

MINUTES OF THE REGULAR MEETING OF MARCH 14, 1996

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 14, 1996, at 7:30 PM, in the Court of Common Pleas, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director. Joel Leidy, ex-officio member, representing the Secretary of Transportation was present.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the minutes of February 22, 1996, as amended.

II. PUBLIC HEARINGS

1. RE: APD #96-1--Charles Moore Heirs & Myrna & James Abbott

Myrna Moore Abbott was present on behalf of this application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Indian River Hundred for two (2) parcels of land containing 243.72 acres more or less, located on both sides of Route 47, both sides of Route 295 and both sides of Route 320, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mrs. Abbott stated that she and her brother are third generation land owners and want to preserve the farm activities, and that several conservation projects have been completed on the farm. Mrs. Abbott also stated that the map is in error and that they do not own the parcel on the southern side of Route 47.

Ernest Hosse, George Marsh, and Dorothy Sowers spoke in opposition to the application before realizing that they were interested in APD #96-2, and then withdrew their opposition.

Donald Moore, the applicant for APD #96-2 advised the Commission that the opposition was related to his application, and not 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. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved with the exclusion of the parcel south of Route 47 which is not owned by the applicants.

2. RE: APD #96-2--Donald F. & Beatrice A. Moore

Donald F. Moore was present on behalf of his application to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred for two (2) parcels of land totalling 267.22 acres more or less, located 1,500 feet north of Route 526 and Route 529 for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Moore stated that they are committed to agricultural programs, that his son is the reason for this commitment, that his son is studying agriculture at the University of Delaware, that the area is ideal for preservation and meets the intent of the preservation program, that access is currently provided across a 4 acre parcel owned by them, and an access easement exist through Townsend's lands off of Route 526.

Ernest Hosse, George Marsh, and Dorothy Sowers spoke in opposition and expressed concerns relating to a setback being placed on their properties and not on the applicant's farm, that the setback becomes a taking issue on their properties, and that the setback may create an impact on future desires to subdivide.

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. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation District with the recommendation that it be approved.

3. RE: APD #96-3--Carey Farms, Inc.
APD #96-4--Carey Home Farm
APD #96-5--Carey Farms, Inc.

George Carey and Dale Carey were present on behalf of the following three applications: (a) to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred for two (2) parcels of land totalling 223.29 acres more or less, located on the east side of Route 221, across from Route 215 for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation; (b) to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred for three (3) parcels of land totalling 243.1 acres

more or less, located south of Route 219 and both sides of Route 38 for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation; (c) to consider an Agricultural Preservation District in Cedar Creek Hundred for two (2) parcels of land totalling 248.2 acres more or less, located northwest of Route 224 and east of Cedar Creek for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

George Carey stated that he has spent a lifetime on the farm, that he was born on the farm, that he has two sons working the farm, that this area is one of the greatest farming areas in Sussex County, that creation of an Agricultural Lands Preservation District excludes you from some State Inheritance Taxes, not Federal, that the land shall remain in the District for ten (10) years, that there is no intent to subdivide the farm, and that they like the open spaces.

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. Ralph, seconded by Mr. Phillips, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved.

6. RE: C/U #1149--Victor and Karen Letonoff

Victor and Karen Letonoff were present on behalf of their application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Little Creek Hundred for a Metal Art Foundry and Blacksmith Shop on the southwest side of Road 66, 0.9 mile west of Road 62, located on a parcel containing 8.19 acres more or less.

Mr. Lank summarized comments received from the Department of Transportation (DelDOT).

Mr. Lank advised the Commission that the description provided by the applicants on the application states that they propose to create a small art foundry for creation and casting of art work in metal and a small blacksmith shop to forge steel artwork, and that the artwork is sold at another location.

Mr. Letonoff stated that Mr. Lank had accurately described their proposal, that they have retail space to sell their artworks within the City of Rehoboth Beach, that the parcel is presently vacant, that the manufactured home on the neighboring lot is the only adjacent improvement, that they were trained as Meadowlark sculptures in metal, that they may employ two or three art students part-time, that the area is predominantly agricultural, that no negative impact is anticipated on the neighborhood, traffic, or property values, that the site is wooded in the front and cleared in the rear, that they use propane fuel to melt metals, that the majority of their artwork is made of bronze, which has little to no lead, that the forge is fired with hard coal, that castings materials are made of clay and sand, and that the only toxic materials are paints, of which very little are used.

The applicants submitted photographs of their work environment.

No parties appeared in opposition.

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

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

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

The Commission found that the applicants were present and stated that the applicants propose to create a small art foundry for creation and casting of art work in metal and a small blacksmith shop to forge steel artwork, and that they have retail space to sell their artworks within the City of Rehoboth Beach, that the parcel is presently vacant, that the manufactured home on the neighboring lot is the only adjacent improvement, that they were trained as Meadowlark sculptures in metal, that they may employ two or three art students part-time, that the area is predominantly agricultural, that no negative impact is anticipated on the neighborhood, traffic, or property values, that the site is wooded in the front and cleared in the rear, that they use propane fuel to melt metals, that the majority of their artwork is made of bronze, which has little to no lead, that the forge is fired with hard coal, that castings materials are made of clay and sand, and that the only toxic materials are paints, of which very little are used.

The Commission found that the applicants submitted photographs of their work environment.

The Commission found that no parties appeared in opposition.

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

7. RE: C/Z #1276--W. Leroy Mears

W. Leroy Mears and Scott Bradley, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to HR-2 High Density Residential in Lewes and Rehoboth Hundred, located on the west side of Road 274, 1,000 feet north of Road 275, to be located on a parcel containing 10.9 acres more or less.

Mr. Lank summarized comments received from DelDOT, the County Engineering Department, and the City of Rehoboth Beach Planning Commission.

Mr. Lank read letters received in opposition from the Gosling Creek Homeowners' Association, and M.C. Ignacio.

Mr. Bradley stated that the surrounding area on the westerly side of Road 274 contains access to a shopping mall, a gift shop, open fields, and residential subdivisions, that the easterly side of Road 274 contains access to a lamp shop, a liquor store, a manufactured home park, a landscaping business, a storage area, several subdivisions, open fields, and a manufactured home park, that the applicant proposes a total of 69 multi-family units, including 21 duplex buildings and 9 triplex buildings, that one entrance is proposed per an agreement with DelDOT, that the center of the site will be a large open space, that units are proposed to be sold in the price range of \$90,000 to \$100,000, that a retirement age community is anticipated, that central water is proposed to be provided by Tidewater Utilities, that central sewer is proposed to be acquired from Sussex County if the sewer district is expanded, that a sewer line exist along Road 274, that the Fire Company serving the area is the Rehoboth Beach Volunteer Fire Company, that they anticipate a modest development impact, that the applicant has agreed to conform to the DelDOT road improvement requirements, that the applicant has met with Breezewood, The Landing, and Arnell Creek homeowners association representatives, that the project shall provide

substantial economic impact for jobs, increases property tax bases, increases transfer taxes, impact fees, and annual sewer billings, that the sewer district needs more users to pay a fair share of the cost, that the Coastal Sussex Land Use Plan is a guide providing flexibility and recognizes that there will be changes, competing interest, growth, and forecast increases in higher density development, that site would score low for agricultural use due to the size of the parcel and its location in close proximity to development activities, that the site is within an area with infrastructure causing no impact on the inland bays, that fewer agricultural lands will be disturbed by allowing higher density, that Road 274 will be adequate to serve the use and the area after the improvements requested by DelDOT are completed, and that the site will create a buffer between commercial and residential single family uses.

Mr. Mears stated that a 30' forested buffer will be provided along property lines, that 40' spacing between buildings shall be provided, that single family developments in the area only provided 20' and 30' spacing between structures, that the use will provide a benefit for retirees looking for low maintenance, that the real estate market supports this type of use close to shopping areas, walkable to shopping areas, the use will buffer the existing mixed uses in the area, that the DelDOT requirements should establish a precedent for future developments along Road 274, that a need exist for this type of development in the area, and that the units will be one and two bedroom units, 18' or 20' in height, with one and two story sections.

Herbert A. Shutt, the owner of the property, stated that he has owned the site for several years, that agricultural uses are going out of the area, that farmers don't want to till small parcels where traffic exist, and that he has been unable to contract with farmers to till the parcel for more than one year at a time due to the size of the parcel and the traffic.

Mr. Bradley added that the DelDOT requirements will be depicted on the site plan.

Joseph Kerns, President of The Landing Homeowners Association stated that their Board met and voted unanimously to support the project preferring multi-family use rather than commercial expansion. Mr. Kern added that the landing has 104 lots with 60 lots improved.

Glen Marion, a real estate broker, stated that this type of housing will appreciate the area, will be a benefit for local and out of state residents looking for small maintenance free housing, and a benefit to the tax base.

Jeanine McIllvaine stated that her mother is looking for this type of low maintenance project to live in and that the use will be a benefit to the elderly.

Ronald Crain, a real estate broker, stated that this development will sell as soon as it is built, and should be an asset to the community.

Kathy Berl, a resident of Arnell Creek, stated that she supports this type of project, rather than a commercial use, that the site is close enough to commercial activities to permit walking.

Richard Anthony submitted and read a written statement from the Citizens Coalition in opposition to this application and questioning if the streets are proposed to be private or public, questioning deed restrictions, questioning where stormwater management will be located, questioning the DelDOT approval, questioning why the site plan has not been corrected to depict the DelDOT approval, stating that the County's position that the expanded sewer district is not to be used to promote/drive excessive development requires denial of the proposal, stating that the Delaware Code references that the land use map or map series shall have the force of law and that no development shall be permitted except in conformity with the land use map, requested that the application be denied as submitted, and stated that if the applicant proposed to develop the site with a maximum of four (4) units per acre the Citizens Coalition would support that type of application.

John K. Ward, a Board member of the Breezewood Homeowners Association, spoke in opposition and stated that all of the members of the Association are not in support of this application, that people in Breezewood are concerned about Road 274 traffic and condition, that the road should be expanded into four lanes, that the road should be improved prior to the site, that a precedent may be set if this application is approved, that open space is needed, and questioning the impact on the school system.

Michael Tyler of the Citizens Coalition stated that a site near Lewes was recommended for approval with a reduction in the density, and questioned if the applicant is going to allow summer rentals.

Mabel Granke spoke in opposition and stated that the site plan is conceptual, that HR-2 zoning will allow increased density, that the density could be as high as twelve (12) units per acre, and questioned the growth factor in the traffic summary report.

Charlie Marsch, a member of the Rehoboth Bay Mobile Home Park Board of Directors, spoke in opposition and stated that Road 274 is a 2.5 miles long road serving eight (8) subdivisions or manufactured home parks, a public golf course, a commercial mall, and other commercial uses, that the intersection of Route One and Road 274 has the highest accident rate in Sussex County, that higher density should not be allowed on Road 274, that Road 275 is used as a by-pass around Route One, that large motels already exist along Route One and that two more motels are under construction, that walkers and bikers are risking their lives by using Road 274 which has no shoulder improvements, that we can no longer trust DelDOT comments, and that the County should stop taking the heat for DelDOT approvals.

Jack Kilmer, a resident of Rehoboth Bay Mobile Home Park, spoke in opposition and reference the existing heavy traffic on Road 274, that the proposal has too much density for the area, that rezoning may establish a precedent for additional applications, and that piece by piece property is being lost in the area.

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

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

The Commission found, based on comments received from DelDOT, that the applicant and DelDOT have signed an agreement for the necessary improvements to Road 274, which include a 15' dedication of right of way, one entrance/exist, widening of the roadway, a right turn lane, perpetual cross access easements to adjacent properties, and a waiver of the requirement for a traffic impact study.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the area west of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, where the County agrees to restrict zoning changes based on a Memorandum of Understanding between the County and the State DNREC, that the site is contiguous to the existing boundaries of the sewer district, that a request can be made to extend the boundaries of the district, and that the change of zoning should not be approved without connecting to the County central sewer system.

The Commission found, based on comments received from the City of Rehoboth Planning Commission, that the Commission expressed concerns about increased density, that DelDOT is recommending one entrance, that Road 274 is a two lane rural

road, that use by existing developments represents an accelerating burden, that congestion on Route One has many motorists by-passing congestion areas by using Road 275 and Road 274 creating a situation Road 274 is not designed to safely handle, that this essential rural area needs to be examined in the context of the current land use plan review, questioning the goals of the land use plan for this area, questioning if the land use plan and transportation plan anticipate appropriate improvements, questioning if increased density of this magnitude will continue to be considered in this area, and recommending that if this application is approved the density should be limited to four (4) units per acre.

The Commission found, based on comments received from the Gosling Creek Homeowners Association, that the Association opposes this application, that the application does not meet the Coastal Sussex Land Use Plan, that the area is already highly congested and over developed due to the outlets and other proposed development, that rezoning would magnify the existing problems, and that the Commission should take a realistic view of the density problems and congestion and reject this application.

The Commission found, based on a letter from a resident living in Breezewood, that traffic on Road 274 has been heavily increased since the redesign of the intersection of Route One and Road 274 which motorists have found to be a shortcut route, that this redesign has created a form of gridlock when a motorist attempts to turn into Breezewood Drive since Road 274 has no paved shoulders or turning lanes, that Road 274 is already inadequate to handle today's traffic, that no rezoning should be considered until Road 274 is upgraded to handle the added traffic, that new development should pay it's fair share of the cost of the new sewer district, that he would have no objection to the rezoning if Road 274 is improved with paved shoulders and turning lands prior to development, and new development shall pay their fair share of the sewer system, and sewer monies recouped from developers be shared by the County with property owners.

The Commission found that the applicant was present, with an attorney who stated that the surrounding area on the westerly side of Road 274 contains access to a shopping mall, a gift shop, open fields, and residential subdivisions, that the easterly side of Road 274 contains access to a lamp shop, a liquor store, a manufactured home park, a landscaping business, a storage area, several subdivisions, open fields, and a manufactured home park, that the applicant proposes a total of 69 multi-family units, including 21 duplex buildings and 9 triplex buildings, that one entrance is proposed per an agreement with DelDOT, that the center of the site will be a large open space, that units are proposed to be sold in the price range of \$90,000 to \$100,000,

that a retirement age community is anticipated, that central water is proposed to be provided by Tidewater Utilities, that central sewer is proposed to be acquired from Sussex County if the sewer district is expanded, that a sewer line exist along Road 274, that the Fire Company serving the area is the Rehoboth Beach Volunteer Fire Company, that they anticipate a modest development impact, that the applicant has agreed to conform to the DelDOT road improvement requirements, that the applicant has met with Breezewood, The Landing, and Arnell Creek homeowners association representatives, that the project shall provide substantial economic impact for jobs, increases property tax bases, increases transfer taxes, impact fees, and annual sewer billings, that the sewer district needs more users to pay a fair share of the cost, that the Coastal Sussex Land Use Plan is a guide providing flexibility and recognizes that there will be changes, competing interest, growth, and forecast increases in higher density development, that site would score low for agricultural use due to the size of the parcel and its location in close proximity to development activities, that the site is within an area with infrastructure causing no impact on the inland bays, that fewer agricultural lands will be disturbed by allowing higher density, that Road 274 will be adequate to serve the use and the area after the improvements requested by DelDOT are completed, and that the site will create a buffer between commercial and residential single family uses.

The Commission found that the applicant stated that a 30' forested buffer will be provided along property lines, that 40' spacing between buildings shall be provided, that single family developments in the area only provided 20' and 30' spacing between structures, that the use will provide a benefit for retirees looking for low maintenance, that the real estate market supports this type of use close to shopping areas, walkable to shopping areas, the use will buffer the existing mixed uses in the area, that the DelDOT requirements should establish a precedent for future developments along Road 274, that a need exist for this type of development in the area, and that the units will be one and two bedroom units, 18' or 20' in height, with one and two story sections.

The Commission found that the owner of the property stated that he has owned the site for several years, that agricultural uses are going out of the area, that farmers don't want to till small parcels where traffic exist, and that he has been unable to contract with farmers to till the parcel for more than one year at a time due to the size of the parcel and the traffic.

The Commission found that the attorney present on behalf of the application added that the DelDOT requirements will be depicted on the site plan.

The Commission found that the President of The Landing Homeowners Association stated that their Board met and voted unanimously to support the project preferring multi-family use rather than commercial expansion, and added that The Landing has 104 lots with 60 lots improved.

The Commission found that a real estate broker stated that this type of housing will appreciate the area, will be a benefit for local and out of state residents looking for small maintenance free housing, and a benefit to the tax base.

The Commission found that an area resident stated that her mother is looking for this type of low maintenance project to live in and that the use will be a benefit to the elderly.

The Commission found that a real estate broker stated that this development will sell as soon as it is built, and should be an asset to the community.

The Commission found that a resident of Arnell Creek stated that she supports this type of project, rather than a commercial use, that the site is close enough to commercial activities to permit walking.

The Commission found that a representative of the Citizens Coalition submitted and read a written statement from the Coalition in opposition to this application and questioning if the streets are proposed to be private or public, questioning deed restrictions, questioning where stormwater management will be located, questioning the DelDOT approval, questioning why the site plan has not been corrected to depict the DelDOT approval, stating that the County's position that the expanded sewer district is not to be used to promote/drive excessive development requires denial of the proposal, stating that the Delaware Code references that the land use map or map series shall have the force of law and that no development shall be permitted except in conformity with the land use map, requested that the application be denied as submitted, and stated that if the applicant proposed to develop the site with a maximum of four (4) units per acre the Citizens Coalition would support that type of application.

The Commission found that a Board member of the Breezewood Homeowners Association spoke in opposition and stated that all of the members of the Association are not in support of this application, that people in Breezewood are concerned about Road 274 traffic and condition, that the road should be expanded into

four lanes, that the road should be improved prior to the site, that a precedent may be set if this application is approved, that open space is needed, and questioning the impact on the school system.

The Commission found that a representative of the Citizens Coalition stated that a site near Lewes was recommended for approval with a reduction in the density, and questioned if the applicant is going to allow summer rentals.

The Commission found that a resident of Rehoboth Beach spoke in opposition and stated that the site plan is conceptual, that HR-2 zoning will allow increased density, that the density could be as high as twelve (12) units per acre, and questioned the growth factor in the traffic summary report.

The Commission found that a member of the Rehoboth Bay Mobile Home Park Board of Directors spoke in opposition and stated that Road 274 is a 2.5 miles long road serving eight (8) subdivisions or manufactured home parks, a public golf course, a commercial mall, and other commercial uses, that the intersection of Route One and Road 274 has the highest accident rate in Sussex County, that higher density should not be allowed on Road 274, that Road 275 is used as a by-pass around Route One, that large motels already exist along Route One and that two more motels are under construction, that walkers and bikers are risking their lives by using Road 274 which has no shoulder improvements, that we can no longer trust DelDOT comments, and that the County should stop taking the heat for DelDOT approvals.

The Commission found that a resident of Rehoboth Bay Mobile Home Park spoke in opposition and reference the existing heavy traffic on Road 274, that the proposal has too much density for the area, that rezoning may establish a precedent for additional applications, and that piece by piece property is being lost in the area.

Mr. Phillips stated that he felt that the use would not conform to the area.

The Commission discussed the density of projects in the area.

Motion by Mr. Lynch, seconded by Mr. Ralph, and four (4) votes to one (1), with Mr. Phillips opposing the motion, to forward this application to the Sussex County Council with the recommendation that it be approved.

III. OTHER BUSINESS

1. RE: Hocker Storage

Mr. Abbott advised the Commission that this item has been removed from the agenda.

2. RE: Hocker Storage

The Commission reviewed a commercial site plan for a warehouse on Road 353, east of Route 17.

Mr. Abbott advised the Commission that the site plan references a 4,560 square foot warehouse, that the setbacks meet the requirements of the zoning code, that approvals have been received from DelDOT, Office of State Fire Marshal, and the Sussex Conservation District, and that the parking area will remain gravel.

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

3. RE: Mainsail Village @ The Salt Pond

The Commission reviewed a site plan for Phase IIB of Mainsail Village.

Mr. Abbott advised the Commission that this is the last phase for Mainsail Village, that building C references 5 units, that building D references 6 units, that the plan meets the requirements of the zoning code for townhouses, that the other multi family units in this project have been approved the same, and that all required agency approvals have been obtained.

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

4. RE: Del Ag Aero

The Commission reviewed a site plan for C/U #1069 for a private airstrip on Road 550.

Mr. Abbott advised the Commission that the site plan references the stipulations imposed by the County Council, and that an approval from the Federal Aviation Administration has been received.

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

5. RE: Crestfield Subdivision

The Commission reviewed a concept to create two additional lots to the existing Crestfield Subdivision.

Mr. Abbott advised the Commission that the subdivision received final approval for 42 lots, that due to DNREC regulations the final plat was reduced to 33 lots, that in 1992, six additional lots were approved by the Commission, and that in 1995, one additional lot was approved by the Commission for a total of 40 lots, that if these two additional lots are approved it would be the same as originally approved, that the two proposed lots would require the existing road to be lengthened, and questioned if this would require a public hearing as required by the subdivision ordinance since the road would have to be extended.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to deny this concept and require the developer to apply for a public hearing.

6. RE: Vaughn L. & M. Elizabeth Wright

The Commission reviewed a concept to create three lots, an outlot, and a fifty foot right of way off of Route 24.

Mr. Abbott advised the Commission that a deed was recorded in 1995 conveying a lot, that a survey was not approved by the staff or Commission, and that the lot is an illegal parcel.

Mark Pernic advised the Commission that he bought a lot B from the Wrights, and the Wrights stated that they were misrepresented in this conveyance and requested that no action be taken until their legal action is completed.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to defer action. This concept will require a major subdivision public hearing since the right of way does not exist.

7. RE: James T. & Edna Tucker

The Commission reviewed a concept to create a lot off of an existing fifty foot right of way off of Road 32.

Mr. Abbott advised the Commission that there is an existing fifty foot right of way and that the owner would like to create a half acre lot for his daughter.

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

8. RE: William Bogart

The Commission reviewed a concept to create three lots and a fifty foot right of way off of an existing fifty foot easement off of Road 341.

Mr. Abbott advised the Commission that the adjacent property owner was required to apply for a major subdivision through a public hearing process a few years ago.

Jeff Clark of Land Tech, Inc. advised the Commission that the adjacent parcel was subdivided into more lots than this concept, and that the owner would like a waiver in the design and construction of the right of way.

Motion made by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to deny this concept. It was the consensus of the Commission that the owner apply for a major subdivision public hearing and that a waiver in the design and construction of the street could be applied for as a part of the application.

9. RE: Maisons Sur-Mer

The Commission reviewed a concept to subdivide a lot into two lots on Route One north of Fenwick Island.

Mr. Abbott advised the Commission that one lot would be a buildable lot and that the other lot would be an outlot and possibly a future lot. The outlot needs the buildable area determined. An entrance permit shall be required from DelDOT.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve as a concept subject to receipt of an entrance location approval from DelDOT.

10. RE: Milton W. Hill

The Commission reviewed a concept to create two ten acre parcels with access from a fifty foot right of way from Patty Cannon Estates.

Mr. Abbott advised the Commission that the streets in Patty Cannon Estates are dedicated to public use however they are not built in a certain section and questioned if the extension of the street would require a public hearing.

After some discussion, it was the consensus of the Commission that the applicant be required to apply for a major subdivision public hearing.

11. RE: South Shore Subdivision

Mr. Abbott advised the Commission that this 23 lot subdivision received final approval in March 1995, that it was not recorded within sixty days due to a miscommunication between the developer and surveyor, and advised the Commission that the developer is requesting that it be approved again for recordation.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to re - approve the subdivision as a final.

12. RE: Creeks End

The Commission reviewed the final site plan for C/U #1103 for multi family units within Creeks End subdivision.

Mr. Abbott advised the Commission that the final site plan complies with the requirements of the zoning ordinance and Ordinance No. 1013, that the total units has been reduce to 14 from the maximum allowed of 25, and that all agency approvals have been received.

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

13. RE: Rehoboth Beach Outlets

Mr. Lank advised the Commission that this item has been removed from the agenda.

14. RE: Daryl Gregory

The Commission considered a request from maintaining a fifty foot setback from agricultural lands on Road 600.

Mr. Abbott advised the Commission that Shawnee Wood Farms is selling a parcel to Mr. Gregory and requests that Mr. Gregory be allowed to maintain the regular AR-1 Agricultural Residential District setbacks.

Motion made by Mr. Ralph, seconded by Mr. Phillips, and carried unanimously to permit the regular AR-1 Agricultural Residential setbacks.

Meeting adjourned at 11:30 PM.