

MINUTES OF THE REGULAR MEETING OF APRIL 5, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, April 5, 2001, in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 P.M. with Vice Chairman Wheatley presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Lynch, Mr. Wheatley, with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mr. Lynch, 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 March 29, 2001 as corrected.

Mr. Schrader explained how the Public Hearings would be conducted.

IV. PUBLIC HEARINGS

C/U #1392 - application of **CLARENCE JAMES REED, II AND MARY CATHERINE REED** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a paving business (contractor's yard and equipment storage) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.5 acres, more or less, lying northwest of Route 5, 600 feet south of Road 234B.

Mr. Allen abstained from participating in this Public Hearing.

The Commission found, based on comments received from DelDOT, that the annual average daily traffic count of Route 5 between Route 16 and Route One is 2,327 vehicles per day with a summer average of 3,815 vehicles per day; that a traffic impact study was not recommended; and that the existing Level of Service "B" of Route 5 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Rumford loamy sand and Sassafras sandy loam, which have slight limitations; that the applicant will be required to follow recommended erosion and sediment control practices and to maintain vegetation; that the Rumford soils are considered of Statewide Importance; that the Sassafras soils are considered Prime Farmland; that no storm flood hazard area or tax ditch is affected; that it may be necessary for some off-site and on-site drainage improvements because of the increase in impervious area; that there may be more surface run-off after a large storm event; and that water may pond on the surface for short periods of time.

The Commission found that Clarence Reed was present with Larry Fifer, Attorney, and stated in their presentations and in response to questions raised by the Commission that the paving business is a family business; that they have hauled materials for many years; that they are aware that they are located in an AR-1 Agricultural Residential District; that they propose to comply with the Zoning Ordinance; that business hours are from 7:30 A.M. to 5:30 P.M. with no Sunday hours; that he has nine (9) employees; that the driveway entrance is on his father's property; that he built the shed in 1996 for storage of his father's farm machinery; that DelDOT granted permission for the driveway entrance; that a lease should be submitted to verify that access across his father's land is permitted; that employees park on a paved area between the house and the shed; that some maintenance is performed on company vehicles in the shed; that all of the equipment and vehicles return to the site daily; and that he proposes no signage.

The Commission found that there were no parties present in support of or in opposition to the application.

At the conclusion of the Public Hearing, the Commission discussed the points and issues raised during the Public Hearing.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously that this application be forwarded to the Sussex County Council with the recommendation that it be approved with the following stipulations:

- 1) The applicant shall submit a copy of a recorded document showing that he has an approved lease or easement to use the driveway on his father's property.
- 2) The material bins on the property shall be designated on the site plan.
- 3) Business hours shall be from 7:00 A.M. to 6:00 P.M. There shall be no Sunday hours.
- 4) One (1) unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.
- 5) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 4 - 0. Mr. Allen was not participating.

C/U #1393 - application of **GULL POINT TRUST** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (16 units) as amendment to Conditional Use No. 1307 conditions of approval to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.99 acres, more or less, lying southwest of County Road 312 and the entrance to Gull Point and north of Indian River.

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

The Commission found, based on report made by Mr. Lank, that the site was reviewed by the Commission on September 9, 1999 as Conditional Use #1307 for 24 multi-family residential units; and that the Commission recommended approval of the application on September 23, 1999 with 7 stipulations, which included: 1) Central sewer service shall be provided in accordance with applicable regulations of the State DNREC and the County Engineering Department; 2) Central water service shall be provided in compliance with applicable regulations of the State DNREC, the Office of State Fire Marshal, the Division of Public Health, and the County Engineering Department; 3) Stormwater management and erosion and sedimentation control plans shall be subject to all State and County requirements; 4) The maximum number of units shall not exceed 24 units; 5) All amenities, including the community pool and pool house, shall be completed prior to construction of the 13th residential unit; 6) The open space depicted on the site plan shall be subject to no future development; 7) The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals; and that on October 19, 1999 the Sussex County Council approved the application with the same stipulations.

The Commission found that James Fuqua, Attorney, was present on behalf of the applicants and stated in his presentation and in response to questions raised by the Commission that in 1999 the County approved 24 units on the site; that 3 buildings containing 8 units each were proposed; that the buildings were to be 3-stories tall; that the applicants now propose to build 16 units within 2 buildings; that the original plans proposed a pool and pool house; that the applicants do not believe that the 16 units justify the pool and the pool house, and requested that if the amendment is approved that the pool and pool house be deleted from the stipulations; and that the applicant does not object to the other 6 stipulations.

The Commission found that Carol Zander, a resident of Warwick Park Subdivision, stated that the Warwick Park Homeowners Association objects to the 3 story buildings proposed since the Warwick Park Subdivision has a restriction limited buildings to 2 stories.

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. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the use is already approved and since this application will reduce the number of units, and with the following stipulations which amend the original stipulations to Conditional Use #1307:

- 1) Central sewer service shall be provided in accordance with applicable regulations of the State Department of Natural Resources and Environmental Control and the County Engineering Department.
- 2) Central water service shall be provided in compliance with applicable regulations of the State Department of Natural Resources and Environmental Control, the Office of the State Fire Marshal, the Division of Public Health, and the County Engineering Department.
- 3) Stormwater management and erosion and sedimentation control plans shall be subject to all State and County regulations.
- 4) The maximum number of units shall not exceed 16 units.
- 5) The open space depicted on the site plan shall be subject to no future development.
- 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/Z #1428 - application of **PATRICIA McDANIEL** to amend the Comprehensive Zoning Map from a GR General Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southeast of Lincoln Street at corner on southwest of Jefferson Street, 200 feet southwest of Route One, to be located on 19,410 square feet, more or less.

The Commission found, based on comments received from DelDOT, that Road 272A (a.k.a. Jefferson Street) has an annual average daily traffic of 1,729 vehicles per day with a summer average of 2,834 vehicles per day; that a traffic impact study was not recommended; and that the present Level of Service "D" of Road 272A will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras sandy loam which have slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that Sassafras soils are considered Prime Farmland; that no storm flood hazard areas 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 Sussex County Engineering Department Planning and Permits Division, that the project is located in the Dewey Beach Sanitary Sewer and Water District; that capacity is available for this project; that the current System Connection Charge Rate is \$2,159 per EDU for sewer and \$600 per EDU for water; that a one-inch water service is provided from Lincoln Street; and that a six-inch sewer lateral is provided from Lincoln Street.

The Commission found that prior to the meeting the applicant submitted a packet of information which included: a description of the current use of the site; the neighborhood; the proposed use; and included attachments of the proposed site plan; a front elevation drawing of the proposed building; a letter from a Charles H. Lebegren, Jr.; photographs of the property and the neighborhood; and a map showing the location of the property.

The Commission found that three letters of opposition were received prior to the meeting from Richard C. Miller and Gilbert C. Bange, Charles H. Lebegren, Jr., and John and Virginia Cottingham. The letters referenced concerns questioning if the application complies with existing case law; public safety (potential fire hazards); increased noise pollution; additional traffic congestion; and the storage of construction equipment and vehicles which will create noise, dust, diesel fumes.

The Commission found that Patricia McDaniel was present and stated in her presentation and in response to questions raised by the Commission that the lot is across from the City of Rehoboth maintenance building, storage yard, and water tower; that this site was originally a storage and salvage yard; that she has hauled approximately 25 loads of trash and junk from the site; that she proposes to build an office for her construction business; that she owns 2 enclosed trailers and 1 flat-bed trailer; that she has no intent to store materials outside; that she has 16 employees that go to job sites daily, not the office site; that she does not own a backhoe or any large trucks; that the existing storage building can be used to park the trailers; that the chain-link fencing along the property line is owned by DelDOT; that she would like to install an attractive residential fencing along the property line; that the entrance to the office will be located on Lincoln Street; that the office will be built with a residential appearance; that office hours are from 9:00 A.M. to 4:00 P.M.; that she would like to install a sign on the building; that there will not be any building or construction activity on the site relating to the business; that some materials waiting for jobs may be stored in the existing storage building; that the majority of the building materials will be delivered to job site, not the office; that the office is proposed for meeting with clients and other contractors, and for employee meetings; that the proposed 1-story building will contain 2,400 square feet with a height of approximately 20-feet; that there will be no more than 3 employees on the site, including herself; that all parking will be on-site; that her personal vehicle is the only vehicle used to advertise her business; and that the storage building will be improved with new siding.

The Commission found that Mark DeVol, an adjoining property owner, spoke in support of the application since the property was being cleaned up and improved.

The Commission found that Richard Miller and George Panarello spoke in opposition to the application and expressed concerns that the rezoning would impact the residential character of the area; acknowledged that the site was originally a storage facility that was grown over with a lot of brush and shrubs, and contained a lot of trash, debris, and garbage; that the area is zoned GR General Residential and should remain as zoned; that 3 mobile homes exists in the area; that the remaining uses are residential dwellings; that this is a family area with no commercial activities; that the neighborhood is concerned about storage of equipment of material and equipment; noise; and the handling of materials on site.

The Commission found that a petition, containing signatures on behalf of six families, was submitted in opposition to the application referencing that the application creates spot zoning since the area surrounding the site is developed residentially; that the use is not compatible with residential uses; that the use of the site does not comply with the purpose of the B-1 Neighborhood Business District; and that the petitioners oppose the use of the premises for storage of construction equipment and trucks which will come and go from the premises in the early morning hours causing noise, dust, diesel fumes and general disturbance of the residential neighborhood.

At the conclusion of the Public Hearing, the Commission discussed the points and issues raised during the Public Hearing.

There was a consensus of the Commission that the site is being improved over the past activities; that the City of Rehoboth Beach maintenance building and yard exists across from the site; that city trucks travel to and from the maintenance yard on a regular basis; and that the proposed use is less of a negative impact than the maintenance yard.

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

Vote carried 5 - 0.

C/Z #1429 - application of **PARKER BLOCK CO., INC.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, land lying southeast of Route 24, 400 feet southwest of Road 409, to be located on 0.48 acre, more or less.

The Commission found, based on comments received from DelDOT, that Route 24, between Road 472 and the western Millsboro Town Limits, has an annual average daily traffic count of 6064 vehicles per day; that Road 472, between Road 408 and Road 410, has an annual average daily traffic count of 226 vehicles per day; that a traffic impact study was not recommended; that the Level of Service "C" of Route 24 may increase to Level of Service "D"; and that the Level of Service "A" of Road 472 may increase to Level of Service "C".

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

The Commission found that John Thoroughgood, President of Parker Block Co., Inc., was present and stated that they propose to build an addition for a shop to the easterly side of the building; that the shop will be used to rebuild machinery for the block building machine, and for a lunch room; that a 30-foot by 40-foot addition is proposed; that the remainder of the land will continue to be farmed; that a residential home exists within 150-feet of the plant; and that they do not want to impact that residence.

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.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the proposal calls for a small addition to an existing industrial use and an extension to an existing LI-2 Light Industrial District.

Vote carried 5 - 0.

C/Z #1430 - application of **REHOBOTH HOME BUILDERS, INC.** 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 east of Route 274 (Old Landing Road), 400 feet south of Route 275, to be located on 24.45 acres, more or less.

The Commission found, based on comments received from the Office of State Planning Coordination, that the Strategies for State Policies and Spending document, approved by the Cabinet Committee for State Planning Issues in 1999, shows the parcel in a Community Area where the State encourages redevelopment and reinvestment; that DelDOT has noted through the Land Use Planning Act (LUPA) process that it will not require a traffic impact study because the Department believes that the proposed development of 64 age-restricted lots would generate less traffic than would a development of 33 non-restricted lots that the developer could build by right; that DelDOT, working with the developers, agreed to drop the requirement of a traffic impact study under the following conditions: 1) The developer will dedicate an 80-foot right-of-way along the south (or west) property line, more or less perpendicular to Old Landing Road. This right-of-way is for one of the conceptual roads or paths identified in the SR1 Grid concept study; 2) The developer will deed restrict the property to 64-units of age restricted (55 or older) housing; 3) The traffic from the proposed development will not exceed the traffic generated by 39 single-family houses (the number permitted under current zoning) with no age restriction. If only 64 houses are to be built, that will be the case. The data DelDOT has on age-restricted developments shows that dwelling for dwelling they tend to generate about one third of the traffic that unrestricted single-family detached houses generate; that the DNREC has asked that, because the proposed development is located in the immediate vicinity of the headwaters of a small creek which ultimately empties into the waters of the Inland Bays watershed, this project be required to include appropriate pollution control strategies; i.e., stormwater management and buffers, consistent with TMDL "target rate reductions" to mitigate nutrient runoff into any adjoining streams and watercourses; that the State Historic Preservation Office has noted that this area has high potential for prehistoric archaeological sites and some potential for early historic period archaeological sites; that rezoning of this site could have adverse effects on any archaeological sites; that the State asks that the County require the developer to work with the State Historic Preservation Office to avoid areas of highest archaeological potential; and that, in conclusion, the State has no objections to this rezoning and development but asks that the County require to developer to work with DNREC and the State Historic Preservation Office on their concerns.

The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Division, that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that capacity is available for the project; that this is a redevelopment of Cedar Valley @34 lots; that the additional 31 lots will not cause additional deficiencies; that the current System Connection Charge Rate is \$2,954 per EDU; that an eight inch stub from MH12123 on Dry Brook Drive is available for connection; and that conformity to the West Rehoboth Expansion Area Planning Study, or undertaking an amendment will be required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro sand, Sassafras sandy loam and Sassafras loam; that the Evesboro soils have moderate limitations; that the Sassafras soils have slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the Sassafras soils are considered Prime Farmland; that no storm flood hazard areas or tax ditches are affected; that it may be necessary for some off-site and on-site drainage improvements because of the increase impervious area; since there will be more surface run-off during storm events; that existing drainage may need to be improved to accommodate increase; that water during a storm event may pond for short periods of time; and since drainage will be needed to remove run-off safely.

The Commission found that a letter was received from William H. Atkins in opposition to the application and referenced that enough development along Old Landing Road already exists; that there is a need for open space to accommodate the wildlife displaced by development; and that density should be limited to the same as neighboring properties, most of which are in excess of 0.50 acre.

The Commission found that prior to the meeting the applicant submitted a packet of information which included a copy of the existing Cedar Valley Subdivision plat approved in August 1989; a DelDOT letter; excerpts of the Comprehensive Plan and Map; a copy of the State Strategies for State Policies and Spending Map; copies of the Delaware Code referencing the legal status of a Comprehensive Plan; and proposed conditions of approval acceptable to the applicant.

The Commission found that Rick Woodin and James Fuqua, Attorney, were present and stated in their presentations and in response to questions raised by the Commission that in 1989 a 33 lot Subdivision was recorded on the parcel; that, at that time, the area did not have any sewer service; that the lots exceed 0.50 acre; that the area is predominantly residential; that some of the developments along Old Landing Road include: Pine Valley, a Mobile Home Park; Rehoboth Shores Estates, an AR-1 Subdivision; Sea Chase, a multi-family project; Breezewood, an MR Subdivision; The Landing, an AR-1 Subdivision; Arnell Creek, an AR-1 Subdivision; Village of Old Landing and Village of Old Landing II, MR-Residential Planned Communities; Old Landing Woods, a MR Subdivision; Rehoboth Bay Park, a Mobile Home Park; and Old Landing, an AR-1 Subdivision; that they propose to develop 64 lots; that the density will be 2.6 units per acre; that they propose to buffer the adjoining properties and Subdivisions; that stormwater management will be located in the buffer area to the rear of the site; that they have provided an 80-foot wide road to a future Grid Road at the request of DelDOT; that the existing tree lines will remain and that additional planting will be provided; that they propose an age-restricted development for residents 55-years or older; that sewer capacity is available; that Tidewater Utilities has advised them that they are willing and able to

supply water; that no wetlands exists on the site; that all stormwater management requirements will be met; that the Delaware State Police have facilities on Route One; that the Rehoboth Beach Volunteer Fire Dept. has a substation just off of Route One; that shopping and emergency medical facilities are in close proximity; that DelDOT has advised them that an age restricted community creates less than 1/3 of the amount of traffic created by a normal community; that the site is located in a Development District per the Comprehensive Plan; that the use meets the intent of the purpose of the Development District; that the Comprehensive Plan suggest that developments can be developed at a density of 4 units per acre; that the Comprehensive Plan has the force of law; that the site is located in a designated Community Area on the Strategies for State Policies and Spending Map prepared by the Cabinet Committee; that DelDOT and the Office of State Planning Coordination have voiced no objections; that the Comprehensive Plan suggests that development should be concentrated in areas where public water and wastewater systems are available or planned and where past trends indicate that growth will occur; that this project will have similar density to Breezewood, an adjoining Subdivision, Old Landing Woods, the Village of Old Landing, and the Village of Old Landing II; that the minimum lot area will contain 7,500 square feet; that the average lot area will be 9,182 square feet; that private open space will be maintained by a Homeowners Association; that the streets will be dedicated to public use and constructed to State standards; that a minimum of tree disturbance will occur; that a regular subdivision would allow for lots to be located to the perimeter property line; that the proposed plan allows for open space buffers to separate the subdivisions; that a MR Subdivision would be less desirable since no open space is created; and that no commercial uses are proposed.

The Commission found that Mr. Fuqua submitted some proposed conditions that the applicants would accept. The conditions included: 1) The maximum number of residential lots shall not exceed sixty-four (64); 2) The development shall be served as part of the Sussex County Sewer System; 3) the development shall be served by Tidewater Utilities, Inc. providing central water for consumption and fire protection per applicable regulations and approvals of DNREC, the State Fire Marshal, and the Public Service Commission; 4) All conditions required by DelDOT, as set forth in DelDOT's letter dated December 8, 2000, shall be completed and/or enforced by the applicant; 5) Site Plan of the development shall be reviewed and approved by the Sussex County Planning and Zoning Commission; 6) Applicant will limit through Deed Restrictions the type of residential use of this property to an age restricted community in compliance with the Fair Housing Act, said Restrictions to be reviewed and approved by the County Attorney at the time of Final Site Plan review by the Sussex County Planning and Zoning Commission.

The Commission found that Mr. Fuqua submitted a copy of the Tidewater Utilities, Inc. letter referencing the company's willingness and ability to provide water service.

The Commission found that George Howard, the present property owner, stated that his family recorded the Subdivision in 1989; that the Subdivision contained 20,000 square foot lots since there was no central water or sewer in the area; that the proposed project will have central water, central sewer, public streets, and open space; and looks better than the original Subdivision plan.

The Commission found that Mark Hamilton, Lori Watson, Mike Tyler, Mable Granke, and Sharon Wilson were present in opposition and expressed concerns: that property owners purchased their land knowing the zoning of the area; that larger buffers are needed; that water stands on the land in heavy rains; that traffic congestion is a major concern; that the intersection of Route 274 and Route 275 creates gridlock during summer weekends; that they are concerned that emergency vehicles will not be able to get to the project when gridlock occurs; that development of the parcel will cause loss of scenic views, open space, and wildlife habitat; that the plan has no creativity; that there are no walkways or sidewalks designated; that if the project has to be developed it should be developed based on present zoning; that Old Landing Road has some flooding problems during heavy rains; that the 80-foot Grid Road concept is questionable since DelDOT has not developed a firm plan or location of where the Grid Roads will go; that restrictive covenants are subject to change; and that local wells may be impacted.

The Commission found, by a show of hands, that 11 parties were present in support and 6 parties were 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. Allen, and carried unanimously to defer action.

Vote carried 5 - 0.

ORDINANCE AMENDMENT - AN ORDINANCE TO AMEND THE ZONING ORDINANCE FOR SUSSEX COUNTY, DELAWARE, AS IT RELATES TO COMMERCIAL COMMUNICATION TOWERS AND ANTENNAS.

Mr. Lank summarized the Ordinance and Synopsis, and letters received from Randy K. Murray, President of Redi-Call Communications Co., and Tinsley Meekins, Jr., of Meekins Antenna Rentals, Inc.

The Commission found, based on the letter from Randy K. Murray that the County is most timely in its consideration of this change in light of the proliferation of commercial tower structures now being constructed in the area; that much of the demand for short communication towers (under 150-feet tall) has probably been satisfied; that presently there seems to be almost a speculative attitude toward investment in these structures; that comments were addressed relating to: the definition of towers; relief for light commercial towers; personal use towers; fencing for tower pad areas; continuous use; and lighting on towers.

The Commission found, based on the letters for Tinsley Meekins, Jr., that some of the wording should be changed; that amateur radio (ham) operators and private two-way radio users should not be affected by the Ordinance; that less towers with more customer antennas would be appropriate; that a 2-mile circle drawn around existing towers capable of supporting many antennas will do well to keep smaller, closer towers from being built; and referenced lighting.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State supports the Ordinance and added that these towers have had a adverse visual effect on historic properties with the County and encouraging co-location is an excellent tactic and will help protect historic districts and historic rural landscapes.

The Commission found that Mike Tyler and Mable Granke were present in support of any Ordinance that would require a public hearing on commercial towers due to the visual and safety impacts that towers create.

The Commission found that Jeff Chorman of Chorman Aviation, aerial applicators, was present in support of the Ordinance and added that aerial applicators/crop dusters have real safety concerns over the number of towers being erected at the present time; that one season the area that they are working is clear of any tower obstructions and the next season there may be several tower; that more lighting or color painting of the towers should be required in agricultural areas; that all aerial applicators should be notified whenever another tower is approved; that F.A.A. maps do not indicate any towers that are less than 200-feet tall; that 16 aerial applicator companies work in Sussex County; and that co-location of antennas on existing towers would reduce the number of towers.

The Commission found that Harry Deadola of the Office of Aeronautics of DelDOT was present in support of the Ordinance and for the protection of the aerial applicators since towers have become a major hazard to flyers, and added that Delaware is located in the Eastern Region of the F.A.A. and that the F.A.A. does not seem to like to get involved in local issues.

The Commission found that Barry Pevey, an aerial applicator, stated that galvanized towers blend into the color of the sky, and that if a tower is painted it should be bright yellow, or red and white; and that at least the upper 50 percent of the tower should be painted; and that aerial applicators fly as close to a crop as 8 to 10 feet above the crop.

The Commission found that Rob Patterson, owner and operator of a flight school and charter service at the Sussex County Airport, stated that towers create a safety concern for all flyers and that he is willing to take the Commissioners on a flight to see some of the towers.

Mr. Schrader advised the Commission that the draft of the Ordinance was prepared in December of 2000 and was a fair attempt to impede the number of towers.

The Commission discussed the Ordinance and the comments received both by letter and during the Public Hearing.

There was a consensus of the Commission that they would prefer lighting placed on the towers set at every 50-feet and visible from 360 degrees, rather than painting the towers, which seemed to create more of an adverse visual affect on properties.

Motion by Mr. Allen, seconded by Mr. Lynch, and carried unanimously to defer action so that Mr. Schrader may make some revisions to the Ordinance.

Vote carried 5 - 0.

V. OLD BUSINESS

SUBDIVISION #2001-2 -- application of **SUSSEX VENTURES, C/O DONALD WARD** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 82.61 acres into 71 lots, located south of Road 297, 2,930 feet west of Route 30.

The Chairman referred back to this application which was deferred at the March 22, 2001 meeting.

Mr. Johnson stated that he has concerns about the preservation and conservation of farmland and concerns about the length of the interior street and that there is only one way into the proposed subdivision.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to deny this application.

Vote carried 5 - 0.

SUBDIVISION #2001-6 -- application of **SUSSEX SHORES WATER CO.** to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Baltimore Hundred, by dividing 10.57 acres into 23 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Delaware Route One, 3,050 feet north of Road 360.

The Chairman referred back to this application which was deferred at the March 22, 2001 meeting.

Motion by Mr. Lynch, seconded by Mr. Allen and carried unanimously to approve this application as a preliminary with the stipulation that no site work be commenced until the final record plan is recorded.

Vote carried 5 - 0.

SUBDIVISION #2000-19 -- application of **W.T. WILSON, INC.** to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Broadkill Hundred, by dividing 51.68 acres into 44 lots, located southwest of Route One, 860 feet northwest of Road 88.

Mr. Abbott advised the Commission that the final record plan is the same as the preliminary plan; that the record plan complies with the Subdivision Ordinance; and that all required agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Lynch and carried unanimously to approve this application as a final with the stipulation that no site work be commenced until the final record plan is recorded.

Vote carried 5 - 0.

VI. OTHER BUSINESS

Harbor Square Retail Center
Preliminary Commercial Site Plan Route One

The Commission reviewed a commercial site plan for a retail store located on Route One, north of Route 24 near Midway.

Mr. Abbott advised the Commission that a letter of no objection has been received from DelDOT; that today the staff received an approved entrance permit from DelDOT; that the proposed building is 90-feet by 111-feet; that the site plan meets the requirements of the zoning code; and that all agency approvals were received today.

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

Vote carried 5 - 0.

Allen Peterson
Parcel Road 492

The Commission reviewed a proposed subdivision off of Road 492.

Mr. Abbott advised the Commission that the parcel has 150-feet of road frontage; 140-foot depth forming a triangle, then narrows to 50-feet in width for a depth of 2,500 feet to serve a 8-acre parcel.

The Commission felt that the design of the parcel preserves the adjacent farm.

Motion by Mr. Gordy, seconded by Mr. Lynch and carried unanimously to approve the parcel.

Vote carried 5 - 0.

Country Sunrooms, Inc.
Preliminary Commercial Site Plan Route 5 and Route One

The Commission reviewed a commercial site plan for display and retail sales of spas and sunrooms located at the intersection of Route 5 and Route One.

Mr. Abbott advised the Commission that a 5,400 square foot building is proposed; that access to the site will be off of Route 5 only; that on-site sewer and water is proposed; that the site plan meets the requirements of the zoning code; and that all agency approvals are required.

Byron Jefferson, Engineer, advised the Commission that the building would have the appearance of Wawa stores in the area.

Motion by Mr. Allen, seconded by Mr. Johnson, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to receipt of all required agency approvals.

Beebe Medical Center
C/U #1236 Discussion Route 24

The Chairman referred back to this item which was deferred at the March 29, 2001 meeting.

Mr. Abbott advised the Commission that Sussex County Engineering, Sussex Conservation District, and the Office of the State Fire Marshal have approved the plan; that the entrance plan is being reviewed by DelDOT; that the site plan has not been approved by the Commission; and questioned if the Commission would consider the conditional use substantially underway due to the amount of work that has been completed.

Mr. Schrader stated that the language in the code is mandatory and that there is no legal basis to grant another time extension since two have already been granted.

Motion by Mr. Lynch, seconded by Mr. Allen and carried unanimously to deny the project being substantially underway.

Harriett Ritter
Lot and 50-foot Right of Way Route 24

The Commission reviewed a concept to create a 1.14-acre lot with an existing dwelling located on it and a 50-foot right of way off of Route 24.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the request as a concept.

James B. Walsh
Parcel Road 290

The Commission reviewed a concept to create a 20-acre parcel with existing frontage of 50-feet off of Road 290.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the request as a concept.

VII. ADDITIONAL BUSINESS

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The Commission discussed the number of pending applications and it was the consensus of the Commission that a special meeting be held on Thursday, May 17, 2001.

Meeting adjourned at 10:30 P.M.