christian spoke in opposition due to private deed restrictions in Sandy Meadows which reference that the lots are to be used for residential purposes only.

Mr. Scott presented a copy of his deed to Mr. Schrader.

Mr. Lank stated that he was made aware of the deed restriction a few days prior to the meeting, that he had researched the deed of Mr. Fisher and found that the deed referenced a set of restrictions recorded for Sandy Meadows, and that the restrictions reference specifically that "all lots shall be used exclusively for residential purposes, restricted and limited to one (1) single family dwelling on any one (1) lot".

At the conclusion of the public hearings, Mr. Magee 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 existing level of service "B" of Road 331 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type is of Statewide Importance, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicant was present and plans to utilize a portion of the site for a vacuum cleaner repair service, that the business would be secondary to the use of the premises for his dwelling, that the applicant has been in business in the Town of Millsboro for nine (9) years, that his present space is limited in size and has poor access, that he proposes to construct a 24' by 24' building for a shop, that he proposes to blacktop his driveway and parking area, that customers can be better served with the proposed building adjacent to his residence, that no objectionable noise is generated by the business, that he uses only small hand tools, that he recently established a vacuum drop-off at his dwelling so that customers could drop-off and pick-up vacuums without having to go into his shop in Millsboro, that he operates the business from 9:00 AM to 4:00 PM weekdays and 9:00 AM to 12:00 noon on Saturdays, that he has no employees, and that he may place a sign on the building when completed.

The Commission found that seven people spoke in opposition to this application due to a private deed restriction in Sandy Meadows which references that the lots are to be used for residential purposes only.

The Commission found, based on a report by the Staff, that the applicant's deed also includes the referenced deed restriction.

Motion by Mrs. Monaco, 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 existence of a deed restriction which states "all lots shall be used exclusively for residential purposes, restricted and limited to one (1) single family dwelling on any one (1) lot".

2. RE: C/U #1032 -- Duane C. Whitman

Duane C. Whitman was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for a Miniature Golf Course lying on the north side of Route 20, 433 feet west of Route 432 to be located on a parcel containing 0.6175 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Indian River School District.

Mr. Lank submitted copies of an introduction from Mr. Whitman.

Mr. Whitman advised the Commission that he plans to build a miniature golf course partially indoor and partially outdoor, that he anticipates placing ten (10) putting surfaces in the existing barn, that the upstairs loft area will be converted for recreational activities, pool tables and video machines, that the course will be open year round, that typically the maximum number of users could be 72 people per hour, that it takes approximately 30 to 45 minutes to play a round of miniature golf, that the business would be open seven (7) days per week with hours from 10:00 AM to 10:00 PM, and summer season hours on Friday and Saturday from 10:00 AM to 12:00 Midnight, that the course is mobile and can be changes around very easily, that he proposes to place a split rail fence along the right of way of Route 20 to separate the parking lot from the deep ditch along Route 20, that he proposes to chip the parking lot and drives, that signage will be either a roof sign or a canopy, that flood lighting will be provided to light the course, that security lighting will also be provided, that he would hire one additional employee, that background music will be played, but should not be heard off of the site, that two (2) vending machines are planned for sodas and candy, that the loft area may be reserved for birthday parties, that two (2) restrooms are proposed in the building, that the septic system will be improved to handle

the additional improvements, and that the closest resident is approximately 350 feet away across Route 20.

Mr. Whitman submitted a copy of a letter from Mary P. Nelson in support of a miniature golf course for recreation.

No parties appeared in opposition.

At the conclusion of the public hearings, Mr. Magee 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 the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type is of Statewide Importance, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from the Indian River school district, that at this time it does not appear that the proposed action will have a significant impact on the District.

The Commission found that the applicant was present and plans to utilize the site for a miniature golf course, that he plans to build the course partially within the existing barn and partially outdoors, that he anticipates placing ten (10) putting surfaces in the existing barn, that the upstairs loft area of the barn will be converted for recreational activities, pool tables and video machines, that the course will be open year round, that typically the maximum number of users could be 72 people per hour, that it takes approximately 30 to 45 minutes to play a round of miniature golf, that the business will be open seven (7) days per week with hours from 10:00 AM to 10:00 PM, and summer season hours on Friday and Saturday from 10:00 AM to 12:00 Midnight, that the course is mobile and can be changed around very easily, that he

proposes to place a split rail fence along the right of way of Route 20 to separate the parking lot from the deep ditch along Route 20, that he proposes to chip the parking lot and drives, that signage will be either a roof sign or a canopy, that flood lighting will be provided to light the course, that security lighting will also be provided, that he would hire one additional employee, that background music will be played, but should not be heard off of the site, that two (2) vending machines are planned for sodas and candy, that the loft area may be reserved for birthday parties, that two (2) restrooms are proposed in the building, that the septic system will be improved to handle the additional improvements, and that the closest residence is approximately 350 feet from the site across Route 20.

The Commission found that one letter was received in support of the miniature golf course for recreational facilities.

The Commission found that no parties appeared in opposition.

Motion by Mr. Smith, 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 following stipulations:

1. Business hours shall be 10:00 AM to 10:00 PM with summer season hours for Friday and Saturday from 10:00 AM to 12:00 Midnight.
 2. On site refreshment sales shall be by vending machines only.
 3. Security lighting shall be provided and shall be places so that it is not directed at any residential area and does not impair the vision of drivers of motor vehicles.
 4. One sign shall be permitted. Signage shall not exceed 32 square feet on any side or facing.
 5. Split rail fencing shall be provided along Route 20.
 6. Final site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
3. RE: C/U #1033 -- John J. Marsh

Ms. Karen Brittingham of Charles Murphy, Jr. Surveyors, and Thomas Shockley of Red Ball Marine Service were present on behalf of John J. Marsh to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for an Extension to Conditional Use No. 1003 (Boat Storage and Repair) by Expansion of the Boat Storage Area lying on the east side of Route 289, 325 feet southeast of Route 24 to be located on a parcel containing 22.73 acres more or less.

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

Ms. Brittingham stated that the applicant intends an extension of the boat storage only, that the entrances are currently being paved, that the site will not impact any wetlands, that some covered storage, pole type buildings that have dirt floors, is proposed, that no additional impact on traffic is anticipated, and that additional area is needed for boat storage.

Mr. Shockley stated that they would like to build single unit mini-storage types of buildings for the boat storage along the zoning line, that vinyl-coated chain-link type fencing is proposed, that security is needed on the site, that the first phase of fencing will include approximately 10 acres, that approximately 3 acres of the existing Conditional Use site are presently being utilized, that he has recently sold 2 new boats from the premises, that he was not aware that he could not sell boats from the original site, that all boats are parked in the storage yard by staff employees, that he anticipates that the storage area will accommodate 1000 boats with trailers, and that he was not aware that he could not store travel trailers.

Billy Reed Hudson, owner of Pontoon Express, submitted a letter and a copy of a new boat sales advertisement.

Mr. Hudson stated that 11 boat storage facilities exist within 6 miles of the site, that none of the sites are full, that the Conditional Use will be spot zoning, that the size of the parcel is large for a conditional boat storage, that he has been in business since 1986 with commercial zoning for 18 acres, that he is presently utilizing approximately 9 acres storing 400 boats, that the 9 acres includes all setbacks, buildings, parking areas, and retail display for boats, that the applicant is only utilizing approximately 1.5 acres of the 5 acre existing Conditional Use parcel, and that it would seem more appropriate that any expansion be applied for when the existing site was being totally utilized.

At the conclusion of the public hearings, Mr. Magee 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 the proposed action will have no significant impact on traffic on Road 289.

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 where the County Council agreed to restrict zoning changes in an agreement outlined in a Memorandum of Understanding with the State DNREC.

The Commission found that the application was represented by a representative of a surveying firm and the tenant operating the boat storage yard.

The Commission found, based on comments made by representatives of the application, that the intended expansion is for boat storage only, that the entrance is currently being paved, that the site will not impact any wetlands, that some covered storage is proposed, that no additional impact on traffic is anticipated, that additional area is needed for boat storage, that the intended covered storage are pole type shed structures with dirt floors, that vinyl coated chain-link type fencing is proposed, that the first phase of fencing will include 10 acres, that approximately 3 acres of the existing Conditional Use site is presently being utilized, that the tenant recently sold 2 new boats of the 4 boats for sale on the original site, that the tenant was unaware that he could not sell boats at the site, that all boats parked in the storage yard are placed by employees only, that storage for 1000 boats is proposed, and that they were not aware that they could not store travel trailers.

The Commission found that one person appeared in opposition and questioned the need for additional boat storage when 11 boat storage facilities exist within 6 miles of the site, that none of the sites are full, that the Conditional Use will be spot zoning, that the size of the parcel is large for a conditional boat storage, that he has been in business since 1986 with commercial zoning for 18 acres of which 9 are being utilized for setbacks, buildings, storage of 400 boats, parking areas and retail display, that the applicant is only utilizing 1.5 acres of his 5 acre site, that boat sales are not a part of the original approval, and that it would seem more appropriate that any expansion be applied for when the existing site was being totally utilized.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to defer action.

4. RE: C/Z #1186 -- Colonial Development

Warren Class of Colonial Development was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broad Creek Hundred, located 600 feet northeast of Route 13, 548 feet northeast of Route 481, to be located on a parcel containing 3.94 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Office of the Secretary of the State DNREC.

Mr. Lank read a letter from James W. Thomas, an adjoining property owner, stating no objection to the rezoning.

Mr. Class stated that he has owned the property for 19 years, that he has delayed development of the site hoping that public sewer from Seaford would be available, that he proposes to develop the site with an entrance road off of Route 481, that no entrance is proposed off of Route 13, that he anticipates creating parcels with access to a service road for small business uses, that the rezoning would square up the perimeter of the commercial zoning of the site, that the remaining 40 acres of land east of the site will be developed residentially, and that no adverse impact is anticipated on property values or the neighborhood.

Wayne Downes, an adjoining owner, spoke in support of the application.

No parties appeared in opposition.

At the conclusion of the public hearing, Mr. Magee 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 "B" of Route 481 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro sand, that the suitability of the soils for the intended use may have slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that no storm flood hazard area or tax ditches are affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from the Office of the Secretary of the State DNREC, that comments have been requested from the DNREC Division of Water Resources Water Supply Branch, Watershed Assessment Branch, Wetlands & Aquatic Protection Branch, and Underground Discharges Branch, the Department of

Agriculture, the Bureau of Archaeology & Historic Preservation, and the Sussex Conservation District.

The Commission found that a letter from an adjoining owner was received in support of the application.

The Commission found, based on comments made by the representative of the application, that the company has owned the site for 19 years, that he delayed development of the site hoping that public sewer from Seaford would be available. that he proposes to develop the site with an entrance road off of Route 481, that no entrance is proposed off of Route 13, that he anticipates creating parcels with access to a service road for small business uses, that the rezoning will square up the perimeter of the commercial zoning of the site, that the remaining 40 acres of land east of the site will be developed residentially, and that no adverse impact is anticipated on property values or the neighborhood.

The Commission found that one neighbor spoke in support of the application.

The Commission found that no parties appeared in opposition.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since no negative impact is anticipated on the area, since the rezoning straightens the zoning boundary, and since the rezoning is an extension to the existing C-1 General Commercial District.

5. RE: C/Z #1187 -- Lida M. Brown Heirs

Ruth Adams and Charles Brown, family members, and Joseph Conaway, consultant, were present 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, 2,950 feet south of Route 583, to be located on a parcel containing 11.707 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Office of the Secretary of the State DNREC.

Mr. Conaway submitted a packet of information which included a Department of Transportation Support Facilities Report, a copy of the survey of the property, a sketch of the proposed rezoning reduced to 1.75 acres, and copies of 4 photographs of the improvements on the site.

Mr. Conaway advised the Commission that the owners desire to rezone 1.75 acres, not the 11.707 acres originally requested, that the parcel intended for rezoning measures approximately 253 foot frontage and 300 foot depth, that the site is not marketable without rezoning due to the existing garage buildings, that the large building was used commercially from 1940 to 1980 for truck repair, that no wetlands exist on the 1.75 acres, that the area is mixed with residential and commercial uses, that the site should have been zoned in 1971 with the adoption of the Zoning Map, that the site is in close proximity for both fire and police protection, that the use will conform to the purpose of the Zoning Ordinance, that the site has historically been used for commercial/business purposes, and that the rezoning will be appropriate and conform to the Western Sussex Land Use Plan and the Zoning Ordinance.

Mr. and Mrs. Frank Keel questioned the location of the public hearing notice. After verification of the correct site for the rezoning, The Keel's made no objection.

No parties appeared in opposition.

At the conclusion of the public hearing, Mr. Magee 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 "A" of U.S. Route 13 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Sassafras sandy loam and Johnston silt loam, that the suitability of the Sassafras soils for the intended use may vary from none to slight limitations, and that the Johnston silt loam soils may have severe limitations due to very poor drainage, flooding, and since the watertable is seasonally at the surface, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the Sassafras soils is Prime, that the farmland rating of the Johnston soils is of Statewide Importance, that a flood area exist within the Johnston soils near the Bee Branch Tax Ditch, that it may not be necessary for any on-site or off-site drainage improvements, and that a 16.5 foot wide maintenance right of way exist from the top of the slope of the tax ditch.

The Commission found, based on comments received from the Office of the Secretary of the State DNREC, that comments have been requested from the DNREC Division of Soil & Water Conservation, the DNREC Division of Water Resources Water Supply Branch, Watershed Assessment Branch, and Wetlands & Aquatic Protection Branch, the State Department of Agriculture, and the Sussex Conservation District.

The Commission found that the application was represented by two (2) family members and a consultant who submitted a packet of information which included a copy of the State Department of Transportation Support Facility Report, a survey of the area, a sketch of the intended 1.75 acre parcel for rezoning, and copies of 4 photographs of the improvements on the site.

The Commission found, based on testimony by representatives of the application, that the owners desire to rezone 1.75 acres, not the 11.707 acres originally requested, that the parcel intended for rezoning measures approximately 253 foot frontage and 300 foot depth, that the site is not marketable without the rezoning due to the existing garage buildings, that the large building was used commercially from 1940 to 1980 for truck repair, that no wetlands exist on the 1.75 acres, that the area is mixed with residential and commercial uses, that the site should have been zoned in 1971 with the adoption of the Zoning Map, that the site is in close proximity for both fire and police protection, that the use will conform to the purpose of the Zoning Ordinance, that the site has historically been used for commercial/business purposes, and that the rezoning will be appropriate and conform to the Western Sussex Land Use Plan.

The Commission found that a neighboring couple questioned the actual location of the land being rezoned, and that once the location was clarified they had no objection.

The Commission found that no parties appeared in opposition.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that 1.75 acres, measuring 253 foot frontage and 300 foot depth, be approved and that the remaining 9.95 acres be denied.

5. RE: ORDINANCE TO AMEND CHAPTER 115 (Prohibited Devices)

Mr. Lank introduced the proposed Ordinance which references that mobile and fixed cranes shall be prohibited if they relate to amusement purposes.

Mr. Daniel Resinger, representing Vertical Ventures, a bungee jumping amusement facility, spoke in opposition to the Ordinance and advised the Commission that the Ordinance creates problems with existing uses, that in reference to cranes - all manufacturers state that bungee jumping is not an intended use for cranes, that there is a liability concern, that cranes are designed to lift loads, that no reference exist to people, only load weights, that in no way does the force of a bungee jump affect the load on the crane, that 2 crane manufacturers advise that cranes can be specifically converted for bungee operations, that a bungee tower could be a converted crane, that 80 percent of all bungee jumping accidents happen in states without regulations, that the firm has invested approximately \$75,000.00 into the site along Route One, that both of the sites along Route One are injury free, that bungee operations employed 3,000 people nationwide last year, that a jump cage weighs approximately 1,100 pounds, that the only problems, in the past, have been cars parking along public roads to view the jumping, that Vertical Venture is willing to relocate its entrance onto Road 271, rather than Route One, that both companies cooperated with the State Police, that permanent structures would be limited to a 40 foot maximum height which would require a variance for a greater height, and questioning why the County wants to duplicate the State regulations.

Mr. Tim Herring, a store owner in Rehoboth Beach, stated that bungee facilities have attracted people to Sussex County, and that the restriction against crane usage impacts business in the area.

Mr. Resinger added that OSHA has cited both operations in Sussex County, that the OSHA regulations cover employees in the jump cage, that OSHA regulations are questionable, that OSHA spot checks sites periodically, that Vertical Ventures operates 4 sites of which OSHA has made 2 spot inspections, and that airbags will be utilized.

At the conclusion of the public hearings, Mr. Magee referred back to this Ordinance.

The Commission discussed the Ordinance

Motion by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to forward the Ordinance to the Sussex County Council with the recommendation that it be approved as circulated.

III. OTHER BUSINESS

1. RE: ARC Associates

The Commission reviewed a commercial site plan for a car wash facility located on Route 54 near Fenwick.

Mr. Abbott advised the Commission that the area involved is approximately 1.50 acres, that the site plan meets the requirements of the zoning code, and that all final agency approvals and permits have been received.

Motion made by Mr. Ralph, seconded by Mr. Smith, and carried 3 to 0, with Mr. Magee abstaining, to approve the site plan as submitted.

2. RE: Hettie Mae Pepper, Heirs

The Commission reviewed a concept to create two acreage tracts and a fifty foot easement off of the south side of Route 471.

Mr. Abbott advised the Commission that there is an existing 20 foot easement serving the existing acreage tract, that the owner wants to enlarge the easement to fifty feet and subdivide the 68.50 acre parcel into two equal tracts with access from the fifty foot easement.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the concept.

IV. OLD BUSINESS

1. RE: Subd. #90-1--Thetavest, Inc.

Mr. Lank advised the Commission that this application has been removed from the agenda at the request of a representative of this application and will be rescheduled for the next meeting.

2. RE: Subd. #91-8--S. & T. Estates

No one was present on behalf of the application of S. & T. Estates to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 95.1 acres into 35 lots, located on the southeast side of Route 277, 750 feet northeast of Route 285-A.

Mr. Abbott advised the Commission that this application received preliminary approval in April 1991, that the application has been granted a one year time extension, that the final plat is the same as the preliminary application, that the plat meets the requirements of the Subdivision Code, and that all required agency approvals and permits have been received.

Mr. Abbott advised the Commission that DNREC recommended that a community waste water disposal system be utilized since this would be more cost effective, and has since sent a statement that the developer can install individual on site septic systems if the density of 2.66 acres per lot remains the same.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve this application as a final as submitted with the stipulation that the density of 2.66 acres per lot remain as shown.

3. RE: Subd. #93-1--College Fund, Inc.

Mr. Magee referred back to this application that was deferred at the February 11, 1993 meeting.

Mr. Abbott advised the Commission that this application was deferred pending receipt of an approved concept plan for the drainage of the site, that DelDOT, Sussex County Engineering and the Sussex Conservation District have sent statements indicating that the drainage plan will be adequate for this Subdivision and that a recreation area has been added.

Motion made by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to defer action so that Mr. Allen can make comments on the application.

4. RE: Subd. #93-3--Wheatley Farms, Inc.

Mr. Magee referred back to this application that was deferred at the January 28, 1993 meeting.

Mr. Abbott advised the Commission that this application was deferred pending receipt of a septic feasibility statement from DNREC, that a non-binding feasibility statement has been received and the site is feasible for a community waste water system on the 10,000 square foot lots and suitable for individual systems on the half acre lots, and that according to the Designer of the Subdivision, the developer is going to install a community system for all the lots that are located in the Conservation Zone instead of applying for a variance for the lot sizes.

Motion made by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to defer action pending receipt of comments in writing from the developer on how the developer is going to install the waste water disposal system.

5. RE: Subd. #93-4--Blue Heron, Inc.

No one was present on behalf of the application of Blue Heron, Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Georgetown Hundred by dividing 58.21 acres into 14 lots, located on the northwest side of Evergreen Drive of Blue Heron Estates Subdivision, and request a variance from the maximum allowed cul-de-sac length of 1,000 feet.

Mr. Abbott advised the Commission that this application was deferred at the February 25, 1993 meeting pending receipt and review of the proposed restrictive covenants of the application.

Mr. Schrader advised the Commission that these are acceptable and that the Agricultural Protection Use deed restriction needs to be incorporated into the restrictions.

Mr. Abbott advised the Commission that a non-binding feasibility statement has been received and the application is suitable for individual on site septic systems.

Motion made by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve this application as a preliminary.

Meeting adjourned at 10:45 P.M.