

MINUTES OF THE REGULAR MEETING OF AUGUST 12, 1993

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 12, 1993, at 7:30 P.M., in Room 115, County Council Chambers, the Courthouse, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Ralph, Mr. Magee, Mrs. Monaco, Mr. Phillips, Mr. Bayard - County Attorney, and Mr. Lank - Director.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve the minutes of July 22, 1993, as circulated.

II. PUBLIC HEARINGS

1. RE: C/U #1050 -- Harvey & Betty Warrington

Betty Warrington was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Nanticoke Hundred for a Seasonal Retail Archery Business lying on the north side of Route 40, 1,000 feet west of Route 42, to be located on a parcel containing 25,557.77 square feet more or less.

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

Mrs. Warrington stated that they propose to relocate their retail archery business, presently on Route 113 near Redden, closer to their residence and commercial poultry operation, that the store will handle retail archery equipment and related hunting accessories, that an archery range is not intended, that the business will be open from 4:00 P.M. to 8:00 P.M. daily, that the business will operate typical daytime hours during deer season, that a ground sign, not exceeding 32 square feet, will be erected in the front yard, that no wall signs are intended on the building, that parking shall be placed to the rear of the building, and that no adverse impact is anticipated on the neighborhood.

No parties appeared in opposition.

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

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

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the existing level of service "A" of Route 40 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, that the Evesboro soils may have slight limitations, that the applicants may be required to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type is 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 made by the applicant, that they propose to relocate their retail archery business, presently on Route 113 near Redden, closer to their residence and commercial poultry operation, that the store will handle retail archery and hunting equipment, that an archery range is not intended, that the business will be open from 4:00 P.M. to 8:00 P.M. daily, that the business will operate with typical daytime hours during deer season, that a ground sign, not exceeding 32 square feet, will be erected in the front yard, that no wall signs are intended on the building, that parking shall be placed in the rear of the building, and that no adverse impact is anticipated on the neighborhood.

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

1. The building shall be located as presented in the conceptual plan.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

2. RE: C/U #1051 -- John J. Marsh

John Marsh and Joseph Conaway, consultant, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Indian River Hundred for an Expansion to Conditional Use No. 1003 (Boat Storage and Repair) by Inclusion of Boat Sales and Related Parts Sales lying on the north and east sides of Road 289, 200 feet south of Route 24, to be located on a parcel containing 5.43 acres more or less.

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

Mr. Conaway submitted a brochure of exhibits on behalf of the applicant. The brochure included a copy of the deed to the property, a copy of the site plan, a copy of the Support Facilities Report from DelDOT, map exhibits from the Coastal Sussex Land Use Plan referencing wetlands and timberlands, critical natural areas, historic sites, and future land use, a chart from the Coastal Sussex Land Use Plan referencing percentages of income derived from Tourist Expenditures in Sussex County which referenced boats, and a map of major outdoor recreation facilities.

Mr. Conaway advised the Commission that Mr. Marsh intends to add boat sales and boat parts sales to the existing boat storage, service and repair business, that there is no intent to sell fuel, that there is no intent to store travel trailers or motor homes, that there is no intent to expand the size of the site, that approximately 1/2 of the conditional use site is utilized for the present storage and repair, that there are 128 boats stored at the site, that the present Conditional Use does not permit sales, and that this application will correct and permit sales.

Mr. Marsh advised the Commission that he plans to extend the existing fence line and provide security, that there has been some vandalism.

Mr. Conaway requested that a sign be permitted that conforms to the Ordinance, and added that there is no anticipated impact on traffic or the neighborhood, that no wetlands exist on the site, that the 5.43 acres will be fenced, that no paving is proposed except that which may be required by DelDOT, that no critical natural areas or historic sites are impacted, that there is no anticipated impact on the school district, that the site is located in a Development District based on the Coastal Sussex Land Use Plan, that the use supports tourism and provides a service to the area, that the location is appropriate to serve the general area, that four additional jobs may be provided, that the use protects the inland bays by providing dry boat storage, that schedules hours are 7:00 A.M. to 5:00 P.M. daily, that parking shall be designated on the site plan, and that an area will be set aside for boat sales.

Louis A. Rickards, an area resident, read and submitted a letter of opposition and added that property taxes in the area should be reduced since the use will reduce property values.

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

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

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras loam and sandy loam which may have slight limitations for the intended use, that the applicants may be required to follow an Erosion and Sedimentation Control Plan during construction and to maintain a vegetative cover after completion of any construction, that the farmland rating of the soil type is Prime, that no storm flood hazard area or tax ditch is affected, that it may not be necessary for any off-site drainage improvements, and that it may be necessary for some on-site drainage improvements.

The Commission found that the applicants submitted a brochure of exhibits which included a copy of the deed to the property, a copy of the site plan, a copy of the Support facilities Report from DelDOT, map exhibits from the Coastal Sussex Land Use Plan referencing wetlands and timberlands, critical natural areas, historic sites, and future land use, a chart from the Coastal Sussex Land Use Plan referencing percentages of income derived from tourist expenditures in Sussex County which references boats, and a map of major outdoor recreation facilities.

The Commission found, based on comments made by representatives of the application, that the applicant intends to add boat sales and boat parts sales to the existing boat storage, service and repair business, that there is no intent to sell fuel, that there is no intent to store travel trailers or motorhomes, that there is no intent to expand the size of the site, that approximately 1/2 of the site is utilized for storage and repair, that there are 12 boats stored at the site, that the present Conditional Use approval does not permit sales and that this application will correct and permit sales, that the existing fence will be extended to include the entire 5.43 acres site, that security will be provided, that the applicant request that signage be permitted that conforms to the Ordinance, that there is no anticipated impact on traffic or the neighborhood, that no wetlands exist on the site, that no paving is proposed, that no critical natural areas or historic sites are impacted, that there is no anticipated impact on the school district, that the site is located in a Development District based on the Coastal Sussex

Land Use Plan, that the use supports tourism and provides a service to the area, that the location is appropriate to serve the general area, that four additional jobs may be provided, that the use protects the inland bays by providing dry boat storage, that scheduled hours of operation are 7:00 A.M. to 5:00 P.M. daily, that parking shall be designated on the site plan, and that an area will be set aside for boat sales display.

The Commission found that an area resident submitted a letter in opposition which references that numerous violations have taken place on the site including sales, advertising signs, depreciation of property values, spot zoning, traffic hazards, lack of landscaping, and the changing of farmland into a fenced in commercial use.

Motion by Mr. Magee, 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. Hours of scheduled operation shall be changed to 7:00 A.M. to 5:00 P.M.
2. The stipulation of C/U #1003 shall continue to be met.
3. The revised site plan submitted with this application shall be subject to review and approval of the Planning and Zoning Commission.

3. RE: C/U #1052 -- John W. Lank

John W. Lank was present on behalf of his application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broadkill Hundred for a General Small Engine Repair Shop lying on the south side of Route 9, 0.9 mile east of Route 5, 2,192 feet west of Route 262 to be located on a parcel containing 1.79 acres more or less.

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

John W. Lank stated that he plans to utilize the shop for general repair of small engines, lawn and garden equipment and outdoor power equipment and accessories, that he did a marketing study by reviewing several sales locations that sell the small engine types of equipment but perform no repair, that he will be providing factory authorized warranty and service work, that he has no intent for sales of small engines or equipment, that no equipment will be stored outside for any longterm, that he has no objection to a stockade fencing being required for any outside

storage, that he has no intent to repair racing engines for go-carts, motorcycles, boat motors, or other motorized vehicles, that his planned business hours are 8:00 A.M. to 5:00 P.M. weekdays and 8:00 A.M. to 12:00 P.M.(noon) Saturdays, that signage will be less than 32 square feet, unlighted, and shall be incorporated into an existing split rail fence.

George Hopkins, an area resident spoke in support of 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 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 Kalmia sandy loam and Rumford loamy sand which have slight limitations for the intended use, that the applicants may be required to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil types are both Prime and of Statewide Importance, that no storm flood hazard area or tax ditch is affected, and that it may not be necessary for any off-site or on-site drainage improvements.

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

The Commission found that the applicant was present and plans to utilize a shop for general repair of small engines, lawn and garden equipment and outdoor power equipment and accessories, that he did a marketing study by reviewing several sales locations that sell the small engine types of equipment but perform no repair work, that he will be providing factory authorized warranty and service work, that he has no intent for sales of small engines or equipment, that no equipment will be stored outside for any longterm period, that he has no objection to a stockade fencing being required for any outside storage, that he has no intent to repair racing engines for go-carts, motorcycles, boat motors, or other motorized vehicles, that his planned business hours are 8:00 A.M. to 5:00 P.M. weekdays and

8:00 A.M. to 12:00 P.M. (noon) on Saturdays, that signage will be less than 32 square feet, unlighted, and shall be incorporated into an existing split rail fence.

The Commission found that an area resident spoke in support of the application.

Motion by Mr. Phillips, 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. Business hours shall be 8:00 A.M. to 5:00 P.M. weekdays and 8:00 A.M. to 12:00 P.M. (noon) Saturdays. There shall be no Sunday hours.
2. Signage shall not exceed 32 square feet and shall be unlighted.
3. Stockade fencing shall be provided around any outside storage.
4. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

4. RE: C/Z #1205 -- Lawrence C. Kelly

Lawrence C. Kelly and Joseph C. Raskauskas, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Baltimore Hundred, located on the northwest side of Route 17, 0.4 mile southwest of Route 353 to be located on a parcel containing 4.10 acres more or less.

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

Mr. Raskauskas advised the Commission that the applicants own and operate a maintenance business for landscaping, carpentry, and general home maintenance, that they propose to build a maintenance building, an office for the maintenance business, a building for storage of vehicles, and commercial greenhouses, that the use of the site will include nursery stock and landscaping materials and supplies.

Mr. Kelly advised the Commission that he wants to expand his business to include the nursery and landscaping, commercial greenhouses, and lawn and garden center, that the intended use will not impact the neighborhood, that rustic buildings with metal roofs are proposed, and that 3 additional jobs may be created.

Mr. Lank read a letter of opposition from Howard B. Hitchens.

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 "B" of Route 17 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 Pocomoke sandy loam which has severe limitations due to wetness if not adequately drained, that the applicant may be required to follow an Erosion and Sedimentation Control Plan during construction and to maintain vegetative cover after completion of any construction, that the farmland rating of the soil type is Prime, that no storm flood hazard area is affected, that it may not be necessary for off-site drainage improvements, that it may be necessary for some on-site drainage improvements, that the Beaverdam Canal Tax Ditch runs along the southwest property line of the site, and that a 16.5 foot wide maintenance right of way exist along the tax ditch.

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

The Commission found, based on comments made by representatives of the application, that the applicant owns and operates a maintenance business for landscaping, carpentry and general maintenance, that they propose to build a maintenance building, an office for the maintenance business, a building for storage of vehicles, and commercial greenhouses, that the buildings will be sided with wood and the roofs will be metal, that the use of the site will include nursery stock and landscaping materials and supplies, a lawn and garden center, that 3 additional jobs may be created, and that the intended use will not negatively impact the neighborhood.

The Commission found that one letter was received in opposition to this application from a neighbor which questioned the need for rezoning for agricultural uses, nursery stock and sales of products raised on the premises, that there is no commercially zoned property on Route 17, that the change will significantly change for the worse the character of the area, and that many uses permitted in a commercial district could bring a completely undesirable or disruptive activity to the area.

Motion by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since the area is predominantly an agricultural/residential area, since commercial greenhouses are permitted on 5 acres or more, and since a Conditional Use may be more appropriate for the use.

5. RE: An Ordinance to Amend Chapter 115, the Code of Sussex County Relating to Site Plan Requirements.

Mr. Lank summarized the text of the Ordinance relating to site plan requirements and referencing landscape architects, wetlands, floodplains, and wetlands delineations.

Mr. Bayard asked those in attendance if anyone objected to the references to wetlands, floodplains, and wetlands delineations.

There were no objections reported.

Thomas J. Ford, Landscape Architect, read and submitted a letter in support of the Ordinance with some suggested amendments.

Jeffrey A. Clark, Landscape Architect, submitted a copy of the enabling legislation for the reestablishment of the Board of Landscape Architects and an informational brochure on the Landscape Architect Registration Examination.

Mr. Clark asked that his letters of June 14, 1993 and August 10, 1993 be made a part of the record of this hearing.

Mr. Clark added that the Ordinance will provide for an expertise that is not referenced, that other professionals are required to seal information related to their profession, i.e. soil scientist, wetland delienators, surveyors, and engineers, and that all those referenced are involved in the preparation of plats.

Jeff W. Seemans, Landscape Architect, submitted a letter of support dated August 11, 1993, and stated that Landscape Architects provide a service, that they work and coordinate projects with all professionals to improve the quality of life, that Landscape Architects have historically been linked with land planning, that the Ordinance will be of benefit to Landscape Architects, Surveyors, and other professionals, the government, the public, and our natural resources, that approximately 100 firms or individuals exist in Delaware that include Landscape Architects, and suggested that the Ordinance be changed from "and" to "or" where the Ordinance references the seal of a Landscape Architect.

John Wech, Landscape Architect, read and submitted a letter of support dated August 11, 1993.

Robert D. Hand, Landscape Architect, read and submitted a letter of support dated August 11, 1993.

Elton Murray, Surveyor, submitted a letter dated August 12, 1993, questioning what a Landscape Architect will be certifying, and expressing a concern that the Landscape Architect will be certifying the boundary or title lines without the required certification, and questioning if the County can change the role of a licensed professional specified under State statute.

Steve Soule', Professional Engineer, stated that Surveyors and Engineers are required for projects and that Landscape Architects provide a vast knowledge into the process, but are not required, and that Landscape Architects should not be mandated in all types of projects.

C. Kenneth Carter, Surveyor, stated that there is a need for Landscape Architects as it relates to landscapes, questioned if a Landscape Architect seals a plat what is the Landscape Architect attesting to and is he liable, that a Landscape Architects seal could be necessary if a landscaping plan is submitted for recordation, and challenged the Ordinance and suggested that the County Attorney review the enabling legislation of Del Code Chapters 68, 69, and 70 for statutory procedures.

Charles Coffman, Surveyor, stated that passage of the Ordinance could push some surveyors out of business, that disciplines overlap between surveyors and landscape architects, that he opposes the Ordinance, and that if the Ordinance is adopted he would prefer "or" not "and".

Robert Nash, Surveyor and Vice President of the Delaware Association of Surveyors, stated that they oppose the Ordinance, and that if the Ordinance is adopted they would prefer "or" not "and".

Charles Adams, Surveyor, referenced site plan information needed on plats that are provided by professions or experts where the information relates to soils, utilities, easements, location of structures, septic systems, wetlands, floodplains, etc..., that a Landscape Architect cannot certify the location of any of the referenced information, that a surveyor must design around the information referenced as they relate to entrances, roads, soils, wetlands, etc..., that a Landscape Architect may be needed if a site plan calls for a large open space or buffers, that Landscape Architects are not needed on all projects, and that open space requirements should be legislated.

Donald McCann, Surveyor, stated that he has worked and supported Landscape Architect usage if necessary, submitted copies of Surveyor trade journals and magazines which exhibited technical articles about planning and land design, added that he will continue to work with Landscape Architects, and added that Landscape Architects cannot attest to property title.

Peter Loewenstein, Surveyor, spoke on behalf of the citizens opposing the Ordinance due to the creation of an unnecessary cost.

Robert Sigler, Surveyor, opposed with the same thoughts as the other Surveyors.

Jack Connors, Surveyor, opposed with the same thoughts as the other Surveyors, and questioned the membership of the committee that reviewed the RPC Ordinance and suggested this amendment of the Ordinance.

Mr. Lank advised the Commission that the committee was appointed by the County Administrator on behalf of the County Council and included the County Administrator, Mr. Lank, Mr. Abbott, a developer, two Realtors, and a Landscape Architect.

Mr. Lank advised the Commission that letters of support have been received from William O. Murray of Murrays Enterprises, Inc., Jeff and Susan Robinson of Beacon Homes, Inc., Robert J. Harris, Jr. of Gulfstream Development Corporation, Daniel P. Wagner of Geo-Sci Consultants, Inc., Charles A. Zonko of Zonko Builders, Inc., Jack Hickman of Jack Hickman Real Estate, Clarence L. Chaffee, Executive Director of the Council of Landscape Architectural Registration Boards, Matthew T. Spong of

Landscape Architectural Services, Gerald F. Vaughn, Extension Specialist with the University of Delaware Cooperative Extension, W. Ronald Morgan of Becker/Morgan Architects, Inc., Michael F. Green, Environmental Scientist, Frederick D. Jarvis, President and Director of Land Planning of LDR International, Inc., Donald C. Westphal, Landscape Architect and Site Planner, and Richard D. Eddinger, Sarah L. Ford, Surveyor, of Land Design, Inc., and Robert V. Witsel, Jr. Attorney.

Mr. Lank advised the Commission that letters in opposition have been received from Michael D. Swain, Surveyor, of AKS Associates, Inc., and Roger D. Brickley, Surveyor and member of the Governmental Affairs Committee for the Delaware Association of Surveyors, and Michael F. Lynn, President of Sea Colony Development Corporation, Inc.

Mr. Lank advised the Commission that several of the letters received questioned the use of seals of Professional Engineers, and suggested that they prefer the wording "or" rather than "and".

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

The Commission discussed the points and issues raised referencing the Ordinance.

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

6. RE: An Ordinance to Amend Chapter 99, the Code of Sussex County relating to Preliminary and Final Plat Requirements.

Mr. Lank summarized the text of the Ordinance relating to preliminary and final plat requirements and referencing landscape architects, wetlands, floodplains, and wetlands delineations.

Mr. Lank asked those in attendance if they wished that their comments and letters submitted in reference to the amendments to Chapter 115 be made a part of the record.

All parties present agreed.

Thomas J. Ford, Landscape Architect, confirmed his comments being the same as comments made in reference to Chapter 115 amendments, and again suggested that he prefer the wording "or" rather than "and".

Jeffrey W. Seemans, Landscape Architect, stated that he supports the amendments, and submitted a copy of a July 1992 "Landscape Architecture" magazine for the Commissions review.

Elton Murray, Surveyor, questioned if the Ordinance requires the seal of a Landscape Architect on final plats.

Mr. Lank stated that the seal will only be required on preliminary plats.

Steve Soule', Surveyor, stated that the County Attorney needs to research and respond to the Statutory questions raised by C. Kenneth Carter during the Chapter 115 hearing.

Donald McCann, Robert Nash, and Elton Murray, Surveyors, stated that they oppose the Amendments for the same reasons stated during the Chapter 115 hearing.

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

The Commission discussed the points and issues raised referencing the Ordinance.

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

III. Other Business

1. RE: Hickory Tree - Multi-Family Project

The Commission reviewed a site plan for a 35 unit multi-family project located on the western side of Route 60, approximately 350 feet north of Route 377 near Selbyville.

Jerry Jones of the Delaware State Housing Authority was present on behalf of the Authority.

Mr. Lank advised the Commission that the site plan had been reviewed on July 22, 1993 and that action was deferred due to questions raised about buffering the site from the adjoining farmland.

Mr. Jones advised the Commission that the site plan meets the criteria established by the Planning and Zoning Department staff, that grant money is tight, that they are willing to provide additional landscaping within the setback adjoining the farmland, that fencing is out of the question, that the site plan meets the intent of the Ordinance, that the site will include on-site management, that amendment of the site plan to create the

buffer will cost prohibitive, and that they are willing to work with the State Forester for the proper type of landscaping.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve the site plan with the stipulation that additional landscaping be provided along the adjoining farmland and that the Authority obtain approval of the State Forester for the type and amount of landscaping.

2. RE: South Shore Marina - Multi-Family Site Plan

James Fuqua, Attorney, and Doug Jones, Surveyor, of Soule' Associates, were present on behalf of the developer for a preliminary site plan for 36 multi-family units south of Indian River Inlet and west of Route One.

Mr. Fuqua exhibited the site plan and a photograph of the site. The photograph of the site depicted the previous marina area and manufactured home park.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve the site plan as a preliminary.

Mr. Fuqua asked the Commission if a common open area was to be placed along the waterway would subdivided lots with frontage along the common open area be required to have 150 feet of frontage along the waterway.

Mr. Bayard advised the Commission that if the common open area separates the lots from the waterway the lots would not be required to conform if the lots and open area were properly restricted.

3. RE: The Plantations - Revised Site Plans

The Commission reviewed site plans for additional porches and decks to the units in the Plantations, and for a propane storage facility in the utility area to serve the project. The propane storage facility will serve the Plantations project only.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to approve the revised site plans.

4. RE: Remus Gibbs - Lots off of Route 525

The Commission reviewed a sketch showing revised lots within lands conveyed by Mr. Gibbs to family members. The sketch showed the lots as mapped in error by the Board of Assessment Mapping Department and an overlay of the lots as they were intended.

Mr. Lank advised the Commission that he has tried to revise the lots to conform to all setback requirements, that a mobile home shall be required to be removed, and that the existing right of way is only 25 feet in width.

Mr. Bayard stated that deeds will have to be prepared and recorded to correct all the errors in legal descriptions.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the revised subdivision concept. The staff to work with the Assistant County Attorney to verify legal compliance.

5. RE: Dean P. Geyer - 2 parcels off of Route 113

Mr. Lank advised the Commission that the site plan has been removed from the agenda at the request of Mr. Geyer's attorney.

IV. Old Business

1. RE: C/Z #1203 -- Maplewood Industries, Inc.

No parties were present on behalf of the application of Maplewood Industries, Inc. to amend the zoning map from Mr Medium Density Residential to C-1 General Commercial in Lewes and Rehoboth Hundred, located on the northwest side of Route 24, 581 feet southwest of Route One to be located on a parcel containing 5.03 acres more or less.

The Commission discussed the application deferred since July 22, 1993.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and with 4 votes, with Mr. Phillips not voting, to forward this application to the Sussex County Council with the recommendation that it be approved based on the record of support and since C-1 General Commercial zoning and a commercial use exist immediately adjacent, and since the site will have access to a major collector road, Route 24, with a proposed traffic light control system.

2. RE: Subdiv. #93-2 -- Harry, Jean & Stephen Seipp

Charles Adams, Surveyor, was present on behalf of Harry, Jean and Stephen Seipp to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred by dividing 21.43 acres into 26 lots, located on the north side of Route 52, 1,040 northeast of Route 516.

Mr. Lank advised the Commission that on February 26, 1993 the Commission approved the plan in concept and that preliminary approval would be subject to the developer obtaining a variance from the County Board of Adjustment for reduction of the lots size since the site is located in a Conservation Zone, and that on May 17, 1993 the County Board of Adjustment denied the variance request.

Mr. Adams submitted revised preliminary plans for 17 lots with all lots containing a minimum of 1 acre.

Mr. Lank advised the Commission that septic feasibility was received January 21, 1993 and that the site is suitable for individual on-site septic systems.

Motion by Mrs. Monaco, seconded by Mr. Ralph, and carried unanimously to approve the subdivision as a preliminary for the 17 one acre lots.

3. RE: Subdiv. #93-8 -- Fine Home Builders, Inc.
& Pegasus Construction Co., Inc.

No parties were present on behalf of the application of Fine Home Builders, Inc. & Pegasus Construction Co. Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 17.70 acres into 26 lots, located on the southern side of Route 277, 2,550 feet southwest of Route 275, and across from Gosling Creek Road in Gosling Creek Subdivision.

Mr. Lank advised the Commission that preliminary approval was granted on May 27, 1993, and that all appropriate agency approvals have been obtained.

Motion by Mr. Phillips, seconded by Mr. Magee, and carried unanimously to approval the subdivision as a final.

4. RE: Subdiv. #93-9 -- Horace A. Sagers

No parties were present on behalf of the application of Horace A. Sagers to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Baltimore Hundred by dividing 2.13 acres into 3 lots, located on the west side of Katie Street, 120 feet south of North Orlando Avenue of Murray's Estates Subdivision, and as an extension to Murray's Estates Subdivision.

Mr. Lank advised the Commission that a letter of septic feasibility dated July 14, 1993 was received on July 23, 1993.

Motion by Mr. Magee, seconded by Mrs. Monaco, and carried unanimously to approve the subdivision as a preliminary.

5. RE: Subdiv. #93-4 -- Blue Heron, Inc.

Charles Adams, Surveyor, was present on behalf of the application of Blue Heron, Inc. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Georgetown Hundred by dividing 58.21 acres into 14 lots, located on the northwest side of Evergreen Drive of Blue Heron Estates, and as an extension to Blue Heron Estates Subdivision, and request a variance from the maximum allowed cul-de-sac length of 1,000 feet.

Mr. Lank advised the Commission that all appropriate agency approvals have been received.

Motion by Mr. Ralph, seconded by Mrs. Monaco, and carried unanimously to approve the subdivision as a final.

6. RE: Subdiv. #89-23 -- George Marshall

William P. Jensen was present on behalf of George Marshall requesting that the Subdivision be reinstated with a preliminary subdivision approval.

Mr. Lank read a letter dated August 4, 1993 from Mr. Jensen on behalf of Marshall/Jensen JV requesting to be permitted to continue under the previous application with the addition of two requirements: (1) a 30 foot wide tree buffer between the project and any adjoining farmland, and (2) a 50 foot building setback from any adjoining farmland.

Motion by Mr. Magee, seconded by Mr. Ralph, and carried unanimously to grant a one year time extension for submittal of final subdivision plans with the stipulation that:

1. A 30 foot wide tree buffer shall be provided between the project and any adjoining farmland.
2. A 50 foot building setback shall be provided from any adjoining farmland.

The meeting adjourned at 11:50 P.M.