

MINUTES OF THE REGULAR MEETING OF JUNE 26, 1997

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 26, 1997, at 7:30 P.M., in the County Council Chambers, County Administrative Building, Georgetown, Delaware, with the following members present:

Mr. Allen, Mr. Lynch, Mr. Phillips, Mr. Ralph, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray - Zoning Inspector III.

Motion by Mr. Lynch, seconded by Mr. Ralph, and carried unanimously to approve the minutes of June 12, 1997, as amended.

Mr. Schrader explained how the public hearings and agenda items are conducted.

II. PUBLIC HEARINGS

1. RE: APD #97-26--State of Delaware
Department of Agriculture - Forest Service

No one was present on behalf of this application to consider an Agricultural Preservation District in an Agricultural Residential District in Nanticoke Hundred and Cedar Creek Hundred for nine (9) parcels of land totalling 2,376.84 acres more or less, located on both sides of U.S. Route 113, both sides of Road 213, west of the Railroad, southeast of Road 607, both sides of Road 606, both sides of Road 593, both sides of Road 579, both sides of Road 40, and both sides of Road 565, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank summarized the Agricultural Preservation District Report prepared by the staff of the Delaware Agricultural Lands Preservation Foundation.

Mr. Ken West, a resident along Road 565, questioned the district as it may relate to his property and then voiced no objection.

Mr. James Welsh, an area resident stated that he supports the application and the creation of preservation districts.

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. Ralph, seconded by Mr. Lynch, and carried unanimously to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that it be approved.

2. RE: C/Z #1303--Donald L. and Jean S. Lankford & Ronald Eugene Lankford & Mary Burt

Mr. Donald L. Lankford was present on behalf of this application to amend the zoning map from GR General Residential to AR-1 Agricultural Residential in Little Creek Hundred, located on the west side of Road 493, approximately 2,940 feet south of Road 496, to be located on a parcel containing 10.85 acres more or less.

Mr. Lank advised the Commission that DelDOT comments have not been requested since this application is a downzoning.

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

Mr. Lankford stated that he presently has four (4) poultry houses on the property and desires to downzone the property to AR-1 Agricultural Residential.

No parties appeared in support of or in opposition to this application.

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

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

The Commission found that no negative comments were received from the Sussex Conservation District.

The Commission found that one of the applicants was present and stated that he presently has four (4) poultry houses on the property and that he desires to downzone the property to AR-1 Agricultural Residential.

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

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the application is for a downzoning and since the rezoning will establish one zoning for the entire parcel.

3. RE: Subdiv. #97-2--Raymond K. Conaway

Eric Howlett was present on behalf of Raymond K. Conaway's application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 25.19 acres into two (2) lots, and a waiver from the street construction requirements, located on the west side of Road 610, approximately 1.1 miles north of Road 42.

Mr. Lank summarized the Technical Advisory Committee Report of June 18, 1997, a letter from the State DNREC Division of Fish and Wildlife, and a soil interpretation from the U.S. Department of Agriculture Natural Resources Conservation Service.

Mr. Howlett stated that they have requested a waiver so that they may continue utilizing the existing driveway that serves other property owners from Road 610; that the land has been in the family for at least 75 years; that approximately 12 years ago two (2) parcels were conveyed from the existing roadway; that Mr. Conaway proposed to convey a lot to his brother; that the site has been evaluated and that a cap and fill type septic system is acceptable; that the access road is adequate for fire apparatus; and that Mr. Conaway does not intend to create a major subdivision.

No parties appeared in support of or in opposition to this application.

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. Ralph, seconded by Mr. Phillips, and carried unanimously to approve this application as a preliminary plan with the following stipulations:

1. The road right of way shall be cleared 50 feet wide from Road 610 back to and along the frontage of the proposed lot.
2. The road shall be stoned per County specifications.
3. Radii shall be placed at all corners on lands of Mr. Conaway.
4. All plans, subdivision and construction, shall be prepared in compliance with the Subdivision Ordinance.

4. RE: C/U #1184--State of Delaware
Office of Telecommunications Management

Ms. Lisa Goodman, Attorney, Mr. Richard Reynolds of the Office of Telecommunications Management, Mr. Carl Peterson and Mr. David Rodriguez 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 480 Foot High Radio Communication Tower on Road 334A, 925 feet southwest of Road 331, located on a parcel containing 1.0 acres more or less.

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

Ms. Goodman stated that the tower at this site will be a part of a statewide radio emergency system to provide the highest level of emergency communications for fire departments, police agencies, paramedic groups, the National Guard, FEMA, etc...; that the present system, established in 1980, is over crowded and out of date; that the present system has no ability for agencies to talk together and has an unreliable coverage area with some dead spots; that the Federal government has set aside the 800 mhz frequency for State programs; that the new system will correct all existing problems; that 20 tower sites will be established statewide; that the New Castle County system is operational; that Sussex County will have 6 tower sites; that the tower is a broadcast transmission tower that will benefit statewide communications; that the tower at this site will be a 480 feet high free standing lattice tower; that the site will also contain an equipment building; and that the tower and building will be security fenced.

Mr. Peterson stated that the tower is made of 50 KSI high strength latticed galvanized steel that meets all codes, B.O.C.A., State and Federal; that the tower is designed to withstand 110 miles per hour wind speeds; that the tower will collapse on itself, not fall; that the tower has been designed with tubular legs and a greater wall thickness; that the tower designs consider the weight of 0.5 inches of ice on the structure when considering wind speeds; that they recently installed towers in New Castle County and New Jersey; and that the Sussex County Building Code Department recently approved 3 smaller towers that are less than 150 feet in height for permits.

Mr. Reynolds stated that the coverage design engineers, Motorola, designed the system to meet the Statewide criteria; that the higher antennas are necessary for use of portable radios; that the FAA reviews heights and that the 480 feet height has been found to be acceptable; that lower towers will require more towers to provide the necessary communications; that the

State provided a listing of State owned properties for Motorola to consider for tower locations; that the sites selected by Motorola provide the necessary coverage; that the project will provide new console equipment at all emergency operation centers, dispatch locations, highway yards, firehouses, etc...; that a need exists to improve the system Statewide; that the Statewide project is two-thirds completed; and that New Jersey State Police utilize a similar system.

Ms. Goodman submitted a report prepared by Marvin C. Ziskin, MD, relating to safety levels for radiation protection, and stated that the towers transmit 62 watts maximum, and that by comparison televisions, and AM/FM radios transmit 50,000 watts.

Mr. Benson Miller of the Delaware State Police stated that they realize that towers are not aesthetically pleasing, the public needs to be aware that the existing system utilized by the Delaware State Police has been in service since 1980; that weak coverage and reception exists in some areas of the County; that the new system will improve communications and will aid the 121 troopers in the County; that each trooper will have his or her own personal radio; that a need exists to help protect the residents and the troopers with communication aids and to provide reliable communications between troopers; and that the State Police support all three applications.

Mr. Joseph Thomas, Director of the Sussex County Emergency Operations Center, stated that he supports all three applications, and that a need exists to upgrade all communication systems that serve the police agencies, 21 fire companies within Sussex County, 18 ambulance squads, and 5 paramedic stations.

Mr. Jim King, President of the Sussex County Firemen's Association, and Mr. Bob Ricker, President of the Sussex County Fire Chiefs Association, spoke in support of the system for all of the volunteer fire companies within Sussex County, and stated that some of the radios in service with some of the fire companies are 1960 model radios.

Mr. Clyde Banks, a landowner on Road 334, questioned if any interference will be experienced on cellular phones, radios, or televisions.

Mr. Reynolds stated that the Federal government assigns fixed bands of frequency for non-interference to co-habitat with other frequency users.

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 that no negative comments were received from the Sussex Conservation District.

The Commission found that an attorney present on behalf of the application stated that the tower at this site will be a part of a statewide radio emergency system to provide the highest level of emergency communications for fire departments, police agencies, paramedic groups, the National Guard, FEMA, etc...; that the present system, established in 1980, is over crowded and out of date; that the present system has no ability for agencies to talk together and has an unreliable coverage area with some dead spots; that the Federal government has set aside the 800 mhz frequency for State programs; that the new system will correct all existing problems; that 20 tower sites will be established statewide; that the New Castle County system is operational; that Sussex County will have 6 tower sites; that the tower is a broadcast transmission tower that will benefit statewide communications; that the tower at this site will be a 480 foot high free standing lattice tower; that the site will also contain an equipment building; and that the tower and building will be security fenced.

The Commission found that an engineer present on behalf of the application stated that the tower is made of 50 KSI high strength latticed galvanized steel that meets all codes, B.O.C.A., State and Federal; that the tower is designed to withstand 110 miles per hour wind speeds; that the tower will collapse on itself, not fall; that the tower has been designed with tubular legs and a greater wall thickness; that the tower designs consider the weight of 0.5 inches of ice on the structure when considering wind speeds; that they recently installed towers in New Castle County and New Jersey; and that the Sussex County Building Code Department recently approved 3 smaller towers that are less than 150 feet in height for permits.

The Commission found that the Director of the Delaware Office of Telecommunications Management was present and stated that the coverage design engineers, Motorola, designed the system to meet the Statewide criteria; that the higher antennas are necessary for use of portable radios; that the FAA reviews heights and that the 480 foot height has been found to be acceptable; that lower towers will require more towers to provide the necessary communications; that the State provided a listing of State properties for Motorola to consider for tower locations; that the sites selected by Motorola provide the necessary coverage; that the project will provide new console equipment at all emergency operation centers, dispatch locations, highway

yards, firehouses, etc...; that a need exists to improve the system Statewide; that the Statewide project is two-thirds completed; and that New Jersey State Police utilize a similar system.

The Commission found that the Attorney present on behalf of the application submitted a report prepared by Marvin C. Ziskin, MD, relating to safety levels for radiation protection, and stated that the towers transmit 62 watts maximum, and that by comparison televisions, and AM/FM radios transmit 50,000 watts.

The Commission found that Mr. Benson Miller of the Delaware State Police stated that they realize that towers are not aesthetically pleasing; that the public needs to be aware that the existing system utilized by the Delaware State Police has been in service since 1980; that weak coverage and reception exists in some areas of the County; that the new system will improve communications and will aid the 121 troopers in the County; that each trooper will have his or her own personal radio; that a need exists to help protect the residents and the troopers with communication aids and to provide reliable communications between troopers; and that the State Police support all three applications.

The Commission found that Mr. Joseph Thomas, Director of the Sussex County Emergency Operations Center, stated that he supports all three applications, and that a need exists to upgrade all communication systems that serve the police agencies, 21 fire companies within Sussex County, 18 ambulance squads, and 5 paramedic stations.

The Commission found that Mr. Jim King, President of the Sussex County Firemen's Association, and Mr. Bob Ricker, President of the Sussex County Fire Chiefs Association, spoke in support of the system for all of the volunteer fire companies within Sussex County, and stated that some of the radios in service with some of the fire companies are 1960 model radios.

The Commission found that a landowner on Road 334 questioned if any interference will be experienced on cellular phones, radios, or televisions.

The Commission found that the Delaware Director of Telecommunications Management stated that the Federal government assigns fixed bands of frequency for non-interference to co-habitat with other frequency users.

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 stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

5. RE: C/U #1185--State of Delaware
Office of Telecommunications Management

Ms. Lisa Goodman, Attorney, Mr. Richard Reynolds of the Office of Telecommunications Management, Mr. Carl Peterson and Mr. David Rodriguez were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for a 430 Foot High Radio Communication Tower west of Route 30, 1,200 feet north of Road 319, located on a parcel containing 2.56 acres more or less.

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

Ms. Goodman requested that all testimony from the public hearing for C/U #1184 be made a part of the record for this application, and added that the tower height will be 430 feet.

Mr. Reynolds stated that this site was originally occupied by a WHWW radio tower; that the WHWW tower was 310 feet in height and was a guywire supported tower; that the WHWW tower was destroyed during an ice storm when falling trees broke some guywires; that sites are visited approximately one time per month; that the systems are capable of being managed by computers; that the towers are not painted; that back-up power is provided with diesel generators that automatically start during a power outage; that the towers are lighted with a dual lighting system of white strobes during daylight hours and red lights during night-time hours; that the strobe lights are angled upward 15 degrees above the horizon; and that the lighting is acceptable to the FAA.

No parties appeared in support of or in opposition to this application.

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

The Commission found that no negative comments were received from the Sussex Conservation District.

The Commission found that Ms. Lisa Goodman, Attorney, and Mr. Richard Reynolds, Director of the Delaware Office of Telecommunications Management, were present on behalf of this application.

The Commission accepted Ms. Goodman's request that all testimony from the public hearing for C/U #1184 be made a part of the record for this application, and that the tower height will be 430 feet.

The Commission found that Mr. Reynolds stated that this site was originally occupied by a WHWW radio tower; that the WHWW tower was 310 feet in height and was a guywire supported tower; that the WHWW tower was destroyed during an ice storm when falling trees broke some guywires; that sites are visited approximately one time per month; that the systems are capable of being managed by computers; that the towers are not painted; that back-up power is provided with diesel generators that automatically start during a power outage; that the towers are lighted with a dual lighting system of white strobes during daylight hours and red lights during night-time hours; that the strobe lights are angled upward 15 degrees above the horizon; and that the lighting is acceptable to the FAA.

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

Motion by Mr. Phillips, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the site had been previously utilized for a tower site and with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

6. RE: C/U #1186--State of Delaware
Office of Telecommunications Management

Ms. Lisa Goodman, Attorney, Mr. Richard Reynolds of the Office of Telecommunications Management, Mr. Carl Peterson and Mr. David Rodriguez were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District and a C-1 General Commercial District in Seaford Hundred for a 450 Foot High Radio Communication Tower southwest corner of Route 13A and Dolby Road, 760 feet south of Road 46, located on a parcel containing 5.24 acres more or less.

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

Ms. Goodman requested that all testimony from the public hearings for C/U #1184 and C/U #1185 be made a part of the record for this application, and added that the tower height will be 450 feet; that the tower is proposed to be located at the southwest corner of DelDOT's Seaford highway yard; that a meeting was held with the neighborhood residents on June 18, 1997 to answer any questions; and that the Shipley facility in Seaford was reviewed since a tower already exists on that site.

Mr. Wheatley questioned why equipment could not be placed on the tower at the Shipley facility.

Mr. Reynolds stated that leases would be required; that the tower would have to be structurally investigated; that the proposed site has been specifically engineered by Motorola to interlink sites throughout the State; that the Shipley facility is 2.2 miles from the proposed coverage area and is too far south and west of the coverage area; that Motorola picked the most appropriate sites to engineer the statewide system; that part of the criteria was that the towers had to be located on State owned property; that the State Legislature provided no funds to purchase land for the program; and that the Delaware Office of telecommunications Management has no objection to restrictions being placed on the applications.

Mr. Bruce Baumgardner, Mr. Edward Hurley, and Mr. Mark Switzler, of the 19 present in opposition, spoke in opposition to this application and stated that the neighborhood is opposed to the height of the proposed tower; that a State park exists within 600 feet of the site; that a residential subdivision exists immediately adjacent to the site; that several locations exist that could be more appropriate; that they support the need, but not the location; that a southern location seems more appropriate since the area from Seaford north to Greenwood has less population than Seaford south to Delmar; that the State is forcing the tower to be placed at this location; that a realtor was contacted and advised a resident that property values may decrease 5 to 10 percent; and questioned if the National Guard facility near the railroad was considered.

Major Joseph Forrester of the Delaware State Police stated that all police officers within Sussex County support the proposed system.

Mr. Schrader asked if there were any restrictive covenants on the property since the site is a part of the Lakeshores Subdivision.

Ms. Goodman stated that they have not performed a title search for restrictions.

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 that no negative comments were received from the Sussex Conservation District.

The Commission accepted Ms. Goodman's request that all testimony from the public hearings for C/U #1184 and C/U #1185 be made a part of the record for this application, and that she stated that the tower height will be 450 feet; that the tower is proposed to be located at the southwest corner of DelDOT's Seaford highway yard; that a meeting was held with the neighborhood residents on June 18, 1997 to answer any questions; and that the Shipley facility in Seaford was reviewed since a tower already exists on that site.

Mr. Wheatley questioned why equipment could not be placed on the tower at the Shipley facility.

The Commission found that Mr. Reynolds stated that leases would be required; that the tower would have to be structurally investigated; that the proposed site has been specifically engineered by Motorola to interlink sites throughout the State; that the Shipley facility is 2.2 miles from the proposed coverage area and is too far south and west of the coverage area; that Motorola picked the most appropriate sites to engineer the statewide system; that part of the criteria was that the towers had to be located on State owned property; that the State Legislature provided no funds to purchase land for the program; and that the Delaware Office of telecommunications Management has no objection to restrictions being placed on the applications.

The Commission found that three area residents, of the 19 present in opposition, spoke in opposition to this application and stated that the neighborhood is opposed to the height of the proposed tower; that a State park exists within 600 feet of the site; that a residential subdivision exists immediately adjacent to the site; that several locations exist that could be more appropriate; that they support the need, but not the location; that a southern location seems more appropriate since the area from Seaford north to Greenwood has less population than Seaford south to Delmar; that the State is forcing the tower to be placed at this location; that a realtor was contacted and advised a resident that property values may decrease 5 to 10 percent; and questioning if the National Guard facility near the railroad was considered.

The Commission found that a petition, containing 138 signatures in opposition, was submitted.

The Commission found that Major Joseph Forrester of the Delaware State Police stated that all police officers within Sussex County support the proposed system.

Mr. Schrader asked if there were any restrictive covenants on the property since the site is a part of the Lakeshores Subdivision.

Ms. Goodman stated that they have not performed a title search for restrictions.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied based on opposition from the neighborhood and since alternative locations should be available for a more suitable site in the area.

7. RE: C/U #1187--Merlin Schrock/Elvin Schrock & Sons

Merlin Schrock was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for an Office, Shop, and Storage Building for a Plumbing and Backhoe Service Business on the north side of Route 16, 900 feet east of Road 601, located on a parcel containing 5.58 acres more or less.

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

Mr. Schrock stated that he plans to add an office and storage to his existing shop building; that he proposes to add a 40' by 50' addition for storage of plumbing supplies and equipment, and an 18' by 30' addition for office space; that stone will be stored outside; and that the business has existed for 41 years.

Mr. Allen stated that the site is adjacent to a buffalo farm and a horse farm.

No parties appeared in support of or in opposition to this application.

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

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

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 16 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 Fallsington and Woodstown; that the Fallsington soils may have severe limitations; that the Woodstown soils vary from slight to moderate limitations; that the applicant will be required to follow recommended erosion and sediment control practices; that the soils are considered Prime Farmland; that no storm flood hazard area is affected; that it may be necessary for some on-site and off-site drainage improvements; and that the St. John's Tax Ditch runs along the east side of the site, but it should not have any negative impact.

The Commission found that the applicant was present and stated that he plans to add an office and storage to his existing shop building; that he proposes to add a 40' by 50' addition for storage of plumbing supplies and equipment, and an 18' by 30' addition for office space; that stone will be stored outside; and that the business has existed for 41 years.

It was noted that the site is adjacent to a buffalo farm and a horse farm.

No parties appeared in support of or in opposition to this application.

Motion by Mr. Ralph, 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 stipulation that the site plan be reviewed and approved by the Planning and Zoning Commission.

7. RE:ORDINANCE TO AMEND CHAPTER 115 (Three Quarter Acre Lot)

Mr. Lank introduced and summarized a proposed Ordinance which imposes a minimum lot size of three quarters (3/4) of an acre on all lots which are not connected to a central sewer system, except in those districts where the Zoning Ordinance already mandates a larger lot.

Mr. Lank summarized a memorandum from Michael A. Izzo, P.E., County Engineer, which referenced the exception "note" and suggesting a revision.

No parties appeared in support of or in opposition to this Ordinance.

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

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

The Commission found, based on a memorandum from Michael A. Izzo, County Engineer, that the exception clause should be expanded to include planning areas as defined in planning reports approved by the Sussex County Council; that the Council has previously approved the South Coastal Area Planning Study, the Long Neck Sanitary Sewer District, and other studies which clearly define areas of future sewer service; that 3/4 acre lots in the study areas create larger frontages and lower densities that work against the extension of sewer service; and that smaller lots could serve as an incentive for locating development within planning areas.

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

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 note revision in Section 1 through Section 12 of the proposed Ordinance: "***NOTE: Any lot which is not connected to a central sewer system, as defined by 115-194 A, or which is located within a planning area as defined by a sewer planning study approved by the Sussex County Council, shall have a minimum area of three-quarters (3/4) acre".

OTHER BUSINESS

1. RE: Newton Woods Subdivision

Mr. Lank submitted a tax map depicting Pine Way, a plotted street within Newton Woods Subdivision.

Mr. Lank advised the Commission that the street has never been constructed and that DelDOT has approved an entrance location for lot 5 and lot 7 onto U.S. Route 13. Pine Way will only serve lands of the Nanticoke River Watershed Conservancy, Inc.

Mr. Lank advised the Commission that the owners of lots within Newton Woods Subdivision have consented to the revision and deletion of Pine Way.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the revision.

2. RE: Elizabeth Mick

Mr. Lank submitted a tax map depicting the Mick property with an existing 10 foot wide outlet drive that is proposed to be expanded to 50 feet, pointed out that the Mick residence is located at the rear of the parcel, and that the proposed lot is adjacent to Road 618.

Mr. Allen stated that the existing dwelling has existed on the site for approximately 100 years.

Motion by Mr. Ralph, seconded by Mr. Wheatley, and carried unanimously to approve the subdivision concept.

3. RE: Subdiv. #95-9--Richard D. Comstock

Mr. Lank advised the Commission that a letter has been received from Charles D. Murphy Associates, Inc. requesting a time extension for submittal of final plans.

Motion by Mr. Ralph, seconded by Mr. Phillips, and carried unanimously to approve a one year time extension. There was a consensus of the Commission that this is the last time extension for this project.

4. RE: Kevin Pritchett

Mr. Lank submitted a tax map depicting the Pritchett property and proposing to divide the property into two lots with access from the existing driveway entrance onto Route 404.

Mr. Lank advised the Commission that DelDOT has approved the existing entrance to serve the two lots.

Motion by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the two lot minor subdivision.

OLD BUSINESS

1. RE: C/Z #1302--Lacey E., Jr. & Aleathia E. Spencer

The Chairman referred to this application deferred on June 12, 1997.

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

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There was a consensus of the Commission that a Conditional Use application would have been the preference, and that since a Conditional Use of this type is not permitted in a GR General Residential District the applicants only option was to rezone the property.

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

Meeting adjourned at 10:35 P.M.