

MINUTES OF THE REGULAR MEETING OF JUNE 26, 2003

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 26, 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, Mr. Abbott – Assistant Director, and Richard Kautz - Planner.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of June 12, 2003 as circulated.

OLD BUSINESS

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.

Mr. Wheatley stated that this has been a difficult application to consider; that the application is a change of zoning application in error; that the application would be more appropriate as a Conditional Use; and that he would suggest that the applicant reapply for a Conditional Use.

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

Motion carried 5 – 0.

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 (7 units) 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 Chairman referred back to this application which was deferred at the June 12, 2003 meeting.

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

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 Road 292, 1,100 feet west of Road 292A.

The Commission discussed this application which has been deferred since June 12, 2003.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1495 for J. Everett Moore, Jr. and Deborah J. Moore for excavation of a borrow pit based upon the record made at the public hearing 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 Conditional Use is in an area that is largely surrounded by properties owned by the Applicant.
- 2) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on traffic or the neighboring properties or community.
- 3) The Applicants have indicated that this is a short-term project to create a pond near where they will be building a new home.
- 4) This recommendation for approval is subject to the following conditions and stipulations:
 - 1) The excavation and operation of the borrow pit shall be limited to one year. If necessary, the Applicant shall be allowed a reasonable amount of additional time to complete reclamation activities.
 - 2) The borrow pit shall not exceed 15-feet in depth.
 - 3) No materials shall be brought from off the site for processing, mixing or similar purposes.
 - 4) Water or a water truck shall be available to control dust from road traffic when conditions require.
 - 5) Any entrance improvements required by DelDOT shall be completed by the Applicant. All entrances shall be secured when the borrow pit is not in operation.
 - 6) The hours of operation for the business on this site shall only occur between the hours of 7:30am to 6:00pm Monday through Friday and 7:30am until 12:30pm on Saturdays. There shall not be any borrow pit activity on Sundays.
 - 7) No fuel shall be stored on-site for borrow pit operations.

- 8) No stumps, branches, debris or similar items shall be buried on the site of the borrow pit.
- 9) A final site plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations.
- 10) The Applicants shall comply with all State and County erosion and sediment control regulations.
- 11) Markers and signs shall be placed at appropriate locations to designate pit areas.
- 12) Reclamation plans shall indicate finished grading, seeding and planting schedules designed to create a pleasing appearance.
- 13) The Applicant shall also comply with all of the requirements set forth in Section 115-72B of the Sussex County Zoning Ordinance that may apply, with the exception of items (c), (d) and (e) of Section 115-72B(6) concerning additional setbacks, TAC review, and performance guarantees.

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

Motion carried 5 – 0.

Subdivision #2001 – 18 - - application of **THOMAS HEAD** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, by dividing 43.49 acres into 42 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located northeast of Road 288-A, 620 feet northwest of Route 24.

Mr. Abbott advised the Commission that this application received preliminary approval on July 26, 2001 for 39 lots; that the Commission granted a one-year time extension on July 11, 2002; that the final record plan has been reduced to 38 lots; that the record plan meets the requirements of the subdivision and zoning codes; that all agency approvals have been obtained; and that the record plan is suitable for final approval.

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

Motion carried 5 – 0.

Subdivision #2001 – 24 - - application of **CRAIG HUDSON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, by dividing 81.98 acres into 73 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located south of Road 251, 666 feet southeast of Road 319.

Mr. Abbott advised the Commission that this application received preliminary approval on November 8, 2001 for 73 lots; that the Commission granted a one-year time extension on March 13, 2003; that the final record plan has been reduced to 72 lots; that the record plan meets the requirements of the subdivision and zoning codes; that all agency approvals have been obtained; 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.

Subdivision #2002 – 42 - - application of **WOLFE PROPERTIES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, by dividing 59.09 acres into 54 lots, located east of Road 453, 700 feet south of Road 452.

Mr. Abbott advised the Commission that this application received preliminary approval on April 24, 2003 for 54 lots; that the final record plan is for 54 lots; that the record plan meets the requirements of the subdivision and zoning codes; that all agency approvals have been obtained; and that the record plan is suitable for final approval.

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

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, by dividing 27.65 acres into 28 lots, located west of Road 412, 1,703 feet south of Road 433.

Mr. Abbott advised the Commission that action was deferred on this application on May 22, 2003; and that a septic feasibility statement has been received from DNREC indicating that the site is suitable for individual on site septic systems.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary based upon the record made at the public hearing and for the following reasons:

1. The proposed subdivision is in an Agricultural Residential District as established by the 2002 Sussex County Comprehensive Plan Update that encourages low-density single family homes on lots greater than $\frac{3}{4}$ of an acre.
2. There will not be any adverse impacts on traffic or area roadways.
3. The subdivision is integrated into the existing terrain and landscape.
4. The subdivision will not adversely affect neighboring properties or property values.
5. This recommendation is subject to the following conditions:
 - The applicant shall form a homeowner's association responsible for the maintenance of the roadway, buffers, stormwater management facilities and other common areas.
 - Stormwater management and erosion and sediment control shall equal or exceed all applicable State and County regulations. In addition, the applicant, and the homeowners association, shall use best management practices to insure that neighboring and adjacent properties are not flooded or affected by the stormwater management areas.
 - There shall be street lighting installed along the subdivision road.
 - The location of all Right of Ways required by DelDOT shall be included in the final site plan.

Motion carried 5 – 0.

Subdivision #2003 – 2 - - application of **WOLFE PROPERTIES, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, by dividing 50.04 acres into 10 lots, located west of Road 453, 290 feet south of Road 454.

Mr. Abbott advised the Commission that action was deferred on this application on May 22, 2003; and that a septic feasibility statement has been received from DNREC indicating that the site is suitable for individual on-site septic systems.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary based upon the record made at the public hearing and for the following reasons:

1. The proposed subdivision is in an Agricultural Residential District as established by the 2002 Sussex County Comprehensive Plan Update that encourages low-density single family homes on lots greater than $\frac{3}{4}$ of an acre.
2. There will not be any adverse impacts on traffic or area roadways.

3. The subdivision will not adversely affect neighboring properties or property values.
4. This recommendation is subject to the following conditions:
 - The applicant shall form a homeowner's association responsible for the maintenance of the roadways, buffers, stormwater management facilities and other common areas.
 - Stormwater management and erosion and sediment control shall equal or exceed all applicable State and County regulations.
 - The Restrictive Covenants shall include a prohibition against noxious weeds on any lots within the subdivision.

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, 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. Abbott advised the Commission that this application was removed from the agenda on June 26, 2003 at the request of the developer.

PUBLIC HEARINGS

Subdivision #2003 – 4 - - application of **HOMESTEAD, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 122.60 acres into 81 lots, located east of Road 384, 960 feet north of Road 382.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on April 16, 2003 and that the report is a part of the record for this application and read letters received from the DNREC Ground Water Discharges Branch and Mr. Robertson into the record.

The Commission found that Clinton Bunting and Zachary Janhigen, developers, Zac Crouch of Davis, Bowen and Friedel, Michael Jahnigen, Lisa Wood, and Jeff Reed were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they are proposing a limited density environmentally sensitive single family subdivision; that the site is zoned AR-1 Agricultural Residential; that the site is located along the east side of Road 384 bordering Dirickson Creek and lands of Brookland Farm Properties, L.L.C.; that the site is referenced as tax map 5-33-11-88; that the entire site is 122.00 acres, more or less; that the current use of the site is farmed and has a dwelling located on it; that there are 81 lots

proposed and 9 future lots for when central sewer is available to the area; that the site consists of 42.84 acres for residential lots, 61.43 acres of common open space including stormwater management areas, 9.02 acres of right of ways, and 9.31 acres for the community waste water system, that the average lot size is 20,000 square feet; that the average open space per lot is 10,000 square feet; that the proposed density is 0.8 lots per acre; that a thirty foot buffer will be maintained along the neighboring property line which consists of an existing ditch and hedgerow; that the environmental buffer has been formerly addressed in the Homeowner's Association documents to ensure its' future success; that they propose a five-foot protected area buffer bordering a small cemetery located along Road 384; that the cemetery is encompassed on three sides by a fence and is approximately 120' in length and 60' in width; that they are protecting the future beauty of the cemetery through incorporation of its' eternal upkeep in the proposed restrictive covenants; that they have preliminary approvals from the Sussex Conservation District, DNREC (Community Septic System Approval), and Sussex County Engineering (Future Connection); that the proposed amenities include a clubhouse and lake, walking paths, lighting, landscaping and that the streets will be built to State specifications with rolled curbs; that on-site wells are proposed but they are looking into a central water system; that there will be a private community septic system design; that the architectural building theme will be coastal colonial; that the proposed home and lot retail sale price range will be from \$325,000.00 to \$875,000.00; that the proposed project is a suitable and good land use; that the developers are sensitive to the surrounding properties and Dirickson Creek and are going the extra mile on several fronts; that the proposed density is less than half currently allowed by the zoning code; that a private central sewer system will be constructed protecting Dirickson Creek and the existing thirty-acre pond from future individual septic system failures; that first class infrastructure and amenities will be installed including a club house, open space, lights, and landscaping; that the neighboring property values will increase; that by allowing the developers to develop the site, the owner will maintain a stewardship of the property; that the community waste water design will be at three locations; that the waste water will be pre-treated; that three sand mounds are anticipated; that the design will be similar to the recently approved Swann Lake residential planned community; that the design will exceed all of DNREC's regulations; that there is no outlet into Dirickson Creek; that the existing dwelling will be converted into a clubhouse for the future property owners; that no motorized watercraft will be permitted on the lake; that there is an existing floating dock in the lake and that no future docks will be permitted; that they will provide access to the cemetery; that the community sewer design will be constructed as per the guidelines of Ordinance No. 38; and that when central sewer is available to the area, they will be required to hook into the central sewer system.

The Commission found that Lawrence Long, an adjoining neighbor, was present in opposition to this application and stated that there is no need for 81 additional lots in the area; and that the existing lake is larger than what was permitted in a conditional use 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.

Subdivision #2003 – 5 - - application of **RITA F. AND JOSEPH W. WELLS, JR.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 30.43 acres into 2 lots, located east of Road 625, 1,483 feet northeast of Road 42.

Mr. Lank advised the Commission that this application is necessary since the applicant has developed the maximum number of lots through the minor subdivision process.

The Commission found that Joseph Wells, Jr. was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he has already developed 7 lots through the minor subdivision process over the past couple of years; that the proposed lot is the last remaining frontage along Road 625; that the remaining acreage has road frontage on another county road; and that there are three homes already built on the previously approved lots.

The Commission found that no parties appeared in support of or in opposition to this application.

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

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

Motion carried 5 – 0.

C/Z #1510 - - application of **KEVIN AND TERESA McDANIEL** 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 Georgetown Hundred, Sussex County, land lying north of Route 9 and 2,600 feet west of Road 321, to be located on 2.77 acres, more or less.

Mr. Lank provided copies of all correspondence received to date from agencies.

The Commission found, based on comments received from DelDOT, that the Department does not recommend a traffic impact study; that the Department is concerned about this application because the proposed rezoning would add more traffic to an area with existing poor levels of service (E) during the peak summer hour; that this segment of Route 9 operates at unacceptable levels of service during the summer peak hour; that the annual average daily traffic on this road segment is 8,341 vehicles per day with a summer average of 13,674 vehicles per day; and that these calculations are based on a 1997 traffic count.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is listed within the "Secondary Developing" area near Georgetown according to the Strategies for State Policies and Spending document; that the State would prefer to see commercial businesses located within the "Community" and "Developing" areas; that the use may be consistent since the site is near existing commercial and residential land uses; that septic and well permits have been issued for the site; that the commercial building is supposed to have its own well and uses a lift station to send the wastewater back to the septic system; that the State Historic Preservation Office has noted that there may be a potential historic property across Route 9 from the site; that the State has no objections to this rezoning, however the State notes that rezoning the property will create more traffic in an area that is already operating at poor levels of service during summer peak hour; and that the State asks that the County require the owners/developers to landscape around the units to act as buffers to the properties across Route 9 and west of the site.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Elkton sandy loam and Keyport fine sandy loam; that the Elkton soils have severe limitations; that the Keyport soils have slight to severe limitations; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that both soil types are considered of Statewide Importance; that it may not be necessary for any on-site or off-site drainage improvements; that there are no storm flood hazard areas or tax ditches affected; and that there may be jurisdictional wetlands on the site.

The Commission found that Kevin McDaniels was present and stated in his presentation and in response to questions raised by the Commission that he would like to build five (5) office/warehouse units on the site; that his home is located on the rear portion of the site on 13 acres; that he would utilize one of the units for his construction business; that the other four units would be rented to other contractors, for storage, or for small business uses; that his unit would be used for an office, storage and a showroom; that parking would be provided in the front for customers; that parking would be provided in the rear

of the building for employees; that there are numerous successful projects of similar character in the area; and that he presently operates his business from his residence.

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. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application for rezoning be denied due to the residential character of the area; since the rezoning to C-1 General Commercial creates too broad of a list of uses; since the site is not adjacent to other C-1 General Commercial sites; since a precedent could be established for expansion of the site; and since the rezoning could be considered spot zoning. There was a consensus of the Commission that an application for Conditional Use may have been more appropriate at this location.

Motion carried 5 – 0.

C/Z #1511 - - application of **GULFSTREAM DEVELOPMENT** 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 east of Road 362 across from Road 368, to be located on 19.159 acres, more or less.

Mr. Lank provided copies of all correspondence received to date from agencies.

The Commission found that the Technical Advisory Committee report for June 18, 2003 included references to this application at Exhibit pages "B", "Y", "Z", "AA", "BB", "CC", "DD", and "EE", and that the Technical Advisory Committee report is made a part of the record for this application.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service of Road 362 may change from level of service "B" to level of service "C" if the site is developed with no highway improvements.

The Commission found, by receipt of copies of a letter and a report, that Atlantic Resource Management, Inc. reviewed the site and commented on agricultural ditches and an Assessment of Nutrient Loadings for the project.

The Commission found, based on comments from Michael A. Izzo, County Engineer, that the Engineering Department strongly recommends that this application be denied; that the County operates the South Coastal Regional Wastewater Treatment Facility on the property directly to the east; that the Facility operates 24-hours per day, seven days a week and its normal operations emit noise, light and odors that people often find offensive; that the Facility currently has a capacity to treat six million gallons of wastewater per day and will expand to 21 million gallons per day in the future; that heavy construction is planned to occur over the next 3-years as the plant begins its next expansion to 9 million gallons per day; that a residential planned community and a treatment plant cannot co-exist as good neighbors; and that the proposed buffer and landscape berm are nice ideas, but will provide minimal benefit.

The Commission found, based on comments from the County Engineering Department Planning and Permits Division, that the site is within the South Bethany Sanitary Sewer District and that wastewater capacity is available for the project; that Ordinance No. 38 construction will be required; that there is no current service to this parcel; that conformity to the Miller Creek Planning Study and over-sizing the depicted 8-inch gravity line is anticipated; that the proposed project should be denied based on Mr. Izzo's letter; that if the use is approved, the conditions of approval should include, but not be limited to: Landscape berm to be densely planted with Leyland Cypress; No rear balconies should be permitted in Group #4; The outdoor pool should be eliminated; No structures higher than two-stories should be permitted; A ten foot separation distance should be observed between the banks of any stormwater ponds and the location of the existing Sussex County force mains; A deed notice that states "This property is located adjacent to the South Coastal Regional Wastewater Facility. This industrial Facility operates 24-hours per day, seven days per week and normal operations emit noise, light and odors that some persons find offensive. The Facility currently has a capacity to treat six million gallons of wastewater per day (MGD), but will expand to 21 MGD in the future. The developer, owners and residents of this subdivision acknowledge the above and accept the annoyance or inconvenience which may result from such normal operational uses".

The Commission found, based on comments from Tidewater Utilities, Inc., that the Utility is ready and willing to serve public water to the site.

The Commission found that the Natural Resources Conservation Service provided comments on the soil types and soil limitations.

The Commission found that the Office of State Planning Coordination provided several letters, including June 19, 2003 and May 28, 2003, and that the letters included references provided by DNREC, DelDOT, Department of Education, and the State Historic Preservation Office; and that in conclusion, the State first reviewed this project through

their Request for Review process and the developer has worked with the State to address the State concerns regarding the project; that the State appreciates the willingness of the developers to work with the State agencies regarding the State concerns; and that the State is confident that, if after public hearings and the Council discussions, the County determines that this application should be approved, the applicants will continue to work with the State regarding the States comments on this project.

The Commission found that the Sussex Conservation District provided comments on the soil types, soils limitations, farmland ratings, and drainage.

The Commission found that a letter was received from Sandy Pool in opposition to this application and referenced traffic concerns and a preference to a limitation to single family homes.

The Commission found that, prior to the meeting, the Applicants provided two photographs of the site, a photograph of a typical townhouse elevation, a photograph of a single-family streetscape, and proposed deed restrictions.

The Commission found that Robert Harris of Gulfstream Development was present with Mark Dunkle, Attorney, and Lonnie Webb of TetraTech and that they stated in their presentations and in response to questions raised by the Commission that they propose to build at least 12 single family homes and no more than 47 townhouses; that they have proposed HR-RPC zoning to allow for the multi-family use with restrictions; that HR zoning would allow up to 212 units; that MR zoning would allow up to 77 units; that they propose to develop 59 units; that the area has mixed zoning with AR-1, GR, MR, and MR-RPCs; that residential planned communities also exists in Ocean View; that the use is compatible with the residential uses in the area; that the site is within the South Bethany Sanitary Sewer District; that central sewer and central water are available; that the State has reviewed the proposal and voiced no objections; that fencing and buffering are proposed along the adjoining State lands to the south; that no wetlands have been found on the site; that the site is not within a floodplain; that the site contains 11.2 acres of open space; that a pool and bathhouse are proposed; that 2.2 acres of ponding and water features are proposed; that the developers developed Providence, Summerset, South Hampton and Clearwater in the general area; that there should be no negative impacts on property values; that a landscaped berm is proposed along the wastewater treatment plant; that the berm will be six to seven foot high; that the berm will be 100-foot wide north of the powerline and 200-foot wide south of the powerline; that no construction is proposed within the powerline right-of-way; that all of the project will be constructed as one phase; that all purchasers will be advised that the wastewater treatment plant is adjacent to the site; that they have never heard of any complaints about the wastewater treatment plant; that the plant is well run; that the language requested by

The County Engineering Department can be inserted into the deed restrictions; that the berm will be built and landscaped as the project develops; and that they are undecided whether the units will be two or three stories tall.

The Commission found that Joe Aquilla, Tim Halladay, Patty Reed, and Janice Smith, all residents of Summerset, an adjoining subdivision to the wastewater treatment plant, were present in support of this application and stated that they have no objections to the treatment plant; that there have been no objectionable odors, lights or noise from the plant; and that if they did not know that the plant existed a person would not realize that it was that close to their homes.

The Commission found that there were no parties 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.

OTHER BUSINESS

Creative Concepts
Commercial Site Plan – U.S. Route 113

Mr. Abbott advised the Commission that this is a site plan for two 80' x 120' warehouses and a 54' x 75' covered loading ramp on 6.01 acres; that the site is zoned C-1 General Commercial; that the setbacks meet the requirements of the zoning code; that sewer and water are not proposed at this time; that 6 parking spaces and 2 loading spaces are proposed; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Lynch, 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.

Lewes Self Storage
Commercial Site Plan – Road 276

Mr. Abbott advised the Commission that this is a site plan for two 60' x 260' 2 story self storage buildings on 1.82 acres; that the site is zoned C-1 General Commercial; that the setbacks meet the requirements of the zoning code; that sewer is available from Sussex County and water is available from Tidewater Utilities; that 4 parking spaces are proposed and that 3 spaces are located within the front yard setback and need a waiver from the Commission; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all 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 agency approvals.

Motion carried 5 – 0.

Tidewater Utilities, Inc.
C/U #1490 Site Plan – Route One (Behind the Home Depot site)

Mr. Abbott advised the Commission that this is a site plan for a 150-foot tall, 750,000 gallon elevated water storage tank and water treatment facility building; that the site plan is the same as what was submitted for the public hearing; that the setbacks meet the requirements of the zoning code; that the site plan complies with the 9 conditions of approval; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Lynch, 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.

Bay Crossing MR/RPC
Interpretation (Site Work) – Route One

Mr. Abbott advised the Commission that this application was approved by the County Council on June 27, 2000; that the approval date pre-dates the no site work regulation and the amended site work regulation (Schrader Amendment); that the conditions of approval do not prohibit any site work being done; that the applicants would like to begin site work based on an approval from the Sussex Conservation District; and that the applicant's attorney is seeking permission to begin site work once the Sussex Conservation District

has approved the plan and is willing to follow the Schrader Amendment by posting a bond for the site work authorized by the Sussex Conservation District permit; and that the Commission approved the master plan for this project on October 24, 2002.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to allow the applicants to begin site work that is permitted by the Sussex Conservation District permit and to post a bond.

Motion carried 5 – 0.

Subdivision #2002 – 9 - - Sussex Ventures
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension in order to obtain final record plan approval; that the Commission granted preliminary approval for 16 lots on May 23, 2002; that the staff has received approvals from DelDOT and DNREC; and that if the time extension is granted, it should be retroactive to the original approval date.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to grant a one-year time extension retroactive to the original approval date.

Motion carried 5 – 0.

Bill and Anna McBane
3 Parcels and a 50' right of way – Road 224

Mr. Abbott advised the Commission that this is a concept to create 3 parcels with access from a 50' right of way by extending an existing right of way; that the applicants were advised by the Planning and Zoning Office that they could do this in 1994 without having to improve the right of way; and that if the Commission approves this concept, any further subdivision will require an application for a major subdivision.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the three parcels and 50-foot right of way as a concept.

Motion carried 5 – 0.

John Concannon
Parcel and 50' right of way – Road 530

Mr. Abbott advised the Commission that this is a concept to create a 4.88-acre parcel with access from an existing 50' right of way.

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

Motion carried 5 – 0.

Richard and Sara Baker
2 Parcels and 50' right of way – Road 593

Mr. Abbott advised the Commission that this is a concept to widen an existing paved driveway to a 50' right of way to serve as access for two parcels; that the parcel currently has two homes on it and the subdivision into 2 parcels will conform to the zoning code requirements of one home per parcel.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the two parcels and right of way as a concept.

Motion carried 5 – 0.

Paul Lowe
Parcel and 50' right of way – Road 427

Mr. Abbott advised the Commission that this is a concept to create a 2.00 acre parcel with access from a 50' right of way; that the proposed parcel is for a new dwelling and that a manufactured home will remain on the other acreage; that the existing parcel is landlocked and that the right of way will serve as access for the parcels.

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

Motion carried 5 – 0.

Meeting adjourned at 9:20 P.M.