

## MINUTES OF THE REGULAR MEETING OF MAY 9, 2002

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 9, 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.

Mr. Schrader advised the Commission that Item 1 under Old Business needs to be removed from the agenda.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of April 25, 2002 as amended.

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

### PUBLIC HEARINGS

**Subdivision #2002-8** - - application of **BONNIE L. WILLEY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 15.57 acres into 4 lots, located south of Road 485, 950 feet west of Route 13-A.

Mr. Abbott advised the Commission that the staff has received a letter of no objection from DelDOT and a letter in support of this application from Perdue/AgriRecycle Inc.

The Commission found that Bonnie Willey was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that either stick built or new modular homes will be permitted on the lots; that the homes will be required to have permanent foundations; that the restrictive covenants will prohibit farm animals; that lots 1 through 4 are existing lots; that the residual parcel is split by a tax ditch; that the Ebrons, adjoining property owners, are in support of the application and submitted a letter in support of the application into the record; and that she is selling additional lands to the Ebrons to act as a buffer from the subdivision.

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 this application.

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

Motion carried 5 – 0.

**C/U #1451** - - application of **RICKIE L. CLOGG** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for automotive, boat, and small engine repairs to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 12,694.65 square feet, more or less, lying at the northeast corner of Route 84 (Central Avenue) and Road 366 (Substation Road).

The Commission found that there were not any agency comments received in reference to this application.

The Commission found that Rickie Clogg was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he has been in business since 1976; that he repairs automotive, boat and small engines; that this is a full time job; that he does not have any employees; that there are not any additions proposed; that the hours of business are usually 8:00 A.M until 5:00 P.M., Monday through Saturday; that there are no Sunday business hours; that he works on neighboring farmers equipment; that he has an existing 2-foot by 3-foot wall sign that is not lighted; that the sign has been taken down and will be replaced with a newer one; that there are not any retail sales at the site; that the property is maintained nicely since he resides at the site; that no junk materials are stored at the site; that he is not aware of any objections from surrounding property owners; and that he wants to conform to zoning.

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 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 with the following stipulations:

1. Business hours shall be from 8:00 A.M. to 6:00 P.M., Monday through Saturday, with no Sunday hours.
2. One (1) unlighted wall sign, not exceeding 4-foot by 8-foot, may be permitted.

Motion carried 5 – 0.



**C/U #1453** - - application of **JOSEPH E. BOWMAN, JR.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a used car sales lot, to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 1.24 acres, more or less, lying northeast of Route 404 (Seashore Highway), 280 feet southeast of Road 569 (Woodenhawk Road).

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that they are concerned that the proposed use would add more traffic to an area with existing poor levels of service (E) during the peak summer hour; that they see it as inconsistent with their understanding of the CCSPI's Strategies for State Policies and Spending; and that they recommend that the County deny this application.

The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Division that the site is within the Bridgeville Service Area within the Western Sussex Water and Sewer Plan Area; and that the applicant contact the Town of Bridgeville concerning the availability of central water and sewer service.

The Commission found that Joseph Bowman was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he proposes an used car sales facility; that the display area will be in the front of the site; that the rear of the site will be for storage of vehicles; that there are currently 20 cars at the site; that all of the cars except for 3 are owned by the applicant; that the hours of operation in the summer months will be from 10:00 A.M. until 6:00 P.M., six days a week; that the hours of operation in the winter months will be from 10:00 A.M until 5:00 P.M., six days a week; that there will not be any Sunday hours; that there is security lighting existing; that the maximum number of cars displayed would be 20; that the proposed use is not a high traffic use; that he has no experience in car sales; that only minor maintenance would be done to the vehicles on site; that no towing service is proposed; that he may do financing; that he has insurance and is bonded; and that he has not sold any vehicles to date.

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 this application.

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

Motion carried 5 – 0.

**C/Z #1468** - - application of **BOCA EAST, L.L.C.** 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 Indian River Hundred, Sussex County, land lying northeast of Road 279, 0.9 mile southeast of Road 277, to be located on 258.11 acres, more or less.

The Commission found that the applicant has submitted, prior to the meeting, a booklet of information that included a copy of the site plan, an overview of the project, development goals, the project team, a project description, environmental and planning issues, construction sequencing and schedule, economic impact report, Boca East and Sussex County's Comprehensive Plan, Boca East and the State of Delaware's plan, a zoning application, DelDOT letter, DNREC letter, Tidewater Utilities letter, and conceptual photographs.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not required since the traffic count projections are based on a similar project in Pennsylvania.

The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Office that the project is located in the West Rehoboth Moratorium Area where the Sussex County Council agreed to restrict zoning changes to parcels to be connected to a County-owned sewer system; that this agreement is outlined in the MOU signed between the State of Delaware Department of Natural Resources and Environmental Control (DNREC) and the Sussex County Council; that one of the reasons for this requirement was to force new development to connect to a County system, which would provide a high level of treatment; that the developers are currently proposing that the project be served by an on-site community septic system; that the department does not feel that a conventional septic system is appropriate for this size development; that they recommend that at a minimum the project be served with centralized treatment facilities as defined in Section 115-194 of the Code of Sussex County, which would include nutrient removal; that they further recommend that the proposed collection system be constructed in accordance with Sussex County Ordinance No. 38 specifications; that they feel a County sewer system is likely within 10 to 15 years for this area; that the installation of an Ordinance No. 38 collection system would allow the County to assume operations and maintenance of the system if County sewer became available and would avoid the possibility that the County would be forced to takeover a substandard collection system; that they fear given the large number of undeveloped parcels in the Angola Neck area and its proximity to Rehoboth and Indian River Bays as well as Sussex County beaches, that more projects may be proposed in the near future; and that they feel these requirements will safeguard the inland bays and aquifers in the short-term and allow for a comprehensive central sewer solution for Angola Neck in the near future.



The Commission found, based on comments received from the Sussex County Engineering Department Division of Public Works, that the proposed project should be subject to review by the Planning and Zoning Commission's Technical Advisory Committee; that the roads should be designed and constructed in accordance with the street design requirements of Sussex County Code Chapter 99 and inspected by the County; that this includes the multi-family area, as those streets will also become privately owned and maintained by a property owner association; that construction of this project should not adversely impact existing drainage ditches that provide drainage for adjacent parcels of land; that it is suggested the street construction should use a curb and gutter drainage system for the multi-family and apartment areas; that swale construction and stabilization has been difficult to maintain during multi-family construction projects; that condominium construction is so labor intensive and space confining that the builders destroy any grade and stabilization that has been built; that drainage basically has to be redone after the condominiums are finished; that this causes numerous citizens complaints and enforcement problems for the staff; that it is suggested that sidewalks and streetlights be provided for multi-family areas; that adequate safety features should be provided that would not require pedestrians to walk within the streets at night to access their units; that privately maintained central water and sewer systems are regulated under Sussex County Ordinance 657; that DNREC approval of the Community System and As-Built plans of the sewer system are required by the County; that the developer needs to contact the Sussex County Engineering Department for more details; and that the multi-family units should be consecutively numbered on the plan in order each unit can be differentiated from the others.

The Commission found, based on comments received from the Office of State Planning Coordination, that it is their understanding that this will be an age restricted development community with 509 residential units consisting of 123 lots, 182 cottages, 153 apartments and 50 assisted living units with a community center and clubhouse; that it should be noted the convenient services for residents such as mail service, prescription service and a beauty salon will be provided on site; that this is a positive aspect and fits into the Livable Delaware concept for a self-sufficient community; that transportation vehicles will be available on site for residents of the community; that the parcel is located within an "Environmentally Sensitive" area of the Strategies for State Policies and spending document approved by the Cabinet Committee on State Planning Issues in December 1999; that in these areas surrounding the Inland Bays, the State will seek a balance between resource protection and sustainable growth; that the State would like to commend the developer for his design of the community; that in addition to the community character that the developer has created, they are also proposing lagoon treatment and spray irrigation for this site; that the Department of Natural Resources and Environmental Control (DNREC) supports spray irrigation over surface water discharge and/or subsurface disposal; that the State recognizes that this parcel is identified by the Delaware Natural Areas Inventory as the Angola Neck Natural Area; that a portion of



this project is also included in the Inland Bays State Resource Area; that the project is strategically situated along Rehoboth Bay, buffering these important environmental resources from the earlier development on Angola Neck; that the site may contain several rare species, such as the sea-level fen, upland and wetland habitats that have a high biodiversity value; that because the sea-level fens rely on the flow of acidic groundwater to maintain their unique characteristics, the destruction of adjacent upland forest can be just as damaging as direct physical impacts to the marsh; that because of their globally rare status, sea-level fens deserve the highest level of protection available; that DNREC comments state that for other rare species may be present on site, they include Small fruit beggars-ticks, Round-leaved sundew, Brown-fruited rush, and White beakrush; that two state-rare birds have been documented as nesting in the upland forests of this property and include the Yellow-throated Warbler and Black Vulture; that in a recent meeting with the developers of this property, the existence of these birds on this property has been questioned; that the developers have agreed to work with DNREC experts to clarify any discrepancies; that the Delaware Natural Heritage Program would like to request the opportunity to visit the site and conduct a detailed inventory, in order to assess the status of the rare species on the property, and document any potential losses from the project; that the property is located on Angola Neck and is adjacent to several protected areas of high conservation value; that these protected lands are not closed systems, and the destruction of a large area of intact habitat and they are concerned that any development of this parcel is likely to have significant impacts on all the protected lands in the area; that after several meetings with the developers of this project, it is their opinion that the developer will continue to work with DNREC to minimize the impacts of the development on this property; that the developer should be aware that, if this project is approved, the site is in Tidewater's service area and they should be contacted regarding supply availability; that if developed, any wells that may be needed for construction or groundwater monitoring must first receive prior approval via a well permit application submitted to the Well Permit Branch; that due to two large on-site septic systems near this site, well permit applications should anticipate a longer turn around time on any well permits applied for on this site; that the large volume pumping of groundwater, from either a manmade excavation or a natural body of water, is also regulated; that questions regarding the need to pump large volumes of groundwater should be directed to the Water Allocations Branch; that the State feels that the preservation of the biodiversity in Delaware is a major issue and they strive to protect as much land as possible through acquisition; that if development is going to happen, the State is encouraged that the developer has worked to create a well-designed community and that the developer has worked with the State to identify issues relating to the development of this property; that the State asks that the developer continue to work with DNREC on their concerns relating to biodiversity and habitat as well as identifying rare species, if present, and working to minimize any negative impacts this development might have on these species; that if this requirement is met the State supports this development; and that once a decision has been reached, that State would like to be notified so that they may update their records.



The Commission found that 12 letters have been received in opposition to this application.

The Commission found that Jim Fuqua, Attorney, Preston Lee, Engineer, Jim Harty and Harry Simeone, Developers, and Toni McClay, Operations Manager, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the proposed rezoning is for a MR/RPC, Medium Density Residential/Residential Planned Community; that the development is a continuing care retirement community; that 508 units are proposed on 258 acres; that the development is located on the east side of Road 279; that Road 279 is a residential mixture of dwellings and manufactured homes; that the project is surrounded by the Woods on Herring Creek to the west, Angola Neck Park to the north, West Bay MHP to the south, and Rehoboth Bay to the east; that the development will be age restricted; that at least one resident of a family has to be a minimum of 55 years old; that the project will provide residents with continuing care; that there are 123 single family lots, 182 duplex cottages, 153 apartments, and 50 assisted living units proposed; that the dwellings and cottages will be 1 and 2 stories; that there will be services such as dining, housekeeping, laundry, transportation, social events, and care provided; that a central sewer system is proposed in a wooded area that will remain wooded; that the project is similar to one known as Jenner's Pond located in Pennsylvania; that a traffic impact study was not recommended by DelDOT since statistics show that age restricted residents travel less than normal residential developments and with on-site services and facilities residents will travel less; that a shuttle bus service is proposed for the residents; that if the project is approved, the developers will seek a variance from the Board of Adjustment for parking reductions; that the developer plans to create an emergency evacuation plan in cooperation with the State and County; that Road 279 goes to the north to Route 24 and that Road 277 goes to the west to Route 24; that there are traffic lights at both intersections; that water is proposed to be provided by Tidewater Utilities; that a central community sewer system is proposed as defined in Subsection 115-194 of the Code of Sussex County; that a letter from DNREC dated May 3, 2002 supports the type of sewer system proposed; that the sewer system will be a spray irrigation system similar to the one at the Plantations development; that the stormwater management design will meet the requirements of the Sussex Conservation District; that the site is located in an Environmentally Sensitive and Developing area; that the developers will work closely with DNREC in regards to the rare species and habitat in the area; that the area is developed on three sides; that the developers have owned the property since 1984; that the proposed continuing care and age restricted community when completed will provide 150 permanent jobs for the area averaging \$20,000 per employee in today's dollars; that the 150 jobs would be spread out over three shifts as these type of facilities require around the clock staffing; the 123 age restricted lots will be sold in fee; the cottages and apartments will generate in excess of \$355,000 in taxes annually; that police protection will be provided by the Delaware State



Police Troop in Lewes; that the community will be gated with 24-hour security; that the project is close to the proposed Lewes/Rehoboth Beach Fire Company substation being built on Route 24; that a market study was conducted and results indicate a tremendous demand for this type of facility and that 60 percent of the residents will be from Sussex County; that the plan was designed in compliance with the Zoning Code and the Inland Bays CCMP; that there is no intention of creating a new well on the site; that the water will meet the requirements for domestic and fire fighting uses; that the central sewer system will be built to Sussex County Ordinance No. 38 specifications; that the treatment will be in lagoons with spray irrigation similar to the Plantations; that the spray irrigation will be performed in the woodlands, approximately 15 acres, located approximately 1,500 feet from the Inland Bays; that the cluster development provides for more open space; that the storm water management ponds will be wet ponds; that there will be 50-foot buffers from the "404" wetlands; that the proposed village green will also act as a buffer; that there is not any direct access to the Rehoboth Bay; that there will not be any disturbance of wetlands; that there will be a pier with a gazebo near the Rehoboth Bay; that there are adequate woodlands for the spray irrigation; that the lagoons are designed for 90 day treatment; that DNREC requires permits for the spray irrigation and closely monitors the systems; that monitoring wells will be required on-site; that a licensed operator will oversee the spray irrigation system; that in 2005, 41.4 percent of residents will be 60 years old; that 93.4 percent will be older than 75 years old; that 79 percent will be over 85 years old; that a need exists for this type of project; that there is an assisted living complex in Rehoboth and a similar project would be the Methodist Manor House in Seaford; that the project will provide continuing care for older adults; that the community will maintain all outside areas and grounds; that jobs will be created for nurses, LPN's, assistants, maintenance workers, security, dieticians, and administration; that the single family lots will be purchased in fee and built to specifications and design standards provided by the developer; that the single family homes can be sold; that the apartments and cottages will be occupied on contracts; that there will be an emergency call system in all of the units; that there are two issues involving the project, concept and location; that there is a growing demand for this type of project in the community; that the site is located in a development district based on the Comprehensive Land Use Plan; that future developments will be located in the development districts; that the development is consistent with the Comprehensive Land Use Plan and the Livable Delaware Plan; that the development will be served by a central sanitary sewer system and water will be provided by a public water company; that the project is located in the Inland Bays development district; that the development of 508 residential units on 246 acres of land results in a gross density of approximately 2.1 units per acre; that the density is significantly less than the density recommended by the Land Use Plan; that the development will contain a variety of housing types including single family detached, town houses and multi-family units clustered in village areas and in close proximity to extensive recreational activities and shopping; that a neighborhood business area will be located within the development to provide the convenience of shopping and service



opportunities on site and to reduce the need for off site vehicle trips; that the development will comply with or exceed the recommendations of the Inland Bay Comprehensive Conservation Management Plan; that by providing on site recreational and shopping options, the need for off site vehicle trips will be minimized; that the developers will provide a shuttle service to local destinations either privately or in connection with the State Transit System; that the development will create substantial employment opportunities in both the short and long terms and will generate significant public revenue to the County and State through transfer taxes, annual County real estate and school taxes, county sewer impact, inspection and service fees, building permits and other charges; that the development will provide quality housing in an age restricted community designed to cover the entire spectrum of the needs of the retirement market; that the development will offer a variety of housing choices as well as assisted living and professional care where needed; that the development is located in the environmentally sensitive developing area of the State Strategies Plan, where development is anticipated but protection of the Inland Bays is required; that the development will implement design standards exceeding the criteria of the Inland Bays CCMP and will be constructed and operated such as to minimize nutrient run off and protect the natural environment while creating an exceptional age residential community of quality and variety; that the development will be served by a central wastewater system and will provide shopping, services and recreational opportunities creating a community and minimizing the need for off site vehicle trips; that a shuttle service will be available to nearby towns and shopping areas by private or public transportation; that a medical facility is under construction in close proximity to the project; that a school is being built in the area and there will not be any negative impacts on schools since this is an age restricted community; that the developer intends to work closely with the State on all environmental concerns; that there will be a wooden bridge over the wetlands; that this area of the County is growing and that this project will serve the residents of the eastern portion of the County; that the project will be built in phases as shown on the preliminary plan; and submitted proposed conditions of approval including the maximum number of residential units shall not exceed 508 comprised of the following 123 single family lots, 182 cottages, 153 apartments, and 50 assisted living units, residential occupancy permits shall be limited to 130 permits per year, the RPC shall be served by a lagoon treatment and spray irrigation central sewer system in accordance with applicable regulations of DNREC, 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, all entrance, intersection and roadway improvements required by DelDOT shall be completed by the applicant in accordance with the requirement of DelDOT, site plans for each phase of the development shall be subject to review and approval by the Sussex County Planning and Zoning Commission, the applicant will provide the community recreation and commercial facilities as represented as part of the application, the development shall provide a fifty-foot buffer



from all tidal wetlands in accordance with Sussex Ordinance 115-193, the B-1 commercial use area shall not exceed 10,000 square feet of floor area excluding the dining areas, the development shall be age restricted as authorized by an in accordance with the Fair Housing Act of 1988 and The Older Person Act of 1995 and applicable regulations there under, the development shall operate a shuttle service for residents providing bus service to shopping areas and nearby municipalities and shall provide connection to State operated area bus service, and no site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the applications for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125 percent 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 Dan Ciabattoni and Irene Mooney were present in support of this application and stated that the community is growing and that there is a need for this type of development in the area.

The Commission found that Judy Mangini, Linda Burke, Chuck Davidson, Til Purnell, Cindy McMahon, David Keasey, Beth Uhle, Luther Marx, and Jim Alderman, were present in opposition to this application and stated that they have concerns about the type of wastewater disposal system planned; that the State and County should concentrate on sewer to the area; that recently tested water wells found high levels of nitrates; that there are many curves on Road 279; that construction and emergency vehicles will have a hard time negotiating Road 279; that the site is a possible ground for the Delmarva Fox Squirrel; that the development will have a negative impact on the community; concerns about the water quality and quantity; negative impacts to property values; that the development would create a loss of wooded areas; negative impacts to the environment; number of entrances proposed for a high number of units; that the development should be closer to stores and services; that no central sewer is proposed now or in the near future; that the development would be out of character with the area; that DNREC urges denial of the application; existing roads in the area have no shoulders; that the development is a commercial development; that the area has a high water table; that the site is located in a flood zone; increases in traffic and accidents on area roads; how will the project be able to professionally staff such a facility; that the area is rural and quiet; negative impacts to wildlife habitat in the area; that assisted living facilities are only regulated by the State; concerns about fencing around the development and buffers; the location of the spray



irrigation is close to existing residential units; why are the developers applying for this now and not waiting until the land use plan is updated; concerns about nitrates and traffic count numbers; concerns about number of trips by employees; and that the site is totally wooded and wetlands and is a pristine site.

The Commission found, by a show of hands, that 5 people were present in support of this application and that 44 people were present in opposition to this application.

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

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

Motion carried 5 – 0.

#### OLD BUSINESS

**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.

Application was removed from the agenda earlier.

**Subdivision #2002-7** - - application of **COVINGTON CHASE, L.L.C.** to consider the Subdivision of land in an AR-1, Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 69.72 acres into 57 lots, located at the northeast corner of the intersection of Road 264 and Delaware Route One.

The Chairman referred back to this application, which was deferred at the April 25, 2002 meeting.

The Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried four votes to none, with Mr. Allen not participating, to approve this application as a preliminary for the following reasons:

1. The proposed subdivision is in an agricultural residential district as established by the 1997 Sussex County Comprehensive Plan that permits single-family detached homes on lots greater than 3/4ths acres in size.
2. The subject property is in an area along Route 1 that is adjacent to Oyster Rocks Subdivision and a strip development of mixed uses.

This recommendation is subject to the following conditions:

- The restrictive covenants shall include a notice concerning all low flying aircraft from Eagle Crest Airport.
- Access to the subdivision shall be limited to the streets and roads shown on the preliminary site plan connecting to Oyster Rocks Road.
- Agricultural buffers shall be provided in accordance with the subdivision Ordinance, if necessary.
- No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the 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.

Motion carried 4-0-1.

**C/Z #1466** - - application of **RAYMOND McCABE AND J. OLIVER SMITH, JR., t/a BAYVIEW ACRES** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-1/RPC High Density Residential District/Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying approximately 800 feet north of Route 54 at the entrance to "Bayville Shores" and north of Road 58-B, to be located on 60 acres, more or less.

The Chairman referred back to this application, which was deferred on April 25, 2002.

The Commission discussed this application.

Mr. Lynch stated that he would move to approve the application with reasons and conditions; passed out his suggested reasons and conditions; and asked Mr. Schrader to



read his recommendations. Mr. Schrader read that the proposed reasons include the following:

1. The proposed HR-1/RPC 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. HR-1 Zoning is appropriate for the proposed project site because it is adjacent to an existing HR-1/RPC project, is adjacent to a manufactured housing park with similar density, and is the appropriate designation where central sewer and water are available.
3. The RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large-scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
4. As proposed, the density is 3.7 units per acre, less than the allowable density for a HR-1 project.
5. The subject property is in an area along Route 54 that has developed with residential projects with densities similar to or greater than the proposed project. The proposed project is in character with the nature of the area.
6. This recommendation is subject to the following conditions:
  - The maximum number of dwelling units shall not exceed 220, of which no more than 96 shall be multi-family units.
  - There shall be no commercial development on site.
  - Residential building permits shall not exceed 50 per year.
  - Site plan review is required for the master plan and each phase of the development.
  - The interior street design shall include street lighting, sidewalks on both sides of all streets and roads, and bike paths.
  - Property addressing of the project shall be submitted to the County Addressing Division for review and approval.
  - All entrances, intersections, roadway improvements, and multimodal facilities shall be constructed as required by DelDOT.
  - The applicant shall coordinate with the State, County and other local emergency planning offices in the development and implementation of an emergency evacuation procedure for the project.
  - An access for emergency vehicles only shall be provided from SCR 58-B to the project.
  - Recreational facilities, e.g., swimming pool, clubhouse, etc., shall be constructed and open for use by the residents at the time of the completion of the first fifty units.

- The RPC shall be served by an existing Sussex County sanitary sewer district.
- The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
- Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. If it is determined that additional areas are required for stormwater management, parking, or other use, the additional area shall be taken from lot areas, not designated wetlands or open space areas.
- Wetlands shall not be included in individual lots. Wetlands shall be maintained as non-disturbance areas.
- The developer shall take reasonable steps to protect and minimize the disturbance of Palustrine Shrub and Scrub/Palustrine Forest habitat identified by the State Wetlands Inventory Survey.
- No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submittal 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.

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 based on the above reasons and conditions.

Motion carried 5 – 0.

#### OTHER BUSINESS

Sea Colony Phase 23  
Multi-Family Site Plan – Road 361

Mr. Abbott advised the Commission that the preliminary site plan is for 8 multi-family units in one building; that the site is adjacent to the existing Sea Colony water treatment plant; that the property is zoned HR-1; that the building will be three stories; that 24



parking spaces are required and proposed; that the setbacks meet the requirements of the zoning code; that Tidewater Utilities will provide central water and central sewer will be provided by Sussex County; that the site plan is suitable 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 a preliminary with the stipulation that final approval shall be subject to the staff receiving all required agency approvals.

KFC/A & W Restaurant  
Revised Commercial Site Plan – Route One

Mr. Abbott advised the Commission that the site plan is for a 3,460 square foot fast food restaurant; that the staff has received a letter of no objection from DelDOT in reference to the entrance location; that the setbacks meet the requirements of the zoning code; that 31 parking spaces are required and that 41 are proposed; that 8 spaces are located within the front yard setback and a waiver is needed from the Commission; that a 20-foot landscape buffer and cross access easement to the adjoining property is provided as required by the Zoning Code; that sewer will be provided by Sussex County and water will be provided by the City of Rehoboth; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all required agency approvals.

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

Southpointe Professional Center  
C/U #1162 Revised Site Plan – Savannah Road

Mr. Abbott advised the Commission that the revised site plan is for a 14-foot by 28-foot storage building to be located near the rear of the site; that the setbacks meet the requirements of the zoning code; and that if the Commission approves the revised site plan, it should be noted that a building permit will not be issued until the required 30-foot buffer is installed along the rear and side lot lines.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried 4 votes to none, with Mr. Wheatley not participating, to approve the revised site plan as submitted with the stipulation that a building permit will not be issued until the required landscaped buffers are installed.

Marantha Church of God  
Site Plan – Road 524

Mr. Abbott advised the Commission that the site plan is for a 40-foot by 100-foot church with seating capacity for 200 people; that the site is zoned AR-1 and that churches are permitted in all zoning districts; that the setbacks meet the requirements of the zoning code; that 50 parking spaces are required and that 51 are proposed; that three spaces are located within the front yard setback and need a waiver from the Commission; that the parking area will be improved with stone until funding is available for paving; that on site sewer and water are proposed; that the site plan is suitable 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.

Subdivision #2001-12 - - Dr. James Beebe  
Time Extension

Mr. Abbott advised the Commission that the staff has received a request for a time extension; that the Commission granted preliminary subdivision approval for 4 lots on May 24, 2001; and that this is the first request for a time extension.

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

Gene Stowell  
Parcel on 50-Foot Easement – Road 412

Mr. Abbott advised the Commission that this is a concept to create a 6.27 acre parcel with access from an existing fifty-foot easement; that under the old policy, this would be the third lot that has access off of the easement; and that variances will be necessary from the Board of Adjustment for the poultry houses being too close to the property lines.

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

Jeanette T. Pomeroy  
Parcel on 50-Foot Easement – Road 58-B

Mr. Abbott advised the Commission that this is a concept to create a 12.56-acre lot with an existing dwelling on it with access from a fifty-foot easement; that the residual parcel



contains 35.5 acres; and that the existing driveway will be widened to 50-feet.

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

Meeting adjourned at 11:00 P.M.