

## MINUTES OF THE REGULAR MEETING OF JULY 12, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 12, 2001, in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 P.M. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Lynch, Mr. Wheatley, with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mt. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as amended with the addition of Item #7 under Other Business in reference to an easement for Fred Bennett off of Road 214.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of June 28, 2001 as amended.

Mr. Schrader explained how the Public Hearings would be conducted.

### IV. PUBLIC HEARINGS

**C/U #1410** -- application of **JAY R. DONOVAN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District to sell furniture, antiques, produce, and miscellaneous unique items to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 1.0 acres, more or less, lying north of Route 36 and 340 feet west of Road 626.

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 are mapped as Evesboro loamy sand and Rumford loamy sand which have slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation if any construction takes place; that the soils are considered 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 letters of opposition to the application have been received from Hugh Martin, V, and Jeanette Isaacs expressing concerns about depreciation of property values, the size, type and number of advertising signs proposed, display of sales items outside of the building, the absence of sanitary facilities; the incompatibility of retail sales within 138' of lands being donated to the Delaware Nature Society, and the close proximity of a commercial use to residential uses in the area.



The Commission found that Jay Russell Donovan was present on behalf of his application and stated in his presentation and in response to questions raised by the Commission that he wrote a letter to Mr. Martin in response to his concerns and referenced that he stated that proposed signs will be presentable and to Sussex County regulations; that all merchandise will be under roof; that portable toilets are proposed; that the barn is adequate in size to handle the display of sales items; that he has not been informed of any objections from the Delaware Nature Society; that the use will not affect the Delaware Nature Society properties; that he proposes a presentable business; that he proposes to fix-up the barn and property; that he does not want to impact his property or neighboring properties; that items to be sold may be agricultural oriented and referenced tools, hand tools, hardware, plumbing supplies, rope, shovels and other garden equipment, small machinery, antiques, furniture, glassware, and collectibles; that he plans on offering items at one-half price; that the barn is large; that the majority of the barn is 2 story; that produce will be displayed in the area of the barn with no existing doors; that he has owned the property since December 29, 2000; that it was his intent to make an application for this use when he purchased the property; that he was aware of the AR-1 zoning classification; that the barn has been used formerly for auto repairs and body work; that he has sold some items to a neighbor; that he has not contacted the State DNREC in reference to the use of portable toilets; that a security light exists to the rear of the barn; that signage will not be lighted; that he does not propose to have any food services; that he has no objection to the placement of "No Parking" signs along the front property line if permitted by DelDOT; and that he has not contacted DelDOT in reference to entrance permits.

The Commission found that there were no parties present in support of the application.

The Commission found that Hugh Martin, V, Howard C. Wilkins, II, and Harvey Kenton were present in opposition to the application and expressed concerns relating to the appearance of a flea market, the possible negative impact on the neighborhood, the quality of life for the residents in the area, and the Delaware Nature Society properties; that property values could be decreased; that the barn has been vacant for at least eight years; that they have concerns about a definition of unique items; that the land is not adequate in size for the intended use; and that they are concerned about hours, noise, trash, and parking along Route 36.

The Commission found that Mr. Wilkins submitted a letter in opposition for the record expressing concerns that a commercial use next to his home would negatively affect his quality of life and decrease property values; that allowing a retail business in a agricultural area poses several concerns and referenced signs, advertising, displays, parking, sanitation facilities, and the close proximity of the Delaware Nature Society properties.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the Public Hearing.

Mr. Wheatley stated that there have been several concerns and that he would like additional time to consider the application.

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

Vote carried 5 - 0.

**C/U #1411** -- application of **AUTO PARTS OF GREENWOOD** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an auto recycle business to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 20.61 acres, more or less, lying southwest of Road 589 and 0.2 mile east of Road 588.

The Commission found, based on comments received from DelDOT, that the applicant has permission to use the existing entrance off of Road 589 as access to the business; that any future expansion of the business will require the existing entrance to be upgraded to current DelDOT standards; and that no cars are to be parked or placed on the State right-of-way.

The Commission found that the Sussex Conservation District has issued a sediment control and stormwater management plan for the project

The Commission found that the DNREC Division of Soil and Water Conservation has reviewed the plans for the Auto Park of Greenwood; that the project involves Cart Branch Tax Ditch; and that the plans are acceptable to the Tax Ditch.

The Commission found that the Sussex County Building Code Department has approved the plans for the building.

The Commission found that the State Fire Marshal's Office has approved the plans for the building.

The Commission found that the applicant has obtained an approval for site evaluation for a septic system on the site.

The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Division, that the site is located in the Western Sussex Water and Sewer Plan Area, the Bridgeville Service Area, and the



Greenwood Development District; and that the applicant should contact the Town of Greenwood concerning the availability of sanitary sewer and central water services.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Fallsington sandy loam, which has severe limitation, Pocomoke sandy loam, which has severe limitations, Sassafras sandy loam, which has slight limitations, and Woodstown sandy loam, which has slight to moderate limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation after completion of any construction; that all of the soils types are considered Prime Farmland; that the Fallsington and Pocomoke soils are also considered of Statewide Importance; that no storm flood hazard areas are affected; that the Cart Branch Tax Ditch may be affected; that it may be necessary for some on-site and off-site drainage improvements because of the presence of poorly drained and very poorly drained soils, the increase in impervious soils, and possible increases in surface water run-off.

The Commission found that Joe Johnson was present on behalf of his application and stated in his presentation and in response to questions raised by the Commission that he has two auto salvage yards, one in Goldsboro, Maryland and one in Bridgeville, Delaware; that all dismantling is performed in-doors; that the site has been used as an auto salvage yard for over 40-years; that the previous owner operated the business from his home and from an old mobile type structure with no running water, very little electric, and a telephone; that the property has been cleared of all vehicles and debris; that they hauled approximately 60 tons of tires to the solid waste authority; that they hauled several tons of scrap metal from the site; that the stormwater management pond is in place; that they have applied for the Conditional Use so that they could build a building for an office, storage, and dismantling; that business hours are from 8:00 A.M. to 5:00 P.M. weekdays, and 8:00 A.M. to Noon on Saturdays, with no Sunday hours; that 95% of their business is parts; that the building will take up a large part of the frontage along Road 589; that a tree line exists and a berm is proposed along the easterly line; that he owns adjoining farmland to the west and to the south of the site; that the building will be larger than and similar to the building at the Bridgeville site; that they are not in the scrap metal business; that they have no intent to impact the neighborhood or property values; and that the parts business is computerized for inventory tracking and for finding parts nationwide for customers.

The Commission found that there were no parties present in support of or in opposition to the application.

At the conclusion of the Public Hearings, the Commission discussed the points and issues raised during the Public Hearing.



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

- 1) Business hours shall be from 8:00 A.M. to 5:00 P.M. Monday through Friday, 8:00 A.M. to Noon on Saturday, with no Sunday hours.
2. An 8-foot high solid fencing shall be provided at the 40-foot front yard setback requirement or in line with the front of the proposed building.
3. This approval is for the sales of parts. Any sales of automotive vehicles shall be by salvage certificates.
4. All exterior lighting shall be directed into the property and away from Road 589.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 5 - 0.

**C/Z #1437** -- application of **EDWARD S. AND NANCY C. MACHULSKI** to amend the Comprehensive Zoning Map from a GR General Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying west of Route 24 and 585 feet north of Road 299, to be located on 22,500 square feet, more or less.

The Commission found, based on comments received from DelDOT, that the Department does not recommend that the County require a traffic impact study for this rezoning; that the Department is concerned about the application; that the Department sees the application as encouraging more traffic in an area that has been identified as operating at unacceptable levels of service and that it would be inconsistent with the Department's understanding of the Cabinet Committee on State Planning Issues' Strategies for State Policies and Spending; and that the Department recommends that the County deny the application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand which has slight limitations; that the applicant may be required to follow recommended erosion and sedimentation control practices and to maintain vegetation after completion of any construction; that the Evesboro soils are considered of Statewide Importance; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Edward and Nancy Machulski were present and stated in their presentation and in response to questions raised by the Commission that the site is improved with six buildings; that the site has previously been utilized for several business uses, i.e. barber shop, lingerie shop, etc.; that they intend to clear the parcel of buildings

and debris; that they intend to build a building, measuring approximately 30' by 40', for the preparation of chicken and seafood for a carry-out business; that they propose to install a stone parking lot; that they have submitted plans to DelDOT for an entrance approval; that the site is adjacent to an automotive repair shop and in close proximity to several commercial and business uses near the intersection of Route 24 and Route 5 and the intersection of Route 24 and Road 299.

The Commission found that Mary Ann Hicks was present on behalf of her daughter, Jennifer Rowles, and stated that her daughter is an adjacent property owner and that her daughter has no objection to the application.

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

At the conclusion of the Public Hearings, the Commission discussed the points and issues raised during the Public Hearing.

Motion by Mr. Johnson, 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 has a prior history of commercial activities; since commercial activities exists on the adjacent parcel; and since other commercial activities and commercial zoning districts exists in close proximity.

Vote carried 5 - 0.

Mr. Lank asked the Commission and the applicant if there would be any objections to combining the Public Hearings on **C/Z #1438** and **C/Z #1439** since the sites were applications of the same applicant, and since the sites were portions of the same tract of land, and added that combining the Public Hearings would eliminate repetitious testimony and could shorten presentation time.

Walter Wilson stated that he had no objection.

There was a consensus of the Commission that the Public Hearings could be combined.

**C/Z #1438** -- application of **WALTER WILSON** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying southwest of Route One, 1,200 feet northwest of Route 88, to be located on 1.51 acres, more or less.



**C/Z #1439** -- application of **WALTER WILSON** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying southwest of Route One, 900 feet northwest of Route 88, to be located on 1.49 acres, more or less.

The Commission found, based on comments received from DelDOT, that the Department has reviewed a traffic impact study for the Wilson properties; that the traffic impact study was prepared by David Jamison, P.E., in a manner generally consistent with DelDOT's Rules and Regulations; that the sites are located in a Multimodal Investment Area with respect to the Department's State Long-Range Transportation Plan; that development can be appropriate in such an area if provisions are made for multiple modes of travel including automobile, mass transit, bicycle and pedestrian traffic; that the sites are located in a "B" area with respect to the Corridor Capacity Preservation Program; that an area designated as "B" is expected to experience various transportation improvements in conjunction with area development; that the Long-Range Plan (20-year) for this area includes the construction of a new set of northbound lanes, the conversion of the existing southbound lanes into a two-way frontage road to serve subdivision entrances and minor intersections, and the construction of an interchange at Route 88; that this construction is not included in the current six-year Capital Improvement Program; that the Capital Improvement Program is subject to annual revisions, but if the priorities in the Program do not change significantly, the Department expects to do this construction between 2006 and 2010; that the Department cannot be anymore definite; that until the Department can do the construction, the Department must manage the existing Route One to the best of it's ability; that traffic signals in this area would be undesirable because they would significantly affect capacity and inhibit the flow of the large through volumes along Route One; that the Department would not be opposed to development on these sites if multi-modal facilities are accommodated, if safety and capacity along Route One corridor are preserved, and if signals are not required; that the Department's review of the traffic impact study shows that the site entrance could need signals by 2020 if the proposed frontage road is not in place and the sites are rezoned and developed commercially; that the Department opposes the applications; that the expected future volumes of through traffic along Route One would offer few or no gaps needed by the minor turning movements along this stretch of the highway; that the minor approaches for traffic entering southbound Route One from the sites would suffer excessive delays, and could present safety concerns within the corridor; that should the County choose to approve the rezonings, despite the Department's recommendation to the contrary, there are certain restrictions and improvements that should be made a part of plans for the sites and built prior to the issuance of any certificates of occupancy; that the following restrictions and improvements should apply: 1) The developer should be required to furnish letters from the DelDOT Bicycle and Pedestrian Coordinator and the Delaware Transit Corporation outlining multi-modal accommodations required and then to provide those



accommodations. At a minimum, the Department expects these accommodations to include sidewalks along the site frontage and connecting to any proposed buildings, and bicycle parking; 2) The developer should be required to provide a right turn deceleration lane into the entrance; 3) The developer should be required to provide a raised curb island in the median opposite the site entrance to prohibit left turns out of the site and a similar island on the southbound side to direct exiting traffic to the right; and 4) The developer should be required to furnish a letter from the Cape Henlopen School District detailing the required accommodations with the site for school bus service and then to provide accommodations

The Commission found, based on comments received from the Office of State Planning Coordination, that the sites are located within a Rural Area according to the Strategies for State Policies and Spending Document approved by the Cabinet Committee on State Planning Issues; that in Rural Areas, State policies will encourage the preservation of a rural lifestyle and discourage new development; that the Office concurs with DelDOT comments; that the State Historic Preservation Office has noted that rezoning the sites for commercial use could have an adverse effect on the setting of White's Chapel and the adjacent agricultural complex; that the State recommends that, if this rezoning is approved, the County should require landscape screening around the sites to block the view of the development from these historic properties; and that the State objects to the rezoning of these sites due to the increased volume of traffic that will be created with commercial uses, and because the sites are located in a Rural Area according to the Strategies for State Policies and Spending Document.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Sassafras sandy loam which have slight limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that the Sassafras soils are considered Prime Farmland; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that a letter was received from Robert P. Bartley, Jr. of B & D Electric in support of the application.

The Commission found that a letter was received from R. Craig Hudson expressing concerns that he is opposed to any high-traffic retail uses; that he would not oppose business types of use, i.e. offices or professional building; and that he has spoken to the applicant and has been assured that he intends office and professional use.



The Commission found that a letter was received from Robert V. Witsil, Jr., Attorney, on behalf of the Eagle Crest Homeowners Association and its Board of Directors, expressing concerns about the numerous permitted uses identified in a C-1 General Commercial District, specifically auto and truck sales, boat and trailer sales, painting and furniture manufacturing shops, lumber and building material stores, material storage yards and multi-family dwellings, which are not compatible with the adjacent residential and agricultural uses; that the homeowners believe that the most appropriate method of amending the permitted use for the sites would be that the applicant reapply for a specifically stated Conditional Use; that his clients object to the applications and request denial of both sites; and that the Eagle Crest Homeowners Association hereby informs the Commission, W.T. Wilson, Inc., the lot owners of Red Fox Run, and any prospective purchasers of the sites that the approach pattern to Eagle Crest Aerodrome exists directly over Red Fox Run Subdivision and the two sites that are subject to these applications.

The Commission found that Walter Wilson and Mark Davidson of Design Consultants Group were present and stated in their presentations and in response to questions raised by the Commission that Red Fox Run, a 44 lot Subdivision, is being developed for single family detached dwellings; that there are no wetlands on the sites; that south of the site on adjacent property is a commercial use; that all access to the sites will be from Red Fox Lane, the entrance to the Subdivision; that no access is proposed or permitted to Route One from the sites; that the entrance plan for Red Fox Run has been approved; that the entrance design calculations for Red Fox Run included the maximum yields for the two sites; that on-site wells and on-site septic systems are proposed; that the best use of the site is business use; that the location of the sites, directly on Route One, are not appropriate locations for the construction of residential dwellings; that several commercial uses exists on adjacent properties and in close proximity; that the applicant is making a large investment in the Red Fox Run project and any high-traffic commercial use will not be compatible; that he proposes a small office, up-scale townhomes or a medical building; that the applicant's existing office on Route One will have to be moved when the Route One corridor construction starts; that he has no intent to create a high-traffic use, i.e. fast food or convenience store; and that he has applied for the rezoning prior to any sales within Red Fox Run so that buyers can be informed of the zoning, if it is approved.

The Commission found that there were no parties present in support of the application.

The Commission found that Joseph P. Kernan, of the Eagle Crest Homeowners Association, was present to confirm the statements in the letter submitted by Mr. Witsil; and added that, if the rezonings are approved, the uses should be limited to those stated in the letter.



At the conclusion of the Public Hearings, the Commission discussed the points and issues raised during the Public Hearing.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to forward C/Z #1438 to the Sussex County Council with the recommendation that it be approved since the site is adjacent to and in close proximity to other commercial uses, and is adjacent to a C-1 General Commercial District.

Vote carried 5 - 0.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to forward C/Z #1439 to the Sussex County Council with the recommendation that it be approved since the site is adjacent to and in close proximity to other commercial uses, and is adjacent to a C-1 General Commercial District.

Vote carried 5 - 0.

#### V. OLD BUSINESS

**SUBDIVISION #99-23** -- application of **ROBERT MUNCY** to consider the Subdivision of land in a GR General Residential Zoning District in Cedar Creek Hundred, by dividing 7.02 acres into 7 lots, located south of Road 14, 755 feet east of Road 224-A.

Mr. Abbott advised the Commission that preliminary approval was granted on December 16, 1999 for 7 lots; that a time extension was granted on December 28, 2000 for one year; that the final record plan meets the requirements of the Code and that all agency approvals and/or permits have been received.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the record plan as a final.

Vote carried 5 - 0.

**SUBDIVISION #2001-14** -- application of **BAYVILLE CAPITAL III, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 19.70 acres into 16 lots, located north of Road 298, 214 feet southeast of Route 24.

Mr. Abbott advised the Commission that action was deferred on May 24, 2001 and again on June 14, 2001 for information concerning the proposed outlots.



The Commission found that Jeff Clark and Elton Murray of Land Tech were present on behalf of the application and presented a parcel survey and a revised subdivision plan.

Mr. Clark advised the Commission that the outlot parcel, next to the Langshaw property, originally depicted on the preliminary plan does not exist; that the mailboxes are on the Langshaw property; that the revised preliminary plan depicts 15 lots, rather than 16 lots; that the street configuration has not changed; that the applicants propose to pave Creek View Drive to Austin Drive, all of Austin Drive, and all of Bay Hollow Drive; and that the final plan will describe how the outlots will be conveyed.

Mr. Murray added that Mrs. Parker, a neighboring property owner, provided them with a lot of deed references; that the preliminary plan was prepared using another Surveyors survey information; that they found that the survey was in error; and that the final plan will be correct when it is submitted for final approval.

The Commission discussed the proposed paving of the streets. It was noted that Creek View Drive, a dirt street previously approved, does exist and has served the existing residents in the area for years; that the applicants feel that the existing residents may want to participate in payment for the pavement for portions of the street; and that there are several options on what portions to pave.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the Subdivision as a preliminary with the stipulations that Creek View Drive be paved to line up with the rear line of Lot 12; that all of Bay Hollow Drive and Austin Drive be paved; and that the cul-de-sac right-of-way at the entrance to the Lynch property be straightened on the easterly side to show that the Lynch property has some frontage.

Vote carried 5 - 0.

## VI. OTHER BUSINESS

- 1) Carpenter's Crossing - Lot 1  
Preliminary Commercial Site Plan - Carpenter's Way

The Commission found that Ken Christenbury was present on behalf of this application.

Mr. Lank advised that the Commission that this site plan is for a 2,987 square foot one story bank (Delaware National Bank); that setbacks meet the requirements of the Code; that 15 parking spaces are required and that 39 parking spaces are proposed; that parking within the front yard setback needs a waiver along Road 268 and Carpenter's Way; that four (4) drive-through teller lanes are proposed; that sewer service will be provided by



the County; that water service will be provided by Tidewater Utilities; that the site plan needs to indicate one loading space; that the site plan is acceptable as a preliminary with the addition of the loading space.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried with 4 votes, with Mr. Lynch not voting, to approve the site plan as a preliminary with the waiver in the parking space locations, and with the stipulation that final approval shall be subject to the staff receiving all appropriate agency approvals and/or permits.

- 2) Carpenter's Crossing - Lot 3  
Preliminary Commercial Site Plan - Carpenter's Way

The Commission found that Ken Christenbury and Mike Makowski were present on behalf of this application.

Mr. Lank advised the Commission that this site plan is for 3 medical/dental office buildings; that the buildings are all one-story; that the buildings contain 3,137 square feet, 3,139 square feet, and 3,564 square feet; that setbacks meet the requirements of the Code; that 60 parking spaces are required; that 61 parking spaces are proposed; that parking within the setback along Route One needs a waiver; that one loading space is required and provided; that sewer service will be provided by the County; that water service will be provided by Tidewater Utilities; and that the site plan is acceptable as a preliminary.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the waiver in the parking space locations, and with the stipulation that final approval shall be subject to the staff receiving all appropriate agency approvals and/or permits and a landscaping plan.

- 3) Carpenter's Crossing - Lot 5  
Preliminary Commercial Site Plan - Carpenter's Way

The Commission found that Ken Christenbury and Mike Makowski were present on behalf of this application.

Mr. Lank advised the Commission that this site plan is a 8,080 square feet dental office building; that setbacks meet the requirements of the Code; that 61 parking spaces are required; that 68 parking spaces are proposed; that parking within the setback along Road 268 and Carpenter's Way needs a waiver; that one loading space needs to be indicated on the site plan; that sewer service will be provided by the County; that water service will be provided by Tidewater Utilities; and that the site plan is acceptable as a preliminary.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the waiver in the parking space locations, and with the stipulation that final approval shall be subject to the staff receiving all appropriate agency approvals and/or permits.

4) Sea Colony - Phase 22  
Preliminary Multi-Family Site Plan - Route One

The Commission found that Rich Polk of Sea Colony Development Corp. was present on behalf of this application.

Mr. Lank advised the Commission that the site plan is for 12 townhome units; that three pods with 4 detached units are proposed within a 165-foot envelope; that the minimum separation of 40-feet between structures is proposed; that the setbacks meet the requirements of the Code; that 36 parking spaces are required; that 84 parking spaces are proposed; that the parking within the setback along Route One needs waiver; that the maximum allowable density on the 3.8 acre parcel could be 45 units; that the site plan is acceptable as a preliminary.

Mr. Polk advised the Commission that the parking lot replaces a portion of an existing parking lot utilized for overflow parking for Sea Colony .

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a preliminary with the waiver in the parking space locations, and with the stipulation that final approval shall be subject to the staff receiving all appropriate agency approvals and/or permits.

5) C/U #1401 - Randy Burton  
Referral

Mr. Abbott advised the Commission that the County Council referred this application back to the Commission on June 19, 2001 for comments on the revised site plan submitted at the County Council Public Hearing; that the Commission had recommended that the application for 15 units be denied on May 24, 2001; and that the revised site plan indicated 8 single-family detached homes.

Mr. Allen asked Mr. Schrader how the Commission could make a recommendation on a revised plan for an application that they had previously recommended denial.

Mr. Schrader noted that this is the first time that a site plan had been referred back to the Commission; that he was concerned that there would be no opportunity for the public to speak for or against the site plan.



Randy Burton asked to speak about what he interpreted the reasoning for the County Councils referral.

Mr. Allen stated that Mr. Burton could speak.

Mr. Burton advised the Commission that he had met with the majority of the neighbors; that he had reviewed the Commission's concerns after the recommendation to deny the application; that the County Council reviewed both concepts, the original 15 units and the proposed 8 units; and that he understood that the County Council wanted an opinion from the Commission on the revised plan.

Mr. Schrader advised the Commission and Mr. Burton that there may be a procedural problem; that the Commission's Public Hearing was closed; that the Commission made a decision based on the record of the Public Hearing; that the Commission would not have the benefit of comments from residents in the area or agencies on the revised plan; and that since the Commission recommended denial of the application, they should not comment on this application unless a Public Hearing is held.

The Commission discussed Mr. Schrader's comments.

There was a consensus of the Commission not to comment on the revised plan since the Commission's record on this application had previously been closed.

- 6) John Burton, Jr.  
Parcel and 50' Right-of-Way - Road 285

Mr. Abbott advised the Commission that Mr. Burton has a concept to create a 3.10 acre lot with access from a 50-foot wide right-of-way off of Road 285; that lot owners within the subdivision have agreed to the proposed subdivision; and that deed restrictions reference that lot 8A may only be subdivided as an extension to other lots and not as a separate lot.

Mr. Schrader reviewed the deed restrictions and stated that the lot is be subdivided as an extension to an adjoining parcel and that lot 8A is not included in the title of the deed restrictions.

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

- 7) Fred Bennett  
Easement off of Road 214

Mr. Abbott advised the Commission that Mr. Bennett has a concept to create a 50-foot wide easement from one of his properties, across lands of John Young, to another one of his properties; that Mr. Bennett proposes to subdivide a 2.0 acre parcel in half with a one acre lot, improved with a dwelling, being sold, and the remaining acre continuing as farmland; that the rear lot would be landlocked without the proposed easement; and that his intent is to record an easement connecting the two tillable parcels.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the concept of the easement.

#### VII. REORGANIZATION

Mr. Allen appointed Mr. Lank as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Lank opened nominations for Chairman.

Motion by Mr. Lynch, seconded by Mr. Johnson to nominate Mr. Allen as Chairman.

Motion by Mr. Wheatley, seconded by Mr. Johnson that nominations for Chairman be closed.

Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Allen as Chairman; 4 yea, and 1 not voting.

Vote by roll call:

Mr. Gordy	Yea
Mr. Johnson	Yea
Mr. Lynch	Yea
Mr. Wheatley	Yea
Mr. Allen	Not Voting

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Lynch, seconded by Mr. Johnson to nominate Mr. Wheatley Vice Chairman.

Motion by Mr. Allen, seconded by Mr. Johnson that nominations for Vice Chairman be closed.



Nominations for Vice Chairman were closed.

Motion was adopted to nominate Mr. Wheatley as Vice Chairman: 4 yea, 1 not voting.

Vote by roll call:

Mr. Allen	Yea
Mr. Gordy	Yea
Mr. Johnson	Yea
Mr. Lynch	Yea
Mr. Wheatley	Not Voting

The meeting was turned over to Mr. Allen, the re-elected Chairman.

Mr. Allen appointed Mr. Lank as Secretary for the Commission.

Mr. Allen authorized Mr. Lank - Director, Mr. Abbott - Assistant Director, and Mr. Shockley - Environmental Planner, to sign record plats for recordation on behalf of the Commission.

Meeting Adjourned at 10:15 P.M.