

MINUTES OF THE REGULAR MEETING OF JANUARY 10, 2002

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 10, 2002 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. Wheatley, Mr. Gordy and Mr. Lynch, 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 December 27, 2001 as amended.

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

PUBLIC HEARINGS

C/U #1432 -- application of **FREDERICK J. WINWARD** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a landscaping business with related storage of materials and equipment to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 10.78 acres, more or less, lying north of a 50 foot private road, 450 feet west of Route 17, and 1/4 mile southwest of Road 365.

The Commission found, based on comments received from the Department of Transportation (DelDOT), that a traffic impact study was not recommended and that the level of service "C" of Route 17 will not change as a result of this application.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is located in a "Rural Area" according to the Strategies for State Policies and Spending document; that in these areas, the State policies will encourage the preservation of a rural lifestyle and discourage new development; that the State would prefer to see commercial uses in the "Community" or "Developing" areas of the Strategies; that the State does not feel that a landscaping business and the storage of equipment needed for such business would encourage future growth; and that the State ask that the County require the owners to consider the character of the community if any additional buildings are constructed so that this property could be easily redeveloped if the business changes locations.

The Commission found that Frederick Winward was present and stated in his presentation and in response to questions raised by the Commission that his application is the same as it was in July 2000; that the Commission recommended that his application

be approved with stipulations which included: 1) There shall be no retail sales on the site, and 2) The site plan shall be subject to review and approval by the Planning and Zoning Commission; that he forgot to go to the public hearing with the County Council and was denied for the lack of a record of support; and that he had no objections to the stipulations originally provided by the Commission.

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. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations: 1) There shall be no retail sales on the site; 2) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 4 - 0.

C/U #1434 -- application of **GRADY, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for multi-family dwelling structures (130 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 17.0 acres, more or less, lying on the southerly side of Route 276 (Shady Road) 620 feet southwest of Route One.

The Commission found, based on comments received from DelDOT, that the Department has completed it's review of the traffic impact study for the property; that the Department reviewed a traffic impact study for 190 townhomes on a 16-acre tract; that access would be by way of a private right-of-way that also has the potential to serve the planned Home Depot store on Route One; that the parcel is properly zoned for residential development and the applicant seeks a conditional use approval to build townhomes; that the parcel would have a relatively small negative impact on congestion in the study area and has the potential to significantly mitigate the impacts of the adjacent planned Home Depot development; that the Department recommends that the County grant the needed Conditional Use subject to certain conditions; that the traffic impact study referenced a Project Description and Background, the Statewide Long Range Transportation Plan, Shaping Delaware's Future, Trip Generation, an Overview of the Traffic Impact Study, the following intersections of Shady Road/Plantation Road, Beaver Dam Road/Connector to US Route 9, US Route 9/Connector to Beaver Dam Road, Shady Road/Delaware Route One, Delaware Route One/US Route 9/Business Route 9, Delaware Route One/Wescoats Road, Delaware Route One/US Route 9/Dartmouth Drive, Plantation Road/Delaware Route 24, and Shady Road/Site Entrance, the SR1 Land Use and

Transportation Study, Transit, Bicycle and Pedestrian Facilities, and Conclusions and Recommendations, and that it the County is otherwise inclined to grant the application, the Department recommends that the County grant the proposed Conditional Use subject to the following conditions: 1) As part of the initial phase of the street construction, the developer shall provide a street connection between Shady Road and the Home Depot parking lot, or if the lot does not yet exist then the street should extend to the property line, such that Home Depot can make that connection. The connection shall be suitable for general motor vehicle traffic and shall also include a sidewalk from within the townhouse development. 2) The deceleration lane and bypass lane at the entrance to the proposed development should be designed to accommodate bicycle lanes through the intersection. 3) If public streets are to be built in the townhouse development, they shall include a stub street to the residential portion of the Home Depot property, 4) Sidewalks should be provided along the streets in the proposed development and along the property's frontage on Shady Road. Construction of the sidewalk along the frontage should be required as a precondition for any building permits. For the internal sidewalks, it may be appropriate to break the project into phases, and to require the sidewalk in each phase in advance of the building permits for that phase. 5) The developer shall enter into agreements with DelDOT whereby they will participate in the cost of installing traffic signals on Shady Road at Delaware Route 1 and at Plantation Road.

The Commission found, based on comments received from the 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 the current System Connection Charge Rate is \$2,954.00 per EDU; that the West Rehoboth Capacity Evaluation allocated a total of 48 units to the site; that the proposed project exceeds planning study assumptions of 4.0 units per acre; that this results in 81 additional units for an approximate total density of 8.7 units per acre; that based on the West Rehoboth Capacity Evaluation, the proposed project will place additional burden on previously identified pipeline deficiencies; and that it will not cause additional pipelines to become deficient, therefore, capacity is available to serve the proposed project.

The Commission found, based on comments received from the County Engineering Department Public Works Division, that the proposed project should be subject to review by the Technical Advisory Committee; that the roads should be designed and constructed in accordance with the street design requirements of the Subdivision Ordinance; that the entrance street, a section of public street and 6 multi-family units are on a separate parcel; that the multi-family units should be consecutively numbered on the plan; that the proposed plan identifies a grave area; that the developer should be required to contact the State Historic Preservation Office to identify and delineate the boundaries of the burial area; that notes should be added to the plan indicating this area shall not be disturbed by construction of the project; that adequate access should be provided for maintenance

of and visitation to the cemetery; and that an adequate buffer zone surrounding the cemetery should be provided.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is located within a "Community Area" and a "Developing Area" of the Strategies for State Policies and Spending document; that in these areas, the State policies will encourage redevelopment in the Community Areas and orderly growth in the Developing Areas; that the State has no objection to this proposal, however, the State ask that the County require the developer to address the conditions recommended by DelDOT as stated in the traffic impact study completed June 25, 2001; and that the State further asks that the County require the developer to work with the State Historic Preservation Office on what landscaping of the property is necessary to screen this development from the historic dwelling located along Shady Road in front of the parcel and to avoid any possible archaeological site found during development.

The Commission found that a letter was received from Michael R. Tyler, President of the Citizens Coalition, Inc. in opposition to this application and referencing that the Coalition believes that this request for high density is inappropriate and that the current road infrastructure is inadequate to handle the traffic it will generate; that continued rezonings, even though this one is being applied for as a Conditional Use are problematic because they create a serious drain on the resources of drinking water, sewer capacity and power generation; that the development does not meet or fill any community need; that there are 700-plus approved housing units in the area; that the cumulative impact that these developments will have on the infrastructure when added to the impact of Home Depot and other residential and commercial uses is alarming; that permitting development that is allowable under the current zoning in the development zone can be the only acceptable recommendation for this property; that increasing density at this site, regardless of the conditions attached to such high density housing flies in the face of responsible land use, places an undue strain on the infrastructure and establishes a bad precedent; and that it would be prudent to refrain from allowing any further rezonings along the Route One corridor until the Comprehensive Plan is reviewed and updated.

The Commission found that a letter was received from Joan and Bill Deaver, residents along Plantation Road, in opposition to this application, requesting denial of the application, and adding that the project does not surround any town; that the density is uncalled-for; questioning if adequate sewer, water, roads, and public transit are available; that the County Council and DelDOT appointed the State Route One Land Use and Transportation Study Committee to plan land use and transportation needs in the area; that they see no movement or actual plans that DelDOT will solve the Five Points or Midway traffic problems; that the Study Committee's report is not expected until a year from now, and requested that the County wait until their report is completed before exceeding the current zoning; and that AR-1 density is more than adequate for the area.

The Commission found that Clinton Bunting was present on behalf of Grady, Inc. and stated in his presentation and in response to questions raised by the Commission that the proposed buildings occupy 2.89 acres and that the streets occupy 2.78 acres of the site; that 58 percent of the site will be open space; that the density of the project is 7.6 units per acre overall; that 394 parking spaces are proposed; that they propose sidewalks, landscaping, and that a pool and clubhouse are optional; that the project should have no impact on traffic; that the project should improve traffic in the area; that they will comply with the DelDOT recommendations; that central water and central sewer are proposed; that adequate sewer capacity is available; that the site is located in a Development District according to the Comprehensive Plan; that the Comprehensive Plan suggest that townhouses could have a density of 12 units per acre; that they will provide connections to adjacent properties; that traffic will be improved due to street lighting and traffic lighting; that there is a community need for housing for young professionals; that the use will comply with the State Livable Delaware criteria by providing less than 8 units per acre in a developing area; that the units will sell within a price range of \$175,000 to \$225,000; that the project will be similar to the Taramino project near Nassau; that they will provide access to the grave area; that garages are proposed under each unit; that the open space includes grass areas and stormwater management areas; that buffers will be landscaped along property lines; that sidewalks will be provided throughout the project; and that the street and sidewalk connection with the Home Depot site will improve traffic safety and will take some of the Home Depot traffic off of Route One.

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

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

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

Motion carried 4 - 0.

C/U #1435 -- application of **CHRIS AND SHERRY CHEESEMAN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for retail sales of flooring and related home accessories to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 13,500 square feet, more or less, lying east of Route 24 and 1,250 feet south of Route 22 (Long Neck Road).

The Commission found, based on comments received from DelDOT, that the Department does not recommend a traffic impact study for this application; that the Department is concerned about this application since they see it as encouraging more traffic in an area

that has been identified as operating at unacceptable levels of service; and that the use could add more traffic to an area with existing poor levels of service (E) during summer Saturday peak hour.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is located in the Long Neck Sanitary Sewer District; that wastewater capacity is available for the project; that the System Connection Charge Rate is \$2,101.00 per EDU; that there is no service to the property at this time; that the Department is now reviewing plans to provide service near the intersection of Route 24 and Route 5; and that conformity to the Long Neck Planning Study or undertaking an amendment will be required.

The Commission found, based on comments received from the Office of State Planning Coordination, that the site is located within the "Environmentally Sensitive Area" of the Strategies for State Policies and Spending document; that in these areas, State policies will seek to balance between resource protection and sustainable growth; that according to the site map, it appears that the area around this parcel is already heavily developed by parcels with commercial zoning and the State does not feel that this Conditional Use will encourage additional development in the area; that the State does not object to this proposal; that the State asks that the County require the owners to maintain any buildings to match the surrounding residential character, therefore, if the business ever moves from this site, the building can be redeveloped as a house or for a small business.

The Commission found that Chris Cheeseman and Pat Campbell-White, Realtor, were present and stated in their presentations and in response to questions raised by the Commission that "RC Carpet Outlets" has been located in Sussex County for 14 years; that the business is a small family operation; that they operate the carpet business in the Long Neck area; that several commercial and business uses exists in close proximity to the site; that the business and commercial uses include a bank, retail sales, car sales, convenience uses, and a shopping center; that they have created a petition with 190 signatures in support from customers and friends; that 70 to 75 percent of their business is done by phone; that they will comply with all agency requirements; that the site will be cleared and maintained; that the site is in a County sewer district; that the use will meet a need for the area by providing a business that serves the area; that all employees are family members; that Mr. Cheeseman has taught the flooring trade to several people; that they need room to show their flooring products; that they may have one walk-in customer per day; that they work with three (3) sub-contractor work crews; that most of the crews meet at job sites; that the business has two vehicles; that business hours are from 9:00 a.m. to 4:00 p.m. Monday through Friday with Saturday hours from 10:00 a.m. to 3:00 p.m.; that they do not work on Sundays; that they will erect one lighted sign; that they receive approximately 3 deliveries per week; that the storage room will be utilized for storage of padding, staples, etc.; that there will be no outside storage of materials; that

they will have a dumpster on the site for trash; that, at this time, they only plan to offer flooring products (carpet, hardwood flooring, tiles, etc.); and that they realize that if they propose other types of retail sales it will be necessary to reapply.

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

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

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations: 1) Business hours shall be from 9:00 a.m. to 4:00 p.m. Monday through Friday with Saturday hours from 10:00 a.m. to 3:00 p.m. There shall be no Sunday hours. 2) One lighted ground sign, not exceeding 32 square feet per side or facing may be permitted. 3) There shall be no outside storage. 4) Retail sales shall be limited to floor coverings. 5) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 4 - 0.

C/U #1436 -- application of **BLAIR A. JONES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a professional office building to be located on a certain parcel lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 2.77 acres, more or less, lying northwest of Route 9 (Savannah Road) and southwest of Ebenezer Branch.

The Commission found that the applicant had submitted prior to the meeting a cover letter from his Attorney, John A. Sergovic, Jr., a Federal 404 Wetland Jurisdictional Determination report from Coastal & Estuarine Research, Inc, nine (9) photographs of office buildings in the immediate area, and an artist rendering of the front of the proposed building.

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; that the Department is concerned that this application encourages more traffic in an area that has been identified as operating at unacceptable levels of service; and that the application would add more traffic to an area with existing poor levels of service (E) during the summer Saturday peak hour.

The Commission found that Dr. Blair A. Jones, John Sergovic, Jr., Attorney, and Jeff Clark of Land Tech were present and stated in their presentations and in response to questions raised by the Commission that they are requesting professional medical offices on the first floor with residential apartments above; that there is a public need for medical services; that the area is changing from residential to professional uses; that the property is located in a Development District according to the Comprehensive Plan; that the site is the last property in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that wetlands buffer the site from properties to the rear and to the east; that wetlands have been delineated; that the wetlands will not be disturbed; that a 40' by 135' building is proposed; that adequate space is available on the site for parking without disturbing wetlands; that an on-site well is proposed; that stormwater management will be provided by underground structures; that the conversion trend of the area has been to change residential uses and sites to professional office space due to the close proximity to Beebe Hospital; that the architecture of the building will be compatible with the residential character of the neighborhood; that since they did not include multi-family use of the second floor in the application, they have no objection to a limit that only one residential unit be permitted on the site; and that space will be provided in the building for no more than three (3) dental or medical doctors.

The Commission found that Dr. Bruce Fisher was present in support of the application.

The Commission found that Dr. Gary Wary and Joann Gallo, residents of Covey Creek, were present in opposition and expressed concerns about the closeness of the site to the Ebenezer Branch; that they are concerned about the closeness of the building to the wetlands; traffic safety; children's safety; the size of the building not being in character with residential homes due to its square footage; that there are no office buildings between Ebenezer Branch and the entrance to Covey Creek; that the application made no mention of multi-family use of the second floor; that they were led to believe that the existing home on the site was to be remodeled, not demolished and replaced with a larger building; that the parking lot and building cover all of the site except the wetlands; and questioned the size of the proposed well.

The Commission found, according to Mr. Clark, that the building contains 5,400 square feet on the first floor, and 2,600 square feet on the second floor.

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 defer action.

Motion carried 4 - 0.

C/Z #1456 -- application of **FOREST REACH, LLC.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying on the northwest corner of the intersection of Route 368 and Route 362, to be located on 27.53 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 State recommends that if the out parcel at the intersection of Parker House Road and Beaver Dam Road is developed, the proposed development provide for future access to the out parcel through the proposed subdivision streets so direct access onto Parker House Road can be eliminated; that the parcel is located within the "Environmentally Sensitive Area of the Strategies for State Policies and Spending document; that in these areas, State policies will seek a balance between resource protection and sustainable growth; that the site is located adjacent to the Town of Ocean View and is in an area that is rapidly being developed; that the State has no technical or regulatory objections to the rezoning; that the State asks that the County consider the cumulative impacts of the development in this area surrounding Ocean View; and that the State asks that the County and the Town of Ocean View, through intergovernmental coordination, work together to determine what cumulative effects the growth will have on the Town of Ocean View and address any concerns they may have regarding the development along their borders.

The Commission found that the Technical Advisory Committee Report for October 17, 2001 shall be made a part of the record for this application.

The Commission found that the Development Advisory Service Advisory Project Report for December 19, 2001 shall be made a part of the record for this application.

The Commission found, by copy of a Department of the Army Corps. of Engineers report, dated October 11, 2001, that a wetlands determination has been performed and validated. A copy of the report is made a part of the record for this application.

The Commission found that the applicant submitted a copy of an Endangered Species Investigation of the site performed by Environmental Consulting Services in September 11, 2001.

The Commission found that the applicant had submitted prior to the meeting a packet which included a design summary with information relating to the development program, the location, water service, sanitary sewer disposal, stormwater management, wetlands, utilities, and streets, supporting documents and exhibits including a copy of the application form, regulatory comments from DelDOT, the Corps. of Engineers, the Development Advisory Service, and the Technical Advisory Committee, an environmental site investigation, and an ability to serve letter from Tidewater Utilities, Inc.

The Commission found that a letter in support was received from Dawn M. Rexrode of Ocean Air Park complimenting the developer on the quality of his projects.

The Commission found that Michael Lynn, developer, James Fuqua, Jr., Attorney , and Jeff Clark of Land Tech were present and stated in their presentations and in response to questions raised by the Commission that the project proposes 58 single family units on 27.5 acres; that the MR zoning would allow up to 96 single family units; that the proposed lots contain approximately 8,500 square foot; that a swimming pool and bathhouse are proposed; that the density is the same as if the site were being developed as an AR-1 subdivision; that Tidewater Utilities, Inc. proposes to provide central water; that the County will provide public sewer; that streets will be built to County standards; that the project is similar in design as Hunters Run within Ocean View with alleys providing access to some of the parking garages; that they propose to curb the streets; that stormwater management will be provided by both dry and wet ponds; that there should be no adverse environmental impacts; that no endangered species were found on the site; that the Little Bay Tax Ditch crosses the site and that the tax ditch will not be altered; that DelDOT reports that there will be no significant impact on traffic; that the project adjoins the Town of Ocean View and the Bear Trap Residential Planned Community; that the site is located in the Development District according to the Comprehensive Plan; that the project proposes less density than suggested by the Comprehensive Plan; that several residential projects are located in close proximity to and adjacent to the site; that the site is in close proximity to shopping areas and medical facilities in the Millville and Ocean View area; that the developer does not intend to provide access to the out parcel, lands formerly of Helen Littleton, since the out parcel is already improved by a dwelling with access from Road 362; that the project will be a continuation of Mr. Lynn's projects of Savannah's Landing and Hunter's Run with street lighting, sidewalks and curbed streets; that they propose to blend fenced yards and service alleys; that tree areas will be left undisturbed; that they propose a moderate density; that common areas will be landscaped; that they propose a main boulevard for access to the project; that a landscaped buffer and an extension of the Littleton fencing are proposed; that a sewer and water tap will be made available through the site to the Littleton property; that the streets will be built to County specification; that one tax ditch crossing is proposed, and that an application for the tax ditch crossing is in process.

The Commission found that Mr. Fuqua submitted seven suggested stipulations for consideration if the Commission chooses to approve the application.

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

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

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations:

- 1) The maximum number of residential lots shall not exceed 58.
- 2) The development shall be served by a central water system and a County sewer district.
- 3) The construction of recreational improvements shall begin by occupancy of the 25th home.
- 4) The Littleton property shall be treated in the following manner: The area to the rear and northeast property lines will be buffered with trees (type and extent to be determined by the Owner). Split rail fence will be installed along the northeast property line on the Littleton property. Future water and sewer connections will be brought to the property line. No storm water retention pond will be installed directly adjacent to the rear property line and the storm water pond along the northeast corner of the property will be designed to minimize as much as it is feasible the impact along the property line.
- 5) Little Bay Ditch located with the development will be maintained as an existing tax ditch.
- 6) Streets (excluding alleys) shall be constructed to Sussex County construction standards.
- 7) No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District Permit may be commenced upon submission of copies of the Applications for Permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and Submission of a Bond in an amount equal to 125% of the costs of site work authorized by the Sussex Conservation District Permit and in a form acceptable to the County Attorney. The Bond shall be released upon the issuance of all other permits and the filing of an approved master plan.

Motion carried 4 - 0.

OLD BUSINESS

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 discussed this application which has been deferred since December 13, 2001.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to defer action since Mr. Johnson was not present to discuss the application.

Motion carried 4 - 0.

OTHER BUSINESS

The Villages of Five Points

- a. revision of types of units
- b. revised master plan
- c. revised North Village site plan and parking reduction

Jim Fuqua, Mike Lynn, Jeff Clark and Roger Gross were present as the Commission discussed revising the types of units proposed in this development; reviewed a revised master plan reflecting the revised unit types in different phases; reviewed a revised site plan for the North Village phase; and reviewed a plan referencing the parking throughout the project.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to defer action so that Mr. Johnson will be able to participate in the review of the project.

First Shore Federal Savings and Loan
Commercial Site Plan - Route 26

Mr. Abbott advised the Commission that the site plan is for a 2,880 square foot bank; that the site is zoned B-1 Neighborhood Business and the use is permitted; that the setbacks meet the requirements of the zoning code; that 15 parking spaces are required and 18 are proposed; that 11 spaces are located in the front yard setback and need a waiver from the

Commission; that central sewer and water are proposed; that no development is located in the wetlands; that the site is not located in a flood zone; that Note 9 needs to be revised to reflect Sussex and not Kent; that the plan meets the requirements for preliminary approval and that final approval could be subject to the staff receiving all required agency approvals.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be by the staff upon receipt of all agency approvals.

Arthur O'Day
Lot on existing 50' right of way - Route 18

Mr. Abbott advised the Commission that this is a request to create a lot with access from an existing 50' right of way; that the existing right of way is improved with clam shells; that 3 other lots have access from the right of way; and that the proposed lot is surrounded by a tax ditch to the south, the right of way to the east and residential lots to the north and west.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the lot as a concept.

Teresa Shea
2 Lots on Existing 50' right of way - Linden School Road

Mr. Abbott advised the Commission that this is a request to create 2 lots with access off of an existing 50' right of way; and that the proposed lots would be the second and third lots with access off of the right of way.

Motion by Mr. Wheatley, seconded by Mr. Gordy and carried unanimously to approve the 2 lots as a concept.

Subdivision #2000-18 - - Smokey Hollow, L.L.C.
Reconsideration/Time Extension

Mr. Abbott advised the Commission that this application received preliminary approval on June 22, 2000; that the office did not receive any request for a time extension; that a letter was sent to the applicant voiding this application on December 17, 2001; that the office received a letter explaining all the work that has been completed and that the owner is requesting a time extension since they are in the process of obtaining agency approvals.

Paul West of Vista Design advised the Commission that they had engineering problems with the proposed bridge that held up this project and that they are ready to go forward with the application and requested that the Commission re-instate the application as a preliminary and grant a time extension.

Motion by Mr. Lynch, seconded by Mr. Gordy and carried unanimously to deny this request. This application is voided.

Subdivision #2001-7 - - Gary Watson
Reasons for denial

Mr. Abbott advised the Commission that the County Council remanded this application back to the Commission so that they could expand on their reasons for denying this application.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to deny this application for the following reasons: 1) The proposed 37 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 currently devoted to poultry uses, is adjacent to poultry and agricultural uses, and constitutes an intrusion into a primarily agricultural area which is to be given priority and preference because of noise, dust odors and the use of chemicals. 2) The proposed 37 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 41.86 acres, more or less, from agricultural use and may encourage further conversion of farmland to development. And 3) The proposed 37 lot subdivision does not address the concerns raised in the record of opposition, that is: children's safety in the area, increase in traffic to the area, adverse effect on property values, and no evidence of any need for additional residential development in the area.

Meeting adjourned at 9:53 P.M.