

MINUTES OF THE REGULAR MEETING OF NOVEMBER 8, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 8, 2001 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Lynch, and Mr. Wheatley, with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Ms. Mowbray - Zoning Inspector.

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 October 25, 2001 as amended.

Mr. Schrader explained how the public hearings would be conducted.

PUBLIC HEARINGS

C/U #1426 -- application of **CEDAR BEACH ENTERPRISES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for bulk propane storage to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.14 acres, more or less, lying south of Road 269 and 270 feet east of Road 276.

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

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Sassafras sandy loam and Sassafras loam which have slight limitations; that the applicant shall be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of construction; and that the farmland rating of the Sassafras soils is considered Prime Farmland.

The Commission found, based on comments received from the Office of State Planning Coordination, that according to the Department of Natural Resources and Environmental Control (DNREC) that there are 4 inactive and 1 active leaking underground storage tank sites in the area; that should any petroleum contaminated soil be discovered during construction the Underground Storage Tank Branch should be notified as soon as possible; that the Inland Bays are designated as Waters of Exceptional Recreation or

Ecological Significance (ERES Waters) which shall be accorded a level of protection and monitoring in excess of that required by most other waters of the State; that both non-point and point nutrient sources in these waters may be subject to control through Best Management Practices; that the State asks that the County require the developers to work with DNREC to determine what pollution control strategies are needed to mitigate nutrient runoff; that the Delaware Emergency Management Agency asks that the developer work with the local Fire Chief to discuss the proposal and the State Police to discuss security; that DelDOT has noted that adding the propane storage may require changes to the entrance; that the applicant should contact DelDOT for review of the site; and that the State has no objections to the proposal if the Delaware Emergency Management Agency comments are addressed to ensure the safety of the surrounding area and if all other State permits are approved.

The Commission found that Don Steiner of Cedar Beach Enterprises was present and stated in his presentation and in response to questions raised by the Commission that the company is a fuel oil and propane distributor in Kent County and Sussex County; that the site is presently improved with a bulk storage facility for fuel and gasoline; that propane tank trucks are already parked on the site; that he has no objection to installing fencing, if necessary; that he is willing to work with the State Police and the Fire Company on safety and security issues; that the proposed 18,000 propane tank will be partially underground; that the tank has a diameter of 11-feet; that all underground storage tanks have been removed from the site; that the company purchased the site from Paradee Oil in 1988; that monitoring wells exist on the site; and that a maximum of one tractor trailer load is anticipated per day.

The Commission found that Marian Ward and Mary Phillips were present in opposition to the application and expressed concerns about additional traffic, additional truck traffic, congestion, and that the company sells gasoline on the site causing more traffic.

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 with the following conditions:

- 1) The area around the proposed mounded propane storage tank shall be fenced and bumpered subject to the approval of the Office of the State Fire Marshal.
- 2) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 5 - 0.

C/U #1427 -- application of **MICHAEL BIGGS** to consider the Conditional Use of land in an Agricultural Residential District for a showroom and countertop shop to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 5.91 acres, more or less, lying southeast of Route 32 and 507 feet southwest of Route 16.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; and that the present Level of Service "C" of Route 32 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Fallsington sandy loam, Sassafras sandy loam, and Woodstown sandy loam; that the Fallsington soils have severe limitations; that the Sassafras soils have slight limitations; that the Woodstown soils have slight to moderate limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation upon completion of construction; that all three soil types are considered Prime Farmland; and that the Fallsington soils are considered of Statewide Importance.

The Commission found that Michael Biggs was present and stated in his presentation and in response to questions raised by the Commission that he operates a cabinet dealership and builds countertops; that he proposes to build a showroom to display his cabinets and countertops, and to build a work shop for construction of the countertops; that he presently is self employed with no employees; that adequate parking will be available for customers on the site; that he anticipates one large delivery per month; that business hours will be from 8:00 a.m. to 5:00 p.m. six days per week with no Sunday hours; that all work will be performed inside of the building; that there will be no outside storage of materials; that he has a truck and trailer for hauling the cabinets and countertops; that he has no objection to reducing the size of the Conditional Use area; and that he would like to install a 32 square foot, two sided, lighted ground sign on the site.

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

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 conditions:

- 1) The Conditional Use area shall be reduced to a depth of 300-feet parallel to Route 32, rather than the entire parcel.

- 2) Business hours shall be from 8:00 a.m. to 5:00 p.m. Monday through Saturday, with no Sunday hours.
- 3) No work shall be performed outside.
- 4) There shall be no outside storage of materials.
- 5) One 32 square foot, two-sided, lighted ground sign may be permitted.
- 6) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 5- 0.

C/U #1433 -- application of **LEWES FIRE DEPARTMENT, INC. and the REHOBOTH BEACH VOLUNTEER FIRE COMPANY, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a fire station to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.53 acres, more or less, lying northwest of Route 24, 0.8 mile northeast of Route 277, and also southeast of Route 277, 0.3 mile south of Route 277-A.

Mr. Lank advised the Commission that he did not receive comments from DelDOT and that he reviewed the previous application of the Lewes Fire Department, Inc. for the same site and found that DelDOT had determined, at that time, that there would be no significant impact on traffic.

The Commission found, based on comments received from the State Fire Prevention Commission, that on August 21, 2001 the applicants went before that Fire Prevention Commission with a novel plan of establishing a substation that would be run jointly by both companies; that the Fire Prevention Commission could tell by their presentation that a lot of work and thought had been given to the project; that it is amazing that the volunteer fire service of Delaware does such creative thinking to overcome problems of slow response times caused by rapid development and increased traffic in areas of their districts, and to recognize the need for both companies to work together as one to overcome these problems; that the members of the Fire Prevention Commission unanimously endorsed this application, and request that the County do everything in its power to expedite the application; and that the Fire Prevention Commission feels that the sooner this project is completed, the better the Fire and EMS service will be in this section of the County.

The Commission found, based on comments received from the Office of State Planning Coordination, that the site is located in a "Rural" area of the Strategies for State Policies and Spending document; that in these areas State policies will encourage the preservation of a rural lifestyle and discourage new development; that this site is located in an area that is already close to growth and close to areas where the demand for development is high; that the State feels that it is important to locate public facilities, such as fire stations,

where the growth is occurring to help maintain the quality of life in the area; that the State has no objections to the location chosen for the fire station, but asks that the County consider the following comments: According to DNREC the Inland Bays are designated as ERES waters. Designated ERES waters shall be accorded a level of protection and monitoring in excess of that required by other waters in the State. Both non-point and point nutrient sources in these waters may be subject to control through Best Management Practices, which may include establishment of vegetated buffers which help reduce nutrients and sediments by uptake/absorption and vegetative entrapment. DelDOT noted that the Strategic Long-Range Transportation Plan indicated that this project is in a Management Investment Area, where DelDOT seeks to manage the existing infrastructure to minimize the need for capital improvements. DelDOT does not see that project as contributing significantly to that need.

The Commission found, based on comments received from the Sussex Conservation District, that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Evesboro loamy sand and Sassafras sandy loam; that the Evesboro soils have moderate limitations; that the Sassafras soils have slight limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of construction; and that the Sassafras soils are considered Prime Farmland.

The Commission found that a letter was received from Mable Granke on behalf of the Citizens Coalition Group to support the application and referenced that an ongoing concern of the Group members has been the potential and real response time delay to emergency situations due to peak season congestion in the Route One corridor and surrounding service area; that response time is made more difficult because of the long distance from the existing fire stations and the demonstrated need for a fire station in the Route 24 corridor; that this is a critical safety issue; that the Group supports the application that should facilitate needed response time to emergency calls; and that the Group commends the fire department leadership for seeking a timely solution to this public safety issue.

The Commission found that H. Edward Maull, Jr., Attorney, Lou Rickards, President of Lewes Fire Department, Inc, and Howard Blizzard, President of Rehoboth Beach Volunteer Fire Company, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they propose to jointly use the fire station; that the use will conform to the Comprehensive Plan; that the use promotes the health, safety, welfare, and morals of the citizens in Sussex County and the area; that the property was originally purchased by the Lewes Fire Department, Inc. in 1988; that pending the decision, a deed will be prepared in joint names of the two fire companies; that the building will comply with all requirements; that

the site contains approximately 2 acres which is adequate for the use; that the site has access to two public roads, Route 24 and Route 277; that adequate parking and driveways will be provided and will be paved; that the building can house up to 6 emergency vehicles; that the use will be a public benefit; that congestion of roads should not be affected; that this is the first time in Delaware, and possibly the nation, that two fire companies are willing to jointly utilize a site and building; that the area is in need of protection; that each fire company's district boundary abuts Route 24; that they propose to build a block building with a brick front; that the site will have security lighting; that the site will be landscaped; that a church exists across Route 24; that they are not aware of any opposition to the application; that some of the main reasons for the application are safety for the residents in the area, better response times, and that presently it is necessary for fire trucks to come to the area from Lewes and Rehoboth Beach; that the Indian River Fire Company supports the application; that if the use is approved construction will start immediately; that since the 1970's both fire companies have served the area; that most of the new volunteer firemen are young people from the area; that the fire station will be closer to the proposed new middle school; that a traffic light will be installed if it is required by DelDOT; that firemen utilize pager systems to get notice of emergencies; and that the Rehoboth Beach Volunteer Fire Company gets dispatches from both Rehoboth Beach and Sussex County.

The Commission found that there were no parties present 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 with the condition that the site plan be subject to review and approval by the Planning and Zoning Commission.

Vote carried 5 - 0.

C/Z #1452 -- application of **DR. JOEL HALPREN** 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, 680 feet east of Route 349-A, to be located on 43,478 square feet, more or less.

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

The Commission found that prior to the public hearing the applicant had submitted a packet of information which included a contract of sale, a letter from Jeffrey Clark to Shane Abbott, a letter from the County Engineering Department, a DelDOT report, excerpts from the 1997 Comprehensive Plan, copies of sections 115-28 and 115-68 of the Zoning Ordinance, a letter from Coastal and Estuarine Research, Inc., a map of the area, and photographs of the surrounding area.

The Commission found, based on comments received from DelDOT, that the Department does not recommend that the County require a traffic impact study; that the Department is concerned about this application; that the Department sees the application as encouraging more traffic in an area that has been identified as operating at unacceptable levels of service "E" during summer Saturday peak hour; that the Department is concerned about the entrance location.

The Commission found, based on comments received from the Sussex Conservation District, that there are no storm flood hazard areas or tax ditches affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Evesboro loamy sand which have slight limitations for development; that the applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of construction; and that the farmland rating of the Evesboro soils is considered of Statewide Importance.

The Commission found, based on comments received from the County Engineering Department, that a six inch lateral has been provided at the property line; 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 Department will be considering annexation of the area in the near future.

The Commission found that David Weidman, Attorney, and Dr. Joel Halpren were present and stated in their presentations and in response to questions raised by the Commission that the application is intended to rezone a residential lot next to the Post Office to B-1 Neighborhood Business so that Dr. Halpren can build an office on the site; that the application is consistent with the 1997 Comprehensive Plan since the site is within a Municipality District; that one of the purposes of the Plan is to direct growth into developing areas; that a 10,000 square foot building is proposed of which 3,000 square foot will be utilized by Dr. Halpren, and that the remaining 7,000 square feet is planned for other medical professionals; that the site is located in a multi-modal investment area where DelDOT will be making improvements; that the project is consistent with other uses in the area; that several business uses exists in the immediate and surrounding area; that the Commission recently recommended rezoning of the parcel on the opposite side of

the Post Office for B-1 Neighborhood Business; that typical office appointments are scheduled approximately 1/2 hour apart; and that no lab facilities are proposed.

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

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried with 4 votes, with Mr. Lynch not voting, to forward this application to the Sussex County Council with the recommendation that it be approved since the site is adjacent to a commercial use (Post Office) and since the site is in close proximity to other B-1 Neighborhood Business and C-1 General Commercial districts and uses.

Vote carried 4 - 0. Mr. Lynch did not vote.

C/Z #1453 -- application of **YODER'S CARE CENTER, INC.** to amend the Comprehensive Zoning Map from a GR General Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, land lying southwest of Route 14 across from Route 224-A near Argo's Corner, to be located on 1.71 acres, more or less.

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

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is in a "Rural" area according to the Strategies for State Policies and Spending document where State policies will encourage the preservation of a rural lifestyle and discourage new development; that the State would prefer to see office buildings located in "Community" areas; that the site is in an area already surrounded by growth; that the State does not feel that this change would spur future growth or negatively impact the surrounding area; that the State recommends that, in order to make this change a positive one for the character of the area, the office building should be used for businesses that could be used by surrounding neighbors, such as doctors offices; and that DelDOT has noted that a new entrance plan and permit will be required.

The Commission found, based on comments received from the Sussex Conservation District, that there are no storm flood hazard areas or tax ditches affected; that it may not be necessary for any on-site or off-site drainage improvements; that the soils are mapped as Rumford loamy sand and Sassafras sandy loam which have slight limitations; that the

applicant may be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the farmland rating of the Rumford soils is considered of Statewide Importance; and that the farmland rating of the Sassafra soils is considered Prime Farmland.

The Commission found that Mark Yoder was present on behalf of Yoder's Care Center, Inc. and stated that he has operated a nursing home on the premises; that present regulations are tough for a small nursing home; that he has had to close the nursing home; that a tenant would like to utilize the site for an office; that the nursing home closed in the year 2000; that his license is current and shall be maintained until a decision is made on this application; and that he is presently removing materials, furniture, and some appliances from the premises.

The Commission found that Steve Hollenbach was present in opposition to the application since the area is predominantly residential and agricultural, and since the use would be out of character with the area.

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. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the rezoning will allow for continued use of an existing business type of structure that has been vacated.

Vote carried 5 - 0.

OLD BUSINESS

SUBDIVISION #2001-24 -- application of **CRAIG HUDSON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 81.98 acres into 73 lots and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located south of Route 251, 666 feet southeast of Road 319.

The Commission discussed the points and issues raised during the public hearing on September 27, 2001.

Mr. Lank advised the Commission that action had been deferred on September 27, 2001 pending receipt of a septic feasibility statement from DNREC; that a septic feasibility statement has been received advising that the lots are suitable for individual on-site septic systems; and that if the Commission is favorable toward this application, forested buffers

shall be required for all lands adjacent to lands that are actively used for agricultural purposes.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried 3 votes to 2 votes, with Mr. Lynch and Mr. Wheatley opposed to the motion, to approve the Subdivision as a preliminary with the stipulation that forested buffers be required for all lands adjacent to lands that are actively used for agricultural purposes.

Vote carried 3 -2.

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.

The Commission discussed the points and issues raised during the public hearing on October 11, 2001.

Mr. Lank advised the Commission that comments had not yet been received from the FAA; that he had spoken to Derek Sapp of the County Engineering Department and found that five (5) different site plans, some with lighting and some without lighting, have been submitted to the FAA for review; and that a response from the FAA has not yet been received on the different site plans.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried with 4 votes, with Mr. Johnson abstaining, to forward this application to the Sussex County Council with the recommendation that it be approved with the following conditions:

- 1) The site plan shall be subject to review and approval by the Planning and Zoning Commission.
- 2) The final site plan shall not be given consideration until the staff has received all appropriate agency approvals and/or permits, including the FAA and the County Engineering Department.

Vote carried 5 - 0. Mr. Johnson did not vote.

C/U #1423 -- application of **SKYDIVE DELMARVA, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for parking for ten (10) mobile campers/RV trailers as an expansion to Conditional Use No. 869 (expansion of existing airport facility) to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 52 acres, more or less, lying northwest of Route 24 and northeast of Route 494.

The Commission discussed the points and issues raised during the public hearing on October 25, 2001.

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 conditions:

- 1) The campers may be located on the site from April 1st to November 30th.
- 2) The use of the campers to be strictly limited to instructors and pilots.
- 3) The maximum number of campers shall not exceed ten (10) campers.
- 4) There shall be no more than one family per camper.
- 5) The camper holding tanks shall be required to be pumped out by private waste handlers.
- 6) If the jump school no longer exists the right to maintain the campers shall become void.
- 7) The type of campers shall be limited to legally licensed recreational vehicle type trailers.
- 8) The applicant shall provide screening of the camper area.
- 9) All spacing shall be in compliance with the Office of the State Fire Marshal regulations.
- 10) The application shall be subject to periodic inspections by the Planning and Zoning Department staff. If any violations of the stipulations are found the application may become void.
- 11) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 5 - 0.

C/U #1424 -- application of **L. THOMAS HARMON** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for retail sales of landscaping supplies to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 12.5531 acres, more or less, lying north of Route 280-B and 800 feet east of Route 285.

The Commission discussed the points and issues raised during the public hearing on October 25, 2001.

Mr. Johnson stated that he reviewed the site again and found that two (2) flatbed trailers and a dump truck had been parked at the site and that he was concerned about the impact on the residential area.

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 use may impact the residential area. The applicant shall be required to cease and desist the business activities on the site and shall be obligated to remove the mulch storage and commercial activities within 90 days.

Vote carried 5 - 0.

OTHER BUSINESS

Rehoboth Cottages

C/U #1401 - Site Plan - Bay Road Extended

Mr. Lank advised the Commission that this is a preliminary site plan for seven (7) single-family detached homes and a swimming pool; that the property is zoned GR General Residential; that the site plan meets the requirements of the zoning code with a minimum of 20-foot spacing between buildings; that central water and central sewer are proposed; that three (3) parking spaces will be provided for each home; that the plans meet the eight (8) conditions of approval by the Sussex County Council; that the site plan is acceptable as a preliminary; and that if the Commission so approves, the final site plan could be approved by the staff upon receipt of all appropriate agency approvals and/or permits.

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 appropriate agency approvals and/or permits.

The Reserves of Nassau

Multi-Family Site Plan - Road 266-B

Mr. Lank advised the Commission that this is a preliminary site plan for 102 units on 9.91 acres; that the zoning code would permit 118 units; that the property is zoned C-1 General Commercial; that 33 duplex buildings are proposed; that 3 buildings are within a 165 square buildable area; that a minimum of 40-feet has been provided between buildings; that 2 - 18 unit condominium buildings are also proposed at 165-foot of length; that a swimming pool is proposed; that an application has been made to the Sussex County Board of Adjustment for a variance from the parking requirements; that no improvements are proposed within wetlands; that the site is not located in a flood plain; that the setbacks meet the zoning code; that the site is acceptable as a preliminary; and that if the Commission so approves, the final site plan could be approved by the staff upon receipt of all appropriate agency approvals and/or permits.

The Commission found that James Fuqua, Jr., Attorney , was present on behalf of the applicant, and stated that the site plan meets the requirements of the zoning code, and that if the Board of Adjustment approves the variance request, the site plan will be revised to reduce the number of parking spaces.

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

NSTEEL Med-Tech Center
Commercial Site Plan - Lot 2 - Carpenter's Crossing Subdivision

Mr. Lank advised the Commission that this is a preliminary site plan for a 2-story, 16-unit commercial building (45' by 220') for medical and technical offices; that the setbacks meet the requirements of the zoning code; that 64 parking spaces are required and proposed; that 28 spaces are located in the front yard setback and need a waiver consideration by the Commission; that central sewer and central water are proposed; that the final site plan shall be required to depict the plantings in the 20-foot landscape buffer area; that a preliminary site plan was approved for this site on August 9, 2001 and has since been voided; that the site plan is acceptable as a preliminary with the corrections noted; and that if the Commission so approves, the final site plan could be approved by the staff upon receipt of all appropriate agency approvals and/or permits.

Motion by Mr. Johnson, 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 appropriate agency approvals and/or permits.

Providence RPC
Final Record Plan - Road 361

Mr. Lank advised the Commission that this is a final record plan for a 62-unit HR-RPC; that the Master Plan was approved by the Commission on October 12, 2000; that 13 single-family lots and 49 multi-family units are proposed; that there are no changes in the plan from the Master Plan; that setbacks meet the requirements of the zoning code; that the Record Plan meets the requirements of the code; that all agency approvals have been received by the staff; and that the plan is acceptable for final approval.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the Record Plan as a Final.

**Kinsale Glen MR/RPC
Preliminary Site Plan - Road 273**

Mr. Lank advised the Commission that this is a preliminary site plan for 115 single-family lots; that the maximum lots that could have been allowed was 125; that the minimum lot size is 10,000 square feet; that the developer has requested setbacks of 30-feet front, 20-feet rear and 10-feet side for "A" lots, and 20-feet front, 20-feet rear and 10-feet side for "B" lots; that the Commission may allow different setbacks in residential planned communities; that a 50-foot wide buffer is provided along Route 273 and a 50-foot wide buffer easement is provided along Silver View Farm Manufactured Home Park; that a clubhouse, pool, and parking area are proposed for the community area; that the plan is suitable for conceptual approval; that approvals have been received from the County Engineering Department for roadways, stormwater, and sewer, the Sussex Conservation District for stormwater management and sediment control; and that he was advised by a representative of the developer that verbal approval has been granted by George Shaw of DelDOT for the entrance, but that he has not received any confirmation from Mr. Shaw.

The Commission found that Chris Carbaugh was present on behalf of the developer.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously that the preliminary site plan be conceptually approved. Final approval shall be subject to review and approval by the Commission as required by the Conditions of Approval by the Sussex County Council.

**Ted Nowakowski and William Emmert
Revised Site Plan - Road 48**

Mr. Lank advised the Commission that this is a revised site plan to consider the resubdivision of 2 parcels into 4 lots with access from an existing 50-foot right-of-way; that the lots range in size from 7.62 acres, being the largest, to 2.29 acres, being the smallest; that one lot will be utilized by Mr. Emmert for storage of auction items; that the larger lot will be utilized by Mr. Nowakowski for his landscaping business; that one lot will be utilized for an accessory building for the storage of a boat; and that any further subdivision of the property will require a public hearing as a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve the revised site plan in concept.

**Greenwood Country Retirement
Revised Site Plan - Route 16**

Mr. Lank advised the Commission that the revised site plan is for 10-single family dwellings (retirement homes); that the Sussex County Board of Adjustment approved the retirement facility with a mixture of single family dwellings and duplex buildings (not to exceed 10-units); and that the owner has requested permission to build all single family dwellings, rather than the mix since there has not been much interest in the duplex units.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the request to revise the site plan.

**Richard A. Smith
C/U #1363 - Time Extension - Road 228**

Mr. Lank advised the Commission that this Conditional Use was approved for a country store on October 31, 2000; that a applicant has requested a one-year time extension to start construction; that this is the first request for a time extension; and that the code allows the Commission to grant two extensions.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to grant a one-year time extension to October 31, 2002.

**Marsh Harbor
C/U #1407 - Site Plan - Road 273**

Mr. Lank advised the Commission that this is a preliminary site plan for 47 single-family detached units and 27 duplex buildings for a total of 101 units; that the site is zoned MR Medium Density Residential; that the Conditions of Approval limited the density to no more than 5 units per acre; that buffers surround the site on the east, south and west sides; that 162 parking spaces are required and proposed for the duplex buildings, and that 2 parking spaces are proposed for each single-family detached unit; that a swimming pool with 5 parking spaces is proposed; that a bus stop needs to be provided along Road 273-A; that tennis courts need to be provided on the site plan; and that the site plan is acceptable as a preliminary with the corrections noted.

The Commission found that James Fuqua, Jr., Attorney , was present on behalf of the developer and stated that the bus stop may not be necessary due to the close proximity to the Park and Ride.

Mr. Lank advised the Commission that they do not have the authority to delete the County Council condition on the bus stop since the condition was imposed by the County Council and not a recommendation of the Commission.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the corrections noted. Final approval shall be subject to review and approval by the Commission as required by the Conditions of Approval by the Sussex County Council.

**Boys and Girls Club of Delaware, Inc.
C/U #1417 - Site Plan - Route 5**

Mr. Lank advised the Commission that this is a preliminary site plan for a 4,800 square foot club; that the setbacks meet the zoning code; that 32 parking spaces are required and 33 proposed; that a landscaped buffer and a 6-foot berm are proposed; that on-site septic and central water are proposed; that the site plan is acceptable as a preliminary; and that if the Commission so approves, the final site plan could be approved by the staff upon receipt of all appropriate agency approvals and/or permits.

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

ADDITIONAL BUSINESS

The Commission discussed the Public Hearings Dates for 2002.

There was a consensus of the Commission to change the meeting dates for December to December 5 and December 19 so that public hearings would not be scheduled the day after Christmas.

Meeting adjourned at 9:45 p.m.