

MINUTES OF THE REGULAR MEETING OF JUNE 27, 2002

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 27, 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 Ms. Mowbray - Zoning Inspector III.

Mr. Lank advised the Commission that a letter was received from Adams-Kemp Associates, Inc. requesting to withdraw item #5 under Other Business and that the agenda had been revised to include item #7 under Other Business.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of June 13, 2002 as amended.

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

PUBLIC HEARINGS

C/U #1455 -- application of **NATIONAL CONCRETE PRODUCTS, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an amendment to Conditional Use No. 241 by adding additions to existing buildings and relocation of the storage area to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 6.23 acres, more or less, lying south of Route 16, 0.2 mile east of Greenwood Town Limits, and east of Nanticoke Branch.

The Commission found that the applicant had submitted, prior to the meeting, a packet of information that included references to the intent, a copy of the tax map of the area, a copy of the deed to the property, and a copy of the findings and stipulations for Conditional Use No. 241.

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 loam, Johnston loam or silt loam, Pocomoke sandy loam, and Rumford loamy sand; that the Fallsington, Johnston, and Pocomoke soils have severe limitations for development; that the Rumford soils have slight 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 Fallsington and Pocomoke soils are considered of Statewide Importance, Prime Farmland, and Hydric soil; that the Johnston soils are considered Hydric; that the Rumford soils are considered of Statewide Importance; 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, based on comments received from the Sussex County Engineering Department Planning and Permits Division, that according to the Western Sussex Water and Sewer Plan, the site is located in the Bridgeville service area and within the Town of Greenwood Development District, and that the applicant should contact the Town of Greenwood concerning the availability of water and sanitary sewer service.

The Commission found that Gus Croll of National Concrete Products, L.L.C. and James Fuqua, Attorney, were present and stated in their presentations and in response to questions raised by the Commission that the site is in a Development District according to the 1997 Sussex County Comprehensive Plan; that the property was purchased by National Concrete Products, L.L.C. in June of 2000; that the site has been used for manufacturing since November of 1974 upon receipt of approval for Conditional Use No. 241; that originally Nanticoke Homes built modular homes on the site; that the use was converted to a concrete operation by Nanticoke Homes when Nanticoke Homes built the modular homes manufacturing plant on U.S. Route 13; that they propose to build a 65' by 150' addition or new building for manufacturing and a 20' by 15' addition to the office building; that outside storage of finished product is proposed between the new building and Route 16; that the original dwelling has just recently been removed; that the new building will be used to pour concrete molds and curing indoors, rather than outside; that presently all curing is done outside; that there are no plans to relocate the entrances; that the existing stormwater plan is adequate; that they plan to landscape along Route 16; that the intended indoor concrete molding will improve the site and will be a benefit to the employees that presently work outside year-round; that there are no dramatic plans to change any of their product line; that they pre-cast concrete blocks, parking bumpers, concrete headwalls, steps, septic systems, and catch basins; that business hours should improve; that presently business hours are from 6:00 a.m. to 7:00 p.m. six days per week; that using the building will cut down on some of the outside noises; that they met with the neighbors to discuss the project and have agreed to plant low lying shrubs, rather than trees, so that they can see the neighbors homes and the neighbors can see the plant; that no inside storage of completed products is proposed; that all raw materials will be stored inside; that existing entrances will be utilized; that the original entrance for the dwelling may be closed; and that the original storage area will continue to be utilized for storage.

Mr. Lank advised the Commission that DelDOT would re-evaluate the entrance design prior to the issuance of a building permit for the expansion.

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 the points and issues raised during the public hearing.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried with four votes to defer action to give additional time for the Commission to consider the evidence presented.

Motion carried 4 - 0. Mr. Lynch was absent.

C/U #1456 -- application of **BOYD TAYLOR** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for repairs to small boats, boat trailers, boat motors and small engines, and resale of boats, trailers, and boat motors to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 2.47 acres, more or less, lying east of Griffith Drive, 490 feet east of Route 556, and being Lots 7 and 8 within Craigs Mill Heights Subdivision.

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 Office of State Planning Coordination, that the State has no objections to this proposal, but asked that the County consider the following:

- The State is concerned about the proximity of the proposal to open water. All appropriate pollution control strategies (stormwater management, buffers, etc.) should be employed to ensure water quality is not affected by the business. All waste oil should be properly stored and removed from the site.
- There is a 50 - 75% probability that this site contains prehistoric archaeological sites and there is a farm dwelling and agricultural buildings adjacent to the site. The State asks the County to require the applicant to buffer any commercial operations from this farm dwelling.
- As the area surrounding this parcel is residential, the State asks the County to require any out buildings be compatible with the character of the existing neighborhood and restrict hours of operation so that the neighbors are not adversely affected.

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Johnston loam or silt loam; that the Evesboro soils have slight limitations for development and the Johnston soils have severe 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 Evesboro soils are considered on Statewide Importance and Hydric in small depressions; that the Johnston soils are considered 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 letters were received in support of the application from Bonnie J. Griffith and William J. Griffith.

The Commission found that Boyd Taylor was present and stated in his presentation and in response to questions raised by the Commission that he has worked in the boat business for 22 years and that he has been operating the business on this site for one year; that business hours are from 9:00 a.m. to 5:00 p.m. Monday through Friday and 9:00 a.m. to 2:00 p.m. on Saturday; that he has 10 or 12 boats stored in the area; that most of his work is performed off site at marinas or customers homes; that noise on the site is no louder than a grass-cutter engine; that the boats that he sells are his personal boats; that waste oils are stored in plastic containers and taken to the recycling center; that the proposed building measures 50' by 60'; that he has worked for Sturgis Marine and Walker Marine; that he has no intention to erect a sign; that the most customers that he has had at the site in one day is five; that he offers free pickup and delivery to his customers; that he has no intent of establishing a display area for boats for sale; that he did receive a violation prior to making application; and that he does motor testing in a tank outside of his existing garage.

The Commission found that Donald Ferreira was present in opposition and expressed concerns about wetlands impacts, fumes, noise, that vehicles towing boat trailers block the street, that vehicles towing boat trailers have been parked along the street, that the use is a nuisance to the neighbors, that he retired to the area to get away from business uses, and that the site is within a residential subdivision. Mr. Ferreira submitted photographs of vehicles parked in the street, vehicles blocking his entrance, and boat trailers parked along the street.

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried with 4 votes to defer action to give additional time for the Commission to consider the evidence presented.

Motion carried 4 - 0. Mr. Lynch was absent.

C/U #1457 -- application of **STATE OF DELAWARE DEPARTMENT OF MOTOR VEHICLES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for public governmental building and use (replacement of Department of Motor Vehicles building) to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 31.53 acres, more or less, lying east of South Bedford Street (Road 431) and northeast of U.S. Route 113.

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, Pocomoke sandy loam, and Woodstown sandy loam; that the Fallsington and Pocomoke soils have severe limitations for development; that the Woodstown soils have slight to moderate limitations; that the applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Fallsington and Pocomoke 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 Tim Anderson, Civil Engineer with Vandemark & Lynch, Inc., was present on behalf of the applicants and stated in his presentation and in response to questions raised by the Commission that the State is not changing the use of the site, only expanding and modernizing; that access points will be the same; that parking will be expanded; that the existing facilities are under capacity; that tax ditches border the site on the north and east; that the commercial vehicle testing area will be relocated; that stormwater management will meet or exceed State specifications; that the site will continue to be shared with DelDOT and DART; and that the site will be heavily landscaped.

The Commission found that Peter Obele, Architect, was also present on behalf of the State and stated that the proposed building is similar to the recently completed New Castle Inspection Facility; that one line will be used for re-inspection; that two lanes will be used for trucks and buses; that four lanes will be used for automobiles. Mr. Obele also exhibited elevation drawings of the proposed building and photographs of the New Castle facility.

The Commission found that Mark Devora of the Delaware Facilities Management Department was present and stated that they do not yet have the financing for the project; that they plan to get all agency approvals; and that they are aware of the limitations on Conditional Use applications.

The Commission found that Tim Anderson added that the site will be improved with two detention ponds and two bio-retention basins.

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

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

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried with 4 votes to forward this application to the Sussex County Council with the recommendation that it be approved with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission.

Motion carried 4 - 0. Mr. Lynch was absent.

C/U #1458 -- application of **INDIAN RIVER VOL. FIRE CO., INC.** to consider the Conditional Use of land in a GR General Residential District for expansion to an existing fire station to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.013 acres, more or less, lying west of Route 5 (a.k.a. Road 297) and 1,100 feet north of Road 312.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Tidal Marsh; that the Evesboro soils have slight limitations for development; that the Tidal Marsh soils have severe limitations; that the applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance and Hydric in small depressions;

that the Tidal Marsh soils are considered Hydric; that there are jurisdictional wetlands on the site; 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, based on comments received from the Sussex County Engineering Department Planning and Permits Division, that the site is located within the Oak Orchard Sanitary Sewer District; that service is not available at this time; that District construction could be completed as early as November 2002; that wastewater capacity is available; that Ordinance No. 38 construction is not required; and that laterals will be installed in the future.

The Commission found, based on a letter from the Office of the State Fire Marshal to the Indian River Vol. Fire Co., Inc., that the Office did not require full site plan submission for the expansion/addition; that the Office will waive the normal fees for the project; and that all other pertinent data is required for formal review and approval by the Office.

The Commission found, based on a letter from the Sussex Conservation District to Steven R. Hawkins, Chief of the Fire Company, that the District has determined that the Fire Company will not be required to submit plans to the District since the project involves less than 5,000 square feet of disturbance.

The Commission found, based on a Memorandum of Agreement between the Indian River Vol. Fire Co., Inc. and the Community Church of Oak Orchard, that they agree to promote an equitable and harmonious relationship to future the continual operations of both community service organizations and to allow the Fire Company to utilize the Church parking facilities during periods of operational needs, excluding Sunday Church Services and to allow the Church to utilize the Fire Company property as deemed necessary.

The Commission found, based on a Petition of Support submitted by the applicants, that 89 people have signed the petition in support of the application.

The Commission found that letters of support have been received from the Community Church of Oak Orchard, the Boys & Girls Club of Oak Orchard/Riverdale, the Warwick Park Owners Association, Inc., Oak Orchard Liquors, and 22 individual property owners that live in the fire companies service area.

The Commission found that Patrick Miller, President of the Indian River Vol. Fire Co., Inc. was present and stated in his presentation and in response to questions raised by the Commission that they propose to double the size of the fire station; that the existing fire station will be converted to a meeting hall; that the addition will be utilized for engine

bays and will accommodate 4 additional engines; and that they have a parking agreement with the Community Church of Oak Orchard for joint use of parking facilities.

The Commission found that Steve Hawkins, Chief of the Indian River Vol. Fire Co., Inc. was present and stated that presently they have a 40-foot high wooden pole that holds the siren and radio communication antennas; that the antennas will be relocated to the roof of the addition; and that they are aware that they may have to apply to the Board of Adjustment for approval of a new tower location in the future.

The Commission found that Oren Walker of Warwick Park was present in support of the application and stated that the area has a very limited number of fire hydrants and that there is a need for the expansion.

The Commission found that there were nine people present in support of the application.

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

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried with 4 votes to forward this application to the Sussex County Council with the recommendation that it be approved since the use exists and since the proposed use is to expand the existing use, and subject to the condition that the site plan be subject to review and approval by the Planning and Zoning Commission.

Motion carried 4 - 0. Mr. Lynch was absent.

C/Z #1473 -- application of **PRESTON LYNCH DYER** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District and a HR-RPC High Density Residential District - Residential Planned Community to a HR-RPC High 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 Route 299, 500 feet southeast of Route 298, to be located on 81.93 acres, more or less.

The Commission found that on June 29, 1999 the County Council rezoned 76.69 acres of the site from AR-1 to HR/RPC for a mixed housing type of development (C/Z #1379) and that on May 15, 2001 the County Council amended the HR/RPC to allow for all single family detached homes (C/Z #1423).

The Commission found, based on comments received from DelDOT, that the developers recently completed a traffic impact study for the development of a community consisting of various age restricted land uses; that the latest development proposal generates less peak hour and daily traffic than the initial proposal; and that the Department does not

require a revised traffic impact study and that the comments and recommendations from the original study apply to this proposal.

The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Division, that the site is located in the Long Neck Sanitary Sewer District; that wastewater capacity is available for the project; that Ordinance No. 38 construction shall be required; that the current system connection charge rate is \$2,101.00 per EDU; that there is no service to this property at this time; that the developer shall comply to the Long Neck Planning Study; and that conformity to the Long Neck Expansion Area No. 1 Planning Study will be required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Johnston loam or silt loam, and Rumford loamy sand; that the Evesboro and Rumford soils have slight limitations for development; that the Johnston soils have severe limitations; that the applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance and Hydric in small depressions; that the Johnston soils are considered Hydric; that the Rumford soils are considered of Statewide Importance; that no storm flood hazard areas or tax ditches are affected; that there may be jurisdictional wetlands on the site; and that it may be necessary for some off-site and on-site drainage improvements because of the increased impervious area and increased storm runoff.

The Commission found that Preston Dyer was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the proposed RPC overlay includes an additional 6 acres; that they changed their original plans based on a market study; that the market study did not facilitate a proper layout and buffer concept to separate the project from adjoining properties; that the majority of the lots in the project will enjoy a rear buffer; that originally they proposed 280 age restricted lots; that they now propose 127 single family detached lots, and 137 age restricted single family detached lots at the northerly end of the site; that the common area has doubled in size from 8.5 acres to 16.67 acres; that the density has changed from 3.64 units per acre to 3.22 units per acre; that they propose 6-foot side yard setbacks and 10-foot rear yard setbacks; that they met with the Woodlyn Estates Homeowners Association and have prepared a declaration of restrictions to limit the project to 264 units and to establish 20-foot wide forested buffers along Woodlyn Estates; that the forested buffers are to be maintained as existing with permitted clearing by joint agreement between the developers and the Woodlyn Estates Homeowners Association; that no buildings or above ground improvements will be permitted in the buffers; that the homes in the project will be stick-built (on-site construction); that the boulevard entry will be buffers along the sites and have a landscaped median; that they may build two different clubhouses since they are proposing two different lifestyles in the project; that a clubhouse will include exercise

room and conferences room; that the may build a senior center; that the project will contain walking trails and wildlife areas; that the wetlands have been delineated; that the project will be served with public sewer, and central water from Tidewater Utilities; that they will meet all of DelDOT requirements; that the private streets will meet or exceed County specifications; that stormwater management will comply with all State and County standards; that the site is not located within a Flood Zone; that the project conforms to the 1997 Comprehensive Plan and the County Codes; that the Office of the State Fire Marshal has not reviewed the site plan; and that the site adjoins Pot Nets Lakeside Manufactured Home Park.

The Commission found that Barry Nichols was present on behalf of the Woodlyn Estates Homeowners Association, and read and submitted a letter in support of the application.

The Commission found that Dwayne Davis, an adjoining property owner was present with questions about buffers along his property line.

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried with 4 votes to defer action to give additional time for the Commission to consider the evidence presented.

Motion carried 4 - 0. Mr. Lynch was absent.

OLD BUSINESS

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

Mr. Lank advised the Commission that the Subdivision received preliminary approval on February 28, 2002; that the final plan is the same layout as the preliminary; that all agency approvals have been received; and that the plan is acceptable for final approval.

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

Motion carried 5 - 0.

C/U #1454 -- application of **RICHARD M. QUILL** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for medical offices with small warehouse to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 2.061 acres, more or less, lying northeast of Road 268 (Kings Highway), 1,200 feet northeast of Route One.

The Commission discussed this application which has been deferred since May 23, 2002.

Mr. Lynch stated that he would move to deny the application with reasons, passed out his reasons, and asked Mr. Schrader to read his recommendation. Mr. Schrader read that based upon the record made at the public hearing on May 23rd, Mr. Lynch moves that the application be recommended for denial for the following reasons: 1. The proposed use of the property is for medical offices that typically generate high volumes of traffic and because of DelDOT's concerns about increasing traffic with poor levels of service during summer peak hours on State Route 1, Road 268 and Road 268A, the project will likely increase traffic congestion adjacent to or near the project; 2. The proposed entrance to the project is located south of the intersection of Road 268 and Road 268A and is offset approximately 100-feet from the entrance to Carpenter's Crossing, thus creating a concern about safe vehicular movement adjacent to or near the project; 3. The applicant proposed a small warehouse building to be used as a storage facility for equipment to be used in the maintenance of the project. This building is unnecessarily large for the proposed project.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be denied based on the above reasons.

Motion carried 5 - 0.

C/Z #1469 -- application of **CAROLINE DEVELOPMENT, INC.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying west of Route 348 (Irons Lane), 3,000 feet north of Route 346 (Holts Landing Road), to be located on 139.367 acres, more or less.

The Commission discussed this application which has been deferred since May 23, 2002.

Mr. Lynch stated that he would move that the application be approved with reasons, passed out his reasons, and asked Mr. Schrader to read his recommendation. Mr. Schrader read that Mr. Lynch moves that the application be approved 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 Sussex County Comprehensive Plan; 2. MR Zoning is appropriate for the proposed project site because medium density residential development is appropriate in areas 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, providing for open spaces, and the use of design ingenuity while protecting existing and future uses; 4. The subject property is in an area 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; 5. The Indian River School District, in its comments, stated that the project will not have a great impact on the District; 6. This recommendation is subject to the following conditions:

- The maximum number of dwelling units shall not exceed 208, of which no more than 84 shall be multi-family units.
- The maximum area of the commercial development shall be 1.5 acres and the commercial uses shall be limited to retail stores or shops for the general convenience of the area, but not including the sale of alcohol or gasoline products. The commercial structure shall not exceed 5,000 square feet in size.
- Residential building permits shall not exceed 60 per year.
- Site plan review is required for each phase of development.
- The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be on at least one side of the road which is developed exclusively for single-family residential lots, with sidewalks on both sides of the entrance corridor. A single sidewalk system serving town houses shall have continuous paths and shall separate the residential units from parking areas and driveways (to be built to driveway standards under the zoning ordinance) serving the town houses. Access to the existing lots on Indian River Bay and Bennett Beach shall not be denied.
- All entrances, intersections, roadway improvements, and multimodal facilities required by DelDOT shall be completed by the applicant as required by DelDOT or in accordance with any further modification required by DelDOT.
- Recreational facilities, e.g., swimming pool, tennis court, etc., shall be constructed and open to use by the residents within two years of the issuance of the first building permit.
- The RPC shall be served by an existing or an extended 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 State or Federal wetlands or open space areas.

- State wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas.
- No individual boat dock or boat launching facilities for motorized boats shall be permitted. A community boat launching facility for non-motorized or sail boats may be constructed upon receipt of all applicable permits, site plan review and compliance with all applicable rules and regulations.
- 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% 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. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved based on the above reasons.

Motion carried 5 - 0.

C/Z #1470-application of TROUT, SEGALL & DOYLE DEVELOPMENT CO., L.L.C. to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying north of Route 54 (Lighthouse Road), 2,500 feet east of Road 381 (Old Mill Bridge Road), to be located on 10.36 acres, more or less.

The Commission discussed this application which has been deferred since June 13, 2002.

Mr. Lynch stated that he would move to approve the application with reasons, passed out his reasons, and asked Mr. Schrader to read his recommendation. Mr. Schrader read that Mr. Lynch moves that the application be approved for the following reasons: 1. The proposed project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because it is in a Development District as established by the

1997 Sussex County Comprehensive Plan; 2. The proposed project will provide neighborhood shopping and businesses which will serve the adjacent and current developments, create a village scale center and will be integrated with adjacent residential uses. This project provides for grocery and convenience shopping for the area without the necessity of traveling to Ocean City, Fenwick Island, or Selbyville; 3. The subject property is in an area along the Route 54 corridor that has developed with other commercial uses. The proposed project is in character with the nature of that area; 4. Central water and central sewer are available to serve the project.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved based on the above reasons.

Motion carried 5 - 0.

C/Z #1471-application of GLADYS A. SWANN/TROUT, SEGALL & DOYLE DEVELOPMENT CO., 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 Baltimore Hundred, Sussex County, land lying 200 feet north of Route 54 (Lighthouse Road), 2,500 feet east of Road 381 (Old Mill Bridge Road), to be located on 109.51 acres, more or less.

The Commission discussed this application which has been deferred since June 13, 2002.

Mr. Lynch stated that he would move that the application be approved with reasons, passed out his reasons, and asked Mr. Schrader to read his recommendation. Mr. Schrader read that Mr. Lynch moves that the application be 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 Sussex County Comprehensive Plan; 2. MR Zoning is appropriate for the proposed project site because medium density residential development is appropriate in areas 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, providing for open spaces, and the use of design ingenuity while protecting existing and future uses; 4. The subject property is in an area along the Route 54 corridor 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 units shall not exceed 372 single family detached units.

- Residential building permits shall not exceed 60 per year.
- No commercial activities are permitted within this project.
- Site plan review is required for each phase of development.
- The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be on at least one side of the road which is developed exclusively for single-family residential lots, with sidewalks on both sides of the entrance boulevard. Access shall be provided to TM Parcel No. 5-33-12-82. There shall be no street interconnection to Magnolia Shores Subdivision, except for access to TM Parcel Nos. 5-33-12-69, 69.01, and 70.
- All entrances, intersections, roadway improvements, and multimodal facilities required by DelDOT shall be completed by the applicant as required by DelDOT or in accordance with any further modification required by DelDOT.
- Within one (1) year of the approval of the master plan, 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.
- Recreational facilities, e.g., walking trails, swimming pool, club house, etc., shall be constructed and open to use by the residents within two years of the issuance of the first building permit.
- The RPC shall be served by an existing or an extended 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 State or Federal wetlands or open space areas.
- State wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas.
- There shall be a fifty foot (50') buffer from all tidal wetlands in accordance with Sussex County Code Section 115-193.
- No individual boat dock or boat launching facilities for motorized boats shall be permitted.
- 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% 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 this application be approved based on the above reasons and conditions.

Motion carried 5 - 0

OTHER BUSINESS

1. Village of Five Points MR/RPC
North Village - Final Site Plan

Mr. Lank advised the Commission that the final site plan is for 90 condominium units; that the site plan received preliminary approval on January 24, 2002; that the final site plan is the same as the preliminary site plan; that all agency approvals have been received; and that the plan is acceptable as a final.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried 4 - 0 to approve the site plan as a final. Mr. Lynch was absent.

2. Wawa Food Market
Commercial Site Plan - U.S. Route 13 and Route 404

Mr. Lank advised the Commission that the preliminary site plan is for a 5,740 square foot convenience store with 10 fuel pumps under a canopy; that all setbacks meet the requirements of the zoning code; that the total area of the site is 3.55 acres; that 55 parking spaces are required; that 88 parking spaces are proposed including 8 - 12' by 65' parking spaces for trucks; that there are no wetlands on the site and that the site is not located within a flood zone; that the site plan meets the requirements for preliminary site plan approval; and that final site plan approval could be subject to the staff receiving all agency approvals.

The Commission found that Gordon Meade of Davis, Bowen & Friedel was present and advised the Commission that the convenience store is located within the new realignment proposed for the intersection of U. S. Route 13 and Route 404 and that the entrance locations will be subject to the approval of DelDOT.

Motion by Mr. Wheatley, seconded by Mr. Johnson, 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.

3. Providence HR/RPC
C/Z #1467 Site Plan - Road 361

Mr. Lank advised the Commission that the final site plan is for a 2-lot expansion to the existing Providence HR/RPC; that the lots meet the requirements of the zoning code; that all agency approvals have been received; and that the site plan is acceptable for final approval.

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

4. Harry Faust
3 Lots and 50' Right-of-Way - Road 280

Mr. Lank advised the Commission that Mr. Faust has presented a concept to create 3 lots and a 50' right-of-way from Road 280; that the proposed lots contain 4.06 acres, 3.01 acres, and 4.13 acres and will be given to his children; that the proposal went through a major subdivision application and received preliminary approval on January 25, 2001; that the County Engineering Department rejected the street design and construction; that the applicant has written a letter requesting that the lots and right-of-way be approved as submitted since the cost of the street will be more than the value of the lots; and that the applicant has noted that the Commission has approved similar lots.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the concept as submitted.

5. Foxcroft
Request Waiver from Topography - Road 46

Mr. Lank advised the Commission that Adams-Kemp Associates, Inc. withdrew the request on June 27, 2002.

6. Oyster House Cannery
Multi-Family Site Plan - Oyster House Road

Mr. Lank advised the Commission that this preliminary multi-family site plan is for 28 units on 2.34 acres; that the property is zoned C-1 and that 28 units are permitted by the zoning code; that the setbacks meet the requirements of the zoning code; that one

building will have 12 units and the other building will have 16 units with 6,000 square foot of office space; that 114 parking spaces are required and that 115 spaces are proposed; that the maximum building length of 165-feet needs to be shown on the final site plan; that water will be provided by the City of Rehoboth; that central sewer will be provided by Sussex County; that the site is located in an AE Flood Zone requiring the finished first floor of the units to be at or above 7-feet MSL; that the final site plan will be required to depict any wetlands or note that no wetlands exists; that the site plan is acceptable as a preliminary; and that final approval could be subject to the staff receiving all agency approvals and revisions as noted.

The Commission found that Adam Gelof and Mark Davidson were present on behalf of the application.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a preliminary with final approval subject to the staff receiving all agency approvals and the revisions noted.

7. Ralph E. and Betty P. Marvel
Lot and 50' Easement - Road 348

Mr. Lank advised the Commission that the staff received this proposal from DelDOT on June 19, 2002; that the concept is to create a 1.0 acre lot out of a 3.00 acre lot with access from a 50' easement; that the remaining parcel will contain approximately 1.74 acres; and that it can be the Commissions option to approve the subdivision as submitted or require a public hearing for a major subdivision or variance.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried 4 - 0 to approve the concept. Mr. Lynch did not participate and was absent at the time of the vote.

Meeting adjourned at 9:48 P.M.