

MINUTES OF THE REGULAR MEETING OF APRIL 27, 2000

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 27, 2000 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:30 P.M. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Hastings, Mr. Johnson, Mr. Lynch, Mr. Wheatley, and Mr. Berl - Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray - Zoning Inspector.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to adopt the agenda as circulated.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the Minutes of April 6, 2000 as circulated.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of April 13, 2000 as corrected.

Mr. Berl explained how the hearings would be conducted.

IV. PUBLIC HEARINGS

Subdivision #2000-7 -- application of BAYVIEW CAPITAL III, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 19.60 acres into 20 lots, located on the north side of Road 298, 214 feet southeast of Route 24.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on April 19, 2000; that each member has received a copy of the report and recommended that the report be made a part of the record.

Mr. Lank summarized comments received from the United States Department of Agriculture Natural Resources Conservation Service, and the State DNREC Division of Water Resources.

Mr. Lank read a letter received from Marcia B. Cleveland, a landowner in the area, stating her opposition to the Subdivision.

The Commission found that Bob Sipple, John Vacelli, and Ted Simpler, Surveyor, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that they propose to enhance the use of the site; that they propose to develop 20 lots for dwellings; that the site is in close proximity to a public golf course; that they purchased the site in May of 1999; that they propose to relocate the unimproved dirt road further from Route 24 intersection; that all of the users

of the dirt road will have access to the relocated road; that they contacted four property owners in the area and heard no objections; that they propose a 32,561 square foot open area along Herring Creek; that the lots will be developed with on-site septic and on-site wells; that they have not yet received a feasibility statement for septic systems; that the hedgerow adjoining the existing unimproved dirt road will become the rear of some of the lots; that the existing road is an easement for lots within Creekview Development; that the easement also serves lots along the water front at Herring Creek; that they may apply for a boat ramp on the open space site for private use of the lots within the subdivision; that a homeowners association will be established; that all homes will be site built homes, not modular or sectional homes; that they are willing to let all residents, with access to the road system, to use the relocated roads; and that they may require contribution to use the open space.

Mr. Berl stated that access cannot be deprived to Road 298.

Mr. Sipple stated that all roads including Creekview Drive will be paved.

Paul Kersner, a resident in the borrow pit area along Herring Creek, spoke in opposition and stated that the borrow pit area is the original Creekview Development; that some of the residents in the borrow pit area have lived there for over 30-years; that phone lines are under Creekview Drive; that the referenced unimproved road is 50 years old; that there are no fire hydrants in the area; that relocation of the road will impact service vehicles, trash trucks, and delivery trucks, if the road is relocated, due to the 90 degree turn down into the borrow pit area; and that he and his neighbors will not be able to haul their boats and trailers to their homes because of the 90 degree turn.

Mr. Kersner submitted a copy of a deed which included a description of the access easement; eight photographs of the roads; a copy of an 1999 ADC map; a point to point directions map; a USGS Topo. Map; and maps of the area of Longneck.

Mr. Kersner added that the existing road has poor drainage; that the site is located in a Conservation District and should be required to have 1-acre lots; that access for fire and emergency equipment should be a concern; that the relocation of the road will create a loss of access for larger vehicles to get to the borrow pit area; and that he would not object to the subdivision if Creekview Drive remains at its present location.

Mr. Lank read letters expressing concerns from the Indian River Vol. Fire Co., Willard and Nancy Burbage, and James and Winifred Beattie.

Til Purnell, Shirley Messick Pettit, Patricia Wagner, Leon Hall, Bill Baker, and Dorothy Parker were also present in opposition and expressed concerns relating to environmental problems; the lack of a need for additional lots due to the number of vacant lots available in the County; that Road 298 serves all of Pot Nets Parks; that Herring Creek and Hopkins Prong are under stress; that the only sewer available is septic systems; that the Hopkins Prong is high in bacteria counts; that more pavement and impervious surfaces

causes more run-off; that fertilizers for grass and lawns is a problem; that it is difficult to get onto Route 24 from Road 298 due to the traffic; that the intersection of Route 24 and Road 298 is accident prone; that local children in the area trespass across neighboring properties to get to the camp store at Holly Lake Campground; that there is no need for additional boats on Herring Creek or Hopkins Prong; and questioning if any access is proposed to Big Oak Road to the northeast of the site.

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, especially the existing road and the proposal to relocate the road, and agreed with the concerns of the residents in the existing subdivision.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to deny the application as submitted.

Subdivision #2000-8 -- application of COLLINS ACRES GENERAL PARTNERSHIP to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred, by dividing 31.14 acres into 19 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 421, 1,110 feet west of Road 24.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on April 19, 2000; that each member has received a copy of the report and recommended that the report be made a part of the record.

Mr. Lank summarized comments received from the United States Department of Agriculture Natural Resources Conservation Service, and the State DNREC Division of Water Resources.

Mr. Lank advised the Commission that a preliminary Subdivision Feasibility Study has been performed on the site and that the State DNREC Division of Water Resources believes that the proposed subdivision is feasible under current Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems dated January 4, 1985.

The Commission found that Charles Adams, Surveyor, was present and stated that the site is a mature to semi-mature woodland; that they propose to buffer the wetlands on the site; that they will restrict that no excavation shall be permitted in wetlands and that the building restriction line will be the wetlands line; that a pulpwood company was timbering a site on another farm owned by the applicants, and that the applicants asked the pulpwood company to clear the right-of-way for the street; that all lots will contain at least 3/4 acre; and that all homes are proposed to be site constructed.

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. Lynch, and carried unanimously to approve this Subdivision as a preliminary, not for recordation, and with the understanding that no further site preparation, site disturbance, excavation, or other construction shall be commenced until all other permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded.

Subdivision #2000-9 -- application of DIRICKSON LANDING ASSOCIATES to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred, by dividing 50.00 acres into 16 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located south of Road 381, approximately 2,170 feet east of Road 384.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on April 19, 2000; that each member has received a copy of the report and recommended that the report be made a part of the record.

Mr. Lank summarized comments received from the United States Department of Agriculture Natural Resources Conservation Service, and the State DNREC Division of Water Resources.

The Commission found that Jeff Clark of Land Tech, Inc., Stephen Parsons and Robert Kauffman, developers, were present and stated in their presentations and in response to questions raised by the Commission that there were originally 7 homesites; that they have changed the plans to create 16 homesites; that the street is in the same location; that stormwater management has been designed and upgraded; that the outlot provided at the cul-de-sac is for stormwater management; that wetlands have been delineated; that septic feasibility has been approved for 16 individual septic systems; that the drainage easement is an existing ditch; that street maintenance will be performed by owners in Phase II; that a 50-foot setback from State wetlands along Dirickson Creek is proposed; and that there shall be no resubdivision of lots within the Subdivision.

Mr. Lank read a letter in support of the application from Patricia McCabe, of #7 Dirickson Landing.

James Allison, of #5 Dirickson Landing, and Murray Oltman, of #4 Dirickson Landing, were present in support of the application and the subdivision layout.

The Commission found that there were no parties present in opposition to the Subdivision.

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.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve this Subdivision as a preliminary, not for recordation, and with the following stipulations:

1) No site preparation, site disturbance, excavation, or other construction shall be commenced until all other permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded. 2) The 50' setback from State wetlands shall be depicted on the final site plan. 3) The stormwater management area adjoining the cul-de-sac shall be depicted on the final site plan.

Ordinance Amendment -- an Ordinance amending Chapter 99, Section 13, of the Subdivision Code of Sussex County, relating to notice requirements to be given to owners within Subdivision prior to alteration, resubdivision or addition; requiring three-fourths approval of property owners within the subdivision prior to proceeding with the hearing process; providing for additional standards for determining approval of alterations or additions to subdivisions; providing a form for notice by publication; and creating a procedure for the approval of minor subdivisions.

Mr. Lank read the text of the proposed Ordinance.

Mr. Lank read a letter from Robert M. Reed and Joseph P. Reed, in support of the Ordinance.

The Commission found that Nancy Jordan of Ocean Farms was present and stated that the Ordinance is much improved over the Ordinance reviewed last fall; that she commends the Commission's staff for the prompt reply in providing copies of the proposed Ordinance; that page 1 line 37 should be corrected to "must", not "may"; that the handwritten note #D - "No property owner shall have more than one vote" should be a part of the Ordinance; questioning if this also applies to the developer; requesting that an additional item (iii) be inserted under #B that reads "that the re-subdivision shall not create lots, streets or amenities on any lands, designated on the original recorded subdivision plat, as a) buffer area, b) 404 wetlands and c) reserved area 404 wetlands; and that she further recommends that 1) any subdivision, previously approved by Sussex County Council be grandfathered and remain under the existing Code, should this amendment be adopted; and that if the Ordinance to amend the Code occurs the County Council should mandate that a document be included in the sale of any lot in a Sussex County Subdivision that the buyer is aware that alterations or resubdivision may occur under Chapter 99 of the County Code, and that this document be signed by the seller and the buyer.

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. Johnson, and carried unanimously to defer action to review Mrs. Jordan's comments.

V. OLD BUSINESS

C/Z #1400 -- application of OLDE TOWNE POINTE, L.L.C. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District and C-1 General Commercial 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 northwest of Route 18 (Savannah Road), on both sides of Road 269A (Old Orchard Road) and southeast of Railroad, to be located on 188.24 acres, more or less.

The Chairman referred back to this application, deferred on April 6, 2000.

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

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

1. The maximum number of residential units shall not exceed 586 comprised as follows: 260 single family lots, 144 apartments, 110 townhouses, and 72 condominiums.
2. Residential building permits shall be limited to 100 permits (cumulative) per year.
3. The RPC shall be served as part of the Sussex County Sewer System, Phase II of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
4. The RPC shall be served by a central water system providing water for consumption and fire protection per applicable regulations and approvals of DNREC, the Office of the State Fire Marshal, the Public Service Commission, and Public Health.
5. All entrance, intersection and roadway improvements required by DelDOT as set forth in DelDOT's letter dated November 2, 1999, shall be completed by the applicant in accordance with any further modification required by DelDOT.
6. Site plan review for each phase of the development shall be reviewed and approved by the Sussex County Planning and Zoning Commission.
7. Applicant will reconfigure town home section (units 17 through 30) to increase community common area and green space between townhouses as represented by the applicant in the public hearing record.
8. Applicant will reconfigure soccer field by the following changes: A) Remove 8 unit condominium building (reducing density from 594 units to 586 units); B) Reorient existing field to true north/south; C) Introduce a soccer pavilion with

- bathrooms, storage and weather shelter (see Revised Plan); Note: Soccer field and pavilion will be opened to public use and enjoyment.
9. Garden parks as shown on Revised Plan will be constructed as shown.
 10. Applicant will provide the following recreation facilities: A) 8 tennis courts (one court every 75 units); B) 2 outdoor swimming pool facilities (first pool facility @ 80 units, second pool after 40 units on East Village); C) Multi-use field and soccer pavilion (completed within 3 years of first residential building permit issued for West Village. This area will be open to public. (See revision drawing for deletion of 8 condo units); D) Pedestrian/bike park - build tot lot and play ground area located along pedestrian/bike path East Village (completed with 2 years of first residential building permit issued for East Village); E) Community building - minimum 5,000 square feet building which will first serve as marketing center. Building can be expanded to meet community needs. (Completed within one year of first building permit issued for the project).
 11. Western segment of DelDOT pedestrian/bike path, which is shown terminating at Dutch Acres, will be extended to Savannah Road.
 12. Applicant will establish a 60' highway corridor overlay zone setback along the property fronting Savannah Road.
 13. Applicant will install a 6' wide asphalt bike path along the property frontage at Savannah Road. Bike path will be installed within the 60' highway corridor overlay zone.
 14. Applicant will install a 6' bike lane parallel to Route 269-A on the western section of the property. (Completed within four years of first building permit issued for the project).
 15. Applicant will establish a Reforestation program for a minimum of 8 acres located in the northwest corner of East Village area along Route 269-A (Reforestation will be in coordination with the storm water requirements for this area of the project and will be done over a 2-year period).
 16. Applicant will establish minimum 40' non-disturbance buffers along eastern and western property lines.
 17. To the extent possible, Applicant will relieve through its storm water management program, the drainage problem at the northwest corner of Covey Creek. (Subject to approval of the Covey Creek HOA).
 18. Applicant will construct pedestrian walk lanes into parking scheme for the village shopping center as shown on the site plan.
 19. Applicant will construct a pedestrian and bike access between lots 13 and 14 of the East Village to connect to the B-1 area.
 20. Applicant will introduce and initiate through bank tenant, an attractive first time homebuyer program, for this project that will expand the opportunity for home ownership.
 21. Applicant will limit through deed restrictions the type of future use of 4.5 acres to community service (i.e. fire, police, EMS services, library, and museum. Note: Developer will maintain architectural and signage control of any facility).
 22. Applicant will not make or propose to make any vehicle connections to either Covey Creek community to the East nor to Dutch Acres community to the West.

23. Applicant will design, and if approved, install a curb cut entrance to Bayside Health Associates medical building along DelDOT Grid road through East Village.
24. Applicant will study, design and seek approval from DelDOT, and construct a T-intersection improvement to the intersection of Westcoat's Corner and Savannah Road. (Criteria for proffer is to maintain existing tree growth to largest extent possible).
25. Applicant will initiate a Developer Funded Transportation Plan in coordination with DelDOT which purpose is to supplement the off-site road improvements required by DelDOT. Plan will establish the following: A) Plan will educate, encourage and subsidize a portion of the cost of fares for the use of the DART system, which will have stops servicing the project. Developer subsidy will remain in effect through the issuance of the building permits and build out. B) Plan will incorporate a stop for the existing River and Bay Authority Shuttle service and participate with Authority in the future to expand service as demand increases. C) Plan will make available to off site projects, which have special interest or positive impact on surrounding community funds from each existing settlement. Developer will escrow \$200.00 from each settlement to be dispersed as it deemed appropriate by Developer to appropriate community efforts involved in traffic and/or transportation improvement studies, traffic and/or transportation mitigation measures, or traffic calming efforts.
26. No site preparation, site disturbance, excavation, or other construction shall be commenced until all other permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded.

C/Z #1401 - application of OLDE TOWNE POINTE, L.L.C. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural 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 southwest of Road 269A (Old Orchard Road) and 70 feet north of Route 18 (Savannah Road), to be located on 10.0 acres, more or less.

The Chairman referred back to this application, deferred on April 6, 2000.

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

Motion by Mr. Johnson, seconded by Mr. Hastings, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since it is compatible with the area across Route 18 and Road 269A.

Subdivision #2000-1 -- application of WALLS FARM, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred, by dividing 56.25 acres into 56 lots, and a waiver from the forested

buffer strip requirements, located northwest of Road 277, 865 feet southwest of Road 275.

The Chairman referred back to this application, deferred since January 27, 2000.

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

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve the Subdivision in concept only. The applicant shall submit a revised preliminary plan without the Grid Road and shall maintain the agricultural buffer. No site preparation, site disturbance, excavation, or other construction shall be commenced until all other permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded.

Subdivision #2000-5 -- application of OAK CREST FARMS, INC. to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Indian River Hundred, by dividing 96.57 acres into 177 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located east of Road 285, 310 feet north of Road 286.

The Chairman referred back to this application, deferred since March 23, 2000.

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

The Commission found that the staff has received a feasibility statement for the community septic system proposed.

Motion by Mr. Johnson, seconded by Mr. Hastings, and carried 3 - 1, with Mr. Allen opposed to the motion, to approve the Subdivision in concept only. The applicant shall submit a revised preliminary plan that includes connected streets from Rolling Hills Drive to Oak Leaf Drive, and from Sandy Ridge Court to Oak Crest Drive. No site preparation, site disturbance, excavation, or other construction shall be commenced until all other permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded.

Subdivision #99-11 -- application of EUGENE D. AND CATHERINE W. BOOKHAMMER to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred, by dividing 35.18 acres into 19 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located southeast side of Route 24, 0.4 mile northeast of Love Creek.

The Commission reviewed the final plan for the Subdivision approved as a preliminary on August 26, 1999.

The Commission found that all appropriate agency approvals and/or permits have been received.

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

Subdivision #99-1 -- application of TED LISZEWSKI to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred, by dividing 53.78 acres into 53 lots, located south of Road 531, 1,280 feet northwest of Road 533.

The Commission reviewed the final plan for the Subdivision approved as a preliminary on March 11, 1999.

The Commission found that a revised preliminary plan, amending lots 8 and 9 and the area of the cemetery, was approved May 13, 1999; that a one-year time extension was granted on March 9, 2000; that the final plan has been reduced to 51 lots; that the cemetery area is located within a 100' by 100' open space; that the plan meets the minimum requirements of the Subdivision Code; and that all appropriate agency approvals and/or permits have been received.

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

VI. OTHER BUSINESS

1. Central Storage of Long Neck Route 22 - Long Neck Road

Mr. Lank advised the Commission that the preliminary site plan was approved by the Commission on January 27, 2000, and that authorization to grant final approval was subject to the staff's receipt of all agency approvals; that final approval was granted on March 2, 2000 upon receipt of all approvals; that complaints were received about the wooded area being cleared adjacent to Woodlyn Estates Subdivision; that at the June 24, 1999 public hearing Jerry Hill testified to the Commission that they had spoken to the residents to the south and offered a 50' setback buffer of trees and that they would fence the site; that a letter from the developer's attorney to the residents stated that the developers will increase the buffer from 30' to 50' and that additional trees would be planted; that the County Tax Map at the Permit Office has been red-lined to not issue any building permits until this matter has been resolved; and that a question has been raised to determine if the site plan approval can be revoked because the applicant's testimony has not been followed.

Mr. Barry Nichols, a resident of Woodlyn Estates Subdivision, was present and asked if he could address the Commission and play a copy of the tapes of the Commission hearing and the County Council hearing.

The Commission listened to a few minutes of each tape and found that at the Commission hearing Jerry Hill offered a buffer to shield the facility; that the applicant's were willing to sit down with the Woodlyn Estates residents prior to submittal for approval; reference was made to a 50' buffer and fencing; and that at the County Council hearing Scott Bradley, Attorney, referenced the buffer, and added that there was no intent of the applicants to clear the entire site; and that at the County Council hearing Mark Schaeffer committed to maintain the buffer and to plant additional white pine.

Mr. Nichols stated that at the County Council hearing the residents of Woodlyn Estates, by majority vote withdrew their opposition if the 50' buffer was to be maintained. Mr. Nichols continued by reading comments referencing that one row of trees has been left standing; that a Mr. Wooters, contractor for the applicants, advised them that a surveyor will be on the site on Monday to establish the property line; that most of the activity started on Tuesday, April 25, 2000; and referenced to letters from Schaeffer Management Group, John W. Paradee, Attorney, Arlene Soukey, and Donald Miller, Surveyor.

The Commission reviewed photographs taken by the residents in Woodlyn Estates Subdivision.

Mr. Berl read his opinion about private agreements between parties and that the application was for a change of zoning; that change of zones can not have stipulations placed on them; and that the site plan, as approved by the Commission, must govern to the exclusion of any private agreements between parties.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried with three votes, with Mr. Johnson not voting, to adopt Mr. Berl's letter.

No action was taken to revoke the site plan approval.

2. Fun Sport, Inc.
Route One - Midway

The Commission reviewed a site plan for Phase 1 of C/U #1319 for expansion of an existing water park and miniature golf.

Mr. Lank advised the Commission that Phase 1 relocates the activity pool and provides a minimum 5' walkway around the pool with 6' high fencing around the pool area; that the setbacks meet the requirements of the Code; and that Phase 1 could be approved as a final.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to approve the site plan for Phase 1 as a final.

3. Frank Cochran
Road 365 - Clarksville

The Commission reviewed a site plan for C/U #1327 for a lawn mower repair and found that the site plan shows proposed fencing adjacent to Sherwood Acres Subdivision; that the nine conditions of approval adopted by County Council are noted on the site plan; that a permit has been issued for a 6' high stockade fencing; and that approvals and/or permits should be obtained from DelDOT and the Office of the State Fire Marshal.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to approve the site plan subject to receipt of approvals from DelDOT and the Office of the State Fire Marshal.

4. Shore Line Construction, Inc.
Road 38

The Commission reviewed a site plan for a contractor's maintenance yard and warehousing and found that the site plan was changed to show proposed fencing; that parking within the front yard area needs Commission approval; that the site plan references the conditions of approval adopted by County Council; that complaints have been received relating to parking across Road 38; that Sussex Conservation District approval has been received; that approvals have not been received from DelDOT or the Office of the State Fire Marshal; and that the site plan could be approved subject to receipt of appropriate agency approvals.

Mr. Mark Knollman, a partner in Shore Line Construction, Inc., was present in response to questions raised about parking across Road 38, and stated that all parking will be on-site, within the fenced area, that they may apply for parking on the adjacent parcel, and that they will not permit parking along Road 38.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the site plan subject to receipt of approvals from DelDOT and the Office of the State Fire Marshal, and with the understanding that all parking will be on-site, within the fenced area, and that no parking will be permitted along Road 38.

5. Subdivision #90-16 -- Holston Farms Associates
Road 432

The Commission reviewed a revised record plan for Lakeridge Subdivision and found that the 44 lot subdivision was approved on June 24, 1993; that the Commission was advised on November 20, 1997 that no lots would be sold until the borrow pit operation has been completed and bonding posted; and that Jeff Clark of Land Tech, Inc. has requested that a revised plan be considered that deletes some lots and a portion of the street system.

Jeff Clark of Land Tech, Inc was present, submitted revised plans, and advised the Commission that four of the lots are not suitable for septic; that they propose to delete the four lots; that 40 lots are suitable for septic; that they propose to change the name of the project to "Willow Lake"; that they propose to start construction of the subdivision within a few months; that the borrow pit operation will be completed by the Summer of 2001; and that central water is proposed to serve the subdivision.

Motion by Mr. Johnson, seconded by Mr. Hastings, and carried unanimously to approve the revised plan as a final subject to receipt of all agency approvals.

6. The Horsey Family, L.L.C.
Route 9 and Road 446

Jeff Clark of Land Tech, Inc. was present to discuss the County Council conditions of approval for the borrow pit operation, more specifically condition #11 which references an Environmental Impact Study.

Mr. Clark presented copies of Ordinance #1310, the findings of fact for C/U #1271, and a copy of a proposal for an Environmental Impact Study prepared by Stephens Environmental Consulting, Inc. and summarized the proposal.

Mr. Lank advised the Commission that a time extension will be necessary to continue this application.

Mr. Hastings advised the Commission that he will abstain from participation.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried with 3 votes, to approve a one-year time extension.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried with 3 votes, to defer action on the Environmental Impact Study proposal.

7. Subdivision #98-2 -- Blue Ribbon Properties, L.L.C.
Buffer Discussion - Road 447

The Commission found that Shiloh Woods II received preliminary approval on February 26, 1998; that another time extension was granted on February 10, 2000; that the preliminary approval is valid until February 26, 2001; and that Ross Harris, Consulting Engineer, has requested that the Commission consider further information on a drainage swale being located within the 30' forested buffer adjacent to farmland.

Ross Harris of Environmental Consulting, Inc. was present, submitted a cross section of the swale, and advised the Commission that the swale will be very shallow; that White Pines, as recommended by the State Forester, will be planted within the buffer; that the topography of the site warrants that a shallow swale be placed in the area of lots 3

through 7 only; that all other buffer areas will be planted and maintained; and that very little maintenance of the swale will be required due to the shallowness of the swale.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to allow the swale to be placed along lots 3 through 7 only, as presented by Mr. Harris.

8. Subdivision #97-4 -- Robin Beard
Time Extension - Road 536

The Commission found that Mr. Beard has requested another time extension to allow him more time to obtain final subdivision approvals; that preliminary approval was granted on August 28, 1997 for 21 lots; that a 6 month time extension was granted on February 11, 1999; that a 6 month time extension was granted on August 12, 1999 with the stipulation that this was to be the last time extension and that the time extension expired on February 12, 2000; that a letter was received on April 17, 2000 requesting an additional time extension that advised that he was having problems setting up appointments and meetings with various agencies; and that the only agency approval received to date is the DNREC approval for septic feasibility that was received August 28, 1997.

Motion by Mr. Johnson, seconded by Mr. Hastings, and carried unanimously to deny the request for a time extension.

9. Subdivision #2000-2 -- D & N Properties, L.L.C.
Revised Preliminary Plan - Road 484

The Commission reviewed a revised site plan for the strip lots along Road 484 which depicts that Lot #7 has been reduced by 15' to allow the 50' street right-of-way to be on the property and not crossing the property line using an existing access.

The Commission found that letters of no objection have been received from William J. and Donna Downey, and the Durham Family Corporation, lot owners within the strip lot subdivision adjoining Fleetwood Pond Subdivision.

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

10. George W. and Doris S. Carmean
150' Tower Site Plan - Road 529

The Commission reviewed a commercial site plan for a 150' high telecommunication tower on the Carmean property and found that a 100' by 100' lease area is proposed with a 70' by 70' compound area with 8' high chain-link fencing with barb-wire; that the site will include 3 equipment buildings; that setbacks meet the requirements of the Code; and that approvals have not been received from the Sussex Conservation District, or the FAA.

The Commission found that Barbara Pivoc of American Tower was present and stated that the multiple buildings are proposed to serve multiple telecommunication users; that American Tower currently owns two towers in Sussex County; that the towers serve pager, radio, and cellular customers; that the tower will be self supported; that the access will be through an existing private road; and that the tower will be located in a wooded area.

Motion by Mr. Johnson, seconded by Mr. Hastings, and carried unanimously to approve the site plan subject to receipt of approvals/permits from the Sussex Conservation District, and the FAA.

11. Mumford's Sheet Metal Works
150' Tower Site Plan - Road 377

The Commission reviewed a commercial site plan for a 150' high telecommunication tower on the Mumford property and found that a 100' by 100' lease area is proposed with a 70' by 70' compound area with 8' high chain-link fencing with barb-wire; that the site will include an equipment building; that setbacks meet the requirements of the Code; and that approvals have not been received from the Sussex Conservation District, or the FAA.

The Commission found that Barbara Pivoc of American Tower was present and stated that the access will be through an existing parking area; and that the tower will be located in a wooded area.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the site plan subject to receipt of approvals/permits from the Sussex Conservation District, and the FAA.

12. James A. Cannon
150' Tower Site Plan - Road 24

The Commission reviewed a commercial site plan for a 150' high telecommunication tower on the Cannon property and found that a 100' by 100' lease area is proposed with a 70' by 70' compound area with 8' high chain-link fencing with barb-wire; that the site will include equipment buildings, an 8' by 10' propane tank pad and a 5' by 10' generator pad; that setbacks meet the requirements of the Code; and that approvals have not been received from the Sussex Conservation District, or the FAA.

The Commission found that Barbara Pivoc of American Tower was present and stated that the access will be over an existing driveway serving the Cannon property; that the tower will be located in a wooded area; that the tower will be a guy-wired tower; that the tower is intended to be used for Coast Guard Safety Systems to assist in a range of 50 miles off shore; and that they may apply for a Conditional Use for a higher tower in the future.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve the site plan subject to receipt of approvals/permits from the Sussex Conservation District, and the FAA.

Meeting adjourned at 12:12 A.M.