

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 9, 1999

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 9, 1999, at 7:30 PM, in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware, with the following present:

Mr. Allen, Mr. Hastings, Mr. Johnson, Mr. Lynch, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to adopt the agenda as amended. The agenda was amended due to the withdrawal of C/Z #1386.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to approve the minutes of August 26, 1999 as circulated.

Mr. Schrader explained how the meeting will be conducted.

IV. PUBLIC HEARINGS

C/U 1304 -- application of CURTIS W. STEEN, JR. AND ARLEEN Q. STEEN to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a borrow pit to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 3.18 acres, more or less, of a 38.8 acre tract, lying east of Road 331, 1,100 feet south of Road 332.

Mr. Lynch advised the Commission that he would not be participating in the public hearing.

The Commission found, based on comments received from the Dagsboro Town Council, that the Town Council held a special meeting on September 1, 1999 to discuss the borrow pit, and that the Town Council made an unanimous decision to not take any action either for or against the application since the borrow pit's location is outside the town limits and since the Town Council has not had any expressed concerns from any town taxpayers concerning the issue.

The Commission found, based on comments received from the Mayor and Council of the Town of Millsboro, that the Town Council is concerned about possible increased truck traffic in Millsboro; that East State Street receives a good deal of traffic already and whether the traffic is on Route 24 or Old Landing Road it will also involve State Street; and that the Town Council realizes that the County Council will weigh both the good and the bad of an application and hopes that the County Council will pay extra consideration to the potential for overloading of these roads.

The Commission found that Curtis W. Steen, Jr. and Steve Parsons, Attorney, were present and stated in their presentations and in response to questions raised by the Commission that 1.18 acres of the 3.18 acre parcel is set aside for ingress/egress and that the remaining 2.0 acres is the area of the borrow pit; that the applicants are aware that stipulations can be placed on a Conditional Use application; that a traffic impact study was not required by DelDOT; that there should be no negative impact on the Town of Dagsboro or the Town of Millsboro; that there should be no negative impact on property values; that the driveway serves existing poultry houses on the farm; that trucks routinely come to the site to deliver and/or catch chickens, and to service and supply feed for the poultry operation; that the area is primarily used for agriculture with cattle farms, chicken farms, and cropland in the area; that a drainage problem exists on the farm near the poultry houses and that a pond will eliminate the drainage problem; that water stands on the site after rains and affects the foundation of some of the poultry houses; that that borrow pit is approximately 1,100 feet east of Road 331; that the borrow pit will be converted to a fish pond when completed; and that the applicants have no objections to stipulations being placed on their application.

The Commission found that Mr. Parsons submitted a letter from Mountaire referencing that dirt around the farm is eroding and creating potential problems and that Mountaire has concerns that water is causing foundation weakness at the poultry houses and that water could seep into the poultry houses.

The Commission found that Mr. Parsons submitted photographs of water standing between the poultry houses.

The Commission found that Mr. Parsons submitted some suggested conditions which include that the area of the property to be used as a borrow pit shall be limited to 3.18 acres of the applicant's 38.8 acre tract; that the location of the 3.18 acre borrow pit shall be exactly where the survey submitted with the application has it located; that the notes entitled "General Specifications, Construction Sequence & Conditions" on the survey become conditions that must be followed by the applicant; that the hours of operation of excavating, extraction of soil and trucking activities shall be from 7:30 A.M. until 4:40 P.M., with no Sunday hours; that only one operator shall be allowed to work the site at one time; that there shall be no more than 18 loads hauled from the site daily; that there shall be no signs posted; that the maximum term of this Conditional Use shall be 3 years; that the owners must comply with all County and State erosion and sediment control regulations; that a Final Site Plan, including all pit side slopes, excavation phasing and reclamation plans shall be reviewed and approved by the Sussex County Planning and Zoning Commission prior to commencement of operations; that no materials may be brought from off of the site for processing, mixing or similar purposes; and that all County, State and other required permits shall be obtained.

The Commission found that Kenneth Phillips was present on behalf of the applicant and stated that he owns a family operated construction business and has a need for fill dirt and top soil; that the business operates with three trucks; that he sees no need to haul more than 18 truck load per day; that he hauls to different areas of Sussex County; that he has shot grades of the site that show the drainage problems and that the water problem can be corrected with the creation of a pond; that he is certified with the State DNREC to dig ponds; that a large portion of the dirt dug from the pit will be spread across the site; that he has a 690 John Deere with a 5' wide bucket that can dig to 12' below grade at the center of the proposed pond; that a drag line could be used to dig deeper than 12'; that 2 to 1 slopes need to be maintained on the side slopes of the pit; and that the soils on the site are suitable for fill material.

The Commission found that Robert Kauffman, a Real Estate Broker and Appraiser was present on behalf of the applicant and stated that he toured the site and the surrounding area and feels that there should be no adverse impact on the property values in the immediate area; that his consideration included other uses in the area, i.e. poultry farms, the power plant, the County sewerage treatment plant, and an airstrip in the area; and added that after completion of the project the farm pond would also be a benefit to wildlife.

The Commission found that Mr. Parsons added that a need exists to correct a drainage problem on the site; that a contractor is available who needs fill dirt; that an appraiser has reviewed the proposal and anticipates no negative impact; that some of the signers of petitions against the application are not fully aware of the complete proposal; and that the proposed hours of operation, time limits, and use limits should benefit the application.

The Commission found that Lisa Goodman, Attorney, present on behalf of an ad-hoc group of area residents, and Debbie Baker, Charles West II, Linn Hickman, Norma Anderson, Richard Baker, Norman Davidson, Jr., Connie Magee, Wolfgang von Baumgart, and Beverly Broberg of the 53 people present in opposition to the application stated that this is the third time the residents of the area had to come out for basically the same application; that there is no significant change in the application from previous applications; that both previous applications were recommended for denial by the Commission; that a petition has been prepared with more than 170 signatures of residents within 1 or 2 miles of the site; that concerns of the area residents include noise, dust, trucks, and safety for children in the area; that Conditional Uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare of the citizens of Sussex County; that the Commission has already judged twice that this site is not an appropriate location; that the application fails to meet the standards of the Zoning Ordinance requiring that the excavating, extraction or filling operation shall be controlled to offer reasonable protection to surrounding properties and the neighborhood, particularly as regards to odors, dust, air or water pollution and use of

roads or streets providing access to the site; that the use does not mix with the residential uses in the area; that the use increases truck traffic; that 35 school age children wait for school buses in the immediate area; that drainage of run-off from the poultry houses creates nitrate concerns and nutrient contamination; that a 3-year project creating a deep body of water can attract children and young adults causing a concern of drownings; that several articles have been published worldwide about the dangers of drownings in pits and quarries; that recent photographs show dust blowing across the site into residential yards in the area; that nutrient run-off from the spray irrigation site of the Dagsboro-Frankford Sewerage Treatment Plant may impact the water in the pond, if developed; that poultry dust on the ground around the poultry houses from the handling of the litter and the truck traffic around the poultry houses, and the poultry house fans accumulates on the ground and would get in the run-off during rains and could traverse into the waters of a pond; that the depth of the pond causes colder water and could cause hypothermia to someone in the pond; that a Real Estate Broker would adjust a price downward to reflect the presence of a borrow pit located in close proximity, because that would lessen the desirability to most buyers; that disclosure statements are suppose to be presented to buyers of real estate showing uses that are out of character in the area; that truck traffic from Vlastic, Conectiv, and other business uses have increased in the area by 10 to 15 percent in the last 10 years; that trucks require more stopping distance; that truck accidents seem to be more serious; that school children are waiting for school buses prior to 7:30 A.M., the same time as the proposed borrow pit operation; that dust causes health problems for all ages; that according to a State DNREC employee, 8 private water wells near a borrow pit near Georgetown dried up and lost water; that the 8 wells were replaced deeper at the borrow pit owners expense; that borrow pits dug into the water table may impact the required depth of wells; and that run-off may cause a negative impact on the aquifer and the inland bays.

The Commission found that a petition with approximately 170 signatures in opposition; copies of newspaper articles from 1989 and 1990 in reference to the site; a letter of opposition from Helen Clogg with an attached photo of the Clogg residence; a letter of opposition from Donna Powell with an attached photo of the Powell residence; a copy of a County tax map showing Diamond Acres, a residential subdivision in the area; three transcripts of news articles referencing quarry dangers and drownings in Massachusetts, Illinois, and England; a recent photograph of dust blowing across the site; and a letter from Linn Hickman, Real Estate Broker, commenting on the application were submitted into the record by the opposition.

Mr. Schrader informed the Commission that 56 people signed the sign-in sheet as being in opposition, and 2 people signed in support.

Mr. Schrader advised the Commission that 53 people were present in opposition and 4 people were present in support.

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried with 4 votes to defer action. Mr. Lynch abstained from participating in the public hearing.

C/U #1305 -- application of SHORT'S MARINE, INC. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for boat storage to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 9.97 acres, more or less, lying south of Road 299 approximately 600 feet west of Route 24.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "A" of Road 299 will not change as a result of this application.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State has no objections to this proposal.

The Commission found that Fred Ellingsworth, General Manager for Short's Marine, Inc. and James Griffin, Attorney, were present on behalf of the applicants and stated in their presentations and in response to questions raised by the Commission that they propose to create a boat storage yard with security fencing; that their objective is to gain storage facilities closer to the business location and closer to the users; that the location will reduce traffic on Route 24; that the location will eliminate the need for the storage facility at Love Creek; that the location will conserve fuel and time for traveling from Love Creek to the business site on Long Neck Road; that boat storage has increased at all of their facilities over the last four years; that winter storage runs from October through April; that summer storage is minimal; that the site will be improved with stones at the entrance, and security lights, that a 7' high green vinyl clad chain link fencing with rolled wire across the top will surround the site; that an equipment shed for yard tools and a grass cutter will be located on the site; that there will be no public access to the site unless a person is accompanied by a Short's Marine employee; that no maintenance will be performed at the site; that some boats stored will be shrink-wrapped; that they have no plans for water on the site; that access to the facility will be from 8:00 A.M. to 5:00 P.M.; that landscaping will be provided, if required; that the remainder of the property will continue to be farmed; that some recreational vehicles may be stored on the site; that no dust, noise, or odors are anticipated; that the boat storage area will be grassed; that no adverse impact is anticipated on property values; that 80% of the boats stored will be removed during the boating season; that they are leasing the site; that their Long Neck facility stores approximately 250 to 300 boats; and that they propose to utilize Long Neck Road and Route 24 as access to the site when transporting boats from the business site to the storage site.

The Commission found that Mr. Griffin suggested the following conditions, if approved: the storage facility will be open during daylight hours only; the perimeter of the site will be fenced with a 7' high chain link type fencing with rolled wire across the top; no maintenance of boats or vehicles will be performed on the site; all persons visiting the site shall be accompanied by a Short's Marine employee; the only structure to be located on the site will be a 10' by 14' shed; and that security lighting will be provided on the site using mercury vapor lights which will be directed away from neighboring properties.

The Commission found that no parties appeared in support of the application.

The Commission found that Elwood Kulp, John Schnider, and Isabel Schnider spoke in opposition to the application and expressed concerns on behalf of area residents that the use creates additional traffic; that the increased traffic becomes dangerous to the children in the area; that the site is poorly drained; that the intersection of Route 24 and Road 299 has poor visibility to motorists; that the site is in a residential area; that they are concerned about the security lighting; that the entrance to the site is at a dangerous curve; and that the burned out home at the intersection of Route 24 and Road 299 should be required to be removed and the debris cleared.

The Commission found that Mr. Kulp submitted a list of names of 19 families with signatures in opposition to the application.

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

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

C/U #1306 -- application of DMV PARTNERSHIP to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (26 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 28.57 acres, more or less, lying at the southwest corner of Route One and Road 360.

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 One and the level of service "D" of Road 360 will not change as a result of this application.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State is opposed to the development of this parcel since the development of the proposed multi-family project is inconsistent with the DelDOT Statewide Long-Range Transportation Plan, as it is located within the Preservation Investment Area of the Plan where DelDOT has no plans to improve existing

infrastructure; that the Delaware State Police expressed concerns and reservations for the project from a traffic standpoint; that the State Police hope that any access to the project be limited to an entry as far away from the intersection as possible; that DelDOT noted that access to the parcel is only possible from Road 360; that the Delaware Emergency Management Agency noted that the site is within the 100-year Flood Plain Inundation Zone, and that any construction needs to comply with the National Flood Insurance Regulations enforced by the County; that a very limited number of evacuation routes are available in the area during a storm; that flooding software indicates that this area may experience severe total area flooding during hurricanes; that rezoning of the parcel would be encouraging development in a flood hazard area and would be inconsistent with prudent hazard mitigation efforts; that rezoning of this parcel for multi-family dwellings would be encouraging development in a flood hazard area, possibly increasing evacuation time, and maybe putting more people in harms way; that according to the State DNREC this area is primarily Tidal Marsh soils which is hydric; that the site has potential to contain tidal wetlands that are regulated by the State and Federal Governments; that the State DNREC Wetlands and Subaqueous Lands Section and Wetlands/Soils Assessment Branch does not advocate development of this parcel due to the wet nature of the soils; that because of the size and location of this project, a non-point source pollution control strategy should be prepared that would reduce environmental impacts on this project on the Inland Bays; that according to the State Historic Preservation Office, this site has a medium to high prehistoric archaeological potential, especially closer to the water's edge; that this project has the potential to affect prehistoric archaeological sites adversely; that the Department of Education noted that this project, depending on whether the residences were year round or seasonal, could pose some concern to the Indian River School District; that the State urges the County to discuss this matter with the school district; that the parcel is located within a preservation area as defined under the State's Interim Investment and Resource Management Strategy and was so designated because of environmental, transportation, and other concerns; that preservation areas are areas in which the State is less likely to spend State resources to support new growth; and that the Office of the State Fire Marshal has no objections to the proposal provided that the applicants address water distribution systems, the location of fire hydrants, sprinkler systems, and fire detection and alarm protection plans when site plans are submitted.

The Commission found that Peter DeMarie, Steve Parsons, Attorney, Jeff Clark of Land Tech, Inc., and Joe Connor were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that a 26 unit multi-family project is proposed; that the use conforms to the Comprehensive Plan; that the site is located in a Development District; that infrastructure is available to serve the project; that the project will meet all Code requirements; that the Comprehensive Plan suggests that the site could be developed with 10 units per acre; that 2.42 acres of the site is uplands; that the Comprehensive Plan emphasizes that existing municipalities and adjacent areas offer the greatest opportunity for development with the least impact on

Sussex County's environment, healthful living standards, agricultural industry and transportation network; that the preservation of the agricultural industry is considered essential to the future of the County and controlling growth in rural areas is critical; that the goal of the Comprehensive Plan is to have future growth occur around existing towns and in designated Development Districts; that the purpose of the Development District is to concentrate development in areas where public water and wastewater systems are available or planned and where past trends indicate that growth will occur; that these areas are partially developed and contiguous to the existing municipalities in western Sussex County and to the developed areas around the Inland Bays in coastal Sussex County; that the Development District will produce a mixed-use growth pattern supported by public and private investments to provide a variety of economic development and housing opportunities; that by encouraging higher residential densities the pressure for development in the natural resource and agricultural areas will be reduced; that housing types appropriate in the Development District include single-family detached homes, townhouses, apartments, condominiums and manufactured housing, where permitted by ordinance; that with a public wastewater system 10 dwelling units per acre for townhouses, including townhouse condominiums, may be permitted; that the MR Medium Density Residential District permits an applicant to apply for a Conditional Use for multi-family use of a site with a density of 12 units per acre; that the Mobility Element of the Comprehensive Plan refers that DelDOT wants to support the County's efforts to focus and coordinate growth in an orderly manner; that the County has been geographically separated into three types of Transportation Investment Areas which include Multimodal, Management, and Preservation; that this site appears to be located within a Multimodal area, where the roadway network will continue to be the significant feature of the system, however transportation investments will be made to diversify the transportation system, add capacity, and support targeted growth; that investments in transit, bicycling, and walking facilities will be focused here, since these areas are where densities, distances, and community design can best support these alternative modes; that George Shaw of DelDOT met the applicant and Jeff Clark on the site and felt that the entrance location proposed is adequate to serve the site; that the units are oriented to the higher uplands on the site; that no fill is proposed except for 0.10 acres at the entrance; that the project can be served by a County sewer district; that the project will be served by the Sussex Shores Water Company; that the units will be elevated above the flood zone requirements; that the entrance will be located on the south side of Road 360 approximately 800 feet from the intersection with Route One; that the entrance will be located approximately 250 feet from the bridge at the canal from Salt Pond; that units 7 to 10 and 13-18 will be built on pilings; that the units may be relocated on the site to move them away from Federal wetlands; that no fill is proposed around or below the units; that creation of a 50' wide right-of-way and cul-de-sac with 10,000 square foot lots would reduce the number of available units; that the area is mixed with single-family residential uses, a restaurant, a town maintenance yard, and public lands; that the site is across the Salt Pond from a residential planned community (Salt Pond Development); that the site is

across Route One from a residential planned community (Seabreak Development); that no adverse impact is anticipated on property values; that the use should enhance property values; that a demand exists for this type of unit on a water front site; that the State is maintaining 600 acres north of the site in a natural state; that this site has been offered to the State for purchase and that the State is not interested; and that the use should not impact traffic.

The Commission found that Mr. Parsons submitted and suggested the following conditions, if approved: the maximum number of units shall be 26; construction shall, to the extent possible, preserve the existing woodlands; the project shall be served by a County sewer district; the project shall be served by Sussex Shores Water Company; no buildings shall be higher than 42' nor longer than 165' and setbacks between buildings shall be 40'; land development must comply with all County and State erosion and sediment control regulations; a final site plan shall be subject to review and approval by the Commission upon receipt of all appropriate agency approvals.

The Commission found that no people were present in support of this application.

The Commission found that Robert Witsil, Jr., Attorney, and William Naughton, were present in opposition to the application and stated that the application should be denied since the proposed project is not in character with the surrounding and extensive MR Medium Density Residential single family district; that developments in the vicinity of Road 360 have been developed as MR and MR-RPC densities with the exception of the Salt Pond East L.L.C. parcel; that intensive multi-family residential townhomes (26 units) on a small 2.42 acres of upland will be significantly more detrimental to the wetlands and Salt Pond than the permitted residential development which would allow 9.6 single family parcels; that Road 360 has continual flooding problems at times of lunar tides and during coastal storms; that Road 360 is frequently submerged during and after storms and that the site is not suitable for development of this type; that the MR Medium Density District provides for 4 single family units per acre where sewer service exists; that only by means of the calculations of Table II of the Zoning Ordinance can the applicant compute a maximum density of 12 units per upland area; that nothing in the Conditional Use proposal is designed to protect the existing developments of MR character along Route One from Bethany to the north and along Road 360; that the Comprehensive Plan recommends that traditional and conventional design concepts be used to promote cluster development similar to the multi-family concept proposed by the applicant, but without an increase in overall density; that accordingly, it is reasonable to grant a Conditional Use for multi-family housing so as to permit a total of 9.6 units to be constructed upon the 2.42 acres of developable upland area with no encroachments into wetlands.

The Commission found that Mr. Witsil and Mr. Naughton presented and submitted photographs of the area around the site.

The Commission found that James Griffin, Attorney, was present on behalf of some of the landowners in the developments Seabreak, Bethany Village, Bethany Dunes, and the Retreat and stated that the site is primarily wetlands; that his clients oppose the proposed density; that the maximum number of units should conform to the MR density on the 2.42 acres; that the application is not of a public or semi-public character; that the applicant has failed to show that there will be no impact on the Salt Pond and no disturbance of wetlands; that the use is not a benefit to the area; that statements made by the Office of State Planning Coordination in reference to flooding should be given consideration; that the site is located in a flood zone and requires a first floor elevation of 8'; that the area of the proposed entrance is in an area that is subject to flooding; that 11 of the units encroach onto wetlands; that the site is environmentally sensitive; that County sewer will not be available until May 2001; that the site is an appropriate location for a wildlife sanctuary; and that the majority of the housing in the general area are located on 0.25 acre lots.

The Commission found that Wolfgang von Baumgart was present in opposition and expressed concerns relating to possibility that the site may be a historic archaeological site; that the soils are hydric; that building the homes on pilings will introduce Chromated Copper Arsenate resulting in increased chemical and biological Oxygen demands; that the environmental heritage of the area should be preserved; that the buffers are not adequate; and that the area is being over developed.

The Commission found that letters in opposition were received from Stephen T. Mitchell, and Robert and Rebecca Blickenstaff, expressing concerns in reference to impacts on traffic, wetlands, road flooding, and emergency evacuation difficulties.

The Commission found that 23 people were present in opposition and that 31 people signed the sign-in sheet as opposed.

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

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

C/U #1307 -- application of GULL POINT TRUST to consider the Conditional Use of land in a MR Medium Density Residential District for 24 multi-family residential units to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.99 acres, more or less, lying south of access road to State Boat Ramp, west of Road 312 at Indian River.

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 Road 313 will not change as a result of this application.

The Commission found, based on comments received from the Office of State Planning Coordination, that the County should consider the following comments when making a final decision: according to the State Historic Preservation Office the Gull Point Trust project is under review for a Corps. of Engineers permit since this project may include a marina; that the archaeological survey for the federal permit discovered a 17th century historic site, which has been determined eligible for the National Register of Historic Places; that 17th century sites are extremely rare in Delaware; that construction of this project will adversely affect the site; that the owner/developer should consider ways to mitigate or avoid this adverse effect; that the Delaware Emergency Management Agency noted that this property is within the 100-year Flood Plain Inundation Zone, and that any construction must comply with National Flood Insurance Regulations enforced by the County; that review of the evacuation routes for the area indicates that there are a limited number of evacuation routes available; that rezoning this property for multi-family dwelling units would be encouraging development in a flood hazard area, possibly increase the evacuation time, and may put more people in harms way; that this is inconsistent with prudent hazard mitigation efforts being emphasized by FEMA; that according to the State DNREC this area is primarily on Tidal Marsh soils which are hydric; that the site has potential to contain wetlands regulated by the State and Federal Governments; that the State DNREC Wetlands and Subaqueous Lands Section and the Wetlands/Soils Assessment Branch do not advocate development of this parcel due to the wet nature of the soils; that it will be difficult to justify this project without requiring extensive non-point source strategies that would reduce environmental impacts of the project on the Indian River; that the Department of Education noted that this project, depending on whether the residences were year round or seasonal, could pose some concern to the Indian River School District; that the State urges the County to contact the School District before approving any development that could negatively impact the district; and that while the Office of the State Fire Marshal has no objection to the proposal, issues on water distribution, fire hydrants, sprinkler systems, and fire detection and alarm protection will need to be addressed during site plan review if the use is approved.

The Commission found that a petition was received in opposition to the application that expressed concerns relating to environmental and ecological concerns, the impact on the Rosedale recreational area, boat ramp and fishing area, traffic impacts, esthetic impacts, and suggesting that the State should purchase the property to preserve open land, wildlife, and the inland bays, and would allow for adequate parking for boat trailers and vehicles at the ramp. Attached to the petition were signature pages containing 51 signatures.

The Commission found that Mike Pooro and James Fuqua, Jr., Attorney, were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that the site is across from Warwick Park subdivision and adjoins Gull Point, a multi-family development containing condominiums; that the Gull Point project will contain 166 units when completed; that 130 of the units have been built; that Gull Point Trust has been involved with development of Gull Point for 10 years; that they propose to develop this site with 24 multi-family units within 8 buildings and may build a pool; that in 1993 a similar Conditional Use was approved for the site, but was never developed and the Conditional Use became void; that a marina is not proposed; that boat docks and boat slips are not proposed; that the site is located within a Development District according to the Comprehensive Plan; that the same density is proposed as Gull Point; that a private on-site central sewer treatment system is proposed and will be maintained by a licensed handler; that central water is available; that the area proposed for construction is 14' to 16' above mean sea level; that a beach area may be established along the river; that DelDOT comments refer that there will be no impact on the level of service of the public road; that fire protection will be provided by the Indian River Fire Company; that the only wetlands on the site are along the shoreline; that construction activities will be setback at least 50' from the river; that there should be no impact on the Indian River School District; that the site is located in a Flood Zone X and does not require flood insurance; that several evacuation routes are available from the site; that all agency requirements will be met; that the signers of the petition in opposition seem to favor the State's purchase of the site; that the owners previously contacted the State in reference to purchase of the site, and that the State expressed no interest; that the use is consistent with the area since the same use and the same density are proposed as Gull Point; that property values should increase due to the improvements proposed; and that the site plan will depict buildings, a pool, and 3 parking spaces per unit.

The Commission found that Mr. Fuqua submitted and suggested the following conditions: that central sewer service shall be provided in accordance with applicable regulations of DNREC and the County Engineering Department; that central water service shall be provided in compliance with the regulations of DNREC, the Office of the State Fire Marshal, the Division of Public Health, and the County Engineering Department; that stormwater management and erosion and sedimentation control plans shall be subject to all State and County regulations; that the maximum number of units shall not exceed 24; that all amenities, including the community pool and pool house, shall be completed prior to construction of the 13th residential unit; that the open space depicted on the site plan shall be subject to no future residential development; and that the site plan shall be subject to review and approval by the Commission.

The Commission found that Mr. Fuqua submitted a copy of the minutes of the Commission meeting of September 23, 1993 for Conditional Use #1057 for Gull Point Trust, the original application, a copy of the County Council decision and findings on Conditional Use #1057 (Ordinance No. 929); a copy of a April 3, 1997 letter from the State DNREC in reference to an approval for a community sewage disposal system; a copy of the County Tax Map with zoning overlays of the area; and a copy of the Flood Map of the area.

The Commission found that Tom Shannon, a resident of Gull Point, was present in support of the application and stated that the project should be considered in the best interest of the residents of the area; that the project improves values; that he agrees that the boat ramp parking situation should be improved, but would prefer the project over improvements to the parking area; that improving the parking area for the boat ramp will not appreciate property values, but would decrease values; and that the site is a prime property for development.

The Commission found that Wolfgang von Baumgart was present in opposition to the application and stated that the project will unduly impinge upon public use and convenience of the adjacent State Boat Ramp and Fishing Access Area; that public necessity of protection of existing State recreation area from adverse impact outweighs private benefits; that the project will aggravate existing parking problems and create additional traffic problems, relating to public use and access to the State recreational area; that the development will destroy a critical greenspace and buffer zone and will run contrary to the State Outdoor Recreation Plan; that the functional and effective compromise of the existing State Boat Ramp will have a negative economic ripple effect upon State and County efforts to promote tourism and eco-tourism; that the project will have a negative environmental impact in a critical area and referenced: destruction of trees and wildlife habitat; that removal of trees will de-stabilize river banks and accelerate shoreline erosion; that project construction will result in increased pollution loading of the inland bays resulting in increased chemical and biological Oxygen demand; that replacement of naturally permeable soils with impervious surfaces will create additional area stormwater problems and intensified artificial disruption of the natural hydrological cycle; that the projects engendered negative environmental impact runs contrary to the intent of the Indian River/Inland Bays Whole Basin Management Initiative and related Total Maximum Daily Loading Pollution Control Strategy; that the project will place additional strain on an overloaded power grid system; that the project's relatively high density conflicts with vicinal agricultural residential zoning and land use, will adversely alter the rural character of the Rosedale neighborhood and lower adjacent and vicinal property values; and that the project represents a gross example of poor land use and will set a bad precedent for general urban/suburban overdevelopment of the Rosedale/Riverdale area.

The Commission found that Kathy Johnson, Carol Zander, and Matt McQueen were present and spoke in opposition to this application and referenced concerns to the type of units proposed; homeowners associations; three story buildings; that three story buildings would be out of character in the area; that the traffic impact study should be re-evaluated; possible relocation of the public boat ramp if the project is approved; that action should be delayed until the State can re-evaluate the site for purchase; and that an expanded boat ramp facility would be preferred.

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

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried unanimously to defer action.

C/Z #1386 -- application of WALLS FARM, L.L.C. to consider a proposal to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to an AR-1 - RPC Agricultural Residential District - Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, located northwest of Road 277, 875 feet southwest of Road 275, to be located on 57.45 acres, more or less.

Mr. Lank advised the Commission at the beginning of the meeting that the applicant withdrew this application on September 8, 1999.

V. OLD BUSINESS

C/Z #1313 -- application of MILDRED M. LONG to amend the Comprehensive Zoning Map from a C-1 General Commercial District to an AR-1 Agricultural Residential District in Dagsboro Hundred on the southwest side of U.S. Route 113, 0.5 mile northwest of Road 406, located on a parcel containing 6.4 acres, more or less.

Mr. Lank stated that the original public hearing was held on September 11, 1997 and that action was deferred; that on October 9, 1997 the Commission recommended that the County Council defer action until the County Board of Adjustment could hold a public hearing and make a decision on the billboard located on the site and to establish a lot area for the sign location, if the sign was approved; that on June 15, 1998 the County Board of Adjustment held a public hearing and denied the special use exception; that the applicant, Universal Outdoor, Inc., filed an appeal to the Courts against the Board of Adjustment; that the appeal has been ongoing since 1998; and that the Courts have not rendered a decision.

There was a consensus of the Commission that a decision should be made on the application for the zoning change.

Motion by Mr. Lynch, seconded by Mr. Hastings, and carried with four votes to forward this application to the Sussex County Council with the recommendation that it be denied. Mr. Johnson did not participate.

VI. OTHER BUSINESS

Dyer McCrea Ventures, LLC
3 parcels - Route One and Road 268-A

Pret Dyer was present as the Commission reviewed a conceptual subdivision plan to create three parcels with access from a fifty foot cross access easement off of Road 268.

Mr. Abbott advised the Commission that the parcels would be 6.57 acres, 7.00 acres, 1.28 acres, and that the remaining 4.76 acres will be an extension to an existing parcel, and that DelDOT has issued a letter of no objection.

Mr. Dyer advised the Commission that Parcel A will be for a 72 unit multi-family project; that Parcel B will be for a senior center, and that Parcel C will be for a church, and that none of the proposed parcels has direct access to Route One.

Donald Wagner, Jay Campbell, and Bill Press were present in opposition to this request and expressed concerns about increases in traffic to the area, stormwater run-off concerns, water contamination, and negative impacts to surrounding property values.

Mabel Granke was present and read and submitted a written letter referencing the number of projects along the Route Corridor and impacts to traffic.

Mike Tyler, President of the Citizen's Coalition advised the Commission that the proposed subdivision is an ill-conceived plan and that further studies are warranted.

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

Savannah East Apartments
Preliminary Site Plan - Route One and Road 268

Mr. Abbott advised the Commission that this plan is a part of the previous reviewed application and recommended that this be deferred since the same action was taken on the previous application.

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

C/U #1216 - - Briggs Family Enterprises, Inc.
Time Extension

The Commission reviewed a request for a one-year time extension for an expansion to an existing manufactured home park.

Mr. Abbott read a letter from the developer in reference to the delays that they have encountered and summarized the stipulations imposed by the County Council.

Motion by Mr. Johnson, seconded by Mr. Lynch and carried unanimously to approve a one-year time extension retroactive to the approval date of December 30, 1997. The approval now expires on December 30, 1999.

Burton Moore
Lot and 50' right-of-way - Road 536

The Commission reviewed a concept to create a lot with access from an existing 50' right-of-way within Uptown Manufactured Home Park.

Mr. Abbott advised the Commission that the proposed lot area has been occupied by a manufactured home and that the owner proposes to sell the lot and that the purchaser proposes to replace the manufactured home with a new unit.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the request as a concept.

Rivers End
Request to add 2 lots - Road 530

The Commission reviewed a concept for a 2-lot expansion to Rivers End Phase III Subdivision off of Road 530.

Mr. Abbott advised the Commission that the proposed lots will be large estate lots and that this is the only remaining available land in this section that could be developed, that the preliminary approval was for 29 lots and the final plan was for 27 lots, and that the staff has received a letter from the Rivers End Homeowners Association voicing no objections to the expansion.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the 2 lots as a concept.

Meeting adjourned at 12:45 AM.