

MINUTES OF THE REGULAR MEETING OF AUGUST 23, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 23, 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, and Mr. Wheatley, with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Ms. Jackson - Recording Secretary.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to amend the agenda by scheduling the review of the Old Business items before the Public Hearings.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of August 9, 2001 as amended.

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

OLD BUSINESS

C/Z #1443 -- application of **MERRITT BURKE, III.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a M Marine District for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, land lying south of Route 36, across from Route 203 and west of Cedar Creek Canal, to be located on 68.2873 acres, more or less.

C/U #1414 -- application of **MERRITT BURKE, III.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a seasonal campground to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 43.78 acres, more or less, lying south of Route 36, 1,700 feet west of Cedar Creek Canal.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to defer action on C/Z #1443 and C/U #1414.

C/U #1413 -- application of **EDWARD J. KAYE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for expansion of an existing borrow pit (Conditional Use No. 954 and No. 1079) to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 200.5 acres, more or less, lying at the northeast corner of Route 531 and Route 533.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to defer action on C/U #1413.

PUBLIC HEARINGS

SUBDIVISION #2001-21 -- application of **HUDSON-REED, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 57.68 acres into 49 lots, located north of Road 277, 825 feet west of Road 279.

The Commission found that the Technical Advisory Committee reviewed this application on August 15, 2001 and that the Technical Advisory Committee Report was made a part of the record for this application.

Mr. Lank read a letter in opposition to the application from Sara Katherine Kielbasa referencing concerns about noise, congestion, children roaming the roads at all hours of the day and night, disturbances and cars speeding; that she is concerned about the loss of forest and animal habitat; and that she is concerned that the area is already overcrowded.

The Commission found that James Fuqua, Attorney, Jeff Clark of Land Tech, LLC, and Craig Hudson were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that the project is proposed to be titled Bay Ridge Woods; that several other Subdivisions are in the area; that central water is proposed to be provided by Tidewater Utilities; that on-site septic systems are proposed; that the site is wooded; that they intend to preserve as much wooded area as possible; that the amount of woods cleared on a lot will be subject to deed restrictions; that the site slopes back to the proposed stormwater management area; that the natural grade of the site will remain; that a couple of small pockets of wetlands exists on the site; that all lot areas exceed the minimum of the Code; that an electrical substation exists on the adjoining parcel; that there should be no negative impacts on property values; that there will be no loss of agricultural lands since the site is wooded; that one entrance is proposed on Route 277; that the streets will have curbing and gutters; that sidewalks will be provided on one side of the streets; that a rare species inventory was performed on the site and that no rare species were found; that lot 47 and lot 48 have access to Route 277 and will access from a common driveway entrance; that the wetlands will not be disturbed; and that the State DNREC has granted septic feasibility.

The Commission found that Mr. Clark submitted a copy of the State DNREC Feasibility Statement.

The Commission found that Mable Granke stated that Rob Line of the Office of Nature Preserves of the State DNREC Division of Parks and Recreation stated in the TAC Report that the site is within the recently designated "Environmentally Sensitive" area surrounding the Inland Bays; that the site indicates no open space except for the stormwater management area and that the wetland will become isolated and would

quickly become degraded if the surrounding residential properties are developed; that the project as proposed is not environmentally sensitive and inappropriate for the property; and added that the County should defer action on the application to allow the State or private sector to consider purchasing the site.

The Commission found that Mike Tyler of Lewes stated that he is cyclist that rides this roadway; that the area is very pristine; that the area is a nice natural area, and that the area should be protected.

The Commission found that Mr. Fuqua responded that the site is located in the Environmentally Sensitive Developing Area, emphasized the word Developing, and requested preliminary approval.

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 defer action.

Vote carried 5 - 0.

SUBDIVISION #2001-22 -- application of **C.LARRY MCKINLEY** to consider the Subdivision of land in a GR General Residential Zoning District in Cedar Creek Hundred, by dividing 109.94 acres into 110 lots, located north of Road 38, 800 feet west of Route 30 and west of Route 30, 800 feet north of Road 38.

The Commission found that the Technical Advisory Committee reviewed this application on August 15, 2001 and that the Technical Advisory Committee Report was made a part of the record for this application.

Mr. Lank read a letter from the Sylvan Acres Homeowners Association advising that their volunteer Board and Committee members work diligently to maintain community standards that will guarantee continued improvement in the value of their homes, and that they hope that the Commission will see to it that this new community will be structured whereas its restrictions and covenants provide for similar standards.

The Commission found that Donald Miller, Surveyor, and Brain McKinley were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the entrance is proposed to be on Route 38 approximately 1,100 feet west of Route 30; that the property has been zoned as GR General Residential for years; that no single wide mobile homes are proposed to be permitted and that double wide sectional manufactured homes are proposed; that the project has been reduced from 110 lots to 104 lots since they are going to provide a buffer along the Hall property; that

the property adjoins the Kings Crossing Subdivision; that individual septic systems and wells are proposed; that the streets will be hot-mixed private streets; that they propose to phase the project with 25 lots per phase; that two stormwater management areas are proposed; that approximately 0.75 acre of wetlands exists in a wooded area; that traffic will increase as phases are developed; that the private streets and stormwater management areas will be privately maintained by a Homeowners Association; that the agricultural irrigation well on the site will be abandoned; that the farming operation will continue and the area for farming will be reduced as phases develop; that a ditch system exists on the site and will remain as a part of the stormwater management system; and that the Homeowners Association will take over maintenance of the project as 75% of the lots are conveyed.

The Commission found that Dwight Aiken spoke in support of the application and stated that the lots will be marketable and reasonable for young people to start their first homes and that the area is a nice growing residential area.

The Commission found that Kevin Clark spoke in opposition to the application and expressed concerns about decreasing property values, and children playing in roads; that vandalism will continue as it has in the area with damaged mail boxes and trash cans; speeding traffic; increased traffic; increased congestion; crime; that the area is starting to appear as a town; and that the farming community is being impacted.

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 grant preliminary approval for 104 lots with the stipulations that the restrictive covenants reference that the Homeowners Association shall take over maintenance after 75% of the project is completed, and that no single wide manufactured homes are permitted.

Vote carried 5 - 0.

SUBDIVISION #2001-23 -- application of **ROBERT W. DURHAM** to consider the Resubdivision of land in an AR-1 Agricultural Residential Zoning District in Little Creek Hundred, by reducing Lots 9, 11, 14, 18, and 21 within North Towns End Subdivision to 1.00 acre, located at the northwest corner of the intersection of Road 494 and Road 493.

The Commission found that the Technical Advisory Committee reviewed this application on August 15, 2001 and that the Technical Advisory Committee Report was made a part of the record for this application.

The Commission found that Donald Miller, Surveyor and Debbie Brittingham, Realtor, were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that they propose to reduce the five lots from 5 acres to 1 acre so that the rear 4 acres of each lot can be combined with the acreage to the rear.

The Commission found that the applicant had submitted promotional plots of the Subdivision with notes that read that the owner does not object to downsizing lots 9, 11, 14, 18, and 21 to one acre, nor the future subdivision of North Towns End.

The Commission found that no parties were present in opposition.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to grant approval of the reduction of Lots 9, 11, 14, 18, and 21.

Vote carried 5 - 0.

C/U #1418 -- application of **CAPE HENLOPEN SCHOOL DISTRICT** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a public school to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 30.0 acres, more or less, lying southeast of Route 24, 470 feet southwest of Route 284, and also northwest of Route 284.

The Commission found, based on comments received from DelDOT, that the Department has reviewed a trip generation study performed at the Milton Middle School; that the Department finds that the trip generation rate has been determined to be acceptable for use for this site; that a traffic impact study will not be required; that the Department expects one entrance to be designed for the project; and that the entrance will be required to have protected left turn lanes.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Sassafras sandy loam, and Sassafras loam; that the soil types have slight limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation after completion of construction; that the Evesboro soils are considered of Statewide Importance; that the Sassafras soils are considered Prime Farmland; that no storm flood hazard areas or tax ditches are affected; and that it may be necessary for some on-site and off-site drainage improvements due to the increased storm runoff during storm events.

The Commission found that Hans Medlarz of Davis, Bowen & Friedel, Inc. and George Gank, Assistant Vice Principal for Cape Henlopen School District were present and stated in their presentations and in response to questions raised by the Commission that the District is growing; that site acquisition has been authorized by the State Board of Education; that the site was selected in an open process; that the site is adequate for a middle school with adequate recreational sports facilities; that the site is in the center of a growth area; that access to the site has been determined to be from Route 24; that they are negotiating with the County for public sewer; that they are negotiating with Tidewater Utilities for central water; that the site is high with adequate area for stormwater management; that a single entrance, with protected left turns, is proposed; that they do not anticipate the need for a traffic light; that DelDOT plans may provide for a 4-legged intersection in the future; that bus parking, visitor parking, and staff parking are separated; that the athletic fields are close to parking areas; that the referendum passed 2.5 to 1 for construction of two new middle schools in the District; that their growth study indicated that growth was west of Route One, not east; that this site was chosen since it was located in the center of the growth area and since the location would provide for less bus travel time for the students; that there is a driveway dedicated for dropping off students and handicap parking; that all other parking is located in separate parking lots; that no access to Route 284 is proposed based on a recommendation from DelDOT; that Route 24 will be widened; that there is no intent to provide lighting on the athletic fields; that the stormwater management areas will be fenced; that the athletic fields are proposed to be approximately 100 feet from Route 24; that the school will be air conditioned if a year round school becomes a reality; that the core facility is designed for 700 students; that the initial design is for 500 students; and that the building is designed so that expansion can be provided in the future.

The Commission found that Irene Murray, an adjoining land owner, submitted a packet of documents in reference to her property line next to the school, summarized the packet and expressed concerns about possible errors in the property line, traffic safety, traffic hazards on Route 24; speeding traffic in a school zone; the safety of children walking to school on Route 24; questioning where and how children will cross Route 24 to get to the school; expressing concerns about drugs and crime; stating that a fence should surround the school property; expressed concerns about the closeness of her home to the athletic fields; requesting a fence and tree buffer between her home and the athletic fields; and expressed a concern that the school is taking her property.

The Commission found that the packet contained (A) copies of a deed to Alfred G. Best and M. Edna Best, (B) a Gallo Realty, Inc. sales document; (C) a copy of the County Tax Map of the area and her parcel #41.2 (D) a copy of her Agreement of Purchase and Sale, (E) a letter from Gallo Realty, Inc., (F) a Gallo Realty, Inc. Extension Agreement, (G) copies of three Tax Map I.D. Cards, (H) a copy of a County Tax Map Division Work Request sheet, (J) a copy of her Tax Map I.D. Card, (K) a copy of a County Tax Map

Division Work Request sheet, (L) a copy of Linda Elizabeth Best County Property Record Card, (M) a copy of Alfred G. Best, Trustee and M. Edna Best, Trustee, County Property Record Card, (N) a copy of her County Property Record Card labeled Parcel #41.2, (O) a copy of her County Property Record Card labeled Parcel #687, (P) a copy of a non-titled survey with no signature or seal, (R) a copy of a tax bill printout for Parcel #687, and a copy of her 1999 Annual Tax Bill, (S) a copy of the County Tax Map for her area and her Parcel #687, (T) a copy of the deed for the Cape Henlopen School District property; (U) a copy of the survey for the Cape Henlopen School District property, (V) a copy of the Tax Map for the area, and (W) a copy of the site map for the Cape Henlopen School District property.

The Commission found that Mr. Medlarz stated that they are aware of Ms. Murray's concerns and that the property survey will be checked and the property lines verified.

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. Wheatley, and carried unanimously to defer action.

Vote carried 5 - 0.

C/Z #1444 -- application of **T. WILLIAM LINGO** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-1/RPC High Density Residential District-Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying at the northeasterly end of Hebron Road (Route 273) and 1,800 feet northeast of Route One, to be located on 29.15 acres, more or less.

Mr. Schrader stated that he is stepping down due to a possible conflict of interest.

The Commission found that the applicant had provided a packet of information for the Commission's review and that the packet included a summary of the application, a Sussex County Engineering Department letter dated May 30, 2001, a Department of Transportation letter dated May 8, 2001, a City of Rehoboth Beach letter dated August 17, 2001, a Declaration of Covenants, Conditions, Easements and Restrictions, a proposed Conditions of Approval, and a colored site plan.

The Commission found, based on a letter from DelDOT, that the Department does not recommend that the County require a Traffic Impact Study for this rezoning; that the Department is concerned about this application; that the Department sees this application as encouraging more traffic in an area that has been identified as operating at

unacceptable levels of service; that Phase I of the Department's Route One Grid Concept Study developed conceptual alignments for a local road system to serve the Lewes and Rehoboth area, and it recommended the construction of a local road and a pedestrian and bicycle path through this property; that Phase II of the study will add greater definition to these links based on the level of growth and development expected by the County in the Study area; that if the County is otherwise inclined to approve this application, the Department recommends that it first obtain certain assurances from the applicant regarding this road and path; and that the Department recommends that the County seek binding deed restrictions obligating the applicant to reserve public rights-of-way through the property for the local road and path.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras sandy loam which has slight limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation after completion of construction; that the Sassafras soils are considered Prime Farmland; that no storm flood hazard areas or tax ditches are affected; and that it may be necessary for some on-site and off-site drainage improvements because of the increased storm runoff during storm events.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State has no objections to the rezoning of this land as it is in a Developing and Community Area of the Strategies for State Policies and Spending Document; that the State does ask the County to require the following conditions on the rezoning: that the Developer should be required to make a presentation to the Cape Henlopen School Board in reference to any children living in the project that would attend schools in the District; that the County should verify whether or not the applicants have provided and dedicated rights-of-way per DelDOT requests; that the lands adjacent to this parcel is part of the Cape Henlopen Natural Area and contains lands identified as part of the Cape Henlopen State Resource Area; that the site is also adjacent to a possible bike path link between the towns of Lewes and Rehoboth; that the developer should be required to work with the State DNREC Division of Parks and Recreation in developing suitable buffers that would respect the integrity of the adjoining Cape Henlopen Natural Area; that the site contains one known prehistoric period archaeological site; and that the State asks that the County require the developer to work with the State Historic Preservation Office to avoid this prehistoric site in the plan development.

The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Division, that the site is in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that capacity is available for the project; that the project shall be required to be built to Ordinance No. 38 requirements; that the current System Connection Charge Rate is \$2,954.00 per EDU; that the location and size of the laterals and connection points shall be determined by the

Utility Construction Division; and that conformity to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District Planning Study, or undertaking an amendment will be required.

The Commission found, based on comments received from the Sussex County Engineering Department Public Works Division, that the proposed project should be reviewed by the Technical Advisory Committee; that the roads should be designed and constructed in accordance with the street design requirements of Chapter 99, and shall include the ditch crossing; that the site contains a drainage ditch that provides drainage for adjacent communities; and that the construction of this project should not adversely impact the existing drainage of adjacent parcels of land.

The Commission found that James Fuqua, Attorney, Bill Lingo and Bryce Lingo were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that Canal Corkran, a 177 unit Residential Planned Community, was approved by the County Council in 1998; that the Canal Corkran project has a density of 2.76 units per acre on a 62 acre tract; that this application is an extension to the Residential Planned Community; that the HR zoning classification was applied for since the site contains less than 40 acres and would not be acceptable as a MR-RPC for mixed housing types; that they propose to develop 60 units on 29.15 acres with a density of 2.06 units per acre; that they have applied for the RPC so that the number of units can be restricted; that they propose to develop 32 townhomes and 28 single family dwellings on the site; that the restrictive covenants will be the same as Canal Corkran; that the surrounding area is developing as a Residential Planned Community to the south, farmland and a pond to the north, West Rehoboth Subdivision to the west, and commercial zonings to the east; that the City of Rehoboth will provide central water; that public sewer will be provided by the County; that stormwater management will be subject to review and approval by the Sussex Conservation District; that no wetlands exists on the site except for the ponds edge; that no units are proposed to be located within 75 feet of the pond; that the entrance to the project will be through Canal Corkran; that the site was previously used for agriculture; that dirt and sand was removed from the site after the 1962 storm; that the streets are proposed to be dedicated to public use; that they will build the streets in the project to State specification with curb and gutter; that DelDOT will build it's portion of the Grid Road when it is determined necessary; that the applicants have entered into a traffic signal agreement with DelDOT for improvements to Rehoboth Avenue Extended; that the County will benefit by the project through building permit fees, taxes, and sewer impact fees; that the site is within easy walking distance to Rehoboth; that the recreation amenities for Canal Corkran will be available to the residents of this project; that the applicants have contracts for sale of approximately 60% of the Canal Corkran project; that over 50% of the area of the site is open space; that when DelDOT completes the road improvements within the dedicated 80-foot wide right-of-way there will be a connection between Church Street and Hebron

Road; that the site is located in a Development District according to the 1997 Comprehensive Plan and is close to the Town Center for Rehoboth; that the site is located in a Community and Developing Area according to the Strategies for State Policies and Spending Map; that the State has voiced no objection to the rezoning according to a letter from the Office of State Planning Coordination; that the developers have been active in development of projects like Spring Lake and Wolfe Pointe; that all of the old railroad right-of way is on the Futcher property, not on this site; and that they have no objection to the following conditions of approval: 1) The maximum number of residential units shall not exceed sixty (60) units comprised of twenty-eight (28) single family lots and thirty-two (32) townhouses; 2) The development shall utilize the approved entrance for the Canal Corkran RPC (C/Z #1359) for ingress and egress; 3) The development shall be an extension of the approved Canal Corkran RPC and shall be subject to the Declaration of Covenants applicable to that RPC; 4) The streets within the project shall be built to State specifications with curbing; 5) Street lighting shall be provided; 6) Access to the project shall be created at the multi-modal corridor. The Department of Transportation shall determine the location of the access on the multi-modal corridor; 7) All recreational amenities shall be completed prior to the settlement of any units in Section II of Canal Corkran; 8) The project shall be served by a central water system; 9) The project shall be served by Sussex County sewer; and 10) The final site plan shall be subject to review and approval by the Planning and Zoning Commission.

The Commission found that Mr. Fuqua submitted a copy of an Agreement Transfer Sheet and a Traffic Signal Installation and Maintenance Agreement between the STATE and Canal Corkran, L.L.C. for the record.

The Commission found that Charles Burton, a resident of West Rehoboth, questioned how Hebron Road, a 40-foot wide road, can be expanded to an 80-foot wide road.

The Commission found that Minnie Smith, a resident of West Rehoboth, stated that the traffic situation in the area has been studied and that she is concerned about traffic and the safety of the children in the area due to the traffic.

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 defer action.

Vote carried 5 -0.

OTHER BUSINESS

- 1) Nomad Village, Inc.
C/U #1398 Site Plan - Cove and Dune Roads

The Commission reviewed the site plan for 12 multi-family units within Tower Shores.

The Commission found that C/U #1398 was approved by the County Council on June 5, 2001 for 6 duplex buildings; that a duplex building would be built on each of the six lots; that six parking spaces would be provided per lot; that the units will be built on pilings; that the County Board of Adjustment granted variances for the units on June 18, 2001; and that the setbacks meet the requirements of the Code.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to receipt of all appropriate agency approvals by the staff.

- 2) Georgetown Chapter School
C/U #1402 Revised Site Plan - Route 9

The Commission reviewed the revised site plan for the school.

The Commission found that C/U #1402 was approved by the County Council on June 5, 2001; that the preliminary site plan was approved by the Commission on June 1, 2001; that final approval of the site plan was granted by the staff, after receipt of all appropriate agency approvals on July 11, 2001; that the revised site plan is for the relocation of three modular classroom units and one modular restroom unit with related landings and decks; and that the setbacks meet the Code.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried with 4 votes, to approve the site plan as revised. Mr. Wheatley abstained due to a possible conflict of interest.

- 3) Subdivision #2000-22 -- Leslie and Brenda Johnson
Time Extension - Route 541

The Commission found that the applicants were requesting a one-year time extension to allow them time to acquire all necessary agency approvals; that the Commission granted preliminary approval of the Subdivision on September 7, 2000; and that this is the first time extension request for this Subdivision.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to grant a one-year time extension.

- 4) Russell Givens
Variance from the 50-foot Agricultural Setback - Road 277

The Commission found that Mr. Givens built his home 49-feet from the adjoining property line; that 50-feet is required since the site adjoins land actively used for agriculture; that Mr. Givens owns the adjacent lands; and that the Commission must consider the variance since it is referenced in the Subdivision Ordinance.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to grant the variance as requested.

- 5) Kae E. Keister
2 Lots on 50-foot Right-of-Way - Route 623

The Commission reviewed a concept to create two lots on an existing 50-foot wide tar and chip easement. It was noted that the easement serves two parcels.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the two-lot concept, with the understanding that any further subdivision along the right-of-way shall be required to be processed as a major subdivision.

- 6) Bethany Bay - Revised Master Plan
Section 1.1, 1.2B, 1.3, 1.4, and 1.6

The Commission reviewed a revised site plan for revisions to Sections 1.1, 1.2B, 1.3, 1.4, and 1.6 of Bethany Bay RPC. It was noted that the total number of units built to date equals 180 units; that the total remaining units to be built equals 370 for a total of 550 units; and that the developer cannot build over 450 units until County sewer is available for hook-ups.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the revised Master Plan for Sections 1.1, 1.2B, 1.3, 1.4, and 1.6 of Bethany Bay RPC.

- 7) Village of Five Points
Conditions of Approval

The Commission found that Jim Fuqua, Attorney, was present on behalf of the developers of the Village of Five Points to continue discussions relating to doing site work on the site prior to receipt of all agency approvals.

Mr. Lank provided the Commission with a copy of a proposed revision prepared by Mr. Fuqua relating to site work. The revision reads "No site preparation, site disturbance, site

excavation or other site construction shall be commenced until a permit authorizing such site work has been issued and permits required by all other laws, ordinances, rules and regulations related to site work have been applied for from the appropriate agency".

Mr. Fuqua advised the Commission that the present condition, which reads "No site preparation, site disturbance, excavation, or other construction shall be commenced until all other permits required by all other laws, ordinances, rules, and regulations shall have been issued and the approved final site plan is recorded" restricts the applicant to acquiring all agency permits, some of which do not relate to site work, prior to commencing site work; that the applicant should be permitted to proceed with site work if he has shown the staff documented evidence that he has the appropriate permits to do site work and that all other permits have been applied for from all other agencies.

Mr. Schrader stated that it may be necessary for a bonding method to be provided to guarantee the work and that it may be necessary to refer an application to the County Engineering Department for comments prior to granting permission to do site work.

Mr. Fuqua stated that they have met with Mike Izzo, County Engineer, and it was concluded that the Engineering Department did not have a problem with the proposal, but that the Engineering Department could not permit the site work due to the condition of approval found in the Findings of Fact approved by County Council.

The Commission asked Mr. Schrader and Mr. Lank to prepare a statement relating to this issue for the Commissions consideration.

No action was taken on the request.

Meeting adjourned at 10:45 P.M.