

MINUTES OF THE REGULAR MEETING OF DECEMBER 18, 1997

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 18, 1997, at 7:30 P.M., in the County Council Chambers, Sussex County Administrative Building, Georgetown, Delaware, with the following members present:

Mr. Allen, Mr. Hastings, Mr. Lynch, Mr. Phillips, Mr. Wheatley, Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

No action was taken on the minutes of December 11, 1997.

Mr. Schrader explained how the public hearings and agenda items will be conducted.

II. Public Hearings

1. C/U #1217--Trinity Land Company

Greg Sizemore and George Sapna were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Broad Creek Hundred for Warehousing, Light Manufacturing, Welding, Pre-Fab Pipe and Assembly of Sheet Metal Duct on the west side of Route 13A, approximately 1,500 feet north of Road 488, located on 3.98 acres more or less.

Mr. Lank summarized comments received from DelDOT.

Mr. Sapna stated that the building has existed since 1960; that the building was originally built for U.S. Plywood; that the company purchased the property in 1980; that the building has been utilized for storage and warehousing of lumber, chemicals, nylon, etc...; that some outside storage of pipe may be provided; that Lebanon Chemical leases approximately 12,822 square feet of space for storage; that Lebanon Chemical has approximately 3 or 4 trucks per day; and that the use intended is similar to uses that have taken place on the site for the last ten (10) years.

William Porter of Potts Welding stated that his employees are mobile and leave from the site; that the company has eight (8) vehicles; that the only outside storage will be on the loading dock to the rear of the building; that typically the business runs eight (8) hour days from 7:00 A.M. to 3:30 P.M. with a minimum of overtime; that the pipe, presently on the ground in front of the building, will be stored inside of the building once the construction of the pipe racks has been completed; and that he understands that restrictions can be placed on a Conditional Use.

No parties appeared in support of or 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.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "C" of Route 13A will not change as a result of this application.

The Commission found that George Sapna was present on behalf of this application and stated that the building has existed since 1960; that the building was originally built for U.S. Plywood; that the company purchased the property in 1980; that the building has been utilized for storage and warehousing of lumber, chemicals, nylon, etc...; that some outside storage of pipe may be provided; that Lebanon Chemical leases approximately 12,822 square feet of space for storage; that Lebanon Chemical has approximately 3 or 4 trucks per day; and that the use intended is similar to uses that have taken place on the site for the last ten (10) years.

The Commission found that William Porter of Potts Welding, a proposed tenant, was present and stated that his employees are mobile and leave from the site; that the company has eight (8) vehicles; that the only outside storage will be on the loading dock to the rear of the building; that typically the business runs eight (8) hour days from 7:00 A.M. to 3:30 P.M. with a minimum of overtime; that the pipe, presently on the ground in front of the building, will be stored inside of the building once the construction of the pipe racks has been completed; and that he understands that restrictions can be placed on a Conditional Use.

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

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 with the following stipulations:

1. Outside storage shall be limited to the rear portion of the site, labelled dock area on the site plan.
2. Signage shall be limited to replacement of the same size signboard on existing sign at front of property.
3. No fabrication work or related activities shall be conducted out of doors.



2. C/U #1218--Angola Community Partners, L.L.C.

Craig Hudson and John Sergovic, Attorney, were present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred for Expansion to Conditional Use No. 1117, Expansion of Existing Model Home Sales and Display Lot on the south side of Route 24, approximately 963 feet southwest of Delaware Route One, located on 1.05 acres more or less.

Mr. Lank summarized comments received from DelDOT.

Mr. Sergovic stated that Conditional Use No. 1117 was approved in June 1995 and that the findings of the County Council for Conditional Use No. 1117 are applicable to this application, and referenced that the site is served by an existing traffic light; that the site is located in a development area in the Coastal Sussex Land Use Plan; that the Conditional Use would have no negative impact on the traffic burdens of Route 24 or cause any significant increase in traffic above that allowed by development under the existing zoning; that the site is located immediately across Route 24 from lands recently zoned C-1 and is located adjacent to other commercial lands, and along the Rehoboth Mall service road; that the site is uniquely situated for business use in that it is located on a section of Route 24 which has recently been widened, and the corner is served by an existing traffic light; that the County Council found that the site could be rezoned B-1 or C-1 under the Comprehensive Land Use Plan, but the Conditional Use as applied for by the applicant allows the County to limit the types of business use; that the applicant proposed five model homes for display; that such a business use is less traffic generating than would be the spectrum of allowed uses under the C-1 or B-1 rezoning; that the Sussex County Zoning Code, pursuant to Article XXIV Section 115-171 allows for Conditional Use approvals of business use, while affording the County the ability to impose limitations on the nature of the business that can be operated to better adjust the parcel to the environment, than would be a rezoning at B-1 or C-1; that the proposed use possesses an important relationship to the Comprehensive Development Plan in that the site is in a development zone and the Conditional Use mechanism allows for limitations on the type of business uses that can be placed; that the Conditional Use better secures a business use compatible with the nearby residential properties, including Maplewood Subdivision, than would a rezoning without restriction; that the intent of this application is to display additional models; that additional space is needed to display the additional models; that no increase in traffic is anticipated; that the purpose of the Development District in the Comprehensive Plan is to concentrate development in areas where public water and wastewater systems



are available or planned and where past trends indicate that growth will occur; that these areas are partially developed and contiguous to the developed areas around the Inland Bays; that 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 Natural Resource Protection and Agricultural Areas will be reduced; that the use will serve a demand for mobile and modular homes for area residents; that access is limited to the Rehoboth Mall access road; and the site is in close proximity to other commercial activities.

Mr. Hudson stated that parking will remain the same; that the access is limited to the Rehoboth Mall access road; that the maximum number of display units will be ten (10), including the office; that all units are heated; that no units will be residentially occupied; that the land is leased; and that, typically, there are three (3) employees on the site.

No parties appeared in support of or in opposition to this application.

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

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

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended, and that the level of service of Route 24 at this location will not change as a result of this application.

The Commission found that the application was represented by Mr. Craig Hudson and Mr. John Sergovic, Attorney, who stated that Conditional Use No. 1117 was approved in June 1995 and that the findings of the County Council for Conditional Use No. 1117 are applicable to this application and referenced that the site is served by an existing traffic light; that the site is located in a development area in the Coastal Sussex Land Use Plan; that the Conditional Use would have no negative impact on the traffic burdens of Route 24 or cause any significant increase in traffic above that allowed by development under the existing zoning; that the site is located immediately across Route 24 from lands recently zoned C-1, and is located adjacent to other commercial lands and along the Rehoboth Mall service road; that the site is uniquely situated for business use in that it is located on a section of Route 24 which has recently been widened, and the



corner is served by an existing traffic light; that the County Council found that the site could be rezoned B-1 or C-1 under the Comprehensive Land Use Plan, but the Conditional Use as applied for by the applicant allows the County to limit the types of business use; that the applicant proposed five model homes for display; that such a business use is less traffic generating than would be the spectrum of allowed uses under the C-1 or B-1 rezoning; that the Sussex County Zoning Code, pursuant to Article XXIV Section 115-171 allows for Conditional Use approvals of business use while affording the County the ability to impose limitations on the nature of the business that can be operated to better adjust the parcel to the environment than would be a rezoning at B-1 or C-1; that the proposed use possesses an important relationship to the Comprehensive Development Plan in that the site is in a development zone and the Conditional Use mechanism allows for limitations on the type of business uses that can be placed; that the Conditional Use better secures a business use compatible with the nearby residential properties, including Maplewood Subdivision, than would a rezoning without restriction; that the intent of this application is to display additional models; that additional space is needed to display the additional models; that no increase in traffic is anticipated; that the purpose of the Development District in the Comprehensive Plan is to concentrate development in areas where public water and wastewater systems are available or planned and where past trends indicate that growth will occur; that these areas are partially developed and contiguous to the developed areas around the Inland Bays; that 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 Natural Resource Protection and Agricultural Areas will be reduced; that the use will serve a demand for mobile and modular homes for area residents; that access is limited to the Rehoboth Mall access road; and that the site is in close proximity to other commercial activities.

The Commission found that Mr. Hudson stated that parking will remain the same; that the access is limited to the Rehoboth Mall access road; that the maximum number of display units will be ten (10), including the office; that all units are heated; that no units will be residentially occupied; that the land is leased; and that, typically, there are three (3) employees on the site.

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



Motion by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

3. C/Z #1325--W.T. Wilson, Inc.

Walter Wilson of W.T. Wilson, Inc. was present on behalf of his application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Broadkill Hundred, located on the south side of Route One, 0.25 mile south of Route 88, to be located on 3.9817 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Delaware Office of Planning Coordination.

Mr. Wilson stated that he purchased the motel property in August 1997; that major renovations have been completed on the two-story motel building; that thirty-three (33) motel units exist; that he proposes to build second floor units onto the two (2) one-story buildings for an additional seven (7) units; that he also proposes to build an additional building for twenty (20) motel units; that the twenty (20) unit building will be located on the north end of the site when public sewer becomes available; that he has spoken to the neighbors and has heard no objections; that two (2) entrances exist, one of which is only grass; that he has no intent to use both entrances; that one (1) entrance is adequate to serve the motel; that he does not object to being limited to one entrance; and that the building to the rear of the site is occupied by a maintenance man.

No parties appeared in support of or 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.

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

The Commission found, based on comments received from the Delaware Office of Planning Coordination, that the State is aware of many recent improvements made to the motel; that the State appreciates this business' industriousness and vision; that the



location of this property and its potential future transportation impact gives the State reason to object to the rezoning as submitted; that the parcel falls into a zone identified by the Delaware Department of Transportation (DelDOT) as a Corridor Preservation Area; that DelDOT's Corridor Preservation Program is intended to allow DelDOT to maintain highway capacity by limiting the number and access points along a given highway; that controlled access design and spacing can achieve a significant improvement in traffic safety and operation; that by preserving the existing capacity of roads such as State Route One north of Nassau, traffic flows more steadily and safely for both residents and visitors; that according to DelDOT, nearly doubling the motels current number of rooms would nearly double its vehicles trips from its current 301 vehicle trips per day to 599 vehicle trips per day; that an anticipated result of this traffic increase is a request for a second access to Route One; that both the traffic increase and the potential of a second access directly conflict with DelDOT's Corridor Preservation Program; that the State supports the applicant's intent to bringing his motel into compliance, but the State suggest that this be achieved through a Conditional Use application with specific deed restrictions, not a rezoning; and that if the property is rezoned to commercial use, sometime in the future a high-traffic business (such as a mini-mall or fast food restaurant) could be located there, therefore, the State does not support any expansion of this motel.

The Commission found that Mr. Walter Wilson of W.T. Wilson, Inc. was present and stated that he purchased the motel property in August 1997; that major renovations have been completed on the two-story motel building; that thirty-three (33) motel units exist; that he proposes to build second floor units onto the two (2) one-story buildings for an additional seven (7) units; that he also proposes to build an additional building for twenty (20) motel units; that the twenty (20) unit building will be located on the north end of the site when public sewer becomes available; that he has spoken to the neighbors and has heard no objections; that two (2) entrances exist, one of which is only grass; that he has no intent to use both entrances; that one (1) entrance is adequate to serve the motel; that he does not object to being limited to one entrance; and that the building to the rear of the site is occupied by a maintenance man.

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



Motion by Mr. Phillips, 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 has been utilized for commercial activities since the 1940's; since the application permits expansion of the existing use, a motel; since the rezoning brings the existing use into compliance with zoning; since the site is located in a Development District in the Sussex County Comprehensive Plan and brings the use into compliance with the Comprehensive Plan; and noting that deed restrictions cannot be imposed by the County Council on rezonings.

4. C/Z #1326--Willie H. & Patricia L. Taylor

Mr. Willie H. Taylor and Mr. Steve Parsons, Attorney, were present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Indian River Hundred, located 499.30 feet northeast of Route 24, 1,100 feet northeast of Route 30, to be located on 2.25 acres more or less.

Mr. Lank summarized comments received from DelDOT and the Delaware Office of Planning Coordination.

Mr. Taylor and Mr. Parsons, in response to questions raised by the Commission, stated that the intent is to expand the existing mobile home parts and service business; that Mr. Taylor has been affiliated with the mobile home industry for 32 years; that he has been in the Millsboro area for 11 years; that 53 percent of the homes in Sussex County are manufactured homes; that his business serves a six (6) state area; that the neighborhood has several commercial uses, i.e. automotive sales and repair, retail sales, pizza, etc..., on both sides of Route 24; that no adverse impact is anticipated on property values; that the tax base should go up; that no increase in traffic is anticipated; that the manufactured home on the rear of the site was approved for security purposes by the County Board of Adjustment; and that he may sell manufactured homes and/or recreational vehicles in the future.

No parties appeared in support of or in opposition to this application.

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

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



The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service of Road 24 will not change as a result of this application.

The Commission found, based on comments received from the Delaware Office of Planning Coordination, that the Office has reviewed the application; that the State understands the applicant's intended use is to have mobile home repairs, sales and service as an extension to other C-1 zoned lands; that the State has no objection to this rezoning, however, it suggest that prior to approving the application, the County should require the applicants to file a deed restriction, limiting the applicants to the proposed use of mobile home sales and service only; that DelDOT does not recommend a traffic impact study because the proposed use would not generate enough traffic to warrant a study, even though Route 24 operates at an unacceptable level of service, level of service "E", today; that the proposed site is within a Multimodal Investment Area; and that DelDOT prefers to see development occur in such areas because it can provide the most transportation options in such areas.

The Commission found that Mr. Willie Taylor and Mr. Steve Parsons, Attorney, were present and in response to questions raised by the Commission, stated that the intent is to expand the existing mobile home parts and service business; that Mr. Taylor has been affiliated with the mobile home industry for 32 years; that he has been in the Millsboro area for 11 years; that 53 percent of the homes in Sussex County are manufactured homes; that his business serves a six (6) state area; that the neighborhood has several commercial uses, i.e. automotive sales and repair, retail sales, pizza, etc..., on both sides of Route 24; that no adverse impact is anticipated on property values; that the tax base should go up; that no increase in traffic is anticipated; that the manufactured home on the rear of the site was approved for security purposes by the County Board of Adjustment; and that he may sell manufactured homes and/or recreational vehicles in the future.

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

Motion by Mr. Phillips, 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 site is located within a Development District in the Sussex County Comprehensive Plan; since the site is an expansion to an existing C-1 General Commercial parcel with commercial uses; and since the site is located in an area, along Route 24, which is predominantly commercial.



The Commission noted that the County could not impose deed restrictions on rezonings.

5. C/Z #1327--B & M Builders, Inc.

Mr. Leon Burton, Jr., was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to C-1 General Commercial in Indian River Hundred, located on the northeast side of Route 5, across from Road 306A, 323 feet northwest of Guinea Creek, to be located on 4.80 acres more or less.

Mr. Lank summarized comments received from DelDOT, the Delaware Office of Planning Coordination, and the Sussex County Engineering Department.

Mr. Burton stated that he proposes a manufactured home sales facility; that commercial properties exist around the site; that the northerly portion of the property is utilized for a septic installation business that will continue; that he has been selling manufactured homes for approximately three (3) years by setting up the units on lots within subdivisions for speculation; that he lives next door to the application site; that the existing home on the site will become an office; that a commercial entrance exist and is proposed to be expanded; that a parking lot will be established; and that walkways between display units will be concrete.

No parties appeared in support of or in opposition to this application.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of this road segment of Route 5 may change to a level of service "C".

The Commission found, based on comments received from the Delaware Office of Planning Coordination, that the State objects to this rezoning because the business would be located in an area defined by DelDOT as a Management Investment Area where DelDOT will try to optimize the use of existing transportation infrastructure through the management of both transportation and land use; that since this land borders a Management Investment Area, the State would feel more comfortable if the application was presented as a Conditional Use; that DelDOT does not recommend a traffic impact study since the level of service of Route 5 is acceptable, and since commercial development of this



parcel would not, according to DelDOT standards, generate enough traffic to warrant a study; that the State also suggest that the County study its Comprehensive Plan which shows this site to be in an Agricultural Residential District; and that as the State understands the Comprehensive Plan, agriculture, businesses relating to agriculture, and limited convenience shopping are the only non-residential uses appropriate to such a district.

The Commission found, based on comments received from the Sussex County Engineering Department, that the site is in the area south of the West Rehoboth Expansion Area, where the County Council agreed with DNREC to restrict zoning changes and conditional uses, based on a memorandum of understanding.

The Commission found that Mr. Leon Burton, Jr. was present and stated that he proposes a manufactured home sales facility; that commercial properties exist around the site; that the northerly portion of the property is utilized for a septic installation business that will continue; that he has been selling manufactured homes for approximately three (3) years by setting up the units on lots within subdivisions for speculation; that he lives next door to the application site; that the existing home on the site will become an office; that a commercial entrance exist and is proposed to be expanded; that a parking lot will be established; and that walkways between display units will be concrete.

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

Motion by Mr. Phillips, seconded by Mr. Wheatley, and carried with 3 votes to deny and 2 votes opposing the motion, to forward this application to the Sussex County Council with the recommendation that it be denied since the rezoning is not appropriate for the area. Mr. Allen and Mr. Lynch opposed the motion.

There was a consensus of the Commission that they could waive the fee for a Conditional Use application for the same use, if the application is filed within one year.

6. Subdiv. #97-8--David A. Shevock

Robert Nash, Surveyor from Charles Murphy Associates, Inc., was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred by dividing 27.87 acres into 10 lots, and a waiver from the 30 foot forested landscaped buffer requirement, located on the west side of Road 265, 350 feet north of Route 9.



Mr. Abbott summarized the Technical Advisory Committee Report of December 10, 1997, and a letter from Pete Jones - Assistant County Attorney, in reference to the proposed restrictive covenants.

Mr. Nash advised the Commission that the entrance is existing and was approved in May 1991 for a three lot subdivision; that the applicant has not had any success in selling the three large lots and is going to try to market smaller lots; that the landscaped forested buffer waiver is being requested due to the size of the proposed lots and that there is already a row of Leyland Cypress trees planted as a buffer; that these trees are approximately fifteen feet in height; that the stormwater management control will be handled by a biofiltration device and that the water run-off will flow towards other lands owned by the applicant; that trees will be planted in the swales for the stormwater control practice; that all of the lots exceed the County's minimum requirements; that access to all of the lots will be from the private street; that the site is not located within a flood zone; that the wetlands have not yet been delineated, however the applicant has a letter from the Soil Conservation Service stating that the wetlands are prior conversion; that a Homeowners Association will be established and that the owners will maintain the stormwater control practices; that a subdivision sign is proposed to be located within the right of way of the private street or will be located on an individual lot by an easement; that the developer will comply with the recommendations made by the Technical Advisory Committee; and that the developer would like to utilize the County sewer and have the sewer put in before any street construction is done.

There were no parties present in support of or 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 made by Mr. Phillips, seconded by Mr. Lynch, and carried four votes to one, with Mr. Hastings voting against, to approve this application as a preliminary.



7. Subdiv. #97-9--Blue Heron, Inc.

Willard Griffith was present on behalf of his application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Georgetown Hundred by dividing 12.84 acres into 6 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located at the northeast end of Whispering Woods Court, approximately 600 feet east of Whispering Woods Drive within Blue Heron Estates, on the east side of Road 317, north of Morris Mill Pond.

Mr. Abbott summarized the Technical Advisory Committee Report of December 10, 1997.

Mr. Griffith advised the Commission that this proposal is to allow for five additional lots; that Whispering Woods Court is to be extended; that the site is not adjacent to any agricultural farmland; that the proposed lots will be annexed into the Homeowners Association; that the deed restrictions will be the same and that attached garages will be required when the dwellings are built on individual lots; that the existing horse barn will have to be relocated and will become an accessory building on one of the lots; that the lots are large so that individual wells will be permitted; and that the best use of this land is to be developed.

John Martin, Vice President of the Blue Heron Homeowners Association advised the Commission that the Homeowners Association supports the application as long as the new lots have the same deed restrictions as the other phases of Blue Heron Estates; and advised the Commission that they would like to see the street be required to be built to the specifications of the State of Delaware.

Mr. Allen advised Mr. Martin that the developer has the right to build the street to either Sussex County or State of Delaware specifications.

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



### III. Other Business

#### 1. Gerald W. Hocker

The Commission reviewed a revised commercial site plan at the southeast corner of the intersection of Routes 26 and 17, near Millville.

Mr. Abbott advised the Commission that the site plan proposes 70,479 square foot of mixed commercial uses; that no wetlands are on the site; that the existing deli and convenience store will be converted to 5,629 square foot of retail sales and office space; that the existing gas pumps will be relocated further west on the site; that the existing grocery store will be converted to 16,670 square foot for a pharmacy and deli; that a 39,880 square foot supermarket and a 8,300 square foot open garden center are proposed; that all setbacks meet the minimum requirements of the zoning code; that five loading spaces are required and provided; that 353 parking spaces are required and provided; that each space is ten foot by twenty foot with twenty five foot interior drives; that there is an existing entrance on Route 17 that is proposed to be relocated further south; that two entrances are proposed on Route 17 and that the existing entrances on Route 26 will remain subject to DelDOT approval; and that as of this date, the staff has not received any agency approvals or comments.

Motion made by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the revised site plan as a preliminary. Final approval shall be subject to receipt of all required agency approvals and permits unless there are any major changes to the site plan.

#### 2. Coco Restaurant

Eric Sturm, designer, was present as the Commission reviewed a preliminary commercial site plan for a proposed restaurant on Route One north of Road 270A near Rehoboth Beach.

Mr. Abbott advised the Commission that the staff has received a letter from DelDOT dated December 9, 1997 stating no objection to the proposed entrance location; that the existing entrance is being closed and relocated further north on the site; that there is an existing building on site that is being converted to a 4,160 square foot restaurant; that 2,600 square foot of the restaurant is for patron use; that fifty five parking spaces are required and provided; that each space is the minimum ten feet by twenty feet with twenty five feet interior drives; that the developer is requesting a waiver from the required two courses of bituminous surface for the parking lot and would like



to put in crushed stone for parking; that the site is located within the Highway Corridor Overlay Zone; that the building is setback the minimum sixty foot as required; that a twenty foot landscaped buffer is provided and that the landscape plan is referenced on the site plan; that there are two parking spaces located within the front yard setback of sixty feet and that this would require a waiver by the Commission; that the building height is proposed to be seventeen feet four inches; that there are no wetlands on the site; that the site is not located in a flood zone; and that as of this date, the staff has not received the required agency approvals.

Mr. Sturm advised the Commission that the plan has been submitted to the required agencies; that the entrance to the restaurant will be in the rear of the building; and that the developer is requesting the waiver from the pavement requirements to help keep cost down.

The Commission discussed the paving requirements.

Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the site plan as a preliminary with the stipulation that the parking area be paved as required by the zoning code. Final approval shall be subject to receipt of all required agency approvals and permits.

### 3. Sea Pines Estates

Larry Whitlock, Landscape Architect, was present as the Commission reviewed a revised subdivision plan for Sea Pines Estates located on the east side of Route One, north of Road 360 near Bethany Beach.

Mr. Abbott advised the Commission that this subdivision was recorded in April 1981 with thirty three lots; that the subdivision has never been built; that a revised plan has been submitted reducing the number of lots; and relocating the entrance to the site.

Mr. Whitlock advised the Commission that the redesign was necessary due to the wetlands being re-delineated; that the number of lots has been reduced but the lot size has increased; that the revised plan allows for better ocean front views; that there are areas set aside for future development contingent upon approval by the United States Army Corps of Engineers; that there are eight ocean front lots; that the beach access cross-overs have been relocated; that the subdivision has a contract purchaser; and that the developer proposes to begin construction in January or February 1998.



Motion made by Mr. Lynch, seconded by Mr. Phillips, and carried unanimously to approve the subdivision as a revised preliminary.

#### IV. Old Business

##### 1. Subdiv. #96-21--Harold Johnson

No one was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred by dividing 68.95 acres into 61 lots, located on the eastern side of Road 317, 3,077 feet south of Road 315.

Mr. Abbott advised the Commission that this application received preliminary approval on December 5, 1996 for 61 lots; that the final record plan has been reduced to 57 lots; that the final record plan is in compliance with the subdivision and zoning code; and that all agency approvals have been received.

Mr. Schrader advised the Commission that the Agricultural Protection and Wetland Disclosure deed restrictions need to be added to the final restrictive covenants.

Motion made by Mr. Phillips, seconded by Mr. Wheatley, and carried four votes to none, with Mr. Hastings not voting, to approve this application as a final with the stipulation that the record plan cannot be recorded until the corrections are made to the restrictive covenants.

##### 2. C/U #1211--Milford School District

No one was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for Expansion to Conditional Use No. 1014 for Play and Recreation Area and Future Building Expansion on the north side of Small Avenue (unimproved), 200 feet east of Third Street (Road 225), in the unincorporated area of Lincoln, located on 0.589 acre more or less.

The Commission discussed the points and issues raised during the public hearing held on November 13, 1997.

Mr. Lank read a correspondence from Robert D. Smith, Superintendent, of the Milford School District, relating to agreements between the District and the Keen family.



Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that it be approved. Mr. Hastings abstained from voting since he was not a Commission member at the time of the public hearing.

3. C/U #1215--Delaware Department of Transportation

No one was present on behalf of this application to consider the Conditional Use of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred for a Borrow Pit on the northwest side of Road 633, 2,417 feet south of Road 634, located on 16.06 acres more or less.

The Commission discussed the points and issues raised during the public hearing held on December 11, 1997.

Mr. Allen read some suggested stipulations, similar to stipulations imposed on another DelDOT borrow pit application, C/U #992.

Mr. Lank stated that his review of the site plan found that the required width of the buffer area shall be 50 feet, and that the distance to the closest dwelling needs to be depicted or noted on the site plan, since a minimum of 200 feet is required from the borrow pit area.

Motion by Mr. Wheatley, seconded by Mr. Phillips, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

1. The Borrow Pit shall only be utilized by the Delaware Department of Transportation Division of Highways.
2. All handling and hauling will be performed on weekdays, during daytime hours, unless there is an emergency.
3. Dust control shall be implemented when needed.
4. The State will maintain the roadway serving the site from Road 633.
5. As digging is completed in an area, that area will be reclaimed.
6. No material will be stored on any access roads or buffer areas.
7. Markers will be placed at all borrow pit corners.
8. No fuel shall be stored on-site.
9. No stumps, branches, or debris will be buried on-site.
10. No dredging of materials will be allowed.
11. The borrow pit shall remain above the water table.
12. The site shall be fenced, type and style at the discretion of the Department of Transportation. The entrance shall have a secured gate when pit is not in use.



13. Materials removed from the site shall be utilized only in Sussex County.
14. All side slopes will be on a 2 to 1 slope and planted with either grass or small trees.
15. The borrow pit shall be surrounded by a landscaped unexcavated buffer strip or open space a minimum distance of fifty (50) feet from all property lines.
16. The borrow pit shall be at least two hundred (200) feet from any dwelling on property of other ownership.
17. The Planning and Zoning Commission shall review, comment, and approve or disapprove the site plan.

Mr. Hastings abstained from voting since he was not a Commission member at the time of the public hearing.

4. C/Z #1324--Paul Schmidtchen

No one was present on behalf of this application to amend the zoning map from AR-1 Agricultural Residential to LI-2 Light Industrial in Georgetown Hundred, located on the north side of Road 593, 4,300 feet east of Route 40, to be located on 4.61 acres more or less.

The Commission discussed the points and issues raised during the public hearing held on December 11, 1997.

There was a consensus of the Commission that this type of application would be more suitable as a Conditional Use.

Motion by Mr. Phillips, seconded by Mr. Wheatley, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that it be denied. Mr. Hastings abstained from voting since he was not a Commission member at the time of the public hearing. There was a consensus of the Commission that the fee for a Conditional Use for this site could be waived, if the application is filed within one year.

5. Subdiv. #96-13--Irvin E. Handy

No one was present on behalf of this application to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Seaford Hundred by dividing 59.80 acres into 25 lots, located at the north end of South Paula Lynne Drive, within Crestfield Subdivision.



Mr. Abbott advised the Commission that this application received preliminary approval for 25 lots on August 22, 1996; that a one year time extension was granted on July 24, 1997; that the final record plan is the same as the preliminary; that the record plan complies with the subdivision and zoning codes; that all required agency approvals have been received; and that the final restrictive covenants need to be reviewed prior to recordation.

Motion made by Mr. Wheatley, seconded by Mr. Lynch, and carried four votes to none, with Mr. Hastings not voting, to approve this application as a final with the stipulation that the record plan cannot be recorded until the restrictive covenants are reviewed and approved by the Assistant County Attorney.

Meeting adjourned at 10:30 P.M.