

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 26, 2002

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 26, 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. Abbott – Assistant Director, and Mrs. 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 August 29, 2002 as amended.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to approve the minutes of September 11, 2002 as circulated.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the minutes of September 12, 2002 as amended.

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

PUBLIC HEARINGS

C/U #1465 - - application of **CHARLES H. HAYES, JR.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for go-karts, parts and repairs, and building material storage for a contractor to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 39,610 square feet, more or less, lying north of Route 9 and 850 feet east of Road 319 (Sand Hill Road) and east of Georgetown.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not requested; that however they are concerned that the proposed conditional use would add more traffic to an area with existing poor levels of service (E) during the summer peak hour, and that they have concerns regarding access to the property; that the Statewide Long Range Transportation Plan divides the State into Multimodal, Management, and Preservation Investment Areas; that these areas are still defined only conceptually, but as they are currently drafted, this project is in a Multimodal Investment Area; that the SLRTP designates most of the area immediately surrounding Georgetown as such an area; that in Multimodal Investment Areas, DelDOT intends to support development with a more comprehensive menu of transportation facilities and services; that in these areas, they plan to make investments to diversify the transportation system by adding capacity and supporting development that is consistent with that goal; that

investments in transit, bicycling, and walking facilities are their focus so that they can support these alternative modes as supplements to the automobile; that with that said, they are still concerned about levels of service in these areas; that the subject segment of Route 9 (from Road 319 to Road 249) operates at unacceptable levels of service (E) during the summer peak hour; that considering the Cabinet Committee on State Planning Issues' Strategies for State Policies and Spending map, the subject property is in a Secondary Developing Area; that these strategies include a map that is similar in function to their Transportation Investment Area Map, but which is intended to reflect the concerns of all the cabinet agencies within the State government; that according to the Strategies, development in a Secondary Development Area should reflect an orderly, phased and guided policy, while remaining sensitive to agricultural and environmental preservation objectives; that the subject property is only 0.82 acres and the proposed hobby shop would not be considered an intense use; that regarding the access to the site, they have some concerns; that the applicant will need to contact Mr. Wayne Thornton, South District Permit Supervisor, for an entrance permit; that the access will need to be altered to conform with DelDOT policy; that the existing horseshoe driveway will need to be eliminated; and that in conclusion, they do not recommend a traffic impact study; that they are concerned that the proposed conditional use would add more traffic to an area with existing poor levels of service (E) during the summer peak hour; and that they have concerns regarding the access to the property.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on site are Fallsington sandy loam and Woodstown sandy loam; that with respect to erosion and sedimentation control, the developer should follow recommended erosion and sediment control practices during construction and maintain vegetation after construction; that the farmland rating of the Fallsington soils is of Statewide Importance, Prime Farmland, Hydric Soil; that the farmland rating of the soil for the Woodstown soils is Prime Farmland, Hydric Soil in depression; that no storm flood hazard area is affected; that it would not be necessary for any off-site or on-site drainage improvements; and that no tax ditch is affected.

The Commission found that Charles Hayes was present and stated in his presentation and in response to questions raised by the Commission that he works on go-karts as a hobby; that his hours are usually two nights a week from 6:00 P.M. until 10:00 P.M. and Saturdays from 10:00 A.M. until 2:00 P.M.; that he sells parts and does repairs; that Tuesdays and Thursdays are usually the two nights a week that he works; that there is adequate parking for approximately six to eight vehicles; that the parking area is presently stone; that there is an existing security light on the building; that if approved, he would like to have a lighted sign for advertising; that he has a construction business and stores materials inside the building and also does estimates in the building; that the applicant and his son are the only employees; that they rebuild parts; that there are not any noises associated with the business as all work is done in the building; that they do

not work outside; that the building has a sound proof room for starting engines; that no welding takes place at the site; that bent frames are sent away to be repaired; and that there is no outside storage.

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

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

Motion carried 5 – 0.

C/Z #1479 - - application of **PEPPER CREEK JOINT VENTURE** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR/RPC Medium Density Residential/Residential Planned Community for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, land lying south of Piney Neck Road (Road 336) and across from Adams Road (Road 335A), to be located on 148.13 acres, more or less.

The Commission found that the applicant had submitted, prior to the meeting, a packet of information that included a feasibility study for community wastewater treatment system, a preliminary design report on wastewater treatment system, a phase 1 environmental assessment report, a letter from Tidewater Utilities, Inc. regarding water dated September 12, 2002, a letter from DNREC regarding feasibility of community wastewater system dated May 31, 2002, a letter from DelDOT dated November 2, 2001, a letter from the law firm of Marzulla & Marzulla regarding Habitat Conservation Plan & Compliance dated September 18, 2002, Greenbelt Concept Layout, seven copies of an Application Information Booklet that included a location map, site data and site plan, a letter from Tidewater, a letter from DNREC, community wastewater system summary, DelDOT letter, Marzulla & Marzulla letter, greenbelt concept layout, and proposed conditions for approval.

The Commission found, based on comments received from DelDOT, that a traffic impact study was recommended; that the traffic impact study was done by C. David Jamison; that the traffic impact study was prepared in a matter generally consistent with DelDOT's Rules and Regulations for Subdivision Streets; that the residential development is proposed to be located on 148 acres of land situated on the south side of Piney Neck Road (Road 336), opposite Adams Road (Road 335A) and west of Marina Road (Road 335B); that the site is projected to consist of 300 single family detached houses, that access is proposed to be from two non signalized driveways on Piney Neck Road; that the review of the TIS indicates that all levels of service would be acceptable at seven of the

nine intersections studied for all cases studied; that two intersections where unacceptable levels of service would occur are Delaware Route 20 and Piney Neck Road and Delaware Route 20 and Iron Branch Road (Road 331); that the failing movements for both of these intersections are for vehicles turning left onto southbound Route 20; that in both cases, site traffic either directly contributes to the turning volume or to the reduction in gaps of the through movement volume; that if should the County choose to approve this project, there are certain items that should be made part of the record plan for the project and constructed prior to the issuance of any certificates of occupancy; that the traffic impact study referenced the project description and background, long range plans, capital improvement program, trip generations, an overview of the TIS, intersection analyses, Piney Neck Road / Site Entrance A, Piney Neck Road / Site Entrance B, Piney Neck Road / Delaware Route 20, Piney Neck Road / Hudson Road, Piney Neck Road / Adams Road, Bunting Road / Adams Road, Bunting Road / Iron Branch Road, Hudson Road / Iron Branch Road, Iron Branch Road / Delaware Route 20, Transit / Pedestrian / Bicycle Review, that should the County find it appropriate to approve the rezoning necessary for this project, they would recommend the following items be incorporated into land development plan associated with the RPC overlay zoning; 1) the applicant should be required to enter two agreements whereby they would fund future DelDOT intersection improvements at such time as DelDOT determines that they are needed: a) A signal agreement covering an equitable portion, as determined by DelDOT, of the costs of installing a signal at the intersection of Route 20 and Iron Branch Road, b) An agreement covering an equitable portion, as determined by DelDOT, of the costs of installing a signal at the intersection of Route 20 and Piney Neck Road, with a provision that DelDOT may instead use those funds for improvements to the intersection of Iron Branch and Hudson Roads; and 2) Sidewalks, multi-use paths and related features, to be identified by DelDOT through the plan review process, should be included in the plan.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on site are Evesboro loamy sand, Rumford loamy sand, Sassafras sandy loam, and Woodstown sandy loam; that the suitability of the soils for the intended use have slight to moderate limitations; that with respect to erosion and sedimentation control the applicant will be required to follow recommended erosion and sediment control practices during construction and maintain vegetation after construction; that the farmland rating of the soils is of Statewide Importance and Prime Farmland, Hydric Soil in depression; that no storm flood hazard area is affected; that it would not be necessary for off-site or on-site drainage improvements; and that no tax ditch is affected.

The Commission found, based on comments received from the Office of State Planning Coordination, that the property is located in a Rural Area of the Strategies for State Policies and Spending document approved by the Cabinet Committee on State Planning Issues in December 1999; that the State prefers to see residential subdivisions located

within the developing or secondary developing areas; that for this reason, the State objects to this proposal; that State agencies have provided comments that should be considered when making a decision on this application; that the Delaware Emergency Management Agency has noted that the majority of the property is outside the floodplain; however, and new construction along the banks of Pepper Creek would be within the narrow band of the 100-year flood plain and would be required to comply with the County floodplain regulations; that the State Historic Preservation Office stated that there were some structures located on this property at one time, and if they are still extant, they could be historic resources; that they also noted that there is a house across Piney Neck Road that could be historic; that some landscaping could help buffer the visual impact development may have on that potential resource; that the Department of Transportation commented to Sussex County on November 2, 2001 on the traffic impact study for this proposed development; that if development does occur on this property, the State recommends the County require the developers to address the DelDOT concerns addressed in the November letter; that the Department of Natural Resources has noted that the handling of wastewater in this development will be important in determining nutrient loading; that as proposed the development is to be served by an on-site community wastewater system; that this is preferable to on-site septic systems, however, DNREC would prefer to see the development tied into the Piney Neck Wastewater Plant; that given the TMDL regulations and the ERES waters designation for this area, the developer should conduct an assessment to determine which wastewater disposal method might achieve the 85% and 60% reduction targets called for by TMDLs; that before any development of the pre- and post development nutrient loadings be completed; that department records indicate Tidewater Utilities holds the certificate of public convenience and necessity to supply public water to the project; that if on-site public wells are needed they must be located at least 150-feet from the outer boundaries of the development and from all existing and potential sources of contamination such as septic systems; that additionally, if dewatering is needed during any phase of construction, dewatering well permits must be obtained prior to the construction of the dewatering points; that all wells must be constructed by a licensed well driller, and dewatering well points must also be abandoned by a licensed well driller when they are no longer needed; that the applicant should allow three to four weeks for processing well permit applications; that a review of the Delaware Natural Heritage Program (DNHP) Biological and Conservation databases indicates there is a population of *Enneacanthus odesus* (banded sunfish), a state rare fish, within Pepper Creek; that this fish is restricted to heavily vegetated areas of water and uses these habitats as feeding areas and as nurseries; that efforts should be made to avoid impacts to submerged aquatic vegetation within and adjacent to the project site in order to maintain habitat for this rare fish; that the State is concerned about the development of this parcel because of the ecological value of the Inland Bays watershed and the fact that it is located in a "Rural" area on the Strategies maps; and that the State respectfully asks that the County deny this application.

The Commission found, based on comments received from the Division of Water Resources Ground Water Discharges Section, that the department has performed an engineering review of the preliminary wastewater plans for the development; that the plan proposes an on-site community wastewater system with a centralized treatment facility located outside the conservation zone, which will provide a high quality of effluent using advanced treatment; that the effluent from the centralized treatment facility will have ten or fewer parts per million nitrogen; that the effluent will discharge into a land treatment (drip irrigation) system; and that although the Department recommends that the project connect to the County's municipal system (Dagsboro Sanitary District), this method of wastewater treatment and disposal should meet the centralized wastewater systems as described in Section 115-194, Subsection B (3) of the Sussex County Code for Residential Planned Community district found under Article XVI.

The Commission found, based on comments received from the Sussex County Engineering Department, that the proposed plan should be subject to review by the Planning and Zoning Commission's Technical Advisory Committee; that the plan depicts 25 feet wide cross access easements containing streets that pass within many private lots; that the cross access easements should not be permitted as shown by this plan; that they create landlocked portions of private property between the commonly owned right of way and the individually owned street easements; that streets and drainage are community features and should be located within community property under the organization of a property owner association; that the streets contained within the cross access easements should not be located on the private lots but be included within the right of way; that this change could easily be made by extending the right of way to contain the looped streets; that the areas between streets would become community open space or landscaped buffer areas to separate the looped drives from the larger interior streets; that the streets shall conform to the Standards of the Subdivision Ordinance; that street name signs will be required at all intersections due to the 911 re-addressing program; that signs shall be located and constructed to be clearly visible at all times; that the plan depicts a private community sewer system; that private community systems are permitted under Sussex County Ordinance 657; and that due to the proximity of the project to the Dagsboro / Frankford Sanitary Sewer District and Sussex County's Piney Neck Wastewater Treatment and Spray Facility, construction of the collection and transmission system portions of the community system should be constructed and maintained in accordance with Sussex County Ordinance 38 requirements.

The Commission found that letters in support of this application were received from James Burton, Edward James Steen, Roland V. Cobb, Jamie Kollock, Richard Shaubach, Wayne Cropper, Franklin Timmons, Mark Patterson, Richard Smith, Wayne Bunting, Gayle Derrickson Steele, Steve Lewis, George O. Moore, Jr., and Frank Atkins.

The Commission found that James Fuqua, Bake Timmons, Gary Moore, Laef Erickson, Brooks Clayfield and Donald Wilgus were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the rezoning is for a 282 single family lots residential planned community; that the plan has been designed to maintain AR-1 density; that the proposed gross density is 1.9 units per acre; that subtracting 6.35 acres of wetlands the net density is 1.98 units per acre; that the MR zoning would permit 480 lots; that the site is located on the south side of Piney Neck Road and borders Pepper Creek; that there are three developments located across the creek; that the area is a mix of residential and agricultural uses; that a majority of the site is cleared farmland that is high ground but drops about 15 feet at the creek; that central water will be provided by Tidewater Utilities; that there will be a central well on site; that a central sewer system will be installed; that the sewer system will be built to County specifications and may be connected to the County's system in the future; that a traffic impact study was performed and the developers will agree to the recommendations made by DelDOT; that the site is located in the Indian River School District and Dagsboro Fire Company service area; that the project will have a positive economic impact to Sussex County and the Town of Dagsboro; that there are two entrances proposed; that the loop streets will serve the lots; that there will be a swimming pool, bathhouse and tennis courts at one of the entrances and tennis courts near the other entrance; that there is also a chip and putt golf area proposed; that the greenbelt drives create an innovative design; that it creates more open space; that a trail walking system is proposed throughout the development; that the shore area will be open space; that there will be a fifty foot buffer from Tidal wetlands; that no community pier, boat docks or launching area is proposed; that there are a pair of eagles nesting along Pepper Creek and that the developers are preparing a Habitat Conservation Plan; that they will comply with all federal laws regarding the eagles; that Phase 6 is the area where the nest are located; that some of the lots may not be developed depending on the Habitat Plan; submitted an assessment of nutrient impacts; that the central sewer is located outside the 1,000 foot conservation zone; the central water will be in a tank but will not be elevated; that the developers may provide central water to four homes located in front of the project if the owners want it; that the greenbelt design is similar to the River Run development located near Ocean City; that the greenbelt design creates privacy and landscaping areas; that the areas could be common areas; that the RPC allows for innovative design; that the density is the same as what would be permitted in an AR-1 subdivision; that the site would be in the environmentally sensitive area under the pending update of the land use plan; that the area is developing with homes on strip lots created off of Road 336; that it may be feasible for the project to join the Dagsboro/Frankford sewer district in the future; that the project would not create any negative impacts to the area; that the central sewer system is not a spray irrigation type; that there will be pressure dose - trenches for storage after pretreatment; that there will not be any noise associated with the plant; that there will not be any outside odors from the proposed system; that the system has to be located at least

150 feet from any wells; that the last phase will probably be built in five years depending on the market; that the lots and homes will be packaged together; that the individual lot owners along the water will have the right to apply for boat docks or piers if they so choose; that a homeowners association will be established for maintenance of the infrastructure; that best management practices will be established; that about 50 lots will be water front lots; and submitted an aerial photograph of the site and a colored drawing of the project and proposed conditions of approval that include:

1. The maximum number of residential lots shall not exceed 282.
2. Residential building permits shall not exceed 80 per year cumulatively commencing with Council Approval.
3. All entrance, intersection, roadway, and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's letter dated November 2, 2001 and any further modifications required by DelDOT.
4. Recreational facilities, e.g. tennis courts, swimming pool and community buildings shall be constructed and open to use by the residents by the issuance of the 100th Certificate of Occupancy.
5. The development shall be served by a central wastewater treatment plant and collection system built to Sussex County Ordinance 38 specifications and in compliance with all applicable DNREC regulations.
6. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
7. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
8. Site plan review for each phase of development, including the placement and location of curbs, sidewalks, and streetlights, shall be subject to the approval by the Planning and Zoning Commission.
9. The interior street design shall be in accordance with or exceed Sussex County street design requirements.
10. No State or Federal wetlands shall be included within the boundaries of individual lots and shall be maintained as non-disturbance areas except where authorized by approved State and/or Federal permits.
11. No community boat launching facilities for motorized boats shall be permitted on site.
12. The applicant shall prepare a Habitat Conservation Plan (HCP) to be approved by the US Fish and Wildlife Service (FWS) and shall comply with all laws and regulations applicable to endangered species.
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 application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.

14. The applicant has voluntarily offered to contribute the sum of One Hundred Dollars and No Cents (\$100.00) to the local Volunteer Fire Company from the settlement proceeds of each initial sale of residential lots in the development and to provide in the development restrictions that the Development Homeowners Association shall contribute the sum of One Hundred Dollars and No Cents (\$100.00) per year to the Fire Company for each residential lot after its transfer from the applicant.
15. In the event any wells adjacent to the Development's wastewater irrigation area are adversely affected by the use of said area, the Applicant shall provide connection to the Development's central water system to the owners of said adjacent lots.

The Commission found that Brandon Donaway, a resident of Piney Neck Road, was present and expressed concerns about the number of lots proposed and the amount of traffic and that Road 336 will need to be improved.

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

Motion carried 5 – 0.

C/Z #1480 - - application of **RANDY W. AND KATHLEEN RADISH** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, land lying southeast of Route 466 (Delaware Avenue) and 180 feet west of U.S. Route 13, to be located on 24,366.12 square feet, more or less.

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

The Commission found, based on comments received from the Sussex Conservation District that the soils mapped on site are Kenansville loamy sand; that the suitability of the soils for the intended use are slight; that with respect to erosion and sedimentation

control the applicant will be required to follow recommended erosion and sediment control practices during construction and maintain vegetation after construction; that the farmland rating of the soil is Prime Farmland; that no storm flood hazard area is affected; that it will not be necessary for any off-site or on-site drainage improvements; and that no tax ditch is affected.

The Commission found, based on comments received from the Sussex County Engineering Department Planning and Permits Division that the project is within the Western Sussex Water and Sewer Plan area; that the site is in the Laurel service area, Town Center District; and that the applicant should contact the Town of Laurel concerning the availability of water and sanitary sewer service.

Mr. Abbott read a letter received from Mrs. Joanna B. Johnson, an adjoining property owner, in opposition to this application.

The Commission found that Randy Radish was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he proposed to add an additional warehouse and office for a contractor; that the site would store his construction equipment such as a bob cat, forklift and utility trailer; that he has minimal deliveries as most deliveries are delivered to job sites; that he only has two employees; that no other businesses are proposed; that there will not be any outside storage of materials; that there is a gravel road for ingress/egress onto Delaware Avenue; and that the proposed addition will be 2,400 square feet.

The Commission found that Joanna Johnson spoke in opposition to this application and stated that there will be noise problems; and that the application offers no positive impact to the neighborhood.

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

Motion carried 5 – 0.

OLD BUSINESS

Subdivision #2001-19 - - application of **DONALD D'AQUILA** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, by dividing 48.39 acres into 20 lots and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 46, 1,322 feet east of U.S. Route 13

Mr. Abbott advised the Commission that this is the final record plan for a 20 lot subdivision; that the Commission granted preliminary approval on July 26, 2001; that a time extension was granted in July 2002; that the record plan complies with the

requirements of the Subdivision Code; that all agency approvals have been received; that Leyland Cypress trees are shown on the final plan as stipulated in the preliminary approval; and that the 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 #2001-29 - - application of **PENNY LANE DEVELOPMENT, LLC** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 23.46 acres into 65 lots, located northeast of Road 361 and 600 feet north of Road 362.

Mr. Abbott advised the Commission that this is the final record plan for a 64-lot subdivision; that the Commission granted preliminary approval on February 28, 2002 for 65 lots; that the record plan complies with the Subdivision Code; that all agency approvals have been received and that the plan is suitable for final approval.

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

Motion carried 5 – 0.

Subdivision #2002-18 - - application of **MICHAEL W. SHORT, SR.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 45.12 acres into 39 lots and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located east of Road 493, 3,038.67 feet south of Road 494.

Mr. Abbott advised the Commission that this application was deferred on September 12, 2002; and that the septic feasibility statement from DNREC indicates that the site is suitable for septic.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary with the following stipulations:

- The subdivision shall be no more than 39 residential lots.
- No access shall be permitted to Tussock Pond from any individual lot. A community dock will be permitted subject to all applicable permits.
- There will be a 40' setback from 404 wetlands, except for storm water management facilities.

- Restrictive covenants are to be revised in accordance with the comments of the Applicant's attorney at the public hearing.
- Wooded lots shall be preserved where practical. Trees greater than 6" in diameter will not be removed unless they interfere with the construction of houses, garages, septic systems, wells or paved driveways.
- The cul-de-sac street requirement is waived.
- 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 application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site Plan.

Motion carried 5 – 0.

Subdivision #2002-4 - - application of **COUNTRY LIFE HOMES** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 6.01 acres into 12 lots, located west of Neptune II Drive, 100 feet north of Neptune III Drive within Ocean Farm Subdivision, north of Road 363, southwest of Road 361.

Mr. Abbott advised the Commission that the public hearing for this application was held March 21, 2002 and action was deferred; that action was also deferred on April 4, 2002; and that at the September 12, 2002 meeting Mr. Schrader reviewed letters received from the applicant's attorney and the Attorney General's Office.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried four votes to none, with Mr. Lynch not participating, to approve this application as a preliminary.

Motion carried 4 – 0 – 1.

C/U #1464 - - application of **WILSON AND ALBERTA CULLUM** to consider the Conditional Use of land in an AR-1 Agricultural Residential District to amend Conditional Use No. 1240 (Automotive repairs and automotive sales) to allow expansion of the number of vehicles displayed for sale to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 2.1758 acres, more or less,

lying north of Route 9, 0.8 mile east of Route 5.

The Chairman referred back to this application, which was deferred at the September 12, 2002 meeting.

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

Motion carried 5 – 0.

OTHER BUSINESS

Forest Reach RPC
Master Record Plan – Road 362 and Road 368

Mr. Abbott advised the Commission that this is the master record plan for 58 single family detached dwellings as permitted at Ordinance No. 1521 approved by the County Council on January 29, 2002; that sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that the swimming pool and recreation area needs to begin construction by occupancy of the 25th unit; that 8 conditions of approval are listed on the master plan; that since this is a RPC, the Commission may establish different setbacks for ingenuity and design; that the proposed front yard setback is 13 feet, side yard setbacks of 5 feet, rear yard setbacks of 10 feet and a 20 foot separation between buildings; that the master plan is the same as the preliminary plan; that each phase needs to be reviewed and approved by the Commission upon receipt of all agency approvals; and that the idea of the master plan is to show how the project will be developed and is usually recorded.

Jeff Clark advised the Commission that the front yard setback reflects a small town community.

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

Motion carried 5 - 0.

Paynter's Purchase RPC
Master Record Plan – Route 88

Mr. Abbott advised the Commission that this is the master record plan for a 300 unit residential planned community as permitted at Ordinance No. 1538 approved by the

County Council on April 30, 2002; that the units consist of 162 single family dwellings (suburban and urban), 96 multi-family units, and 42 duplexes; that the neighborhood business area is 1.5 acres located near the entrance off of Route 88; that the 96 multi-family units are located in the northeast corner of the site with 16 buildings; that the 16 buildings each have 6 units; that 50-foot buffers are between the perimeter of the project and adjacent residential subdivisions, Route 88 and Best Lane; that a 30-foot buffer is proposed between the project and the commercial lands along Route One; that a landscaping plan needs to be submitted with each phase; that sidewalks and street lighting are proposed; that 10-foot front yard setbacks are proposed; that all 19 conditions of approval have been referenced on the master plan; that each phase needs to be reviewed and approved by the Commission upon receipt of all agency approvals; and that the master plan shows how the project will be developed and are usually recorded.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the master plan for recordation.

Motion carried 5 – 0.

Lewes Banquet Hall Commercial Site Plan – Route One

Mr. Abbott advised the Commission that this is a preliminary site plan for a 15,000 square foot banquet facility; that the site is zoned C-1 and located behind the Midway Shopping Center; that the staff has received a letter of no objection from DelDOT in reference to the entrance location; that the building is 80-feet by 187-feet; that 283 parking spaces are required and proposed; that the setbacks meet the requirements of the zoning code; that there are not any wetlands on the site and the site is not located in a flood zone; that sewer will be provided by Sussex County and Tidewater Utilities will provide central water; that the site plan is suitable for preliminary approval; and that final approval could be subject to the staff receiving all agency approvals.

A resident from Dove Knoll Subdivision requested that a staggered buffer of Leyland Cypress should be required between the project and Dove Knoll and requested that lighting not shine onto their properties.

Jessica Nichols from Meridian Engineering advised the Commission that the building is 75-feet from the rear property line and that the existing vegetative buffer will remain.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to defer action so that the Commission can visit the site.

Motion carried 5 – 0.

Sandpiper Plaza
Multi-Family Site Plan – Road 270

Mr. Abbott advised the Commission that this is a preliminary site plan for 48 multi-family units on 4.10 acres; that the site is zoned C-1; that 49 units would be permitted by the Zoning Code; that two, three story buildings are proposed with each having 24 units; that there is a 45-foot separation between the buildings; that 144 parking spaces are required and proposed; that the setbacks meet the requirements of the zoning code; that sewer will be provided by Sussex County and Tidewater Utilities will provide central water; that there are not any wetlands on the site and the site is not located in a flood zone; that the site plan meets the requirements for preliminary approval; and that final approval could be subject to the staff receiving all agency approvals.

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

Motion carried 5 – 0.

Atlantic Liquors
Revised Commercial Site Plan – Route One and Road 274

Mr. Abbott advised the Commission that this is a revised site plan to add 12,115 square feet of additions to an existing 6,550 square foot retail building; that the staff has received a letter of no objection from DelDOT in reference to the entrance location; that the site is zoned C-1; that the additions are for retail space and apartments; that the setbacks meet the requirements of the zoning code; that 66 parking spaces are required and proposed; that there are not any wetlands on the site and the site is not located in a flood zone; that Sussex County will provide central sewer and Tidewater Utilities will provide central water; that the site plan meets the requirements for preliminary approval and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Lynch, seconded by Mr. Johnson, and carried 4 votes to none, with Mr. Wheatley not participating, to approve the site plan as a preliminary with final approval being subject to the staff receiving all agency approvals.

Motion carried 4 – 0 – 1.

Cape Henlopen School District
C/U #1418 Revised Site Plan – Route 24

Mr. Abbott advised the Commission that the revised site plan is for a 42-foot by 32-foot maintenance building; that the setbacks meet the requirements of the zoning code; that the only stipulation of approval was that the site plan was subject to the review and approval by the Commission; and that the site plan meets the requirements for final approval.

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

Motion carried 5 – 0.

Eastern Shore Veterinary Hospital
Commercial Site Plan – U.S. Route 13

Mr. Abbott advised the Commission that this is a site plan for a 9,000 square foot veterinary hospital; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 45 parking spaces are required and that 51 are proposed; that on-site sewer and water are proposed; that the plan meets the requirements for preliminary approval and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried 4 votes to none, with Mr. Wheatley not participating, to approve the site plan as a preliminary and that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 4 – 0 – 1.

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

Mr. Abbott advised the Commission that a request for a one-year time extension has been received; that the Conditional Use was approved on October 17, 2000; that the Commission granted a time extension in October 2001; and that this is the last extension the Commission may grant by the zoning code.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve a one-year time extension.

Motion carried 5 – 0.

William B. Warrington
2 lots on 50-foot right of way – Route 26

Mr. Abbott advised the Commission that this is a concept to create 2 additional lots on an existing 50-foot right of way; that the Commission approved one lot on April 19, 2001; that under the old policy, this would be the third lot on the right of way; and that any further subdivision would require a public hearing for a major subdivision.

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

Motion carried 5 – 0.

Meeting adjourned at 9:40 P.M.