

## MINUTES OF THE REGULAR MEETING OF JUNE 12, 2003

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 12, 2003 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Lynch, and Mr. Wheatley with Mr. Vincent Robertson – 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.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of May 8, 2003 as amended.

### OLD BUSINESS

C/Z #1503 – application of **RDM, INC. (WARRINGTON PROPERTIES, 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 Lewes and Rehoboth Hundred, Sussex County, land lying east of Road 274 (Old Landing Road) 1.4 miles south of Road 275 (Warrington Road), to be located on 139.32 acres, more or less.

Mr. Lynch stated that he would move that the Commission recommend approval of C/Z #1503 for RDM, Inc. based upon the information contained in the record and asked Mr. Robertson to read Mr. Lynch's statement.

Mr. Robertson read that Mr. Lynch recommends approval for the following reasons:

- 1) The proposed MR-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 Comprehensive Land Use Plan and an Environmentally Sensitive Developing Area as established by the 2002 Comprehensive Plan Update.
- 2) MR zoning is appropriate for the site because medium density development is appropriate in areas where central water and sewer are available. In this case, sewer service will be provided and the project is within a County operated Sanitary Sewer District, and adequate wastewater capacity is available for the project. Water service will be provided by Tidewater Utilities.
- 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. In this case, the Applicant has used design ingenuity to increase

required buffers, maintain undisturbed common areas, create interconnecting corridors with minimized disturbance on existing vegetation and wildlife, and other design features.

- 4) The Applicant has met with various State agencies through the State's Request for Review process and the State agencies have commended the Applicant for working with the agencies to address their concerns.
- 5) The subject property is in an area that is adjacent to a golf course and has developed with other residential projects including single family subdivisions, RPCs, mobile home parks and multi-family uses.
- 6) This recommendation is subject to the following conditions:
  - 1) The maximum number of dwelling units shall not exceed 282. This shall be comprised of 176 single family townhouse units and 106 single-family lots.
  - 2) No more than 100 building permits shall be issued in any calendar year.
  - 3) All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determinations, including the recommendations set forth in DelDOT's letter to Lawrence B. Lank, dated April 10, 2003, or any further modifications required by DelDOT.
  - 4) Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit. These amenities shall include a swimming pool, bath house and tennis courts.
  - 5) The development shall be served as part of the appropriate Sussex County Sanitary Sewer District in accordance with the Sussex County Engineering Department specifications and regulations.
  - 6) The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
  - 7) 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 areas shall be taken from lot areas, not designated Federal or State wetlands or other open space areas.
  - 8) The Applicant, its successors and/or assigns, including a homeowners association that will be formed, shall operate the stormwater management facilities in a manner that is consistent with Best Management Practices (BMPs) as further described in the Applicant's documents submitted into the record.



- 9) State wetlands shall not be included in individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits.
- 10) No piers, docks, boat ramps, or other water related recreational facilities shall be permitted on or adjacent to White Oak Creek.
- 11) Site plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.
- 12) The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include curbs, sidewalks, and street lighting. The RPC design recognizes the importance of the environmental aspects of the development, including the stormwater management design, utilization of Best Management Practices and connectivity of existing site features proposed for the development. Therefore, the standard subdivision street requirement shall be modified at the four (4) designated "greenway corridors" as shown on the site plan.
- 13) The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
- 14) No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.
- 15) Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00am and 6:00pm.
- 16) The Applicant shall cause to be formed a homeowners association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
- 17) Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
- 18) A bus stop shall be provided on site for future use by DelDOT.

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

Motion carried 5 – 0.

C/Z #1506 – application of **DELAWARE PULPWOOD CO.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, land lying at the northeast corner of U.S. Route 113 and Road 207 (Johnson Road), to be located on 1.4 acres, more or less.

The Commission discussed this application which has been deferred since May 22, 2003.

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

Motion carried 5 – 0.

Subdivision #2002-49 – application of **HM PROPERTIES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 222.20 acres into 301 lots, located east and west of Route 5, 1,180 feet southeast of Road 307.

Mr. Johnson stated that he would move that the Commission grant preliminary approval for Subdivision #2002-49 for HM Properties based upon the information contained in the record and asked Mr. Robertson to read Mr. Johnson's statement.

Mr. Robertson read that Mr. Johnson recommends approval for the following reasons:

- 1) The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that they protect the orderly growth of the County. In addition, the site's design has a minimal impact on wetlands and no wetlands are included within any lots.
- 2) The land is zoned AR-1 which permits low-density single family residential development at a density of approximately 2 lots per acre. The proposed subdivision density of 301 lots on 222 acres of land results in a gross density of 1.36 acres per lot.
- 3) The proposed subdivision is generally in character with other residential developments in the area, including an expansion of the Baywoods Development. It is also consistent with the historical trend of development in the area.
- 4) The site is in the vicinity of the intersection of Long Neck Road and Route 24, which contains a concentration of business and services for the Long Neck area and the proposed subdivision. This area includes a neighborhood-type residential shopping center.



- 5) The proposed subdivision will be a restricted residential development consistent with the area and will not adversely affect nearby uses or property values.
- 6) The proposed subdivision will not adversely impact schools, public buildings and community facilities.
- 7) This recommendation is subject to the following conditions:
  - Agricultural buffers shall be provided in accordance with the Subdivision Ordinance, if necessary.
  - The Applicant shall cause to be formed a homeowner's association to be responsible for the maintenance of streets, roads, any forested buffers, stormwater management facilities, and other common areas.
  - 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 final site plan.
  - As represented by the applicant, no significant grade changes shall be made, and the Applicant shall use every effort to protect and maintain any mature trees outside of the roadway and house site areas.
  - Central water and a central community sewer system will be constructed as permitted by the County Zoning Ordinance and as regulated by DNREC.
  - The stormwater management system shall meet or exceed the requirements of the State and County.
  - The use of a central community sewer system and stormwater management system shall maximize ground water recharge and erosion and sediment control measures and shall comply with all State and County requirements.
  - All entrances shall comply with all of DelDOT's requirements.
  - On the final site plan, the Applicant shall show the location of the proposed bus stop along Route 5.
  - On the final site plan, all existing woodlands shall be more clearly delineated.
  - A system of street lighting shall be provided by the Applicant, and the location of the street lights shall be shown on the final site plan. The street lights shall be maintained by the Applicant or a successor Homeowner's Association as part of the common elements of the subdivision.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve this application as a preliminary for the reasons and with the conditions stated above.

Motion carried 5 – 0.

Subdivision #2003-1 – application of **DONALD COLLINS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 27.65 acres into 28 lots, located west of Road 412, 1,703 feet south of Road 433.

The Chairman referred back to this application which was deferred at the May 22, 2003 meeting.

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

Motion carried 5 – 0.

Subdivision #2002-43 – application of **BOCA EAST, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 258.11 acres into 180 lots, located east of Road 279, 0.9 mile southeast of Road 277.

Mr. Lynch stated that he would move that the Commission grant preliminary approval for all but lots 156 through 177 for Subdivision #2002-43 for Boca East, LLC based upon the record and asked Mr. Robertson to read Mr. Lynch's statement.

Mr. Robertson read that Mr. Lynch recommends approval for the following reasons:

- 1) The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects orderly growth of the County. In addition, the State Strategies Plan, the 1997 Sussex County Comprehensive Plan and the 2003 Sussex County Revised Comprehensive Plan all designate the area as being within a Development District where development is directed.
- 2) The land is zoned AR-1 which permits low-density single family residential development as a density of approximately 2 lots per acre. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
- 3) The proposed subdivision is generally in character with other residential developments in the area, including manufactured home developments on either side of the property and a single family lot development on the opposite side of Camp Arrowhead Road from the site. In addition, a 120 lot single family lot subdivision known as Middle Creek Estates (#02-24) was recently approved in the area.
- 4) The proposed subdivision will be a restricted residential development consistent with the area and will not adversely affect nearby uses or property values.



- 5) While the Commission found that a prior application for an assisted living facility and development was out of character with the area, the proposed subdivision is compatible with the existing area and uses.
- 6) The proposed subdivision will not adversely impact schools, public buildings and community facilities.
- 7) Lots 1 through 155 and lots 178, 179, and 180 of the proposed subdivision are integrated into the existing terrain and surrounding landscape, and preserve natural features.
- 8) Mr. Lynch is not approving lots 156 through 177, since they are not contiguous to the other lots. They will have an adverse impact on surrounding wetlands, due to the location of the roadway and the need for it to cross 404 Wetlands for access to these lots. The Subdivision Ordinance seeks to minimize or eliminate intrusion or disturbance of such wetlands.
- 9) Mr. Lynch is not satisfied that lots 156 through 177 will be adequately accessible by emergency vehicles, as a result of the need to cross the 404 Wetlands by bridge or similar means, without any other means of vehicular access to these lots.
- 10) This recommendation is subject to the following conditions:
  - The Applicant shall cause to be formed a homeowner's association to be responsible for the maintenance of streets, roads, any buffers, stormwater management facilities, and other common areas.
  - 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 final site plan.
  - Central water and a central community sewer system (including a central community lagoon treatment spray irrigation system) shall be constructed as permitted by the County Zoning Ordinance and as regulated by DNREC.
  - The stormwater management system shall meet or exceed the requirements of the State and County.
  - The use of a central community sewer system's spray irrigation and stormwater management system shall maximize ground water recharge and erosion and sediment control measures and shall comply with all State and County requirements.
  - No wetlands shall be included within any lot lines, and no roads shall cross any wetlands.

- A 50-foot buffer/building setback shall be provided adjacent to the Federal Wetland line to minimize and impact and to preserve the existing wetlands and scenic views.
- A system of street lighting shall be provided by the Applicant, and the location of the street lights shall be shown on the final site plan. The street lights shall be maintained by the Applicant or a successor Homeowner's Association as part of the common elements of the subdivision.
- The Applicant has represented that no boat launching or boat docks will be permitted from the lots or common areas within the project.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to grant preliminary approval for all but lots 156 through 177 for the reasons and with the conditions stated above.

Motion carried 5 – 0.

Subdivision #2002-16 – application of **JAMES KIERNAN** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 227.00 acres into 197 lots, located west of Road 258, 1,310 feet northeast of Road 88 and east of Road 258, 1,550 feet northeast of Road 88.

Mr. Abbott advised the Commission that this application received preliminary approval on September 12, 2002 for 197 lots; that the final record plan for Phase A contains 170 lots and that Phase B contains 26 lots; that the final record plan meets the requirements of the subdivision code; that all agency approvals have been received; that the name has been changed to River Rock Run for Phase A and River Rock Glen for Phase B; and that the record plan is suitable for final approval.

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

Motion carried 5 – 0.

#### PUBLIC HEARINGS

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

C/U #1494 – application of **BUCHANAN BUILDERS, INC.** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (7units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 0.61 acre, more or less, lying east of Route One, 300 feet north of Route 361-A.



The Commission found that the Applicant had submitted an exhibit booklet of information, which included a site location map, a DelDOT Support Facilities Report, photographs of adjacent properties, and some proposed conditions of approval.

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Fallsington sandy loam and Pocomoke sandy loam which have severe limitations for development; that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation after completion of any construction; that the soils are considered of Statewide Importance, Prime Farmland and Hydric; that there are no storm flood hazard areas or tax ditches affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Billy Buchanan was present with James Fuqua, Jr., Attorney, and that Mr. Fuqua stated in his presentation and in response to questions raised by the Commission that the 7-units meet the allowable density in a MR Medium Density Residential District; that there should be no negative impact on neighboring properties; that the development of the site will be in-fill between three developed parcels; that the site to the north is developed with professional offices; that the site to the south is developed with an Arby's restaurant and a convenience store; that the site to the east is developed with multi-family residential structures; that Route One and commercial uses across Route One have been developed to the west; that the site will be developed with one entrance onto Route One; that the project will be served by a Sussex County Sanitary Sewer District; that central water is available; that stormwater management will meet or exceed the specifications of the Sussex Conservation District; that the site is located within a Town Center Area according to the Comprehensive Plan Update; that the Applicant plans to build and sell the units; that security lighting will be provided; that the old cottage will be removed from the site; that all parking spaces are below the units; that the buildings will be redesigned so that they do not exceed 165-feet in length; and that a minimum of 40-foot of spacing will be provided between buildings.

The Commission found that the proposed conditions of approval offered by the Applicant included:

- 1) The maximum number of residential units shall not exceed 7 single family condominium units.
- 2) All entrance, intersection, roadway, and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.

- 3) The development shall be served as part of a Sussex County Sanitary Sewer District.
- 4) The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
- 5) Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
- 6) Site plan review for the development shall be subject to approval by the Planning and Zoning Commission.
- 7) Construction, site work, grading and deliveries of construction materials, etc. to the property shall only occur between the hours of 7:00am and 6:00pm, Monday through Saturday.
- 8) No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.

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. Wheatley, and carried unanimously to defer action of this application pending receipt of comments from the County Engineering Department referencing sewer capacity.

Motion carried 5 – 0.

C/U #1495 – application of **J. EVERETT MOORE, JR. AND DEBORAH J. MOORE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a borrow pit/pond reclamation to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 19.189 acres, more or less, of 107.973 acres, lying southeast of Route 292, 1,100 feet west of Route 292A.

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



The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, Fallsington sandy loam, Osier loamy sand, Pocomoke sandy loam, and Woodstown sandy loam; that the Evesboro soils have slight limitations for development; that the Fallsington, Osier and Pocomoke soils have severe limitations; that the Woodstown soils have slight to moderate limitations; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction; that the Evesboro, Fallsington, Osier and Pocomoke soils are considered of Statewide Importance; that the Fallsington, Pocomoke and Woodstown soils are considered Prime Farmland; that the Evesboro soils are considered Hydric in small depressions; that the Fallsington, Osier and Pocomoke soils are considered Hydric; that the Woodstown soils are considered Hydric in depressions; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; and that there may be jurisdictional wetlands on the site which are regulated by the U.S. Army Corps. of Engineers.

The Commission found, based on comments received from the Office of State Planning Coordination, that since the project is located near established Agricultural Preservation Districts, the Department of Agriculture would like to meet with the developer to clarify the location of proposed activities to help determine the impacts on the Districts; that the State Historic Preservation Office has noted that there are no historic properties on site and that there is a high probability of prehistoric archaeological sites in the area and that there is a National Register property, St. John's Methodist Church, nearby; that ground disturbance could affect any archaeological resources and that the Applicant should be aware of the Unmarked Human Remains Act; that if any resources or unmarked human remains are discovered, the Applicant should contact the State Historic Preservation Office; that DNREC has noted that a wetlands delineation should be conducted on the site; that the site is located adjacent to receiving waters designated as waters having Exceptional Recreational or Ecological Significance (ERES); that ERES waters are recognized as special assets of the State, and shall be protected and/or restored, to the maximum extent practicable, to their natural condition; that the Applicant is advised to contact DNREC's Watershed Assessment Office to determine if any action is required of the applicant for the proposed use regarding the TMDL program; that while the site does not contain any natural areas listed on the State's Natural Areas Inventory and is not within an identified State Resource Area, it is located upstream of populations of three globally rare plant species: Seaside Alder, Long's Bitter Cress and the federally listed Swamp Pink; that care should be taken to limit impacts to water quality in the nearby waterway; that the State has no objections to this proposal, but asks that the County consider their concerns and require that the developer meet with the Department of Agriculture and DNREC to discuss any concerns.



The Commission found that J. Everett Moore, Jr. was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that this is a short term project to create a pond near where he and his wife want to build their dwelling; that 21-years ago he applied for a Conditional Use for a 5-acre borrow pit for the creation of a pond on his home farm; that the pond was created along with additional wetlands to improve the site; that his family owns multiple properties in the area and has placed some of the property into the State Agriculture Preservation program; that he has planted and maintained his farms for preservation and conservation; that the nearest home to the proposed borrow pit is approximately 2,000-feet away; that Evelyn M. Maurmeyuer of Coastal & Estuarine Research, Inc. has investigated the site and delineated the wetlands; that two small wetlands areas were found; that one of the wetlands areas found was located in the area of the proposed borrow pit; that the boundary of the borrow pit has been reduced to remove the wetlands from the area to be disturbed; that there should be no negative impact on neighboring properties; that he would like to be limited to a maximum of one-year to complete the borrow pit activities since he plans on building his home on the site; that he has heard of no objections to his application; that there will be no borrow pit activities on Sundays; that the pit will not exceed 15-feet of depth; that the pit once reclaimed will have areas of shallow water and ledges; that the reclamation plan will be subject to review and design by a friend who is the publisher of Southern Ponds and Wildlife magazine, and with the assistance and approval of the Natural Resources and Conservation Service; that the acreage of the borrow pit area has been reduced from 19.189 acres to 17.51 acres; and that top soil taken from the borrow pit area will be stored on the site and will be seeded while stored on the site to reduce erosion and dust.

The Commission found that Mr. Moore submitted a copy of Southern Ponds and Wildlife magazine, a copy of a tax map showing the site and surrounding areas owned by his family, and a copy of Evelyn M. Maurmeyuer's report on the wetlands on the site.

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 this application.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to defer action so that the Commission can compare this application to the conditions placed on other borrow pit applications.

Motion carried 5 – 0.

C/Z #1508 – application of **WHEATLEY VENTURES, INC.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1



General Commercial District for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, land lying southeast of Route 561 (Wesley Church Road), 0.6 mile south of Route 17 and west of Railroad, to be located on 6.488 acres, more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "B" of Road 561 may change to level of service "C" if the site were to be developed with discount shopping.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Fallsington sandy loam and Woodstown sandy loam; that the Fallsington soils have severe limitations; that the Woodstown soils have slight to moderate limitations; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after completion of construction; that the Fallsington soils are considered of Statewide Importance, Prime Farmland and Hydric; that the Woodstown soils are considered Prime Farmland and Hydric in depressions; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Dale Wheatley was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the site was occupied by a Southern States store with fertilizer and chemical storage; that he purchased the site recently and rented the site to a tenant that sells fertilizer and chemicals; that the tenant may want to build additional buildings on the site; that a side rail track exists on the site; he has requested the rezoning to bring the use of the property into conformity to the zoning.

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 this application.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved since the site is within a Developing Area according to the 2002 Comprehensive Plan Update; since the use has existed for approximately 50-years; since a railroad spur already exists on the site; and since the rezoning will bring the use of the property into conformity with zoning.

Motion carried 5 – 0.

Subdivision #2003-3 – application of **JAMES R. AND JOAN B. MARTIN** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 2.05 acres into 2 lots, located south of Road 269, 600 feet west of Road 268.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on March 19, 2003 and that the report will be made a part of the record for this application.

The Commission found that James Martin and Darin Lockwood, Engineer, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site is located in a development district; that access to the lots will be from the proposed 50-foot right of way; that there is one entrance to the site; that the County Engineering Department will not require any construction review; that there will be an 8-inch sewer lateral to the site; that on site wells are proposed; that a cul-de-sac is not proposed; that there will be adequate room for a turn around for emergency vehicles; that Elsie Drive has been approved as the street name by the County Addressing Office; that the applicant is going to give the two lots to his daughters; that the daughters will be responsible for the maintenance of Elsie Drive; and that the street will be improved with crusher-run stone.

The Commission found that no parties appeared with any interest to this application.

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

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

Motion carried 5 – 0.

#### OTHER BUSINESS

Swann Cove MR/RPC  
Site Plan – Route 54

Mr. Abbott advised the Commission that this is a preliminary site plan for 185 single family residential lots; that 372 lots are permitted by the approved ordinance; that all of the lots meet the requirements of the zoning and subdivision code except for lots 69 through 71, lots 124 through 128, lots 143 and 144, lot 81, and lots 169 through 172; that these lots do not meet the minimum lot width requirement of 60-feet at the required front yard setback of 30-feet; that the applicants are requesting greater setbacks than what are



required; that the proposed setbacks for these lots will range from 39 to 47-feet to meet the required lot width; that the MR/RPC section of the zoning code permits design ingenuity; that there are 3 phases proposed for the number of lots; that all agency approvals have been received; and that the site plan is suitable for final approval subject to the lot width requirement being resolved.

Steve Gorski of Fred Ward Associates and Lou DeBitonto, developer, were present and advised the Commission that the proposed lots are larger than what is required; that the greater front yard setbacks will create more privacy for the lot owners; that there will not be any parking in the cul-de-sacs; that the entire project cannot meet a uniform setback as the building envelopes would become too small; and that if the request for the larger setback is denied, they will come back with a revised plan meeting the minimum lot width as required in the zoning code.

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

Motion carried 5 – 0.

The Villages of Five Points MR/RPC  
Record Plats East Village Phases I, II, III, and IV  
Record Plats Town Center West Phases I, II, III, IV, and V

Mr. Abbott advised the Commission that East Village I contains 29 lots; East Village II contains 24 lots; East Village III contains 37 lots; East Village IV contains 50 lots; Town Center West I, II, and III contains 28 townhouse lots each, Town Center West IV contains 12 townhouse lots; Town Center West V contains 8 townhouse lots; that the single family lots will have setbacks of 12-feet front yard and 10-feet side and rear yards; that the townhouse lots will have setbacks of 4-feet front yards, 20-feet side yards, and 22-feet rear yards; that the design is the same as the approved master plan; that the site plans meet the requirements of the subdivision and zoning codes; that all agency approvals have been obtained; and that the site plans are suitable for final approval.

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

Motion carried 5 – 0.

Sea Esta II Village  
Commercial Site Plan – Long Neck Road (Route 22)

Mr. Abbott advised the Commission that this is a preliminary site plan for a one-story

32-unit motel with a swimming pool; that an existing 5,003 square foot retail building will remain on the site; that the site is zoned C-1 General Commercial; that 77 parking spaces are required and proposed; that 8 spaces are located within the front yard setback and need a waiver from the Commission; that central water will be provided by Tidewater Utilities and central sewer will be provided by Sussex County; that the site plan meets the requirements for preliminary approval; and that final approval could be subject to the staff receiving all 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 agency approvals.

Motion carried 5 – 0.

Robert A. Willey  
C/U #1326 Amended Site Plan – Route 5

Mr. Abbott advised the Commission that the amended site plan is for a 38-foot by 30-foot addition to an existing office; that the proposed addition will be further away from Route 5 as the existing building is; that the setbacks meet the requirements of the zoning code; that all agency approvals have been received; and that the Commission can either approve the revised site plan or they could require another public hearing.

John Argo, Contractor, was present and advised the Commission that the addition will be used for more office space for the same use as exists at the site now; and that the surrounding property owners are members of Mr. Willey's family.

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

Motion carried 5 – 0.

Howard G. and Karen M. Davis  
Parcel and 50' Easement – Road 34

Mr. Abbott advised the Commission that this is a concept to widen an existing driveway to a 50' right of way to serve as access for a 3.55 acre lot and a 1.45 acre lot; that there are currently 2 dwellings on the property and that the subdivision will bring the parcel into compliance with the zoning code.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the lot and right of way as a submitted.



Motion carried 5 – 0.

Mike Magaha  
Parcel and 50' Easement – Route 20

Mr. Abbott advised the Commission that this is a concept to widen an existing farm lane to a 50' easement to serve as access for a 3.00 acre lot.

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

Motion carried 5 – 0.

Waymon Harmon  
Parcel and 50' Easement – Road 273

Mr. Abbott advised the Commission that this is a concept to create a 1.00 acre lot off of an existing 50' easement, and that under the old policy, this would be the third lot with access from the easement.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the lot as submitted.

Motion carried 5 – 0.

As additional business, Mr. Lank advised the Commission that a draft of the proposed Environmentally Sensitive Overlay Ordinance, a copy of the Commissioners areas map, and a copy of an Amendment to the Rules and Procedures of the Commission were placed in their packet for review.

Meeting Adjourned at 9:05pm.