

MINUTES OF THE REGULAR MEETING OF AUGUST 28, 2003

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 28, 2003 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as amended noting that no action is necessary on Subdivision #2002-14 since the site has been annexed into the Town of Millsboro, and since the applicants have requested removal of Raymond Michitti from the agenda.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of August 14, 2003 as amended.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of August 21, 2003 as amended.

OLD BUSINESS

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. Lank advised the Commission at the beginning of the meeting that the site for this application has been annexed into the Town of Millsboro according to Faye Lingo, the Town Manager of Millsboro, and that no action is necessary.

Subdivision #2002 – 27 - - application of **JAMES G. AND CAROLYN M. FOX** to consider the subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 97.60 acres into 4 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 46, 902.55 feet southeast of Road 517-A.

Mr. Abbott advised the Commission that this application received preliminary approval on November 14, 2002; that the final record plan is the same as the preliminary plan; that the plan meets the requirements of the subdivision code; that all agency approvals have been obtained; and that the final plan is suitable for final approval.

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

Motion carried 5 – 0.

Subdivision #2002 – 32 - - application of **OLD OAK PROPERTIES, L.L.C.** to consider the subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 14.51 acres into 13 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 298 and approximately 1,080 feet southeast of Route 24.

Mr. Abbott advised the Commission that this application received preliminary approval on February 27, 2003; that the final record plan is the same as the preliminary plan; that the plan meets the requirements of the subdivision code; that all agency approvals have been obtained; and that the final plan is suitable for final approval.

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

Motion carried 5 – 0.

Subdivision #2002 – 45 - - application of **FRAN GONZON** to consider the subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 84.34 acres into 81 lots, located south of Road 251, 2,650 feet east of Road 319.

Mr. Abbott advised the Commission that this application has been deferred since April 17, 2003; that the staff received a septic feasibility statement from DNREC; and that according to the report, the site is suitable for individual on site septic systems.

Mr. Johnson stated that he would move that the Commission grant preliminary approval for this application based upon the record and for the following reasons, and asked Mr. Robertson to read his motion.

Mr. Robertson read that Mr. Johnson moves that we grant preliminary approval of Subdivision 2002 – 45, for Fran Gonzon, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The proposed subdivision density conforms with the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will be a restricted residential development and will not

adversely affect nearby uses or property values.

4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
5. DNREC has indicated that the site is suitable for individual on site septic systems.
6. The site is mostly open with some wooded areas. The Applicant has stated that the woods will not be destroyed.
7. The Applicant has agreed to comply with all recommendations of the Technical Advisory Committee.
8. All stormwater management will be handled on site through a series of retention ponds without any outfall or runoff to neighboring or adjacent properties.
9. This recommendation is subject to the following conditions:
 - Only 81 single-family lots shall be permitted.
 - The Applicant shall prepare and record formal Restrictive Covenants governing the development and cause to be formed a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
 - The stormwater management system shall meet or exceed the requirements of the State and County. No drainage or runoff from the land that is the subject of this application shall flow onto adjacent properties.
 - All entrances shall comply with all of DelDOT's requirements.
 - The Restrictive Covenants shall include the Agricultural Use Protection Notice.
 - State and/or Federal wetlands appear to be located within the proposed project. The wetlands disclosure notice required by County Code must be in the Restrictive Covenants.
 - The site is mostly open area with some wooded areas. As the Applicant has agreed, the wooded areas will not be destroyed.
 - No wetlands on the site shall be impacted.
 - As the Applicant has agreed, the homes shall have a minimum square footage of 2,500 feet and shall be stick built on site and shall not be manufactured homes.
 - The Applicant shall follow all recommendations made by the Technical Advisory Committee.

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

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.

Mr. Abbott advised the Commission that this application has been deferred since July 24, 2003.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve this application as a preliminary based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County. In this case, the proposed subdivision will be directly behind an existing strip subdivision along Benson Road and Jefferson Road.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
5. The Applicant has indicated that the site is suitable for septic.
6. The proposed Restrictive Covenants address the maintenance of streets, open space, and stormwater management areas.
7. This recommendation is subject to the following conditions:
 - The Applicant shall prepare and record formal Restrictive Covenants governing the development and cause to be formed a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
 - The stormwater management system shall meet or exceed the requirements of the State and County. No drainage or runoff from the land that is the subject of this application shall flow onto adjacent properties. In addition, the stormwater management ponds shall not be located along the perimeter of the project.

- All entrances shall comply with all of DelDOT's requirements.
- The entrance to Randall Sharps' property shall be relocated from the Applicant's property to Mr. Sharp's property and blacktopped, at the Applicant's expense and to the satisfaction of Mr. Sharp, as stated by the Applicant in his presentation to the Commission.
- The Restrictive Covenants shall include the Agricultural Use Protection Notice, if required.
- On the Final Site Plan, the Applicant shall designate the remaining parcels of 1st State Development, LLC as Parcel A and Parcel B, along with metes and bounds. Parcel B shall have a single access from Jefferson Road.
- Any costs associated with the reconstruction of the entrance to the project from Benson Road shall be paid by the Developer.
- The Commission suggests that the Final Restrictive Covenants require a minimum square footage for all homes of at least 1,500 square feet. This would cause the new homes to conform to the existing homes located on the strip development along Benson and Jefferson Roads.

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.

Mr. Abbott advised the Commission that this application has been deferred since July 24, 2003; and that Mr. Fuqua, the applicant's attorney, submitted a phasing plan of the proposed subdivision.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action so that the Commission has an opportunity to review the revised preliminary site plan of the 215 lots as recommended by DelDOT.

Motion carried 5 – 0.

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 13.32 acres, more or less, lying northwest of Route 611, 1,500 feet south of Route 16.

The Commission discussed this application which has been deferred since August 14, 2003.

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

Motion carried 5 – 0.

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 discussed this application which has been deferred since August 14, 2003.

Mr. Johnson stated that he would move that the Commission recommend denial of C/U #1501 for Rehoboth Bay Conservancy, LLC for a community recreational center and parking based upon the record made at the public hearing and for the following reasons:

- 1) The application, if approved for the proposed location would be detrimental to the health, safety and general welfare of residents of the West Bay Park Mobile Home Community, neighboring property owners, and pedestrians and motorists in the area.
- 2) The area where the proposed recreational center or clubhouse would be located is not suited for this particular use. It is not contiguous to the rest of West Bay Park Mobile Home Community.
- 3) The proposed Conditional Use will have a significant impact upon traffic. It is located across Camp Arrowhead Road from West Bay Park Mobile Home Community, which it would serve. This would cause a potentially dangerous increase in vehicle, golf cart and pedestrian traffic crossing Camp Arrowhead Road at a location that is already hazardous.
- 4) The project, if approved, would have a negative impact on neighboring and adjacent properties, for the reasons previously stated. In addition, the project would lead to increased noise in the neighborhood.

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

Motion carried 5 – 0.

PUBLIC HEARINGS

Subdivision #2003 - 15 - - application of **TLC REAL ESTATE SOLUTIONS, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 5.15 acres into 3 lots, located at the corner of the intersection of Hudson Street and Falls Road within Creek Falls Farm Subdivision.

Mr. Abbott advised the Commission that the applicant has provided the required 51% agreement from the existing property owners; and that this application was not reviewed by the Technical Advisory Committee since no new improvements are required for this project.

The Commission found that Raymond Chelios and John Tarburton, Attorney, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that 66% of the property owners are not opposed to this application; that the owner will retain Parcel A and sell Parcels B and C; that the existing pond located between Parcels B and C will be maintained by the future lot owners; that the owner will retain the existing silos as the residents in the area would like for them to remain; that the site drains well; and that the existing driveway around the dwelling on Parcel A will remain.

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

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

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

Motion carried 5 - 0.

Subdivision #2003 - 16 - - application of **WILLIAM HICKS** to consider the subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 23.37 acres into 2 lots, located northeast of Road 541, 1,075 feet southeast of Road 538.

Mr. Abbott advised the Commission that the Technical Advisory Committee reviewed this application on May 14, 2003 and that the report will be made a part of the record for this application; and read a letter from James and Irene Jones in opposition to this application.

The Commission found that William Hicks was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he proposes to sell a 5-acre parcel; that he will retain the remaining acreage and build a new dwelling on it; that the subdivision is required so that the property will be in his name only; and that the existing right of way is improved with clamshells and that he would like to keep it that way.

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

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

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

Motion carried 5 – 0.

C/Z #1513 – application of **WINDMILL VENTURES, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR Medium Density Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying east of Route 352 (Windmill Road), 0.4 mile south of Route 26, to be located on 34.09 acres, more or less.

C/U #1502 – application of **WINDMILL VENTURES, LLC** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 34.09 acres, more or less, lying east of Route 352 (Windmill Road), 0.4 mile south of Route 26.

James Fuqua, Attorney on behalf of this application, requested that the presentation on both applications be presented together and that the comments made on behalf of the application be made a part of the record for both applications.

The Commission found that the Applicants had submitted a booklet of information prior to the meeting and that the booklet included a presentation outline, references to land use and zoning, land utilization, a description of the plan, civil engineering, economic impacts, highway entrance and environmental issues.

Mr. Lank provided the Commission with copies of the comments from the Office of State Planning Coordination for the record. The comments were dated August 19, 2003 with attached comments dated July 8, 2003 and referenced comments from the Department of Agriculture, DelDOT, the State Historic Preservation Office, and DNREC.

The Commission found, based on comments received from the Sussex County Engineering Department Public Works Division, that the Division recommends that the proposed project should be subject to review of the Technical Advisory Committee; that the roads should be designed, constructed and inspected in accordance with the street design requirements of Chapter 99; that the streets should be curbed and utilize a closed pipe drainage system for the multi-family areas, as construction of the dwellings destroys earthwork and finished grades of drainage swales; that sidewalks and streetlights should be provided for all multi-family areas; and that adequate safety features should be provided that would not require pedestrians to walk within the streets or in the dark to access their units and community areas.

The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Division, that the site is not within a County operated and maintained sanitary sewer and/or water district; that wastewater capacity is available for the project; that Ordinance No. 38 construction will be required; that the project is adjacent to a County sanitary sewer district; and that the proposed project is within the proposed Millville/North Millville Expansion of the Bethany Beach Sanitary Sewer District.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, Fallsington sandy loam, Klej loamy sand, Pocomoke sandy loam, and Woodstown sandy loam; that the Evesboro soils have slight limitations for development; that the Klej and Woodstown soils have slight to moderate limitations; that the Fallsington and Pocomoke soils have severe limitations; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro, Fallsington, Klej and Pocomoke soils are considered of Statewide Importance; that the Fallsington, Pocomoke and Woodstown soils are considered Prime Farmland; that all of the soil types are considered either Hydric, Hydric in depressions, or Hydric in small depressions; that no storm flood hazard areas or tax ditches are affected; that it will be necessary for some on-site and off-site drainage improvements due to the very poorly drained soils and the increase in impervious areas; that there may be wetlands present; and that the Applicant should check with the Army Corps. of Engineers for permit information.

The Commission found that a letter was received from Frank Minner of Minner Group L.L.C. in support of this application.

The Commission found that Hugh and Marilyn O'Neal and Patrick Montague were present with James A. Fuqua, Jr., Attorney, Jerry Friedel and D. J. Hughes of Davis, Bowen & Friedel, Inc. and Brooks Clayville of Atlantic Resources Management, Inc. and stated in their presentations and in response to questions raised by the Commission that

They are proposing to rezoning the site to MR Medium Density Residential to allow for a Conditional Use application for 106 multi-family units; that the proposed gross density is 3.11 units per acre; that central water will be provided by Tidewater Utilities, Inc.; that central sewer will be provided by Sussex County; that there should be little to no impact on school enrollment; that that Applicants intend to provide a \$100.00 contribution to the local fire company for each sale and condition that \$100.00 be provided per unit annually through the home owners association; that the site is located in a growth area; that the site is adjacent or in close proximity to the Towns of Millville and Ocean View; that the area is developed with single family homes, multi-family units and townhouses; that both of the towns are working on their future annexation maps; that the use will be an economic benefit to the County; that the developer has agreed to all of the recommendations required by DelDOT; that the studied intersections operate at acceptable levels of service; that the site is suitable for development; that approximately 9 acres of wetlands exists on the site; that the Army Corps. of Engineers have verified the wetlands delineation; that the parcel is wooded; that wooded buffers are proposed with a 50-foot width along the east side, 30-foot width along the north side, and 30-foot width along the south side and will remain undisturbed; that some of the recommendations of DNREC are non-regulated and not based on existing laws; that Jessica Watson of the Sussex Conservation District has informed them that there will be no review performed on TMDL's until regulations are passed; that Best Management Practices will be performed; that the referenced 1.07 acres of "other waters of U.S." are ditches that exists on the site and that the Army Corps. of Engineers assumes jurisdiction; that a Landscape Architect will manage the landscaping plan; that they propose to retain 50% of the trees; that the street is designed with an internal loop and will meet or exceed County standards; that the streets will have some vertical and some rolled curbing; that there will be 6 to 8 units per building; that sidewalks and street lighting will be provided; that at least 3 parking spaces will be provided per unit; that 4-foot high fencing will be provided to screen vehicle lights in parking areas; that the majority of the homes in the area are single family dwellings; that the parking in the area does back into the street and that the street is actually a driveway serving the parking areas; that the project has a greater density than the single family homes in the area; that the Comprehensive Plan suggests that the use is appropriate in this growth area; that the referenced buffers are being provided voluntarily; that the project is designed to be environmentally sensitive; that the units will be townhouse designed and sold as condominiums; and that the Applicants feel that the "Schrader" rule is necessary because they need time to get a head start on site work due to delays in other permits.

The Commission found that Mr. Fuqua submitted copies of the Traffic Impact Study for the project, a letter from the Army Corps. of Engineers, a letter from Davis, Bowen & Friedel, Inc. to the Office of State Planning Coordination, fourteen (14) suggested conditions of approval, and eleven (11) letters in support of the application.

The Commission found that there were five parties present in support of the applications.

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

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

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to defer action on C/Z #1513.

Motion carried 5 – 0.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to defer action on C/U #1502.

Motion carried 5 – 0.

C/U #1503 – application of **ELTON AND DONNA MURRAY** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a self-storage facility to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 40,923 square feet, more or less, lying north of Road 346 (Holts Landing Road), 210 feet west of Route 348 (Irons Lane).

Mr. Robertson announced that he would not be participating in this public hearing since his firm represents a neighboring property owner.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State has no objections to this application; that DNREC referenced soil types; that the soil types are conducive to nutrient leaching via groundwater runoff and thence into receiving tributaries of the watershed; that these impacts are intensified in those soils containing shallow water tables; that stormwater will be a primary concern from the DNREC perspective and impervious cover should be held to a minimum and that opportunities for vegetative buffers should be explored; that the State Historic Preservation Office commented that there is a potential historic property adjacent to the site on the east which would be affected by the new construction; and that it is recommended that the Applicant be required to provide landscaping on the east and north sides of the site to serve as buffers between the new building and the existing house and agricultural buildings.

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

that the Woodstown soils are considered Prime Farmland and Hydric in depressions; 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 Elton Murray was present and stated in his presentation and in response to questions raised by the Commission that 14-years ago the site was approved for an electrical substation; that the electrical substation was never built; that the fence was erected and sediment/erosion control installed by the Delaware Electric Cooperative; that he has spoken to DelDOT representatives and has been advised that he will be required to pave the entrance; that he does not intend to erect an office on the site; that there will not be any well or septic on the site; that an electronically controlled gate will be installed with time limitations for access; that surveillance cameras will be installed; that the buildings will be constructed on metal with at least a 3/12 pitch roof; that no outside storage is intended; that the entrance location will remain the same; that the gate will be moved back into the site so that clients can access the site without blocking the entrance; that most of the site will be paved; that security lighting will be installed in the eaves of the buildings so that the lights do not impact neighbors; that he may erect a small sign on the site; and that all doors to the units will face into the interior of the site.

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

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

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

Motion carried 5 – 0.

C/U #1504 – application of **NARDO, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District and a B-1 Neighborhood Business District for expansion of Conditional Use No. 1290 (Ordinance No. 1323) for additional offices and storage to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 5.0 acres, more or less, lying south of Route 9, 0.5 mile west of Route 262.

Mr. Wheatley announced that he would be not be participating in this public hearing.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service "E" will not change as a result of this application.

The Commission found, based on comments received from the Office of State Planning Coordination, that this parcel is located in the Rural area of the Strategies for State Policies and Spending document; that the State would prefer to see this type of development in the Community or Developing areas of the Strategies and noted that there is a conditional use already approved for office space and storage; that the State has no objections to this application; that it has been noted that a potential historic property may exist a few parcels to the west of the site; that landscaping on the westerly side of the site will help lessen any visual effects; that there is a 75% probability for prehistoric archaeological sites; that if there is any ground disturbance, the Applicant should be aware that there could be historic archaeological sites and to call the Office of Historic Preservation if any are found; that DNREC has issued a septic permit for the site and that the Applicant should check to make sure that the system was designed for the intended use; and that well permits are required and that wells must be installed by a licensed water well contractor.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Pocomoke sandy loam; that the Evesboro soils have slight limitations; that the Pocomoke soils have severe limitations; that the Applicant 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 Pocomoke soils are considered of Statewide Importance, Prime Farmland, and Hydric; that there are no storm flood hazard areas or tax ditches affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Dyno Nardo was present with Shawn Tucker, Attorney, and Jessica Nichols of Meridian Consulting Engineers, L.L.C. on behalf of the application.

The Commission found that Mr. Tucker submitted photographs of the site, the landscaping on the site, the stormwater management pond to the rear of the site, a swale on the site, the parking lot, and the adjoining business to the west of the site.

The Commission found that the representatives of the application stated in their presentations and in response to questions raised by the Commission that the existing stormwater management plan for the site should handle the proposed expansion; that the use limits commercial sprawl from occurring; that the existing units have been rented out; that there is a need for this type of business in the area; that the site adjoins other commercial and business uses; that the State does not object to the expansion; that three (3) additional buildings are proposed with a maximum square footage of 25,000 square feet; that several commercial/business uses exist in close proximity; that the rear of the site is a railroad; that the use is consistent with the Comprehensive Plan Update; that the use could be considered in-fill since it is surrounded by other commercial/business uses;

that all driveways and parking areas will be paved; that no fencing is intended; that the Applicant has no objection if fencing is required; that no additional signage is proposed; and that security lighting on the building exists and is proposed in the expansion area.

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

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

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried 4 – 0 to defer action. Mr. Wheatley did not participate in the vote.

Motion carried 4 – 0.

OTHER BUSINESS

The Peninsula MR/RPC Phase 1A Site Plan – Road 299

Mr. Abbott advised the Commission that the site plan is for 8 of the 18 golf holes that are proposed, 10 detached single family clustered dwellings, 19 single family lots, and 20 multi-family units within 4 buildings; that the site plan is the same as the master plan that was approved by the Commission on July 24, 2003; that the site plan is suitable for preliminary approval; and that final approval shall be subject to the review and approval by the Commission upon receipt of all agency approvals.

Jim Fuqua, Attorney, was present and requested that the Commission review the stipulation about curbing on the proposed streets; that curbing is not proposed for all streets and requested that the Commission review and approve the curbing and sidewalks as each phase is submitted.

It was the consensus of the Commission that curbing and sidewalks will be reviewed with each phase.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve Phase 1A as a preliminary.

Motion carried 5 – 0.

Ellis Point AR-1/RPC
Master Record Plan – Road 346B

Mr. Abbott advised the Commission that this is the master plan for a 56 unit residential planned community; that the 56 units are permitted by the approved ordinance; that a swimming pool, bathhouse, sidewalks, street lighting, and landscaping are proposed; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that 4 parking spaces per unit are proposed which includes a 2 car garage for each unit; that since the project is a residential planned community, the developers are requesting front yard setbacks of 12 feet; that the required 50 foot buffer from State wetlands is proposed; that the developers have reached an agreement with the owners of the borrow pit across from Road 346 B and will erect a fence; that both parties have agreed to the fence being installed and that there is a letter in the file verifying this; and that each phase of the project will be subject to the review and approval of the Commission.

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

Motion carried 5 – 0.

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

Mr. Lank advised the Commission at the beginning of the meeting that this item was withdrawn from the agenda at the applicant's attorneys' request.

- Americana Bayside MR/RPC
- a. Condition No. 20 Amendment
 - b. Condition No. 21 Amendment
 - c. Master Record Plan
 - d. Golf Course Site Plan
 - e. Phase I Site Plan
 - f. Phase II Site Plan

Mr. Abbott advised the Commission that this item was deferred at the August 14, 2003 meeting; and that Mr. Fuqua has provided the Commission with copies of the request for their review.

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

Motion carried 5 – 0.

It was the consensus of the Commission, that a special meeting will be held on September 18, 2003 to review this item.

State Parks

Amendment to Site – Campsites with Cottages – Indian River Inlet

Mr. Abbott advised the Commission that the Division of Parks and Recreation are proposing to delete campsites within the campground and add 12 cottages.

Greg Kindig of the Parks and Recreation advised the Commission that the location of the cottages would be to the west of the Coast Guard Station and that the proposed location of the new bridge will delete campground spaces.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the 12 cottages.

Motion carried 5 – 0.

Meeting adjourned at 10:15 P.M.