

## MINUTES OF THE REGULAR MEETING OF FEBRUARY 28, 2002

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 28, 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, Mr. Johnson, and Mr. Lynch, with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the minutes of February 14, 2002 as amended.

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

### PUBLIC HEARINGS

**SUBDIVISION #2002-1** -- application of **GREAT SOUTH BEACH IMPROVEMENT CO.** to consider the Subdivision of land in a MR Medium Density Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 18.15 acres into 41 lots, located southwest of Road 273, 200 feet west of Kingsbridge Road and 200 feet east of Buckingham Road within Rehoboth Beach Yacht and Country Club.

Mr. Lank advised the Commission that the Technical Advisory Committee Report of January 16, 2002 would be made a part of the record for this application.

Mr. Abbott summarized comments received from the Sussex Conservation District and the Natural Resources Conservation Service.

The Commission found that James Waehler, Attorney, and Larry Walker, Engineer, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the subject area will be known as Phase 10 of the Rehoboth Beach Yacht and Country Club development; that the lots will range from 11,500 square feet to 26,000 square feet; that most of the lots are 100-feet by 120-feet; that the proposed lots exceed the minimum requirements of the subdivision and zoning codes; that the Planning and Zoning Commission approved a rezoning application for this site in the summer of 2001; that the lots are larger than what is required; that 41 lots are proposed; that the subdivision plan has been submitted to all agencies for approvals; that the street names and addresses have been approved by the Mapping Office and the Post Office; that the Office of the State Fire Marshal has granted their approval; that a pump station will not be required for the County sewer; that the existing woods on the site will be retained except those that were near lot 23 which have been cleared by the lot owner;

that the proposed restrictive covenants will be the same as the other phases within Rehoboth Beach Yacht and Country Club; and that the proposed entrance to the site is directly across from the entrance to Kinsale Glen development as required by DelDOT.

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 approve this application as a preliminary.

Vote carried 5 to 0.

**SUBDIVISION #2002-2** -- application of **WHEATLEY FARMS, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred, Sussex County, by dividing 30.6 acres into 2 lots, located east of Road 46, 0.3 mile north of Route 18.

Mr. Lank advised the Commission that this application was not reviewed by the Technical Advisory Committee since the two lots are off of an existing numbered road.

The Commission found that Diane Wheatley was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that when they sold one of the lots that there was a mix up in the location of the approved lots; and that the proposed lots are not suitable for agricultural purposes since there are other residential lots adjacent to these lots.

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. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve this application as a final subject to the staff receiving an entrance location approval from DelDOT.

Vote carried 5 to 0.



**C/U #1444** -- application of **ALFONSO MATOS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for used car and tire sales to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 19,526 square feet, more or less, lying south of Route 20, 4,240 feet west of Route 485

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

The Commission found, based on a Permit for Entrance Construction from DelDOT, that permission was granted for the property owner to use the existing entrance off of Route 20 as access to the business, that no cars are allowed to be placed on State right-of-way, and that if in the future any expansion or change of use is done to this parcel then the entrance may be required to be built to current DelDOT standards.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is located within the Blades Service Area of the Development District according to the Western Sussex Water and Sewer Plan, and that the applicant can contact the Town of Blades concerning the availability of water service, and the County Engineering Department concerning the availability of sanitary sewer service.

The Commission found that letters were received from Karen and Robert Taylor, and Ruth S. Mulford in opposition to the application and expressing concerns about the possible negative impact on the values of homes in the area, traffic, increased traffic caused by a used car lot, traffic accidents in the area, the closeness of the site to a curve on Route 20, school bus stops in the immediate area, increase noise, and the lose of the residential character of the area.

The Commission found that Alfonso Matos was present with Robert Crayol, as an interpreter, and stated in his presentation and in response to questions raised by the Commission that he has owned the site for approximately 6 months; that he is applying for a Conditional Use to permit the sales of used cars and tires; that he does not live on the site; that he has been selling tires at the site for approximately 6 months; that he hopes to display 7 or 8 vehicles; that his business hours would be from 7:00 a.m. to 8:00 p.m. five days per week; that he is closed on Monday and Friday; and that he is not presently selling used cars; that he also mounts and balances tires.

Mr. Lank advised the Commission that there have been several business uses on the site over the years, i.e. seafood sales, furniture and carpet sales, and tire sales.

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

The Commission found that Karen Taylor, Hans Mulford, Jean Cotton were present in opposition to the application and expressed agreement with the letters of opposition, and added that if the use is approved there should be limitations on the project; that area residents are concerned about additional traffic, the curve, the impact on the residential area, traffic accidents, and school bus traffic; and questioned where cars would be displayed; and questioned where customers would park; that all lots on the north side of Route 20 are waterfront lots; and questioned the impact on the environment and property values. Ms. Taylor stated that the seafood business was operational in 1986. Ms. Cotton stated that the site was used for tire sales, furniture and carpet sales in 1997.

The Commission found that Ms. Taylor submitted letters in opposition from Mary Ellen R. Farquhar, John M. Turner, Emma Griffith, and Michael R. Griffith.

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

Mr. Wheatley stated that there has always been a small business on the site; that he is opposed to any expansion of the uses on the site; that the site is not suitable for the display of vehicles for sale; and that the property does not lend itself to commercial use.

Mr. Allen stated that the site is not an appropriate location for a used car sales lot, and that the building is too close to the right-of-way of Route 20.

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 denied based on the reasons referenced above.

Motion carried 5 - 0.

**C/U #1445** -- application of **MARK GRAHNE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a medical and/or office building to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.2 acres, more or less, lying north of Route 24, approximately 250 feet east of Road 279.

The Commission found that the applicant had submitted, prior to the meeting, a packet of information that included a tax map of the area depicting zoning in the area, a site plan, six (6) black and white photographs of the area, and some suggested conditions of approval.



The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is not located in a County operated and maintained sanitary sewer and/or water district, and that the project is located in the West Rehoboth Moratorium Area where the County Council agreed to restrict zoning changes and conditional uses to parcels to be connected to a County owned sanitary sewer system, as outlined in a Memorandum of Understanding signed between the County Council and the State DNREC.

The Commission found, based on comments received from DelDOT, that if the applicant had applied for a change of zoning a traffic impact study would have been required, and that the Department will waive the requirement for a traffic impact study for a Conditional Use application.

The Commission found that a letter was received from Joseph H. Prettyman, Jr. in support of the application.

The Commission found, that Mark Granhe was present with James Fuqua, Jr., Attorney, and stated in their presentations and in response to questions raised by the Commission that the project will be served by an on-site well and on-site septic; that the soils on the site are conducive to on-site septic; that there are no unique environmental issues on the site; that there are no wetlands on the site; that the entrance is proposed to the east side of the site to provide a greater spacing distance from the intersection at the entrance to Peddlers Village shopping area; that a 6,000 square foot building is proposed; that adequate space exists on the site for parking and stormwater management; that a 10-foot wide landscaped strip is proposed along the rear of the site; that the existing fencing along the rear will remain or be replaced; that a fifteen (15) foot wide dedication of right-of-way is proposed along the front of the site; that a Conditional Use for medical offices should not create any negative impacts on traffic since the offices are not normally open on weekends; that Route 24 is the boundary line for the Development District according to the Comprehensive Plan and the State Strategies Maps; that the site is immediately adjacent to a C-1 General Commercial District and commercial uses, i.e. Peddlers Village Shopping Center, Payless Furniture, and the Citgo Station, and that in light of the commercial and business uses in the immediate area a Conditional Use should be appropriate, rather than a change of zoning; that the population and growth area is moving out along Route 24, and referenced the Beebe Clinic and the Cape Henlopen Middle School; that the use is compatible to the Beebe Clinic by providing additional medical office space; that parking lot lighting will not be directed to impact travelling motorist or neighboring residential properties; that a small sign is proposed to identify the project; that a 15-foot wide strip separates the site from the Prettyman site; that the applicant is willing to plant trees in the rear buffer area; and that the 6,000 square foot building will be one story.

The Commission found that Mr. Fuqua submitted a copy of a soil evaluation for septic on the site, and six (6) color photographs of the area to replace the photographs submitted with the packet.

The Commission found that Richard Ross, a landowner to the rear of the site, in opposition to the application and expressed concerns about the location of the dumpster; traffic in the immediate area; additional traffic created by the project; that the existing fence on the rear is his fence; that he sat at the intersection of Route 24 and Peddlers Village at 5:15 P.M. and counted 87 vehicle trips within 5 minutes; that the existing intersection is unsafe; that the applicant should be required to improve the intersection; and that the applicant should have to provide a larger buffer.

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

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

- 1) The use shall be limited to medical and professional offices.
- 2) Water and septic systems shall comply with all requirements of the State DNREC.
- 3) A 10-foot wide landscaped buffer shall be provided along the rear property line.
- 4) The entrance location and design shall be subject to the review and approval of DelDOT.
- 5) The dumpster location shall be screened by appropriate sized fencing.
- 6) The building shall not exceed 6,000 square feet or 1-story in height.
- 7) One lighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.
- 8) Parking lighting shall be directed so that the lighting does not impact travelling motorist or neighboring residential properties.
- 9) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 5 - 0.

**C/Z #1460** -- application of **BUNTING-GRAY, 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 north of Route 54 and 3,200 feet east of Route 381, to be located on 219.42 acres, more or less.



The Commission found that the applicant had submitted, prior to the meeting, a packet of information that included a presentation outline, the conceptual master plan for the project, a conceptual plan depicting the existing boundary of the Fenwick Island Sanitary Sewer District and 404 Wetlands and open space, an environmental section which includes letters to and from the County Engineering Department in reference to sewer availability, and a letter from Artesian Water Company, Inc. in reference to water availability, a transportation section which includes comments relating to the entrance and highway improvements that may be necessary, a small map of the area and a copy of the Sussex County Tax Subsidy Program and Tax Rates.

The Commission found that the Technical Advisory Committee Report for December 19, 2001 referencing this application is a part of the record for this application.

The Commission found, based on comments received from DelDOT, that a traffic impact study was performed by a consultant for the applicant and that DelDOT has reviewed the study and found that future summer Saturday traffic conditions on Route 54 will be significantly worse than they are today, regardless of this project; that it is important to begin planning now for improvements to Route 54; that most of those improvements would address problems that go beyond the expected impacts of this project and it would be unfair to hold the applicant responsible for them; that there are incremental improvements that can be made to improve traffic conditions that are directly related to the proposed project traffic; that if the County is inclined to grant the rezoning, the Department recommends that the County grant the rezoning only if it first receives assurances, in the form of binding restrictions, in the following regards: 1) In developing the property, the applicant shall set aside, and dedicate to public use, rights-of-way acceptable to DelDOT for the future widening of Route 54; 2) The applicant shall improve (widen, lengthen, and repave) Route 54 across the entire property frontage to create a separate, eastbound left turn lane, and a separate, channelized right turn lane at the proposed driveway. Further, the applicant shall provide a southbound, channelized right turn lane and two southbound left turn lanes (with one to be striped out until Route 54 is widened) exiting the driveway; 3) The applicant shall enter a signal with DelDOT whereby the applicant will fund the installation and operation of a signal at the intersection of the proposed driveway and Route 54 when DelDOT determines that such a signal is warranted; 4) If sufficient rights-of-way exist, the applicant shall reconstruct and improve Bayville Road at its intersection with Route 54 to provide separate southbound left and right hand turn lanes on Bayville Road for a distance of 250 feet; and 5) The development shall incorporate, to the greatest extent possible, provisions for pedestrian and bicycle amenities, including those requested by the Department's Bicycle and Pedestrian Coordinator. The developer shall incorporate in the entrance improvements, a five-foot wide paved multi-use trail along and parallel to Route 54 across the entire frontage and shall provide on-site bicycle parking in a manner acceptable to DelDOT.



The Commission found, based on comments received from the Office of State Planning Coordination, that DelDOT has commented that they expect traffic along Route 54 to increase to where a four-lane highway would be needed to provide acceptable levels of service during the summer Saturday peak hour; that DelDOT has initiated a study of the corridor to determine the feasibility of widening the road; that the site is located within an Environmentally Sensitive Developing Area of the Strategies for State Policies and Spending document; that in these areas the State will seek a balance between resource protection and sustainable growth; that this parcel includes a recorded prehistoric archaeological site and a dwelling along the road frontage; that the project would have adverse effects on those sites; that according to the plans reviewed by DNREC the developer intends to remove most of the intact 74-acre palustrine forest and almost all of the single family lots contain either 404 or tidal wetlands; that the plan also calls for the elimination of a Riparian forest buffer between the tidal wetland and the Little Assawoman Bay; that for those reasons the State asks that the County deny this rezoning as it is proposed; and that understanding that this area is under development pressure and that the property owners have a right to develop this property in some fashion without this rezoning, the State would ask that the County require the developer to work with the State to create a model conservation design subdivision that will address the environmental concerns of the area.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that approximately 50% of the project is in the Fenwick Island Sanitary Sewer District; that capacity appears to be available for the project as proposed; that the County Engineering Department will be preparing an update to the South Coastal Area Planning Study, which may result in future limitations or policy changes that could affect the future development of this project through the Ordinance No. 38 process; that there is insufficient capacity in the 24-inch line in Route 54 and pumping station #30 near the intersection of Road 381 and Route 54, for the build out of the District; that the County Engineering Department recommends a limit of 60 units per year to allow time for improvements to occur; that Ordinance No. 38 construction shall be required; that the current System Connection Charge Rate is \$2,389.00 per EDU; that a portion of the project can be connected to the existing pumping station No. 61 in Shady Park as proposed (i.e. 319 EDU's), subject to the approval of the County Engineering Department; that there are no designated connection points for the remainder of the project; and that conformity to the South Coastal Area Planning Study and Amendment #3, or undertaking an amendment will be required.

The Commission found that letters of opposition were received from Dennis F. and Sharon Lea Johnson of Keen-Wik on the Bay, the Keen-Wick West Property Owners Association, the Keen-Wik on the Bay Board of Governors, and Ted and Cecelia Stegura in opposition to the project and expressing concerns on the high density of the proposed RPC relative to the buildable land area of the property; the adverse impact on traffic; the



overcrowding of the only evacuation route out of the area; the effect on environmentally fragile wetlands located on the site and the associated impact on the Inland Bays; the effect of the project on sewer capacity; the cumulative impact of the project on the environment and infrastructure in the Route 54 area when considering with other recently approved projects in the vicinity; the potential for traffic jams to restrict servicing by emergency vehicles; and the impact on the wildlife of the area.

The Commission found that Coleman Bunting and Ron Gray, the applicants, were present with David Hackett, Attorney with Griffin & Hackett, P.A., Mike Wigley, Architect with Davis, Bowen & Friedel, Inc., Mike Green, Environmental Scientist with Environmental Consulting Services, Inc. and Jerry Friedel, Engineer with Davis, Bowen & Friedel, Inc. were present on behalf of the application and stated in their presentations and in response to questions raised by the Commission that they propose to change the zoning from AR-1 Agricultural Residential to MR-RPC Medium Density Residential with a Residential Planned Community overlay; that testimony will prove that the application meets the purpose of a Residential Planned Community and the intent of the Comprehensive Plan; that the site contains approximately 219 acres; that they propose to develop 343 units with numerous recreational facilities and 3.43 acres of commercial area to serve the project and the area; that the site is in close proximity to fire protection facilities; that the project has received a favorable recommendation with conditions from DeIDOT; that the applicants have agreed to meet all of DeIDOT recommendations; that the site is located in a Development District, according to the Comprehensive Plan, where growth is directed; that the County Engineering Department has advised that sewer capacity is available; that the housing type is to be upscale single-family residences and townhomes at a proposed density calculates at 1.84 units per gross acre less State wetlands, rather than 4 units per acre as suggested by the Comprehensive Plan; and that Artesian Water Company, Inc. has advised that they can supply the necessary water for the project; that the project will be governed by a comprehensive set of restrictive covenants to insure the highest standard of living standards possible; that the looping roadway system is designed to create small neighborhoods surrounding natural areas, providing better phasing of the project; that the street improvements will meet or exceed County and State Fire Marshal standards; that a 30-foot wide forested buffer will be maintained along the westerly property line adjoining farmland; that the smallest lots contain at least 9,000 square feet of lot area; that deed restrictions will be created to preserve large caliper trees; that the proposed 56 unit multi-family community is located close to the commercial area and amenities; that a central amenity area is proposed to be surrounded by a tree lined boulevard with walking and bicycle trail extending to Route 54; that the amenity package includes a swimming pool, tennis courts, basketball court, volleyball court, shuffle board, jogging trails, community sidewalks, fishing ponds, gardening area, and a bird observation tower; that the commercial area will be linked to the community via streets or walk/bike trails; that the 219.42 acre site contains 33.67 acres of State wetlands, 32.67 acres of Federal wetlands, 24.56 acres of open space, exclusive of wetlands, 3.43 acres of



commercial area, and 23.98 acres of roadways; that MR-RPC zoning would allow up to 688 units; that the proposed 343 units conforms to the AR-1 Agricultural Residential calculation; that the project can be considered as a self contained project where the need to travel off-site will be minimized; that a mobile home park and mobile home community exists to the east; that farming exists to the west; and that residential subdivision exists to the south across Route 54; that the majority of the proposed housing units are single family units to conform to the development trend in the immediate area; that the only entrance to the project is located at the entrance to the existing car wash; that all proposed ponds are located in uplands and will be manmade; that the bridge crossings are large culverts; that there are approximately 90 acres of trees on the site and that approximately 50 acres of trees will be preserved; that selective clearing of trees on individual homesites will be controlled to a minimum of trees removed; that the individual homesites range from 9,000 square feet to 15,000 square feet exclusive of any State wetlands; that they propose to create a model home area to establish the style of homes preferred; that an on-site investigation of the soils and wetlands was conducted between March of 2001 and June of 2001; that a wetlands delineation has been submitted to the Army Corps. of Engineers for review; that Corps. staff has investigated the site; that State wetlands exists along the northerly portion of the site; that there are no tidal influenced streams on the site; that DNREC staff has investigated the site; that there are no road crossing over tidal ditches; that almost 100% of the wetlands on the site will be preserved; that they feel that they are able to design and build the entire project with no direct impact on any wetlands; that stormwater management plans will preserve and enhance any adjoining wetlands; that a cemetery is located on the site; that it appears that there are three graves; that they are trying to contact the family members to get permission to relocate the graves into a cemetery plot near Shady Park; that the farmhouse referenced in agency comments is not on any historic registry and is proposed to be removed from the site; that one-half of the site is located in the Fenwick Island Sanitary Sewer District; that sewer capacity is available; that the County is reviewing the South Coastal Area Planning Study; that pump station #61 in Shady Park should be capable of being upgraded to provide service to the project; that the streets are proposed to be built with rolled curbing, which will eliminate the need for road swales and provided a narrower street section, and less impact on the woodlands ; that there is an access across the site that serves five (5) existing homes off of the site; that the access to the five (5) lots is proposed to be relocated to connect to the street system through the project; that the traffic impact study was prepared with the consideration of full build out of all projects in the area as if they were built out by 2009; that a signal agreement will be initiated; that signals are proposed to be sequenced to help eliminate delays; that DelDOT has improvements under construction on Route 54; that the developer will construct an entrance similar to Bayville Shores entrance with a center turn lane, an acceleration lane, a deceleration lane, two left turn lanes, and a right turn lane; that the developer will enter into a road widening easement with DelDOT; that there would be economic benefits for the County in impact fees for sewer, sewer inspection fees, road inspection fees, building



permit fees, transfer taxes, and annual County taxes, along with economic benefits to the Indian River School District and Sussex Tech; that they anticipate that the project will be phased over 6 to 7 years; that they anticipate that they will build approximately 60 units per year; that a boat ramp exists for Shady Park; that they are planning joint use of the boat ramp; and that they have not decided whether to restrict the lots along the water front in reference to access to the water.

The Commission found that Gerald Pepper, owner of one of the five homes with access across the site, was present and stated that he is in support of the project.

The Commission found that Harry Haon, a landowner in Fenwick Island, Steve Callanen, a landowner from Cedar Neck, and Phil Garino, a landowner in Swann Keys were present in opposition to the project and expressed concerns that the site is located in an Environmentally Sensitive Area according to the Strategies for State Policies and Spending document, that the site is located in a Conservation District according to the Comprehensive Plan; that there is a concern that the 50-foot buffer from tidal wetlands will be protected by future lot owners; that the buffer should be maintained through an association, not by individuals; that lot widths along water-bodies should be 150-feet in width; that the majority of the lots along the Bay include State wetlands; that the developer should be required to comply with the recommendation from the Office of State Planning Coordination; that the current traffic situation is not good and is only going to get worse based on the number of homes and lots already approved and proposed on the Route 54 corridor; that DelDOT comments will be the same on other proposed projects in the area; that the possible number of walkways across the wetlands should be a concern; that the number of trees that will be destroyed should be a concern; that most developers clear cut all the trees to ease construction methods; that homes should be built within the trees; that trees increase property values if properly maintained; that trees of a certain width should be preserved by restrictive covenants; that the cumulative impact should be addressed; that the County has the opportunity to limit the impact on Route 54 at this time by saying "enough is enough"; questioning if the net density calculation includes any wetlands; that wetlands concerns need to be addressed before the project is allowed to continue; that the referenced boat ramp was built for the private use of the Gray family; and that the lagoon from the boat ramp out to the Bay will be negatively impacted by the number of boats that could be generated by the project and Shady Park.

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. Wheatley, and carried unanimously to defer action.

Vote carried 5 to 0.

#### OLD BUSINESS

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

Mr. Abbott advised the Commission that action was deferred on December 13, 2001 pending a decision on a rezoning application; that the rezoning application was approved on February 12, 2002; and that the preliminary plan is for 277 lots.

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

Vote carried 5 to 0.

Subdivision #2001-29 - - application of **PENNY LANE DEVELOPMENT, L.L.C.** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 23.46 acres into 65 lots, located northeast of Road 361 and 600 feet north of Road 362.

Mr. Abbott advised the Commission that action was deferred on January 24, 2002 pending a decision on a rezoning application; that the rezoning application was approved on February 12, 2002; and that the preliminary plan is for 65 lots.

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

Vote carried 5 to 0.

Subdivision #2001-30 - - application of **MULBERRY NO. 1, L.L.C.** to consider the Resubdivision of land in an AR-2 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by redividing 52 lots into 8 lots, on 50.26 acres, located at the end of Road 284 within Mulberry Knoll Subdivision.

Mr. Abbott advised the Commission that this application received preliminary approval on November 29, 2001; that the final record plan meets the requirements of the subdivision code; and that the final record plan references the 20-foot easement to the future boat dock as stipulated by the Commission and required by a Court decision.



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

Vote carried 5 to 0.

Subdivision #2001-10 - - application of **TEMPLE B. VELI** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 21.35 acres into 32 lots, located northeast of the intersection of Road 288 and Road 288-B and within Chapel Green Subdivision.

Mr. Abbott advised the Commission that this application was deferred on May 24, 2001 pending verification from the United States Army Corps of Engineers that the wetland delineation is correct; that the staff has received notification that the wetland delineation is correct and that the approval is valid for a five year period; and that the application is for seven lots on an existing street.

Mr. Schrader advised the Commission that he has reviewed Subsection 99-23(q) and Subsection 99-26(a) of the Subdivision Code and that there is nothing that prohibits the additional lots being created.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried 4 votes to 1, with Mr. Allen opposed, to approve the application as a final.

Vote carried 4 to 1.

C/U #1442 - - application of **JAYANT GOYLE** to consider the Conditional Use of land in a GR General Residential District for a multi-family dwelling structure (2 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 8,904 square feet, more or less, lying southeast of Washington Street, 480 feet south of Route One, and being Lot 11 of Rehoboth Manor.

APPLICATION WAS WITHDRAWN FEBRUARY 19, 2002.

#### OTHER BUSINESS

Ocean View Plumbing  
C/U #1403 Site Plan Route 26

The Commission reviewed the final site plan for a 9,800 square foot plumbing business office and warehouse. The site plan meets the requirements of the zoning code and all agency approvals have been received.

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

Vote carried 5 to 0.

M. Biggs Enterprises, Inc.  
C/U #1427 Site Plan Road 32

The Commission reviewed the final site plan for a 1,800 square foot counter top business and showroom. The site plan meets the requirements of the zoning code and all agency approvals have been received.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the site plan as a final.

Vote carried 5 to 0.

Dreamweaver Interiors, L.L.C.  
C/U #1429 Site Plan Savannah Road

The Commission reviewed the final site plan for a 1,360 square foot showroom for a sewing business. The site plan meets the requirements of the zoning code and all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a final.

Georgetown Charter School  
C/U #1402 Site Plan Route 9

The Commission reviewed a request by the applicants to be able to build their permanent school facility at the present location. A question was raised if an amended site plan could be submitted or if another conditional use application would be required.

Mr. Schrader advised the Commission that they have the authority to review an amended site plan.

Motion by Mr. Gordy, seconded by Mr. Johnson, and carried 3 votes to 0, with Mr. Wheatley not participating, to allow the applicants to submit a revised site plan and not require another public hearing.

Vote carried 3 to 0.



Gumboro Fellowship Church Daycare  
Preliminary Site Plan Route 26

The Commission reviewed a preliminary site plan for a 13,204 square foot daycare facility. The Board of Adjustment granted a special use exception on September 1, 2001. The site plan meets the requirements of the zoning code. All agency approvals are needed.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to receipt of all agency approvals.

Vote carried 5 to 0.

Clear Brook Acres  
Revised Street Specifications Road 535

The Commission reviewed a request to revise the streets within Clear Brook Acres subdivision from public streets to private streets. The subdivision has not been built at this time and the developers still own all of the lots.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to revise the streets from public to private.

Vote carried 5 to 0.

Earle L. Isaacs  
Parcel and 50' Easement Route 30

The Commission reviewed a concept to create a 3.19-acre lot with access from a 50-foot easement off of Route 30.

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

Vote carried 5 to 0.

Meeting adjourned at 10:40 P.M.