

MINUTES OF THE REGULAR MEETING OF JULY 11, 2002

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 11, 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.

Motion by Mr. Wheatley, seconded by Mr. Johnson, 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 27, 2002 as amended.

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

PUBLIC HEARINGS

SUBDIVISION #2002-11 – application of **RONALD HASTINGS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 18.80 acres into 13 lots, located 225 feet south of Hidden Hills Drive, approximately 1,200 feet west of Greenleaf Lane within Rivers End Subdivision.

Mr. Lank advised the Commission that this application was reviewed by the Technical Advisory Committee on May 15, 2002 and that the Technical Advisory Committee Report for May 15, 2002 is a part of the record for this application.

The Commission found that Ronald Hastings was present and stated in his presentation and in response to questions raised by the Commission that this application is the fifth phase for the Rivers End Subdivision; that 186 lots exist in the first 4 phases; that approximately 95 homes have been constructed; that 5 additional homes are under construction; that Phase 5 restrictive covenants are similar to the restrictions in Phases 3 and 4; that the lot sizes exceed the minimum of the zoning code; that the lot sizes exceed the lot sizes in previous phases; that the setbacks and minimum home sizes are the same as previous phases; that there are approximately 466 acres in the overall project; that some of the open space has been deeded to the Deep Creek Wildlife Conservancy; that he has always over-sized stormwater management systems and septic systems; that the base of all streets exceeds the requirements of the code; that there are 3 homeowners associations in the subdivision; that this phase will have another homeowners association; that Phase 4 has street signs; that Phase 3 has engraved stone signs; and that Phases 1 and 2 are in the process of getting new street signs.

The Commission found that there were no parties present in support of the application.

The Commission found that Jim Burket, Board President of the Rivers End Property Owners Association for Phases 1 and 2, was present in opposition to the application and read and submitted his comments. Mr. Burket added that he has been working with the Mapping and Addressing Office for over a year to get addressing and street name changes in the subdivision.

The Commission found that Dr. Burton Arenoff, a resident of Rivers End and the developer of the Lilly Pond Subdivision spoke in opposition and expressed concerns about traffic being excessive and traffic congestion; that the streets and entrance ways in the original phases are being impacted by the expansion; and that no funding for street improvements are being provided to the original phases from the new phases.

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. Lynch, and carried unanimously to approve this application as a preliminary.

Motion carried 5 – 0.

SUBDIVISION #2002-12 – application of **M.A.J., L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 57.69 acres into 14 lots, located east of Road 307, 263.2 feet north of Road 306-A.

Mr. Lank advised the Commission that this application is a minor subdivision and was not reviewed by the Technical Advisory Committee.

Mr. Schrader noted that the minimum lot size is greater than 0.75 acre; that the developer has indicated that manufactured homes will be prohibited in the development; that the agricultural use notice is included; and that there is no owners association formed to enforce the covenants.

The Commission found that Wayne Mitchell, a partner in the project, was present on behalf of the application.

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. Johnson, seconded by Mr. Wheatley, and carried unanimously to grant preliminary and final approval of this application since it is a minor subdivision.

Motion carried 5 – 0.

C/Z #1474 – application of **A.A.S.C.D. VENTURES** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District and a GR General Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying southwest of Bay Farm Road (Route 299), north of Trinity Road (Route 299-A), and on both sides of Legion Road (Route 298), to be located on 303 acres, more or less.

The Commission found that the applicant had submitted, prior to the meeting, a booklet of information that included an introduction, an executive summary, a property description, the proposed concept, references to existing infrastructure, improvements and impact assessments, phasing, market conditions, housing types, economic impact references, and conclusions.

The Commission found that the applicant had also submitted a booklet of drawings, sketches, and plots of a concept of the villages proposed, the concept of the layout of the project, the entrance, the bridges, the roundabouts, the pedestrian and bicycle pathways, the Gate House Village entrance and layout, the master plan, the layout of the Nantucket Village, the layout of Charleston Village, and the layout of the Hamptons Meadows and Woodlands Village.

The Commission found that the applicant had also submitted a copy of the Traffic Impact Study prepared by Karins and Associates.

The Commission found that a letter had been received from George H. Bunting, Jr., State Senator of the 20th District, referencing that the accumulative effect of so much development is creating gridlock in our area and imperiling the safety of those who drive our roads, which is already inadequate; that Sussex County has the disease of over-development in certain areas without any cure in sight; and that he hopes that the Commission and the County Council will step back until we have an adequate amount of roads, sewers, water, emergency personnel and police to handle the development overload we already have in many areas of our county.

The Commission found, based on comments received from the County Engineering Department Public Works Division, that the proposed project should be reviewed by the Technical Advisory Committee; that all roads in the subdivision and in the multi-family areas should be designed and constructed in accordance with the street design requirements of the Subdivision Ordinance and inspected by the County; that all streets should be identified at each intersection with street signs; that street construction for the 7,500 square foot lot areas, the multi-family areas, and the community areas should consist of curb and gutter with a closed pipe stormwater management drainage system; that drainage has been difficult to maintain for this type of construction project; that street construction for the area of Road 298 should be constructed in accordance with DelDOT standards; that construction of this project should not adversely impact existing drainage ditches that provide drainage to adjacent parcels; and that it is suggested that sidewalks and streetlights be provided to all community areas.

The Commission found, based on comments received from the Office of State Planning Coordination, that the site is located within the Environmentally Sensitive Developing Area of the Strategies for State Policies and Spending Document; that in these areas that surround the Inland Bays, the State seeks a balance between resource protection and sustainable growth; that Mr. Stickels has indicated that the County is working to set up a review process for proposals in the Environmentally Sensitive Developing Areas and that the State feels that this proposal should go through this review process; that through the LUPA process the following concerns were noted by State agencies: The DNREC has noted that much of this property is covered by upland forests which rank in the top ten percent in Delaware based exclusively upon size; that the forest buffers a small tributary that feeds the Inland Bays; that removal of this forest will result in a significant loss of natural habitat; that the State would like to discuss the site plan with the developer to try to minimize the impact of the development on this forested area; that based on the soils mapping the area proposed for construction contains soils that are very sandy in nature; that these soils have little to no ability to retain nutrients such as nitrogen and phosphorus because of the soils low absorptive capacities; that this basin is one of Exceptional Recreational or Ecological Significance; that the developer is urged to minimize overland stormwater flow as well as probable groundwater flows containing nitrogen and phosphorous into the Inland Bays; that this can be achieved by utilizing Best Management Practices; that the Department encourages the developer to provide on-going water quality monitoring of structural or non-structural Best Management Practices; that DNREC noted that it is not clear whether this property has been ditched, or whether ditching has affected the hydrology of the site; that if ditching is tidally influenced, tidally influenced wetlands may be present which are regulated by the State; that if this project moves forward, the developer will need to work with DNREC to make this determination; that DNREC records indicate that the project site is in the water service area of Tidewater Utilities; that it is likely that a public well will be needed to provide water to the site; that the developer should be advised that any public wells must

maintain a minimum distance of 150 feet from the site boundaries and any existing potential sources of contamination; that the State Historic Preservation Office has noted that there is a potential for archeological sites on the property and that some cemeteries have been found in this area so the developer would need to be aware of the Unmarked Human Remains Act; that DelDOT's review of the Traffic Impact Study indicates five of the eight studied intersections may require roadway or intersection improvements in the future due to the impacts generated by the projects in the area, and referenced this project and The Peninsula project; that other projects should participate in the cost of improving the intersections; that prior to the issuance of building permits, the developer should be required to enter an agreement with DelDOT, whereby the developer would fund an equitable portion of the costs of a traffic signal at the intersection of Route 24 and Bay Farm Road/Autumn Road; that prior to the issuance of building permits, the developer should be required to develop plans for the improvement of the intersections of Route 24 with Long Neck Road and with Bay Farm Road/Autumn Road in a manner acceptable to DelDOT; that the developer should be required to acquire and dedicate all needed rights-of-way and to post a 150% bond for the completion of the planned improvements, but need not build them prior to the issuance of permits; that prior to the issuance of building permits, the developer should be required to enter an agreement with DelDOT, whereby the developer would fund an equitable portion of the costs of a traffic signal at the intersection of Bay Farm Road and School Lane, fund an equitable portion of the costs of a traffic signal at the intersection of Route 24 and Legion Road, and widen and repave Bay Farm Road between School Lane and Legion Road to provide 11-foot wide lanes and four-foot paved shoulders (five-foot paved shoulders in any curbed sections; that as part of the entrance construction, the developer should be required to improve Legion Road between Route 24 and Bay Farm Road in a manner acceptable to DelDOT; that specific improvements should include the realignment of Legion Road at Bay Farm Road and the improvement of the 90-degree curve; that it is difficult for the State to support this application without first seeing a site plan of the proposed project; that as this area is under significant development pressure, the State urges the County to consider their comments as well as the cumulative effects of the development that has been reviewed for this area as it moves forward in its consideration of this application; that if the County is inclined to approve this application, the State asks that the developer be required to set up a meeting with State agencies to review the site plan and resolve the environmental issues noted in these comments before it is brought to the County for approval.

The Commission noted that the comments received from DelDOT had previously been summarized in the comments of the Office of State Planning Coordination.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Johnston loam, Kalmia sandy loam, Klej loamy sand, Matawan loamy sand, and Rumford loamy sand; that the Evesboro, Kalmia, Rumford, and some of the Klej and Matawan soils have slight

limitations for development; that some of the Klej and Matawan soils have moderate limitations; that the Johnston soils and some of the Matawan soils have severe limitations; that the developers shall be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that the Evesboro, Klej, and Rumford soils are of Statewide Importance; that the Kalmia and Matawan soils are considered Prime Farmland; that some of the Evesboro, Johnston, Klej, and Matawan soils are considered Hydric; that no storm flood hazard areas or tax ditches are affected; that it may be necessary for some off-site and on-site drainage improvements because of the increase of impervious area resulting in increased run-off; and that there may be jurisdictional wetlands on the site.

The Commission found that Rick Woodin, one of the developers, and James Fuqua, Attorney, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the developers also developed the Arnell Creek Subdivision and the Villages of Old Landing Developments; that the parcels contain approximately 302 acres; that they propose to develop 780 units and 2.9 acres of commercial; that lands north and west of the site are zoned GR General Residential with residential development already taking place; that the project borders the proposed Peninsula project; that the site is located in the developing area along Route 24 between Love Creek and Millsboro; that the former Townsend tract (The Peninsula) was approved in the 1980's for approximately 1,100 units; that the Townsend application was withdrawn in the 1990's due to the market and since the proposed marina portion of the project was not approved through DNREC; that the site is located in an Environmentally Sensitive Developing Area according to the Strategies for State Policies and Spending Document; that both the Plan and the Document refer that growth should occur in this area; that the Strategies refer that in the coastal areas, the State, County, and local governments will work to cooperatively pursue creation of land use techniques and development and infrastructure investment phasing agreements that: 1) meet the need to provide necessary sewer and transportation improvements to achieve water quality objectives and provide safe, efficient transportation while ensuring the protection and enhancement of the Bay's fragile resources; 2) promote environmentally sensitive development; 3) include design, density or process incentives for such development; 4) incorporate zoning classifications and development standards (setbacks, buffers, tree protection, impervious cover limitations, etc.) to ensure environmentally sound land use; 5) ensure efficiency and flexibility in land development activities that protect community identity, respond to local transportation requirements, support essential emergency services and evacuation requirements, and accommodate changing demographic conditions, particularly the future growth in the population of senior citizens; that according to the 1997 Sussex County Comprehensive Plan the project is located in a Development District; that the project will be served by a Sussex County Central Sanitary Sewer System; that the project will be served by a public water company; that the gross density of 780 residential units on 302 acres results in a density of 2.5 units per gross

acre; that the density is significantly less than the density limits recommended by the Plan; that the project will contain a variety of housing types including single family lots, single family detached condominiums and multi-family units clustered in four (4) village areas and in close proximity to on-site recreational activities; that a neighborhood business area will be built as part of the project to provide the convenience of shopping and service opportunities on site and to reduce the need for off site vehicle trips; that the project will comply with or exceed the recommendations of the Inland Bays Comprehensive Conservation Management Plan; that the project will include a "park and ride" lot for connection with the existing bus service on Route 24; that the project will construct entrance, roadway and intersection improvements in accordance with DelDOT requirements; that the project will create substantial employment opportunities in both the short and long term and will generate significant public revenue to the County and the State through transfer taxes, annual County real estate and school taxes, County sewer impact, inspection and service fees, building permits and other charges; that no entrances are proposed onto Bay Farm Road or Trinity Road; that all access to the project is proposed on Legion Road; that no individual lots are proposed to have direct ingress/egress onto Legion Road; that all DelDOT requirements will be met; that DelDOT requirements will be shared between this project and The Peninsula project if both projects are approved; that they propose convenience shopping to serve the needs of residents in the project and in the immediate area; that other commercial uses are available in the area; that Gate House Village will contain 192 multi-family units within 24 buildings; that Gate House Village will be a gated age restricted project with a pool and pool house; that Charleston Village will contain 170 single family lots and will be age restricted; that Nantucket Village will contain 228 single family detached condominium homes; that The Hamptons Meadows and Woodlands will contain 190 single family detached home lots; that streets will have rolled curbs and sidewalks, street lighting, and street trees spaced every 50-feet; that the community recreation area will be improved with a community center, swimming pool, tennis courts, tot-lot, and a multi-purpose field; that pathways will be provided throughout the project; that approximately 33% of the site will remain in open space; that central water will be provided by Tidewater Utilities; that electric will be provided by Delaware Electric Cooperative; that the site is located in the Indian River Volunteer Fire Company service area; that the project should have little to no impact on the Indian River School District since 46% of the project is planned to be age restricted; that the developers will participate financially in the cost of the study being performed for the sewer district; that the sewer serving the project will be built at the cost of the developers; that the developer will prepare an emergency evacuation plan; that when completed, the project is expected to generate in excess of One Million Dollars annually for the County in the form of sewer and property taxes; that there should be no significant environmental impact since a portion of the site is currently in agricultural use; that portions of the site have been timbered; that the site contains 3 parcels; that an environmental audit was prepared and it was found that most of the site is out of the 100-year flood; that there are no tidal wetlands on the site; that

approximately 3-acres of the 302 acres of the site contain Federally regulated wetlands; that no wetlands will be disturbed; that wooded buffers will be provided along the wetlands areas; that a minimal amount of woodlands will be disturbed; that an open space management plan will be created for common areas, open spaces, and community areas; that a meeting has been scheduled between the developers and State agencies to discuss environmental issues in late July; that portions of each Village will be developed simultaneously; that they would like permission to develop 150 units annually; that the developers are agreeable to the following proposed conditions: 1) The maximum number of residential units shall not exceed 780 comprised as follows: 190 single family lots (minimum 10,000 square feet), 170 single family lots (7,500 square feet, age restricted), 228 condominiums, 192 multi-family, age restricted. 2) The 2.9 acre commercial area shall not exceed 15,000 square foot of floor area. 3) Residential Certificates of Occupancy shall be limited to 150 permits per year cumulative commencing with County Council approval. 4) The RPC shall be served as part of the Sussex County Sewer System and the applicant shall participate in a planning study to be performed by the Sussex County Engineering Department to review the necessary infrastructure improvements to the Long Neck Sanitary Sewer District. 5) The RPC shall be served by a central water system providing water for consumption and fire protection per applicable regulations and approvals of DNREC, the State Fire Marshal, the Public Service Commission, and Public Health. 6) All entrance, intersection, and roadway improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's letter of June 24, 2002 and any further modification required by DelDOT. 7) Site plans for each phase of the development shall be reviewed and approved by the Sussex County Planning and Zoning Commission. 8) Applicant will provide recreational facilities including tennis courts, swimming pool and a community center to be completed by the issuance of the 300th Certificate of Occupancy. 9) The development shall contain "park and ride" parking and pick up facilities available to the public located adjacent to Bay Farm Road which shall be completed by issuance of the 300th Certificate of Occupancy. 10) Storm water management and erosion and sediment control improvements shall be constructed in accordance with applicable State and County regulations and shall be maintained by the development and/or an owners association. 11) The developer shall prepare an emergency evacuation plan with the coordination of applicable State and County agencies. 12) Applicant will submit to the Planning and Zoning Commission as part of site plan review a Landscape Plan indicating the proposed tree and shrub landscaping design. 13) 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 costs 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.; that the proposed bridges are architectural features; that the poultry houses will be removed; that there are no known cemeteries on the site; that all phases of the project will be members of a homeowners association; and that condominium areas and age restricted areas will have additional restrictions.

The Commission found that Joe Romeo of William Ritter Manor was present and stated that he has no objections to the intent of the project and requested that evergreen trees be planted across from his residence to screen the condominium buildings; that he would object to the project if high tension power lines were established along Bay Farm Road; and expressed concerns about the proposed traffic lights, roads, sewer, prices, the storage of buses at the "park and ride" facility, and the 15,000 square foot convenience store.

The Commission found that Shirley Twine, Tonta Stoner, Daniel Johnson, and Teresa Townsend were present in opposition and expressed concerns relating to water pressure, sewer impacts, traffic, growth, economics, inadequate infrastructure, the impact on water quality and quantity, mosquitoes, crime, police response time, rental units, low income housing, landscaping, that the commercial area will attract traffic, that Route 24 should be expanded before any additional projects are approved, and the impact on natural habitat.

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

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to defer action to give additional time for the Commission to consider the evidence.

Motion carried 5 – 0.

C/Z #1477 – application of **UNITED FOODS, INC.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, land lying east of Road 561 (Wesley Church Road), 500 feet west of Road 546 (Cannon Road) and the railroad, and ½ mile north of Route 18, to be located on 86.84 acres, more or less.

The Commission found that the applicant had submitted, prior to the meeting, an information report that included an overview of the proposal, environmental and planning issues, community impact references, references to compliance with State and County Codes, and drawings.

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 site is located within the "Rural" area of the Strategies for State Policies and Spending Document; that the State has recommended that industry be located closer to the "Community" areas of the Strategies map; that the State supports this rezoning; that the State feels that this is an agricultural related industry as it will be processing food grown in the area; that the Sussex County Comprehensive Plan states that the purpose of the AR district is to provide a full range of agricultural activities and that the predominant use in this district will continue to be agriculture and agricultural related uses; that the Department of Agriculture has noted that this facility will bolster the now dwindling agricultural infrastructure of the Upper Peninsula, which is so important to the economic well-being of the whole Delmarva Peninsula; that the DNREC has noted that a public and/or potable industrial water supply well will be required to provide water to the plant and for use by the employees; that the developer should be advised that such a well constructed within the project site must maintain a minimum of 150-feet from the site boundaries and any existing or potential sources of contamination; that wetlands are present on the site and that the developer is advised to avoid any wetlands impacts; that the applicant will need an on-site wastewater permit for subsurface or spray irrigation of wastewater; that the State Historic Preservation Office has noted that there is a high potential for prehistoric archaeological resources on the site; that there are some nearby dwellings which might be historic and could be impacted visually by the project; that depending on the design of the plant some landscape features might be considered; that the Office would be happy to discuss any questions regarding archaeological resources in this area and ways to minimize the impacts of the project; and that the State supports this rezoning proposal based on the fact that it will mean placing an agricultural related industry in a place that it can be utilized – near agriculture.

The Commission found, based on comments received from the Delaware Economic Development Office, that when the project becomes operational in 2003, the Office is projecting the annual gross farm income in the County will increase approximately three to four million dollars and increase lima beans, peas and corn production by 25 to 30 million pounds; that this will give farmers the opportunity to commit up to 10,000 acres for these alternative crops; that initial employment is planned at twelve people but that could increase if they decide to build a complete processing facility; and suggest that this project be processed in the most expeditious manner possible.

The Commission found, based on comments received from the DNREC Division of Water Resources, that the Division wants to clarify the Department's position on the use of spray irrigation as a wastewater treatment and disposal technology; that the Department favors spray irrigation over surface water discharge and/or subsurface

disposal; that this is particularly true in the Nanticoke area of the State; that properly designed and operated spray irrigation systems recycle nutrients and residual organic matter in the treated wastewater back onto the land where they enrich the soil and are utilized by the vegetation; that studies have shown that the recycled water, applied to the ground surface as spray irrigation, returns to drinking water quality after passing through the first several feet of soil; that if discharged into surface waters the nutrients and residual organic matter, which are beneficial to the soil when irrigated, encourage algae growth and depress oxygen levels in the receiving waters; that although subsurface disposal systems also return water to the ground rather than surface water, they do not provide the level of renovation accomplished by spray irrigation; that subsurface disposal occurs below the root zone of most vegetation and is therefore not available to the vegetation for removal of nutrients prior to the wastewater re-entering the groundwater; and that the Department has encouraged the use of spray irrigation, such as that be proposed by the project, as an alternative to surface water discharge and subsurface disposal.

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

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that according to the Western Sussex Water and Sewer Plan the project is located in the Bridgeville Service Area; and that the developer should contact the Town of Bridgeville concerning the availability of water and sanitary sewer service.

The Commission found, based on a letter received from the Delaware House of Representatives Agriculture Committee, that the Committee supports this application, and added that many farmers in Sussex County are utilizing this company for their crops and with this expansion, this would greatly benefit Sussex County if this application is approved.

The Commission found, based on a letter received from the Delaware Senate Agriculture Committee, that the Committee supports this application, and added that there are many farmers in Sussex County that can use this facility for their crops and their livelihood depends upon the approval of this application. Attached to the letter was a copy of House Concurrent Resolution No. 60 urging the County Council to support the rezoning.

The Commission found that letters of support were received from the University of Delaware Cooperative Extension; the Sussex County Farm Bureau; Delaware Farm Bureau, Inc.; Carlisle Farms, Inc.; Air Enterprises, Inc.; Allen Chorman & Son, Inc.; Allen's Hatchery, Inc.; Helena Chemical Company; McConnell Agronomics, Inc.; Messick & Gray; Pine Breeze Farms, Inc.; Richard L. Sapp Farms; Glenn Sizemore, Realtors; Southern States Preston Service; Southern States Cooperative; UAP Northeast; Wheatley Farms, Inc.; S&W Warehousing LLC; and Milford Fertilizer Company.

The Commission found that Wesley Ubanks and Homer Semens of PictSweet Frozen Foods, Julie Swartz and Amanda Pollock of George, Miles & Buhr, LLC, and James Fuqua, Attorney, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they propose to develop the site with a vegetable processing plant for peas, limas, and corn; that the initial phase will include the entrance road, the parking area, a receiving area, a warehouse, cooler, and the spray irrigation facility; that, overtime, the site will be expanded to a vegetable processing plant; that a need exists in the area for a plant of this type; that two older plants have recently closed in the area; that the area needs the service; that the service will benefit the agricultural industry; that the site was chosen since it is centrally located, since the acreage was adequate in size, since it is located near major access roads, and since it is located near a railroad; that according to the 1997 Comprehensive Plan the site is located within an Agricultural Residential District; that the purpose of the Agricultural Residential District is to provide for a full range of agricultural activities; that the Plan further provides that "The predominant use in this District will continue to be agriculture and agricultural related uses. Industrial uses that support or depend on agriculture or forest products are also appropriate"; that a parcel adjacent to the railroad is also being purchased and that this parcel is already zoned for industrial use; that there is an existing well on the site; that there is already a spray irrigation facility on the site; that employees will have the use of domestic septic systems; that stormwater management will meet or exceed State and County codes; that the letters of support from agencies and the private sector show a need for the use; that the wastewater process will be subject to the approval of DNREC; that United Foods has been in existence for 55 years and has processing facilities in Tennessee, California, and Utah; that the plant will be operational in late May for the pea season and in mid October for lima beans; that they may have two working shifts; and that they market their products with several large retail chains.

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

The Commission found that Joseph T. Conaway, President of the Bridgeville Town Council, Edward Kee, Extension Specialist for the University of Delaware Cooperative Extension, Jack Tarburton, Director of Business Development for the Delaware Economic Development Office, Richard Sapp of Richard L. Sapp Farms, and Jeffrey Allen were present and spoke in support of the application and referenced that the Bridgeville Town Council supports the application and that the use fits in with the recently opened Kenney Farm operation in Bridgeville; that the Pictsweet plant in Bells, Tennessee is a clean and well kept facility and that the plant is a good neighbor to the town; that the Delaware Economic Development Office supports the application; that farmers that grow vegetables will have a good company to work with; and that the use will provide a new opportunity for farmers in the area.

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 based on the record of support for the application.

Motion carried 5 – 0.

OLD BUSINESS

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 Nanticoke 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 discussed this application which has been deferred since June 27, 2002.

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 with the following stipulations: 1) Limit entrances to one (1) – the wide entrance being used at the present time off of Route 16. All other entrances to be closed along Route 16 to the above described property. 2) Buffer tree planting along Route 16 to be done as noted in the minutes of the public hearing, dated June 27, 2002. 3) All previous restrictions to be deleted since the use has changed. 4) Site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 5 – 0.

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 discussed this application which has been deferred since June 27, 2002.

Mr. Wheatley stated that he was concerned about commercial Conditional Uses in recorded subdivisions; that Conditional Uses run with the land not the applicant; and that a precedent could be set.

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 denied based on the above.

Motion carried 5 – 0.

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 discussed this application which has been deferred since June 27, 2002. There was a consensus of the Commission that the applicant was proposing less units on more acreage.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following stipulations: 1) Maximum number of units shall not exceed 262 single family lots; 2) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 5 – 0.

OTHER BUSINESS

1. The Reserves MR/RPC
Final Record Plan – Woodland Avenue

Mr. Lank advised the Commission that this final record plan is for a 173 single family lot residential planned community; that the Commission granted preliminary approval on November 29, 2001; that there are two phases proposed in the County's jurisdiction and one in the Town of Ocean View; that the landscaping plan has been submitted and approved by the Department of Agriculture; that the record plan meets the requirements of the zoning code and all agency approvals have been received except for the written approval from the Sussex Conservation District; that a verbal approval has been received from the District; and that the record plan is suitable for final approval and recordation upon receipt of the written approval from the District.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously that the staff may grant final approval upon receipt of written approval from the Sussex Conservation District.

2. Refuge at Dirickson Creek MR/RPC
Master Site Plan – Route 54

Mr. Lank advised the Commission that this master plan is for a 343 unit residential planned community; that 287 single family lots are proposed and that the minimum lot size will be 9,000 square feet (75' x 120'); that 56 multi-family units are proposed within 7 buildings with 8 units in each building; that there is 3.43 acres of commercial space proposed along Route 54; that the 15 conditions of approval have been referenced on the master plan; that each phase will be subject to the Commission's review and approval; that master plans show how projects will be developed and are usually recorded; and that any changes will require an amended master plan.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the master plan.

3. Sam Yoder and Son Quality Meats
C/U #1447 Site Plan – Route 16

Mr. Lank advised the Commission that this preliminary site plan is for a 9,560 square foot meat cutting and retail sales building; that 47 parking spaces are required and that 51 spaces are proposed; that 17 spaces are located within the front yard setback and need a waiver from the Commission; that the required loading spaces are located to the rear of the proposed building; that the setbacks meet the requirements of the zoning code; that

the staff has received approvals from DelDOT and the Sussex Conservation District; that approvals are needed from DNREC and the Office of the State Fire Marshal; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all required agency approvals.

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

4. Cedar Beach Enterprises, Inc.
C/U #1426 Site Plan – Road 269

Mr. Lank advised the Commission that this site plan is for a bulk propane storage facility; that a 30,000 gallon storage tank is proposed; that the setbacks meet the requirements of the zoning code; that the site plan is suitable for preliminary approval; that final approval could be subject to the staff receiving approvals from DNREC and the Office of the State Fire Marshal.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving approvals from DNREC and the Office of the State Fire Marshal.

5. Subdivision #01-18 – Thomas Head
Time Extension

Mr. Lank advised the Commission that the staff received a request for a one-year time extension to obtain final approval; that the application received preliminary approval on July 26, 2001 for 39 lots; that this is the first request for a time extension; and that the developer has hired a new engineering firm to complete the project.

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

6. C/U #1371 - Philadelphia Pentecostal Holiness
Time Extension – Road 213

Mr. Lank advised the Commission that the staff received a request for a one-year time extension; that this is the first request for a time extension on this Conditional Use; that the applicant was not aware that the project had to be started within one year of approval; that it was stipulated that certificates of occupancy cannot be issued until the project is served by a central sewer and water system; that work has just begun on the Ellendale Sanitary Sewer District and is to be completed in 2003.

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

REORGANIZATION

Mr. Allen appointed Mr. Lank as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Lank opened nominations for Chairman.

Motion by Mr. Wheatley and seconded by Mr. Johnson to nominate Mr. Allen as Chairman.

Motion by Mr. Wheatley and seconded by Mr. Johnson that the nominations for Chairman be closed.

Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Allen as Chairman; 4 yea, and 1 abstaining.

Vote by roll call:

Mr. Gordy	Yea
Mr. Johnson	Yea
Mr. Lynch	Yea
Mr. Wheatley	Yea
Mr. Allen	Abstaining

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Lynch and seconded by Mr. Gordy to nominate Mr. Wheatley as Vice-Chairman.

Motion by Mr. Allen and seconded by Mr. Lynch that the nominations for Vice-Chairman be closed.

Nominations for Vice-Chairman were closed.

Motion was adopted to nominate Mr. Wheatley as vice-Chairman; 4 yea and 1 abstaining.

Vote by roll call:

Mr. Allen	Yea
Mr. Gordy	Yea
Mr. Johnson	Yea
Mr. Lynch	Yea
Mr. Wheatley	Abstaining

The meeting was turned over to Mr. Allen, the re-elected Chairman.

Mr. Allen appointed Mr. Lank as Secretary for the Commission.

Mr. Allen authorized Mr. Lank, Director, Mr. Abbott, Assistant Director, and Mr. Shockley, Environmental Planner, to sign record plats for recordation on behalf of the Commission.

Meeting adjourned at 10:25 p.m.