

## MINUTES OF THE REGULAR MEETING OF JUNE 8, 2000

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 8, 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, and Mr. Wheatley, with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Mr. Lank advised the Commission that item number 3 under Other Business has been removed from the agenda.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to adopt the agenda as revised.

Motion by Mr. Hastings, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of May 25, 2000 as corrected.

Mr. Schrader explained how the hearings would be conducted.

### PUBLIC HEARINGS

APD #2000-2 -- application of WALLACE E. AND MAY E. KOPPLE AND OTHERS (Harbeson District) to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Georgetown Hundred for seven (7) parcels of land totaling 678.68 acres, more or less, located north of Road 295, on both sides of Road 294, on both sides of Road 293, and northwest of Road 292-A, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Agricultural Preservation District report submitted by the staff of the Foundation.

Mr. Lank advised the Commission that the County Engineering Department has advised us that the proposed District is not within any County operated sanitary sewer and/or water districts; and that it is not within a 1-mile radius of the County Airport, Landfill, or Treatment/Spray Facility.

Mr. Lank read a letter from Lewis A. Dumont and Elizabeth M. Dumont in support of this application.

The Commission found that Jessie Dodd Lawson-Wilkins, Wallace and May Kopple, William H. Lawson, and Robert L. Lawson were present on behalf of the application and proposed to preserve their farmland.

The Commission found that no parties appeared in support of or in opposition to the 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. Johnson, seconded by Mr. Hastings, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with a recommendation that it be approved.

APD #2000-3 -- application of HARRY L. HOCH (Wild and Free District) to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred and Nanticoke Hundred for two (2) parcels of land totaling 288.50 acres, more or less, located north of Road 630, and west of Road 594, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Agricultural Preservation District report submitted by the staff of the Foundation.

Mr. Lank advised the Commission that the County Engineering Department has advised us that the proposed District is not within any County operated sanitary sewer and/or water districts; and that it is not within a 1-mile radius of the County Airport, Landfill, or Treatment/Spray Facility.

The Commission found that Harry L. Hoch was present and stated that this is a beautiful property, a potential wildlife area; that he may make a possible contribution to the residents of the County in an area developing rapidly; and that Webb Farms have tilled the property for several years.

The Commission found that no parties appeared in support of or in opposition to the 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. Wheatley, seconded by Mr. Johnson, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with a recommendation that it be approved.

C/U #1334 -- application of WILLIAM D. EMMERT AND TED NOWAKOWSKI, JR. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a storage building for an auction company (no retail) and a storage building for a landscaping business (no retail) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 10.0 acres, more or less, lying northwest of Route 48, 160 feet southwest of Road 290.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the level of service of Road 48 will not change as a result of this application.

The Commission found that Ted Nowakowski, Jr. was present on behalf of the application and stated in his presentation and in response to questions raised by the Commission that they propose two (2) storage buildings, one (1) for the landscaping business and one (1) for the auction business; that no retail is proposed from the site; that a daylight easement exists at the intersection of Route 48 and Road 290; that the landscaping business has 3 or 4 vehicles leaving and returning to the site daily; that business hours for the landscaping business are from 6:30 A.M. to 8:00 P.M.; that the largest vehicle maintained by the landscaping business is a one ton truck; that the landscaping business has nine (9) employees; that they may plant nursery stock, trees and some grasses on the acreage; that each building will have security lighting; that the auction business has a box van; and that the auction business will probably generate no more than 2 or 3 vehicle trips per week.

The Commission found that no parties appeared in support of or in opposition to the 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. 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 stipulations:

1. The only buildings to be permitted with this Conditional Use are the buildings submitted on the site plan.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

C/U #1335 -- application of STEPHEN C. THEIS to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a professional photography studio to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 33,100 square feet, more or less, lying east of Greenbriar Road (a private road), 250 feet north of Road 535, 0.5 miles east of U.S. Route 13.

The Commission found, based on comments received from the County Engineering Department, that the parcel is located in the Town of Seaford's proposed service area, per the Western Sussex Water and Sewer Plan; and that the developer and/or property owner should contact the Town of Seaford for sewer and water availability.

The Commission found that Stephen C. Theis was present and stated in his presentation and in response to questions raised by the Commission that he has operated the studio from his home since 1979; that he proposes to continue the studio, and to eliminate the processing lab; that sessions are scheduled by appointment only; that his son worked with him, but now lives away from the site; that typical business hours are 9:00 A.M. to 5:00 P.M. Tuesday through Friday; that he may work one evening per week until 7:00 P.M.; that he proposes to continue living on the site; that if he ever relocates, the studio is proposed to remain on the site; that the home will maintain its residential character; that if he ever moves away, he would like to keep the studio on the site; and that no expansion to the structure are proposed.

The Commission found that Kevin Fruehauf was present, speaking on behalf of the seven (7) parties present in opposition, read a letter on opposition from Neil G. Edgell, Sr., and added that there are five homes with access to Greenbriar Lane; that the deed restrictions were altered when Mr. Theis purchased the property; and that the deed restrictions that are recorded limit the use to Mr. Theis only.

The Commission found that Mr. Schrader reviewed the restrictions and stated that restrictions provide that the lot is approved for residential purposes only, the use of the site for a studio until Mr. Theis relocates, and that when a conflict exists the most restrictive covenant shall prevail and can be enforced.

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

C/U #1336 -- application of TIDEWATER UTILITIES, INC. to consider the Conditional Use of land in a C-1 General Commercial District for an elevated water storage facility to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.79 acres, more or less, lying 880 feet southeast of Melson Road (entrance to site is 1,300 feet northeast of Route One) behind Midway Shopping Center.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that capacity is not a concern due to the fact that there will be minimal or no sewer flows from the storage facility; and that if there is a treatment facility associated with the use, a sewer capacity evaluation must be performed before the Conditional Use is approved.

The Commission found that a letter of support was received from Richard H. Derrickson of Midway Realty Corporation. Mr. Lank read the letter.

The Commission found that a petition, containing 50 signatures in opposition, and 41 letters of opposition have been received. Mr. Lank forwarded the petition and letters to the Commission for review during the public hearing.

The Commission found that James Fuqua, Jr., Attorney, Gerald Esposito of Tidewater Utilities, Inc., and Kevin Burdette of McCrone, Inc. were present and stated in their presentations and in response to questions raised by the Commission that the site is located behind Midway Shopping Center and mini-storage project; that the 1,000,000 gallon storage tank will have a maximum of 140 feet in height, a maximum width of 75 feet, and a 46 foot diameter base; that the site is zoned C-1 General Commercial; that the Conditional Use process is required because the tower will be operated by a public utility; that the height of the tower is not restricted in the Sussex County Code; that the utility is regulated by the Public Service Commission, DNREC, the Division of Public Health, and the Office of the State Fire Marshal; that the service area has 3,000 customers; that it is important that the Commission consider the Ordinance on Conditional Uses, the Comprehensive Plan for guidelines, and the Delaware State Laws referencing utilities; that the purpose of the Code, Article XXIV "Conditional Uses" provides that: "these uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare but, because of the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact not only on neighboring properties but on a large section of the County, require the exercise of planning judgement on location and site plan"; that the application complies with a goal of the Comprehensive Plan referencing planned water and wastewater systems that will protect critical natural environments and provide the infrastructure for future growth; that the Comprehensive Plan references that adequate water and wastewater systems are critical

to Sussex County's quality of life; that the provision of these systems are often necessary to protect human health and the natural environment; that the provision of water and wastewater systems play a major role in providing a variety of economic development and housing opportunities; that continued growth of residential, commercial and industrial communities will result in increased demands for water; that while water availability is critical, the primary concern in Sussex County is water quality; that Section 6904 of the Delaware Code provides that County regulations shall be in accordance with the approved Comprehensive Plan and shall be designated and adopted for the purpose of promoting the health, safety, morale, convenience, order, prosperity or welfare of the present and future inhabitants of Sussex County, including securing safety from fire, flood, and other dangers, promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and provide adequate provisions for public requirements, water flowage, water supply, and water and air abatement; that all citizens use, need and want water; that the population is growing; that growth is being directed into Development Districts; that this site is within a Development District; that the company has a certificate of public convenience and necessity; that central water has safer factors for water quality than on-site wells; that central water is always being monitored; that the hydrology of the area indicates that this is the best site for a tower; that planting strips and security fencing will be provided; that an access road from Melson Road will be provided; that a well and pump house exists on the site; that the site will be checked by an employee once a day; that the elevated tower will provide better service and water supply pressure; that an ample supply of water is available to serve the area; that the tower will allow wells to operate at a slower rate; that no noise is associated with the tower; that a sign will be painted on the tower on the side facing Route One, indicating the water company; that no signage will be painted on the east side of the tower; that the top of the tower will be lighted to FAA specifications; that the site is appropriate to the use; that the Comprehensive Plan suggest concentration of development growth; that water towers exists in most communities; that there will be no environmental impact; that there will be no traffic impact; that the tower will cause no noise, dust, or odors that will impact the neighborhood; that they are applying for a public utility with a tower; that a similar tower could be built on the site, if serving Midway Shopping Center, without the need for a public hearing; that the site is C-1 General Commercial zoned; that the use will provide water service to a large number of the area residents needs; that the letter from the Division of Public Health references the need; that the company owns and operates a 300,000 gallon tower at their Rising Sun, Delaware, facility, and a 250,000 gallon tower at the Bethany Bay project; that the company has 13 well sites presently in the system for this area; that pumps run based on demand; that the only noise is a humming noise; that there is no more noise with the tower than the existing pump house; the base of the tower will have security lighting and fencing; that this area will be the largest water district to be served and a need exists for a tower; that the new water tank in Rehoboth Beach is approximately 500,000 gallons; that the new water tank on Route One is approximately

1,000,000 gallons; that the company does not serve Dove Knoll or Midway Park; that the company does serve Midway Estates; that access up the tower requires access through the base of the tower; that the towers are lightning protected; that the company is willing to provide additional landscaping around the perimeter; that the well and pump house were purchased from Midway Realty Company; that the company has been in business for 37 years; and that the tower will not affect private wells in the immediate area since the wells serving the system are located off of the site.

The Commission found that the applicants submitted excerpts from the Sussex County Code referencing the purpose of a Conditional Use, excerpts from the 1997 Comprehensive Plan, excerpts from 6984 of the Delaware Code, a copy of a letter from Ed Hallock of Health and Social Services, photographs of water towers, a map of Water Utility Certificates of Public Convenience and Necessity in Sussex County, maps of the Tidewater Utilities service area, an enhanced photograph depicting a tower from the Midway Shopping Center parking lot, and a copy of the Tidewater Utilities, Inc. Master Plan for the Rehoboth/Lewes District Water System, prepared by Killan Associates.

The Commission found that Ron Ray, Stan Nichols, Henry Grosmiller, Richard Deskis, Mable Granke, and Michael Tyler, of the 16 parties present in opposition, spoke with concerns that the hydrologic area proposed to be served is moving towards Five Points; that the site should be located in the area that it is proposed to serve, referencing The Village of Five Points, Bay Crossing, and Savannah Apartments; that the tower may cause depreciation of property values; that the shopping center draws children, teenagers, and party goers that may be tempted to climb the tower; that the proposed hedgerow does not provide adequate screening; questioning why 140 feet of height; questioning why near new homes; that the landscaping should surround the site; that present needs are being filled by existing wells; that the need is for future needs of proposed developments and that the tower should be in those communities, not in existing communities; that the tower in Rehoboth Beach is 120 feet tall, not 140; questioning why the enhanced photograph was taken from the shopping center parking lot and not from the residential development adjoining the tower site; questioning what the overall plan is for the Route One corridor with regard to water supply; questioning what the companies area of responsibility is in relation to the cities of Lewes and Rehoboth Beach; questioning what protection the homeowners with private wells have when central wells are established; questioning why a water tower is being placed in the heart of two residential communities; questioning if there is a future plan for the placement of a central well at the same location; and that tower will add to the obscenity of clutter that exists along Route One.

The Commission found that Ms. Granke submitted her written comments.

The Commission found that Kathlyn Silvers of Midway Estates stated that the tower will be 50 feet from her back yard, and questioned who will maintain the property.

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 defer action.

C/U #1337 -- application of PRESTON SCHELL to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an institutional facility (Delaware Guidance Services for Youth Counseling) and a sales office to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 3.63 acres, more or less, lying southwest of Route One and northwest of Best Lane just north of Red Mill Pond.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that there is sufficient sewer capacity available for this commercial use; that the parcel is provided with an 8-inch lateral; that an additional 8-inch lateral will have to be installed for the second structure; that the parcel has a credit of 2.0 EDUs from a previously paid capitalization fee; that capitalization fees will remain in effect through December 1, 2000; that additional capitalization fees can be paid through that date at \$250.00 per EDU; that EDUs added after that date would be based on the System Connection Charge which is currently \$2,954 per EDU; and that fees are due prior to the developer being issued a building permit.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State has no objections to this application; that the State urges the County to require that the developers work with the Historic Preservation Office in regards to the site; that according to a recent archeological survey, the presence of a set of stone steps near Route One and a barn to the back of the property were noted; that testing was recently done west of Parcel C, an edge of the Taylor Site, at a prehistoric and historic period archaeological site and the historic period artifacts found probably related to the J. Paynter Tenant House, dating to pre-1853; that development of Parcel C and the overall Red Mill Village could have adverse effects on these archaeological sites; and that the State Historic Preservation Office would like an opportunity to work with the developer to avoid these sites.

The Commission found that a letter in opposition was received from Douglas Sentman on behalf of the Concerned Citizens of Best Lane questioning whether Best Lane is a private road or a public road; questioning the status of a quit claim document; questioning why a traffic impact study is not required prior to approval; that the traffic impact study should include the cumulative impact potential of any existing or proposed commercial uses; that traffic on Route One and the potential increases in traffic should be a concern; that traffic safety should be a concern; and questioning the impact of a central well on the on-site wells in the area.

The Commission found that Preston Schell was present and stated in his presentation and in response to questions raised by the Commission that he applied to DelDOT for approval of Beach Babies and the Delaware Guidance Services; that he is willing to do a traffic impact study for the subdivision; that Delaware Guidance Services are located approximately 300 yards north of the site; that the site will be served with central water by Tidewater Utilities and central sewer by Sussex County; that the use is not out of character due to other commercial and business uses in the area; that the County Board of Adjustment recently approved the Day Care Center; that the Planning and Zoning Commission approved the site plan for the Day Care Center; that access to the site is proposed from Best Lane, a public road; and that he would prefer to have access to Route One.

The Commission found that Bruce Kelsey, Executive Director of Delaware Guidance Services, was present and stated that the organization operates a mental health care facility for children; that the organization has existed since 1953 in Delaware; that the organization has operated a facility in Sussex County since 1992; that a need exists to expand the facility; that an 11,700 square foot facility is proposed; that they operate 3 programs: 1) a out-patient clinic, 2) a crisis center (24 hour service), and 3) a day treatment center (school) for a maximum of ten children, that they have received no complaints about the existing facility by the neighborhood; that the existing facility has 35 staff members that work staggered shifts; and that the day treatment facility has a fenced outdoor play area.

The Commission found that Mr. Kelsey submitted a brochure with literature on Delaware Guidance Services, and 15 letters in support, which included 7 letters from children who have been treated or are being treated at the facility.

The Commission found that Mr. Schell added that he met with some the residents from Best Lane, some DelDOT representatives, and Representative Carey, Representative Schroeder, and Senator Simpson to discuss Best Lane last Friday.

The Commission found that William Wright, Attorney, was present and referenced letters from Frederick Schrank, Deputy Attorney General for DelDOT, to Dennis Schrader, Assistant County Attorney, and to himself in reference to Best Lane being a public road, and added that Best Lane is a public right of way to be used by the people who access Best Lane.

The Commission found that Mr. Schell added that he is willing to put up a fence along the length of Best Lane to the Red Mill Pond.

The Commission found that Nichole Keller, a Director at the existing facility, stated that she has had no problem getting out onto Route One at the current location, except for late Friday afternoons.

The Commission found that Mr. Kelsey added that transportation to the day treatment center is operated by the Cape Henlopen School System; that some of the children come from the Consortium in Lewes; that hours vary; with typical hours for the day treatment center from 8:00 A.M. to 4:00 P.M., out-patient clinic until 7:00 P.M.; that the facility serves children from birth to the age of 18 years; that the maximum over-night stay of a client is 72 hours; that the play area for clients at the facility will have a screened fencing for confidentiality; that professional staff members are present for overnight stays; that the proposed facility is larger than the present facility; that they need more room for clients and therapists; and that the new facility will provide a better environment for clients and staff with larger rooms and facilities.

The Commission found that Douglas Sentman was present in opposition and stated that the County needs to look at the whole project, the subdivision, the day care center, the guidance center, as one review; that he questions the quit-claim document; that a day care center should not be located next to a crisis center; that traffic will be a problem; that they did meet with the applicant and State Representatives, and governmental officials; that they neighbors are not sure who owns Best Lane; that access to Route 88 should be required due to the impact on Route One; that deeds to the property owners refer to Best Lane as a private road; that expansion of the use of Best Lane at Route One will endanger lives; and that action should be deferred until all issues are addressed.

The Commission found that Donald Wagner was present on his son's behalf and submitted a copy of his son's survey showing a noted private street, and a copy of his son's deed referencing that the street is private.

The Commission found that Alfred Best was present and stated that he and his brother built the road in 1953; that no bus service uses Best Lane since it is not a public road; that no mail service is provided to residents along Best Lane since it is not a public road; and that there is too much traffic on Route One to add any additional uses to Best Lane.

The Commission found that Mable Granke of the Citizens Coalition, Inc. was present, stated that the residents of Best Lane asked for their support, and read and submitted a letter for the record, which references that the cumulative impact upon the small private community of this commercial application and the companion application for residential development must be considered; that any required improvements to Route One frontage for public safety cannot be accurately determined until the necessary traffic impact study is completed; that the State Corridor Preservation Capacity Program applies to this area and determination of access falls within that program; that access to and from Best Lane is currently a dangerous proposition; that at non-peak hour use of Route One, the allowable speed limit of 55 miles per hour makes exiting an adventure to say the least; that during peak use hours the residents are blocked in; that the matter of emergency access has become a very real concern; that it is requested that this application be deferred until appropriate traffic studies can be performed for both the commercial and residential uses; and that the legal status of Best Lane must be determined, especially for the sake of the residents who have wholly maintained the road at their expense and the well being of their community.

The Commission found that Michael Tyler, President of the Citizens Coalition, Inc. was present and read and submitted a letter for the record, which references that the Coalition requests that this application be deferred in view of the unsolved concerns of the residents; that the application subverts the zoning process and disregards the Comprehensive Long Range Plan by establishing a non-residential use along a portion of Route One that is critical to maintaining access, traffic flow and safety; that deferring the application will put the County in a better position to step back and determine the effect of this use, the proper zoning application this request should be made under and to review additional plans slated for adjacent properties; and that this should result in a decision that will be in the best interest of the safety and well-being of the area's residents.

The Commission found that Gary Timmons was present and questioned why the facility is proposed at this location when it could be located near Georgetown to serve the citizens of Sussex County in a central location; that the traffic study should be completed prior to any action; and questioning if the State has accepted the quit-claim deed.

Mr. Schrader stated that the quit-claim deed warrants title of Best Lane to the State and that Best Lane is a State Street, but is not State maintained.

The Commission found that 15 people were present 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. Johnson, seconded by Mr. Lynch, and carried unanimously to defer action.

#### OLD BUSINESS

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 subdivision; providing a form for notice by publication; and creating a procedure for the approval of minor subdivisions.

The Chairman referred to this ordinance which has been deferred since April 27, 2000.

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

There was a consensus of the Commission that Ms. Jordan's comments were requesting that all existing subdivision be excluded from amendments.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously defer action so that Mr. Schrader could redraft the Ordinance without the grandfathering provisions suggested by Ms. Jordan.

Subdivision #2000-14 -- application of OCEAN ATLANTIC ASSOCIATES, V, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broadkill Hundred, by dividing 40.59 acres into 116 lots, and a waiver from the forested buffer strip requirements, located west of Route One, 0.5 mile south of Route 88.

The Chairman referred to this application which has been deferred since May 25, 2000.

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

Mr. Allen stated that he received a telephone call from Ann Canby, Secretary of the Department of Transportation, requesting deferral of the Subdivision and Conditional Use #1337, and added that a traffic impact study should be done prior to any action.

Preston Schell asked if the traffic impact study had to be done prior to receiving preliminary site plan approval, and added that he has already advised Allen Redden of DelDOT that he would have a traffic impact study prepared to DelDOT criteria.

Roger Gross of Meridian advised the Commission that William Brockenbrough of DelDOT has waived the requirement for a traffic impact study.

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

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 Commission reviewed the revised preliminary plans.

Mr. Schrader stated that the revised restrictive covenants are acceptable.

Motion by Mr. Johnson, seconded by Mr. Hastings, and carried unanimously to approve the revised preliminary plans, not for recordation, and with the understanding that 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 Commission reviewed the revised preliminary plan.

It was noted that the revised plans show street inter-connections and that the plan has been reduced by 2 lots to 175 lots.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve the revised preliminary plans, not for recordation, and with the understanding that 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.

## OTHER BUSINESS

1. Bayville RPC  
Revised Master Plan - Route 54

Mr. Abbott advised the Commission that the master plan was approved February 10, 2000, that the pond has been made larger; that the bubbles in the street design have been removed; that the pool, bath house, and tennis courts have been relocated; that the mini storage and boat trailer storage areas have been reduced; that the site plan depicts the proposed water tank and related service buildings; and that the number of units is still 332 units.

The Commission found that Jeff Clark and Coleman Bunting were present on behalf of the applicant.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the revised Master Plan as a preliminary.

2. Savannah East Apartments  
Revised Commercial Site Plan - Route 268

Mr. Abbott advised the Commission that a final site plan was approved by the Commission on December 9, 1999 for 72 multi-family units with 3 parking spaces per unit; that the revised site plan shows 2 parking spaces per unit; that on May 2, 2000 the County Council amended the Code requirements for parking from 3 to 2 spaces per apartment unit; that the reduction in parking will reduce the amount of impervious surface; and that the total number of spaces proposed is 147 spaces.

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

3. C/Z #1397 -- Robino-Seaside, L.L.C.  
Final -- Woods at Seaside

Prior to adoption of the agenda, Mr. Lank informed the Commission that this item has been removed from the agenda.

4. James Scott McCurdy  
150' Telecommunication Tower Site Plan - Route 54

Mr. Abbott advised the Commission that a 150' high telecommunication tower is proposed to be erected on the site with several equipment buildings, within a 70' by 70' compound area; and that the compound area will be fenced with chain-link type fencing topped with barb-wire.

The Commission found that Barbara Pivoc of American Tower was present and stated that the tower is a 150' high monopole tower and will be placed behind the furniture store; that access to the site is from an existing entrance; and that the service users on this tower should void the communication voids in the area between Fenwick Island and Selbyville.

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

5. William R. and Barbara W. Hudson  
150' Telecommunication Tower Site Plan - Route 5

Mr. Abbott advised the Commission that a 150' high tower is proposed to be erected on the site with two equipment buildings, within an 80' by 80' compound area, and that the compound area will be fenced with chain-link type fencing topped with barb-wire.

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

6. Delaware Gospel Assembly  
Church Site Plan - Route 18

Mr. Abbott advised the Commission that the church is proposed to be located in an existing 24' by 48' building; that a 62' by 54' addition is proposed; that 18 parking spaces are required; that 20 parking spaces are proposed; that the Church is requesting that the parking area be stoned, not paved; and that the approval should be subject to receipt of DelDOT and Sussex Conservation District approvals.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan subject to receipt of approvals from DelDOT and Sussex Conservation District, and permitting a stone parking area.

7. Rehoboth Mall Redevelopment  
Revised Final Site Plan - Route One

Mr. Abbott advised the Commission that preliminary approval of the site plan was granted on September 23, 1999; that the preliminary site plan was revised and approved on February 10, 2000; that Mr. Schrader approved the agreement for non use of the Mall Court on April 13, 2000; that 1,038 parking spaces are required and that 1,175 parking spaces are proposed; and that all agency approvals or letters of no objection have been received.

The Commission found that John Sergovic, Attorney, and Randy Duplechain were present on behalf of the applicants.

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

#### ADDITIONAL BUSINESS

Mr. Lank asked the Commission if they had time for a Special Workshop to discuss RPC regulations, and the Subdivision Ordinance.

Mr. Schrader suggested that the Commission discuss the scheduling of the agendas.

There was a consensus of the Commission that a Special Workshop be scheduled for June 29, 2000 at 7:00 P.M. to discuss the RPC regulations, the Subdivision Ordinance, and scheduling of agendas.

Meeting adjourned at 12:43 A.M.