

MINUTES OF THE REGULAR MEETING OF MARCH 21, 2002

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 21, 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. Gordy, Mr. Johnson, Mr. Lynch, and Mr. Wheatley with Mr. Schrader - Assistant County Attorney, Mr. Lank - Director, and Mr. Abbott - Assistant Director.

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

The Commission took no action on the minutes of March 14, 2002 since they were not completed.

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

PUBLIC HEARINGS

C/U #1447 -- application of **RON YODER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for expansion of Conditional Use No. 1067 to allow meat cutting and retail sales to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 6.10 acres, more or less, lying north of Route 16 and 720 feet west of Road 595A.

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 that the site had previously been approved for a country craft shop (C/U #927) in 1990 and that the country craft shop was expanded to permit plants and produce sales (C/U #1067) in 1994.

The Commission found that Ronnie Yoder was present and stated in his presentation and in response to questions raised by the Commission that he proposes to add meat cutting to the existing craft shop; that there will not be any slaughtering of livestock performed on the site; that he plans to demolish all improvements on the site except for the dwelling and two small sections of the existing craft shop building; that he would like to erect a lighted sign, 8' by 16', with a timer that will turn off the lights at 10:00 p.m.; that three entrance/exit locations exists and that he proposed to delete the existing locations and create a new one subject to the approval of DelDOT; that he would like to park an antique tractor in the front of the shop for display, not for sale; that all cold storage will be located within the building; that normal business hours will be from 7:00 a.m. to 6:00

p.m. weekdays with closing hours on Fridays to 8:00 p.m.; and that there will be no Sunday hours.

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. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the use is an expansion to an existing Conditional Use and with the following stipulations:

- 1) There shall be no Sunday business hours.
- 2) There shall be no outside storage.
- 3) One lighted on-premise ground sign may be permitted. The lights on the sign shall be timed to be turned off at 9:00 p.m. The sign shall not exceed the square footage of the existing sign on the premises.
- 4) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Vote carried 5 - 0.

C/U #1448 -- application of **DICK ENNIS, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a model home sales office to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,500 square feet, more or less, lying southeast of Route 24, 131.12 feet southwest of Road 277.

The Commission found, based on comments received from DelDOT, that the Department is concerned about this application since they see it as encouraging more traffic in an area that the Department has identified as operating at an unacceptable level of service (E) during the summer peak hours.

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 or water district, and that the site is located within the West Rehoboth Moratorium Area where the County Council agreed to restrict zoning changes and conditional use applications to parcels to be connected to a County owned sanitary sewer system.

The Commission found that a letter was received from Bob Maegerie, President of the Pinewater Civic Association in opposition to the application and expressing concerns that the community is suffering from the seasonal overuse of Route 24 along with the high number of traffic accidents caused by roads and driveways dumping onto Route 24; and that since a planning study of Route 24 is now in progress, any approvals before completion of this study would not be in the public's best interest.

The Commission found that Dick Ennis and James Waehler, Attorney, were present and stated in their presentations and in response to questions raised by the Commission that the applicant proposes to build a model home on the premises with a paved parking lot for vehicles; that the ultimate use of the property will be conversion of the model home into a residence; that the site is located in a Development District according to the 1997 Comprehensive Plan; that permits have been issued for both an on-site septic system and an on-site well; that the home is under construction; that normal business hours will be from 9:30 a.m. to 4:00 p.m. on weekdays and Saturdays; that adequate space exists on the site for parking; that the applicant plans on being closed on Sundays and Mondays, except for appointments; that the business will generate work for subcontractors, electricians and plumbers; that the use is temporary for a period not to exceed three years; that the applicant proposes to restrict ingress/egress to right turns only with DelDOT approval; that the homes are modular units; that the site was chosen since it is necessary to locate along a highway that can provide visibility for the business; that the applicant would not object to a time limit of three years or less; that the model will be occupied with office space for a receptionist and a salesman; that the parking lot will be paved; that the lot will be landscaped with sod and plantings; and that the entrance is proposed to be located across from the entrance to the farmhouse across Route 24.

The Commission found that Fred Ball, Mark Riley, and Dave Stone were present in support of the application since the applicant builds a nice home; since traffic should not be impacted by such a low volume use; and since they would prefer to see a residential structure, rather than a commercial or business structure.

The Commission found that Robert Cahill, a Board member for Angola-By-The-Bay, and Cheryl Schrimmer, speaking on behalf of the Dorman Family, were present in opposition to the application and express concerns relating to traffic; that a DelDOT report on Route 24 indicates a 53% increase in traffic on Route 24 since 1989, and a 457% increase in traffic on Road 277 since 1989; that Route 24 should be a four lane road with turn lanes; that accidents are a regular occurrence at the intersection of Route 24 and Road 277; that no rezoning should occur until DelDOT makes improvements to the intersection; that the business hours by appointment could be scheduled anytime during the day on any day; that the site is not suitable for a commercial or business use; that an unmarked turn lane exists in front of the site for turning south onto Road 277; that the applicant has not applied for a commercial entrance permit, only a residential entrance permit; and that the

residents of the area have a fear that the conditional use could be converted to another use once it is established.

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 denied based on the record of opposition, safety concerns, and the recommendations of DelDOT.

Motion carried 5 - 0.

C/Z #1461 -- application of **OCEAN ATLANTIC ASSOCIATES, V, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District and a GR General Residential District to a MR-RPC Medium Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying southeast of Route 88, 400 feet southwest of Route One, and also being northwest of Best Lane, to be located on 103.08 acres, more or less.

The Commission found that the applicant had submitted, prior to the meeting, a packet of information that included a design summary, supporting documents and exhibits, regulatory comments, and some studies and analysis.

The Commission found that the Technical Advisory Committee report for May 16, 2001 is a part of the record for this application.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is located within the Secondary Developing Area of the Strategies for State Policies and Spending document; that Secondary Developing Areas are areas identified as places the County intends to grow but not included in the State's developing areas; that the State will promote efficient, orderly development and coordinated phasing of infrastructure investment consistent with the extent and timing of future growth and within the limitations of State financial resources; that the area is under significant development pressure and much of the area surrounding this parcel is currently developed; that while the State would rather see development happen within the Community and Developing areas first, the Office has no objections to this rezoning; that the development is consistent with the Statewide Long Range Transportation Plan and the State Policies and Spending Map and the development will not directly access Route One; that the Office supports the comments from DelDOT; that the State would not object to this proposal providing the County require the developer to work with DelDOT on the needed upgrades in the vicinity of the project; that the State also asks that the County require the developer to work with DNREC to determine what applicable

pollution control strategies that should be employed to prevent sediment and/or nutrient runoff from the adjoining streams or watercourses.

The Commission found that on August 23, 2001 DelDOT provided comments relating to a traffic impact study prepared for the site; that all access to the site would be from Route 88; that the traffic impact study made minimal recommendations for improvements; that the comments provided a project description and background, reference to the Statewide Long Range Transportation Plan, reference to Shaping Delaware's Future, trip generations, an overview of the traffic impact study, references to Cave Neck Road and Hudson Road, Cave Neck Road and Sweetbriar Road, Sweetbriar Road and Hudson Road, Cave Neck Road and the site driveway, Cave Neck Road and Route One, Best Lane and Route One, Transit, Pedestrian, and Bicycle Facilities, and conclusions and recommendations which include: if the County is otherwise inclined to grant this application, the Department recommends that the County grant the application only if it first receives assurances, in the form of binding deed restrictions, in the following regards. 1) The developer shall improve (widen, lengthen, and repave) the southbound deceleration lanes at as many as two median crossovers on southbound Route One between Cave Neck Road and Best Lane in a manner acceptable to DelDOT's Subdivision Engineer. This work may be performed as part of the entrance construction. DelDOT's Subdivision Engineer may waive the requirement for additional work if it is demonstrated that work done under DelDOT Contract No. 20-063-18 has adequately addressed the matter. 2) Prior to the issuance of any permits for the non-residential portion of the proposed development, the developer shall provide a plan and cost estimate, acceptable to DelDOT's Subdivision Engineer, for improvements intended to prohibit left turns from Cave Neck Road onto Route One. Further, the developer shall post a 100 percent security, acceptable to and in favor of DelDOT, for the completion of those improvements, such that DelDOT may require the construction on 60 days notice and claim the security if the work is not done. The security shall remain in effect until DelDOT advertises a contract either for an interchange at this intersection or to do other work accomplishing the prohibition just mentioned. 3) The developer shall incorporate pedestrian and bicycle facilities, acceptable to DelDOT's Subdivision Engineer and extending from Route One to the west end of the site frontage, into the plans for the site entrance. The Department also recommends that the County require sidewalks throughout the development. 4) The developer shall dedicate sufficient rights-of-way at the northeast corner of the site to accommodate the construction of DelDOT's proposed interchange of Route One and Cave Neck Road. The Department recognizes that the site does not include frontage on Route One, but a significant amount of right-of-way would still be required from the subject land to build the interchange.

The Commission found that a March 12, 2002 letter from DelDOT indicated that the Department plans to construct an interchange at the intersection of Route One and Route 88; that as part of their work in planning for the interchange the Department developed

several alternate designs; that the developers have indicated that they prefer "Alternate E"; that the Department is working with the local community to see if "Alternate E" is acceptable; and that if the alternate is acceptable to the community, the Department will not need the property reservation noted in previous correspondence.

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 there is adequate capacity for the project as proposed; that the current request is within planning study assumptions; that the current System Connection Charge Rate is \$2,954.00 per EDU; that parcel #58 is served with an 8-inch stub from MH 20008, and parcel #53 is served with an 8-inch stub from MH 20006; and that conformity to the West Rehoboth Planning Study, or undertaking an amendment will be required.

The Commission found that Gene Lankford of Ocean Atlantic Associates, V., L.L.C. was present with James Fuqua, Attorney, Jeff Clark of Land Tech, L.L.C., and Robert Rodgers of Orth-Rodgers & Associates, Inc. and that Mr. Fuqua stated in his opening presentations and in response to questions raised by the Commission that the proposal includes 324 residential units, 2.25 acres of Neighborhood Business, recreational amenities, open space, landscaping throughout the project, no access to Best Lane, and access from Route 88; that the area has a mix of single family residential and commercial uses; that the commercial uses include a day care facility, Delaware Guidance Services, a motel, antique shops, offices, and repair shops; that the site is located within a County sewer district which has an assumed capacity for a density of 4 dwelling units per acre; that central water will be provided by Tidewater Utilities, Inc.; that the net density has been calculated at 3.1 units per acre; that the project will generate substantial employment opportunities; that the project meets the "Livable Delaware" guidelines which suggest directing development into growth areas; that the site is located within a growth area (Development District); that according to the Office of State Planning Coordination the State has no objections; that they may provide an emergency access to Best Lane for the benefit of the local fire department; and that approximately 35 acres of the site is zoned GR General Residential.

The Commission found that Mr. Clark stated that this is a traditional neighborhood design with opportunities for housing on safe, pedestrian oriented streetscapes with hundreds of street trees and street lighting, and that the architecture includes traditional Eastern Shore styles; that the project provides a variety in housing size and price by both families with children together with retirees and pre-retirees; that the pattern of land use within the community incorporates pedestrian and bicycle friendly design elements which promote walking and interaction with other families in the neighborhood; that they propose rear loaded garages in the town center to de-emphasize the automobile and promote walking and enjoyment of the detailed architecture and open spaces; that the

project offers the ability to own or rent, the ability to live in a home with a lawn and plantings to maintain or to live in a home where the lifestyle is maintenance free; that the project provides the opportunity to own a home in a community that will sell for less than \$100,000 and the opportunity to live in the same planned community in a home selling in excess of \$300,000; that the project provides a neighborhood business center and retail shops within a five minute walk for many of the residents; that the project proposes a full service community center and recreation facilities for residents of all ages and lifestyles complete with pocket parks throughout the community; that the project is designed with a sensitivity to the existing land uses which surround the land being proposed for development.

The Commission found that Mr. Clark described the site by taking them on a verbal tour of the project as follows: As you enter the site from Route 88 onto the tree lined boulevard there is an immediate change of pavement texture and color which is introduced to slow traffic and to create a sense of arrival; Immediately in front of you is an expansive village green which extends more than two football fields in length with the Town Community Center at the end of the view with an impressive traditional architectural style complete with a clock tower; Pavement texture and color changes are introduced at all pedestrian street crossings to alert drivers and promote safety; the village green is tree lined and offers a streetscape, sidewalks, street lighting, and street trees; that this type of design provides comfort, convenience, safety, 5 minute walking distance to all amenities, distribution of housing types, a roadway network with a high level of interconnectivity, a number of ways to circulate through the community, response to an overall demands for housing, buffers and open space, a bus stop for the mass transit system for trips into Milton and Lewes, a clock tower, meeting rooms, a fitness center, kitchen facilities, offices, a jogging trail, and all utilities, including central sewer, central water, electric, telephone, and cable television services; that environmental studies performed included review of wetlands, State and Federal, and rare, endangered and threatened species; that in reference to archeology, the site has historically been farmed, and that one area of interest identified has been set aside within the village green and is not to be disturbed.

The Commission found that Mr. Rodgers stated that his firm did the traffic impact study and described the study using a Power Point presentation.

The Commission found that Mr. Fuqua added that he envisions this development as being directed toward the Milton Town Center, where a new shopping center is proposed, to get away from traffic on Route One; that the project is in compliance with the 1997 Comprehensive Plan and the State Strategies; that the project offers a mixture of housing types; that the site is located within a County sewer district; that central water will be provided; that landscaped buffers are proposed; that the project offers recreational opportunities; that the developers will comply with all DelDOT recommendations; and that the Office of State Planning Coordination voices no objections to the rezoning.

The Commission found that Mr. Fuqua read and submitted the following proposed conditions: 1) the maximum number of residential units shall not exceed 324 comprised as follows: 162 single family lots, 24 apartments, 42 duplex units, and 96 multi-family; 2) residential building permits shall be limited to 150 permits per year; 3) the RPC shall be served as part of the Sussex County Sewer System; 4) the RPC shall be served by a central water system providing water for consumption and fire protection per applicable regulations and approvals of DNREC, the State Fire Marshal, the Public Service Commission, and Public Health; 5) all entrance, intersection, and roadway improvements required by DelDOT as set forth in DelDOT's letter dated August 23, 2001 and March 18, 2002, shall be completed by the applicant in accordance with any further modification required by DelDOT; 6) site plans for each phase of the development shall be reviewed and approved by the Sussex County Planning and Zoning Commission; 7) applicant will provide the following recreational facilities. All to be completed within two years of the issuance of the first building permit: a) 2 tennis courts; b) 1 outdoor swimming pool facility; c) multi-purpose field; d) pedestrian/jogging/walking trails; e) community building - minimum 3,000 square feet building which may first serve as marketing center; 8) the development shall have no access to or from Best Lane (except a closed access way for emergency vehicles as requested by the Lewes Volunteer Fire Company; 9) development shall provide landscape and buffer areas in the general locations shown on the RPC Master Plan subject to approval by the Planning and Zoning Commission; 10) the development shall provide a "street tree" planting program of three trees per unit as shown on the RPC Master Plan subject to approval by the Planning and Zoning Commission; 11) the B-1 commercial area shall not exceed 2.25 acres; and 12) 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 approval 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.

The Commission found that representatives of the applicant responded to questions raised by the Commission by adding that the project will be developed in 3 phases; that a boat launch facility is not proposed; that stormwater management is proposed by infiltration; that a couple of field ditches exists on the site; that a 50-foot wide tree buffer is proposed along Cowpet Bay Estates subdivision; and that they met with the State Forester and that the State Forester suggested the use of native species trees and plants within the buffers.

The Commission found that Justin Healey of Eagles Landing was present in support of the application and stated that the project should provide a great opportunity for housing for young working people.

The Commission found that Mike Freola of Pondview Estates, Gary Smith, Laura Duckman, and Alice Milton of Heronwood Subdivision, and Paul McCrane and Carl Buckwalter of Pondview Estates were present with questions or in opposition to the application and expressed concerns about the impact on the 100 year old hedge row adjoining Pondview Estates; questioning the distance from the proposed alleyways to the property line; questioning the impact on their shallow wells by a central well; questioning when the weeds will be mowed on the site; questioning where any fire hydrants will be located; expressing concerns about traffic and that the intersection of Route One and Route 88 needs to be lighted; expressing a concern that water from the existing site runs off onto lots within the adjoining subdivision; questioning the need for the business activities; expressing concerns about the multi-family units in the project; questioning the size of the plantings proposed to be planted and expressing a need for taller plants, not seedlings; expressing a concern that stormwater runoff should not be directed toward Red Mill Pond; expressing concerns that one entrance/exit is not adequate to serve the amount of traffic generated by 324 units; expressing concerns that it is difficult now for residents of the area to get to emergency sites due to traffic; expressing a concern about traffic safety at the intersection of Route One and Route 88; questioning the need for increased density in an area where the density is less than 2 units per acre; and questioning why there is no access to Best Lane.

The Commission found that representatives of the applicant responded to some of the questions by adding that wells for central water systems are much deeper than private wells and that fire hydrants will be located per the specifications of the State Fire Marshal; that the site will be farmed until each phase is developed; that the multi-family units are clustered; that garage access is proposed from alleyways; that parking will be permitted along the streets to create a sense of community; that the commercial uses are designed to provide convenience and service to the community; that access to the commercial area shall be from within the development, not Route 88; that drainage will be handled through bio-infiltration swales and that there is no intent to run off any drainage off-site; and that it is the intent of the developer to encourage use of the restaurant by residents within the development and the adjoining developments.

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. Wheatley, and carried unanimously to defer action on this application.

Motion carried 5 - 0.

C/Z #1463 -- application of **BRUCE MCGUIGAN** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying south of Route 54, approximately 1.0 mile west of The Ditch, to be located on 19,198 square feet, more or less.

The Commission found, based on comments received from DelDOT, that the Department is opposed to this rezoning because of the heavy summer traffic on this section of Route 54; that the Department feels that it is in the public interest to avoid the types of development that would increase turning traffic there; and that the Department has no objection to the continued application of the existing business under a conditional use approval.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is located within the Fenwick Island Sanitary Sewer District; that capacity is available for the project; that the current system connection charge rate is \$2,389.00 per EDU; that the parcel is served by one six-inch lateral; and that conformity to the South Coastal Area Planning Study, or undertaking an amendment will be required.

The Commission found that Bruce McGuigan was present and stated in his presentation and in response to questions raised by the Commission that the business has been in operation for approximately 20 years; that he questions why DelDOT recommends denial of his application, but would support a conditional use application; that the DelDOT activities on Route 54 have impacted his business since construction started; that he proposes to continue operating the business as bait, tackle, and marine supplies sales; that he proposes to build a new building so that he may expand his inventory display; that the rezoning will allow him to build closer to the westerly property line; and that the existing building was built in small sections at a time, making it difficult to display inventory.

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

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 since the rezoning is an extension to an existing B-1 Neighborhood Business District and since the rezoning allows for expansion of the existing use.

Motion carried 5 - 0.

Subdivision #2002-4--application of **COUNTRY LIFE HOMES** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 6.01 acres into 12 lots, located west of Neptune II Drive, 100 feet north of Neptune III Drive within Ocean Farm Subdivision, north of Road 363, southwest of Road 361.

Mr. Lynch advised the Commission that he would not be participating in this public hearing.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this application on February 20, 2002 and that the report will be made a part of the record for this application.

Mr. Abbott read comments received from the Natural Resources Conservation Service and three letters received in opposition to this application.

The Commission found that Elmer Fannin, President of Country Life Homes, James Griffin, Attorney, and Mark Davidson of Design Consultants Group were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the applicant is not the original developer of the subdivision; that they propose to create twelve lots on six acres as a part of the existing subdivision; that they have submitted documentation that sixty-two percent of the property owners are aware of the proposed subdivision and do not oppose this application; that the application was reviewed by the Technical Advisory Committee and that there were not any negative comments; that revised restrictive covenants were recorded on February 19, 2002 referencing the agricultural use protection deed restriction and the wetlands disclosure notice; that the twelve lots will have access from Neptune Drive; that the original lot #23 has been relocated near Road 363; that some of the lots have been enlarged; that lot #42 was deeded to Sussex County for a pump station but the County does not need the lot now and that the applicant may apply for a square foot variance from the Board of Adjustment; that there are 103 lots in the original subdivision; that the Corps of Engineers has required the developer to put the wetlands area in a conservation easement; that a total of the ten acres of wetlands will never be developed for lots; that there will be walking paths in the wetland area; that the proposed density is two lots per acre; that comments from the Technical Advisory Committee have been addressed; that the revised restrictive covenants will cover all of the lots; that the applicant owns all of the undeveloped lands in the subdivision; that the applicant purchased the subdivision from the original developer in 1998; that the applicant sells a lot and home package; that the proposed lots will be marketed with on site stick built homes; that the lots and homes will sell in the \$250,000 to \$275,000 range; that the additional lots will improve the existing community; that the developer proposes to put in a swimming pool in the spring so that it can be used by the summer; that additional

access has been provided to the wetland area; that the project will be served by central sewer and water; that the developer has not made any promises to property owners; that the applicant has tried to meet with the property owners; that there has never been any restriction recorded about future development; that there are eighteen or nineteen undeveloped lots left in the original subdivision; that the proposed plan meets the requirements of the Subdivision Code; that the lots will be a minimum of ten thousand square feet; that there was nothing on the original plan about not being able to develop any additional lands; that the original restrictive covenants referenced existing lots and future lots; and that one lot will need Board of Adjustment approval.

The Commission found that Jennifer Daily and Barbara Duncan, residents of Ocean Farm subdivision, were present in support of this application and stated that the new lots will improve the community; that property values will increase; and that the applicant builds quality homes.

The Commission found that Dave Weidman, Attorney, representing the residents of Ocean Farm, Nancy Jordan, Ralph Jordan and Wade Nichol, all residents of Ocean Farm were present in opposition to this application and stated that there is a pending lawsuit that has not been settled with the State of Delaware; that the proposed lots are not within the best interests of the community; that the site contains forested wetlands; that the types of soil are not suitable for the proposed lots; that half of the lots contain wetlands; that the soils are poorly drained; that the plan does not reference state wetlands; that the wetland delineation needs to be verified; that the plan violates 99-9 C 2 through 4; that the proposed lots take away what was open space on which the owners purchased their lots; that the land could be purchased by Sussex County under the pending open space ordinance; that the lots will negatively affect the property values in the area; that a swimming pool was supposed to be built where the proposed lots will be located; that the proposed pool area is not a good location due to the close proximity of the tax ditch; that the area has been built up and the wetland delineation can change every five years; that an employee of the previous ownership advised property owners that the area in question would never be developed for lots; that the applicant has made promises to the lot owners and never followed them through; that there will be a loss of wildlife habitat if the area is developed; and that the common use area was referenced as reserved area which means that it cannot be built on.

The Commission found, by a show of hands, that five people were present in support of this application and that eleven were present in opposition.

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

Motion by Mr. Gordy, seconded by Mr. Wheately, and carried four votes to none, with Mr. Lynch not participating, to defer action.

Motion carried 4 to 0.

OTHER BUSINESS

County Bank at the Villages of Five Points Commercial Site Plan - Savannah Road

Mr. Abbott advised the Commission that the preliminary site plan is for a 2,584 square foot bank with a drive-through window; that the site is zoned B-1, Neighborhood Business; that the setbacks meet the requirements of the zoning code; that 13 parking spaces are required and 28 are proposed; 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. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all required agency approvals.

Motion carried 5 to 0.

Foxshire Revised Record Plan - Road 562

Mr. Abbott advised the Commission that this is a request to delete two lots within Foxshire Subdivision and revise the area to storm water management areas; that the Sussex Conservation District will not permit the storm water area to be located in the wetlands; that the street layout will remain the same; that the total number of lots will be reduced from 33 to 31; and raised a question about the revised plan getting another five years before the project will be sunsetted.

The Commission discussed whether the developer should have an additional five years to build the project and it was a consensus of the Commission not to grant an additional five years.

Roger Gross of Meridian Consulting Engineers advised the Commission that the developer should be allowed an additional five years because the revised plan would supercede the previous recorded plan.

Mr. Schrader advised the Commission that the ordinance reads five years from the time of major subdivision approval, not five years from the date of recordation, and that the revised plan is not being reviewed during a public hearing.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the revised plan as submitted. It was the consensus of the Commission not to allow an additional five years before the project is substantially under construction.

Motion carried 5 to 0.

Bayside Development Group, Inc.
C/U #1385 Time Extension

Mr. Abbott advised the Commission that a request for a one-year time extension has been received; that the application was approved on May 15, 2001; and that this is the first request for an extension.

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

Motion carried 5 to 0.

Gull Point Trust
C/U #1393 Time Extension

Mr. Abbott advised the Commission that a request for a one-year time extension has been received; that the application was approved on April 24, 2001; and that this is the first request for an extension.

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

Motion carried 5 to 0.

Fairway Oaks
Subdivision #94-3 Time Extension

Mr. Abbott advised the Commission that a request for a one year time extension has been received; that the subdivision was approved on September 11, 1997; that if substantial construction is not underway by September 11, 2002 the application will be rendered null and void; that the owners purchased this subdivision and an adjacent parcel that received

preliminary subdivision approval on October 11, 2001 for 60 lots; that the developers intend to build both subdivisions at the same time with sewer from the Town of Georgetown; and that they are requesting an extension until September 11, 2003.

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

Motion carried 5 to 0.

Canal Corkran II HR/RPC
Final Site Plan

Mr. Abbott advised the Commission that the final site plan is for a 60 unit residential planned community; that the plan has 28 single family lots and 32 multi-family units; that the multi-family units are in 8 buildings with 4 units in each building; that there is a 40-foot separation between buildings; that 96 parking spaces are required and proposed; and that all required agency approvals have been received.

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

Motion carried 5 to 0.

John F. Henry, III and James R. Henry
Parcel and 50' Right of Way - Road 360

Mr. Abbott advised the Commission that this is a concept to create a 6.08-acre lot with access from a 50-foot right of way; that the right of way currently exist and would be widened to 50 feet and the remaining parcel will be 3.36 acres.

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

Motion carried 5 to 0.

ADDITIONAL BUSINESS

Mr. Lank asked the Commission if they would want a special meeting to discuss old business and other business due to the number of projects pending discussion.

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It was the consensus of the Commission to have a special meeting on April 4, 2002 at 7:00 P.M. to review pending applications under old business and site plans under other business.

Meeting adjourned at 11:50 P.M.