

MINUTES OF THE REGULAR MEETING OF DECEMBER 13, 2001

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 13, 2001 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 P.M. with Chairman Allen presiding. The following members of the Commission were present; Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Lynch, and Mr. Wheatley, with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the minutes of November 29, 2001 as amended.

PUBLIC HEARINGS

C/U #1428 -- application of **KYLE W. WELSH** to consider the Conditional Use of land in a C-1 General Commercial District for a sales cart program for the sale of hot dogs/food items off of carts to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 17.48 acres, more or less, lying south of Route One and east of Route 275.

The Commission found, based on comments received from the Delaware 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 County Engineering Department - Planning and Permits Division, that the site is located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that wastewater capacity is available; that additional System Connection Charges will be required if the EDU assessment is increased due to usage of the facilities; that the System Connection Charge Rate is \$2,954.00 per EDU; and that conformity to the West Rehoboth Planning Study or undertaking an amendment will be required.

The Commission found that Kyle W. Welsh was present and stated in his presentation and in response to questions raised by the Commission that he has a mobile van and a cart; that he intends to sell only food items; that he proposes to locate the van between the entrance doors and the exit doors of the Lowe's Store; that the van is a registered licensed motor vehicle in Delaware; that the van is smaller than a Suburban and can be parked in a normal sized parking space; that all cooking and service to customers will be from the rear of the van; that he will connect to electrical supplies from the Lowe's Store; that the heat for cooking will be with propane; that the van has a 28 or 30 gallon propane tank; that the business is proposed to be on the site from 10:00 am to 3:00 pm seven (7) days

per week; that an employee will serve foods on weekdays and that he will serve foods on weekends; and that he does not intend to operate the cart at this location.

Eric Hench, Manager of the Lowe's Store, was present in support of the application and stated that there is a sunroom display that will be moved from the proposed location, and that Lowe's employees will direct traffic when the van is entering and leaving the location.

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 application.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to defer action so that the staff can contact the State Fire Marshal's Office for comments on parking a motor vehicle van within propane cooking facilities at this location so close to the building.

Vote carried 5 - 0.

C/U #1429 -- application of **DREAMWEAVERS INTERIORS LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for expansion of Conditional Use No. 1112 (custom sewing workroom and showroom) to allow for additional display area and office to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 40,000 square feet, more or less, lying northwest of Route 18 (Savannah Road) 500 feet southwest of Quaker Road.

The Commission found, based on comments received from the County Engineering Department - Planning and Permits Division, that the site is within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that wastewater capacity is available for the project; that the current System Connection Charge Rate is \$2,954.00 per EDU; and that a connection point is a six-inch lateral served from Savannah Road,

The Commission found, based on comments received from DelDOT, that the Department does not recommend that the County require a traffic impact study for this application; and that the Department is concerned about this application since they see it as encouraging more traffic in an area that the Department has identified as operating with an existing poor level of service (E) during summer Saturday peak hour.

The Commission found that three (3) letters of support had been received from immediate neighbors to the site.

The Commission found that Sue Stevenson and Peter Brocksted were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that the existing fabric building was constructed in the 1930's; that the existing sewing building was constructed in the 1950's; that both buildings have non-conforming setbacks; that the business started in 1993 at this location; that a Conditional Use was obtained to operate the business; that they now intend to expand the business on the site by expanding the display areas and office; that if the parking along the westerly property line is a concern it can be moved to the rear of the site; that adequate space is available on the site for parking; that the majority of the existing parking area is paved and that the rear parking area is stoned; that the business is not a high traffic generating business; that the majority of the business activities are conducted at customers homes or businesses; that most of the deliveries are brought in by UPS type trucks at a parking spot in front of the dwelling; that the business has seven (7) employees, mostly part-time; that they do not anticipate hiring any additional employees; that the showroom on the second floor of the dwelling has been converted back into living quarters; that employees park to the rear of the buildings; and that business hours are from 10:00 am to 5:00 pm Monday through Friday and 10:00 am to 2:00 pm on Saturday, with no Sunday hours.

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 this application.

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. Business hours shall be from 10:00 am to 5:00 pm Monday through Friday, and 10:00 am to 2:00 pm on Saturday, with no Sunday hours.
2. All parking areas shall be paved as required by the Zoning Ordinance.
3. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 5 - 0.

C/U #1430 -- application of **ROSE AILEEN CARTWRIGHT** to consider the Conditional Use of land in an AR-1 Agricultural Residential District to store construction equipment to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 4.8507 acres of a 23.597 acre tract, more or less, lying north of Route 46, 650 feet east of Route 516.

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 County Engineering Department - Planning and Permits Division, that according to the Western Sussex Water and Sewer Plan the site is within the Seaford Service Area, and that the applicant can contact the City of Seaford concerning the availability of water and sewer service.

The Commission found that Greg Cartwright and Rose Aileen Cartwright were present and stated in their presentations and in response to questions raised by the Commission that Mr. Cartwright is a masonry contractor; that they plan on storing construction equipment (bob-cats, mixers, backhoes, trailers, and scaffolding) and parking on the site; that he has from 15 to 20 employees; that the employees park on the site and then go to job sites; that the Nanticoke cottage will be removed from the site; that business hours are from 7:00 am to 6:00 pm six days per week with no Sunday hours; that he plans to clean up the site and recycle the old concrete; that he has been using the site for parking for approximately 3 years; that the existing entrance on the westerly side of the site will be utilized for access for the business; that fencing is proposed to be provided for the area used to store the equipment and some sand; that solid fencing may be provided to screen the material storage; that they did receive a violation notice for operating the business; that his wife owes the property; that the proposed building is to be used for storage, not mechanical work; that security lighting will be provided on the parking area and around the building; and that he lives in the wooded area to the east of the site.

The Commission found that no parties appeared in support of or in opposition to the application.

At the conclusion of the public hearings, the Commission discussed the application.

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

Vote carried 5 - 0.

C/Z #1454 -- application of **ELMER FANNIN** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-RPC High Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying on the northeast side of Route 275 (Plantations Road) 2,700 feet southeast of Route 283 (Postal Lane), to be located on 30.63 acres, more or less.

The Commission found, based on comments received on December 11, 2001 from the County Engineering Department - Planning and Permits Division, that wastewater capacity is available for up to 120 EDU; that if the project exceeds 120 EDU the developer must take steps to comply with the approved regional plan or undertake to

develop an approved amendment to the regional plan; that the developer will be responsible for all costs to prepare the amendment as well as any required improvements; that additional System Connection Charges will be required; that the current System Connection Charge Rate is \$2,954.00; that the project is adjacent to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that conformity to the West Rehoboth Expansion Area Planning Study or undertaking an amendment will be required; and that it is recommended that the project be presented to the Technical Advisory Committee as part of the site plan approval process.

The Commission found, based on comments received on December 6, 2001 from the County Engineering Department Public Works Division, that the project should be reviewed by the Technical Advisory Committee and that the private streets should be subject to the street design requirements of the Subdivision Ordinance.

The Commission found, based on comments received October 16, 2000 from DelDOT, that the Department recommends that a traffic impact study be done because the Department is concerned about encouraging more traffic in an area which has been identified as operating at unacceptable levels of service during summer peak hours; and that the Department recommends that the County defer action until the Department reviews and comments on the recommended traffic impact study for the project.

The Commission found that a letter of opposition has been received from the Sandy Brae Citizens Committee along with 91 letters of opposition from individual property owners within Sandy Brae Subdivision.

The Commission found that Elmer Fannin, James Griffin, Attorney, and Mark Davidson of DC Group were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that the site is in a Development District according to the 1997 Comprehensive Plan; that the purpose of the Development District is to concentrate development in areas where public water and wastewater systems are available or planned and where past trends indicate that growth will occur; that the Development District will produce a mixed use growth pattern supported by public and private investments to provide a variety of economic development and housing opportunities; that by encouraging higher residential densities, and commercial and industrial uses in this District, the pressure for development in the agricultural areas will be reduced; that the guidelines for housing types include townhouses, apartments, and condominiums; that the guidelines for density with a public wastewater system references ten dwelling units per acre for townhouses including townhouse condominiums; that the parcel is proposed to be developed to provide more open space by clustering buildings; that a November 20, 2000 letter from DelDOT revised the October 16, 2000 letter that recommended a traffic impact study by referencing that the Department has enough information from a traffic impact study from another project and

recommends that the County deny the application; that the Department realizes that their role is only advisory and that they must ask for certain items in case the County approves the application; that these items, while not providing the level of service standard required by the Departments agreement, will help to mitigate the impact on the roadway system; that in the time that the applicant has been making proposals with regard to this property, the level of service of Road 275 has remained at level of service "D" and that it is not likely to change soon; that the Department believes that the construction of the Grid Road would be a benefit to the people who live, work, shop and recreate in the block formed by Route One and Route 24, and Roads 275 and 283; that the Grid Road would not cause the intersection of Route 24 and Road 275 to function at a better level of service; that the Grid Road would allow residents of the proposed project and other developments proposed on Road 275 to avoid the intersection on trips where they otherwise could not do so in a practical way; that it is important that the site entrance be designed to accommodate bicycle traffic; that DelDOT advises that there are specific right-of-way, site access, bicycle and pedestrian items that the County should require as part of any approval of the project which include: 1) The dedication of a 50-foot right-of-way through the property for the future construction of a north-south local road. The location should be subject to DelDOT review and approval in the site plan review process. 2) The dedication of either rights-of-way or easements at and around the site entrance such that if the site entrance is built onto Road 275, others can subsequently reconnect it to a future street to the north without obtaining further easements or rights-of-way from the subject property. 3) The design and construction of the site entrance in a manner that will accommodate bicycle traffic on Road 275. 4) The design and construction of sidewalks along the project's internal streets; that if the County approves the rezoning, entrance plans will have to be developed in accordance with DelDOT specifications; that the developer has no objection to compliance with the request from DelDOT; that a portion of the Grid Road within Aydelotte Estates has been built by the developer and that the entrance to this project will be from this Grid Road approximately 300 feet from Road 275; that DelDOT commented on another project in the area of Road 275 that traffic signal adjustments will improve the level of service; that the project will have 5-foot wide pedestrian walkways and an internal bike path; that the right-of-way for the Grid Road will be dedicated for public use; that the location of the Grid Road will be approximately 200 feet from the Maplewood property line; that the project will be served by County sewer; that the sewer connection will be at Radcliffe Drive within Maplewood; that the sewer line will be a gravity line and will not require a pump station; that a memo dated December 21, 2000 from the County Engineering Department Planning and Permits Division indicated that wastewater capacity for the 214 units was available; that central water will be supplied by Tidewater Utilities; that all stormwater will be retained on the site by infiltration, ponds, and planting areas and shall be subject to agency guidelines and approvals; that the soils are predominantly Sassafras; that a mixture of 214 townhomes and condominium units are proposed; that landscaping will be provided; that they have reserved a 25-foot wide forested buffer along Maplewood; that

the existing hedgerows will be retained along the northerly and southerly property lines; that the project will be phased; that the project should be completed within 7 years depending on the real estate market; that the site contains approximately 17 acres of open space; that they anticipate that the purchasers will be from local areas and retirees; that perpetual maintenance of the buildings and grounds will be performed by a Homeowners Association; that the project should have a positive effect on the area; that the total economic impact of construction and sales of the units should generate \$21,220,950.00; that future economic impacts in taxes, annual sewer usage charges, and annual building and ground maintenance should generate \$320,350.00; that there should be no negative impacts on surrounding properties or values; that the nearest multi-family development is the Plantations approximately 0.5 mile away; that they will provide a pavilion, walkways, and open space for the residents of the project; that 2 pools, tennis courts, and a spa are available for the residents at the Plantations; that 2 residential subdivisions exists immediately to the north and east of the site; that they applied for HR-RPC to limit the number of units; that the layout of the project is the same as the last application; that the Comprehensive Plan suggest that projects be built in the Development Districts; that the use is residential even though it is a different housing type; that they have no objections to be reviewed by the Technical Advisory Committee; that they have no objection to building the streets to County specifications; that the developer is willing to pay all cost associated with exceeding the 120 units limitation for sewer capacity; that buffer strips are not required; that they deleted the original concept that included B-1 Neighborhood Business areas in the application; and that they waited for County sewer before reapplying.

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

The Commission found that Michael Roney, Chairman of the Sandy Brae Property Owners Committee, Michael Tyler, President of the Citizens Coalition, Inc., Joe Galosa, a resident of Sandy Brae, Joan Deaver, a resident living along Plantations Road, Richard Anthony of Lewes, Pat Torelli, President of the Plantations Civic Association, of the 13 people present in opposition, expressed concerns relating to multi-family structures in an area of single family homes; that they were not opposed to single family detached homes; that another traffic impact study should be required; that the best use of the land in single family detached homes under the present zoning category; that high density development is not appropriate on this site; that the current road infrastructure is inadequate to handle the traffic this project will generate; that continued rezonings are problematic because they create a serious drain on our resources of drinking water, sewer capacity and power generation; that this site has been productive farm land for generations; that this project could create a non-beneficial effect on the community; that it would be prudent to refrain from allowing any further rezonings within the Route One corridor area until the Comprehensive Plan is updated; that the area of land to be set aside for the Grid Road should not be calculated in density; that wells are going dry in the area; that the proposed

use is out of character with the surrounding properties, which are either farmland or single-family subdivisions; that the project has no amenities, not enough parking, and inadequate setbacks; that the applicant should be required to provide sidewalks and street lighting; that it would not be safe to plan a playground along Road 275; that the Grid Road concept may never be built; that the design is not a planned community, it is a multi-family project; and that the project will increase the amount of impervious surfaces and will cause more runoff of pollutants into the earth and the groundwater.

The Commission found that Paul Carey, a resident of the Plantations, spoke in support of the project; disputed Ms. Torelli's comments since Ms. Torelli does not speak on behalf of all of the residents of the Plantations; and added that a project with this type of housing is needed in the area, and that there is a need for different types of housing in the area.

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. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied since the rezoning would be out of character with the immediate neighborhood; since there are no recreational amenities; and since there are too many units proposed on this sized parcel compared to the surrounding area.

Motion carried 5 - 0.

C/Z #1455 -- application of **BRIDLE RIDGE PROPERTIES, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR Medium Density Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying on the southeast side of Route 285 and the southwest side of Route 275, to be located on 105.47 acres, more or less.

SUBDIVISION #2001-27 -- application of **BRIDLE RIDGE PROPERTIES, L.L.C.** to consider the Subdivision of land in a MR Medium Density Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 105.88 acres into 277 lots, located at the southwest corner of the intersection of Road 285 and Road 275.

Mr. Lank asked the Commission if they would be receptive to holding one public hearing on this application and the application for Subdivision #2001-27 together.

Mr. Schrader advised the Commission that they may hold one public hearing referencing both cases, and that the decisions on the two applications must be made separately.

There was a consensus of the Commission to allow one public hearing on both applications.

The Commission found that revised site plans have been submitted by the applicants in response to Technical Advisory Committee comments.

The Commission found, based on comments, dated July 20, 2001, received from DelDOT, that the Department has reviewed the proposed site plan for the purpose of determining an appropriate access location and design; that the Department does not object to the location of the access as located on the plan; and that a traffic impact study has been prepared and submitted to the Department for review.

The Commission found, based on comments, dated September 10, 2001, received from DelDOT, that there will be two access points to the project, one from Road 275 and one from Road 285; that the project would be in a Multimodal Investment Area with respect to the Statewide Long-Range Transportation Plan and in a Developing Area with respect to the Cabinet Committee on State Planning Issues' Strategies for State Policies and Spending document; that developments like this proposal 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 transportation options are encouraged and the traffic is adversely affected; that their review of the traffic impact study indicates that acceptable levels of service existed in 2000 during the summer Saturday midday peak hour for all turning movements at two of the five unsignalized intersections studied, and would continue to exist at only one of those two intersections without improvements; that the remaining four unsignalized intersections would have turning movements that would operate unacceptably in 2003, regardless of the development of this project; that of the three signalized intersections studied, they found that two of the intersections operated acceptably in 2000 during summer Saturday midday peak hour; that one could operate acceptably in 2003 with signal phasing modifications and the other would operate a level of service "F", regardless of the development of this project; that this project would have a relatively small impact on congestion in the study area, is consistent with the Statewide Long-Range Transportation Plan and the Strategies for State Policies and Spending, and its construction could include at least one connector road option identified in the SR1 Grid Study; that the Department is not opposed to this application; that should the County choose to grant the rezoning necessary for the development of this site in a manner similar to what is address in the traffic impact study, the Department recommends that if the County chooses to approve the application, the following requirements should be incorporated into the site design, and should be reflected on the Record Plan by note or illustration: 1) Provide Americans with Disabilities Act (ADA) compliant sidewalks on all State roadway frontage, and ADA compliant curb ramps and crosswalks where appropriate. Additionally, the developer should be required to provide an internal

sidewalk network. 2) Dedicate rights-of-way at the site entrances, in a manner acceptable to the Delaware Transit Corporation and DelDOT's Subdivision Engineer, for the location of future transit stops. 3) Design the deceleration lanes at the site entrances to the proposed development to accommodate bicycle lanes through the intersection. 4) Widen the shoulder along the entire property frontage on Road 285 to a minimum of five feet to accommodate bicyclists. 5) Enter into an agreement with DelDOT whereby they will participate in the cost of installing a traffic signal at the intersection of Road 275, Road 276, and the site entrance. 6) Enter into an agreement with DelDOT, whereby they will participate in the cost of modifying the signal phasing, if feasible, at the Route 24 intersection with Road 275. 7) Build one of the proposed grid roads through the subject property as they have previously shown on conceptual plans. This road should be built to DelDOT standards and dedicated to public use.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division on December 6, 2001, that the project is adjacent to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that wastewater capacity is available for the project; that the project will be required to be built to Ordinance No. 38 standards; that the current System Connection Charge Rate is \$2,954.00 per EDU; that the location and size of laterals or connections points shall have to be determined by the County Engineer; and that conformity to the West Rehoboth Planning Study or undertaking an amendment will be required.

The Commission found that a letter was received from the Estates at Bridle Ridge Home Owners Association in support of the application.

The Commission found that a letter was received from James L. Short of Lewes expressing concerns relating to traffic concerns that have not been addressed in the past and need to be considered now; that if the project is to be approved it should be required to be connected to public sewer; that the sewer district was not formed to encourage development; and that past actions of the County in denial of some projects should be considered.

Mr. Lank advised the Commission that the Technical Advisory Committee Report for October 17, 2001 relating to this project is a part of the record for both applications.

The Commission found that Pret Dyer, Gary McCrea, and Joe Reed, the developers, and Mark Davidson of DC Group were present and stated in their presentations and in response to questions raised by the Commission that they are proposing to develop the parcel with 277 single-family detached dwellings; that 13 acres of the parcel, located at the intersection of Road 275 and Road 285, are not a part of this application; that the proposed density is 2.62 units per acre; that MR zoning is appropriate since the site is in a Development District according to the 1997 Comprehensive Plan and due to the close

proximity of the site to the C-1 General Commercial District along Route One; that the site is in a Developing Area according to the Strategies for State Policies and Spending documents; that public sewer is available for the project; that a preliminary sewer study and layout has been approved by the County Engineer; that they will be required to build a regional pump station for the sewer system; that central water will be supplied by Tidewater Utilities; that the central water and central wastewater will protect the environment; that the lots exceed 10,000 square feet; that the MR zoning will create a buffer between the C-1 and AR-1 zonings; that they have worked with DelDOT for one year to design the project; that since the beginning of their design, they have voluntarily agreed to provide a 70 foot wide right-of-way for the Grid Road connecting Road 275 and Road 285; that the developers are negotiating with DelDOT on the recommended conditions referenced in the DelDOT comments; that the Grid Road will improve traffic conditions in the area; that they have agreed to dedicate transit stops; that walking trails and sidewalks will be provided; that a town park will be provided; that a swimming pool and clubhouse will be provided; that the common elements of the project contain approximately 12.6 acres; that the streets will be private; that an architectural committee will be established for the project; that there are no wetlands on the site; that they propose to develop the project in four phases with the first phase containing 81 lots, the second phase containing 77 lots, the third phase containing 73 lots, and the fourth phase containing 46 lots; that the subdivision meets the requirements of the Subdivision Ordinance; that no lots front the Grid Road; and that the Delaware State Housing Authority has abandoned their agricultural practices on their property.

The Commission found that Michael Tyler was present in opposition and stated that the Grid Road is only an option and may not be built; that he is concerned about the Belltown area since it is considered a historic district; that Road 276 is considered as having a level of service "F"; that past letters from DelDOT indicated that there should be no further development in the area of Five Points; that Road 275 and Road 285 are very hazardous for cyclists; that he is concerned about the quality of life for the residents of the area; that action should be deferred; and that there are too many questions left unanswered.

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 C/Z #1455 to the Sussex County Council with the recommendation that it be approved since the use is in accordance with the 1997 Comprehensive Plan and the Strategies for State Policies and Spending Document.

Motion carried 5 - 0.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to defer action on Subdivision #2001-27 until the Sussex County Council renders its decision on C/Z #1455.

Motion carried 5 - 0.

OLD BUSINESS

Subdivision #2001-32 - - application of **SUSSEX VENTURES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 76.44 acres into 56 lots, located south of Road 297, 2,930 feet west of Route 30.

Mr. Abbott advised the Commission that this application was deferred at the November 29, 2001 meeting.

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

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried 4 votes to none, with Mr. Lynch not participating, to deny this application for the following reasons: 1) The proposed 56-lot subdivision does not meet the purpose of the Subdivision Ordinance in that it does not protect the orderly growth of the County because the proposed site is not in a Development District as established by the 1997 Sussex County Land Use Plan, 2) The proposed 56-lot subdivision does not meet the purpose of the Subdivision Ordinance in that it does not encourage the preservation and conservation of farmland because the land use in this vicinity is primarily agricultural, the application would remove 76.44 acres, more or less, from tillage, and there are no similar residential real estate development in this area along County Road 297, 3) In considering the minimization of: (a) soil removal and grade changes; (b) erosion and sedimentation; (c) increased rates of runoff; (d) potential for flooding; and (e) prevention of pollution of surface and groundwater, the application does not contain specific plans showing that these areas of concerns have been addressed or that any preliminary designs for drainage have been recommended or considered; and 4) The proposed 56-lot subdivision does not provide for safe vehicular and pedestrian movement within the site because of the extreme length of the cul-de-sac type interior street, with access from only one roadway, causing accessibility concerns for emergency vehicles.

Vote carried 4 to 0 to 1.

Subdivision #2001-5 - - application of **VIRGINIA M. STEELE** to consider the Subdivision of land in a MR Medium Density Residential Zoning District in Baltimore Hundred, by dividing 56.6 acres into 103 lots, located at the northeast corner of the intersection of Road 360 and Road 357.

Mr. Abbott advised the Commission that this application received preliminary approval on March 22, 2001 for 103 lots; that the final plan has been reduced to 88 lots; that there are minor changes to the street, lots and recreation area layouts; that the final record plan meets the requirements of the Subdivision Ordinance; and that all agency approvals or letters of no objection have been received.

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

Vote carried 5 to 0.

OTHER BUSINESS

The Villages of Five Points MR/RPC North Village Site Plan

Mr. Abbott advised the Commission that the preliminary site plan is for 90 condominium units; that 5- three story buildings with eighteen units each are proposed; that the master plan approved by the Commission on August 9, 2001 referenced eight buildings in the North Village; that a revised master plan will need to be submitted reflecting the change in the number of buildings; that the maximum number of units shall not exceed five hundred and eighty six units made up of two hundred and sixty single family lots, one hundred and forty four apartments, one hundred and ten townhouses, and seventy two condominiums; that these numbers could be revised since the condition arose from the applicants and the Commission; that the building lengths, separation distances and setbacks meet the requirements of the zoning code; that there are five buildings with six car garages and two boat storage units proposed; that the site plan references two hundred and forty parking spaces including the garage units; that two hundred and seventy parking spaces are required by the zoning code; that the Commission has the authority to waive the parking requirements if they feel that the regulations are excessive; and that an asphalt walking path is proposed throughout this phase.

The Commission found that James Fuqua, Attorney, and Mike Lynn, developer, were present and stated in their presentations and in response to questions raised by the Commission that the entire project was approved for five hundred and eighty six units; that the revised master plan will show that the units have been revised to two hundred and forty four single family lots, one hundred and four townhouses, one hundred and forty

eight apartments, and ninety condominium units; that the maximum allowed number of units has remained the same; that the developers have found a number of ways to improve the overall site plan; that three acres will be given to DelDOT for road improvements; that a revised master plan will be submitted; that the developer is requesting that the required number of parking spaces be allowed to be reduced to 2.3 spaces per unit instead of the required three spaces since, due to the location of the project, it is not anticipated that these units will be rented as weekly or seasonal units; that it is expected that they will be owner occupies or second homes; that the three space requirement was deemed appropriate due to the high occupancy that seasonal rental units attract; that the ninety units will be comprised of thirty, three bedroom units and sixty, two bedroom units which results in lower density than most multi-family units; that there are a number of garages planned as part of the village; that the garage parking is counted as part of the parking requirements; that there are forty additional parking spaces provided in the garage driveway, which will be utilized by the owner, but which is not counted toward the parking space requirement; that as part of the RPC approval, the applicant agreed to construct a multi use field and soccer pavillion; that this field is located immediately adjacent to the North Village and a parking area will be constructed as part of the field complex; that it is anticipated that this parking area will rarely be fully utilized and therefore will be available as overflow parking for the North Village if and when required; that the vision of the Villages of Five Points is to develop an attractive, integrated community where people can live, shop and socialize in an environmentally sensitive setting; and that paving additional open space for the sake of unnecessary parking is unwarranted and contrary to the vision for the development.

Mr. Allen expressed concerns about waiving the number of parking spaces since this is the first phase of the project and the location of the project being near the beach resorts; and that the revised yield plan and parking reduction request should have been listed on the agenda to make the record more clearer.

Mr. Lynn advised the Commission that the project will be mixed uses; and that there will be more parking provided for the entire project than what will be required by the zoning code.

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

Proposed Pepper Creek Development Discussion

Mr. Lank advised the Commission that Bake Timmons is proposing a residential planned community project for the Commission to review the proposed concept; that there would be driveways coming off of interior streets to serve four to five homes; that the project is

similar to a project located in Maryland; that photographs have been provided to the Commission; and questioned if the Commission would like to visit the project located in Maryland.

It was the consensus of the Commission that a trip be arranged so that they can visit the existing project in Maryland.

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Mr. Abbott advised the Commission that the revised site plan is for a fifty-foot by one-hundred foot storage building; that the building was not located on the approved site plan; that the setbacks meet the requirements of the zoning code; that agency approvals have been obtained; and questioned if the Commission would approve the site plan as revised or require an amended conditional use application.

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

Subdivision #2001-1 - - Harry F. Faust, Jr.
Time Extension

Mr. Abbott advised the Commission that a request for a time extension has been received in order to obtain final approval; that the Commission granted preliminary approval on January 25, 2001 for three lots; that approvals have been received from DelDOT and DNREC; and that a new engineer is designing the interior street layout.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve a one-year time extension.

Meeting adjourned at 11:38 P.M.