

## MINUTES OF THE REGULAR MEETING OF SEPTEMBER 13, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 13, 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 Mr. Abbott - Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to adopt the agenda as circulated.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of August 23, 2001 as amended.

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

### PUBLIC HEARINGS

**C/U #1415** -- application of **SAMUEL ALLAN DAY** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for the repair and sales of fishing equipment to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 2.0 acres, more or less, lying south of Route 616 and 2,600 feet west of Route 615.

The Commission found that the application included site plans and photographs of the site and shop; that the site plan exhibited the dwelling, garage, and the frame building to be used for the shop; and that the photographs depicted the interior and exterior of the shop.

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

The Commission found that Samuel Day was present and stated in his presentation and in response to questions raised by the Commission that he created the shop for his physically disabled daughter to provide her the opportunity to be self supportive; that the shop has not been opened; that it is presently storage; that no signage exists on the site; that he exhibits and sells fishing equipment at shows, flea markets, and fairs; that he proposes to sell fishing reels and rods, and small fishing equipment; that he proposes to repair fishing rods and reels; that he would like to erect a small unlighted two sided 4'x4' sign; that he has already placed a stop sign at the end of his driveway; that the driveway is paved; that his intended business hours on weekday evenings from 6:00 P.M. to 9:00 P.M. and on weekends from 9:00 A.M. to 5:00 P.M.; that existing lighting is adequate;

that he may sell fishing licenses; that he does not plan to sell any bait; and that he does not plan to sell firearms, ammunition, or archery equipment.

The Commission found that there were no parties present in support of or in opposition to the application.

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved with the following stipulations:

1. Business activities shall be limited to the sales of fishing reels and rods, small fishing equipment and tackle, fishing licenses, and the repair of fishing reels and rods. This approval shall not include any boat or boat motor sales or repairs.
2. There shall be no bait sales.
3. One (1) non-lighted two (2) sided on-premise ground sign, not exceeding 4'x4', may be permitted.
4. Business hours shall not exceed the hours of 6:00 P.M. to 9:00 P.M. on weekdays and 9:00 A.M. to 5:00 P.M. on weekends.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 5 - 0.

**C/Z #1445** -- application of **SYLVESTER AND URSULA CAPUANO** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying 500 feet north of Route 26 on the easterly side of Holt Lane and 400 feet east of Route 17, to be located on 0.79 acre, more or less, of a 3.86 acre tract.

The Commission found, based on comments received from DelDOT, that the Department recommends that a traffic impact study be done by the developer prior to any action on this rezoning application.

The Commission found, based on a letter received from Christopher and Rebecca Raubacher, owners of Lot #2 with the Holt Acres Subdivision, that when the land was divided, the zoning was such that it provided sufficient commercial frontage as well as an agricultural/residential zone between neighboring properties; that the County Council



set a noble precedent by declining the rezoning of a similar parcel, the application of Bamberger and Spinelli, several years ago; that the buffer separating the commercial boundary and the residential lots to the rear have existed for over 20-years; and that all property owners were aware of the separation.

The Commission found that Sylvester Capuano was present and stated in his presentation and in response to questions raised by the Commission that he proposes to incorporate the entire parcel into the C-1 General Commercial District; that a residence exists to the rear of Holt Lane; that he plans on conveying the property to his children; that access to the parcel is from Holt Lane; and that he has no intent to subdivide the parcel into smaller parcels.

The Commission found that Karl Gude, owner of lot #1 in Holt Acres, was present in opposition and stated that he purchased his lot in 1979 and was aware that a 100 foot wide buffer existed between his property and the commercial boundary; that he is concerned about traffic due to increased commercial activities in the area; that in the late 1980's the County denied a request to rezone the rear of Lot #4 to General Commercial; and that the only private restriction that he is aware of, references no re-subdivision of the lots within Holt Acres.

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 forward this application to the Sussex County Council with the recommendation that it be denied since expansion of commercial activities is not appropriate in a subdivision, and since the zoning boundary was known by the original developer at the time the Holt Acres Subdivision was created.

Vote carried 5 - 0.

**C/Z #1446--** application of **DAVID AND ELIZABETH COX** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a GR General Residential District for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, land lying northeast of Route 510, 450 feet north of Route 502, to be located on 0.57 acre, more or less, of a 0.67 acre parcel.

The Commission found, based on comments received from the County Engineering Departments Planning and Permits Division, that the site is located in the Delmar Service Area and the Development District; and that the applicant can contact the Town of Delmar concerning the availability of sewer and water service.

The Commission found, based on comments received from DelDOT, that the level of service "B" of Route 510 will not change as a result of this application.

The Commission found that David Cox was present and stated in his presentation and in response to questions raised by the Commission that he wants to place a manufactured home or double wide home on the lot; that a portion of the lot is already zoned GR General Residential; that electric and telephone service already exists on the site; that a water well exists on the site; that he has a 2001 approved design for a septic system; that 3 mobile homes exists in the immediate area; and that he has owned the property since 1996.

The Commission found that there were no parties present in support of or in opposition to the application.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the site adjoins General Residential zoning; since the site is already partially General Residential; and since the rezoning will bring the entire lot into the same residential zoning category.

Vote carried 5 - 0.

**C/Z #1447** -- application of **ROUTE 54, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying northeast of Route 54 and 500 feet east of Route 389, to be located on 2.0 acres, more or less.

Mr. Lank stated that the Commission has copies of a packet of information submitted by representatives of the applicant, and that a copy of the packet is made a part of the record for this application.

The Commission found, based on comments received from DelDOT, that a 1999 Traffic Summary reports that Route 54 between Route 387 and Route 396 had an annual average daily traffic calculation of 4,229 vehicles per day with a summer average daily traffic calculation of 6,041 vehicles per day; that a traffic impact study is not recommended; and that the present level of service "D" of this segment of Route 54 will not change as a result of this application.

The Commission found that James Whaeler, Attorney, and Nolen Graves, the applicant, were present and stated in their presentations and in response to questions raised by the Commission that the applicant proposes six (6) mini-storage buildings and outside boat



storage; that many commercial uses exist in the area; that the site was formerly used for a chicken picking facility; that the site is adjacent to another commercial site; that water and septic exist on the site; that the proposed use is a low volume use, not high volume use; that commercial use of the site will be an economic benefit to the County; that the site is located in the Development District according to the 1997 Comprehensive Plan; that the applicant has owned another mini-storage building on Route 54 near Fenwick Island since 1993; that his experience with the existing mini-storage facility has shown him that a need exists for additional mini-storage in the area; that the building construction would be phased; that temporary boat, boat trailer, and recreational vehicle storage would utilize the rear of the site until the building construction is completed; that one full time employee would be on site from 8:00 A.M. to 5:00 P.M. weekdays; that users would have off hours access to the site by electronic gate cards; that security fencing will be provided; that the applicant prefers rezoning the property to C-1 General Commercial, rather than a Conditional Use, since the use intended is needed and since he would prefer not to have to reapply if he desired to change the use of the site; that the mini-storage units will vary in the size of the units; that the first phase of the project would include approximately one-half of the buildings; and that the packet of information includes a tax map depicting the existing commercial zones or uses in close proximity to the site.

The Commission found that Yvonne Cropper was present in opposition to the application and stated that she resides across Route 54; that the existing outside boat storage facility to the east of the site is poorly maintained; that outside storage will detract from the homes in the area; and that she is opposed to outside storage, not the mini-storage.

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 #1448**--application of **GULFSTREAM DEVELOPMENT CORP.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying east of Route 352 and 250 feet south of Route 353, to be located on 17.85 acres, more or less.

Mr. Lank stated that the Commission has copies of a packet of information submitted by representatives of the applicant, and that a copy of the packet is made a part of the record for this application.



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

The Commission found that the Technical Advisory Committee will review plans for the project on September 19, 2001.

The Commission found that James Fuqua, Attorney, Robert Harris, Developer, and Paul West and Steve Engel of Vista Design Group, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site is adjacent to Windmill Road and the Town of Ocean View; that the project is proposed to be an extension to the Wedgefield RPC; that the Wedgefield RPC project was approved in August 2000; that access to the project will be through the Wedgefield project with no direct access to Windmill Road; that the Wedgefield entrance is directly across from the entrance to the Bear Trap RPC project; that 29 duplex buildings with a total of 58 townhome units are proposed; that stormwater management will be designed per the regulations of the Sussex Conservation District and the County; that sewer is available from the County; that water will be provided by Tidewater Utilities; that the site is within the Milleville Fire Company service area; that the site is within State Police jurisdiction; that the site is in close proximity to stores, shops, and medical facilities; that the recreational amenities in the Wedgefield RPC will be utilized by this project; that the Bear Trap project has plans for a Town Center for business and commercial activities; that the area is predominantly residential and is being actively developed with a mixture of housing types; that three subdivisions adjoin the project; that the Office of State Planning Coordination has voiced no objection to the rezoning since the number of units does not create a significant difference in the amount of traffic and since duplexes may address the need for diversity of housing in the area; that the site is located in a Development District according to the 1997 Comprehensive Plan where higher density is appropriate when a site is adjacent to a municipality and where central water and sewer are available; that this project has a proposed density of 3.24 units per acre; that the layout of the site is not appropriate for a loop street connection from Route 84 to Windmill Road; that 15 lots in the Pine Grove Subdivision adjoin 9 lots within the proposed project; that landscaping and/or fencing shall be provided at the end of the cul-de-sacs; that no sidewalks are proposed; that the project should be annexed into the Sewer District within 30 days; that the main ditch within the site is a tax ditch; that the smaller ditch is a maintenance ditch, not a tax ditch; that the smaller ditch will be maintained by a Home Owners Association; that the lots within Wedgefield RPC average 8,500 square feet; that this project is proposed to be developed with townhouse units on smaller lots; and that if required 3 parking spaces will be provided per unit.

The Commission found that the packet of information provided by representatives of the application included a summary of the application; a copy of a letter from the Office of State Planning Coordination; a copy of Ordinance No. 1391 and findings of fact for

Change of Zone No. 1409, filed on behalf of Wedgefield Land, Ltd.; and proposed conditions of approval for this application.

The Commission found that the proposed conditions of approval included: 1) The maximum number of residential units shall not exceed 58 units comprised of 29 duplex buildings; 2) The development shall utilize the approved entrance for Wedgefield RPC; 3) The development shall be served by a central water system and Sussex County sewer; 4) The site plan shall be subject to review and approval by the Planning and Zoning Commission; and 5) 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 have been issued and the approved final site plan is recorded.

The Commission found that Terry Scanlon, a resident of Pine Grove Subdivision, was present in opposition, presented a petition in opposition signed by eight families that live in Pine Grove Subdivision, and stated that they would prefer to see a RPC developed under the current zoning density; that the lots should be for single family dwelling units only like the Wedgefield project; that the Pine Grove Subdivision lots contain one-half acre each; and that they oppose have streets abut their Subdivision.

The Commission found that there were 5 people present in opposition.

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. The record shall be left open so that the Commission can receive the Technical Advisory Committee Report for review prior to making a decision.

Vote carried 5 - 0.

#### **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.

Mr. Allen stated that he was not going to participate in the decision on this application or the decision on C/U #1414 and turned the meeting over to Mr. Wheatley, Vice-Chairman.



The Commission discussed the points and issues on this application deferred since August 9, 2001.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried with 4 votes to forward a recommendation to the Sussex County Council that the application be denied. It was suggested that the applicant withdraw this application and apply for a Conditional Use with a specific use intended and with detailed plans. If the applicant does apply for the Conditional Use, it is suggested that the fee be waived.

Vote carried 4 - 0. Mr. Allen did not participate.

**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.

The Commission discussed the points and issues on this application deferred since August 9, 2001.

There was a consensus of the Commission that there were too many camping sites proposed.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to forward a recommendation to the Sussex County Council that the application be approved with the following stipulations: 1) No more than 100 seasonal campsites and 30 primitive campsites shall be permitted; and 2) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 4 - 0. Mr. Allen did not participate.

**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.

The Commission discussed the points and issues on this application deferred since August 9, 2001.

Mr. Wheatley stated that he has reviewed the information presented by the applicant and the opposition presented at the Public Hearing, and that he had visited the site both before



and after the Public Hearing; that this application is for an expansion of an existing Conditional Use; that examination of the information presented at the Public Hearing and his inspections of the site indicate that the current operation is not in violation of the current Conditional Use or of any other governmental regulations; that he understands the concerns of the opposition regarding the need to protect the surrounding natural resources and to mitigate traffic in this rural area; that if this were an application for a new pit in an untouched area he would be more inclined to suggest that the applicant look elsewhere, however, this pit already exist and has operated without detrimental effect or incident which was not convincingly refuted by the opposition; that borrow pits by their nature have a limited life; and that expansion of this particular site, beyond what is being requested, seems highly unlikely.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

- 1) Before commencing operations in the C/U #1413 area, excavation shall be completed in the C/U #954 and C/U 1079 area and reclamation commenced thereon.
- 2) The applicant shall make a good faith attempt to secure permission from the applicable governing authorities to construct a vehicular traffic bridge as noted on the drawing. If the applicant receives all necessary approvals, the bridge shall be constructed and shall be the only access to the proposed area. No traffic shall be allowed through the existing entrance on County Road #531
- 3) In the event that the applicant is denied permission to construct the bridge described in stipulation #2, access to the site shall be from the existing entrance onto County Road #531 with left hand turns only and no traffic allowed on County Road #531 west of the site nor Sanfillipo Road, except for local deliveries to properties on County Road #531 west of the site and Sanfillipo Road.
- 4) Excavation, storage and transportation of borrow pit material shall be the only permitted activity on the site. There shall be no asphalt batching, concrete recycling, mulching or shredding operations, or storage of any kind other than borrow and other related activities on the site.
- 5) The boundaries of the borrow pit excavation area shall be as noted on the drawing, except that the setback from the wetlands delineation line shall be increased from 25 feet to 50 feet to provide additional protection of that sensitive area.
- 6) A minimum set back of 400 feet shall be maintained from any dwelling not on the premises.
- 7) No material shall be stored on any access roads or buffer areas with the project area.
- 8) No de-watering shall be permitted.
- 9) No fuel shall be stored on site.
- 10) A water truck shall be on site at all times for dust control.
- 11) Reclamation shall be a continuous process as excavation proceeds.

- 12) Concrete monuments shall be placed at all pit boundaries as phases are developed. The monuments shall be placed by a licensed Delaware land surveyor.
- 13) The public highway entrance shall be required to be re-evaluated by the Division of Highways and the applicant shall be required to comply with all requirements imposed by the Division of Highways.
- 14) Hours of operation shall not exceed 6:00 A.M. to 6:00 P.M. during the month of March 1<sup>st</sup> to April 1<sup>st</sup>; 7:00 A.M. to 5:00 P.M. during all other remaining months and Saturdays 7:00 A.M. to Noon. There shall be no Sunday hours.
- 15) Bonding shall be required at 125% of the reclamation cost and such amount and upon such terms as approved by the Planning and Zoning Commission.
- 16) Final approval of the site plan shall be required by the Planning and Zoning Commission and shall include receipt of all agency approvals and permits.
- 17) The location of any machinery and any storage of materials shall be in the pit areas, not the buffers. Stockpiling of materials shall not exceed ground level of the undisturbed areas

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 discussed the points and issues raised during the Public Hearing on August 23, 2001.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

- 1) All lighting shall be located so as to not impact travelling motorist or neighboring properties and shall be directed toward the interior of the site.
- 2) Five (5') foot high open chain link type fencing shall surround the perimeter of the site.
- 3) Landscaping shall be provided along all adjoining residential lots.
- 4) The site plan shall be subject to review and approval by the Planning and Zoning Commission.



Vote carried 5 - 0.

**C/Z #1444** -- application of **T. WILLIAM LINGO** to amend the Comprehensive Zoning Map for 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. Wheatley stated that he would not be participating in the decision.

The Commission discussed the points and issues raised during the Public Hearing on August 23, 2001.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

- 1) The 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.
- 10) The final site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 4 - 0.

**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 Chairman referred back to this application which was deferred at the August 23, 2001 meeting.

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

Vote carried 5 to 0.

**SUBDIVISION #2000-20** -- application of **CARLTON R. MOORE** to consider the Subdivision of land in a GR General Residential Zoning District in Cedar Creek Hundred, by dividing 58.03 acres into 61 lots, and a waiver from the maximum allowed cul-de-sac length of 1,000 feet, located south of Route 30, 200 feet southeast of Road 228.

Mr. Abbott advised the Commission that this application received preliminary approval on August 10, 2000; that the final record plan has been reduced to 60 lots; that the plan complies with the subdivision code; and that all required agency approvals have been obtained.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve this application as a final.

Vote carried 5 to 0.

## VI. OTHER BUSINESS

### Villages of Five Points Conditions of Approval

Jim Fuqua and Mike Lynn were present as the Commission reviewed a request to amend condition of approval number 26 relating to the Villages of Five Points residential planned community.

Mr. Fuqua advised the Commission that he has met with Mr. Schrader and Mr. Lank in drafting new language for being able to begin site work; and that they feel the new language adequately addresses any concerns that may arise.



Mr. Schrader read the proposed language and included a sentence that states the bond shall be released upon the issuance of all other permits and the filing of an approved master plan.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve the revised condition of approval as read by Mr. Schrader.

Vote carried 5 to 0.

Stanislav Masoni Medical Offices  
Preliminary Commercial Site Plan - King Street

The Commission reviewed a preliminary site plan for medical offices located in Old Towne Office Park Subdivision.

Mr. Abbott advised the Commission that the site plan is for a 9,995 square foot complex; that 6,925 square feet is proposed on the first floor and 3,070 square feet on the second floor; that 36 parking spaces are required and proposed based on 8 doctors using the complex; that the parking area within the front yard setback needs a waiver from the Commission; that the building setbacks meet the requirements of the zoning code; that water will be provided by Tidewater Utilities; that sewer will be provided by Sussex County; that there are no wetlands on site and that the site is not located within a flood zone; that the site plan is suitable for preliminary approval and that final approval could be at the staff upon receipt of all required agency approvals.

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 the staff receiving all required agency approvals.

Vote carried 5 to 0.

Richard C. Banks, Sr. and Richard C. Banks, Jr.  
3 Lot Subdivision - Town of Ocean View and Sussex County - Road 349A

Mr. Schrader advised the Commission that the proposed subdivision is located in both the jurisdiction of the Town of Ocean View and Sussex County; that the property was the subject of an annexation into the Town of Ocean View; that the annexation request did not pass since there was a tie vote; that the portion of the property located in Sussex County is not a buildable area; and requested that the Commission state that they have no objections to the proposed subdivision.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the

proposed subdivision.

Vote carried 5 to 0.

Gillsneck Shopping Center  
Final Commercial Site Plan - Route One

Mr. Abbott advised the Commission that the final site plan for Gillsneck Shopping Center has been reduced to 90,070 square feet; that the Commission granted preliminary approval on January 25, 2001 for 90,614 square feet; that the site plan meets the requirements of the zoning code; and that all required agency approvals have been obtained.

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

Vote carried 5 to 0.

Spencer and Tamela Brittingham  
Lot on Existing 50' Right of Way - Road 273

Mr. Abbott advised the Commission that this is a concept to create a 34,190 square foot lot with access from an existing 50' right of way; and that under the old policy of 3 lots and a 50' right of way, this would be the second lot.

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

Vote carried 5 to 0.

Royal Farms Convenience Store  
Preliminary Commercial Site Plan - U.S. Route 13 and Route 404

Mr. Abbott advised the Commission that the preliminary site plan is for a 5,000 square foot convenience store with retail gas sales; that 25 parking spaces are required and that 34 are proposed; that the setbacks meet the minimum requirements of the zoning code; that the site plan meets the requirements for preliminary approval and that final approval could be subject to the staff receiving all required agency approvals.

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



Vote 5 to 0.

Richard Culley  
Lot and Residual Lands - Route 13 A

Mr. Abbott advised the Commission that this is a concept to create a 0.75 acre lot with 150' of road frontage; that the frontage for the residual land is 72.51 feet and questioned if the Commission would allow the remaining frontage to be used as a right of way or if the Commission should require the applicant to apply for a public hearing for a major subdivision or a variance from the Board of Adjustment.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried unanimously to deny this request and require that the applicant apply for a public hearing.

Vote carried 5 to 0.

Gate of Heaven Cemetery  
C/U #1384 Site Plan - Route 26

Mr. Abbott advised the Commission that there are four phases for the cemetery; that the conditions of approval have been met; and that all required agency approvals have been obtained.

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

Vote carried 5 to 0.

Meeting adjourned at 10:18 P.M.