

MINUTES OF THE REGULAR MEETING OF AUGUST 14, 2003

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 14, 2003 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Lynch, and Mr. Wheatley with Mr. Robertson – Assistant County Attorney, Mr. Lank – Director, Mr. Abbott – Assistant Director and Mr. Kautz - Planner.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as amended by the withdrawal of C/U #1500, the application of Superior Lawn and Landscaping.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of July 24, 2003 as amended.

OLD BUSINESS

C/U #1496 – application of **JULIE SCHROECK** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an antique shop/art gallery to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 39,281 square feet, more or less, lying south of Route 26, 0.6 mile east of Route 365.

Mr. Lank advised the Commission that the applicant did not appear for the public hearing with Sussex County Council and that the Council denied the application based on the lack of representation in support of the application.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to deny this application.

Motion carried 5 – 0.

C/Z #1512 – application of **PERCY, INC.** 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 northeast of Route 382, 600 feet north of Route 17, to be located on 8.223 acres, more or less.

The Commission discussed this application which has been deferred since July 10, 2003.

Mr. Lynch stated that he would move that the Commission recommend denial of C/Z #1512 for Percy, Inc., seeking a change of zone from AR-1 to B-1 based on the record made at the public hearing and asked Mr. Robertson to read the reasons.

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

- 1) While there may generally be a need for the uses and services that the Applicant has proposed for this property, the orderly growth of the County does not justify creating the requested additional B-1 zoned property and the permitted uses available under that zoning classification in the area where the property is located.
- 2) Mr. Lynch does not believe that the application is consistent with the character of the surrounding property.
- 3) Approval of this application could lead to increased traffic and trucking activity on the property and in the vicinity of it. This will lead to increased noise in the area.
- 4) The property is not located in a County operated or maintained sanitary sewer district, and the County has no plans to provide sewer service at this time.
- 5) According to comments provided by the Office of State Planning Coordination, the property is located within a "Rural" area, and the State would prefer to see development of this type in the "Community" or "Developing" areas identified in the Strategies for State Policies and Spending document.
- 6) According to residents and other people familiar with Route 20 and Road 382, traffic on those roads is currently overwhelming. In addition, DelDOT has stated that it is concerned about possible effects of the possible uses in a B-1 zone on the roads in the immediate area.
- 7) There are only a small number of other properties zoned either C-1 or B-1 scattered in the general Roxana area where this property is located. In most cases, these rezonings were for existing buildings, including the Indian River School District offices in an old schoolhouse. This property exceeds the size and scope of the other existing C-1 and B-1 properties and is not in character with them.
- 8) Although the Applicant has suggested that this application is compatible with the Comprehensive Plan Update Rural Development District, it is contrary to the intent of the Plan for several reasons:
 - 1) It is not infill development.
 - 2) It is not suitably scaled to the surrounding area.
 - 3) It does not foster a neighborhood atmosphere.
 - 4) It does not reflect the character of the community.

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 reasons stated above.

Motion carried 5 – 0.

C/U #1512 – application of **RANDALL J. PENTONEY AND DIANE M. PENTONEY** to consider the Conditional Use of land in a MR Medium Density Residential District for a multi-family dwelling structure (2 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 6,000 square feet, more or less, lying north of Admiral Road, 500 feet east of Route One and 60 feet west of Ocean Road, and being Lot 19 within Tower Shores Subdivision.

The Commission discussed this application which has been deferred since July 24, 2003.

Mr. Lynch stated that he would move that the Commission recommend approval of C/U #1512 for Randall and Diane Pentoney for a multi-family dwelling structure of 2 units based on the record made at the public hearing and asked Mr. Robertson to read the reasons.

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

- 1) The existing structure on the property contains 4 units. The Applicant intends to demolish the structure and rebuild one with only 2 units. This will decrease the density on the property.
- 2) The application will result in less EDUs for the property.
- 3) The proposed Conditional Use will have no significant impact upon traffic.
- 4) The project will not have an adverse impact on the neighboring properties or community.
- 5) This recommendation for approval is subject to the following conditions and stipulations:
 - 1) A variance will be required from the Sussex County Board of Adjustment for the lot size and setbacks.
 - 2) Only 2 units shall be constructed upon the property.
 - 3) The project shall be served as part of a Sussex County Sanitary Sewer District.
 - 4) Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 8:00am and 6:00pm.
 - 5) The site plan shall be subject to approval of the Planning and Zoning Commission.

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 for the reasons and with the conditions stated above.

Motion carried 5 – 0.

Subdivision #2002-14 – application of **J. & Y. PARKER FAMILY L.P.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 3.82 acres into 6 lots, located north of Road 331, 640 feet southeast of Road 339.

Mr. Abbott advised the Commission that it has been reported that the site for this application has been annexed into the Town Limits of Millsboro and that the staff has not received any official notification to-date.

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

Motion carried 5 – 0.

Subdivision #2001-25 – application of **S & M VENTURES** to consider the Subdivision of land in a MR Medium Density Residential District in Dagsboro Hundred, Sussex County, by dividing 35.63 acres into 60 lots, located 1,300 feet southwest of Road 318, 300 feet southeast of Road 324.

Mr. Abbott advised the Commission that this application received preliminary approval on October 11, 2001 for 60 lots; that the Commission granted a one-year time extension on July 24, 2003 that was retroactive to the original approval date; that the final record plan has been reduced to 56 lots; that the record plan meets the requirements of the subdivision code; and that all agency approvals have been received.

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

Motion carried 5 – 0.

Subdivision #2003-9 – application of **1ST STATE DEVELOPMENT, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 31.90 acres into 30 lots, located south of Road 38, 791.51 feet east of Road 216.

The Chairman referred back to this application which was deferred at the July 24, 2003 meeting.

Mr. Lank distributed copies of the previous recorded plan and a copy of the restrictive covenants to the Commission for their review.

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

Motion carried 5 – 0.

Subdivision #2003-10 – application of **WOODGATE ENTERPRISES, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 50.99 acres into 30 lots and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located south of Road 280, 1,715 feet east of Road 290.

The Chairman referred back to this application which was deferred at the July 24, 2003 meeting.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve this application as a preliminary with the stipulation that streetlights be required and that the location of the street lights be depicted on the final record plan.

Motion carried 5 – 0.

Subdivision #2003-12 – application of **LT ASSOCIATES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 163.62 acres into 162 lots, located east of Road 267, 0.8 mile east of Road 268.

The Chairman referred back to this application which was deferred at the July 24, 2003 meeting.

Mr. Johnson stated that he would move that the Commission granted preliminary approval of Subdivision #2003 – 12 for LT Associates, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County. It is located within a developing area and the Environmentally Sensitive Developing Area according to the Comprehensive Land Use Plan Update.
2. The applicant has stated that there will be no impacts on wetlands.
3. The land is zoned AR-1 which permits low-density single family residential development at a density of approximately 2 lots per acre. The proposed subdivision density of 161 lots on 163.62 acres of land results in a gross density of

approximately one lot per acre.

4. The proposed subdivision is generally in character with other residential developments in the area. It is also consistent with the historical trend of development in the area.
5. The applicant has advised that 19% of the site will remain open space; and that 40% of the open space will be maintained as active open space.
6. There will be a public bike or multi-modal path incorporated into the subdivision that will interconnect with paths between the State Parks, The City of Lewes, and the City of Rehoboth Beach. DNREC Parks and Recreation has commended the applicant for incorporating this path into its plan.
7. The Subdivision will include amenities such as a community center and pool area that are the same or similar to the facility located in the nearby Wolfe Pointe subdivision.
8. The Bookhammer Pond area of the property will be developed as a park area.
9. The proposed subdivision will be a restricted residential development consistent with the area and will not adversely affect nearby uses or property values.
10. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
11. This recommendation is subject to the following conditions:
 - Agricultural buffers shall be provided in accordance with the Subdivision Ordinance, if necessary.
 - The Applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of streets, roads, multi-modal paths, any forested buffers, stormwater management facilities, recreational facilities, and other common areas.
 - The project will be connected to the County's Central Sewer, and central water will be provided.
 - The stormwater management system shall meet or exceed the requirements of the State and County.
 - All entrances shall comply with all of DelDOT's requirements.
 - Any bike lanes or multi-modal lanes that are contiguous to roadways within the project shall be striped or adequately marked to distinguish those areas from automobile traffic.

- A system of street lighting shall be provided by the Applicant, and the location of the streetlights shall be shown on the final site plan. The streetlights shall be maintained by the Applicant or a successor Homeowners' Association.
- The Subdivision shall not exceed 161 lots.

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

Motion carried 5 – 0.

Subdivision #2003-14 – application of **H.M. PROPERTIES, ROUTE 23, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 240.81 acres into 352 lots, located at the southwesterly corner of the intersection of Road 286 and Road 285.

The Chairman referred back to this application which was deferred at July 24, 2003 meeting.

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

Motion carried 5 – 0.

PUBLIC HEARINGS

C/U #1497 – application of **BOBBY R. JONES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District to construct, build, and repair wooden pallets to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 13.392 acres, more or less, lying northwest of Route 611, 1,500 feet south of Route 16.

Mr. Lank provided copies of the site plan to the Commissioners.

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

The Commission found that a letter was received from Wanda W. West voicing no objection, but asking that a line of fast growing trees be planted between the property to be used for the pallet business and her residence; that Mr. Jones has stated that he would plant the trees; and that she would prefer that this provision be made a part of the record.

The Commission found that Bobby R. Jones was present and stated in his presentation and in response to questions raised by the Commission that he proposes to build a home on the property; that he proposes to use approximately 3 acres of the property for the pallet business; that he proposes to build a 48' by 64' pole building rather than the 50' by 100' building depicted on the site plan; that he proposes to plant Leyland Cypress along the property line bordering Wanda West; that he repairs pallets, not build them; that he has been in business for approximately 3 years; that he has been using Mr. Huerta's lands for the repair activities; that he is presently storing pallets on the site; that he delivers pallets by tractor trailer load only; that the pallets are delivered to poultry plants and produce distributors; that some inventory of pallets will be stored outside; that he has been working 7 days per week; that he picks up the pallets that need repair, repairs the pallets, and then delivers the pallets to a destination; that he hopes to have the pole building constructed by November of 2003; that he has 7 employees; that all repair work will be performed indoors; that the only noises are from air powered nail guns and a bandsaw; that he normally opens the business at 6:30am and works for 6 to 8 hours; and that wooden waste materials are loaded into a 45 foot open top trailer and hauled to Pennsylvania.

The Commission found that Patrick Huerta, Kelly Bailey and Kelly Heurta were present in support of the application and stated that the use grew faster than anticipated; that the business is very successful; that the applicant is always available; that the site is close to NATCO, a furniture manufacturing company on Route 16, and Owens Station Hunting Preserve; that they hear more noise from the Preserve than the site; and that the applicant is trustworthy, honest and hard working.

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

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

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

Motion carried 5 – 0.

C/U #1498 – application of **SYNAGRO-WWT, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for land application of Selbyville and Georgetown, Delaware, wastewater treatment plant biosolids as an amendment to Conditional Use No. 1373 and Conditional Use No. 1399 to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 88.0 acres, more or less, lying southeast of Route 321, south of Route 324 and west of the railroad.

The Commission found that the Applicants had provided a packet of information prior to the meeting and that the packet included a cover letter referencing previous applications on the same site, a copy of the application form, a vicinity map, a soil map, a portion of the County Tax Map, a copy of the deed to the property, and a Sludge/Residuals Land Application Operational Plan for Delaware prepared by Synagro-WWT, Inc.

The Commission found that Sharon Hogan of Synagro-WWT, Inc. was present and stated in her presentation and in response to questions raised by the Commission that the reference to Conditional Use No. 1399 was for a one-time cleanout of the Laurel wastewater treatment facility; that the Town of Selbyville has biosolids that need to be removed from two treatment lagoons; that they need approximately 40 acres for land application of the material; that the material is approved by the State DNREC for land application; that the material is allowed to be spread on this site; that the Town of Georgetown was added to the application to allow the Town more of a contingency plan for rotation of the location of their land application; and that the liquid bio-product material from Vlasic will continue to be applied to the site annually.

The Commission found that Ms. Hogan provided copies of a Synagro Compliance Program and a Synagro Pre-operating checklist and photographs for the record. The photographs included pictures of a tractor trailer tanker, a Terra-gator, the knife blades of a Terra-gator, the injectors of a Terra-gator, a Terra-gator knifing and injecting materials into the ground, a tractor disking a field after a Terra-gator has completed the injection, and crops in a farm field.

The Commission found that Ms. Hogan added that the material is hauled to the site via a tractor trailer tanker, loaded into the Terra-gator, injected and knifed into the soils, and then the field is tilled; that the benefits from biosolids application and biosolids product application is added plant nutrients and lime, increased soil organic matter, increased cation exchange capacity, improved soil structure, and improved water-holding capacity; that the material from the Town of Selbyville contains approximately 3% solids and 97% liquid; that all of the material is hauled by Synagro-WWT, Inc.; that land application is performed in the Spring and Fall prior to the next crop; that soil test are performed each year; and that the crops planted after land application are for animal feed, not human consumption.

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

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

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the same/similar conditions that were imposed on Conditional Use No. 1373 and Conditional Use No. 1399, which included:

- 1) The application of sludge shall be subject to State DNREC approval.
- 2) The sludge applied shall be limited to biosolids from the Selbyville and Georgetown Wastewater Treatment Facilities.
- 3) There shall be no stockpiling of sludge materials on site.
- 4) The maximum number of applications of sludge on this site shall be once per year subject to the approval of the State DNREC.
- 5) This Conditional Use will be valid concurrent with the State DNREC permit.

Motion carried 5 – 0.

C/U #1499 – application of **SYNAGRO-WWT, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for land application of Selbyville and Georgetown, Delaware, wastewater treatment plant biosolids as an amendment to Conditional Use No. 1372 and Conditional Use No. 1400 to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 220 acres, more or less, lying northeast of Route 48, northeast of Railroad, southwest of Route 318, and on both sides of Route 432.

The Commission found that the Applicants had provided a packet of information prior to the meeting and that the packet included a cover letter referencing previous applications on the same site, a copy of the application form, a vicinity map, a soil map, a portion of the County Tax Map, copies of the deeds to the property, and a Sludge/Residuals Land Application Operational Plan for Delaware prepared by Synagro-WWT, Inc.

The Commission found that Sharon Hogan of Synagro-WWT, Inc. was present and stated in her presentation and in response to questions raised by the Commission that she requests that all of her comments and records, submitted into the record for Conditional Use No. 1498, be made a part of the record for this application; that a Nutrient Management Plan exists for both sites based on their applications with the State DNREC.

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

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

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the same/similar conditions that were imposed on Conditional Use No. 1372 and Conditional Use No. 1400, which included:

- 6) The application of sludge shall be subject to State DNREC approval.

- 7) The sludge applied shall be limited to biosolids from the Selbyville and Georgetown Wastewater Treatment Facilities.
- 8) There shall be no stockpiling of sludge materials on site.
- 9) The maximum number of applications of sludge on this site shall be once per year subject to the approval of the State DNREC.
- 10) This Conditional Use will be valid concurrent with the State DNREC permit.

Motion carried 5 – 0.

C/U #1500 – application of **SUPERIOR LAWN AND LANDSCAPING** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a lawn and landscaping business – no retail to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 15.6 acres, more or less, lying west of Route 431 (Shortly Road), across from Route 322 (King Road).

Mr. Lank advised the Commission at the announcement of the agenda that this application had been withdrawn.

C/U #1501 – application of **REHOBOTH BAY CONSERVANCY, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a community recreational center and parking to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 10.66 acres, more or less, lying west of Route 279 (Camp Arrowhead Road), 1.1 mile south of Route 277 (Angola Road).

The Commission found, based on comments received from the Office of State Planning Coordination, that the State has no objections to this application and that some of the agency comments that they had received included that the State Historic Preservation Office had noted that the 1868 Beers Atlas Map depicted some structures in the area of the site and that if there are any archaeological sites discovered during construction that may indicate these old structures, the developer should contact the State Historic Preservation Office; that DelDOT had commented that it does not appear that the proposal would generate enough traffic to warrant a traffic impact study; that the developer should contact the DelDOT planning office to discuss this issue; that the developer will be required to obtain an entrance permit; that the State DNREC noted that there was a septic permit issued for this site in 2000 and that the developer should check to be sure that the system was designed for the designated use; that the State DNREC noted that the project is located within the public service area granted to Tidewater Utilities and that the developer should contact Tidewater to determine the availability of public water to the site; and that the agency information provided in this correspondence should be considered and passed along to the developer to ensure that all issues are addressed.

The Commission found that Andy Strine was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that they propose to build a clubhouse for the residents of West Bay Park Mobile Home Community; that the park contains 360 homesites; that the park was established in the 1960's; that no open space of any size exists within the park; that a small recreational building exists within the park and that the building is not adequate to serve the number of residents; that they hope to utilize the new clubhouse for a bingo night, socials, and crafts for kids; that an activity director will be provided; that the clubhouse is intended for the use of the residents in the park and will not be leased out to other users; that they originally intended to locate a swimming pool at this site; that they have located a site within the park close to the Rehoboth Bay for the pool; that a pool will not be located on this site; that no homesites are proposed for this site; that the site is not intended for camper parking or storage; that a representative of the company or a member of the homeowners association will be present during all activities held at the clubhouse; that most of the residents will access the site by walking, biking, or driving a golf cart, not automobiles; that he has not yet been in contact with DelDOT in reference to the entrance permit for the site; that approximately 80 of the 360 homesites are occupied year round; and that the attic area of the proposed building is for attic storage only, not occupancy.

The Commission found that Mr. Strine submitted copies of the floor plan and elevation drawings of the proposed clubhouse.

The Commission expressed concerns about the safety of traveling across Route 279 from the park to the clubhouse site and lighting of the proposed intersection at the crossing.

The Commission found that John Radick and Edward Clifton, immediate neighbors, and Vince Kane and Don Rickards, area residents were present and expressed concerns about the use of the property and other uses that may be permitted as accessory to the use; concerns about trespassing; concerns about golf carts crossing Route 279; that if the site is approved the property should be fenced to eliminate the trespassing that is already taking place; trash; that some of the trees and access have already been cleared for possible construction; that two campers have been parked near Route 279; that kids ride the golf carts night and day with no supervision; that the park is not handling the problems with the kids in the golf carts; that the clubhouse should be located within the park; that there are other frontages to this parcel along Route 279; that curves of Route 279 exists near the proposed access; noise; speeding cars on Route 279; and that mail was not received since the County sent out the mail based on previous addresses, not 911 addressing.

The Commission asked Mr. Strine to respond to some of the objections. Mr. Strine stated that he has a manager on the site at least 4 days per week; that trees were logged from the area of the proposed building and on top of the hill; that there are rules within the park for

golf carts; that a driver must be at least 12 years of age or older to drive a golf cart within the park or must be supervised by an adult; and that he has no knowledge of any police involvement over the use of golf carts.

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

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

Motion carried 5 – 0.

Ordinance Amendment – AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING AN ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT OVERLAY ZONE.

Mr. Lank provided copies of comments received from the Office of State Planning Coordination, the Greater Millsboro Chamber of Commerce and the Long Neck Business Association, the Town of Bridgeville, and the Positive Growth Alliance for the record to the Commission.

The Commission found that Thomas Shafer of Shafer Consulting, contractor to the County for the preparation of ordinances to implement the Comprehensive Plan Update, was present and summarized the ordinance; stated that the Working Committee has reviewed the Ordinance and that there was a consensus of the Committee to recommend that the Ordinance be granted with the suggested addition that the list of considerations under Section B.2. include "Consideration of historic and cultural resources"; that the Ordinance complies with the intent of the Comprehensive Plan Update; that other ordinances will respond to the concerns expressed by some of the agencies that commented in the Office of State Planning Coordination comments; that it is his opinion that all of Section E. of the proposed Ordinance should be deleted since the buffers will be addressed in other proposed ordinances relating to the Comprehensive Plan Update; that the Ordinance is in the best interest of the County and will improve regulations; and that a specific description of the boundaries of the Environmentally Sensitive Development District Overlay Zone is needed.

The Commission found that Richard G. Collins, Executive Director of the Positive Growth Alliance, read the letter previously provided to the Commission and added that it should be noted that farm fields may have drainage ditches that cannot be touched based on this Ordinance.

The Commission found that Steve Callanen, Chairman of the Southern Delaware Group of the Sierra Club, was present and expressed concerns that there were no independent

groups represented on the Working Committee that reviewed the Ordinance, submitted copies of the "Underwater Naturalist" bulletin of the American Littoral Society which included recommendations for land use plan upgrades and referenced that recommendations for upgrades should include funding, regional planning, development of ordinances and regulations consistent with the Inland Bays CCMP, functional relationship between activities, consistency with Comprehensive Plans, environmental protection policies and standards, deletion of wetlands and golf courses from density calculations, buffers in critical areas, the need for non-tidal regulations, freshwater wetlands legislation, water quality criteria, wetlands mitigation, groundwater recharge, pollution controls, and agricultural preservation.

The Commission found that Sallie Callanen submitted and read comments relating to property rights which are made a part of the record.

The Commission found that Michael Tyler, President of the Citizens Coalition, stated that the County should consider a flexible buffer requirement; that the buffer section in the proposed Ordinance should not be deleted; read the purpose of the Environmentally Sensitive Development District from the Comprehensive Plan Update; stated that sewer infrastructure should be installed prior to development; that density should not exceed two units per acre; that the detrimental affects on the Inland Bays needs consideration and protection; and that the Environmentally Sensitive area should not be considered a developing area.

The Commission found that Henry Glowiak expressed concerns about the impacts on the Inland Bays; questioned if the district is a "developing district" or a "developing area" and referenced that the Ordinance references that "any proposed intensive use should be required to provide rigorous environmental study" and that "the Sussex County Council desires to protect and enhance the water quality of the County's "Inland Bays"; that a carrying capacity study is be performed on the Inland Bays in Worchester County; and that the proposed Ordinance does not reduce density or impervious surfaces.

The Commission found that Thomas Shafer expanded upon his suggestion to eliminate the buffer references from this Ordinance and stated that buffers already exists in the Zoning Ordinance; that additional or amended buffer ordinances will be created as the County prepares ordinances to comply with the Comprehensive Plan Update; that the Working Committee has a good balance of members; that the Working Committee is looking at the entire area, not just ordinances; and that the County needs an ordinance in place now and that this Ordinance is better than what exists.

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

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that the Ordinance be approved with the conditions that the list of considerations under Section B.2. include "consideration of historic and cultural resources" and that Section E. be deleted in its entirety.

Motion carried 5 – 0.

OTHER BUSINESS

Wilgus Associates, Inc.
C/U #1480 Site Plan – Savannah Road

Mr. Abbott advised the Commission that the site plan is for a 4,102 square foot one-story office building; that the setbacks meet the requirements of the zoning code; that 21 parking spaces are required and proposed; that central sewer will be provided by Sussex County and that water will be an on-site well; that there are not any wetlands on the site and that the site is not located in a flood zone; that the site plan meets the requirements of the condition of approval; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. 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.

Motion carried 5 – 0.

Jay Beach
C/U #1370 Revised Site Plan – Route 24

Mr. Abbott advised the Commission that the staff has received a request to add the sales of mulch and stone to an existing conditional use application; and that the mulch and stone will be stored to the west of the site.

Mr. Robertson advised the Commission that he has reviewed the conditions of approval and that since the County Council amended the proposed conditions of approval, the Commission does not have the authority to permit the sale of mulch and stones since the condition did not originate with the Commission.

It was the consensus of the Commission that the applicant needs to apply for an amended conditional use application.

Raymond Michitti
C/U #1360 Time Extension – Road 357

Mr. Abbott advised the Commission that this application was approved by the County Council on October 17, 2000 for 24 multi-family units; that the Planning and Zoning Commission granted one-year time extensions on June 28, 2001 and September 26, 2002; that the zoning code permits the Commission the authority to grant up to two time extensions; that one of the conditions of approval was that the project be served as part of the Cedar Neck Sanitary Sewer District; that the sewer district has not yet been completed; and that the request is due to the sewer district not being completed.

Jim Fuqua, Attorney, advised the Commission that he is not sure if the developers have obtained any agency approvals; that the lending institution will not provide any financing until the sewer is completed; and requested an eight month extension.

Mr. Robertson advised the Commission that he would need to research this request since the Commission has already granted two extensions.

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

Motion carried 5 – 0.

Bill Cain
Front Yard Determination – Road 312

Mr. Abbott advised the Commission that this is a request to consider the Indian River Bay as the front yard and Road 312 as the rear yard for setback purposes; and that the Commission approved the adjoining parcel for the same request back in 1997.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve this request with the stipulation that the minimum rear yard setback be 10-feet.

Motion carried 5 – 0.

Americana Bayside MR/RPC
C/Z #1393 Master Record Plan – Route 54

Mr. Abbott advised the Commission that the master record plan is for 1,640 units; that 6 different villages are proposed; that there is an 18 hole golf course, clubhouse, community recreation area and center proposed; that the residential units will be a mix of

patio homes, estate homes, grand estate homes, custom homes, duplexes, townhouses and flats; that 1,700 units are permitted by the approved ordinance; that the retail area on the south side of Route 54 is permitted to be 170,000 square feet; that the master plan depicts how the project will be developed; that each phase of the project will be subject to the review and approval of the Planning and Zoning Commission; that the attorney for the developer is requesting that Condition Number 20 relating to site work being commenced be revised to the Schrader amendment; and that the developers be permitted to begin site work on the golf course as it was a permitted use under the original zoning district.

Jim Fuqua, Attorney, was present and advised the Commission that the site plan is a reduction of the total number of units that are permitted; that the developers would like to have Conditions Numbers 20 and 21 amended; that the developers would like to begin construction on the golf course as soon as possible; that Road 394 will not be vacated, that the developers are in the process of having the road relocated through DelDOT; that in residential planned communities, the Commission may amend the requirements of heights and setbacks through the RPC section of the Code; that for the townhouse units, the developers would like to have a 35-foot yard aggregate instead of the 40-feet; that the code requires lot to have a minimum width of 150-feet on numbered roads and since they are in the process of having Road 394 relocated, they are requesting to have lot widths of 60 to 75-feet as is the case on private streets; that the maximum allowed height in the MR district is 42-feet and they are requesting the maximum allowed height to be 52-feet for the multi-family units and commercial uses; that the 52-foot height limit is permitted in the HR districts which is close to how this project will be developed; that the proposed multi-family units will have parking located underneath the buildings and that the developers are requesting the parking spaces to be 9-feet by 18-feet; that the entire project will require 4,417 parking spaces and that the spaces will be provided throughout the project; that the developers will provide over flow parking on grass areas; and that the RPC section of the code encourages design ingenuity to create superior living environments.

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

Motion carried 5 – 0.

Meeting adjourned at 10:56 P.M.