

MINUTES OF THE REGULAR MEETING OF OCTOBER 26, 2000

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 26, 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 Director, Mr. Abbott – Assistant Director, and Ms. Mowbray – Zoning Inspector III.

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

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the minutes of October 12, 2000 as corrected.

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

IV. PUBLIC HEARINGS

APD #2000-4—application of NELSON P. WARREN, JR., ROBERT M. WARREN, AND THOMAS W. WARREN to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred for three (3) parcels of land totaling 334.128 acres, more or less, located on both sides of Route 579, 0.6 mile south of Road 527, for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

The Commission found, based on comments received from the Delaware Agricultural Lands Preservation Foundation that the total acreage of the site is 334.12 acres; that 180.00 acres are cropland; that 154.00 acres are wooded; that there is not a federally approved soil and water conservation plan in effect; that the proposed district is not currently subject to any subdivision; that the proposed name of the district would be the Warren District; and that the application was approved for eligibility by the Foundation at its August 30, 2000 meeting.

The Commission found that Nelson P. Warren, Jr., Robert M. Warren, and Thomas W. Warren were present on behalf of this application and stated in their presentation that they plan to preserve the land.

The Commission found that there were no parties present with interest to this application.

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

The Commission discussed the points and issues raised during the public hearing.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried four votes to none, with Mr. Lynch not voting, to forward this application to the Delaware Agricultural Lands Preservation Foundation with the recommendation that this application be approved.

C/U #1363—application of MELVIN A. AND JUDI A. FORACRE to consider the Conditional Use of land in an AR-1 Agricultural Residential District for sales and service of recreational vehicles (motorcycles) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 4.614 acres, more or less, lying southwest of Route 5, 1,575 feet northwest of Route 48.

The Commission found, based on comments received from DelDOT that a traffic impact study was not required; and that the existing Level of Service "C" for the highway segment will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District that the soils mapped on-site are Evesboro Loamy sand; that the suitability of the soils for the intended use are slight: relatively free of limitations or limitations are easily overcome; that with respect to erosion and sedimentation control, it will be necessary for the developer to follow recommended erosion and sediment control practices during construction and maintain vegetation after completion of construction; that the farmland rating of the soil is of Statewide Importance, Hydric Soil in Small Depressions; that no storm flood hazard area is affected; that it would not be necessary for any off-site or on-site drainage improvements; and that no tax ditch is affected.

The Commission found that Melvin and Judi Foracre were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that they propose to build a 40-foot by 60-foot building for the sale of motorcycles and off-road four wheelers; that the proposed business would be another source of income since Mr. Foracre was disabled in an accident; that they plan to build a dwelling to the rear of the shop; that the name of the business will be called Thunder Cycles of Delmarva; that the building will have a 30-foot by 40-foot display area and a 30-foot by 40-foot service area; that junk or broken parts will not be stored at the site; that oil and fluids will be recycled through proper ways; that there will not be any excessive noises associated with the business; that the hours of business will be compatible to the other commercial uses in the neighborhood; that no car or trailer sales are proposed, only motorcycles and four-wheelers; that test driving will be done on the roads in the area; that there would not be any Sunday hours; that they are talking with distributors about sales; that the business would close at 5:00 P.M.; that there would not be any adverse impacts to the neighborhood; that a privacy fence will be erected along the ditch bank and a picket fence along the Hurdle's property; that security lights will be placed on the building; that they would like to have a small sign advertising the business; and that no bikes or four wheelers will be stored outside.

The Commission found that Betty Hurdle was present in support of this application and stated in her presentation that the applicant is a good mechanic; that she and her husband reside within 1,000 feet of the site; that there would not be any Sunday hours; and that there are other commercial uses in the immediate area.

The Commission found that Harold Stokes, an area resident, was present and stated that he does not have any problems with the use as long as the business is closed by 5:00 P.M. to limit noise.

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

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 with the following stipulations: 1) The hours of business may be Monday through Saturday from 8:00 A.M. to 5:00 P.M. with no Sunday hours; 2) One lighted sign, not to exceed 32 square feet, may be permitted; 3) no outside storage may be permitted; 4) no cars or trailers may be sold; and 5) the site plan shall be subject to the review and approval of the Commission upon receipt of all necessary agency approvals.

C/U #1365—application of CHESAPEAKE UTILITIES CORPORATION to consider the Conditional Use of land in a GR General Residential District for a bulk propane storage and distribution facility to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 5.74 acres, more or less, plus an access road, lying on a private easement 1,000 feet southeast of the intersection of Route 84 and Road 366.

The Commission found, based on comments received from DelDOT that a traffic impact study was not recommended; and that the existing Level of Service "B" for the highway segment may change to a Level of Service "C" as a result of this application.

The Commission found, based on comments received from the Sussex County Engineering Department that the site is located within the South Coastal Planning Area; that the site is located in a Priority III Planning area, and it is adjacent to the proposed Miller Creek Sanitary Sewer District; and that there is no schedule for sanitary sewer service at this time.

The Commission found, based on comments received from the Sussex Conservation District that the soils mapped on site are Evesboro loamy sand, Osier loamy sand, and Pocomoke sandy loam; that the suitability of the soils for the intended use are slight for the Evesboro soils, that these soils are relatively free of limitations or limitations are

easily overcome, and severe for the Osier and Pocomoke soils, that the limitations are severe enough to make use questionable; careful planning and design and/or very special construction measures are needed; that with respect to erosion and sedimentation control, the developers will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of construction; that the farmland rating of the soils are Evesboro – Statewide Importance, Osier – Statewide Importance, Hydric Soil, and Pocomoke – Prime Farmland (where drained), Statewide Importance (not drained), and Hydric Soil; that no storm flood hazard area is affected; that it may be necessary for off-site drainage improvements because of the poorly drained and very poorly drained soils; that it may be necessary for on-site drainage improvements because of the poorly drained and very poorly drained soils, and that the soils have a seasonally high water table November through March; that no tax ditch is affected; and that there may be jurisdictional wetlands that are regulated by the U.S. Army Corps of Engineers.

The Commission found, based on comments received from the Office of State Planning Coordination that the site is located within the Environmentally Sensitive 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, State policies will be to seek a balance between resource protection and sustainable growth; that they recognize that the proposed area is already developed and that such a facility will not encourage growth; that the State has no objections to this proposal; that they recommend that the county require the developer to consult with the local fire chief due to the site proximity to both the intersection and the residential area in case of a fire and/or explosion; and that if the County approves this application, the developer/owner will need to contact the Office of the State Fire Marshal to submit plans for this proposal.

The Commission found, that a letter in support of this application has been received from the Town of South Bethany.

The Commission found that four letters and a petition with 202 signatures in opposition to this application have been received.

The Commission found that the developers had submitted a packet of information containing a Fire Safety Analysis report prepared by HCC and Associates, Inc., a Current Market Analysis prepared by Joseph T. Conaway, a Chesapeake Utilities Underground Tank Site photo prepared by Davis, Bowen & Friedel, Inc., a Chesapeake Utilities Underground Tank Site computerized photo showing concealment by wooded areas prepared by Davis, Bowen & Friedel, Inc., a Chesapeake Utilities Underground Tank Site computerized photo showing fenced in area as approached from access road prepared by Davis, Bowen & Friedel, Inc., and a plot depicting location of Chesapeake Utilities Tank Site in relation to nearby developments and surrounding communities.

The Commission found that James Waehler, Attorney, Phil Barefoot, Vice President of Marketing for Chesapeake Utilities, Rick Chatham, Director of Safety for Chesapeake Utilities, Charlie Russell of Chesapeake Utilities, and Chuck Woodward of Davis, Bowen and Friedel were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that a similar application was withdrawn in 1999; that the developers have found a more suitable centrally located site that is secluded from developments; that the proposed site is 5.7 acres; that six 30,000 gallon tanks are proposed; that the tanks are approximately 735 feet from Road 84 and are not visible; that the tanks will be partially buried; that the closest dwelling is approximately 600 feet to the west; that the project has been designed to be un-intrusive as possible on the surrounding area; that if the use were approved, the possibility of fire would decrease since there would be less delivery trucks on area roadways; that surrounding property values should not be negatively impacted; that the natural wooded areas will remain; that there will not be any loading of trucks, only unloading at the site; that the propane industry is highly regulated by the Fire Marshal Office and State; that there are no wetlands on the site and submitted verification from the Natural Resources Conservation Service; that the tanks will be covered with a soil berm with 2:1 slopes; that fencing will be erected around the perimeter of the site; that there will be adequate room for the tank trucks to turn around within the site; that the site is 4 to 5 miles from the Atlantic Ocean; that the closest development is Plantation Park which is approximately 1,400 feet east of the site; that the use would bring a natural gas service to the coastal communities; that South Bethany has trenches in place for the pipelines; that the use needs to be located within five miles of the area that is being served; that at this time service will not extend to Fenwick Island; that the facility will be safe; that no propane can be put into the tanks until they are approved by the State Fire Marshal Office and DNREC; that there has not been any accidents at other Chesapeake bulk facilities; that the site will be equipped with a monitor nozzle for fire protection and fire protection has to be in place before any gas can be put in the tanks; that the tanks are sized by the amount of customers being served; that the tanks are filled by tanker trucks; that the tanks are filled to about 80 to 85 percent capacity, about 24,000 gallons; that the initial fill would take approximately 18 to 20 truck loads then approximately 1 truck every other day; that the proposed pipeline will follow the right of way of roads in the area; that existing homes would be able to receive service by tapping in to the pipeline; that Bear Trap Dunes, the Town of Ocean View and the Town of South Bethany would be serviced; that delivery cost will be less with a bulk facility; that there would be no chance of contamination to the ground water; that relief valves would be above the ground; that the trucks and tanks have safety valves and shut-offs; that propane trucks are stronger than fuel trucks; that 30 pounds of pressure would travel through the pipelines; that local fire companies receive training in case of an accident; that the area is protected by the Millville Fire Company; that the possibility of an explosion would be 1 in 37,000,000; that the dirt covering the tanks would not burn; and submitted a copy of Propane in the

Community, a photograph of a bulk storage facility located in Salisbury, Maryland and a list of conditions for approval.

The Commission found that Donald Kobi, an area resident, Bob Thornton, developer of Silver Woods, and Linclon Davis of Carl M. Freeman Associates were present and spoke in support of this application and stated in their presentations that small propane tanks are more dangerous than a bulk storage facility; that truck traffic would be taken off of local roads; that property values will increase in the area; that more people in developments would utilize gas; that the Village of Bear Trap would have over 600 underground and above ground propane tanks ranging in size from 100 to 1,000 gallons; that the amount of propane required would exceed the 180,000 gallons proposed by Chesapeake; that homeowners would not have to purchase tanks; and that there would be less tanks having to be filled.

The Commission found that Rick Clogg, Dale Banks, William Hammond, Mark Simons, John Beaumont, Pete Bastardi, Joe Schroeder, Viola Rogers, Mildred Durbano, Sally Orr, and Mason Jones, area property owners, were present in opposition to this application and stated in their presentations that traffic on Road 84 is bad, that people drive at unsafe speeds on this road; that they do not want this type of facility in the area; that property values would decrease; that the surrounding area has wildlife habitat and is hunted; that stray bullets and slugs could rupture the tanks; that the heavy truck traffic could damage the roads in the area; that the developers could possibly want more storage tanks in the future; that there could be the possibility of fires or explosions; and that the use is inappropriate to the area since it is agricultural and residential.

The Commission found that there were 6 people present in support of this application and 31 people present in opposition to this application.

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

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/Z #1418—application of PGS PROPERTIES, L.L.C. 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 Indian River Hundred, Sussex County, land lying east of Route 24, 300 feet south of Route 22 (Long Neck Road), to be located on 11.2 acres, more or less.

The Commission found, based on comments received from DelDOT that a traffic impact study was recommended; that the Department reviewed a traffic impact study prepared by C. David Jamison, P.E.; that the site is located in a Multimodal Investment Area with respect to the Statewide Long Range Transportation Plan and would be in an Environmentally Sensitive Developing Area with respect to the Cabinet Committee on State Planning Issues Strategies for State Policies and Spending Map; that they would not be opposed to the development of this project as long as alternative transportation options are encouraged and the traffic is not adversely affected; that the Traffic Impact Study indicates that unacceptable levels of service currently exist at Delaware Route 24 and Long Neck Road; that DelDOT is presently in the early stages of designing improvements to this intersection and is tentatively scheduled to complete the construction of those improvements in the fall of 2002; that with those improvements completed prior to 2003, acceptable Levels of Service would exist at the intersection for the 2003 future traffic; that the left turn movement out of this site, site access on Delaware Route 24 and the left turn movement out of the Hall property site access would both operate with unacceptable delays; that if the County is inclined to approve a land development plan for this site, they recommend that the County do so subject to the following conditions and completed prior to the issuance of any certificates of occupancy; 1) As part of the plan review process, the developer shall submit to DelDOT's Development Coordination Section entrance plans showing the proposed construction. Included in the plans should be re-striping, an actual or conceptual design for site access to the Hall Property, and other improvements deemed necessary by DelDOT's Development Coordination and Traffic Engineering and Management Sections, 2) The record plan should include a 10-foot wide separate pedestrian and bicycle path along Delaware Route 24 for the entire frontage of the property and extending to the intersection of Delaware Route 24 and Long Neck Road, with a note obligating the developer to build the path to that intersection to the extent possible, and 3) The record plan should include a designation for a pedestrian and bicycle path to the adjacent property to the east for the purpose of a future connection to the school on Sussex County Road 298; and that they reserve the right to comment further as revisions are made to the land development plan, and intersection and entrance improvements are submitted for review.

The Commission found, based on comments received from the Sussex County Engineering Department in a letter dated October 20, 2000 that a sewer connection is not readily available for the parcel; that the developer must construct all wastewater facilities in accordance with planning studies for the Long Neck area and the County's standard specifications; that system connection charges will be due prior to wastewater service being provided; that the system connection charge rate for the period July 1, 2000 to June 30, 2001 is \$2,101 per EDU; that in a letter dated October 26, 2000 the capacity has been allocated in the planning study at four units per acre; and that the total number of potential units for this site is 45.

The Commission found, based on comments received from the Sussex Conservation District that the soils mapped on site are Evesboro loamy sand; that the suitability of the soils for the intended use is slight, relatively free of limitations or limitations are easily overcome; that with respect to erosion and sedimentation control, the developer will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of construction; that the farmland rating of the soil is Statewide Importance, Hydric Soil in Small Depressions; that no storm flood hazard area is affected; that it would not be necessary for any off-site or on-site drainage improvements; and that no tax ditch is affected.

The Commission found, based on comments received from the Office of State Planning Coordination that the site is located within the Environmentally Sensitive 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, State policies will be to seek a balance between resource protection and sustainable growth; that according to the traffic impact study reviewed by DelDOT, unacceptable levels of service currently exist at Delaware Route 24 and Long Neck Road; that DelDOT is currently in the early stages of designing improvements to this intersection and is tentatively scheduled to complete the construction of these improvements in the fall of 2002; that with these improvements completed, acceptable levels of service would exist at this intersection; that the left turn movement out of this site access on Route 24 and the left turn movement out of the Hall property site access would both operate at unacceptable delays; that adding 60 more homes to this site would also increase storm evacuation times and could have an adverse effect on the Indian River School District; that the State recommends that the County review this rezoning proposal by looking at recent rezoning and conditional use proposals in the nearby areas as well as the development that is currently being done; that they recommend that the County document and consider the cumulative effects of development in this region before making a decision; and that if the County does approve this rezoning, the State recommends the following conditions be placed on the development and completed prior to any certificates of occupancy; 1) the three recommendations made by DelDOT; 2) The developers contact Tidewater Utilities to determine if Tidewater has the means and quantity to serve water to this site. There are Underground Storage Tank sites in the area that could impact any well permit application reviews on this project, the developers should anticipate a more in-depth review process due to these sites; 3) There is one active Underground Storage Tank (LUST) site located near the proposed project. Should any petroleum-contaminated soil be discovered during construction, the UST Branch must be notified as soon as possible. It is not anticipated that any construction specification would need to be changed due to petroleum contamination. However should any unanticipated contamination be encountered and PVC pipe is being utilized it will need to be changed to ductile steel in the contaminated areas.; and 4) that the developer be required to submit site plans and building plans to the Office of the State Fire Marshal for this proposal.

The Commission found, based on a letter received from Long Neck Car Care and Sales that they are property across the street; that they feel there is a need for the C-1 zoning; that the proposed change would be beneficial to the Long Neck Area; and that they support this application.

The Commission found that Pret Dyer, Gary McCrea, and Steve Parsons, developers, and Mark Davidson of Design Consultants Group were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that they propose to rezone 11.2 acres to General Commercial; that Parcel D would be developed for 60 multi-family dwelling units and submitted proposed restrictive covenants for Parcel D; that the site is in a development district based on the Comprehensive Land Use Plan Map; that central sewer and water are proposed for the development; that the area has mixed growth patterns; that the site adjoins existing C-1 General Commercial lands; that there are other commercial zoned lands in the area; that there would not be any adverse impacts to property values in the area; that they are in the process of submitting plans to DelDOT to meet their recommendations as set forth in the traffic impact study review; that they have contact the Hall's in reference to the proposed entrance location of this site and the Hall site across Route 24 and submitted a copy of the letter; that additional access is being sought to Long Neck Road from lands of Donald Adkins and submitted a sales contract; that they propose 60 multi-family units; that the site is located in the Long Neck Sanitary sewer district and they are having discussions with the Engineering Department in reference to available EDU's; that access to parcels A, B, and C will be by interior cross access easements; that they are proposing the same density permitted in the High Density zoning district; that the proposed units will be probably be sold under a condominium regime; that berms with landscaping will be installed; that a recreation area will be provided adjacent to the proposed buildings; that 5 buildings with 12 units each are proposed; and that the interior cross access easements will be maintained by the developers.

The Commission found that John Ferris an adjoining property owner was present and questioned if the units will be for sale or for low-income housing and questioned if fencing will be installed.

The Commission found that the developers stated that the units will be developed under a condo regime or could be leased depending on a market analysis; and that fencing will be provided whether the units are sold or leased.

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

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 since the site adjoins other commercial zoned lands and the site is located within a development district.

Subdivision #2000-27—application of LAKE SHORE INVESTMENT, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred, by dividing 34.07 acres into 26 lots, located north of Route 26, 880 feet west of Road 327. This is currently a recorded subdivision and the intent is to allow for multisectional manufactured homes on $\frac{3}{4}$ acre lots.

The Commission found that this application was reviewed by the Technical Advisory Committee on October 18, 2000; that the Commission, developers, and engineer has received a copy of the report and Mr. Abbott requested that the report be made a part of the record for this application.

The Commission found that letters from Paul and Wilma Petenbrink, David and Deborah Steele, Allene Murray, and Ina G. Steele have been received in opposition to this application stating that the development was approved for single family homes and that the multisectional homes would depreciate property values in the area.

The Commission found that Robert Witsil, Attorney, Joel Farr, owner, and Virgil Bullis, Realtor, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the purpose of this application is to re-approve the subdivision to allow multi sectional manufactured homes on $\frac{3}{4}$ acre lots; that the 4 letters in the file are opposed to development; that restrictive covenants have been submitted into the record; that the manufactured homes would be located on permanent foundations; that the setbacks would be 60-foot front yard, 15-foot side yard, and 20-foot rear yard; that the surrounding community is of mixed residential uses and commercial uses; that the developer purchased the property with the understanding that manufactured homes were permitted; that the infrastructure is in place; that onsite stick built homes will also be permitted; that the manufactured homes would be required to be new homes; that the minimum square footage would be 1,248 square feet; that the homes would range from 1,248 square feet to 2,200 square feet; that the homes will be sold by turn key packages; that either stone, asphalt or concrete driveways will be required; that there is a market for the manufactured homes; that financing is available through the manufacturers; and submitted photographs of the area and photographs of the proposed homes.

The Commission found that Ron Athay a realtor from the area was present in support of this application and stated that the proposed use opens the door for first time homebuyers.

The Commission found that Beth Umstead and Joseph Calhoun area residents were present in opposition to this application and stated in their presentation that they are not against development but that the manufactured homes would decrease property values in the area; that the development was approved for dwellings and that the County should not go backwards; and questioned if the buffer approved in 1994 on the original plan was still required and questioned why it had not been put in.

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

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.

Subdivision #2000-28—application of CHARLES H. GUY, IV, ROBERT A. NEDZEL, AND DOUGLAS L. STAMBAUGH to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred, by dividing 99.37 acres into 53 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located at the northwest corner of the intersection of Road 531 and Road 533.

The Commission found that this application was reviewed by the Technical Advisory Committee on October 18, 2000; that the Commission, developers and engineers have received a copy of the report; and Mr. Abbott requested that the report be made a part of the record for this application.

The Commission found that Charles Guy and Robert Nedzel, developers, and Roger Gross, engineer, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that no manufactured homes will be permitted; that the minimum square footage of the homes will be 1,500 square feet; that no further subdivision of the property will be permitted; that the wetlands have been delineated on the record plan; that the development was designed to lessen impacts on the wetlands; that the homes will be similar to what is being built in the Fox Glen subdivision; that the long strip lots have been revised to meet the recommendations of the Technical Advisory Committee and have been redesigned as two flag lots; and that the comments from DelDOT are being addressed.

The Commission found that Douglas Layton was present in opposition to this application and stated that he has concerns about the proposed density; that there is a lot of wildlife in the area and the development would destroy it; that Roads 531 and 533 cannot handle any additional traffic; that the land should be kept as open area; and that the development would be detrimental to society.

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

The Commission discussed the points and issues raised during the public hearing.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the revised subdivision plan submitted by the applicants as a preliminary.

V. OTHER BUSINESS

C-SW Cellular Partnership
C/U #1348 – Site Plan – Road 627

The Commission reviewed the final site plan for C/U #1348 for a 180-foot cellular phone tower off of Road 627.

Mr. Abbott advised the Commission that the tower is 180-feet within a 60-foot by 60-foot leased area; that the compound will be 54-feet by 54-feet with 9-foot high chain-link fencing; that the County Council approved this application on August 29, 2000; and that all required agency approvals have been submitted to the staff.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried four votes to none, with Mr. Johnson not voting, to approve the site plan as a final.

Robert B. Fitzgerald
Parcel and 50' Right of Way – Road 633

The Commission reviewed a concept to create a 2.50-acre lot with access from an existing 50-foot right of way off of Road 633.

Mr. Abbott advised the Commission that the existing right of way would be lengthened and that the owner wishes to create a 2.50-acre lot for his son; and that the proposed lot would be the second lot with access from the right of way.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the lot and 50-foot right of way as a concept.

Kercher and Associates
Commercial Site Plan – Road 48

The Commission reviewed a preliminary commercial site plan for a contractor's office and storage located off of Road 48, west of Route 5.

Mr. Abbott advised the Commission that a 16-foot by 24-foot office is proposed; that 12 parking spaces are proposed; that the setbacks meet the requirements of the zoning code;

that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all required agency approvals.

Mr. Johnson questioned the distance between the edge of the paving and the proposed office.

Mr. Abbott advised the Commission that the distance is less than thirty feet.

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

Albert J. Bierman
150' Tower Site Plan – Road 431

The Commission reviewed a site plan for a 150-foot telecommunications tower located off of Road 431 near Shortly.

Mr. Abbott advised the Commission that 150-foot towers are permitted uses; that the leased area is 100-feet by 100-feet with a 70-foot by 70-foot compound area; that three 12-foot by 20-foot by 12-foot equipment buildings are proposed; that the tower is setback 552-feet from the front property line, 275-feet from the north side, 328-feet from the south side, and 414-feet from the rear; that the staff has not received any agency approvals to date; and that the staff has received three letters and a petition with 30 plus signatures opposed to this site plan.

Barbara Pivac from American Tower Corporation was present and advised the Commission that the tower is a permitted use since it is less than 150-feet; that there is a need for a tower in this area because Verizon and Sprint have experienced dead zones on the southwest side of Georgetown; that the tower is setback enough from the property lines to not be an obstruction; that there is a land dispute that has not been settled by the Courts but that should have no bearing on the site plan; and that the FAA review advised that the tower cannot exceed 183-feet.

The Commission found that Kevin Shockley and Carol Collins area residents were present and spoke in opposition to the site plan and stated that the site is an eyesore; that illegal businesses are being done there at this time; questioned why the tower could not be located at another location in the area; that surrounding property values will decrease; and that there is no need for commercial uses in the neighborhood.

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

Ocean One
Commercial Site Plan – Delaware Route One

The Commission reviewed a preliminary commercial site plan for an office complex located at the corner of the intersection of Delaware Route One and Road 276.

Mr. Abbott advised the Commission that a letter of no objection has been received from DelDOT in reference to the entrance location; that two, three story buildings are proposed; that each floor contains 6,400 square feet; that there is 19,200 square feet in each building; that 192 parking spaces are required and that 195 are proposed; that the setbacks meet the requirements of the zoning code; that the 20-foot landscape buffer plan needs to be included on the final site plan; and that the site plan is suitable for preliminary approval.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried four votes to none, with Mr. Wheatley abstaining, to approve the site plan as a preliminary.

Meeting adjourned at 11:30 P.M.