

MINUTES OF THE REGULAR MEETING OF JUNE 10, 1999

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 10, 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. Berl - Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray - Zoning Inspector III.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve the agenda as amended by removal of item 5 under other business from the agenda.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of May 27, 1999 as corrected.

Mr. Berl explained how the meeting would be conducted.

IV. PUBLIC HEARINGS

C/U #1289--application of DOROTHY A. THERIAULT to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an antique and collectible gift shop to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 31,980 square feet, more or less, lying south of Route 26, 150 feet west of Road 348.

The Commission found, based on comments received from DelDOT, that a traffic impact study was originally requested for rezoning of the parcel, and that DelDOT waived the requirement since a Conditional Use application was being filed.

The Commission found that Mrs. Theriault and Steve Parsons, Attorney, were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that a gift, antique and collectibles shop is proposed; that they have no objection to a stipulation that the use only permit the sale of gifts, antiques and collectibles; that they have no objection to business hours being limited from 10:00 A.M. to 5:00 P.M. Monday through Saturday, and from 12:00 Noon to 5:00 P.M. on Sunday; that the Atlantic Community Thrift Shop is adjacent to the site on the east; that Hudson's General Store is across from the site; that adequate space exists on the site for parking to the rear of the driveway; that the sheds will remain on the site; that business activities will be maintained within the first floor of the dwelling and on the porch; that no outside display is proposed; that no parking is proposed to be in the front yard; and that a small sign is proposed.

The Commission found that a letter in support of the application was submitted by Richard and Melody Hudson, property owners across Route 26, Bob Hudson, property owner to the west, and Mabel M. Schultz, President of the Atlantic Community Thrift Shop.

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. 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. Business hours shall be from 10:00 A.M. to 5:00 P.M. Monday through Saturday and 12:00 A.M. to 5:00 P.M. on Sunday.
2. One unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.
3. No outdoor displays shall be permitted.
4. The use shall be limited to the sale of gifts, antiques, and collectibles.
5. Business display activities shall be limited to the first floor and porch.
6. No parking shall be permitted in the front yard.
7. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of appropriate agency approvals.

C/U #1290--application of NARDO, INC. to consider the Conditional Use of land in an AR-1 Agricultural Residential District and a B-1 Neighborhood Business District for offices and storage to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 5.0 acres, more or less, lying south of Route 9, 0.5 mile west of Road 262 and 0.7 mile east of Route 5 at Harbeson.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that the existing level of service "E" of U.S. Route 9, between Delaware Route 5 and Delaware Route One, will not change as a result of this application; and that the Department will require the developer to use the exist entrance location on U.S. Route 9.

The Commission found, based on comments received from the County Engineering Department, that the site is located in the area west of the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District where the County Council agreed to restrict zoning changes and conditional uses in a memorandum of understanding between the County Council and DNREC.

The Commission found that Joe DeNardo was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he proposes to build offices and storage buildings for contractors; that he will build his office along Route 9; that he proposes to build eight buildings, two measuring 60' by 160', and six measuring 40' by 120'; that the floor plans for the buildings will be designed to suit the tenants; that the project will be phased; that one entrance will serve to entire site; that sewer and water will be on-site; that no outside storage is proposed; that business hours will be from 8:00 A.M. to 5:00 P.M.; that the buildings will be one story with metal siding; that he hopes to start construction within one year, and that he anticipates that the project will take 10 to 12 years to complete; that he has a contract to purchase the site subject to zoning approval; that Peninsula Masonry is located to the west; and that a bird bath supply business is located to the east.

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.

Mr. Wheatley stated that he will have to abstain from voting on this application.

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

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried with three votes, with Mr. Hastings voting against the motion and Mr. Wheatley abstaining, to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The Conditional Use area shall be restricted to the B-1 Neighborhood Business portion of the site.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

C/Z #1379--application of DYER-MCCREA VENTURES, L.L.C. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR/RPC High Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, lying on the northeasterly side of Road 299, 850 feet more or less southeast of Road 298, to be located on 76.69 acres, more or less.

The Commission found that Mr. Lank summarized comments from DelDOT, a nine page document with attachments, which included references that the project would be in a Multimodal Investment Area with respect to the Statewide Long-Range Transportation Plan; that any development of the subject lands should be designed to take advantage of

all relevant modes of travel; that the Department's review of the traffic impact study indicates that good to excellent levels of service currently exist or would exist at most of the study area intersections, except for the intersection of Delaware Route 24 and Bay Farm Road, where a shopping center is proposed; that references were made to the orientation of roads in the study area, project descriptions and backgrounds, the Statewide Long-Range Transportation Plan, an overview of the traffic impact study, intersections analyzed in the traffic impact study, Transit, Bicycle and Pedestrian Facilities, conclusions and recommendations; and that if the County chooses to approve the rezoning of this project, it should first require that the following improvements be incorporated into the site design and reflected on the site record plans:

1. If the County finds it appropriate, it should require the developer to either:
 - a) Design and build the westbound left turn lane on Bay Farm Road at Route 24 to DelDOT's satisfaction; or
 - b) Escrow funds in an amount acceptable to the County and payable to whatever party builds the left turn road when completed.
2. As part of the entrance construction, or the street construction if State maintained streets are contemplated, the developer shall:
 - a) Widen Bay Farm Road to a minimum of 20 feet from the east end of the site frontage to Legion Road; and
 - b) Regrade the roadside ditches, from the east end of the site frontage to Route 24, so as to provide 4 foot shoulders.
3. Prior to the issuance of any building permits, the developer shall post a Construction security, acceptable to DelDOT, in an amount sufficient to 100 percent of the estimated cost to reconstruct Bay Farm Road from Route 24 to the site entrance. The security should remain in effect until certificates of occupancy have been issued for all of the buildings and should be redeemable by DelDOT in the event that the construction of the project, in the opinion of DelDOT's Subdivision Engineer, significantly damages Bay Farm Road.
4. The plan should provide an area, interior to the site, where buses entering the site can turn around and a pavement section, between that area and the site entrance, sufficient to support bus traffic.
5. The plan should show how, when, and by whom, the proposed bicycle and pedestrian path would be connected to an all-weather surface on the adjoining property.
6. At a minimum, the plan should show sidewalks, crosswalks, and bicycle and pedestrian paths sufficient for residents to circulate, walk or bicycle safely from Bay Farm Road to the adjacent property north of the site and throughout the site itself. The County should consider requiring a bicycle path, separate from, but parallel to the proposed internal street, connecting from Bay Farm Road to the adjacent property north of the site.

It was also noted that DelDOT is not opposed to this project on the basis of the Statewide Long Range Transportation Plan and that DelDOT sees the potential for the proposed development to be an asset to bicycle and pedestrian circulation in the area.

The Commission found, based on comments received from the County Engineering Department, that the site is located within the Long Neck Sanitary Sewer District; that sewer service is available to the project; and that connection charges will be due for any improvements constructed in connection to the project.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is located in a Preservation Area in the State's Investment and Resource Management Strategy, however, it is also designated as a special management area indicating that further analysis is needed; that the parcel is completely forested and contains wetlands; that the development of the parcel would mean the loss of open space; that the Delaware State Housing Authority supports this proposal for an age-restricted community that will be comprehensive in the range of housing options and scope of services required for the aging population; that the Statewide Housing Needs Assessment has identified a growing need for a housing or housing-related assistance for the aging population, especially in Sussex County, and for low-income; that it would be beneficial if some units were set aside for the low-income segment; that according to the Delaware Emergency Management Agency, this area may experience flooding from the Bays during a CAT 3 hurricane; that the size of the project, when considering the adopted nutrient Total Maximum Daily Loads regulations for this watershed, should have a non-point source pollution control strategy that would reduce environmental impacts on the Bays; and that the applicant will need to contact the Office of the State Fire Marshal to submit site plans, building plans, and fire protection system plans.

The Commission found, based on a letter received from the Public Water Supply Company, Inc., that the planned community is within their certificated service area and that the company is capable and willing to serve the project once a water service agreement is signed.

The Commission found that Preston Dyer was present on behalf of a joint venture between Dyer-McCrea and Nora Lam Chinese Ministries International and stated in his presentation and in response to questions raised by the Commission that parcel "A", a 9.0 acre parcel, is proposed to be developed as a convalescent home with 100 beds; that parcel "B", a 5.95 acre parcel, is proposed to be developed as an assisted living facility with 100 beds; that parcel "C", 5.73 acre parcel, is proposed to be developed as a 3 story independent living facility with 60 apartments; that parcel "D", a 5.75 acre parcel, is proposed to be developed as a church facility with 700 seats; that parcel "E", a 3.98 acre parcel, is proposed to be developed as a community senior center; that parcel "F", a 10.05 acre parcel, is proposed to be developed as an independent living (quad style) with 68

apartments; that parcel "G", a 16.16 acre parcel, is proposed to be developed as an independent living (duplex cottages) with 60 units; that parcel "H", a 11.24 acre parcel, is proposed to be developed as multi-family residential with 72 apartment; that road rights-of-way will utilize approximately 4.27 acres; that stormwater management areas will utilize approximately 3.66 acres; that the rear of the site abuts a shopping center with frontage along Long Neck Road; that the Residential Planned Community provides for a variety of housing types; that the design of the project provides duplex units with garages along the adjoining subdivision; that taller and larger buildings have been clustered with greater setbacks; that the project is consistent with the area since the area has a mixture of housing types; that the density of existing development varies from 2 to 8 units per acre; that the proposed density is approximately 5.35 units per acre; that approximately 57 percent of the site will become common areas; that the project proposes 2 parking spaces per unit; that the application was filed prior to the recent Ordinance amendment relating to parking; that medical facilities exists within one mile of the site; that shopping facilities exists within one mile of the site; that the project will be developed in 4 phases; that the first phase will include the assisted living facility, the senior center, the church, and 60 apartments; that the second phase will include the duplex cottages and the convalescent center; that the third phase will include the quad units; and that the fourth phase will include the apartments; that a recent letter from DelDOT has been received that changes their comments relating to Bay Farm Road and Route 24 intersection by stating that the burden of improvements should rest on the developer of the shopping center, and not this project; that the developers feel that DelDOT's references to required improvements to the roadside ditching and damage assessments on Bay Farm Road are not appropriate to this application; that bike paths are proposed as referenced by DelDOT; that greater setbacks are proposed along the perimeter of the property and Bay Farm Road; that a wooded strip will be maintained along the roadway through the project; that the project is located within the Development District of the Comprehensive Plan; that picnic areas and tennis courts are proposed; that the parcels may be developed by different developers; that deed restrictions will be established to meet Federal Housing Guidelines; that they have attempted to meet the needs of the senior population; that the project should enhance the area by providing housing needs, recreational areas, open space, and services; and that they are aware that they will be required to apply to the County Board of Adjustment for Special Exceptions for the convalescent center and assisted living.

The Commission found that Rick Harper, speaking on behalf of the Sussex County Senior Services (Cheer), stated that they are excited to be a part of this project to serve the needs of the senior population; that 2355 services have been provided from the two existing centers in the area; and that the facility will provide home health aids and services for the senior population in the area.

The Commission found that Lucien Ferguson, a consumer and advocate for the elderly in Sussex County, spoke in support of the project, and stated that it should be the desire of all Sussex Countians to improve the quality of life for the elderly population; that it has been projected that between the years 1990 and 2020, Delaware's population aged 60 and older will increase about 68 percent; that Delaware's population aged 60 and younger will only grow by 28 percent during the same period; that Sussex County has had the largest growth rate during this period in the 60 and older population; that this will continue and from 1990 to 2020 will experience a growth rate among those 60 and older of 115 percent; that Sussex County has the largest population aged 60 and older at 23.5 percent; that this project is an ambitious undertaking but solely needed; that the health and well-being of any individual is largely dependent upon the quality of life; that the lack of suitable housing is critical; that the proposed project, with it's different housing types will fit the needs and budgets of many elderly citizens; that the project provides for citizens who need help with activities of daily living and the frail who need a convalescent center; that the project enables the citizens to stay close to their friends and their churches; that the senior center is needed in the area; and that the church can serve all residents in the area.

The Commission found that Marion Davis, a neighbor, stated that she recognizes the need for the project, the senior center and the church, and supports the project.

The Commission found that Mr. Dyer added that some of the units may be sold and some may be leased; that a condominium regime allows for both sales and rent; that no wetlands disturbances are intended; that the units vary in size and pricing, and that some may be appropriate for low-income users; that the Nora Lam Chinese Ministries provide bibles to China; that the church is supported by the Ministries; that Nora Lam Chinese Ministries are located in California; that the church will be available to all residents; that the project should serve the entire community; that all amenities will serve all residents; that the units will be one or two bedroom units; that approximately 50 percent of the units will be occupied by one individual; that the road widening and resurfacing will start when construction starts; and that the entire project is projected to be developed within 5 or 6 years.

The Commission found that Barry Nichols, a resident of Woodlyn Estates, questioned if at least one resident per phase will be required to be 55 years old or older; questioned if the property line would be left wooded or fenced; and questioned setbacks.

The Commission found that Walter Harding, of the Woodlyn Estates Property Owners Association, submitted written comments and stated that the residents at a recent annual meeting agreed that the construction of a modern and well-maintained nursing care facility for senior citizens has tremendous merit; that the membership voted unanimously to ask the Commission to address environmental impact, road traffic, safety and security;

that one concern related to the loss of more than 200 acres of open landmass in the general area; that the residents are concerned about traffic, road conditions and hazards; that signed petitions have been submitted regarding traffic and safety concerns, i.e. a narrow and deteriorating road bed, lack of traffic signals, poor visibility at intersections, and the absence of sidewalks for the increased pedestrian and bike traffic; that DelDOT has recently denied our repeated requests for assistance; that the residents are concerned about security and property values; that the project should be undertaken in an environmentally friendly manner, i.e. minimum amount of tree and plant removal; that planting of additional trees and shrubbery in open areas should be required; that a separately maintained environmentally proven waste treatment system should be constructed on the grounds; that previously requested road repairs and traffic control devices should be installed; that a minimum of 75 feet wide buffer zones should be created between Woodlyn Estates and the project; and that a wooden fence should be constructed along the property line.

The Commission found that Mr. Harding submitted copies of DelDOT petitions for roadway improvements relating to the installation of traffic control signals, paving and repairing Road 299, Road 298, the installation of mercury vapor lighting at the intersection of Road 299 and Route 24, the installation of a bike path along Road 299 and Road 298, and the repair and repaving of Woodlyn Road.

The Commission found that no parties appeared 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. Lynch, seconded by Mr. Phillips, and carried unanimously to defer action.

C/Z #1380--application of DAVID B. WEBB, JR. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, lying at the southeast corner of U.S. Route 13 and Road 482, to be located on 5.65 acres, more or less.

The Commission found, based on comments received from the County Engineering Department, that the parcel is located in the Blades Sanitary Sewer District planning area, per the Western Sussex Water and Sewer Plan, and that sewer service will not be available in the near future.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State objects to the rezoning on the basis that it is inconsistent with the State Investment and Resource Management Strategy; that the project is located in a Preservation Investment Zone, an area where emphasis is on preserving infrastructure and limiting growth to uses such as agriculture and very low density rural development; that if the County approves the rezoning, consideration should be given to DelDOT's concern about access to the proposed commercial use, which would conflict with the goals of the Corridor Capacity Preservation Program along U.S. Route 13; that DelDOT will not permit direct access to U.S. Route 13; that access will only be permitted from Road 482; and that the applicant will be required to contact the Office of the State Fire Marshal to submit site plans, building plans and fire protection system plans.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that the level of service "B" of U.S. Route 13 will not change as a result of this application; that the level of service "A" of Road 482 may change to a level of service "C"; that the project is located in a Corridor Preservation Area; that access to the parcel will have to be from Road 482 and shall be required to be located at least 300 feet from U.S. Route 13; that no access will be permitted directly to U.S. Route 13; and that right of way dedications may be required along the entire frontage of Road 482 to create 30 feet from centerline.

The Commission found that David B. Webb, Jr. was present and stated in his presentation and in response to questions raised by the Commission that commercial uses and zonings exists on two sides of his parcel; that he proposes to build warehouses and a small retail area; that he has no plans at the present time for the residual 16 acres; that he proposes a similar facility to his facility near Blades; that the use intended will have minimum impact on septic and water due to the low volume users; that he plans to build one building approximately 60' by 100' with a height of 16'; and that parking areas will be paved.

The Commission found that Elwood Baker and Olan Boyce spoke in opposition and expressed concerns about the varying width of Road 482; questioning the width of the right of way of Road 482; that a drainage problem exists on the site; that the site can only be farmed when the soil conditions are acceptable due to the wetness of the soils; that it may be necessary that the site be filled; that access would be preferred from U.S. Route 13; and that traffic could become a problem on Road 482.

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. Lynch, and carried unanimously to forward this application to the County Council with the recommendation that it be approved, since the site is immediately adjacent to other C-1 General Commercial Districts and uses, and since DelDOT is going to restrict the access to Road 482.

C/Z #1381--application of WASTE MANAGEMENT OF DELAWARE, INC. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HI-1 Heavy Industrial District for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, lying west of Road 583 and northwest of Railroad and 0.8 mile south of Road 582, to be located on 40.00 acres, more or less.

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 583 may change to a level of service "D".

The Commission found, based on comments received from the County Engineering Department, that the site is located in the Town of Bridgeville's service area, per the Western Sussex Water and Sewer Plan, and that the applicant should contact the Town of Bridgeville for sewer and water availability.

The Commission found, based on comments received from the Office of State Planning Coordination, that the site is located in a Preservation Area as defined by the State's Investment and Resource Management Strategy where significant growth is not recommended; that the State would like to see growth happen close to towns, or in areas that have been in place or have been targeted for future infrastructure investments that support additional growth; that certain uses, including waste collection and disposal may be incompatible within communities and therefore, might be appropriately located in Preservation Areas; that the State is concerned that according to the 1997 land use/land cover data this site is bordered by residential properties; that due to the close proximity of the site and the Town of Bridgeville boundary, the State urges the County to solicit and consider the input of the Town officials and to consider conditioning any approval to minimize conflict with neighboring uses or the long-term desires of the municipality; and that if the County approves the rezoning the applicant shall be required to contact the Office of the State Fire Marshal to submit site plans, building plans, and fire protection plans.

The Commission found, based on comments received from the Woodbridge School District, that upon review of the economic impact data associated with this application, the School District is in support of this organization locating in the School District; that it is important to continue economic growth in western Sussex County, which in turn will generate new opportunities and tax revenues for the community.

The Commission found that a letter was submitted from the Back of Eastern Shore, Cambridge, Maryland, that advised the Commission that a branch office of the Bank is located immediately across from the trucking and maintenance facilities of Waste Management; that the Bank has always considered Waste Management as a good neighbor and a cooperative member of the community; that trucking operations have been conducted in a safe and efficient manner; that the fenced yard and surrounding areas are regularly cleared of debris; that the Bank has experienced minimal odors for the Waste Management operations; that the Bank is very comfortable in stating that if Waste Management's present operations were located on a significantly larger parcel with a substantial setback or buffer zone, personnel of the Bank would be virtually unaware of the operations at the facility; and that the Bank recommends Waste Management as a good neighbor and as a responsible and safety conscious member of the business community.

The Commission found that a memorandum was received from Save Our Sussex County (SOSC), that advised the Commission that several members of SOSC met with the applicant's attorney and discussed the proposal; that the plan as proposed is excellent, provided that Waste Management acts as a good neighbor; that there is no reasonable citizen-available-process to insure Waste Management's good neighbor actions; that members of our modern culture believe that all large organizations can potentially act bad; that to mitigate these concerns SOSC ask that Waste Management agree to the elements of a community interactive process; that if the citizens believe a problem has been created they can inform the Town Council; that if the Town Council feels that the situation is not frivolous, they can direct the Bridgeville Police to witness, investigate, and notify at the Waste Management site without a warrant; that the Bridgeville Police can be concerned only with the alleged problem; that if the Town Council and Waste Management all act honorably, then, no misunderstandings will develop; that Waste Management's acceptance of this or similar elements of a precondition would go a long way to demonstrate "Good Will" and facilitate citizen approval and site development; that a specific current concern is that during start-up on cold winter mornings the noise and exhausts from up to 100 trucks could have a negative effect on the residential community; and that if this should prove to be the situation Waste Management will build a structure (garage if necessary) to reduce the noise and collect and "clean up" the diesel exhausts.

The Commission found that Robert Witsil, Jr., Attorney, Dave Sills, Shannon Argo, Ray Moore, Gardenia DeShields, Joseph Conaway, and Bill Lourer were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they propose an office and dispatch center for the collection of household and municipal solid waste en route to off-site disposal; parking, repairs and maintenance of Waste Management's trucks and equipment; and transfer of recyclable materials, including paper, cardboard and aluminum products; that presently the company

has 23 trucks in Maryland and 50 trucks in Delaware; that they plan to expand the fleet to 100 trucks as a maximum at this site; that employees on the site will include radio operators, telephone services, office personnel, and plant workers; that the indoor recycling center will be utilized for paper, cardboard, aluminum, glass, and recyclable construction materials; that the area around the site has a mixture of commercial and industrial users, i.e. Perdue, Eastern Shore Natural Gas Co., O.A. Newton, etc...; that the office and recovery center is proposed to be over 900 feet from the railroad and Road 583; that employee parking and visitor parking is proposed in the front of the building; that truck parking is proposed behind the building; that the building and truck parking areas will be fenced; that the office portion of the building will contain approximately 3,000 square feet; that the maintenance shop will have 4 bays on each side of the building; that the building will be fully sprinkled, and will include Co2 detection and fire protection systems; that a fire hydrant exists within 300 feet of the site; that the estimated value of the project is \$3,000,000; that Delaware regulations prohibit waste from out of state, except for cardboard; that municipal regulations vary; that trucks will be prohibited in Bridgeville, except for trucks serving Bridgeville; that the trucking operation hours are typically from 4:00 A.M. to 6:00 P.M.; that maintenance on the trucks could go on until 11:00 P.M.; that commercial trucks and roll-off trucks leave the yard after 4:00 A.M.; that residential trucks leave the yard after 5:30 A.M.; that job openings are offered to existing employees first; that advertising for job openings will be advertised in local publications; that the company handles waste from hospitals, but does not handle hazardous or regulated medical waste; that Terminex is contracted for rodent and insect control; that there is little to no odors; that all products for the recycling center will be stored indoors; that the company has no intent to utilize the railroad; that a vegetated berm will be placed around the building and parking areas to screen the improvements; that diesel trucks are plugged in 3 hours prior to starting in winter months; that the trucks idle no more than 15 minutes; that the trucks leave the site empty and return empty; that the trucks are washed at least once a week; that the company maintains a payroll for approximately 120 employees; that the project could generate approximately \$41,000 in a one time impact fee to the Town of Bridgeville; that the facility could generate approximately \$44,000 a year in additional sewer fees to the Town; that the facility could generate approximately \$16,000 a year in water fees if the facility is connected to the Town water system; that the facilities water system could provide much needed additional fire protection for the north Bridgeville area; that the addition of this facility on the sewer system could reduce the increases anticipated on the proposed treatment alternatives to the present effluent discharge into the headwaters of the Nanticoke River; that 75 additional jobs are anticipated within the next 5 years and that local people will have an opportunity to apply for the jobs; that projected school taxes include approximately \$28,000 to Woodbridge School District and approximately \$3,000 to Sussex Tech; that the location of the facility should have no effect on present land values in the area; that the 3 industrial sites, already in place, have established land values; that the addition of this facility will not change the land use direction that this area has taken;

that the site is located in a Town Center and Development District according to the Comprehensive Plan; that this site was chosen so that the Georgetown, Seaford, and Cambridge sites can be consolidated; that in the future, aluminum cans will be recycled, compacted, and shipped; that recyclable materials are compacted, bailed, stored and shipped within one week; that approximately 1,000 tons are shipped per week; that the site chosen includes 40 acres; that reduction of the amount of acreage for rezoning could cause an economic impact on the applicant; that the site was chosen to create larger buffers from neighboring properties; that the area is not appropriate for residential development; that approximately 25 acres are intended to be utilized, with 15 acres for buffers and stormwater management; that parking areas will be paved; that cardboard trucks are not the same trucks utilized for the hauling of waste/trash; that the applicant has considered contacting the Town of Bridgeville for consideration of annexation; that two 12,000 gallon above ground storage tanks are proposed for the storage of diesel fuel; that fuel will be delivered once a week by tanker truck; and that the stormwater management pond is designed for 3 acres.

The Commission found that Jack Dalton, President of the Commissioners of Bridgeville, and Charles Sigmund, a Commissioner of Bridgeville, were present in opposition and express concerns relating to lack of need for this type of business in Bridgeville; that the by-pass around Bridgeville will be impacted by trucks; that the use is not compatible with the Town; that no additional residential uses are likely if the use is approved; that business hours are not acceptable; that the citizens are concerned about noise and odors from the diesel trucks, the size of the parcel, the use of the railroad, the cleanliness of the vehicles, the location of construction and demolition dumpsters, outside storage, and that the site may become a transfer station; that residential uses in the area have not been discussed by the applicant; that the suggested vacant portion of the site will not remain vacant if rezoned; that neither the Town or the Town's engineers have been contacted by Waste Management; and that the rezoning could have a direct negative impact on the quality of life on the citizens of Bridgeville and the area.

The Commission found that Mr. Sigmund submitted a letter and 3 notes in opposition to the application from Michael O. Dietz, Calvin and Diane Williams, Valvetta L. West, and Gladys D. West.

Betty Murray, Stanley Davis, and Vera Smack, of the 15 people present in opposition, expressed concerns for the impact on the residential homes in the area, truck traffic, children safety, the hours of operation, security, property values, pest, the handling of trash, odors, and the cleanliness of the trucks; that the business will not help Bridgeville; and that the area needs stores and homes, not Waste Management.

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. Lynch, and carried unanimously to defer action.

V. OLD BUSINESS

C/U #1288--application of MILFORD SCHOOL DISTRICT to consider the Conditional Use of land in an AR-1 Agricultural Residential District to modify the land area and amend the conditions of Conditional Use No. 1205 (play and recreation area) for a public school to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 0.99 acres, more or less, lying south of Butler Avenue and 220 feet east of the intersection of Butler Avenue (Road 225-B) and Third Street (Road 225) in unincorporated Lincoln, Delaware.

Mr. Berl discussed the reference to a time extension, and added that the application was a two-part request.

Mr. Allen stated that he feels that the time extension is acceptable due to the litigation with the neighboring property owners, and that he feels that the previous stipulations could be abolished.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to forward this application to the County Council with the recommendation that it be approved with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission upon receipt of all agency approvals.

C/U #1287--application of KEN SHAPTER to consider the Conditional Use of land in a B-1 Neighborhood Business District for four mini-storage buildings to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 2.18 acres, more or less, lying south of Route 9, 550 feet east of Road 319.

Mr. Phillips stated that the applicant stated that he proposes to expand the intent of the application by providing boat and RV storage.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried with three votes, with Mr. Hastings opposed to the motion, and Mr. Wheatley not voting, to forward this application to the County Council with the recommendation that it be denied.

VI. OTHER BUSINESS

1. Lowe's
Request for reconsideration

Mr. Phillips stated that he has had the opportunity to read and consider the motion for re-hearing filed by the Lowe's Lawyer, Mr. Rutt, and the letter from the neighbors' Lawyer, Mr. Bradley, and to compare their comments with the requirements of the Commissions Rule 18 and that he does not believe that Lowe's has shown any reason that would allow the Commission to grant a re-hearing; Lowe's has not shown that there was a mistake, inadvertent surprise or excusable neglect that effected the presentation of their application; Lowe's offers no newly discovered evidence which would change the Commissions decision; Lowe's has not claimed that fraud, misrepresentation or misconduct by the neighbors effected the Commissions earlier decision.

Motion by Mr. Phillips, seconded by Mr. Hastings, and carried unanimously to deny the request for reconsideration.

2. Lands of Beneficial National Bank
Final Multi-family Site Plan

The Commission reviewed the final site plan for 17 multi-family units, the same plan granted preliminary approval August 13, 1998.

Mr. Lank advised the Commission that the Department has received approvals from DelDOT, Sussex County Engineering, the Office of the State Fire Marshal, the Sussex Conservation District; that an updated approval from the U.S. Army Corps. of Engineers may be needed; and that the County Building Code Department is reviewing the building plans.

Jeff Clark of Land Tech, Inc. stated that an U. S. Army Corps. of Engineers representative has reviewed the revised wetland delineation, and that a new letter of approval is pending.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to grant final approval subject to receipt of all appropriate agency approvals.

3. C/U #1177 -- Bertie E. Dawson
Time Extension

Mr. Lank advised the Commission that the County Council granted Conditional Use approval of the site for 24 multi-family units on July 30, 1997; that a time extension was

granted on July 23, 1998 for one year; that a second time extension has been requested due to delays with the U.S. Army Corps. of Engineers; and that this is the last extension that can be requested.

Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to grant a one-year time extension.

4. Albert H. & Betty Lank, Trustees
Lot on Route One

The Commission reviewed a proposed 2.82-acre lot on Route One. It was noted that the lot is improved with a dwelling, outbuildings, and existing driveways, and that the remaining 135 acres is proposed to be developed as a golf course.

Motion by Mr. Wheatley, seconded by Mr. Hastings, and carried unanimously to approve the lot as submitted.

5. Hampton Inn
Preliminary Commercial Site Plan - Route One

This agenda item was previously removed from the agenda.

6. Hub Associates, LLC - Hotel/Restaurant
Preliminary Commercial Site Plan - Route One

Mr. Lank advised the Commission that a letter of no objection to the entrance location has been received from DelDOT; that a 4,000 square foot restaurant with 3,000 square foot of patron area and a 4-story 82 unit hotel are proposed; that 189 total parking spaces are required and provided; that 2 loading spaces are provided; that a 6' high wooden fence is proposed next to residential uses; that a 20' wide landscape buffer is proposed and that a legend of plant species has been submitted; that central water and sewer will be provided; that the site plan complies with the preliminary site plan requirements; that stormwater management will be developed in the AR-1 portion of the site; that the site will be developed as one parcel after the two existing parcels are combined; and that cross access easements will be shown on the final site plan.

Mr. Lank read and submitted a letter from Mable Granke for the Citizens Coalition, Inc. which referenced that this application presents the ideal situation in which Ordinance 768 can be applied that a service road can be provided from First Union Bank to Jiffy Lube; that the Coalitions request is based on concerns and consideration regarding the intersection of Route One and Postal Lane, the cumulative impact when taking account the Midway Shopping Center, the proposed and committed Derrickson Hotel behind the

Bob Evans Restaurant, the proposed Derrickson golf course, and Pelican Square at full build-out, as each relates to the level of service and design capacity of Route One and adjacent intersections; and questioning sewer capacity.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to grant preliminary approval.

Meeting adjourned at 12:15 A.M.