

MINUTES OF THE REGULAR MEETING OF APRIL 8, 1999

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 8, 1999, at 7:30 P.M., in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware, with the following present: Mr. Allen, Mr. Hastings, Mr. Lynch, Mr. Phillips, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray, Zoning Inspector III.

Mr. Allen, Chairman, called the meeting to order.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to adopt the agenda as amended to refer Item 4 of Old Business to the end of the agenda.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the minutes of March 25, 1999 as corrected.

Mr. Schrader explained how the meeting would be conducted.

II. PUBLIC HEARINGS

C/U #1276 -- application of SUSSEX SHORES WATER CO. to consider the Conditional Use of land in a GR General Residential District for a public utility - water company to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.54 acres, more or less, lying south of Maryland Street, 300 feet west of Road 357, and 1,000 feet north of Road 360.

The Commission found that comments had not been requested from DelDOT since the site was located on a private road.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located within the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District; that service will be provided to the site; that the current schedule estimates that sewer will be available in May 2001; that system connection charges will apply, if connections are made to the system; that the rate for the period July 1, 1998 to June 30, 1999 is \$2,159 per EDU; that the County is currently determining pipeline alignments in rights-of-way that are adjacent to the site; and that the applicant should contact the Department prior to installation of any wells or waterlines to assure that conflicts are kept to a minimum.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Fill Land and Rumford loamy sand; that the Rumford soils have slight limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; and that the farmland rating of the soil type is of Statewide Importance.

The Commission found that a letter of support had been received from Sara and Bob Fitzgerald.

The Commission found that James Griffin, Attorney, Rodney Short, President of the Sussex Shores Water Company, and Brad Dorey, Plant Supervisor, were present on behalf of the this application and stated in their presentations and in response to questions raised by the Commission that the water company is regulated by the Public Service Commission; that Plant No. 1 exists on Route One; that the existing plant needs upgrading; that their Consulting Engineers have suggested that they locate an additional water plant; that the existing plant serves 1153 meter connections in the North Bethany and Cedar Neck areas; that Mr. Short has been President of the water company for 23 years; that a one-story block building, measuring 22' by 54' with a height of 11.5' is proposed; that a 50,000 gallon horizontal painted storage tank, 16' above grade, is proposed to be located behind the building; that vinyl security fencing will be provided around the building and tank; that landscaping will be provided by planting Leyland cypress on the east side, and juniper evergreens and hardwoods on the north side; that entry into the plant will be through an electronically controlled gate recessed into the fence compound approximately 20'; that the interior of the building will include a chemical room, an electronic control room, a pressure pump control room, and a generator room; that the company purchased the site in December 1998; that two-eight (8) inch wells are proposed; that one well will be installed immediately and one well for the future; that State well permits require public advertisements; that the plant will connect to the water line on Cedar Neck Road (Road 357); that a pipeline connection from the plant to the pipeline on Cedar Neck Road measures approximately 300'; that the plant will increase storage capacity, well capacity, and fire protection capabilities; that the plant will serve as a back-up to Plant No. 1; that the project should cost approximately \$80,000; that it would cost approximately \$1,000,000 to upgrade Plant No. 1, which includes an iron removal system; that Plant No. 1 pumps 400 gallons of water per minute; that the two plants combined will pump 1,000 gallons of water per minute; that plant records show that the maximum amount of water was pumped during the summer of 1998, and that the plant had to pump water for 24 hours a day to meet demands; that Plant No. 1 pumps 600,000 gallons of water per day of which 300,000 gallons are stored on site; that the proposed plant will allow closure of Plant No. 1 for maintenance and repairs; that they propose to build the foundation of the building, a well, and the storage tank by September 1999; that the closest domestic wells are from 200' to 1,000' away from the site with well depths of 20' to 90'; that the proposed wells will be drilled to approximately 120'; and that all construction improvements will be inside of the fenced area.

The Commission found that the applicants submitted site plans, building plans, and a letter from the Consulting Engineers, Whitman-Requardt and Associates, LLP.

The Commission found that Marie Brumble, a landowner to the west within Lynn Lee Village, questioned how much truck traffic and noise would be generated, and landscaping for the west and south sides of the property.

The Commission found that Mr. Griffin stated that traffic should be limited to two daily trips at a maximum, and that the buffers would be the same as the north side of the property.

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

1. The storage tank and building shall be within the fenced area as specified by the applicant in his presentation.
2. Landscaping shall be provided around the perimeter of the site as stated by the applicant in his presentation.
3. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals and/or permits.

C/U #1277 -- application of BILLY C. JONES, JR. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for auto repair to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 1.23 acres, more or less, lying west of Road 510, 1,050 feet south of Road 503.

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 Road 510 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that no storm hazard areas or tax ditches are affected; that it may be necessary for some on-site and off-site drainage improvements due to the poorly drained soils with seasonally high water tables from November through March; that wetlands may be impacted; that the soils are mapped as Fallsington sandy loam and Pocomoke sandy loam which have severe limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation; and that the farmland rating of the soil types is of Statewide Importance.

The Commission found that a letter had been received from Wayne Elliott, not opposing the application, but requesting that conditions be imposed relating to no commercial signs; as much tree screening as possible; a limitation on the number of vehicles parked outside around the garage, and recommending six (6) vehicles; and noting tree screening is preferred over fencing.

The Commission found that Billy Jones, Jr. and Billy Jones, Sr. were present and stated in their presentation and in response to questions raised by the Commission that the business has been in operation for several months; that the majority of the work performed is transmission work; that normal business hours are from 8:00 A.M. to 5:00 P.M. weekdays, with some Saturday hours, and no Sunday hours; that there are currently ten (10) vehicles stored outside, two (2) untitled and three (3) personal; that no vehicles are used for parts salvage; that no body work is performed; that waste oil is stored in a 275 gallon drum and is hauled away by a waste oil handler; minimal work is performed outside; that a vehicle being repaired may be on the site for a week if a transmission overhaul is being performed; that a vehicle may be on the site for a day if a tune-up is being performed; that they have no objection to landscaping being required; that a 2' by 2' sign is proposed; that no additional lighting is proposed; and that he works on cars and trucks (1/2 and 3/4 ton), no heavy equipment.

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

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

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

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

1. Business hours shall be within the hours of 7:00 A.M. to 6:00 P.M. weekdays, 7:00 A.M. to 2:00 P.M. on Saturdays, and NO Sunday hours.
2. No untitled vehicles shall be stored on the site.
3. The front of the shop area shall be landscaped with Leyland Cypress spaced no more than 8' apart.
4. This Conditional Use is for an auto repair shop. No bodywork or painting shall be performed.
5. One unlighted sign, not exceeding 2' by 2' per side or facing may be permitted.
6. No vehicles repaired shall be larger than 3/4 ton.
7. The maximum number of vehicles stored outside shall be six (6).

8. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals and/or permits.

C/Z #1373 -- application of CRAIG HUDSON AND JOSEPH HUDSON to consider a proposal to amend the zoning map from an AR-1 Agricultural Residential District to a C-1 General Commercial District in Lewes and Rehoboth Hundred, located northwest of Route 24, 900 feet northeast of Road 275, to be located on 6.94 acres, more or less.

The Commission found, based on comments dated February 18, 1999 from DelDOT, that a traffic impact study was not recommended; that Route 24, from Route One to Road 275, is considered a level of service "E" during peak hours; that the project may conflict with the proposed grid system as recommended in the Departments Route One corridor study; that the study recommends the construction of a local road, in a sixty (60) foot right-of-way along the east edge of the property; that the Department recommends that the County deny the application if the applicant does not first file a deed restriction pertaining to the road; that specifically, the deed restriction should obligate the applicant to dedicate the right-of-way for the length of the property, to build the road in a manner acceptable to DelDOT, and to place the site entrance on the new road; that the Department opposes the rezoning if the restriction is not filed beforehand; that the Department is concerned about the potential traffic impacts of other commercial development that could occur on the parcel if the proposed use, a modular home sales center, were not built or were built and later replaced; that it is the Department's understanding that the applicant would agree to certain restrictions for the site so that the site could not be developed into more intense uses, such as fast food restaurants and gasoline stations; that the Statewide Long Range Transportation Plan designates most of coastal Sussex County as a Multimodal Investment Area where the Department intends to support development with a more comprehensive menu of transportation facilities and services by adding capacity and supporting targeted growth; and that the Department would not be opposed to this application if the applicant agreed to dedicate a sixty (60) foot right-of-way along the east edge of the property for a proposed local road, to build the road within the limits of the property, and to place the site entrance on that road.

The Commission found, based on comments received from the County Engineering Department, that the site is not in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District service area, but is adjacent to the boundary; that annexation into the service area is possible; that the Department is developing a planning study for the area; that answers on wastewater capacity and oversizing requirements for the property are not available; that the study should be completed by July 1999; that the Department supports the provision of sanitary sewer service to the project, but feels the sewer planning study is crucial to providing for the long-term needs of the area; that the Department recommends that action on this request be delayed until the study is

complete; that there is an 8-inch gravity collection pipeline on the south side of Route 24; that a connection to this pipeline may be possible; that a determination will be made regarding the available capacity in these lines; that if the District boundary is extended, system connection charges will be due; and that the current system connection charge for the period July 1, 1998 to June 30, 1999 is \$2,954 per EDU.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is located within the area that the State has identified in its Investment and Resource Management Strategy as an urban area where they would encourage growth; that it is imperative that the State make certain infrastructure changes in the area to help increase residents' mobility and reduce congestion by developing alternative road linkages and connections; that the Office is supportive of DelDOT request for dedication of right-of-way, construction of the local road, and the entrance be controlled to the local road; and that the State would be opposed to the rezoning without the restrictions referenced by DelDOT.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area or tax ditch is affected; that it may be necessary for some on-site and off-site drainage improvements due to the increased impervious area with the resultant increase in runoff; that the soils are mapped as Sassafras sandy loam and Sassafras loam which have slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; and that the soils are mapped as Prime Farmland.

The Commission found, based on a letter received from Paula Pepper, President of Maplewood Homeowner's Association, that the Association has no objection to Hudson Homes moving to the site, but opposes the rezoning to C-1 General Commercial; that a Conditional Use would be appropriate; that they request that the woodland be left undamaged as a natural buffer; and that they hope that the proposed DelDOT local road could be located west of the existing woodland on the site.

The Commission found that John Sergovic, Attorney, Craig Hudson, Joseph Hudson, and Kevin Burdette, Consulting Engineer, were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that the application had to be filed since the present site lease has been terminated; that the site was chosen due to its close proximity to the existing site; that the applicants requested rezoning since the sellers demanded commercial prices; that rezoning to B-1 Neighborhood Business would not permit the sales lot; that lending institutes will not lend money on Conditional Use applications; that the applicants are willing to propose restrictions of no gasoline stations, fast-food restaurants, no buildings of more than 165 feet in length; that the development trends of the area include B-1 Neighborhood Business along the front of Maplewood, Conditional Use for the existing modular home

sales lot, Conditional Use for a medical center, C-1 General Commercial extending from Route One and the Rehoboth Mall site, and other proposed applications; that the project meets the goals of the Comprehensive Plan and provides for a wise land use decision for the County; that the use causes no impact on the sewer, schools, police or fire protection; that the use serves a need for the availability of affordable housing; that the homes sold from the sales facility are priced in the \$70,000 range, which includes landscaping, paved drive, etc...; that approximately 1/2 of the price returns to the local economy through local contractors, business and commercial services; that the collateral value of the land is not appropriate as a Conditional Use; that the applicants have no objection to reserving the DelDOT requested right-of-way for the local road; that the applicants are willing to install a septic system until the sewer is available; that the site is located in a Development District according to the Comprehensive Plan; that the site plan shows the DelDOT local road; that the applicant wants to be a good neighbor; that the site is proposed to be developed with a village concept layout with decorated walks, lighting and off-street parking; that the wooded area to the rear of the site near Maplewood will be preserved as much as possible; that no additional traffic should be generated over the existing site; that they anticipate 30 to 40 vehicle trips will be generated per day; that one entrance is proposed to be applied for off of Route 24; that the entrance is proposed to be divided in design and adequate for trucks turning into the site; that stormwater management is proposed to be located to the northwesterly corner of the site; that Tidewater Utilities has advised them that water capacity is available; that the application has the benefit of a history of the use by the applicants across Route 24; that 14 units are proposed to be displayed on the site; that business hours are from 9:00 A.M. to 6:00 P.M. weekdays, and 9:00 A.M. to 4:00 P.M. weekends; and that restrictive covenants will be recorded prior to the County Council hearing in favor of the Maplewood Homeowners Association.

The Commission found that Paula Pepper, President of Maplewood Homeowners Association, was present and stated that the Association was not opposed to the use, but opposed the rezoning to C-1 General Commercial.

The Commission found that Joan Deaver and Bill Deaver, residents within Midway Acres, Mike Tyler, President of the Citizens Coalition, Charles Gravius of Midway Acres, Bob Capatani of Maplewood, Bill Bowler of Maplewood, and Paul Stouffer of Maplewood, of the 47 people present in opposition, spoke in opposition to the application and referenced concerns about traffic on Road 275 and Route 24, the widening of Road 275 and Route 24; accidents at the lighted intersection of Route 24 and Road 275; the concept of the grid roads proposed by DelDOT; that the site is not appropriate for rezoning; that the comments of local residents should be considered, that the level of service of Route 24 should be recognized and considered; that the private restrictions of Midway Acres do not permit modular homes, therefore placing homes for sale immediately adjacent to an area that doesn't permit them; opposed to the stormwater

management area proposed; that commercial development of the site impacts the citizens of Midway Acres; that the existing site is controlled by a traffic light; that nineteen (19) lots abut the woodlands on the site; that the purchasers of the nineteen (19) lots paid additional purchase prices since the woodlands existed; that property values will be impacted negatively if a road is created along the easterly property line; that the private restrictions may ease some fears for certain uses in a C-1 General Commercial District, but the restrictions do not cover all of the uses permitted in a C-1 General Commercial District; and that there is no need for additional C-1 General Commercial along Route 24.

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 defer action.

C/Z #1374 -- application of C.L.H. DESIGN to consider a proposal to amend the zoning map from an AR-1 Agricultural Residential District to a HR-1/RPC High Density Residential District - Residential Planned Community in Lewes and Rehoboth Hundred, located 230 feet northeast of Road 275 and 1,600 feet north of Route 24, to be located on 23.01 acres, more or less.

C/Z #1375 -- application of C.L.H. DESIGN to consider a proposal to amend the zoning map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District in Lewes and Rehoboth Hundred, located northeast of Road 275 and 1,600 feet north of Route 24, to be located on 3.90 acres, more or less.

C/Z #1376 -- application of C.L.H. DESIGN to consider a proposal to amend the zoning map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District in Lewes and Rehoboth Hundred, located 1,390 feet northeast of Road 275 and 1,600 feet north of Route 24, to be located on 3.72 acres, more or less.

There was a consensus of the Commission that the public hearing for C/Z #1374, C/Z #1375, and C/Z #1376 should be held during one hearing to establish the facts.

Mr. Schrader stated that each application decision shall be made separately, but that the public hearings could be combined into one hearing.

Scott Bradley, Attorney on behalf of C.L.H. Design, stated that he had no objection.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcels are located within the area that the State has identified on its Investment and Resource Management Strategy as a transition area where the State

will manage existing infrastructure and link growth to the available infrastructure to ensure community character and integrity; that the Office's first concern was from DelDOT, which has voiced concerns that uses be limited by deed restrictions on the B-1 Neighborhood Business parcels and that the layout of the development conform to the State Route One Grid concept; that if the applicants restrict the uses to the agreed upon list with DelDOT, the listed uses should not pose a problem from a traffic perspective; that the applicants have developed a concept plan that is consistent with the local road system planned for the area; that due to the size of the project Total Maximum Daily Loads (TMDL) regulations need to be addressed and that it would be difficult to justify this project without requiring extensive non-point source strategies that would reduce environmental impacts of this project on the Rehoboth Bay; that the State asks that the applicant contact the DNREC to discuss what arrangements can be made to ensure that the TMDL regulations can be met through non-point source strategies to protect the Bay; and that if the applicants can adequately address and correct any concerns that DNREC has regarding the TMDL regulations, the State would not object to the rezonings.

The Commission found, based on comments received from the County Engineering Department, that the application sites are outside of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District service area, but are adjacent to the current boundaries; that annexation to the District is possible; that the Department is developing a planning study for the area; that development of the parcels for High Density and Business uses exceeds the usual sewer capacity allocations for the West Rehoboth area; that answers on wastewater capacity and oversizing requirements for the property are not available; that the Department anticipates that these issues will be resolved by July 1999; that the Department supports the provision of sanitary sewer service to the project, but feels the sewer planning study is crucial to providing for the long-term needs of the area; that the Department, therefore, recommends that action on these request be delayed until the study is complete; that the developers have indicated that there is an 8-inch gravity collection pipeline that can be used to serve the project from the Maplewood Subdivision; that while performing the study, a determination will be made regarding the available capacity in this line to serve the project and adjacent areas; that if the District boundary is extended to include the parcel, system connection charges will be due; that the current system connection charge rate for the period July 1, 1998 to June 30, 1999 is \$2,954 per EDU; that it will be the responsibility of the developer to install all wastewater facilities for the project in accordance with Sussex County standards and procedures.

The Commission found, based on comments received from DelDOT, that comments were forwarded on June 8, 1998, October 28, 1998, December 4, 1998, December 16, 1998, and January 22, 1999 relating to the project; that originally a traffic impact study was recommended because the Department believed that the project could generate more than 2,000 vehicle trips per day if developed as originally proposed; that since the applicant has offered to prohibit four specific high traffic land uses on the B-1 Neighborhood

Business lots; that if the prohibitions are placed in a satisfactory manner, the Department is satisfied that a traffic impact study would not be warranted; that the applicant has indicated a willingness to file certain deed restrictions prohibiting banks, bakeries, filling stations, and restaurants on the B-1 Neighborhood Business lots if the County grants the rezoning; that the proposed B-1 lots would not generate enough traffic to warrant a traffic impact study; that if the County will require the applicant to record the deed restrictions prior to final site plan approval as a condition of the RPC zoning, the Department sees no need for a traffic impact study; that these comments are not intended to support or oppose the rezonings; that the Route One Grid Study is intended to develop a plan for a network of local roads, bicycle and pedestrian paths, and improved transit facilities in the Lewes and Rehoboth area; and that the goal is to allow people to make local trips with a minimum amount of travel on the existing system of numbered State-maintained roads.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard areas or tax ditches are affected; that it may be necessary for some on-site and off-site drainage improvements due to the increased impervious areas with the resultant increase in runoff; that the soils are mapped as Sassafras sandy loam and Sassafras loam, which have slight limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; and that the farmland rating of the soil types is Prime Farmland.

The Commission found, based on a letter from Paula Pepper, President of Maplewood Homeowner's Association, that the Association has no objection to the rezoning based on the following: the applicants have designed the project so that the minimum effect will be on existing woods and create a 30' wide natural buffer between Maplewood and the B-1 lots to the rear with privacy wood fencing at the building restriction line; that locating the road as originally proposed by DelDOT along the property line of Maplewood, would have destroyed the natural buffer/wood line; that the Association understands that the residential project will be similar in design and layout to the Plantations project, providing open space and courtyard grouping of buildings; that bike and walking paths will be included; that the Association supports the efforts of the applicants working with DelDOT and the Intermodal program to utilize secondary/connector roads to access the future needs of local residents and to be able to reach neighborhood businesses without having to travel to Route One and adding to the already overburdened highway.

The Commission found that Scott Bradley, Attorney, Steve Wagner, Designer, and Elmer Fannin, Developer, were present on behalf of the applications and stated in their presentations and in response to questions raised by the Commission that the applicants are custom home builders with offices near Rehoboth Beach and Ocean View; that the applicants are involved in completing "The Plantations West" condominium project and the "Ocean Farm" project; that the site is bounded on three sides by woods, which are

intended to be preserved; that the site was previously used for agricultural purposes, but is no longer attractive for such use due to the changing character of the area; that the area surrounding the site has a mix of AR-1, MR, B-1, C-1, and HR-1 zoning classifications; that the applicants plan to develop the project as a mixed-use community with 183 condominium units clustered in 6 villages and 6 neighborhood business lots; that the project has been designed in accordance with the Comprehensive Plan and the DelDOT Route One Grid Study; that the condominium units will be similar to the units in "The Plantations West" project; that there will be 6 village clusters with 4 buildings in each village; that each building will have no more than 8 units; that each unit will have its own garage; that the proposed density will be 8 units per acre; that there will be approximately 12 acres of open space and woods; that bike and walking paths will be provided; that a relationship has been established with "The Plantations West" to allow the residents of the project to use the recreational facilities at "The Plantations West", which include a clubhouse, community center, fitness center, tennis courts, and swimming pools; that the applicants have agreed to place deed restrictions on the B-1 lots prohibiting banks, bakeries, gasoline filling stations, and restaurants to eliminate the traffic generated by such businesses and to preserve the residential character of the project; that a 10' wide landscape buffer will be provided along Road 275 and a 30' wide landscape buffer will be provided along the Maplewood Subdivision; that there will be, until adjoining properties are developed and proposed road built, only one entrance/exit for the site; that the applicants will construct a shoulder, bike lane and deceleration lane along Road 275; that the applicants will dedicate for public use an additional 10' of right-of-way along Road 275; that the applicants will dedicate a permanent 30' wide cross-access easement to adjoining properties; that the applicants will dedicate a 50' right-of-way between the condominiums and the rear B-1 lots to public use to connect to the proposed local road between Postal Lane and Route 24 as referenced in the Route One Grid Study; that there is a need for this type of development; that the build-out period for the project is 7 years at approximately 23 units per year; that most of the owners of the units will be year-round residents, consisting of a mixture of young and retired couples; that central water is available through Tidewater Utilities; that central sewer is expected to be available through the County, which is currently doing a capacity study; that the project will be developed in phases as sewer capacity becomes available; that stormwater management for each village will be located between driveways; that fire protection is available through the Rehoboth Beach Volunteer Fire Department, which has a station within 2 miles of the site; that the impact on traffic is minimal since DelDOT has determined that a traffic impact study was not recommended; that the project will have a positive economic impact on the County; that the project will provide benefits to local construction companies, workers, and suppliers who provide labor and materials; that the project will generate substantial fees and taxes for the County; that the nearest residential community is Maplewood, and that the Maplewood Homeowner's Association supports the project; that the Comprehensive Plan recognizes that growth will occur in the area and that the site is mapped in the Development District; that allowing higher density

residential development will reduce the rate at which agricultural lands are converted to residential uses; that the housing types considered for Development District include townhouses, apartments and condominiums; that the allowed density is up to 10 units per acre for townhouse type condominiums; that non-residential uses allowed include neighborhood businesses and shopping that serves surrounding development; that the Comprehensive Plan suggest that neighborhood businesses should be in village type centers which are integrated with residential uses to create a mixed-use community; that the three change of zone applications will further the goals of the Comprehensive Plan by providing for residential housing and neighborhood businesses of the type and density required by the Plan so that development pressure on natural resources and agricultural areas will be reduced; that a public golf course is proposed on the adjoining lands to the north; and that no commercial activities are proposed within the residential planned community.

The Commission found that Mable Granke presented and read a letter of opposition to the applications and referenced concerns for the residents of the area; that the applications need to be evaluated from the standpoint of need, cumulative impact, access, and design; that amenities such as sidewalks, proper lighting, open space, etc...should be the responsibility of the developer; that the applications are premature because the development is based on an arbitrary concept of roads neither approved or funded; that the road concept may never be approved or funded; that with the opening of Lowe's and Pelican Square, reliance on the intersection of Route 24 and Road 275 for access to the development has increased dramatically; that an evaluation of needed safety measures is a must, and that any safety measures must be in place before any additional development; that the B-1 proposals represent strip development which in itself represents a potential safety hazard; that the purpose clause for B-1 states it is primarily for nearby rural low-density or medium-density residential neighborhoods, and that high-density residential does not fit the definition; that if the applications are approved, the Residential Planned Community requirements for a guarantee of completion and a schedule of construction should be stipulated; and that the plan submitted does not seem to meet the intent of a Residential Planned Community, since the plan includes all multi-family structures and no mix of housing types.

The Commission found that Joan Deaver and Bill Deaver of Midway Acres, Michael Tyler, President of the Citizens Coalition, Don Roessler of Gosling Creek Homeowner's Association, Carol Reed, President of the Owner's Association of The Plantations, Pat Tourelli of The Plantations, and Rose Emhoulf of Midway Acres, of the 15 people present in opposition, spoke in opposition to the applications and referenced concerns that families are trapped between proposed projects; that business uses along Road 275 are not needed; that Midway Acres is a small development and opposed to anymore large developments in the area; that the Residential Planned Community section of the Code references that developments shall be located in areas that are sewered or planned, and

that it area is not planned or operational; that one of the connector road referenced in the proposal is a bike path, not a road; that the real estate market has enough vacant lots of record; that the Grid Study should be throw back to DelDOT, since no money has been set aside to develop the road system or to acquire the right-of-ways; that Road 275 is a nightmare for cyclist, since some of the bike lanes have been removed; that existing subdivision in the area around Road 275 have already been impacted by Lowe's; that the majority of the residents within The Plantations had no knowledge of the agreements with the developers for recreational use privileges at The Plantations; and that the residents in the area support open space.

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 defer action.

OLD BUSINESS

C/U #1275 -- application of ANGOLA COMMUNITY PARTNERS, L.L.C. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a revision and expansion of Conditional Use No. 1096 to increase boat storage capacity to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.01 acres, more or less, lying north of South Beach Drive within Angola Beach Manufactured Home Community and 1,230 feet west of Road 278.

The Chairman referred to this application which was deferred on March 25, 1999.

Mr. Lank provided copies of the Findings of Fact for Conditional Use No. 1096 to the Commission.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to defer action.

C/Z #1370 -- application of HENRY T. WARING to consider a proposal to amend the comprehensive zoning map from an AR-1 Agricultural Residential District to a C-1 General Commercial District in Lewes and Rehoboth Hundred, located southeast of Route 24, 870 feet southwest of Route One, to be located on 3.10 acres, more or less.

The Chairman referred to this application which was deferred on March 25, 1999.

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

Mr. Lank read a response from Russell Archut, Assistant County Engineer, clarifying his comments by memorandum on March 25, 1999.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to defer action until the engineering study, being prepared for the County Engineering Department, is completed, and the Commission has an opportunity to review the study.

SUBDIVISION #99-5 -- application of APPLE ORCHARD, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, by dividing 34.11 acres into 4 lots, located west of Route 30, 233.27 feet north of Road 252.

It was noted that on February 25, 1999, the Commission granted preliminary approval for a revised 2-lot subdivision.

Mr. Lank advised the Commission that the plans meet the requirements of the Subdivision Ordinance; that DelDOT approval has been received; that approval has been received from the Office of the State Fire Marshal; that verbal approval has been received from County Engineering and the Sussex Conservation District.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the 2-lot subdivision as a final.

SUBDIVISION #96-24 --application of TIMOTHY RAMEY to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, by dividing 22.28 acres into 31 lots, located on the west side of an unnamed road, 175 feet west of Johnson's Drive within Patty Cannon Estates Subdivision, on the south side of Road 78, 1,260 feet southeast of Road 490A.

Mr. Lank advised the Commission that the Subdivision received final approval on April 16, 1998; that the applicant had 60 days to record the record plot; that the applicant thought that his surveyor or attorney had recorded the plot; that the attorney thought that the applicant had recorded the plot; that the plot was never recorded; that street construction is now underway; and that the plot needs to be re-approved so that it may be recorded.

Motion by Mr. Hastings, seconded by Mr. Wheatley, and carried unanimously to re-approve the 28-lot subdivision as a final.

OTHER BUSINESS

1. Heritage 9 Hole Golf Course

The Commission reviewed a preliminary site plan for a 9-hole golf course southeast of Postal Lane and southwest of Route One on 47.71 acres.

Mr. Lank advised the Commission that the golf course is a permitted use in an AR-1 Agricultural Residential District; that no driving range is proposed; that the proposed pro-shop, maintenance building and dwelling will meet all setback requirements; that the entrance is located to the west end of the site; that 51 parking spaces are proposed, and that some of the spaces encroach into the front yard setback; that Office of the State Fire Marshal, DelDOT, Sussex Conservation District, and County Engineering approvals have been received.

Motion by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to grant approval as a preliminary, including permission to park within the front yard setback, and that final approval shall be subject to receipt of all appropriate agency approvals by the staff.

2. C.P. Diver, Inc.

The Commission reviewed a revised commercial site plan for an auto dealership on Route One.

Mr. Lank advised the Commission that a letter of no objection has been received from DelDOT; that an entrance is being closed and relocated further north along Route One; that an entrance is being closed and relocated further east along Road 276; that the site is located within the area of the Highway Corridor Overlay Zone and that the site plan depicts the 20' landscape buffer along Route One; that the proposed new building meets all setbacks; that the used car sales display will meet all setbacks; that DelDOT and the Sussex Conservation District approvals have been received.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to grant approval as a preliminary, and that final approval shall be subject to receipt of all appropriate agency approvals by the staff.

3. Atlantic Agency

The Commission reviewed a revised multi-family site plan for a section of Eagles Landing off of Phillips Street and west of Route One.

Mr. Lank advised the Commission that the site plan is being revised to relocate the units; to provide more open space; and to locate 2 tennis courts on the site; that the developers are requesting that the site plan be considered a revised site plan and requesting permission to provide 2 parking spaces per unit, rather than the recently adopted 3 parking spaces per unit.

The Commission discussed the site plan.

Mr. Lank advised the Commission that he had spoken to Richard Berl, Assistant County Attorney, and that Mr. Berl had advised that the Ordinance has to be enforced.

Preston Shell of Ocean Atlantic Agency stated that they propose six 18 unit buildings for a total of 108 units; that the original site plan proposed the same number of units with larger buildings; that aesthetically there is no need for the additional parking spaces; that he has never experienced overcrowding in this area; that aesthetically landscaping is more attractive than pavement; that the additional parking creates more impervious surfaces, thereby more runoff; that the project will join the Eagles Landing Recreation Association, which supports the proposal and has written a letter of support; that the tennis courts are proposed as an expansion for the Recreational Association; and that they will not have the available space for the tennis courts if the additional parking is required.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to recommend approval to the County Board of Adjustment to allow development of the site with the same density as originally approved with 2 parking spaces per unit.

4. Robino Associates

The Commission reviewed a revised multi-family site plan for a section of Eagles Landing off of Talon Drive and west of Route One.

Mr. Lank advised the Commission that the site plan is being revised by replacing multi-family structures with duplex structures; that the same number of units are proposed; that 2 parking spaces are proposed and 1 garage space; and that the parking spaces are in front of the garage creating stacked parking.

James Fuqua and Frank Robino were present and stated that if the Commission has a problem with the stacked parking, a revised site plan can be submitted showing 3 parking spaces per unit and the garages, but they preferred to develop the site as submitted because the revised site plan with 3 parking spaces eliminated almost all of the open space.

Mr. Robino exhibited a photograph of the duplex units, which looked like a large dwelling.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the revised site plan with 3 parking spaces as a preliminary. Final approval shall be subject to receipt of all appropriate agency approvals by the staff.

5. Delaware Electric Cooperative

The Commission reviewed a site plan for Conditional Use No. 1256, expansion of an electrical substation.

Mr. Lank advised the Commission that a 40' by 60' pre-fab truck and supply building is proposed; that the setbacks meet the requirements of the Code; and that fencing with a gate is proposed.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of all appropriate agency approvals by the staff.

6. Fun Sport, Inc.

The Commission reviewed a revised site plan for Conditional Use No. 1229 for go-cart tracks.

Mr. Lank advised the Commission that no additional go-cart tracks are being proposed; that one of the go-cart tracks is being redesigned to provide more curves; that the track is located within the boundaries of the approved Conditional Use; and that the site plan will comply with existing stipulations of Conditional Use No. 1229.

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

7. Robert & Patricia Wilson

The Commission reviewed a site plan for a 2 lot Subdivision on the south side of Route 9.

Mr. Lank advised the Commission that one lot contains 10.92 acres, and one lot contains 11.47 acres; that a letter of no objection has been received from DelDOT; and that the Commission is reviewing the subdivision proposal since the lots are located on Route 9, a major arterial roadway.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the 2 lot Subdivision as a final.

OLD BUSINESS (continued)

ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ENTITLED "ZONING", TO AMEND THE PROVISIONS RELATING TO THE PLACEMENT AND REGULATIONS OF MOBILE HOMES IN CERTAIN DISTRICTS.

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

Meeting Adjourned at 12:20 A.M.