

## MINUTES OF THE REGULAR MEETING OF FEBRUARY 13, 2003

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 13, 2003 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. Robertson – Assistant County Attorney, Mr. Lank – Director, and Mr. Abbott – Assistant Director.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of January 30, 2003 as amended.

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

### PUBLIC HEARINGS

C/U #1478 - application of **ERIC AND LAURA JAMES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an electrical contracting business to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 3.08 acres, more or less, lying northeast of Route 48 (Zoar Road) and 3,000 feet north of Road 321.

The Commission found that the applicant had submitted with the application a packet of Information that included elevation and foundation drawings of the proposed building, a copy of his deed, a copy of the survey, a copy of the site plan, and a tax map of the area.

The Commission found that the applicant provided a copy of a petition provided to neighbors in support. The petition was signed by Mr. and Mrs. Henry Stout and Louise C. Smith.

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Fallsington sandy loam, Pocomoke sandy loam, Rumford loamy sand, and Woodstown sandy loam; that the Fallsington and Pocomoke soils have severe limitations; that the Rumford soils have slight limitations; that the Woodstown soils have slight to moderate limitations; that the applicant will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation after completed of any construction; that the Fallsington, and Pocomoke soils are considered of Statewide Importance and Prime Farmland; that the Rumford soils are considered of

Statewide Importance; that the Woodstown soils are considered Prime Farmland; that there are no storm flood hazard areas or tax ditches affected; and that it may be necessary for some on-site or off-site drainage improvements.

The Commission found that Eric James was present and stated in his presentation and in response to questions raised by the Commission that he proposes to construct a steel building; that he will have a small office in the building; that he plans on starting construction upon receipt of all necessary approvals and permits; that he presently has five (5) employees; that he plans on starting construction of his home on the site within one-year; that he has four (4) service vehicles that will be stored in the building; that he may store his utility trailers outside; that he does not plan on erecting any signs on the premise; that normal business hours are from 7:30 a.m. to 5:00 p.m. weekdays; that he is an electrical service contractor; that they do not do any heat and air-conditioning work; and that he plans on installing low level security lighting on the building for security purposes.

The Commission found that Cheri Townley, an adjoining property owner, was present and stated that she had submitted a petition in opposition to the application on behalf of the concerned citizens of Zoar Road; that this is a residential area; that the citizens are concerned about increased traffic, the safety of their children who live on Zoar Road and the children who play on the Markers Pop Warner Football Field, the quiet enjoyment of their property, the general nuisance that a commercial business will create in a residential area, possible contamination of her water well, and the agricultural area.

The Commission found that Ms. Townley submitted a copy of the petition, containing 29 signatures in opposition, a sketch showing how her homes relates to the site, copies of the drawing submitted by the applicant, a copy of the well permit from DNREC for her lot, and a copy of the applicant's petition.

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

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

Motion carried 5 – 0.

C/Z #1488 - application of **PENNY LANE DEVELOPMENT, 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 southeast of Route 84, 1,000 feet southwest of Road 349A, to be located on 38.63 acres, more or less.

The Commission found that the applicants submitted a packet of information for the record and that the packet included a description of the request, a project description with information on site area, averages, density, environmental buffers, preliminary approvals, proposed amenities, utilities, architectural building themes, proposed home and lot retail price ranges, community benefits, a colored subdivision layout which pictures of the proposed homes, and a zoning map of the area including areas within the Town of Ocean View.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Osier loamy sand, and Pocomoke sandy loam; that the Evesboro soils have slight limitations for development; that the Osier and Pocomoke soils have severe limitations; that the applicants will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of construction; that all of the soil types are considered of Statewide Importance and Hydric soils; that the Pocomoke soils are considered Prime Farmland; that no storm flood hazard areas are affected; that a tax ditch crosses the site; and that it may be necessary for some on-site or off-site drainage improvements.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is located within the Developing and Environmentally Sensitive Developing Area according to the Strategies for State Policies and Spending document; that Developing Areas are where State investments and policies will be targeted to accommodate existing development and orderly growth; that the Environmentally Sensitive Developing Areas are where the State will seek a balance between resource protection and sustainable growth; that the State has no objections to this proposal; that the Applicant and the County should be aware that the Applicant will need to obtain an entrance permit and approval of construction plans since public streets are proposed; and that the Applicant should contact the Indian River School District to submit a package for information purposes as this project could generate approximately 43 additional children.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the system design assumption for the site is 4 EDUs/acre; that the site is not within a County operated and maintained sanitary sewer and/or water district; that wastewater capacity is available for the project; that Ordinance No. 38 construction shall be required; that the current System Connection Charge Rate is \$2,159.00 per EDU; that the location and size of laterals or connection points will be determined by the Sussex County Engineer during the Ordinance No. 38 process; that the project is adjacent to the South Bethany Sanitary Sewer District; and that conformity to the South Coastal Planning Study or undertaking an amendment will be required.

The Commission found, based on comments received from DelDOT, that the Department has reviewed the site plan and has no objection to the location of the entrance; that there is a project for road and drainage improvements along Route 84; that these improvements were required under the traffic impact study for the Villages of Bear Trap; that the improvements warranted along Route 84 for this project shall be coordinated with the Villages of Bear Trap project and shall be constructed under one project; that the developers will be required to work out a construction agreement; that prior to the Department approving either project, a copy of the recorded construction agreement will be required; and that the subdivision plans are being developed in accordance with the Department's rules and regulations prior to approval.

The Commission found that Clint Bunting and Michael Jahnigen, the developers, Frank Lathbury, the present owner, and Zack Crouch, Project Engineer from Davis, Bowen & Friedel, Inc. were present and stated in their presentations and in response to questions raised by the Commission that the project borders The Village of Bear Trap, Woodland Park, The Reserves, and lands of Walter Lathbury; that they propose to replace poultry farm with an 85 lot Residential Planned Community Subdivision; that the site contains 38.63 acres of which 24.97 acres contains the proposed lots, 8.29 acres contains open spaces, and 5.37 acres contains street right-of-ways and sidewalks; that the average lot size is 12,742 square feet; that the average building envelope contains 6,374 square feet; that the average proposed house size is 3,120 square feet; that the average open space per lot is 9,622 square feet; that the density is 2.2 units per acre; that they propose to incorporate a 5-foot protected environmental buffer of Leland Cyprus trees along the neighboring property line of Walter Lathbury; that the buffer will be addressed in the Homeowners Association documents to ensure the buffers future success; that they have received a letter of no objection to the entrance location from DelDOT; that they have preliminary approvals from County Engineering, County Addressing, and Tidewater Utilities, Inc.; that proposed amenities include a club house and swimming pool, sidewalks, trees between the street and sidewalks; street lighting, landscaping, and State specified streets and rolled curbs; that central water will be provided by Tidewater Utilities, Inc.; that central sanitary sewer will be provided by Sussex County; and that cable television will be available; that the architectural building theme will be coastal colonial; that the proposed home and lot retail price range will vary from \$350,000 to \$475,000; that the project is a suitable and good land use; that the project is surrounded by neighboring properties with similar and/or higher zoning densities; that the amenities will be first class; that neighboring property values will increase; that the project will eliminate the sounds and smells associated with an active poultry farm; that the tax ditch will not be relocated or removed; that the tax ditch will be cleaned and improved; that the proposed stormwater management ponds will discharge into the tax ditch; that the small farm ditches will be removed during the stormwater management construction; that sidewalks are proposed on both sides of the streets; that the entrance is directly across from the entrance to the Subdivision across Route 84; that the amenities will be constructed as the

infrastructure is being built; that the open spaces will be maintained by the Homeowners Association; that an interior access to the open space can be provided if required; and that the tax ditch easements will be depicted on the site plan.

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

Motion carried 5 – 0.

C/Z #1489 - application of **EAST BAY HOMES, 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 northeast of Road 331, 0.43 mile southeast of Road 339, to be located on 25.09 acres, more or less.

WITHDRAWN FEBRUARY 3, 2003

Subdivision #2002-35 - application of **ELAINE A. MUNCY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 73.78 acres into 25 lots, located northwest of Road 224, 550 feet northeast of Road 14E.

Mr. Abbott advised the Commission that the Technical Advisory Committee Report of November 13, 2002 will be made a part of the record for this application.

Mr. Abbott advised the Commission that the Department of Agriculture has written a letter advising that the existing hedgerow located on the adjoining parcel will suffice for the buffer requirement and that no additional buffers will be required on this site.

The Commission found that Robert Muncy and Byron Jefferson, Engineer, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that no entrance is proposed off of Road 224A; that construction will begin immediately once the application receives final approval; that the size of the homes will range in size from 1,400 square feet to 1,800 square feet; that Excel Homes, which is similar to Nanticoke Homes, will be the main supplier of the homes in the development; that the applicants have to approve all homes prior to being placed on the lots; and that no manufactured homes will be permitted on the lots.

At the conclusion of the Public Hearings, the Chairman referred back to this application.

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve this application as a preliminary.

Motion carried 5 – 0.

Subdivision #2002-36 application of **OAK CREST FARMS, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 54.48 acres into 26 lots, located at the northwest corner of the intersection of Road 286 and Road 285.

Mr. Abbott advised the Commission that the Technical Advisory Committee Report of December 11, 2003 will be made a part of the record for this application.

The Commission found that Ron Produski was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the project is for 26 lots on 54 acres; that the proposed density is lesser than what the Subdivision Code will permit; that on site sewer and central water is proposed; that Tidewater Utilities will provide the central water; that there is one entrance off of Hopkins Road to serve the 22 interior lots; that the 4 lots along Road 285 will have joint entrances as recommended by DelDOT; that the entire site was a Pine forest; that a majority of the trees will remain on site; that the areas not proposed for lots will remain wooded; that the development will have a homeowner's association; that a 30-foot forested buffer is provided along the lands of Ritter; that the owner will retain ownership of the open space until all lots are sold and then will turn it over to the homeowner's association; that there are two ponds on the site and they will not be disturbed; that the existing cemetery on site will not be disturbed and access will be provided to the cemetery; and that the homeowner's association will maintain the ponds.

The Commission found that John Souder was present and questioned the size of the Two ponds; questioned if the lots along Road 285 will have shared entrances; and questioned if the existing well maintained by Tidewater Utilities will be used for the proposed development and raised concerns about his well going dry.

The Commission found that Gerald Esposito of Tidewater Utilities was present and advised the Commission that the existing well has enough capacity to serve both developments; and that it is highly unlikely that Mr. Souder's well would run dry.

At the conclusion of the Public Hearings, the Chairman referred back to this application.

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

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

Motion carried 5 – 0.

#### OLD BUSINESS

C/U #1472 - application of **CALDERA PROPERTIES, L.P.**, to consider the Conditional Use of land in a GR General Residential District for multi-family dwelling structures (48 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 12.58 acres, more or less, lying northwest of the intersection of Route 357 and Route 360.

The Commission discussed this application which has been deferred since January 23, 2003.

Mr. Lynch stated that he would recommend that this application be approved with reasons and asked Mr. Robertson to read Mr. Lynch's statement.

Mr. Robertson read that Mr. Lynch recommends approval of this application based on the record made at the public hearing and for the following reasons:

- 1) The proposed Conditional Use project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District as established by the 1997 Sussex County Comprehensive Plan.
- 2) The proposed Conditional Use is appropriate for the site because residential development of this type is appropriate in areas where central water and sewer are available. In this case, there will be central sewer provided by the Sussex County Cedar Neck Sewer District and water provided by Sussex Shores Water Company.
- 3) The property is in an area that has developed with residential properties similar to the proposed project.
- 4) That the project will be served by amenities that are either on-site or adjacent to the project on lands that are the subject of another Conditional Use application filed by the Applicants simultaneously with this Application and to be developed simultaneously. These amenities include tennis courts, a swimming pool, and one of the largest community/recreational centers in such a project in Sussex County.
- 5) DelDOT has advised that the project will generate 30% less traffic than development under current zonings.

- 6) This recommendation for approval is subject to the following conditions:
- a) The maximum number of residential units shall not exceed 48.
  - b) All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
  - c) Recreational facilities, e.g. tennis courts, swimming pool and community buildings shall be constructed and open to use by residents of both C/U #1472 and C/U #1473 within 2-years of issuance of the first building permit for either project.
  - d) The development shall be served as part of the Sussex County Cedar Neck Sewer District.
  - e) The Conditional Use shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
  - f) Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
  - g) Site plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.
  - h) The interior street design shall be in accordance with or exceed Sussex County street design requirements.
  - i) The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
  - j) A 50-foot wide buffer shall be provided from the State wetland line.
  - k) 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 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 application 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 cost of the 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 or final site plan.
  - l) Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur during the hours of 7:00a.m. to 7:00 p.m.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved based on the reasons and conditions stated above.

Motion carried 5 – 0.

C/U #1473 - application of **CALDERA PROPERTIES, L.P.**, to consider the Conditional Use of land in a GR General Residential District and a C-1 General Commercial District for multi-family dwelling structures (160 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 40.74 acres, more or less, lying west of Route 357 and 1,000 feet north of Route 360.

The Commission discussed this application which has been deferred since January 23, 2003.

Mr. Lynch stated that he would recommend that this application be approved with reasons and asked Mr. Robertson to read Mr. Lynch's statement.

Mr. Robertson read that Mr. Lynch recommends approval of this application based on the record made at the public hearing and for the following reasons:

- 1) The proposed Conditional Use project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District as established by the 1997 Sussex County Comprehensive Plan.
- 2) The proposed Conditional Use is appropriate for the site because residential development of this type is appropriate in areas where central water and sewer are available. In this case, there will be central sewer provided by the Sussex County Cedar Neck Sewer District and water provided by Sussex Shores Water Company.
- 3) The property is in an area that has developed with residential properties similar to the proposed project.
- 4) That the project will be served by amenities that are on-site. These amenities include tennis courts, a swimming pool, and one of the largest community/recreational centers in such a project in Sussex County.
- 5) DelDOT has advised that the project will generate 30% less traffic than development under current zonings.
- 6) This recommendation for approval is subject to the following conditions:
  - a) The maximum number of residential units shall not exceed 160.
  - b) All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
  - c) Recreational facilities, e.g. tennis courts, swimming pool and community buildings shall be constructed and open to use by residents of both C/U #1472 and C/U #1473 within 2-years of issuance of the first building permit for either project.

- d) The development shall be served as part of the Sussex County Cedar Neck Sewer District.
- e) The Conditional Use shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
- f) Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
- g) Site plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.
- h) The interior street design shall be in accordance with or exceed Sussex County street design requirements.
- i) The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
- j) A 50-foot wide buffer shall be provided from the State wetland line.
- k) 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 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 application for permits from the Sussex County Engineering Department and DeIDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the 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 or final site plan.
- l) Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur during the hours of 7:00a.m. to 7:00 p.m.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved based on the reasons and conditions stated above.

Motion carried 5 – 0.

C/U #1477 -- application of **CARL M. FREEMAN COMMUNITIES, LLC**, to consider the Conditional Use of land in a MR-RPC Medium Density Residential District-Residential Planned Community for a public utility (water) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 4.10 acres, more or less, lying north of Route 54 and 1,150 feet west of Route 20.

The Commission discussed this application which has been deferred since January 30, 2003.

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 conditions:

- 1) The maximum capacity of the water tower shall be 300,000 gallons.
- 2) The maximum height of the water tower shall be 150-feet.
- 3) Lighting at the water tower shall be limited to normal security lighting, and safety lights required by the FAA on the tower.
- 4) The water tower shall be painted a sky neutral color and lettering shall be limited to identification of the development "Bayside" and the Water Company "Tidewater".
- 5) The water facility shall be surrounded by a security fence at least six (6) feet in height.
- 6) The structural design and operation of the water facility shall comply at a minimum with WWA/standard D 100-96 requirements.
- 7) The applicant has offered to allow placement of antenna on the water tower by the State, the County, or the local Fire Company at no charge.
- 8) The site plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.

Motion carried 5 – 0.

C/Z #1485 -- application of **PIERCE HARDY LIMITED PARTNERSHIP** to amend the Comprehensive Zoning map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying 620 feet south of Route 26, 750 feet west of Route 17, to be located on 8.387 acres, more or less.

The Commission discussed this application which has been deferred since January 30, 2003.

Mr. Lynch stated that there are two (2) separate parcels that the applicant seeks to change from AR-1 to C-1 in this application; that the first, Parcel A, is approximately 1.1 acres of land that is a part of the 3.88 acres of land currently owned by the applicant; and that the second, Parcel B, is 6.947 acres.

Mr. Lynch asked Mr. Robertson to read the motion that Mr. Lynch prepared.

Mr. Robertson read that Mr. Lynch recommends a change of zone from AR-1 to C-1 on the property identified as Parcel A and the area with approximate dimensions of 60 by 247 feet shown on the site plan immediately adjacent to the southern boundary of Parcel A, based upon the record made at the public hearing and for the following reasons:

- 1) This property is part of the land already owned by the Applicant and is used as part of the existing 84 Lumber yard.

- 2) At the time the applicant sought to construct a building on this property, the Applicant and the County believed that it was already zoned C-1, and a building permit was issued. The Applicant relied in good faith on the issuance of the building permit and proceeded to erect a storage building and a Certificate of Compliance and/or Occupancy was issued for it.
- 3) Parcel A is immediately adjacent to and considered part of the rest of the commercially zoned property that is owned by the Applicant.
- 4) The character of the neighborhood will not be adversely affected, given the relatively small size of the property, its current use, and its location in relation to other existing commercially zoned properties.
- 5) The adjacent parcel with approximate dimensions of 60 by 247 feet should also be zoned commercial to bring the location of the existing 60,000 square foot storage building shown on the site plan into conformity with the applicable setback requirement. The building was previously permitted, constructed and approved by the County contrary to the applicable setbacks.

Mr. Robertson added that Mr. Lynch also recommends denial of a change of zone from AR-1 to C-1 on the property identified as Parcel B based on the record made at the public hearing and for the following reasons:

- 1) While there may be a need for the materials and services provided by the Applicant, the orderly growth of the County does not justify creating the additional commercially zoned property that has been requested by the Applicant, especially given the location and configuration of the property.
- 2) Unlike the Applicant's commercial property fronting along Route 26 that is consistent with the character of surrounding properties, the majority of the land that is the subject of this application is located at the rear of the existing commercial area and is not directly contiguous to it. It is surrounded by property that is zoned AR-1 that is primarily residential in character, made up of single family homes. I do not believe that the application is consistent with the character of the surrounding property.
- 3) I do not believe that the property is suitable for commercial zoning or the Applicant's purposes. The only connection between it and the Applicant's other commercial land is through a small common boundary line of approximately 60-feet.
- 4) A recommendation of approval of this application would lead to increased trucking activity on the property, including the area currently zoned for commercial use and the land that is the subject of this application. This will lead to increased noise to neighboring property owners and residents. I am not satisfied that the Applicant has adequately proposed measures that will reduce the increased noise to neighboring properties.
- 5) I believe that there are other, more suitable properties that are already commercially zoned in the area that the applicant could utilize for its business.

Mr. Johnson seconded both motions. The motions carried 4 – 1. Mr. Wheatley opposed both motions.

C/Z #1486 -- application of **DAVID RITTER** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying 270 feet south of Route 22 (Long Neck Road), 0.2 mile east of Road 298 and east of Julia's Lane, being Lots 2 and 3 within Julia's Place Subdivision, to be located on 1.83 acres, more or less.

The Commission discussed this application which has been deferred since January 30, 2003.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since commercial zoning exists on both sides of the site, and since a Conditional Use for commercial use is immediately in front of the site.

Motion carried 5 – 0.

C/Z #1487 -- application of **CALDERA PROPERTIES** 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 Lewes and Rehoboth Hundred, Sussex County, land lying at the southeast intersection of Road 277 and Road 283, to be located on 138.78 acres, more or less.

The Commission discussed this application which has been deferred since January 30, 2003.

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

Motion carried 5 – 0.

Subdivision #2002-28 - application of **BUD BRIGHT** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 49.89 acres into 50 lots, located south of Road 48, 150 feet east of Road 302.

The Chairman referred back to this application which has been deferred since the January 23, 2003 meeting.

Mr. Abbott advised the Commission that the staff has received the septic feasibility statement from DNREC and that the site is suitable for individual septic systems.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve this application as a preliminary.

Motion carried 5 – 0.

#### OTHER BUSINESS

##### Marsh Property Townhomes Multi Family Site Plan – Route One A

Mr. Abbott advised the Commission that this is a preliminary multi-family site plan for 22 units located on 1.97 acres; that the site is zoned General Commercial and 23 units would be permitted by the zoning code; that four, three story buildings are proposed; that the buildings have 4,5,6, and 7 units; that the 4 unit building is proposed to be 50-feet by 96-feet; that the 5 unit building is proposed to be 45-feet by 120-feet; that the 6 unit building is proposed to be 45-feet by 144-feet; and the 7 unit building is proposed to be 50-feet by 165-feet; that all of the units have an attached two car garage; that 66 parking spaces are required and proposed; that there is a six-foot high privacy fence proposed along Route One A; that the developer will need to revise the fence to 3.5 feet in height or a variance will be needed from the Sussex County Board of Adjustment; that the setbacks meet the requirements of the zoning code; that central water will be provided by City of Rehoboth and central sewer will be provided by Sussex County; that the site plan meets the requirements for preliminary approval; and that final approval could be subject to the staff receiving all required agency approvals and the fence issue being corrected.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals and the fence issue being corrected.

Motion carried 5 – 0.

##### Poynter's Square Multi-Family Site Plan – Route One

Mr. Abbott advised the Commission that this is a preliminary multi-family site plan for 11 units on 40,000 square feet; that the site is zoned General Commercial and that the zoning code permits 11 units; units 1 and 2 and units 3 through 5 are in separate buildings and have a separation distance of 21.5 feet; that a 40-foot separation is required unless the Commission would consider the five units be placed in a 165-foot by 165-foot building envelope and if not a variance will be required; that units 6 through 11 are in another building and have the minimum 40-foot separation from the other two buildings; that each

unit has an attached one-car garage; that 33 parking spaces are required and proposed; that the setbacks meet the requirements of the zoning code; that central sewer and central water will be provided by Sussex County; that the site 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. Gordy, and carried unanimously to approve the site plan as submitted as a preliminary. Final approval shall be subject to the staff receiving all required agency approvals.

Motion carried 5 – 0.

A.A.S.C.D. Ventures/The Bay Farm  
C/Z #1474 – Reallocation of Units – Road 299

Mr. Abbott advised the Commission that this is a request to revise the type of units permitted in the Bay Farm residential planned community; that the request is because of a reduction in number of units from 780 to 660 approved by the County Council; that the stipulation referenced the maximum number of units shall not exceed 660 dwelling units comprised of the following, 160 single family lots at 10,000 square feet minimum, 144 single family lots at 7,500 square feet minimum, 192 condominium units, and 164 multi-family units; that the request is to revise the number of units to 190 single family lots at 10,000 square feet minimum, 170 single family lots at 7,500 square feet minimum, 228 condominium units, and 72 duplex/quadrplex units; and that the Commission may revise the types of units since the stipulation originated at the Commission's recommendation of approval.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the request.

Motion carried 5 – 0.

Skydive Delmarva Inc.  
C/U #1423 Amended Site Plan – Route 24

Mr. Abbott advised the Commission that this is a request to revise the conditions of approval to permit 1 camper to remain on the site year round for security purposes; that the stipulations referenced 10 campers would be allowed from April 1 to November 30 of each year; and that the Commission has the authority to revise the stipulation since it originated at the Commission's recommendation of approval.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to permit 1 camper to remain on the property year round.

Motion carried 5 – 0.

Aydelotte Estates  
Revised Lots – Road 275

Mr. Abbott advised the Commission that this is a request to revise the radius of lots 19,26,27,41, and 42 from 25-feet to 20-feet; that the original survey referenced each lot containing 20,000 square feet; that a new survey found an error in the square footage; and that allowing the radius to be revised to 20-feet will make each lot greater than the required 20,000 square feet.

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

Motion carried 5 – 0.

Clarence and Elizabeth Reed  
Parcel on 50' Right of Way – Route 5

Mr. Lank advised the Commission that this item was removed from the agenda on February 12, 2003.

Canal Landing  
Revised Site Plan – Route One A

Mr. Abbott advised the Commission that this is a request to delete the sidewalks in a multi-family project; that the Sussex Conservation District supports the request since deleting the sidewalks will improve the drainage concerns raised by the District.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried unanimously to permit the developer to delete the sidewalks.

Motion carried 5 – 0.

Meeting adjourned at 9:20 P.M.