

## MINUTES OF THE REGULAR MEETING OF JULY 26, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 26, 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 Ms. Mowbray - Zoning Inspector III.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as circulated.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of July 12, 2001 as corrected.

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

### IV. PUBLIC HEARINGS

**SUBDIVISION #2001-18** - application of **THOMAS HEAD** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 43.49 acres into 42 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located northeast of Road 288-A, 620 feet northwest of Route 24.

Mr. Lank advised the Commission that the Technical Advisory Committee Report for July 18, 2001, referencing this application, shall be made a part of the record for this application.

Mr. Lank summarized comments received from the Natural Resources Conservation Service referencing soils and compatibility of the soils to septic systems and homes constructed with and without basements.

The Commission found that Thomas Head and Dan McCann of McCann Surveying were present with Mary Robin Schrider, Attorney, and stated in their presentations and in response to questions raised by the Commission that originally 42 lots were proposed; that they have created the 30-foot wide forested buffer strip along adjoining farmlands; that the subdivision design was altered due to the buffer strip and now there are 39 lots proposed; that restricted single family lots are proposed; that the site is in close proximity to the subdivisions of Holly Oak and Lockwood; that the restrictive covenants will be altered to provide for the agricultural references; that the variance in the cul-de-sac has been requested due to the narrowness of the parcel; that all lots will have access to the interior street system, not Road 288-B; that the final site plan may have a minor adjustment to allow for improved depths of lots 33, 34, and 35; that they have not yet



received a feasibility statement for septic systems for the Subdivision; that no manufactured homes, trailers, or mobile homes will be permitted; that a fine golf course exists in the area; and that they would like to build upper scale/upper range quality homes that should be attractive in the neighborhood near the golf course.

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. Johnson, seconded by Mr. Lynch, and carried unanimously to approve the proposed Subdivision of 39 lots as a preliminary and to approve the requested waiver in the length of the cul-de-sac.

Vote carried 5 - 0.

**SUBDIVISION #2001-19** - application of **DONALD D'AQUILA** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred, by dividing 48.39 acres into 20 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 46, 1,322 feet east of U.S. Route 13.

Mr. Lank advised the Commission that the Technical Advisory Committee Report for July 18, 2001, referencing this application, shall be made a part of the record for this application.

Mr. Lank summarized comments received from the Natural Resources Conservation Service referencing soils and compatibility of the soils to septic systems and homes constructed with and without basements.

The Commission found that Donald D'Aquila was present and stated in his presentation and in response to questions raised by the Commission that he lives on the site; that he developed Marathon Estates Subdivision to the north; that the proposed lots average 1.0 acre; that 20 lots are proposed; that there are no physical connections from this project to Marathon Estates; that the Anchorage Subdivision exists to the east; that the site is in close proximity to other subdivisions; that an existing pond on the site will be utilized for stormwater management; that on-site wells and on-site septic systems are proposed; that all common areas and the stormwater management areas will be maintained by a homeowners association; that the proposed restrictions will conform to the restrictive covenants for Marathon Estates; that no manufactured homes will be permitted within the project except for the three existing manufactured homes on the site; that once a



manufactured home is removed from the site it cannot be replaced by another manufactured home; that the streets will be constructed to State specifications; that a pipe was installed in the pond for overflow to a tax ditch; that the pond has not overflowed since it was modified last year; that the tax ditch is only a shallow swale; that the restrictive covenants can be changed or modified with consensus of the homeowners; that he has no intent to alter the restrictive covenants; that he does not want to compromise the area by changing the intent of the subdivision; that the cul-de-sac is approximately 1,200 feet in length; and that he is willing to plant a screening or landscaped buffer from the adjoining properties to the east, if required.

The Commission found that Jesse Eskridge was present in support of the application and stated that the area is a nice residential area and that he supports the project since it is proposed to contain homes that are similar to the quality of homes in Marathon Estates.

The Commission found that Asa Pugh, developer of The Anchorage Subdivision expressed concerns that in 1991 the applicant stated that this portion of his property would not be developed, and that the applicant should be held to his word so that he cannot overrule his own restrictive covenants.

The Commission found that David Speiker expressed concerns about the applicants ability to change the restrictive covenants, traffic, and the intersection of Route 46 and U.S. Route 13; questioned why access was not proposed from Route 532 to the west of the site; questioned where buyers would store any boat trailers; and requested a planted buffer along the easterly property line.

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 approve the 20 lot subdivision as preliminary; to approve the requested waiver in the length of the cul-de-sac; and to stipulate that one (1) row of Leyland Cypress or similar vegetation be planted every ten (10) feet within a 10-foot wide strip along the easterly property line to be maintained by the Homeowners Association.

Vote carried 5 - 0.

**SUBDIVISION #2001-20** - application of **WILLIAM T. GULLEDGE AND ADDISON TATMAN** to consider the Resubdivision of land in an AR-1 Agricultural Residential Zoning District in Northwest Fork Hundred, by combining 2 lots into 1 lot, located north of Road 587-A, 565 feet west of Road 585.



Mr. Lank advised the Commission that the Technical Advisory Committee Report for July 18, 2001, referencing this application, shall be made a part of the record for this application.

Mr. Lank summarized comments received from the Natural Resources Conservation Service referencing soils and compatibility of the soils to septic systems and homes constructed with and without basements.

The Commission found that William Gullidge was present and stated in his presentation and in response to questions raised by the Commission that two (2) lots exists; that one (1) lot is not suitable for septic; and that a buyer wants to purchase both lots and to combine them into one buildable parcel.

The Commission found that there were no parties present in support of or in opposition to this 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. Gordy, and carried unanimously to approve the proposed resubdivision of two lots into one lot.

Vote carried 5 - 0.

**C/U #1412** - application of **MARK H. DAVIDSON** to consider the Conditional Use of land in an AR-1 Agricultural Residential District to amend the boundaries for Conditional Use No. 1272 to allow for an addition to the existing office building to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 0.53 acres, more or less, lying north of Route 252 (Huff Road), 0.3 mile west of Route 30.

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 no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Woodstown sandy loam which has slight to moderate limitations; that the applicant may be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; and that the farmland rating of the soil type is considered Prime Farmland.



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

Mr. Lank reported to the Commission that the original Conditional Use application was approved by the County Council on March 16, 1999 for a Land Planning Design Consulting Office with three stipulations; and that the stipulations included: 1) The office building shall not exceed 2,400 square feet of floor area. Additions to the building for the private use of the residents on the premises may be permitted; 2) One (1) unlighted sign, not exceeding 32 square feet per side or facing, may be permitted; and 3) The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

The Commission found that Mark Davidson was present and stated in his presentation and in response to questions raised by the Commission that he proposes to redistribute the boundaries of the Conditional Use; that the boundaries of the Conditional Use will maintain the same square footage as the original Conditional Use; that originally his personal home was within the boundaries of the site; that his billing office was located within his home; that he proposed to move the billing office to the office building and out of his home; and that the proposed addition to the building measures 14' by 30'.

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. Johnson, 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) The proposed addition to the building shall measure no more than 14' by 30'. Additions to the building for the private use of the residents on the premise may be permitted; 2) One (1) unlighted sign, not exceeding 32 square feet per side or facing, may be permitted; and 3) The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

Vote carried 5 - 0.

**C/Z #1440** - application of **GERALD T. LANDY** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to an AR-1 Agricultural Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying southeast of Route 17 and 0.41 miles northeast of Route 365, to be located on 11.6231 acres, more or less, of a 36.024 acre tract.



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 there are no storm flood hazard areas 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 and the increased area in buildings, parking lots, etc; that there may be an increase in surface runoff during storm events; that the Beaverdam Canal may be affected; that there may be jurisdictional wetlands in the area; that the soils are mapped as Osier loamy sand and Pocomoke sandy loam; that both soil types have severe limitations; that the applicant may be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation; that the Osier soils are considered of Statewide Importance; and that the Pocomoke soils are considered both Prime Farmland and of Statewide Importance.

The Commission found that Gerald Landy was present and stated that he has applied to down-zone the parcel so that he may create a horse riding academy on the site; that he proposed to provide one enclosed arena, and two outdoor arenas; and that he could not apply for the riding academy since the present zoning of the parcel is MR Medium Density Residential.

Mr. Lank advised the Commission and Mr. Landy that if the zoning is approved it will be necessary for Mr. Landy to apply to the Board of Adjustment for the riding academy.

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. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since it is a downzoning.

Vote carried 5 - 0.

**C/Z #1441** - application of **DAVID B. WEBB, JR.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, land lying east of Route 482 and 700 feet northeast of U.S. Route 13, to be located on 27.3139 acres, more or less.



The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Division, that the site is located in the Blades Sanitary Sewer District Planning Area and in the Development District according to the Western Sussex Water and Sewer Plan, and that the Engineering Department has no schedule to provide sanitary sewer service to this area at this time.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard area is affected by this application; that it may be necessary for some on-site and off-site drainage improvements due to the presence of poorly drained and very poorly drained soils and the increase in surface runoff due to the increased impervious areas; that the Mt. Zion Tax Ditch may be affected; that there may be jurisdictional wetlands in the area; that the soils are mapped as Evesboro loamy sand, Fallsington sandy loam, Klej loamy sand, and Pocomoke sandy loam; that the Evesboro soils have slight limitations; that the Fallsington and Pocomoke soils have severe limitations; that the Klej soils have slight to moderate limitations; that the applicant may be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that all of the soil types are considered of Statewide Importance; and that the Fallsington and Pocomoke soils are considered Prime Farmland.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is located within the Secondary Developing area of the Strategies for State Policies and Spending document approved by the Cabinet Committee on State Planning Issues; that these areas were designated for growth by the County Comprehensive Plan, but were not included in the State's developing areas; that in these areas, the State will promote efficient, orderly development and the coordinated phasing of infrastructure investment, consistent with the extent and timing of future growth and within the limitations of State financial resources; that the State would normally prefer to see commercial or industrial uses in the Community areas, however, a poultry equipment distributor would serve the surrounding farms and rural areas and, therefore, the State feels that this use would be appropriate close to the areas that it would serve; that the State concurs with the DelDOT comments; that the State Historic Preservation Office has noted that there is one historic agricultural complex within sight of the parcel; that there is a potential for prehistoric archaeological sites on the parcel; that they suggest that the County require the applicant to landscape the northern side of the parcel to block off the development from the visual setting of the historic property; that they suggest that the owner/developer work with the State Historic Preservation Office to locate and avoid any archaeological sites on the parcel; that due to the wide range of commercial uses permitted as a right under the Light Industrial District, the State suggests that the County require deed restrictions to properly limit the use of the property; that if the rezoning moves forward without the requirement of deed restrictions, the State suggests that the County require a traffic impact study be done; that the State further requests that the



County require the owner/developer to work with the State Historic Preservation Office to avoid any archaeological sites that may be on the parcel.

The Commission found, based on comments received from DelDOT, that the Department recommends that the County require a traffic impact study; that the Department offers this recommendation because the Department is concerned about the potential traffic that could be associated with the proposed rezoning; that a wide range of commercial uses are permitted as of right under the Light Industrial District; that any traffic from the proposed use would be negligible; that the Department recommends deed restrictions that could not be lifted without the concurrence of the Department as conditions for approval of the rezoning; that for this reason, the Department sees no need for a traffic impact study if the applicant were to satisfy this condition; that if the applicant continues to seek a rezoning without deed restrictions, then the Department recommends that a traffic impact study be required.

The Commission found that David B. Webb and David Rutt, Attorney, were present and stated in their presentations and in response to questions raised by the Commission that this application, if approved, would be consistent with Change of Zone #1380, an application to C-1 General Commercial approved by Sussex County Council in June 1999; that the findings of the Sussex County Council are appropriate to this application since: 1) The parcel is located on Route 13, a major arterial road through the State, and therefore situated for business use; 2) The applicant established that the zoning is an extension of commercial zoning on adjacent lands; established that the change of zone proposed is an appropriate change; and established that the zoning and use will conform to the general use of the area; and 3) The applicant established that the site is located within the Development District in the Comprehensive Land Use Plan; that the applicant proposes to develop the parcel into 3 parcels; that the entrance to the commercial parcel has been built; that private on-site wells and septic are proposed; that Light Industrial zoning was applied for since the uses would be more suitable for the area, since the uses would compliment the surrounding area; and since there should be less traffic from the intended uses.

The Commission found that Mr. Rutt submitted a tax map of the area and photographs of the site, the adjoining farm, and the business, commercial and industrial uses in the immediate area.

The Commission found that Mr. Webb described the uses in the photographs as a seafood and produce business, a farm, a rental equipment business offering leases for backhoes, loaders, compressors, etc., warehousing, retail sales of lumber and hardware, and antiques; and added that one of his clients proposed to locate an agricultural equipment business on part of the parcel; that the agricultural equipment business would be compatible with the area; that the use would not change the character of the area; that



there is a need for light industrial space in the area; that he has no objection to the DelDOT request for deed restrictions; and that he forwarded a letter to the Planning and Zoning Office on April 23, 2001 stating that he would incorporate deed restrictions prohibiting restaurants, including but not limited to fast food, service stations, convenience stores, pharmacies, banks, retail bakeries, and theaters with the condition that the restrictions could not be lifted without prior written consent from DelDOT and the County.

Mr. Lank advised Mr. Webb that any reference to the County in deed restrictions would not be acceptable.

Mr. Schrader added that the deed restriction is a private matter between the applicant and DelDOT.

The Commission found that Paul Shalk, a representative of Hale Trailer Brake and Wheel, a company interested in purchasing a portion of the site, stated that his company sells and leases all types of tractor trailers, including but not limited to flat bed trailers, dump trailers, construction trailers, storage trailers, and office trailers; that all trailers will be empty when stored on the site; that there would be one tractor on the site for use to deliver and pick-up trailers; that some of the trailers are utilized for agricultural purposes, i.e. watermelons, vegetables, etc.; that having access to the trailers will benefit the agricultural community in the area; that he anticipates no more than 2 to 5 vehicles trips from the site per day; that repairs on trailers on the site will be minimal; that normal business hours are 7:30 A.M. to 5:00 P.M. weekdays; and that he will have 4 to 5 employees.

The Commission found that Frank Pusey, a representative of Northeast Agri Systems, Inc., a company interested in purchasing a portion of the site, stated that his company builds and services equipment for the poultry industry and other livestock; that they will build prefab walls for assembly of poultry houses; that the walls are built in 6' by 12' sections; that they presently assemble the walls in Pennsylvania and deliver the wall sections to building sites; that this site is more centrally located with direct access to U.S. Route 13, a major arterial roadway; that they will have 6 to 8 employees; that they propose to build steel buildings with a showroom, offices, and warehousing; that normal business hours are 7:30 A.M. to 5:00 P.M. weekdays; and that the size of the site makes it desirable for future expansions.

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

Vote carried 5 - 0.

#### OLD BUSINESS

**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 Route 626.

The Commission discussed the points and issues raised during the Public Hearing on July 12, 2001.

There was a consensus of the of the Commission that the application was somewhat broad and very vague; that they were concerned about the location of the site due to the curve on Route 36; that the site would appear to have a flea market atmosphere; and that they were concerned that people would park along the right-of-way of Route 36.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to forward this application with the recommendation that it be denied based on the above consensus.

Vote carried 5 - 0.

**SUBDIVISION #2001-17** - application of **COLLINS ACRES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Dagsboro Hundred, by dividing 20.20 acres into 12 lots, located west of Road 412 at south side of entrance to Lakeview Estates.

The Commission reviewed a request from the applicant to reconsider the requirement for a landscaped buffer along Lakeview Drive.

Mr. Lank read a letter from Jayne Sheahan, President of the Lakeview Estates Neighborhood Association, and a memo from the applicants. The letter from Ms. Sheahan stated that the Association would prefer a line of Willow trees or a barrier of Leland Cypress trees, not a 30-foot wide forested buffer. The memo from the applicants stated that they would like to plant a single row of Willow trees, and that the trees will be maintained by the Willow Valley Homeowners Association as stated in the restrictive policies.



Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve the request to reduce the buffer to a single row of Willow trees. The deed restrictions shall include a reference that allows the Homeowners Association to enter onto the lots to maintain the trees.

#### OTHER BUSINESS

- 1) Sussex Central High School  
C/U #1408 - Site Plan

Mr. Lank advised the Commission that the Sussex County Council approved the Conditional Use on July 24, 2001 with the following stipulations: 1) All lighting fixtures to be shielded and/or baffled to direct the lights so that they do not impact neighboring properties or travelling motorists; 2) The site plan shall be subject to review and approval by the Planning and Zoning Commission; and 3) County Council recommends that the applicant and DelDOT reconsider the location of the school's main entrance and consider relocating that entrance to the Avenue of Honor (Route 86).

Mr. Lank advised the Commission that DelDOT has already met with representatives of the Indian River School District, that a letter dated July 26, 2001 has been received, and that the letter references that they had agreed that reasonable access could be provided from Road 318; that the number of entrances has been limited to three; that they discussed the County Council recommendation and that they were concerned with vehicle queuing near and across the railroad track crossing on Route 86.

The Commission found that James Griffin, Attorney, and Greg Moore of Becker Morgan Group were present, presented the site plan, and stated that the entrances along Road 318 have been designed for a safe separation of access points for students, visitors, and buses; that relocating the entrance to Route 86 would create a safety concern for the students; that they have located the entrances as far away from the Stockley Center entrances as reasonable; that the narrowness of Route 86 could cause queuing of vehicles near or on the railroad crossing; that the entrances on Road 318 would create a safer entrance design on a lower speed roadway; that the speed limit on Road 318 is 35 m.p.h.; that at some future date, an elementary school may be built along the Route 86 frontage with access from Route 86; that elementary schools do not have the amount of student drivers that travel to a high school; that the school layout does not fit within the frontage along Route 86; and that redesign of the school layout will impact the cost of the construction, which is limited to budget issues created with the passing of the referendum.

There was a consensus of the Commission that the design with frontage along Road 318 is the preferred design; that the separation of the driveways serving parking areas for



students, visitors, and buses is a safer design; and that they were concerned about the possible queuing of vehicles along Route 86 at the railroad crossing.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan for the Sussex Central High School as a preliminary. The final site plan shall be subject to the staff receiving all appropriate agency approvals and/or permits.

2) Indian River High School  
C/U #1409 - Site Plan

Mr. Lank advised the Commission that the Sussex County Council approved the Conditional Use on July 17, 2001 with stipulations: 1) All lighting fixtures to be shielded and/or baffled to direct the lights so that they do not impact neighboring properties or travelling motorist; 2) The entrance on Road 401 shall be gated and shall have a key-box lock for emergency access. The gate shall be located at least 40-feet from the right-of-way of Road 401; 3) A solid vinyl-clad or PVC type fencing shall be erected along the entire length of the Alden Townsend property line. The fencing shall be no taller than 3-feet in the first 25-feet of length from Road 401, no taller than 3.5 feet from the 25-foot mark back to 40-feet, and then 7-feet to the rear property corner of the Alden Townsend property; 4) The school service use entrance on Road 355 shall be gated and shall have a key-box lock for emergency access. The gate shall be located at least 40-feet from the right-of-way of road 355. Any other use of the entrance, other than school service uses, shall require an amendment to the Conditional Use; 5) The site plan shall be subject to review and approval by the Planning and Zoning Commission; and 6) Final site plan approval is contingent upon the execution of the draft Memorandum of Understanding between the applicant and the Office of the Sussex County Engineer.

James Griffin, Attorney, was present and stated that the applicants will abide by all of the stipulations.

It was noted that a portion of the stipulations referenced lands within the Town of Dagsboro.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to approve the site plan for the Indian River High School as a preliminary. The final site plan shall be subject to the staff receiving all appropriate agency approvals and/or permits, and a letter of no objection from the Town of Dagsboro in reference to the stipulations on the portion of the property within the Town of Dagsboro.

3) Superior Drywall Warehouse  
Preliminary Commercial Site Plan - Route 20



The Commission reviewed a commercial site plan for a 4,860 square foot office/warehouse building in a C-1 General Commercial District.

Mr. Lank advised the Commission that the building contains 1,200 square feet of office space and 3,660 square feet of warehouse space; that 6 parking spaces are required and proposed; that the setbacks meet the Code; that on-site water and septic are proposed; that the site is in a Flood Zone X; that no wetlands exists on the site; and that the site plan can be approved as a preliminary, with final approval subject to the staff receiving all appropriate agency approvals.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried with 4 votes, that the site plan be approved as a preliminary, with final approval subject to the staff receiving all appropriate agency approvals and/or permits. Mr. Lynch was not participating.

- 4) American Cellular Network Company, L.L.C.  
Revised Tower Site Plan - Route 9

Mr. Lank advised the Commission that the applicants propose to extend the tower height to 195-feet; that the tower was approved with a 150-foot height in January 2000; and questioned if it was necessary for the applicants to go to the Board of Adjustment.

The Commission found that Shawn P. Tucker, Attorney, was present on behalf of the applicants and stated that the expansion of the tower is to utilize the tower for the co-location of users; and referenced Article XXV Section 194.2 B of the Code which states that "Co-location of telecommunications equipment on existing free-standing towers, antennas, monopoles, buildings, water towers/tanks, and other similar structures shall be permitted without special use exception, subject to site plan review by the Planning and Zoning Commission; that New Castle County has a similar regulation and encourages co-location; that their engineers have re-evaluated the site and have found that a tower height of 172-feet is acceptable.

Mr. Tucker submitted revised site plans showing a height of 172-feet, stated that the lighting referenced in the Code will be provided, and that the structures foundation is adequate to safely secure the additional height of the tower.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the revised site plan with a tower height of 172-feet with the stipulation that the lighting be installed per the Code.

- 5) Janet Regan and Ashley Linton  
Lot on 50' Right-of-Way - Road 288



The Commission reviewed a concept to create a 0.75-acre parcel with access from an existing 50-foot wide right-of-way.

Mr. Lank advised the Commission that the previous 6 lots were created prior to the adoption of the Subdivision Code; that the parcel is zoned GR General Residential; and that the proposed lot will front on the existing right-of-way and will not create an extension to the right-of-way; and that any further subdivision of the parcel will require a major subdivision application.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve the proposed lot in concept

Meeting adjourned at 10:45 P.M.