

MINUTES OF THE REGULAR MEETING OF JUNE 11, 1992

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 11, 1992 at 7:30 PM in the County Council Chambers, Room 115, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Magee, Mrs. Monaco, Mr. Ralph, Mr. Smith, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Planner I.

No action was taken on the Minutes for May 28, 1992, since they were just submitted.

PUBLIC HEARINGS

1. RE: C/U #1006 -- Briggs Enterprises, Inc.

Jack Briggs, owner and developer, and James Griffin, Esquire, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Dagsboro Hundred for a Fourteen Lot Addition to an Existing Manufactured Home Park (Fish Hook) lying on the northeast corner of the intersection of Route 48 and Route 318 and to be located on a parcel containing 5.18 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Indian River School District.

Mr. Briggs advised the Commission that he and a partner purchased the park and acreage in 1990, that he recently purchased his partners half, that the park started in 1972, that when he purchased the park there were 20 occupied lots and 1 vacant lot, that 1 additional lot has been created, that the original park area contains approximately 8 acres, that the 14 lot expansion will share the existing entrance with the existing park area, that the streets in the park will be built to County specifications, that each lot will have 2 parking spaces, that a typical lot will contain 8,000 square feet, that since purchasing the park - 3 new septic systems have been installed, several septic systems have been upgraded, the water system has been upgraded, and the recreational areas have been cleared and reseeded, that the expansion area will be served by a central septic system and a central water system, that the expansion will be started within 4 months of receipt of all appropriate agency approvals, that of the 53 residents within the existing park 14 are school aged children, that no negative impact is anticipated on the school district, property values or the neighborhood since the park already exist and since the expansion only includes 14 lots, that the buffers may be landscaped with seedlings and some shrubbery, and that the park will be restricted with typical manufactured home park type restrictions which include concrete steps, setbacks, a minimum of 14' by 70' dimensions for units, and no additions unless approved by park management.

John Cordrey, Esquire, and Bob Davidson representing Davidson/Moore Land Co., Clay Roe, Tommy Marvel, Mark and Melanie Hudson, Carolyn Lingo, and Susan Ligenfelder were present in opposition and expressed concerns in reference to the proposed water supply, a manufactured home parked in the field with no permit, septic drain fields, improvements to buffer areas, the negative impact on the neighborhood, depreciation of property values, the negative impact on newly created lots and recent dwellings built in the immediate area, loss of sales for restricted residential lots in the immediate area due to possible expansion of the park, brush and other debris stored on the site, and that a precedent may be set for additional expansions to the park.

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.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are mapped as Evesboro loamy sand and Matawan sandy loam, that the suitability of the Evesboro soils for the intended use may vary from none to slight limitation and that the Matawan soils may have moderate limitations, that the evaluation of the soils with respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil types is of statewide importance, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from the Indian River School District, that at this time the proposed change may have an impact on the District, that based on the demographic makeup of the constituent's population the application may add to the already crowded conditions at district elementary schools, and that relief is expected with the opening of a Long Neck Elementary School in September 1995 and a Georgetown Elementary School in 1996.

The Commission found that the applicant was present with legal counsel and plans to utilize the site for a fourteen lot expansion to an existing 22 lot manufactured home park, that the park started in 1972, that the original park area contains approximately 8 acres, that the fourteen (14) lot expansion will share the existing entrance with the existing park area, that the streets in the park will be built to County specifications, that each lot will have 2 parking spaces, that a typical lot will contain 8,000 square feet, that since purchasing the park - 3 new septic systems have been installed, several septic systems have been upgraded, and the water system has been upgraded, that the recreational areas have been cleared and reseeded, that the expansion will be started within 4 months of receipt of all appropriate agency approvals, that of the 53 residents within the park only 14 are school aged children, that no negative impact is anticipated on the school district, property values or the neighborhood since the park already exist and since the expansion only includes 14 lots, that the buffers may be landscaped with seedlings and some shrubbery, and that the park will be restricted with typical manufactured home park type restrictions which include concrete steps, setbacks, a minimum of 14' by 70' dimension for units, and no additions unless approved by the park management.

The Commission found that eight (8) people spoke in opposition and expressed concerns in reference to the proposed water supply, a manufactured home parked in the field without a permit, septic drain fields, improvements to buffer areas, the negative impact on the neighborhood, depreciation of property values; the negative impact on newly created lots and recent dwellings built in the immediate area, loss of sales for restricted residential lots in the immediate area due to possible expansion of the park, brush and other debris stored on the site, and that a precedent may be set for additional expansions to the park.

Motion by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to defer action.

2. RE: C/U #1007 -- Hugh & Tina McBride

Hugh and Tina McBride, owners, and James Fuqua, Esquire, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Baltimore Hundred for Crab Pot Floats, Crafts, and two (2) Multi-Family Dwelling Units lying on the south side of Route 54, 220 feet east of Salty Way Drive of Keenwik West Subdivision and to be located on a parcel containing 2.93 acres more or less.

Mr. Lank summarized comments received from the Indian River School District and DelDOT.

Mr. Fuqua advised the Commission that the site had been reviewed as a change of zone application in April 1992, that the same intended use is proposed, that the zoning application was withdrawn since members of the church on the adjoining tract opposed the rezoning and stated that they would not object to a Conditional Use, that the present owner will retain life time interest of the dwelling and will reside in the dwelling, that the applicant proposes to construct a shop and an apartment to the rear of the existing dwelling, that the shop building and apartment will measure approximately 40' by 96', that approximately 2/3 of the first floor will include the shop area, that the McBrides decorate crab pot floats with nautical theme art work and sell the crafts at craft shows, sales, and by mail order, that the shop will include sales of the float art work, beach related crafts, nautical items, and gourmet food items (Jellies, Jams, etc...), that the McBrides will occupy the apartment, that the existing residence will be converted to a retail sales area for the business once the present owner vacates the dwelling, that one ground sign will be placed along Route 54 and that one sign will be placed on the shop building, and that the overgrowth at the rear of the tract is proposed to be cleaned up and planted.

Mr. McBride stated that there are approximately 25 different shapes and sizes of floats utilized in the business, that the majority of the business is by mail order, that additional space is needed for work space for the business, that the business started as a hobby and has grown to a full time occupation, and that shipments go out once or twice a week.

Mr. Fuqua stated that adequate space is available on the site for parking, that the entrance will be improved per DelDOT specifications, that the site is located within the Fenwick Island Sanitary Sewer District, that water supply will be from an on site well, that the Coastal Sussex Land Use Plan places the site in a Development District, that the area is mixed with residential and commercial/business uses, and that the application should increase property values, not decrease values.

Lee Ford, representing Keenwick West Property Owners Association, and Robert and Mary Jowder, were present in opposition and expressed concerns in reference to uses of the site if the intended use fails, traffic, traffic congestion, noise, dumpster activities, and placing commercial activities adjoining residential areas.

Mr. Fuqua advised the Commission that the McBrides acknowledge that a residential area exist behind the site, that a ditch separates the site from streets in Keenwik West, that along the rear of the lot the wooded area is to remain, overgrowth will be removed, and the area will be planted, that no lighting is proposed to be placed at the rear of the building, that traffic congestion already exist, that there is no intent to increase traffic, that DelDOT requirements will be met, that no negative impact is anticipated, and that the applicant is aware that restrictions can be placed on Conditional Use applications.

Mr. Fuqua submitted pictures of the site and uses in the immediate area.

Mr. Lank read a letter from Karlene W. Payne in opposition.

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.

The Commission found, based on comments received from the Indian River School District, that at this time it does not appear that the proposed change will have a significant impact on the district.

The Commission found, based on comments received from DelDOT with an application for rezoning this site, that originally the Department had requested a traffic impact study, that the Department suggested that an application would be better received if it was an application for a Conditional Use, that for approval of the rezoning the applicants have agreed to establish a left turn lane on Route 54 for vehicles entering the site from the westbound direction, to establish a right turn lane on Route 54 for vehicles entering the site from the eastbound direction, that these improvements may require a substantial widening of the pavement on Route 54, that this project will quantitatively diminish traffic service in the area, that the project will not qualitatively decrease the level of service of Route 54 once the improvements are made, and that the Department reserves the right to request a traffic impact study, if warranted, during the plan approval process.

The Commission found, based on comments stated by representatives of the application, that originally an application was filed for a rezoning, that the original application was withdrawn since members of the church on the adjoining parcel opposed the rezoning and stated that they would not object to a Conditional Use, that the present owner will retain life time interest of the dwelling and will reside in the dwelling, that the applicants propose to construct a shop and an apartment to the rear of the existing dwelling, that the shop building and apartment will measure approximately 40' by 96', that approximately 2/3 of the first floor will include the shop area, that the applicants decorate crab pot floats with nautical theme art work and sell the crafts at craft shows, sales, and by mail order, that the shop will include sales of the float art work, beach related crafts, nautical items, and gourmet food items (jellies, jams, etc...), that the applicants will occupy the apartment, that the existing residence will be converted to a retail sales area for the business once the present owner vacates the dwelling, that one ground sign will be placed along Route 54 and that one sign will be placed on the shop building, that the overgrowth at the rear of the tract is proposed to be cleaned up and planted, that approximately 25 different shapes and sizes of floats are utilized in the business, that the majority of the business is by mail order, that additional space is needed for work space for the business, that the business started as a hobby and has grown to a full time occupation, that shipments go out once or twice a week, that adequate space is available on the site for parking, that the entrance will be improved per DelDOT specifications, that the site is located within the Fenwick Island Sanitary Sewer District, that water supply will be from an on site well, that the Coastal Sussex Land Use Plan places the site in a Development District, that the area is mixed with residential and commercial/business uses, that the application should increase property values, not decrease values, that the applicants acknowledge that a residential area exist behind the site, that a ditch separates the site from the streets in Keenwick West, that along the rear of the lot the wooded area is to remain, overgrowth will be removed, and the area will be planted, that no lighting is proposed to be placed at the rear of the building, that traffic congestion already exist, that there is no intent to increase traffic, that DelDOT requirements will be met, that no negative impact is anticipated, and that the applicants are aware that restrictions can be placed on Conditional Use applications.

The Commission found that the applicant submitted photographs of the site and the immediate area.

The Commission found that three (3) people spoke in opposition and that one (1) letter was received in opposition that expressed concerns in reference to uses of the site if the intended use fails, traffic, traffic congestion, noise, dumpster activities, placement of commercial activities adjoining residential areas, the lack of a need for more commercialism in the residential area, and the loss of the relative peace and quiet of an agricultural area.

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

1. A twenty (20) foot wide non-disturbed buffer be retained along the rear property line.
2. One lighted ground sign, not exceeding 32 square feet per side or facing, shall be permitted.
3. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
4. The applicant shall conform to all statements made by the applicant or their representative during the public hearing.

3. RE: C/U #1008 -- Richard L. & Pamela L. Rush

Richard L. and Pamela L. Rush, and Joseph Conaway of Cooper Realty, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Little Creek Hundred for Automotive Batteries and Related Parts as Storage and Distributorship as an Accessory Use to the Dwelling lying on the north side of Route 453, 150 feet east of Route 454B and to be located on a parcel containing 1.16 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex Conservation District.

Mr. Conaway advised the Commission that the applicants intend to store and distribute batteries, that the existing detached garage will be removed and a new 3 bay garage will be built behind the existing dwelling, that the garage will measure approximately 40' by 60' with a 12 foot height, that panel trucks will be garaged in the building, that once every other week a tractor trailer will deliver batteries and haul away used batteries, that no retail sales will be performed from the site, that all batteries are wrapped in plastic, that no wetlands exist on the site, that all deliveries of batteries are performed by the applicant or an employee, and that there will be no outside storage.

Mr. Rush advised the Commission that he recently purchased a distributorship for Interstate Batteries for the area from Smyrna south to the Chesapeake Bay Bridge Tunnel, that no retail sales are permitted, that he proposes to locate in the Delmar area to be centralized, that batteries arrive in plastic bags, that the plastic bags are not removed until ready to be installed in a vehicle, that he anticipates no impact on the neighborhood, that he realizes that the site is in an agricultural area, that a large portion of his business is agricultural oriented for farm tractors and vehicles, that the use will be an accessory use to the premises for a dwelling, that the batteries are wet charged batteries, that the business is governed by the Environmental Protection Agency (EPA) in the handling of chemicals to neutralize damaged batteries, that used batteries are accepted for recycling, that the old batteries are wrapped in plastic bags for handling, that batteries will be unloaded for tractor trailers on pallets by a forklift, that the driveway will be paved with either asphalt or concrete, and that a loop driveway may be requested.

No parties appeared in opposition.

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.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are Kenansville loamy sand, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils in respect to erosion and sediment control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soils mapped are prime, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicants were present with a realtor and proposed to utilize the site for their residence with an accessory use for storage and distribution of automotive batteries and related parts from a proposed garage, that an existing garage will be removed and a 3 bay garage built behind the dwelling for the business, that the garage will measure approximately 40' by 60' with a 12 foot height, that panel trucks

will be garaged in the building, that once every other week a tractor trailer will deliver batteries and haul away used batteries, that no retail sales will be performed on the site, that no wetlands exist on the site, that all deliveries of batteries from the site are handled by the applicants or an employee, that there will be no outside storage, that the distribution area run south from Smyrna to the Chesapeake Bay Bridge Tunnel, that no retail sales are permitted with the franchise, that the Delmar area was selected to place the business in a centralized area, that batteries are delivered to the site in plastic bags for distribution, that the plastic bags are not removed until ready for installation in a vehicle, that the batteries are wet charged, that the business is governed by the Environmental Protection Agency (EPA) in the handling of chemicals to neutralize damaged batteries, that used batteries are accepted for recycling, that the old batteries are wrapped in plastic bags for handling, that batteries are unloaded from a tractor trailer on pallets by a forklift, that no negative impact is anticipated on the neighborhood, that the applicants realize that the area is agricultural oriented, that a portion of the business is agricultural oriented due to the number of agricultural business that use batteries, that the primary use of the premises will be the dwelling, that the business will be an accessory use of the premises, that the driveway will be paved with either asphalt or concrete, and that a loop driveway may be requested from DelDOT.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved as presented by the applicant and with the following:

1. All appropriate Federal and State approvals for the handling of batteries shall be submitted with the final site plan.

2. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.

4. RE: C/Z #1164 -- Bennie Smith Funeral Home

Bennie Smith and Harold Truxon were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to B-1 neighborhood Business in Broad Creek Hundred, located on the north side of the intersection of Route 20 and Route 20A to be located on a parcel containing 20,075.19 square feet more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex Conservation District.

Mr. Smith advised the Commission that his only intent is to utilize the site for a funeral home, that a dwelling exist on the site, that a chapel will be added to the dwelling, that the site has adequate space for parking, that no adverse impact is anticipated on property values or the neighborhood, that the area is primarily residential with some business and commercial uses and districts, that a restaurant exist on the adjoining parcel and that a barber shop and shoe repair exist in close proximity, that he also operates funeral homes in Dover, Milford, Easton, Cambridge, Hurlock, and Chestertown.

No parties appeared in opposition.

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.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service "C" of Route 20 at this road segment may change to a Level of Service "D" if the site is developed at an equivalent use per acre to discount shopping.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro sand, that the suitability of the soils for the intended use may have slight limitations, that the evaluation of the soils with respect to erosion and sedimentation control may require the applicant to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soils are of statewide importance, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicant was present and plans to utilize the site for a funeral home, that a chapel will be added to the existing dwelling on the site, that the site has adequate space for parking, that no adverse impact is anticipated on property values or the neighborhood, that the area is primarily residential with some business and commercial uses and districts, that a restaurant exist on the adjoining parcel and that a barber shop and shoe repair exist in close proximity, and that he also operates funeral homes in Dover, Milford, Easton, Cambridge, Hurlock, and Chestertown.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since a need always exist for this type of service and since the site adjoins an existing commercial district and use.

5. RE: C/Z #1165 -- T. S. Smith & Sons, Inc.

David Hackett, Esquire, and Randall Handy, Realtor, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Northwest Fork Hundred, located on the northwest corner of Route 40 and U.S. Route 13 to be located on a parcel containing 1.80 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Sussex Conservation District.

Mr. Hackett, present on behalf of the contract purchaser, advised the Commission that the site is intended for a doctors office complex, that the first phase will include one doctors office, that construction will proceed immediately upon receipt of all appropriate agency approvals, that a total of four (4) doctors offices will complete the project in the future, that a study was performed in the Bridgeville area which established a need for family doctors in the area, that recently one family practice left the area, that a temporary holding tank is proposed until connection can be provided to the Bridgeville sanitary sewer treatment facility, that C-1 General Commercial zoning exist on the east side of U.S. Route 13 and approximately 1/2 mile north and south of the site on the west side of U.S. Route 13, that the doctors offices will be developed as the need arises for additional health care practices, that an entrance approval is tentative, that a doctor will be available for the first office in August 1992, that the building will be one story only, and that the entrance is proposed to be restricted to access from Route 40 only.

Mr. Handy advised the Commission that the Bridgeville area is in need of this type of service, and that the intended use will be an asset to both Bridgeville and Greenwood.

Joseph T. Conaway, Jerry Kehlenbrink, and Jerri Coble spoke in support of the application.

No parties were present in support.

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.

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 Route 40 and the Level of Service "A" of U.S. Route 13 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Sassafras sandy loam, that the suitability of the soils for the intended use may vary from none to slight limitations, that the evaluation of the soils with respect to erosion and sediment control may require the developer to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type is prime, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments made by representatives of the application, that the site is intended to be utilized for a doctors office complex, that the first phase will include one office, that construction will proceed immediately upon receipt of all appropriate agency approvals, that a total of four (4) doctors offices will complete the project in the future, that a study was performed in the Bridgeville area which established a need for family doctors in the area, that recently one family practice left the area, that a temporary holding tank is proposed until connection can be provided to the Bridgeville's sanitary sewer treatment facility, that C-1 General Commercial zoning exist on the east side of U.S. Route 13 and approximately 1/2 mile north and south of the site on the west side of U.S. Route 13, that the doctors office will be developed as the need arises for additional health care practices, that an entrance approval is tentative, that a doctor will be available for the first office in August 1992, that the building will be one story only, that the entrance is proposed to be restricted to access Route 40 only, and that the intended use will be an asset to the Bridgeville and Greenwood areas.

The Commission found that three (3) parties spoke in support of this application.

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

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since a need exist in this area for this type of service.

OTHER BUSINESS

1. RE: Peninsula Oil Company, Inc.

The Commission reviewed a commercial site plan for a convenience type store with gas islands on Route 113 and Route 20.

Mr. Abbott advised the Commission that the site plan is in compliance with the zoning code and that an entrance plan has been approved by DelDOT, and that the owners are working on obtaining the other necessary agency approvals.

Motion by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the site plan as submitted as a preliminary. Final approval is subject to all agency approvals and permits being received and reviewed by the staff.

2. RE: Charles Marvel

The Commission reviewed a site plan requesting permission to create a one acre lot with access from a fifty (50) foot right of way off of Route 345.

Mr. Abbott advised the Commission that there is an existing thirty (3) foot right of way to the site and that the owner will create a fifty (50) foot right of way off the end of the thirty (30) foot right of way.

Mr. Abbott advised the Commission that the proposed lot is in a Conservation Zone and requires a minimum of one acre lot size and a minimum width of 150 feet.

Motion by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve the request with the stipulation that the lot be at least one acre in area and have at least 150 feet width.

3. RE: Lynn Lee Village

Mr. Lank advised the Commission that Lynn Lee Village is a non conforming manufactured home park that has been in existence for over thirty (30) years and that the units do not meet setback requirements.

Mr. Lank advised the Commission that the owners of the park wish to follow the original park plan of Mrs. Steele, the original developer, that the developer request the Commission to forward support to the County Board of Adjustment to allow continued development of the park as originally setup by Mrs. Steele, and that the original park was developed with one (1) foot setback from the right side lot line on all lots.

Candice Casey and Kathleen McCormick, representatives for the owners, spoke in reference to how the park has been developed, that a variance is needed to create conformity within the park, that no additional lots are being created, that a recent survey approved by the Commission does not show the correct lots lines since the survey creates lot lines across drain fields and through additions on units in the park, and that to remove the units or utilities would create a large expense to the owners of the units.

Joseph Tansey of Lynn Lee Village, spoke in support of the request.

Motion by Mr. Magee, seconded by Mr. Smith, and carried unanimously to forward the Commission support of a variance for the right side setback to the Board of Adjustment.

4. RE: Tammy Davis

The Commission reviewed a survey to create a 26,055 square foot lot off of an existing fifty (50) foot right of way north of Route 24.

Mr. Lank advised the Commission that the lot should be extended to the lands of Ralph Rogers since the remaining lands would be unbuildable, and that the setback line would have to be established for the lot width requirement.

Motion by Mr. Smith, seconded by Mrs. Monaco, and carried unanimously to approve the lot.

5. RE: Vertical Ventures

The Commission reviewed a commercial site plan for bungee jumping north of Route One.

Mr. Abbott advised the Commission that the site plan meets the requirements of the zoning code.

Mr. Abbott read a letter from DelDOT in reference to the entrance.

Dave Pepper, representing Vertical Ventures, was present and discussed the parking area and that approximately 18 jumps are anticipated per hour, and that the parking area will be utilized by both the users and spectators.

Mr. Magee and Mr. Ralph expressed concerns about traffic hazards on Route One.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve the site plan with reservation due to concerns about locating this type of business in a high traffic volume area on a major highway.

6. RE: M. Hess, Inc.

The Commission reviewed a commercial site plan for an office and bungee jumping operation southwest of Route One.

Mr. Abbott advised the Commission that all agency approvals have been reviewed and that the site plan meets the requirements of the zoning code.

Mr. Allen and Mr. Magee questioned the parking area and any proposed signs.

Mr. Abbott advised the Commission that a petition with 19 signatures was received in opposition to the use.

Motion by Mr. Magee, seconded by MR. Ralph, and carried unanimously to approve the site plan with reservation due to concerns about locating this type of business in a high traffic volume area on a major highway.

7. RE: Raymond L. Banks, Jr.

The Commission reviewed a request to create 2 lots off of an existing twelve (12) foot wide access road off of Route 347.

Motion by Mr. Magee, seconded by Mr. Smith, and carried unanimously to defer action.

8. RE: Jean B. Wilgus Bennett

The Commission reviewed a survey of a lot on Route 113 with an existing dwelling.

Mr. Lank advised the Commission that this lot requires the Commission approval based on Ordinance No. 768 relating to Arterial Roadways.

Mr. Abbott advised the Commission that an entrance permit has been issued by DelDOT.

Motion by Mr. Magee, seconded by MR. Smith, and carried unanimously to approve the lot since a dwelling already exist on the lot and since an entrance permit has been granted for the existing entrance.

9. RE: Sea Break - Phase II - RPC

Mr. Abbott advised the Commission that the application has been withdrawn from the agenda.

10. RE: Paul Calloway

The Commission reviewed a site plan for a produce market on Route 404.

Mr. Abbott advised the Commission that the staff worked on the site plan and that all agency approvals have been obtained.

Motion by Mr. Smith, seconded by Mr. Ralph, and carried unanimously to approve the site plan as submitted.

OLD BUSINESS

1. RE: C/U #997 -- T.J. Tennefoss

Mr. Lank introduced the application of T.J. Tennefoss to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for Wooden Pallet Repair lying on the northwest side of Route 36, 1,600 feet southwest of Route 628 and to be located on a parcel containing 13.5 acres more or less.

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

Motion by Mr. Smith, seconded by Mr. Ralph, 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 area utilized for the wooden pallet repair business begin 250 feet north of the right of way of Route 36.
2. The area utilized shall not exceed 3 acres and shall be contained around the area of the existing masonry foundation.
3. All outside storage of pallets shall remain in an orderly manner and shall be contained within 50 feet of the existing masonry foundation.

4. Stockade fencing, at least 6 feet high, shall be place across the property at a point 250 feet north of the northerly right of way of Route 36.
5. Pallets and materials stored shall not exceed the height of the stockade fencing.
6. The three (3) manufactured homes on the site shall be removed from the premises since the units are in violation.
7. Signage shall be limited to one unlighted sign, not exceeding 32 square feet per side or facing.
8. Any building construction related to the business shall be located in the area of or on the existing masonry foundation. Any construction shall be subject to approval of the Sussex County Building Code Department and the Office of the State Fire Marshal.
9. Any sawmill operation shall be related only to pallet repair and pallet construction. There shall be no customer sawing of logs or lumber.

2. RE: C/U # 1002 -- Gerlinde Voegele

Mr. Lank introduced this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred for outdoor yard sales on weekends lying on the east side of Route 13, at the northern corner of the intersection with Sussex Avenue and to be located on a parcel containing 2.71 acres more or less.

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

Motion by Mrs. Monaco, seconded by Mr. Ralph, 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 motor home, presently on-site for storage, be removed from the site.
2. Ingress/egress to the site shall be from Sussex Avenue.
3. No parking shall be permitted along Route 13. "NO PARKING" signs shall be placed along Route 13 at the site if required by DelDOT.
4. One unlighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.
5. All display of items for sale shall conform to required building setbacks.
6. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.

3. RE: C/Z #1163 -- Wheatley Farms, Inc.

Mr. Lank introduced the application of Wheatley Farms, Inc. to amend the zoning map from AR-1 Agricultural Residential to GR General Residential in Nanticoke Hundred, located on the northwest corner of Route 545 and Route 594 to be located on a parcel containing 80.23 acres more or less.

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

Motion by Mrs. Monaco, seconded by Mr. Smith, and carried unanimously to forward the application to the Sussex County Council with the recommendation that it be denied due to the loss of agricultural land, since the site is productive farm land that presently is tilled and has a high assessment score, questioning the need for additional GR General Residential zoning in an area with 206 undeveloped lots and other acreage undeveloped in the GR General Residential District south of Route 545, and since three (3) GR General Residential developments exist in the area.

4. RE: Subdiv. #90-29 -- W. Nelson Hall

Mr. Abbott advised the Commission that a request for a time extension has been received for time to obtain final approval. The developer reports that he is having problems obtaining other agency approvals.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve a one (1) year time extension.

Meeting Adjourned at 11:00 PM.