

## MINUTES OF THE REGULAR MEETING OF OCTOBER 12, 2000

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 12, 2000 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, Mr. Wheatley with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the Agenda as circulated.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of September 7, 2000 as corrected.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of September 14, 2000 as corrected.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of September 21, 2000 as circulated.

Mr. Schrader described how the agenda and hearings would be conducted.

### IV. PUBLIC HEARINGS

C/U #1361 -- application of JOSEPH AND DANIEL MOORE to consider the Conditional Use of land in an AR-1 Agricultural Residential District for relocation and amendment to Conditional Use No. 891 (Borrow Pit) to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 50.0 acres, more or less, lying east of Road 504, 1,730 feet south of Route 54.

The Commission found, based on comments received from the Sussex County Engineering Department, that the parcel is located in the Town of Delmar's service area, per the Western Sussex Water and Sewer Plan, and that the developer should contact the Town for sewer and water availability.

The Commission found that DelDOT comments were not requested since the borrow pit was previously approved for the same size parcel and is utilizing the same entrance.

The Commission found that Joseph Moore, Daniel Moore, and James Fuqua, Attorney, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they intend to relocate the boundaries of the borrow pit that was approved in 1988; that the site is approximately 2.5 miles west of the Town of Delmar; that the family owns approximately 480 acres of land in the immediate

area; that the family has owned the parcel since the 1960's; that the applicants' long range plans are to develop the site with a subdivision with the borrow pit reclaimed into a lake for the use of the residents within the Subdivision; that they have developed lots along Route 54, Road 504, and Road 512; that the original borrow pit was planned to be located on both sides of Blackwater Branch; that the State DNREC will not allow digging around the Branch; that to borrow materials from both sides of the Branch would result in the creation of two borrow pits, one on each side of the Branch, and two entrances; that they propose to transfer all of the proposed borrow pit acreage to the north side of the Branch; that the existing entrance will be utilized; that woodlands exists to the east; that the maximum depth of the pit will be 18-feet to 20-feet; that historically since 1988 the contractor, P & A Construction, has hauled an average of 4 to 5 loads per day on work days; that they sent letters to the neighboring property owners; that the lots in the immediate area were created prior to the borrow pit; that they have created a 50-foot wide buffer around the borrow pit area; that the cemetery area will not be disturbed; that the lots created are a part of Meadow Stream Farms which has a homeowners association with deed restrictions; that the reclaimed lake is proposed for passive recreation and will be dedicated to the homeowners association when completed; that there will be no disturbance of the Branch; that the contractor is obligated to reclaim the pit; and that the lake will be a part of future expansions of the Meadow Stream Farms Subdivision.

The Commission found that Michael Pyles, a resident of Meadow Stream Farms, questioned when the borrow activity would be completed.

The Commission found that Joseph Moore responded that they had hoped that the project would have already been completed, that the contractor has control over completion of the improvements, and that the contractor has not needed the amount of materials that they originally anticipated.

The Commission found that Mr. Fuqua presented a packet of information which included a location map, a copy of Ordinance No. 553, the Ordinance granting approval of Conditional Use No. 891, a copy of the tax map for the area, and a copy of a letter sent to the neighbors by Daniel S. Moore, Jr. and Joseph E. Moore.

The Commission found that no parties appeared 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 forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations: 1) the cemetery shall not be disturbed; 2) as originally required with Conditional Use No. 891, a Performance Bond has been ordered

by Council to ensure adequate protection of the roadways and restoration pursuant to Zoning Ordinance; 3) the site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Carried 5 - 0.

C/U #1362 -- application of TIMOTHY S. JOHNSON to consider the Conditional Use of land in an AR-1 Agricultural Residential District to add one additional lot to an existing 31 lot mobile home park to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 18.48 acres, more or less, lying south of Road 22 (Long Neck Road) 1/2 mile east of Road 298.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located in the Long Neck Sanitary Sewer District; that system connection charges will be due for any improvements constructed in connection with this application; that the sewer connection charge rate through June 30, 2000 is \$2,954 per equivalent dwelling unit; that a sewer connection is not readily available for the lot; and that the applicant will need to contact the Utility Construction Department concerning procedures, specifications, and cost for installation of a sewer lateral.

The Commission found that Timothy Johnson was present and stated in his presentation and in response to questions raised by the Commission that he purchased the park from the Showells in April 2000; that the original developers had proposed a street connection from the park to the commercial area adjoining Route 22; that the parcel was subdivided separating the park from the commercial area leaving an undeveloped site where the street was originally intended; that the tenant on lot 4 was paying a large sewer assessment due to the amount of frontage; and that he proposes to redefine the lots lines for lots 4, 7, and 9 to allow for the creation of lot 4-A.

The Commission found that no parties appeared 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. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with a recommendation that it be approved with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

Motion Carried 5 - 0.

C/U #1363 -- application of RICHARD A. SMITH to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a country store to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 2.052 acres, more or less, lying west of Road 228 and 960 feet north of Route 38.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service of Road 228 will not change as a result of this application.

The Commission found that a petition containing 35 signatures for individuals or couples has been received in support of the application.

The Commission found that Richard A. Smith was present and stated in his presentation and in response to questions raised by the Commission that he proposes a country store to sell milk, bread, sodas, snacks, cold cut sandwiches, and grocery items to area residents; that he has no immediate plans to sell gasoline; that he lives approximately 5 lots from the site; that he proposes parking for nine (9) vehicles, which includes two (2) handicap spaces; that the nearest convenience store is located in Milton or Ellendale; that he does not intend to sell any alcoholic beverages; that business hours are proposed to be from 7:00 A.M. to 7:00 P.M. seven days a week; that a dumpster will be used for trash; that the sign will not be lighted; that the building will either be prefab or built on the site; and that the building will have a porch on the front.

The Commission found that Charles T. Morsey, a resident of the area, spoke in opposition to the application and questioned the need for a store when other stores are available within 8 miles of the site; that the road is in poor condition; that the traffic counts provided by DelDOT are not correct; that there are more than 38 cars per 15 minutes, not per day; that the area is rural and should remain rural and residential.

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 it be approved with the following stipulations: 1) the site plan shall be subject to review and approval by the Planning and Zoning Commission; 2) there shall be no petroleum fuel sales; 3) there shall be no alcoholic beverages sales; 4) one (1) unlighted on-premise ground sign, not exceeding 32 square foot per side or facing, may be permitted; 5) the building design shall be consistent with the buildings in the general area.

Motion Carried 5 - 0.

C/Z #1416 -- application of MILLS LANDING ASSOCIATES, L.P. to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-2 High Density Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southwest of Route One and 1,000 feet south of Route 12, to be located on 4.64 acres, more or less.

The Commission found, based on a letter to Evelyn M. Maurmeyer of Coastal and Estuarine Research, Inc., that the U.S. Army Corps. of Engineers had reviewed and approved a wetlands delineation in 1997 for the site.

The Commission found that DelDOT has no objection to the recordation of the subdivision of the parcel.

The Commission found, based on a letter from the Sussex County Engineering Department, that the site is within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that sewer capacity is available; that approval of the project will not create a pipeline deficiency; that it will be the responsibility of the developer to install all wastewater facilities for the project; that connection permits will have to be issued prior to connection to the system; that system connection charges will apply; and that the system connection charge rate through June 30, 2001 is \$2,954 per equivalent dwelling unit.

The Commission found, based on a letter from the Office of State Planning Coordination, that the parcel is located with the Community Area of the Strategies for State Policies and Spending Map approved by the Cabinet Committee on State Planning Issues in December 1999; that in these areas a wide variety of housing types already exist; that State policy will be to encourage redevelopment and reinvestment; that the State has no objections to the rezoning as they feel that apartment units are an appropriate use within the Community Area; that the State does ask that the County require the applicant to dedicate or reserve a 60-foot wide right-of-way through the property separating the existing apartment complex and the proposed development to provide for future connection to the Helen Warren property to the north and Dartmouth Drive; that a revised entrance permit will be necessary; and that the Office of the State Fire Marshal will require site plans and building plans.

The Commission found that Preston Dyer of Dyer/McCrea Ventures was present and stated in his presentation and in response to questions raised by the Commission that the Savannah West Apartments were built in the C-1 General Commercial portion of the site; that this application is for the AR-1 Agricultural Residential portion of the same site; that Savannah West Apartments contains 48-units; that 3 additional units could have been built within the C-1 General Commercial portion of the site; that rezoning of the rear portion will allow construction of an additional 24-units; that they propose to create deed

restrictions for the Mills Landing portion of the project to limit the project to 24-units for elderly housing within the guidelines of the Delaware State Housing Authority and in accordance with the Fair Housing Standards; that additional parking is being provided for each phase; that the site is in a Development District per the 1997 Comprehensive Plan; that central water will be provided by Tidewater Utilities; that central public sewer will be available through the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the existing entrance was designed and built for the maximum number of units; that the stormwater management area was designed and built for the maximum development of the site; that no wetlands will be disturbed; that they have met with members of the Rolling Meadows Homeowners Association; that a perpetual easement already exist serving properties to the north; that according to the Delaware State Housing Authority a senior citizen is 62 years old or older; and that no further development of the site over the proposed 24-units is proposed.

The Commission found that Mr. Dyer submitted copies of proposed deed restrictions for the project and for the Savannah West Associates, L.P. portion of the site.

The Commission found that Michael Tyler of the Citizens Coalition was present and stated that he had no objections, but questioned if any open space activities were proposed.

The Commission found that Mr. Dyer responded that no major recreational activities are proposed and that when they met with the residents of Rolling Meadows they agreed to not disturb the wooded area to the rear and to leave the wooded area in its natural setting.

The Commission found that no parties appeared 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. Johnson, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since it is in a Development District per the 1997 Comprehensive Plan; since it is an expansion of an existing project; and since the Office of State Planning Coordination has no objections.

Motion Carried 4 - 0 with Mr. Lynch absent.

C/Z #1417 -- application of HARBOUR TOWNE ASSOCIATES, L.P. to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-2 High Density Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southwest of Route 268 (Kings Highway) and east of Route One, to be located on 1.09 acres, more or less.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is located within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the Department previously evaluated and approved capacity for 84 apartments on the parcel; that the Department assumes that this application will be used in conjunction with that proposal and will not result in additional units; that if the total number of units exceeds that number, another capacity evaluation will have to be performed; that it will be the responsibility of the developers to determine if the wastewater facilities for the project must be constructed in accordance with Ordinance No. 38; that system connection charges will apply; and that the system connection charge rate through June 30, 2001 is \$2,954 per equivalent dwelling unit.

The Commission found, based on comments received from the Office of State Planning Coordination, that this project is located within the Developing Area of the Strategies for State Policies and Spending Map approved by the Cabinet Committee on State Planning Issues in December 1999 where State policies are to accommodate existing development and orderly growth; that where the State feels that apartment units are an appropriate use within the Developing Area, the State request that this rezoning be tabled until a traffic impact study has been done; that DelDOT is concerned about the possible effects of traffic from this development on Road 268; and that once DelDOT has gotten the traffic impact study results, the State may recommend that the County require certain assurances with regard to this development.

The Commission found, based on a letter from Design Consultants Group, L.L.C. to the applicants, that the entrance was designed to handle the project as well as lands of New Covenant Presbyterian Church; that an entrance permit was issued and that the entrance has been constructed; and that the proposed project shows a reduction in traffic and that no further action to the entrance plan should be warranted.

The Commission found that Preston Dyer of Dyer/McCrea Ventures was present and stated in his presentation and in response to questions raised by the Commission that rezoning of the site will allow for an additional 8-units and a 3,600 square foot Cheer Center to serve the project; that he recently received an approval from the County Board of Adjustment for a reduction in the required parking; that a total of 80-units are proposed on the combined parcels within the C-1 General Commercial and HR-2 High Density Residential districts; that access is provided through the existing entrance from Road 268; that the access is a public street; that the entrance construction has been

completed per specification; that there are fewer units than originally proposed; that central water will be obtained from Tidewater Utilities; that central sewer will be available from the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that there will be no wetlands disturbed; that they propose a voluntary deed restriction to limit the number of units to 80; that the density is less than the 12-units per acre allowed per the Zoning Ordinance; and that there will be no disturbance of Prettyman Branch.

The Commission found that Mr. Dyer submitted a copy of the proposed deed restriction limiting the number of units to 80.

The Commission found that Mr. Dyer also submitted a letter from Pastor Jamie Swalm of the New Covenant Presbyterian Church referencing that the Church supports the project and that they believe that the elderly apartment project is greatly needed and are pleased to have the project as a neighbor.

The Commission found that Mark Davidson of Design Consultants Group, L.L.C. stated that the entrance plan was approved for additional units and that there will be no change in the entrance permit required according to George Shaw of DelDOT.

The Commission found that Donald Wagner and Jay Campbell, residents of the area, spoke in opposition to the application and expressed concerns relating to traffic, and problems with the existing entrance; that the entrance is unsafe and should be re-evaluated; run-off problems during normal rains; that the entrance was not built as originally discussed by DelDOT; that the Prettyman Branch cannot handle the additional run-off; and that the run-off may impact the well fields for the Town of Lewes.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with a recommendation that it be approved since the site is located in a Development District, and since the Office of State Planning Coordination has no objection.

Motion Carried 5 - 0.

OLD BUSINESS

C/U #1352 -- application of REHOBOTH OUTLETS CENTER 3 to consider the Conditional Use of land in a C-1 General Commercial District for a sales cart program for the sale of soft and hard goods off of carts to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 34.41 acres, more or less, lying at the northeast corner of Route 1 and Road 271.

On September 7, 2000 the Commission deferred action.

On October 12, 2000 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 approved with the stipulation that the site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Carried 5 - 0.

C/U #1354 -- application of SOFTBALL WORLD, L.L.C. to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a softball complex, cabins, parent lodging, administration buildings, bath houses, pool and dining hall to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 131.94 acres, more or less, lying on the southwest corner of the intersection of Road 48 and Route 5.

On September 7, 2000 the Commission deferred action.

On September 21, 2000 the Commission discussed the application. There was a consensus of the Commission that since all of the Commission members were present for the public hearing, they should all be present for the decision.

On September 21, 2000 the Commission deferred action.

On October 12, 2000 the Commission discussed the points and issues raised during the public hearing.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be denied since the application is not in accordance with the 1997 Comprehensive Plan since it is not in a Development District; since the use is not an appropriate use in this

agricultural/residential area; due to the increased traffic concerns; due to the possible depreciation of property values; due to the possible negative impact on the historical Indian Mission Church and cemetery; due to the possible negative impact on the surrounding residential area by noise, traffic, and lighting; due to entrance concerns due to the entrance location's close proximity to the intersection of Route 5 and Route 48 and the curvature on Route 5 near the intersection; and due to the record of opposition against the application.

Motion Carried 5 - 0.

C/U #1360 -- application of RAYMOND MICHITTI to consider the Conditional Use of land in a GR General Residential District and a MR Medium Density Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 6.34 acres, more or less, lying west of Road 357 (Cedar Neck Road), 1,200 feet north of Road 358.

On September 21, 2000 the Commission deferred action pending receipt of a response from DelDOT on the traffic impact study.

On October 12, 2000 the Commission found, based on comments received from DelDOT, that the project is in a Multimodal Investment Area with respect to the Statewide Long-Range Transportation Plan and in an Environmentally Sensitive Developing Area with respect to the Cabinet Committee on State Planning Issues' Strategies for State Policies and Spending; that developments like the proposed townhomes can be appropriate in such areas if provisions are made for multiple modes of travel including automobile, transit, bicycle and pedestrian traffic; that the Department would not be opposed to the development of this project as long as alternative options are encouraged and the traffic is not adversely affected; that the Department's review of the traffic impact study indicates that an acceptable level of service currently exists and would continue to exist at the study area intersection; and that should the County choose to approve the development plan, the following items should be incorporated into the site design, should be reflected on the Record Plan, and should be completed prior to the issuance of any certificates of occupancy: 1) the developer should be required to provide sidewalks along the entire roadway frontage of the property with links to adjacent communities, and an internal sidewalk network; 2) the developer should be required to provide bicycle parking at the building front, in a well-lit area, and clear of pedestrian travel-ways; 3) if any entrance improvements are necessary, the developer should be required to incorporate five-foot wide bicycle lane striping transitioning from the shoulder to the right of the through lane per AASHTO guidelines.

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) The maximum number of multi-family units to be built on the property shall be 24.
- 2) All entrance and roadway improvements, required by DelDOT, shall be constructed by the applicant.
- 3) The development shall be served as part of the Cedar Neck Sanitary Sewer District.
- 4) The development shall be served by a central water system providing drinking water and fire protection per applicable regulations of State Agencies.
- 5) Stormwater Management improvements shall be provided in conformity with applicable regulations of the Sussex Conservation District.
- 6) A landscaping buffer shall be provided along the southerly boundary of the property.
- 7) Bicycle racks shall be provided per the recommendations of DelDOT.
- 8) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Carried 5 - 0.

C/Z #1412 -- application of L.A. WILLIAMS to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Seaford Hundred, Sussex County, land lying east of U.S. Route 13, 0.41 mile north of Route 532, to be located on 15.9487 acres, more or less.

On September 14, 2000 the Commission deferred action.

On October 12, 2000 the Commission discussed the points and issues raised during the public hearing and questioned if a response had been received from DelDOT on the uses permitted in C-1 General Commercial Vs LI-2 Light Industrial.

The Commission found, after Mr. Lank summarized DelDOT's response on the Allen Handy, Sr. application, that this application was similar to Change of Zone No. 1414, the application of Allen T. Handy, Sr. and that the adjoining parcels on both sides are zoned C-1 General Commercial.

There was a consensus of the Commission that LI-2 Light Industrial zoning is not an appropriate zoning for the area and that it would be more appropriate to rezone the parcel C-1 General Commercial.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved as C-1 General Commercial.

Motion Carried 5 - 0.

C/Z #1413 -- application of L.A. WILLIAMS to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Seaford Hundred, Sussex County, land lying at the southeast corner of the intersection of U.S. Route 13 and Delaware Route 18, to be located on 8.9314 acres, more or less.

On September 14, 2000 the Commission deferred action.

On October 12, 2000 the Commission discussed the points and issues raised during the public hearing and questioned if a response had been received from DelDOT on the uses permitted in C-1 General Commercial Vs LI-2 Light Industrial.

The Commission found, after Mr. Lank summarized DelDOT's response on the Allen Handy, Sr. application, that this application was similar to Change of Zone No. 1414, the application of Allen T. Handy, Sr. and Change of Zone No. 1412, the application of L.A. Williams, and that the adjoining parcels to the south are zoned C-1 General Commercial.

There was a consensus of the Commission that LI-2 Light Industrial zoning is not an appropriate zoning for the area and that it would be more appropriate to rezone the parcel C-1 General Commercial, and that the depth and acreage of the parcel being rezoned should be in line with the rear line of Change of Zone No. 1412 with a depth of 649.95 feet from the easterly right-of-way of U.S. Route 13.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously that this application be forwarded to the Sussex County Council with the recommendation that it be approved as C-1 General Commercial and with a depth of 649.95 feet from the easterly right-of-way of U.S. Route 13.

Motion Carried 5 - 0.

C/Z #1414 -- application of ALLEN T. HANDY, SR. to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Seaford Hundred, Sussex County, land lying west of U.S. Route 13, 2,076 feet south of Route 18, to be located on 10.14 acres, more or less.

On September 14, 2000 the Commission deferred action.

On October 12, 2000 the Commission discussed the points and issues raised during the public hearing. Mr. Lank summarized a letter received from DelDOT referencing permitted uses in commercial and industrial districts.

The Commission found that adjoining parcels on both sides are zoned C-1 General Commercial.

There was a consensus of the Commission that LI-2 Light Industrial zoning is not an appropriate zoning for the area and that it would be more appropriate to rezone the parcel C-1 General Commercial.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with a recommendation that it be approved as C-1 General Commercial.

Motion Carried 5 - 0.

Subdivision #2000-11 -- application of DR. BURTON ARONOFF to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred, by dividing 13.68 acres into 5 lots, located southeast of Road 530, 1.04 miles south of Road 46.

Mr. Abbott advised the Commission that this application was deferred at the May 25, 2000 meeting pending receipt of a septic feasibility statement from DNREC; that the septic statement has been received and that the site is suitable for individual on site septic systems.

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

Subdivision #2000-24 -- application of RACE STREET, L.L.C. to consider the Subdivision of land in a C-1 General Commercial Zoning District and an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred, by dividing 7.88 acres into 5 lots, located northeast of Route One, east of Road 268 and west of Road 268-A.

Mr. Abbott advised the Commission that this application was deferred at the August 24, 2000 meeting pending comments from DelDOT about the proposed entrance locations and types of uses studied in the traffic impact study; that Mr. Lank spoke with Bill Brockenbrough of DelDOT on September 19, 2000 and that he advised that the rights-

In drive off of Route One created less traffic disruption than the entrance on Road 268 (Kings Highway); that requiring all access to Kings Highway would impact traffic from Route One going to Lewes or the Ferry Terminal; that the right in drive off of Route One should lessen the impact on traffic on Kings Highway; and that the traffic impact study for the Holston application referenced office uses.

Mabel Granke of Rehoboth Beach questioned if DelDOT's comments were in writing.

Mr. Lank advised the Commission that the comments were not in writing.

Mrs. Granke stated that the comments should be in writing and requested that Secretary Canby from DelDOT should be made aware of this and stated that no action should take place at this time.

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

Subdivision #2000-26 -- application of A. P. LAND, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, by dividing 47.03 acres into 45 lots, located east of Road 305, 3,973.05 feet north of Route 24.

Mr. Abbott advised the Commission that this application was deferred at the September 21, 2000 meeting since Mr. Johnson was absent; that a 47-lot application for this site was denied on July 27, 2000; and that in this application the tax ditch is not being relocated.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary with the stipulation that the 30-foot forested buffer on the north and south sides extend all the way to Road 305.

## VI. OTHER BUSINESS

The Home Depot DE -16e  
Preliminary Commercial Site Plan - Route One

Mr. Abbott advised the Commission that this site plan is for a home improvement retail sales center; that the staff has received a letter from DelDOT referencing no objections to the locations of access to the site; that DelDOT has received a formal traffic impact study and will have a formal review completed by the end of October and will submit a letter explaining the overall impact of the development on the traffic on Route One; that the letter may recommend off-site roadway improvements in addition to what is shown on

the site plan; that a cross access easement to Grand Slam restaurant is shown and that the existing entrance to Grand Slam on Route One is proposed to be closed; that a cross access easement to the Wright's property is shown; that DelDOT is recommending a 60-foot right of way be reserved to connect the southern entrance to the property to the south; that the site plan references a 50-foot right of way; that the staff has received a letter from the County Engineering Department stating that adequate sewer capacity is available; that a 136,688 square foot one story building is proposed; that 823 parking spaces are required for the sales and display area and employees; that 824 parking spaces are proposed which includes the additional 20 percent for large scale uses; that the 7,000 square foot seasonal sales area will require an additional 42 parking spaces; that transit accommodations shall be provided at the discretion of the Commission and DelDOT; that the pedestrian movement shall be accommodated throughout the site to provide safe connections to transit stops, parking areas and sidewalks; that the 20-foot landscape buffer area along Route One has been provided; that one parking island for every 25 parking spaces is required; that 33 islands are required and that 44 are proposed; that 5 loading spaces are required and proposed; that the setbacks meet the requirements of the zoning code; and questioned the height of the proposed ground level storage tank.

Hans Medlarz, Engineer with Davis, Bowen and Friedel was present and advised the Commission that the intended use is permitted in the C-1 zoning district; that the site plan meets all of the requirements of the zoning code; that the developers are not requesting any variances; that Home Depot did a study and found that only 350 parking spaces would be needed for peak hours but they will install what is required by the Sussex County Code; that the owners do not object to cross access easements; that the closing of the Grand Slam entrance will be a vast improvement to traffic on Route One; that the entrance locations have been approved by DelDOT and that the developers expect off-site roadway improvements to be made; that the wetlands have been delineated and that there is no impacts to the wetlands; that it is possible that the wetlands at the southern portion of the property will be dedicated as a conservation easement; that the proposed ground level storage tank will be approximately 30-feet in height and have a 30-foot diameter; that the tank will hold approximately 250,000 gallons of water; that the seasonal sales area will be fenced off for items such as mulch and flowers; that DelDOT required a full scaled traffic impact study to be submitted including what could be the maximum development for the other parcels; that about 10 acres of the parcel is wetlands; and that the developers have made an attempt to buffer the entire parcel with landscaping in excess of what is required.

Tom Gallagher and Keith Johnston of Home Depot advised the Commission that the large concrete pad has an overhead roof to load and unload lumber; that no parking will be permitted in this area and will be noted on the final site plan; that they have contracted to purchase the entire 43.80 acre tract and that at this time there are no plans for developing the other parcels.

Mike Tyler, President of the Citizens Coalition, was present and advised the Commission that he has seen development plans for all of the parcels and stated that this should require a public hearing; that they have concerns about traffic implications on Route One; that all large stores are usually seas of asphalt; and requested landscaping areas to buffer the proposed store as much as possible.

Mr. Medlarz advised the Commission that when the traffic impact study was submitted, they submitted maximum development plans to DelDOT for the remaining two parcels.

Glen Piper of Landmark Appraisals questioned how does traffic go north on Route One and was advised that vehicles must go south to the light at the Delaware State Police troop.

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 review and approval of the Planning and Zoning Commission upon receipt of all required agency approvals.

Doris C. Argo, Heirs  
9 Lots - South of Road 39

Mr. Allen advised the Commission that he has visited the site; that the proposed 9 lots are to settle an estate; that the Board of Adjustment granted variances for the required lot width; and that there is no need for improving the existing road.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the 9 lots as a concept.

William Emmert and Ted Nowakowski  
C/U #1334 Site Plan - Route 48

Mr. Abbott advised the Commission that this is the final site plan for storage buildings for an auction and landscaping business; that two 40' by 60' buildings are proposed; that the County Council stipulated that no other buildings are permitted; that the site plan has to be reviewed and approved by the Commission; that the setbacks meet the requirements of the zoning code; and that all required agency approvals have been received.

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

American Tower Corporation  
150' Telecommunications Tower - Route 25

Mr. Abbott advised the Commission that this is a site plan for a 150-foot telecommunications tower; that towers 150-feet or less are permitted in all zoning districts; that a 100' by 100' leased area is proposed; that the tower will be within a 70' by 70' fenced in compound area; that the fence is chain link and 7-feet in height; that a 12' by 20' unmanned equipment building is proposed; that the tower is 250-feet from the front property line, 583-feet from the side property line and 990-feet from the rear property line; that the closet tower is approximately 5 to 7 miles away in Millsboro; and that the site plan is suitable for preliminary approval.

Barbara Pivac of American Tower was present and advised the Commission that there is a tower located in Dagsboro closer than 5 miles; that her company has professional engineers to determine the need for towers in certain areas; that many companies are not pursuing co-locatable towers; and that the County should require proof of need as required in other counties to limit the number of towers being erected.

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

**Topsail Village at the Salt Pond  
Preliminary Multi-Family Site Plan - Deer Leap**

Mr. Abbott advised the Commission that this site plan is for 26 multi-family units in the Salt Pond a MR/RPC; that the units are grouped into six pods with a maximum length of 165-feet and a minimum 40-foot separation between pods; that there are no encroachments into the wetlands; that the units are located in an AE7' flood zone; that the setbacks meet the requirements of the zoning code; and that the site plan is suitable for preliminary approval.

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

**Econo Lodge  
Revised Commercial Site Plan - Route One**

Mr. Abbott advised the Commission that this site plan is for a 5,500 square foot addition to an existing hotel; that the setbacks meet the requirements of the zoning code; that with the expansion, 125 rooms will be available; that the parking requirements have been met; and that all required agency approvals have been obtained.

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

Creekwood  
C/U #1278 Multi-Family Site Plan - Route One

Mr. Abbott advised the Commission that this is the preliminary site plan for a 32 unit multi-family project; that a letter of no objection has been received from DelDOT in reference to the entrance location; that 8 pods with 4 units each are proposed; that every building is a duplex; that there is a minimum of 40-feet between each pod; that 96 parking spaces are required and 97 are proposed with each unit having an attached 1 car garage; that there are no encroachments into the wetlands; that the setbacks meet the requirements of the zoning code; that no access to Delphany Street is proposed; and referenced the conditions of approval.

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.

Providence RPC  
Master Record Plan - Road 361

Mr. Abbott advised the Commission that the master record plan consists of 62 units total; that the site is zoned HR/RPC; that 13 single family lots and 49 multi-family units are proposed; that 147 parking spaces are required and proposed for the multi-family section; that the setbacks meet the requirements of the zoning code; and that each phase needs to be approved by the Commission.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the master plan for recordation.

Wedgefield RPC  
Preliminary Site Plan - Road 84

Mr. Abbott advised the Commission that the site plan is for 90 single family lots in a MR/RPC; that the project will be developed in five phases; that each phase needs the approval of the Commission; that the developer is requesting 20-foot front yard setbacks along the interior streets; and that the site plan is suitable for preliminary approval only.

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

Bethany Meadows Phase 5  
Final Multi Family Site Plan - Road 361

Mr. Abbott advised the Commission that this is the final site plan for Phase 5 of Bethany Meadows; that this phase contains 70 multi-family units; that the Commission granted preliminary approval on June 22, 2000; and that all agency approvals have been received.

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

Meeting adjourned at 10:20 P.M.