

MINUTES OF THE REGULAR MEETING OF OCTOBER 11, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 11, 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. Berl - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Johnson, 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 September 27, 2001 as amended.

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

PUBLIC HEARINGS

C/Z #1449 -- application of **FIRST SHORE FEDERAL SAVINGS AND LOAN ASSOCIATION** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying south of Route 26 and 500 feet east of Route 349A, to be located on 0.998 acre, more or less.

The Commission found that the applicants had submitted a packet prior to the meeting and that the packet included 8 photographs of business sites in the area, a copy of the Strategies for State Policies and Spending Map, a portion of the County Tax Map for the area, a site plan, and building plans for the building proposed.

The Commission found, based on comments received from the Delaware Department of Transportation (DelDOT), that the Department does not recommend that the County require a Traffic Impact Study (TIS) for this rezoning; that the Department is concerned about the application; that the Department sees it as encouraging more traffic in an area that has been identified as operating at unacceptable levels of service; that on March 8, 2001, there was a TIS scoping meeting for a project in Millville just west of the subject site on Route 26; and that the Department recommends that the County defer action on this rezoning application until DelDOT reviews and comments on the TIS for that project. Attached to the comments was a Support Facilities Report, which referenced that the annual average daily traffic on this road segment of Route 26 is 10,774 vehicles per day with a summer average daily traffic of 17,662 vehicles per day.

The Commission found, based on comments received from the Office of State Planning Coordination, that the DelDOT summary was included in their comments; that DNREC noted that the soils in the vicinity are Woodstown and Klej; that the Woodstown soils are moderately well drained with moderate limitations for development; that the Klej soils are moderately well drained to somewhat poorly drained soils that have moderate to severe limitations for development; that the Klej soils may or may not be considered wetland associated hydric soils and that the soils should be evaluated prior to development; that the State asks that the approval of this rezoning be tabled until DelDOT can receive the TIS study being done for the area and to make any recommendations they find necessary to support the proposed development; that the County should require the developer to have the soils evaluated; and that the applicant should be reminded to avoid construction/filling activities in areas containing wetland associated hydric soils, as they are subject to regulatory provisions of the Federal Clean Water Act 404 Program governing jurisdictional wetlands.

The Commission found, based on comments received from the County Engineering Department's Planning and Permits Division, that the project is not in a County operated and maintained sanitary sewer and/or water district; that the parcel is within the preliminary boundaries of the Proposed North Millville Expansion Area; that connection cannot be made until the area is annexed into the Ocean View Expansion of the Bethany Beach Sanitary Sewer District; and that the County Engineering Department will be considering annexation of the area in the near future.

The Commission found that 21 letters of support for the application were received from Hudson's General Store and Richard Hudson Construction, Susan Pittard Weidman, Attorney, Raymond and Mary Lehner, Douglas Appling of Sandcastle Realty, Walton Lydic of Kaylor Kent Mortgage Associates, Lois Lathbury, Roger Hitchens, Stephanie Wilinson, William and Joyce Kellam, Paul Carey of Country Life Homes, Thomas Crowley of Crowley Associates Realty, Inc., Carl Bagley and Michael Wilgus of Century 21 Wilgus Associates, Inc., Wil Rogers of Moore, Warfield, Glick, Inc., E. Wayne Lednum of Creative Concepts, Michael Cummings of Miken Commercial Builders, Inc., Bruce Mears of Bruce Mears Designer Builder, Inc., William McCain of W.R. McCain & Associates, Mearl Layton of Layton Associates, William Winkler of Treasure Quest Shoppe, and Bake Timmons, Jr.

The Commission found that a letter was received from Ruth E. Davis expressing concerns about traffic patterns and the entrance/exit along Route 26, and added that she does not object to the plans for the building.

The Commission found that James Yori, Attorney, Marty Nead, President of First Shore Federal Savings and Loan Association, and Greg Moore of Becker Morgan Group 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 located in a Development District according to the 1997 Comprehensive Plan; 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 developed areas around the Inland Bays; that business uses exist along both sides of Route 26; that they are concerned about the comments from DelDOT referencing a project that may or may not do a TIS, therefore impacting their project; that they met with DelDOT on the site to review the site plan and entrance/exit location; that only one entrance/exit is proposed; that DelDOT is trying to minimize the number of entrances along Route 26; that the proposed building contains less than 3,000 square feet; that the Association offices will be closed on holidays and Sundays; that the site is next door to the Post Office; that the site is located in the proposed North Millville Expansion Area for sanitary sewer; that water supply is available from Artesian Water; that stormwater management will be handled on the site; that the State Fire Marshal's regulations will be met; that security lighting will be provided; that the area is a business and commercial area; that a banking type facility is compatible with the other business uses in the area; that an appraiser may occupy a portion of the building; that the Association is a traditional savings and loan business that does mortgages and savings, not business loans; that this office will be similar to the branch office in Ocean Pines that opened in 1996; that the main office is located in Salisbury, Maryland; that a detailed wetlands delineation will be performed; that there are no proposed interconnections with the Post Office property; that they are willing to investigate interconnection with the Post Office property; that all construction will comply with the FEMA regulations; that the building will be site constructed, not prefab; that the office will include an ATM Machine and night deposit.

The Commission found that during their presentations, the representatives of the application exhibited display boards with copies of the Tax Map for the area, the Comprehensive Plan, the Zoning Map for the Town of Ocean View, a photograph and front elevation drawing of the proposed building; eight (8) photographs of business uses in the area, including a shopping center, 3 banks, and the Post Office, and the site plan.

The Commission found that Patricia and Troy McCabe of Roxana submitted a letter in support and spoke in support of the application referencing the quality and service provided by the employees of the Association.

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

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

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

C/U #1419 -- application of **V. EUGENE WATKINS, SR. AND CAROLYN A. WATKINS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for retail sales (flea market) to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 40,800 square feet, more or less, lying west of Route 213, 1,800 feet north of Route 623.

The Commission found, based on comments received from DelDOT, that a TIS is not recommended, and that the existing Level of Service "B" of Route 213 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 parcel is located within a Rural area according to the Strategies for State Policies and Spending Map; that in these areas, State policy will be to encourage the preservation of a rural lifestyle and discourage new development; that the State would like to see business places in the Community or Developing areas of the Strategies Map; that the Office would not object to this building being used for a flea market since this parcel is already developed with a house and outbuilding and that the Office does not feel that the use would encourage growth; that conditions should be considered as to hours of operation and how many days a week the business will be open; the operating days and hours actually could open the door for future expansion and be detrimental to the rural nature of the area; that the State does note that the State Historic Preservation Office commented that the parcel contains the Mrs. Chapman house as noted on the Beers Atlas of 1868, and that there are probably archaeological resources related to the 19th century occupancy; that if additional construction will need to be done on the property, the State asks that the County require the applicant to work with the State Historic Preservation Office to minimize any adverse effects; that the soils in the vicinity of the proposed construction are mapped as Evesboro, which is an excessively well drained soil found on uplands that has moderate limitations on account of its high permeability; that the applicant should be reminded that they must avoid construction and associated activities in those areas containing wetland associated hydric soils; and that the Department of Agriculture has no objection to this application.

The Commission found that Carolyn A. Watkins and Eugene Watkins were present and stated in their presentations and in response to questions raised by the Commission that they plan to sell yard sale items, appliances, and knick-knacks; that the items will be displayed in the building; that the 18' by 40' building was originally a carport; that they have had four yard sales to date; that they have not opened the building for business and are waiting a decision on the application; that adequate space exists on the site for parking; that they have no objection to "No Parking" signs being required along Route 213 at their road frontage; that the mobile home on the site is used for storage; that there are no appliances or bathrooms in the mobile; that they plan to be open for business from 8:00 A.M. to 8:00 P.M. on Fridays and Saturdays, with no Sunday hours; that they also

operate an animal shelter on the site; that the camper is used as an office; that they do not do any consignment sales; that they do not sell automobiles or trucks; and that they do not object to a stipulation that there shall be no outside tables for display purposes.

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

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to defer action. Mr. Lank was asked to pull some examples of Conditional Use stipulations that relate to retail sales for the Commissions review.

C/U #1420 --application of **PUSEY RENTALS, LLC** 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 Little Creek Hundred, Sussex County, containing 45.78 acres, more or less, lying north of Route 454A, 605 feet east of U.S. Route 13.

For the record, Mr. Lank advised those in attendance that earlier this week the applicant submitted a packet of information for the file and for review by the Commission. The packet included copies of a Service Level Evaluation Request to DelDOT and the Department's response, a copy of the application for Conditional Use, a copy of Ordinance No. 791, the application for HI-1 zoning for P & A Engineering Company, Inc., an aerial photograph, a tax map, a preliminary borrow pit evaluation by John D. Hynes & Associates, Inc., a copy of a Soil Map for the area, three letters of no objection from neighboring property owners, a letter of no objection from Delmar Fire Department, Inc., an unsigned agreement between Michael P. and Sharon L. Cordrey, the landowners, and P & A Company, Incorporated to lease the site, a historical profile from P & A Co., Inc., a copy of the proposed Reclamation Plan for the project, and a copy of the site plan for the project.

The Commission found, based on comments received from DelDOT, that a TIS was not recommended, and that the Level of Service "C" of Route 454A 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 opposes this application as submitted; that DNREC has noted that the application provided did not contain important details regarding this project; that the State Planning Office, along with DNREC has concerns that critical data was not included with the LUPA notice; that DNREC stated that data such as the depth to which the applicant will dig; or will they only dig laterally, will a de-watering well be needed,

will there be fuel and oils stored on the site, will there be a restoration plan, will there be buffers, will the project be phased and bonded, where is the nearest resident and is there a closure plan; that DNREC noted that there is one active and one inactive leaking underground storage tank site near the project; that should any petroleum-contaminated soils be discovered during construction, the Underground Storage Tank office would need to be notified; that DNREC noted that there are wetland concerns for the application; that the State asks that the County remind the applicant that they must avoid construction and associated activities in those areas containing hydric soils; that Total Maximum Daily Loads (TMDL's) are also a concern; that with the adoption of TMDL's as a nutrient runoff mitigation strategy for reducing nutrients in the Chesapeake Watershed, target rate reductions of 30 percent and 50 percent will be required for nitrogen and phosphorus, respectively; that if de-watering operations are proposed and withdrawal rates are anticipated to exceed 50,000 gallons per day, the owner of the pit will need to apply for a water allocation permit at which time the Water Supply Section of DNREC will conduct a thorough investigation into the potential effects of more significant water-table draw-down; that fuel, oil, and grease associated with the excavation equipment, has the potential to contaminate the existing surface-water bodies at the site and may threaten the health of any freshwater ecosystems which have been established in the area; that the State Historic Preservation Office has noted that this operation will be immediately adjacent to several properties, including a circa 1830 cemetery, a known prehistoric archaeological site, and a dwelling; that if the borrow pit is enlarged there could be adverse effects on these properties; that State law prohibits the disturbance of an existing marked cemetery, and provides for any unmarked human remains accidentally discovered; that the owner/operator should take particular care to stay well away from the cemetery, since there are likely to be unmarked graves around the marked ones, making the cemetery bigger than it appears on the surface; that DelDOT has noted that they will only allow access along Iron Hill Road; that taking into consideration all of the negative comments attached to this project, the State opposes this application in its present form; that if the County Council approves the application, permits will still need to be obtained from State agencies; that the Office of State Planning Coordination would be willing to host a meeting between the LUPA reviewers and the applicant to address the concerns of the State and possible Federal agencies; that additional attachments from LUPA reviewers indicated: that if adequate safeguards are taken to preserve/protect the water quality and any wetlands of the area, the DNREC has no serious reservations regarding this proposed borrow pit reopening; and that the Department of Agriculture has no objection to the application for the purpose of reopening of the borrow pit.

The Commission found that John Sergovic, Attorney, Stephen Pusey, President of P & A Engineering Co., Inc., Charles Woodward of Davis, Bowen & Friedel, Inc., John Hynes of John D. Hynes and Associates, Inc., and Edward Launey, Environmental Consultant, were present on behalf of the application and stated in their presentations and in response

to questions raised by the Commission that the use complies with the 1997 Comprehensive Plan; that the site is located in a Development District; that the site is near a major arterial roadway, U.S. Route 13; that a borrow pit activity is an industrial type of use; that they plan to re-use an under utilized site and that reclamation of the site should be supported; that the land cannot be farmed as it exists unless the land is improved, due to the standing water and site disturbance that has taken place over the years; that State agencies have not reviewed the file; that State agencies have only reviewed a data sheet and a tax map; that the Office of State Planning Coordination has not properly interpreted some of the agency comments; that most agencies did not comment and some agencies have no objections to the reopening of the borrow pit; that P & A Engineering has operated borrow pits in the area; that P & A Engineering is located in Sussex County; that P & A Engineering 's office and construction yard exists on an adjacent tract with access to Route 13; that there are no known neighborhood objections to the application; that all perimeter foliage will remain; that the application meets the requirements for a Conditional Use; that Phase 1 is planned to utilize the existing 42 acre pit; that Phase 2 may use a 3 acre portion of the rear of the P & A Engineering property; that two entrance/exit locations exists along Route 454A; that P & A Engineering does asphalt paving, construction and recycling of concrete and asphalt; that the firm has operated, more recently, the Moore Pit west of Delmar; that the firm still gets material from the Moore Pit by a lease arrangement; that the materials removed are primarily used for construction of road bases, commercial job sites, and residential lot improvements; that most job sites need materials from off-site; that the firm has operated borrow pits for approximately 25 years; that they are asking to re-activate a borrow pit that has been closed for approximately 10 years; that they have no intent to do any dewatering, therefore there will be no drawdown; that they have no intent to store any fuels on the site; that they presently have adequate fuel storage on the adjacent P & A Engineering site; that the site could be converted to agricultural uses once the reclamation is completed; that the reclamation plan has been designed to accommodate the landowners for conversion to horse trails and a recreational pond; that the landowners reclamation plan is more stringent than either the County or State requirements; that the applicants have no objection to stipulations relating to no dewatering or reclamation; that in reference to leaking underground storage tanks, the word "Active" means that they are being monitored or mitigation is being done, and the word "Inactive" means that there is no significant contamination; that the site was previously borrowed with small pit sites; that there are no outlets or drainage canals that connect the pits to any drainage facilities off-site; that the access roads adjoin the landowners home and the King home, and that letters of no objections are on file with the application; that the primary access will be the one closer to U.S. Route 13; that they anticipate an average of 20 to 30 truck loads per day; that operating hours will be from 7:00 A.M. to 5:00 P.M. Weekdays; that any Weekend activities will be strictly due to emergencies only; that there will be no storage of concrete or asphalt on the site; that they do not plan to have any direct access from the

borrow pit operation to U.S. Route 13, only from Route 454A; that they anticipate that the life of the borrow pit may be 15 years; that George and Lynch Company utilized the site approximately 25 years ago; that they propose to start at one end of the site and proceed across the site the opposite end; and that they have no objection to reclamation of the site as they proceed across the site.

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. Gordy, seconded by Mr. Wheatley, and carried unanimously to defer action. Mr. Lank was asked to pull some examples of Conditional Use stipulations that relate to borrow pits for the Commissions review.

C/U #1421 -- application of **WALLACE P. TOWNSEND, JR.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an athletic facility to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 95 acres, more or less, lying south of Route 9, 0.4 mile west of Route 321.

Mr. Johnson stated that he would abstain from participating in the Public Hearing.

Mr. Lank advised the Commission that the site plan has been revised to relocate the facility out of the Sussex County Airport's Approach Zone and provided the Commission with copies of the revised site plan.

The Commission found, based on comments received from DelDOT, that on April 12, 2001 the Department asked that the applicant be required to provide the Department with trip generation data from a similar facility so that the Department might better determine the need for a TIS; that the applicant has since provided trip generation data and that on the basis of this data the Department has determined that a TIS is not needed for this application; that the applicant's estimate of 882 trip ends per day places the project well below the TIS warrants of the Department's Rules and Regulations for Subdivision streets; that the proposed location on U.S. Route 9 is one that both the Department's Statewide Long Range Transportation Plan and the Strategies for State Policies and Spending indicate as appropriate for development; that the Department sees little potential benefit from a traffic impact study with regard to this project; that U.S. Route 9 is congested on summer weekends and such a study could serve to quantify that congestion; that a TIS could not identify potential road improvements that could be

reasonably required of the applicant; and that the Department recommends that the County consider the application without the benefit of a TIS.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State has reviewed this proposal twice before at different locations and that response to both previous applications asked that the County deny the applications because the State felt that it needed to be closer to a community; that this application is located within the "Developing" and "Secondary Developing" areas of the Strategies for State Policies and Spending document; that the State feels that this project would be suited for this parcel as it is close to town and should provide for a variety of transportation options; that DNREC has noted that the soils in the vicinity of the project are mapped as Evesboro, Woodstown, Fallsington, and Pocomoke; that the Evesboro soils are excessively well-drained upland soils that have moderate limitations for development; that the Woodstown soils are moderately well drained soils of low-lying uplands and have moderate limitations; that the Fallsington and Pocomoke soils are poorly to very poorly drained hydric soils of bottomlands and have severe limitations for development; that the applicant needs to be reminded that they must avoid construction and associated activities in those areas containing wetland associated hydric soils; that DNREC believes that, contingent upon avoidance of any construction activities in wetlands, portions of the site could be developed if stormwater management and buffers are strategically employed to mitigate nutrient and sediment runoff into adjoining streams or watercourses; that the State Historic Preservation Office has noted that the parcel contains or is adjacent to a number of historic properties, including Whaley's Store, a store and gas station from the 1940's, a mid 19th century farmhouse, and a circa 1900 replacement of the H.N. Pepper House that appears in the Beers Atlas; that there may be an archaeological site related to the original Pepper House; that part of the parcel has high potential for prehistoric archaeological resources, because of a remnant bay-basin within the area; that the Office further noted that while this project has the potential to affect several historic properties adversely, they do think that this parcel is a much better choice for the facility than earlier proposals; that the State supports this application to place sports fields and dormitories on the parcel; that the State ask that the County to require the developer to work with the State Historic Preservation Office to locate and avoid any significant archaeological sites that may be there; that the State ask the County to require the applicant to work with DNREC to address possible wetlands concerns; and that the State recommends that the perimeter of the parcel be landscaped to block any visual intrusion on the nearly historic properties. Attached comments indicated that the Department of Agriculture supports the operation of such a facility in or near an established community area, and is in favor of this application.

The Commission found, based on comments received from Delta Airport Consultants, Inc., and in response to questions raised by the County Engineering Department on behalf of the Sussex County Airport, that the Consultants have provided the County Engineering Department with three imaginary surface exhibits for Runway 22 at the Sussex County Airport as they pertain to potential development to the north of Runway 22; and that it appears that the proposed off airport development is not feasible in the proposed location based on both height and approach visibility issues. It was noted that the comments were based on the original site plan, which indicated ball fields and buildings under the Approach Zone.

The Commission found, based on a letter from Mike Tyler, President of the Citizens Coalition, Inc., that the Coalition urges the Commission to deny the application; that the applicant has consistently shown a disregard for citing his ambitious plan in areas that have been deemed unsuitable for such a huge facility; that previous applications were twice denied; that the application is inappropriate for at least three reasons: 1) the Federal Aviation Agency has indicated that there are strict limitations on development along aircraft landing and takeoff paths around airports; that a significant portion of this site lies in this corridor and should not be used under any circumstances for parking or other similar uses where large numbers of people would assemble on foot or in cars and buses; that it would be a liability for the FAA to allow such use; 2) that the applicant has been reported to say that it is essential that this site be located near the beaches; that the sheer size and location of the facility will ostensibly jeopardize traffic flow on a roadway that already bears the brunt of increased year-round traffic congestion; that summer traffic plus that generated by this facility will be intolerable and should not be accepted; 3) that the Coalition believes that such a facility located away from the proximity of Coastal Sussex, say in the western part of the County or in Maryland might be more appropriate; that it is the opinion of the Coalition that this application represents irresponsible land use, lack of forethought and vision regarding its impact on the greater community and it ignores the cumulative impact of adding thousands of additional vehicles on already burdened roadways.

The Commission found, based on a letter received from Virginia Jones Campbell, a resident that lives two properties from the site, that she is opposed to the application; that she is concerned about traffic; that she has difficulty getting out of her driveway on Route 9; that she can't imagine the traffic during a softball tournament, especially during the peak of the summer tourist season; that the area is already overrun with visitors in route to the beaches; that she has repeated problems with out-of-staters turning around in her driveway; that the site is much too close to the airport causing a safety concern; that she is concerned about noise and lighting at the facility; that she is concerned about the closeness of the dormitories to the liquor store/bar on Route 9 adjoining the site; that she is concerned about annexation; that she does not want town water, town sewer, or town taxes; that she is concerned about the applicant's reputation for running a business; that

farmland is far too valuable; that we need to stop developing and start preserving; that we need to concentrate on improving our roadways before allowing any more growth and increased traffic; and that she feels that it would be a grave mistake to allow such a facility in the neighborhood.

The Commission found that Pete Townsend was present on behalf of the application and stated in his presentation and in response to questions raised by the Commission that he proposes to develop the facility with eight (8) softball fields and dorms for 48 teams; that the site plan includes areas for four (4) football sized fields that may be used for soccer, field hockey, football, and/or lacrosse; that he chose this site since it is located in a Development District according to the 1997 Comprehensive Plan; that he has searched for a site in a Development District since his other projects were denied because they were not located in a Development District; that he has changed his site plan to take the facility out of the airport approach; that there are no playing fields in the airport approach; that copies of the revised site plan have been sent to Delta Airport Consultants, Inc. for review; that the comments from the Office of State Planning Coordination are supportive of the application; that he has met with the Town of Georgetown; that Town water and sewer are proposed to be provided by the Town; that the property is not proposed to be annexed into the Town; that the utility lines for the water and sewer will run down Route 9; that annexation into the Town is not required; that the project involves softball tournaments on weekdays during summer, with some spring and fall weekend tournaments; that there is a need for tournament fields in the area; that he is willing to place fencing, trees, or berms along property lines adjoining residential properties; that the proposed entrance location is approximately where the existing entrance is located for the existing produce stand; that portable bleachers will be provided so that they may be moved from one field to another during tournaments; that the residual lands east of the airport approach may be farmed; that typical hours of activities are from 9:00 A.M. to 9:00 P.M.; that if there is foul weather during tournaments the activities may go until 11:00 P.M.; that all fields will be lighted; that he estimates that approximately 800 to 1,000 people could be on the site at some time during tournaments; that the majority of the people include 48 teams with 13 players on each team; and that there will be approximately 100 bleacher seats per field.

The Commission found that Stanley King, son-in-law to the landowner, Ken Christenbury, and Dan McCann, John Mintzer, and Susan Wing, adjoining property owners, were present in support of the application and stated that if traffic is a concern, traffic can be routed to utilize Industrial Park Boulevard to Route 9 to get to the site without going through the Town of Georgetown; that noise and lighting is already a problem with the airport, with airplanes and jets landing and taking off from the airport; that the landowner is selling the property for health reasons; that the number of business uses grows annually along Route 9; that the concept is a great concept and should not impact the Town of Georgetown; that the majority of the patrons will stay in motels in

the beach areas; that a harness horse race track formerly existed on the north side of Route 9; that if the airport approach is a problem then the County should purchase the homes and relocate the landowners like they did on Industrial Park Boulevard; that annexation is not necessary; that the availability of central sewer and water will increase property values; that the revised plan should comply with FAA regulations; that the applicant is willing to buffer the residential neighbors; that the site plan could be adjusted to move lighted fields away from residential properties; that a modern well maintained recreational facility will be a visual improvement over abandoned poultry houses and barns; that the use will be a benefit to the local children and children from other areas; and that they would support the availability of central water and sewer.

The Commission found that C. Ronald Johnson, Barbara Eaton, David Alexander, and Helen Davidson, of the eleven (11) area residents present in opposition stated that the use is not feasible with the airport approach over the site; that the County had to purchase the homes on Industrial Park Boulevard that affected the airport approach; that a private airplane crashed in the area several years ago causing a concern that an airplane could crash into the site when a large crowd of people is present during a tournament; that if more traffic is directed to Industrial Park Boulevard, it may cause an impact on the truck route; that the use is good for the children, but questioned the benefit to the local community; that the site plan has been revised to satisfy the airport, but not the immediate residential neighbors; that if the use is approved the applicant should be required to place berms around the site to cut down on noise; that when the harness horse race track was operational trash was a major problem for the neighbors, and that this project could cause the same problem; that traffic problems may be created for area residents trying to get out of their driveways, and may impact turning movements to and from the site and residential driveways; and questioning the impact on long term residents in the area.

Mr. Lank read a letter from Susan J. Van Vorst in opposition to the application and expressing concerns about the negative impact on her adjoining property, and that if the County should approve the application they should require that the applicant provide a substantial buffer along her property and other adjacent residential properties, as well as adjacent wetland areas and historic places.

The Commission found that Mr. Townsend added that the large building on the site plan is a maintenance building and that the pavilion building is the dining hall.

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

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried with 4 votes to defer action for input from the FAA and Delta Airport Consultants, Inc. Mr. Johnson did not participate.

OLD BUSINESS

SUBDIVISION #2001-25 -- the application of **S & M VENTURES** to consider the Subdivision of land in a MR Medium Density Residential District in Dagsboro Hundred, Sussex County, by dividing 35.63 acres into 60 lots, located 1,300 feet southwest of Road 318, 300 feet southeast of Road 324.

The Chairman referred back to this application which was deferred at the September 27, 2001 meeting.

Mr. Abbott advised the Commission that the applicants and adjoining property owner have submitted a signed agreement in which the applicants will extend the agricultural buffer along the adjoining property owner's land; that the applicants will continue plantings of white pine trees on the adjoining property owner's land; that the applicants will plant a single row of white pine or ornamental fruit trees along the entrance road; and the storm water management design will be so that it does not drain onto the adjoining property owner's land.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary with the stipulations submitted by the applicants.

Vote carried 5 to 0.

SUBDIVISION #2000-2 -- the application of **D. & N. PROPERTIES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, by dividing 33.46 acres into 21 lots, located south of Road 484, 4,320 feet east of Road 483.

Mr. Abbott advised the Commission that this application received preliminary approval for 21 lots on March 23, 2000; that the Commission granted a revised preliminary approval for 20 lots and revised interior streets on April 27, 2000; that the Commission granted a time extension on March 22, 2001; that the final plan is the same as the revised preliminary approval; that the plan meets the requirements of the subdivision code; and that all required agency approvals have been submitted.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve this application as a final for recordation.

Vote carried 5 to 0.

OTHER BUSINESS

William Warren
C/U #1259 Revised Site Plan Route 16

Mr. Abbott advised the Commission that the revised site plan is for a 60-foot by 100-foot metal building; questioned if the Commission would approve the revised site plan as submitted or require another Conditional Use application; and that this was deferred at the September 27, 2001 meeting so that the Commission could inspect the site.

Mr. Wheatley advised the Commission that he inspected the site; that at certain angles the fence is not transparent; and that in the future, the Commission should be more specific when addressing proposed stipulations.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the revised site plan as submitted.

Vote carried 5 to 0.

Melvin Joseph Construction Co.
C/U #1366 Site Plan U.S. Route 113

Mr. Abbott advised the Commission that the site plan is for a borrow pit; that Phase 1 includes 22 acres, Phase 2 includes 25 acres, and Phase 3 includes 41.73 acres; that the total borrow operation is 88.73 acres; that a 100-foot buffer surrounding the entire site will be either grassed or landscaped; that the reclamation plan provides for Leyland Cypress trees being planted every six feet in the buffer zone; that the slopes are proposed to be 3 to 1; that the pond depth will be 28-feet; that the final reclamation plan is to be a fresh water pond with possible aquaculture activities; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all required agency approvals.

C. Kenneth Carter, Surveyor, was present and advised the Commission that the entrance approval has been received from DelDOT, and that a copy of the approval is in the staff's file; and that the Sussex Conservation Districts wants the slopes to be 4 to 1.

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

Vote carried 5 to 0.

Lighthouse Cove Phase 2
Preliminary Multi Family Site Plan Route 54

Mr. Abbott advised the Commission that the preliminary plan is for 34 units; that the 3.01 acre site permits 36 units by the zoning code; that five buildings have six units each; that one building has 4 units; that the minimum forty-foot separation between buildings has been met; that a swimming pool is proposed; that the 20-foot setback from state wetlands has been met and that if the property is subdivided, a 50-foot setback from state wetlands will be required; that the site is located in a flood zone; that sewer will be provided by Sussex County and water will be provided by the Artesian Water Company; 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. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals.

Vote carried 5 to 0.

Proposed Ordinance Amendment

Mr. Abbott advised the Commission that the proposed ordinance would provide that major subdivision applications take the same processing time as rezoning and conditional use applications; that the 45 day period would be deleted from the existing ordinance; and subdivision applications would be scheduled with other applications.

There was a consensus of the Commission that the subdivision applications bump rezoning and conditional use applications and that it is not fair for applicants who have had a rezoning or Conditional Use application filed prior to receipt of a subdivision applications being bumped.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to forward a recommendation to the Sussex County Council that the proposed ordinance be introduced for a public hearing.

Vote carried 5 to 0.

Meeting adjourned at 10:50 P.M.