

MINUTES OF THE REGULAR MEETING OF JULY 24, 1997

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 24, 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 Mr. Abbott - Assistant Director.

No action was taken on the minutes of July 10, 1997.

Mr. Schrader explained how the public hearings and other agenda items will be conducted.

II. PUBLIC HEARINGS

1. RE: Subdivision #97-3--William Glen, IV

William Glen, IV was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred by dividing 18.69 acres into 17 lots, located on the south side of Road 465, 1,120 feet east of Road 465A.

Mr. Abbott summarized the Technical Advisory Committee Report of July 16, 1997.

Mr. Glen advised the Commission that the proposed subdivision is for seventeen lots, that the streets will be built to state specifications, that the proposed stormwater management and forested buffers will be on the individual lots, that deed restrictions will require the individual lot owners to maintain these areas, that the engineer has completed the soils work, that no manufactured or modular homes will be permitted, and that only stick site built homes will be permitted with a proposed minimum 1,500 square feet of living space.

There were no parties present 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.

Motion made by Mr. Ralph, seconded by Mr. Phillips, and carried unanimously to approve this application as a preliminary.

2. RE: Subdivision #97-4--Robin Beard

Robin Beard was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred by dividing 43.31 acres into 21 lots, located on the east side of Road 536, 800 feet south of Road 541.

Mr. Abbott summarized the Technical Advisory Committee Report of July 16, 1997, and comments received from the State of Delaware DNREC Division of Parks and Recreation, Office of Nature Preserves, and the Office of Planning, Grants and Greenways.

Mr. Beard advised the Commission that he resides on the proposed site, that the development will be a custom home development, that the proposed deed restrictions will be similar to the restrictions of Rivers End subdivision, that there will not be any multi sectional, manufactured, or modular homes permitted, that there will be a buffer between this site and lands of Kouts, that all lots will be a minimum of one acre in size, and that there are no agricultural lands adjacent to this site.

Jack Knowles of Woodland spoke in opposition due to concerns about negative impacts to the Woodland area, that the proposed density would double the population of the area, and negative impacts to the Nanticoke River and the wildlife habitat of the area, and submitted a petition of opposition with fourteen signatures.

David Fees, President of the Nanticoke Watershed Committee spoke in opposition due to negative impacts to the Nanticoke River and adjacent properties, and raised questions about the wetlands being donated to a nature conservancy and what type of buffers are proposed.

Lisa Jo Frech, Executive Director of the Nanticoke Watershed Alliance, spoke in opposition to this application and read and submitted a letter in opposition to this application into the record.

Jeff Rickus of Woodland spoke in opposition and expressed concerns about the closeness of the subdivision to the Nanticoke River and wetlands, and that there are at least ten lots smaller than one acre.

Don Jackson of the Chesapeake Bay Foundation spoke in opposition and stated that he supports the comments of the other property owners who have spoke in opposition and submitted copies of the Nanticoke Watershed Atlas.

Richard Jamison of Woodland spoke in opposition and stated that there is an estuary near the proposed site, that the project will change the character of the Woodland area, that all residents are opposed to this application, and questioned who will maintain the buffer areas.

Jack Connor of Woodland spoke in opposition to this application due to concerns about the stormwater management areas, wetland delineations being verified by the U.S. Army Corps of Engineers, and concerns about the entrance on Road 536.

Joseph Higgins raised questions about the existing right of way to the property.

Richard Tack of Seaford stated that he is opposed to this application since there have been archaeological diggings in this area for Indian Burial Grounds in the Woodland area.

Mr. Beard responded by stating that he is not going to provide boat access to the Nanticoke River, that the wetlands will be retained in ownership by himself, that the site is suitable for LPP septic systems, that a Homeowners Association will maintain all buffers, stormwater management areas, and streets, that a permit has not yet been obtained from the U.S. Army Corps of Engineers, and that there is at least four hundred feet of land left between the proposed subdivision and the Nanticoke River.

Rich Collins of Lewes advised the Commission that Mr. Beard is being deprived of his constitutional rights.

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 made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to defer action on this application.

3. RE: C/U #1192--Meekins Antenna Rentals, Inc.

Mr. and Mrs. Tinsley Meekins, and James Griffin, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Seaford Hundred for a Cellular Tower (500 Feet Tall) 2,210 feet east of U.S. Route 13, 0.3 mile north of Road 534, located on 26.46 acres more or less.

Mr. Lank summarized comments received from the Sussex Conservation District and the Office of State Planning Coordination.

Mr. Griffin stated that the site is 7.2 miles from the nearest point of any airport; that the communications industry is anticipated to have equal growth in the next five (5) years to the growth in the last twenty (20) years; that the biggest growth relates to personal pagers, cellular phones, and computers; that County Council has approved a 480 feet high tower and a 430 feet high tower within the last month; that one tower in Sussex County is in excess of 1,000 feet high; that the use is of a semi-public character and benefits the public; that approval has been obtained from the Federal Aviation Administration; that the tower will not impact aviation; that the tower will be lighted with medium intensity strobe lights; that an amendment to the contract to purchase the site includes a 50 foot wide right of way to the site; and that the tower will increase the value of the land and the tax base.

Mr. Meekins stated that he has worked on towers for 21 years; that the tower will provide antenna space for FM Radio, Television, Pagers, etc...; that approximately 25% of the site is cleared and 75% is wooded; that the tower will be of galvanized construction with foundations and guy wires to support the tower; that a 500 feet high tower will have a range of approximately 30 miles; that a large void exist in this part of the County for radio communications; that the tower will serve the public and provide public conveniences; that no negative impact is anticipated on property values; that a 20' by 20' building is proposed to house the equipment; that no employees will be permanently located on the site; that the building and guy wire bases will be fenced with chainlink fencing; that he has heard of no objections; that the road will be improved with fill and crusher-run; that employees will service equipment on the site approximately once per week; that no wetlands exist at the tower site; that the tower takes up a small area of the site; and that the remainder of the site can be farmed.

Randy Murray, President of Redi-Call Communications of Georgetown, spoke in support of the economic benefit to the County for paging and two-way radio communications, and added that the tower will enlarge the area of communications, and that the location is an ideal site for a tower.

No parties appeared in opposition to the 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.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Fallsington loam, Pocomoke sandy loam, and Rumford loamy sand; that soil limitations vary from slight to severe; that the applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that the soils are considered of Statewide Importance; that the Fallsington and Pocomoke soils are considered Prime Farmland; that no storm flood hazard area or tax ditch is affected; that it may be necessary for off-site and on-site drainage improvements due to the seasonal high water table; and that the building and tower should be located on the better drained soils, such as "EvA" Evesboro and "RuB" Rumford.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State DNREC noted that there is a high potential for conflict with nontidal wetlands and waters conservation and preservation goals since the parcel may contain U.S. Army Corps. regulated wetlands and State Subaqueous Lands associated with the headwaters of Williams Pond; that the State DNREC is hopeful that the parcel's size and access should allow the tower to be erected while avoiding sensitive areas; that the State Division of Historical and Cultural Affairs noted that there is a medium prehistoric archaeological potential in the area and suggested that the applicant meet with their office to discuss how best to avoid any of these areas before construction begins; and that the Office of the State Fire Marshal noted that a Site and Building Plan Review is required for review with compliance with State Fire Prevention Regulations.

The Commission found that the application was represented by James Griffin, Attorney, and that Mr. Griffin stated that the site is 7.2 miles from the nearest point of any airport; that the communications industry is anticipated to have equal growth in the next five (5) years to the growth in the last twenty (20) years; that the biggest growth relates to personal pagers, cellular phones, and computers; that County Council has approved a 480 feet high tower and a 430 feet high tower within the last month; that one tower in Sussex County is in excess of 1,000 feet high; that the use is of a semi-public character and benefits the public; that approval has been obtained from the Federal Aviation Administration; that the tower will not impact aviation; that the tower will be lighted with medium intensity strobe lights; that an amendment to the contract to purchase the site includes a 50 foot wide right of way to the site; and that the tower will increase the value of the land and the tax base.

The Commission found that the applicant stated that he has worked on towers for 21 years; that the tower will provide antenna space for FM Radio, Television, Pagers, etc...; that approximately 25% of the site is cleared and 75% is wooded; that the tower will be of galvanized construction with foundations and guy wires to support the tower; that a 500 feet high tower will have a range of approximately 30 miles; that a large void exist in this part of the County for radio communications; that the tower will serve the public and provide public conveniences; that no negative impact is anticipated on property values; that a 20' by 20' building is proposed to house the equipment; that no employees will be permanently located on the site; that the building and guy wire bases will be fenced with chainlink fencing; that he has heard of no objections; that the road will be improved with fill and crusher-run; that employees will service equipment on the site approximately once per week; that no wetlands exist at the tower site; that the tower takes up a small area of the site; and that the remainder of the site can be farmed.

The Commission found that Randy Murray, President of Redi-Call Communications of Georgetown, was present in support of the economic benefit to the County for paging and two-way radio communications, and added that the tower will enlarge the area of communications, and that the location is an ideal site for a tower.

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

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 approved with the following stipulations:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. The fifty (50) foot wide access road shall be improved with a minimum of twenty (20) feet width of crusher-run stone surface for a roadway.

RE: C/U #1193--Freebirds, L.L.C.

Mr. Herbert Moore was 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 Private Airstrip and Sales, Maintenance, Assembly for Power Parachuting and Flight Instruction on the northwest side of Road 406, 1,800 feet northeast of Road 402, located on 34.5 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Office of State Planning Coordination.

Mr. Moore advised the Commission that they intend to fly power parachutes; that he has a dealership to sell power parachutes; that no licensing is required for the aircraft; that he will provide instruction and training for people purchasing the aircraft; that a grass airstrip will be cut and maintained on the premises; that the aircraft are three (3) wheeled carts with small engines that hang under the parachute; that the cart unit measures approximately 6' by 6'; that you don't fly over anything that you cannot land on; that the noise sounds similar to a farm tractor; that you don't fly the aircraft in wind; that he anticipates one customer per week; that if an engine fails you glide into a landing area; that if he is forced down and lands on another property and damages crops he will pay for the damages; that the maximum weight limit for the aircraft is 500 pounds; that the power lines near the airstrip will be buried if the use is approved; that he questions the historical significance of the dwelling since it is in such poor condition and has been converted over the last 20 to 30 years and since the structure has termites and a poor foundation; that he will probably use the Laurel Airport facility to provide instructions and training; and that he has no objection to stipulations being imposed on the application.

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

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

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

The Commission found, based on comments received from DelDOT, that a traffic impact study was not required and that the level of service "A" of Road 406 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Pocomoke sandy loam; that the Evesboro soils have slight limitations and the Pocomoke soils have severe limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that both soil types are considered of Statewide Importance; that no storm flood hazard areas are affected; that it may be necessary for some on-site and

off-site drainage improvements due to the seasonal high water table of the Pocomoke soils; that the Laurel Drain Tax Ditch may be affected; and that a buffer strip of at least 50 feet from the open ditch is recommended.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State recommends that the County deny this application and recommend that the applicants find another location for air traffic activity; that there is a documented Bald Eagle nest within three miles of the site in the northern section of the Great Cypress Swamp; that Bald Eagles are a federally endangered species; that this spring, the DNREC Division of Fish and Wildlife identified 14 nesting pairs in the State and only 7 nest succeeded; that the State has observed eagles actively foraging within one mile of this site; although the site does not contain any state rare species, air traffic could negatively impact the eagles; that the State is concerned that air traffic is proposed over the Great Cypress Swamp, an ecologically sensitive area; that the Great Cypress Swamp contains several state rare species that could be impacted by air traffic and increased noise levels; that the Great Cypress Swamp is also an important layover point for migratory songbird species; that the Sussex County Comprehensive Plan appears to identify this site in an Agricultural Protection District where agriculture, businesses relating to agriculture, and limited convenience shopping should occur, and that a private airstrip with power parachuting and flight instruction does not seem compatible; that wetlands greater than 400 contiguous acres nontidal and Subaqueous Lands appear to be adjacent to the site; that such sensitive habitats could be impacted by low flying aircraft; that the wetlands should be delineated; that the Department of State's Historic Preservation Office recommends that if the County approves the application, that it requires some kind of landscape screening to block the view of the airstrip from an early 20th century historic house with agricultural outbuildings located on site; and that the Office of the State Fire Marshal noted that a Site and Building Plan Review is required for review and compliance with State Fire Prevention Regulations.

The Commission found that Mr. Herbert Moore was present on behalf of the application and advised the Commission that they intend to fly power parachutes; that he has a dealership to sell power parachutes; that no licensing is required for the aircraft; that he will provide instruction and training for people purchasing the aircraft; that a grass airstrip will be cut and maintained on the premises; that the aircraft are three (3) wheeled carts with small engines that hang under the parachute; that the cart unit measures approximately 6' by 6'; that you don't fly over anything that you cannot land on; that the noise

sounds similar to a farm tractor; that you don't fly the aircraft in wind; that he anticipates one customer per week; that if an engine fails you glide into a landing area; that if he is forced down and lands on another property and damages crops he will pay for the damages; that the maximum weight limit for the aircraft is 500 pounds; that the power lines near the airstrip will be buried if the use is approved; that he questions the historical significance of the dwelling since it is in such poor condition and has been converted over the last 20 to 30 years and since the structure has termites and a poor foundation; that he will probably use the Laurel Airport facility to provide instructions and training; and that he has no objection to stipulations being imposed on the application.

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

1. No more than two (2) students or trainees shall be on site at any one time.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

5. RE: C/Z #1305--Mark Jay Smith t/a M & S Auto Care

Mark Jay Smith, and Rodney Don Sweet, Attorney, were present on behalf of this application to amend the zoning map from GR General Residential to C-1 General Commercial in Nanticoke Hundred, located on the south side of Road 46, 1,072 feet east of Road 524, to be located on a parcel containing 2.48 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Sussex Conservation District, and the Office of State Planning Coordination.

Mr. Sweet advised the Commission that Mr. Smith purchased an unsightly site containing junk cars, dilapidated buildings, rubbish and junk, and has since improved the site; that the existing garage building has been structurally improved and sided; that the existing building contains a grease pit for servicing vehicles; that the use could no longer be considered non-conforming since the use ceased in excess of two years ago; that the majority of the junk and junk cars have been removed from the premises; that some of the homes and buildings have been removed and that the remaining buildings are scheduled for removal or destruction by the local fire company; and that the

garage use existed for years.

Mr. Smith advised the Commission that he resides approximately 2.5 miles from the site; that he purchased the site with six (6) old houses; that two (2) of the houses have been destroyed; that the house to the rear is reported to be the Ross Mansion School and is proposed to be moved to Seaford to be refurbished; that he proposes to do mechanical work on site; that waste oil, anti-freeze, and other fluids are handled by a licensed waste handler; that a fenced in area will be created to store vehicles ; that no more than ten (10) vehicles will be stored at any one time; that the entrance has been approved by DelDOT; and that the Office of the State Fire Marshal has been contacted.

Mr. William Palmer, an adjacent property owner, spoke in opposition and stated that the applicant purchased the property as it existed; that people who resided on the site were tenants, not landowners; that the property may become a junk yard; and expressed concerns relating to environmental issues and supported the agency comments.

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 Road 46 will not change as a result of this application.

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 during construction and to maintain vegetation; 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, based on comments received from the Office of State Planning Coordination, that the State recommends that the County deny the application because it is inconsistent with the State Department of Transportation's Statewide Long-Range Transportation Plan; that the application is inconsistent because it is in a Preservation Investment Area where emphasis is on preserving transportation investments; that it is the State's

desire that land in those areas remains in relatively passive uses such as agriculture; that an automotive shop is not such a use, and neither are most of the other uses for which C-1 zoning is intended; that the State also notes that according to the Sussex County Comprehensive Plan this project is located in an Agricultural Protection District; that the Sussex County Plan calls for such districts to include activities such as agriculture, businesses relating to agriculture, and limited convenience shopping; that the DNREC Hazardous Waste Branch notes that Mr. Smith has not contacted the Branch as required by Delaware Regulations Governing Hazardous Waste; that the Delaware Natural Heritage Program notes that two state rare species of birds live within 1.5 miles of the site, and that if new construction were to occur in the future, it could impact the fragile populations of these birds; that the parcel is just outside the Deep Creek Furnace Industrial Complex which is listed on the National Register of Historic Places; that this complex contains the sites of an 18th Century iron furnace and 19th Century mills, store, and residences; that the Department of State's Historic Preservation Office would not like to see any expansion of commercial uses in this area to protect these Deep Creek Furnace sites; and that the Office of the State Fire Marshal notes that a Site and Building Plan Review is required for review with compliance with State Fire Prevention Regulations.

The Commission found that the applicant was present with an attorney and that the attorney advised the Commission that Mr. Smith purchased an unsightly site containing junk cars, dilapidated buildings, rubbish and junk, and has since improved the site; that the existing garage building has been structurally improved and sided; that the existing building contains a grease pit for servicing vehicles; that the use could no longer be considered non-conforming since the use ceased in excess of two years ago; that the majority of the junk and junk cars have been removed from the premises; that some of the dilapidated homes and buildings have been removed and that the remaining buildings are scheduled for removal or destruction by the local fire company; and that the garage use existed for years.

The Commission found that the applicant stated that he resides approximately 2.5 miles from the site; that he purchased the site with six (6) old houses; that two (2) of the houses have been destroyed; that the house to the rear is reported to be the Ross Mansion School and is proposed to be moved to Seaford to be refurbished; that he proposes to do mechanical work on site; that waste oil, anti-freeze, and other fluids are handled by a licensed waste handler; that a fenced in area will be created to store vehicles ; that no more than ten (10) vehicles will be stored at any one time; that the entrance has been approved by

DelDOT; and that the Office of the State Fire Marshal has been contacted.

The Commission found that an adjacent property owner spoke in opposition and stated that the applicant purchased the property as it existed; that people who resided on the site were tenants, not landowners; that the property may become a junk yard; expressed concerns relating to environmental issues; and supported the negative comments submitted by agencies.

Motion by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since major improvements have been made to the property and since the site was previously used for the same purpose intended.

6. ORDINANCE TO AMEND CHAPTER 115
(Lot Size Conservation Zone)

Mr. Lank summarized an Ordinance to amend Chapter 115 of the Code of Sussex County, entitled "Zoning", to amend provisions relating to the Conservation Zone, to amend provisions relating to the minimum lot size within the tidal area of the zone, to amend provisions relating to revising and clarifying the location of the zone, and to generally clarify the Ordinance.

Mr. Mike Tyler, President of the Citizens Coalition, stated that the proposed Ordinance is an element of the Comprehensive Land Use Plan and that the Coalition supports the Ordinance.

Mr. Rich Collins of Lewes stated that the Ordinance is an environmental ordinance; that 3/4 acre lots should be considered; that increasing the lot size from 3/4 acre to 2.0 acres has not been technically proven to be needed; that it is logical that technical data should be available to justify the change; that DNREC only requires 1/2 acre lots; that property rights are impacted; and that the Commission should establish that such an ordinance is constitutionally correct.

Mr. Vance Phillips of Laurel stated that reduction of the density will not protect the environment and may impact property rights; that action on this Ordinance should be deferred until technical data is obtained that supports the intent of the Ordinance; that the existing one acre density in Conservation Zones is adequate; and that the Commission referenced 1 acre density when they recommended the Comprehensive Plan to the County Council.

Mr. Marty Ross of Delmar agreed with Mr. Phillips comments and added that the definition of a major tributary needs to be clarified and should reference that it does not include man-made structure or water bodies, i.e. tax ditches, farm ponds, etc...

Motion by Mr. Ralph, seconded Mr. Lynch, and carried unanimously to deny the proposed amendment since one acre is preferred.

III. OTHER BUSINESS

1. RE: Sea Colony West HR/RPC

James Fuqua, Attorney, and Don Tracey of Greenhorne and O'Mara were present as the Commission reviewed a revised master development plan for Sea Colony West.

Mr. Fuqua advised the Commission that over one half of the development has been approved and built, that the number of units has been reduced from 832 to 714, that each future phase will have a more definitive site plan submitted for review and approval by the Commission and that this presentation is for information purposes only.

There was no action necessary by the Commission.

2. RE: Dyer McCrea Ventures, L.L.C.

Pret Dyer was present as the Commission reviewed a commercial site plan for an apartment complex located on Route One near Midway.

Mr. Dyer advised the Commission that the site plan is for 48 apartment units, that four two story buildings are proposed with twelve units each, that the typical building is 46' x 121.25' in length, that there is a minimum of forty feet between buildings, that 96 parking spaces are required and that 97 spaces are provided, that the site is located within the Highway Corridor Overlay Zone and that the building is setback 92.71 feet from the front property line, that a twenty foot landscaped buffer will be provided, that the developer will retain as many trees on site as possible, that the wetlands and flood areas have been delineated, and that entrance approval has been granted by DelDOT.

Mr. Abbott advised the Commission that the site plan meets the minimum requirements of the zoning code, and that the staff has received a letter from DelDOT in reference to the entrance location.

Motion made by Mr. Phillips, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of all required agency approvals and permits.

3. RE: The County Corporate Center, Inc.

Mr. Wheatley advised the Commission that he would not be participating in the review of this application.

Bruce Downs of the Whayland Company was present as the Commission reviewed a revised commercial site plan for a proposed four story, 82 unit hotel on Route One and Road 273.

Mr. Abbott advised the Commission that the site is zoned C-1 General Commercial and that the hotel is a permitted use, that the foot print of the hotel is for 15,490 square feet, that the access to the site is from an existing fifty foot ingress/egress easement, that 198 parking spaces are required and that 207 spaces are provided, that there are no wetlands on the site and that the site is not located in a flood zone.

Mr. Abbott advised the Commission that the staff has received approvals from DelDOT and the State Fire Marshal Office and that approvals are required from the Sussex Conservation District and Sussex County Engineering Department.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried 4 votes to 0 votes, with Mr. Wheatley not participating, to approve the site plan as a final subject to receipt of all required agency approvals and permits.

4. RE: Joseph C. Raskauskas

Jeff Clark of Land Tech Inc. was present as the Commission reviewed a commercial site plan for an office complex on Route One near Middlesex Beach.

Mr. Abbott advised the Commission that the site plan references a two story office building, that 5,800 square feet is dedicated as office space, that the building is setback seventy feet from Route One, twenty five feet from Short Road, sixty five feet from Beachplum Road, and ten feet from the southern most property line, that twenty nine parking spaces are required and provided, that there is parking within the setbacks and that the Commission would have to waive this requirement, and that as of this date, the staff has not received any agency approvals.

Mr. Clark advised the Commission that there is not any access to Route One, that the entrance is off of Short Road therefore an entrance permit is not required from DelDOT, and requested that the staff be able to accept letters of no objection from DelDOT and the Sussex Conservation District in reference to stormwater management control.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of all approvals or receipt of letters of no objection.

5. RE: Melson Funeral Home

The Commission reviewed a commercial site plan for a 5,000 square foot funeral chapel on Roads 361 and 362 near Bethany Beach.

Mr. Abbott advised the Commission that the site is zoned B-1 Neighborhood Business and that the use is a permitted use, that the building is one story, that 166 parking spaces are provided, and that all required agency approvals and permits have been obtained.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a final.

6. RE: Lord's Warehouse - Don Ruskin

The Commission reviewed a revised site plan for an Under 21 Club located on the east side of U.S. Route 13 north of Seaford.

Mr. Abbott referred back to this site plan which was deferred at the July 10, 1997 meeting.

Mr. Abbott advised the Commission that the fenced in area is used for patron area, that the Office of the State Fire Marshal will only allow 299 patrons in the building at any given time, and that the developer is requesting a waiver from the parking requirements since most of the patrons are dropped off by parents.

Don Ruskin, developer, advised the Commission that most of the business is drop off and pick up, and submitted a letter from the Mayor of Seaford in support of the site plan since a need exists in the community.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve the site plan as submitted and to approve the parking requirement waiver.

7. RE: Lacey Spencer

The Commission reviewed a commercial site plan for a Recreational Vehicle Sales Lot on the east side of Road 455 south of Road 66.

Mr. Abbott advised the Commission that no new buildings are proposed, that the display area is a minimum of twenty five feet from the front property line, and that an entrance permit has been obtained from DelDOT.

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

8. RE: Subdivision #96-13--Irvin Handy

The Commission reviewed a request for a one year time extension in order to obtain final approval for the Crestfield Phase II Subdivision.

Mr. Abbott advised the Commission that this application received preliminary approval August 22, 1996, and that this is the first request for a time extension.

Motion made by Mr. Wheatley, seconded by Mr. Ralph, and carried unanimously to approve a one year time extension.

Meeting adjourned at 11:15 P.M.