

MINUTES OF THE REGULAR MEETING OF OCTOBER 9, 2003

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 9, 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. Lynch, Mr. Johnson, and Mr. Wheatley with Mr. 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 circulated.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes of September 23, 2003 as circulated.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of September 25, 2003 as amended.

OLD BUSINESS

C/Z #1514 – application of **DON CONAWAY** to amend the Comprehensive Zoning Map from a B-1 Neighborhood Business District to a C-1 General Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying south of Route 54, 1.0 mile west of “The Ditch” and 0.6 mile east of Route 58B, to be located on 1.43 acres, more or less.

This application has been deferred since September 11, 2003.

Mr. Gordy stated that he would move that the Commission recommend denial of C/Z #1514 for Don Conaway, seeking a Change of Zone from B-1 to C-1 based on the record made at the public hearing and for the following reasons: 1) I do not believe that the application is consistent with the character of the surrounding property. All of the adjacent property is zoned B-1; 2) Although the Applicants stated that residential use is intended, a change of zone to C-1 would potentially allow more intensive uses that are not compatible with the surrounding area and roadways; 3) The Applicants have stated that they intend to develop the property as multi-family residential. This is not the intended purpose of the C-1 zone as stated in Section 115-76 of the Sussex County Zoning Code; 4) DelDOT has stated that it has concerns about this application because the change to C-1 potentially encourages more traffic in an area that has been identified as operating at unacceptable levels of service during summer peak hours. In addition, DelDOT has stated that it believes that an application for a Conditional Use would be more appropriate for the type of use that is sought.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried with 4 votes that this application be forwarded to the Sussex County Council with the recommendation that the application be denied based on the reasons stated above.

Motion carried 4 – 0. Mr. Lynch abstained from participating since he did not participate in the public hearing.

C/Z #1515 – application of **DON CONAWAY** to amend the Comprehensive Zoning Map from a B-1 Neighborhood Business District to a C-1 General Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying south of Route 54, 1.0 mile west of “The Ditch” and 0.6 mile east of Route 58B, to be located on 2.61 acres, more or less.

Mr. Gordy stated that he would move that the Commission recommend denial of C/Z #1515 for Don Conaway, seeking a Change of Zone from B-1 to C-1 based on the record made at the public hearing and for the following reasons: 1) I do not believe that the application is consistent with the character of the surrounding property. All of the adjacent property is zoned B-1; 2) Although the Applicants stated that residential use is intended, a change of zone to C-1 would potentially allow more intensive uses that are not compatible with the surrounding area and roadways; 3) The Applicants have stated that they intend to develop the property as multi-family residential. This is not the intended purpose of the C-1 zone as stated in Section 115-76 of the Sussex County Zoning Code; 4) DelDOT has stated that it has concerns about this application because the change to C-1 potentially encourages more traffic in an area that has been identified as operating at unacceptable levels of service during summer peak hours. In addition, DelDOT has stated that it believes that an application for a Conditional Use would be more appropriate for the type of use that is sought.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried with 4 votes that this application be forwarded to the Sussex County Council with the recommendation that the application be denied based on the reasons stated above.

Motion carried 4 – 0. Mr. Lynch abstained from participating since he did not participate in the public hearing.

C/U #1505 – application of **DAVID RITTER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for boat storage to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.83 acres, more or less, lying 270 feet south of Route 22 (Long Neck Road), 0.2 mile east of Route 298 and east of Julia’s Lane, and being more particularly described as Lots 2 and 3 within Julia’s Place Subdivision.

This application has been deferred since September 25, 2003.

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

Motion carried 5 – 0.

C/U #1506 – application of **OCEAN HIGHWAY, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for self-storage and warehousing to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 9.4 acres, more or less, lying south of Route 9, 0.25 mile west of Route 262.

This application has been deferred since September 25, 2003.

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

Motion carried 5 – 0.

C/U #1507 – application of **NORTH BEACH, LLC** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (52) units to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 13.07 acres, more or less, lying south of Fred Hudson Road (Route 360), 0.2 mile west of Route One.

This application has been deferred since September 25, 2003.

Mr. Lynch stated that he would move that the Commission recommend approval of C/U #1507 for North Beach, LLC and asked Mr. Robertson to read Mr. Lynch's recommendation.

Mr. Robertson read that Mr. Lynch moves that the Commission recommend approval of C/U #1507 for North Beach, LLC based upon the record made at the public hearing and for the following reasons:

- 1) The proposed Conditional Use is appropriate for the site because residential development of this type is appropriate in areas where central water and sewer are available. In this case, there will be central sewer provided by the Sussex County Cedar Neck Sewer District.
- 2) The project is for a property that is zoned MR that is in an area that has developed with residential properties similar to the proposed project.

- 3) The project will be served or benefited by amenities that are on-site. These amenities include a swimming pool and a bathhouse.
- 4) With the stipulations placed upon this approval, there will be no adverse impact on neighboring or adjacent properties.
- 5) This recommendation for approval is subject to the following conditions:
 - 1) The maximum number of residential units shall not exceed 40 units.
 - 2) All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
 - 3) Recreational facilities, e.g., swimming pool and bathhouse, shall be constructed and open to use by residents within 2 years of issuance of the first building permit for the project.
 - 4) The development shall be served as part of the Sussex County Cedar Neck Sewer District.
 - 5) The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 - 6) Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures.
 - 7) Site plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.
 - 8) The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be installed along one side of all streets.
 - 9) The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
 - 10) 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 7:00am and 6:00pm.
 - 11) Fencing shall be located along the westerly side of the property along the boundary of the project with Pond Acres.
 - 12) No pier or dock shall be constructed from the project onto the Salt Pond.
 - 13) Landscape and lawn maintenance shall be the responsibility of the Condominium Association. Best Management Practices shall be utilized to minimize any environmental impact.
 - 14) Lighting from the parking areas and pool areas shall be directed away from the neighboring Pond Acres properties. In addition, the lighting shall be low-intensity to prevent glare.

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

Motion carried 5 – 0.

Subdivision #2002 – 9 - - application of **SUSSEX VENTURES, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 23.55 acres into 16 lots, located west of Road 446, 1,163 feet south of Route 9.

Mr. Abbott advised the Commission that the final record plan is the same as the preliminary plan; and that all agency approvals have been received.

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

Motion carried 5 – 0.

Subdivision #2002 – 28 - - application of **BUD BRIGHT** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 49.89 acres into 50 lots, located south of Road 48, 150 feet east of Road 302.

Mr. Abbott advised the Commission that the final record plan has been reduced to 49 lots; and that all agency approvals have been received.

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

Motion carried 5 – 0.

Ordinance Amendment – AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO AMEND THE PROVISIONS RELATING TO RESIDENTIAL USES IN THE B-1 AND C-1 COMMERCIAL ZONING DISTRICTS BY LIMITING SUCH USES TO 4 DWELLING UNITS PER ACRE, TO ELIMINATE SECTION 115-77.1 LARGE SCALE USES, AND MAKES OTHER TECHNICAL CHANGES TO ARTICLE X, B-1 NEIGHBORHOOD BUSINESS DISTRICT AND ARTICLE XI, C-1 GENERAL COMMERCIAL DISTRICT.

The Commission discussed this Ordinance which has been deferred since September 11, 2003.

Motion by Mr. Wheatley, 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 A C-2 LARGE SCALE COMMERCIAL DISTRICT.

The Commission discussed this Ordinance which has been deferred since September 11, 2003.

Motion by Mr. Johnson, seconded by Mr. Gordy, 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 ALLOW AGRICULTURAL RELATED INDUSTRY AS A CONDITIONAL USE IN THE AGRICULTURAL RESIDENTIAL ZONING DISTRICT, TO DEFINE AGRICULTURAL RELATED INDUSTRY, AND TO DELETE CONFLICTING LANGUAGE.

The Commission discussed this Ordinance which has been deferred since September 25, 2003.

Motion by Mr. Johnson, seconded by Mr. Wheatley, 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 ALLOW A BIOTECH INDUSTRY AND A BIOTECH CAMPUS AS A CONDITIONAL USE IN THE AGRICULTURAL RESIDENTIAL ZONING DISTRICT AND TO DEFINE BIOTECH INDUSTRY AND BIOTECH CAMPUS.

The Commission discussed this Ordinance which has been deferred since September 25, 2003.

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

Motion carried 5 – 0.

PUBLIC HEARINGS

Subdivision #2003 – 17 - - application of **HAZZARD DEVELOPMENT CO., L.L.C.** to consider the Subdivision of land in a MR Medium Density Residential District in Cedar Creek Hundred, Sussex County, by dividing 48.62 acres into 47 lots, located south of Road 634, 2,246.33 feet southeasterly of Road 633.

Mr. Allen stated that he would not be participating in this hearing and turned the meeting over to Mr. Wheatley – Vice Chairman.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on June 18, 2003 and that the report will be made a part of the record for this application; and that a letter from Carl and Helen Swanson opposed to this application, a petition with 150 signatures in opposition and photographs of Road 634 were submitted and will be made a part of the record.

The Commission found that Alan Warfel, developer, and Bob Nash, a surveyor with Charles D. Murphy Associates were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the land is zoned Medium Density Residential; that the application complies with the Comprehensive Land Use Plan; that the site is currently agricultural and wooded land; that the minimum lot sizes will be 0.75-acre; that the lots will be restricted; that single story dwellings will be required to be a minimum of 2,000 square feet and two story dwellings will be required to be a minimum of 2,500 square feet; that the homes will range from \$200,000.00 to \$250,000.00; that the applicant has recently completed his new dwelling adjacent to the site; that the construction plans will be reviewed by an architectural review committee before building permits will be issued; that the required buffer adjacent to agricultural lands has been provided; that one entrance is proposed to the site and DelDOT does not object to the proposed entrance location; that the site distance from the entrance is 900 feet to the east and 400 feet to the west; that the distances meet the requirements of DelDOT; that the existing hill at the entrance will be required to be graded down; that trees and limbs along Road 634 will be trimmed; that there is a small portion of wetlands to the rear of the property and will not be impacted; that the U.S. Fish and Wildlife Service inspected the site and they did not find any swamp pink plants; that the stormwater management system will be built per the requirements of the Sussex Conservation District; that the subdivision will have a positive impact on the area and surrounding property values; that the cemetery in the area is not located on this

site; that the entrance plan has not yet been submitted to DelDOT for their approval; that the ditch adjacent to the site drains to Haven Lake and is not a tax ditch; that the Homeowners' Association will maintain the drainage ditch once it is turned over by the developer; that lot owners will be required to pay \$75.00 per year maintenance fee; that DelDOT did not require a traffic impact study for the proposed subdivision; that no lots will be located in the wetlands; that sidewalks are not proposed; that the other developments in the area do not have sidewalks; that the streets will be built to State Specifications and dedicated to public use; that the minimum front yard setback will be sixty feet; that streetlights will be provided; that the applicant does not have any plans to donate a portion of the lot sales to the area fire department; that the posted speed limit along Road 634 is 40 miles per hour; and submitted a brochure of the types of homes that they build.

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

The Commission found that Charles Coverdale, Ruth Ann Frearski, Michael Bradley, and Gregory Adams spoke in opposition to this application and referenced concerns about the proposed entrance location; expressed concerns about DelDOT's comments in the Technical Advisory Committee Report; that there is speeding and accidents in the immediate area; safety concerns for children waiting for buses; possible impacts to wetlands; and that the rear of the site is a low lying area.

The Commission found, by a show of hands, that there were 20 people present in opposition.

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

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried with 4 votes, with Mr. Allen not participating, to defer action.

Motion carried 4 – 0 – 1.

Mr. Wheatley turned the meeting back over to Mr. Allen – Chairman.

C/U #1508 – application of **RAY LEWIS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a borrow pit for extraction and removal of soil to be located on a certain parcel of land lying and being in Gumboro Hundred, Sussex County, containing 86.74 acres, more or less, lying east of Route 413 and north of Route 419.

The Commission found, based on comments received from DelDOT, that the Department does not recommend that the County require a typical traffic impact study; that the Department is concerned about the maintenance of roads in the vicinity of the project; that the Department recommends that the County require the applicant to provide DelDOT and the County with information about the amount of traffic the proposed borrow pit would generate, and where that traffic would be to and from, before the County acts on this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Fallsington sandy loam, Johnston loam or silt loam, Klej loamy sand, Osier loamy sand, and Pocomoke sandy loam; that the Evesboro soils have slight limitations for development; that the Klej soils have slight to moderate limitations, that the Fallsington, Johnston, Osier, and Pocomoke soils have severe limitations; that the applicant will be required to follow recommended erosion and sediment control practices and to maintain vegetation; that the Evesboro, Fallsington, Klej, Osier, and Pocomoke soils are considered of Statewide Importance; that the Fallsington and Pocomoke soils are considered Prime Farmland; that the Fallsington, Johnston, Osier, and Pocomoke soils are considered Hydric; that the Klej soils are considered Hydric in depressions; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any on-site or off-site drainage improvements; and that the Applicant should check with the Army Corps. of Engineers for necessary permits if any regulated wetlands are present.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State has serious reservations regarding the placement of a borrow pit on this site; that the property is both forested and cropped; that the State has concerns that such an operation will have long term adverse natural resource management consequences; that the project may have significant impacts on the hydrology of the area; that the project is adjacent to the 12,310 acre Great Cypress Swamp, which is the largest area of contiguous forest on the Delmarva Peninsula and supports a large number of rare and endangered bird, plant and insect species and is also directly adjacent to an area mapped by the State as an "exceptional wetland"; that the project contains land currently identified as part of the Cypress Swamp Natural Area and the Cypress Swamp State Resource Area; that the operation of this borrow pit could potentially re-suspend and release contaminants into the system; that the borrow pit could significantly alter the hydrology of the region, robbing adjacent wetlands of the groundwater source necessary to support its unique flora and fauna; that the project could generate significant amounts of heavy truck traffic on roads that may be inadequate to support that traffic; that the State asks that the County table this proposal until the State agencies can meet with the owner/developer to address these issues; that before the application is considered, the State request that the owner/developer be required to: meet with DNREC to discuss their concerns; that before this meeting the developer should conduct the following evaluations

to be discussed with DNREC: a) hydrologic modeling to determine impacts to surrounding areas, b) robust sediment sampling including chemical analysis for metals and pesticides, c) site evaluation by the Natural Heritage Program, d) wetlands delineation; include protection of the forested riparian buffer along Gum Branch in any final plans; that this buffer will help to mitigate any water quality impacts for the borrow pit to a State rare Bald Cypress Forest community just downstream from this site near the confluence of Gum Branch and the Pocomoke River; information about any proposed wells or de-watering; precautions to reduce adverse effects to the local agricultural community should be planned for and implemented; establishing a dense and properly managed vegetative buffer system should be a mandatory precaution; a reclamation plan should be designed; the local transportation network should be adjusted to allow for the proper movement of both farm machinery and large trucks; the speed limit should be adjusted downward to protect local citizens; the State Historic Preservation Office has found that there are prehistoric and historic archaeological sites within the project area; that the State Historic Preservation Office should be contacted before any ground disturbance occurs so that they can study the known sites that have been inventoried and survey the area for additional archaeological sites; that in conclusion, the State objects to the approval of a borrow pit on this site at this time; placing a borrow pit on this site could have serious consequences to the adjacent Resource areas; that with the use of BMPs such damage may be minimized or curtailed altogether; and that the State asks that this application be tabled and the County require the developer to work through the Office of State Planning Coordination to schedule meetings with the concerned agencies so that this project can be better understood and their concerns, stated in these comments, can be discussed and resolved.

The Commission found that Stephen W. Hird, an adjoining property owner, wrote a letter voicing no objections to the borrow pit application.

The Commission found that Ray Lewis of Lewis Sand and Gravel, LLC was present with James Reed, Attorney, and Charles Woodruff of Davis, Bowen & Friedel, Inc. and stated in their presentations and in response to questions raised by the Commission that the entrance to the site is from Fireman's Road; that a need exist for sand and gravel in the area; that the Applicant installs septic systems and needs a supply of sand; that buffers are proposed with a minimum width of 100-feet from Gum Branch, 25-feet from Federal wetlands, 50-feet from adjacent property lines and 100-feet from proposed single family lots; that the wetlands have been delineated and mapped; that the Applicant presently uses approximately 5 to 12 truck loads of sand per day in his business; that the land is presently farmed; that the Applicant is presently leveling and clearing the site; that the existing access road on the site is being improved with stone; that each phase of the project will have a reclamation plan; that 3:1 slopes are proposed and that the slopes will be seeded and planted to control erosion; that the pit will have a maximum depth of 50-feet; that there is no present need for a well and that when a well is installed it will be

installed by a licensed well driller; that they have not yet met with DelDOT or DNREC about this project; that truck traffic should be minimal; that trucks have access to other roadways in either direction from the entrance; that they anticipate starting digging in approximately 1-year; that the Applicant has spoken to Peter Martin of Delaware Wildlands and heard no objections to the proposal; that the wetlands will be left undisturbed; that a borrow pit did exist on the site at one time; that the Applicant intends to comply with all DNREC and Office of State Planning Coordination requirements; that the strip lots have already been approved; that test borings have been performed to a depth of 50 to 55 feet; that a sand plant is not proposed; that the Applicant has three (3) dump trucks and two (2) excavators; that it will be necessary to install a dredge to get down to the proposed 50-foot depth; that proposed business hours are from 7:00am to 6:00pm weekdays and 7:00am to 2:00pm Saturdays with no Sunday hours; that the Applicant has owned the property since January 2003; and that the current water table in the area is about 6-feet below grade.

The Commission found that Mr. Reed submitted a description of the land and twenty (20) proposed conditions for the use.

The Commission found that Michael LaCurts, Chief of the Roxana Fire Company, was present in support and stated that the Fire Company hopes to install a dry hydrant in the pond once it is created; that it would be a benefit to the community if water access is made available for fire protection; and that the State has a borrow pit on the site years ago and that the pit has since been filled.

The Commission found that Dan Collins added that there was a pit on the site years ago and that the area to the right of the access road was never a pit.

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

Motion carried 5 – 0.

C/U #1509 – application of **DWAYNE MOUSLEY** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for garages for storage to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.071 acres, more or less, lying northwest of Road 266 (New Road), 0.4 mile southwest of Pilottown Road in Lewes.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic on Road 266 (New Road).

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras sandy loam and Woodstown sandy loam; that the Sassafras soils have slight limitations for development; that the Woodstown soils have slight to moderate limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that both soil types are considered Prime Farmland; that the Woodstown soils are also considered Hydric in depressions; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Dwayne Mousley was present with Kathy Engel, his partner, and stated that they purchased the site for their personal use; that the lot was covered with debris and overgrowth; that they tried to restore the old home on the site and realized that the home was not suitable for restoration and needed to be removed; that existing storage building is used for personal use for storage of personal vehicles and boats; that Ms. Engel's son stores lawn equipment in the existing building and parks his trucks and trailers outside; that the proposed storage building is intended for personal use; that they are not aware of any objections from neighbors; that Ms. Engel's son has 2 trucks and 10 lawnmowers; that they do not publicly promote the site for rent; that they have no intent to make the site appear commercial; that they do not want to erect a sign; that 3 security lights exists on the site; that the buildings will be partitioned off inside; that they do not intend to allow any outside storage, except for business vehicles and business trailers or boat trailers; that they do not intend to install any plumbing; and that there are no water or septic systems on 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. Wheatley, seconded by Mr. Lynch, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved with the following conditions:

- 1) There shall be no outside storage, except for short-term storage of motor vehicles that are properly tagged and licensed.
- 2) There shall be no signs of any kind.
- 3) Security lighting shall be indirect lighting designed to shine into the property so as not to disturb adjoining property owners.
- 4) The entrance location shall remain as existing.

- 5) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 5 – 0.

C/Z #1519 – application of **ELMER G. FANNIN** to amend the Comprehensive Zoning Map from a GR General Residential District to an AR-1 Agricultural Residential District for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, land lying on the southeast side of the intersection of Route 216A and Route 217, to be located on 32.48 acres, more or less.

C/U #1510 – application of **ELMER G. FANNIN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a campground to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 32.48 acres, more or less, lying on the southeast side of the intersection of Route 216A and Route 217.

Heidi Balliet, Attorney on behalf of C/Z #1519 and C/U #1510, requested the presentations 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, based on comments received from DelDOT, that a traffic impact study was not recommended and that the present level of service “A” of Road 216A may increase to a level of service “B” and that the present level of service “A” of Road 217 may increase to a level of service “B” if the site is fully developed based on this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Rumford loamy sand, and Swamp; that some of the Evesboro soils have moderate limitations for development; that some of the Evesboro and Rumford soils have slight limitations; that the Swamp 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 and Rumford soils are considered of Statewide Importance; that the Swamp soils are considered Hydric; that there are no storm flood hazard areas or tax ditches affected; that it may be necessary for some on-site and off-site drainage improvements because of the increased impervious areas and resultant increase in runoff; and that the Applicant should check with the Army Corps. of Engineers about Federal wetlands.

The Commission found, based on comments received from the Office of State Planning Coordination, that the site is located in a "Rural" area according to the Strategies for State Policies and Spending document; that most of the area is a mixture of single family development and active viable farmland with much of the farmland being permanently preserved; that the State has no objections to the rezoning; that the State does object to the Conditional Use proposal; that a campground will contain a density of over 8 sites per acre including recreational amenities and buildings; that it is unclear whether these are tent campsite or site designed for RV parking, but either way, this does not seem to reflect the character of the surrounding area; that this use, as proposed, would be a rather intense commercial/residential use that is not compatible with lands in a "Rural" designation; that the State Historic Preservation Office did not object to these applications; that the State Historic Preservation Office did note that there is a medium probability for prehistoric archaeological sites on the site, especially near the wooded and water areas; that according to the 1869 Beers Atlas, there was a store located on the north corner of the property, meaning there could be a historic archaeological site; that the State recommends that a buffer be provided between the area at the rear of the site and any construction which might take place on the site to lessen any harm to any possible prehistoric archaeological sites; that if there is any ground disturbance in the north corner of the site, the developer should contact the State Historic Preservation Office; that DNREC noted that this parcel contains land currently identified as part of the Cedar Creek Natural Area; that the property encompasses or is adjacent to wetlands classified by the State as exceptional and that disturbance of these wetlands should be avoided; that portions of the property also contain woodland areas that are part of a larger wooded corridor; that protection of a 200-foot wide riparian buffer along the small tributary of Cedar Creek, that runs along the eastern end of the parcel would preserve most of the Natural Area that occurs on the site; that well and/or dewatering permits are required; that any wells installed shall be required to be installed by a licensed well driller; that the developer/owner should contact the DNREC On-site Branch regarding sewer issues; that if the campground is approved, DelDOT may require improvements to Old Road between the site entrance and Route One as part of the site entrance construction; that an entrance permit will be required; that the State does not object to the rezoning from GR to AR-1; that the State does not feel that a campground with amenities is compatible with the surrounding area, an area with mostly single family developments and permanently preserved farmland; and that the State objects to the Conditional Use application.

The Commission found, based on comments received from DNREC referencing a feasibility study and soils investigation for the site, that the Department believes that the proposed large scale on-site wastewater treatment and disposal system (LOWTDS) is feasible under the current criteria cited in the Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems dated March 11, 2002.

The Commission found that Heidi Balliet, Attorney, Mark Davidson of DC Group, and Dale Faulkner of Country Life Homes were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they have applied for down-zoning of the property from GR to AR-1 so that they can apply for the campground; that a campground is not listed as a permitted Conditional Use in a GR General Residential District; that the applicant lives directly across from the site; that they propose mobile RV camping and tent camping; that the campsites comply with the Code; that on-site water and sewer will be provided; that a camp store is proposed; that the site is adjacent to Pine Haven Campsites making the application compatible with the area; that the use is compatible with the Comprehensive Plan since adjacent to the Pine Haven Campsites, close to Primehook Wildlife Area, a tourist attraction, and away from the beaches, thereby lessening traffic in the beach areas; that 277 campsites are proposed; that amenities include a clubhouse, camp store, office, bathhouse, picnic facilities, recreation areas with swimming pool, and game courts; that a septic dump station will be provided; that pavement will be provided from the entrance to the dump station and office area; that all other streets will be improved with crusher run; that 50-foot buffers will be provided; that street lighting will be at a minimum since a camping area and will be downward illuminated so that the lighting does not impact neighbors off-site; that DNREC has stated that the sewer proposal is feasible; that the site has sufficient area for the sewer proposed; that a dumpster will be located near the septic dump station; that they have had preliminary discussions with Tidewater Utilities for central water and wastewater systems maintenance; that stormwater management facilities are proposed to the rear of the site; that the Army Corps. of Engineers have inspected the site and that the Applicant is waiting for a written response; that approximately 500-feet of sight distance in both directions exists at the proposed entrance; that they have not yet decided if the sites will be leased long-term or short-term; that the frontage shall be landscaped and fenced; that the majority of the traffic will be from Route One; and that the entire site will be developed as one phase.

The Commission found that Raymond and Kimberly Johnson, adjacent property owners, were present and expressed some concerns about noise, the curvature and narrowness of the road at the proposed entrance, the number of sites, increased traffic, that they moved to the area to get away from traffic and noise, that a borrow pit did exist across from the site and is now being planned for a home-site; and that the project is overwhelming to them since the site is located in a rural and residential area.

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to defer action on C/Z #1519 and C/U #1510 to give the Commission time to consider the record.

Motion carried 5 – 0.

OTHER BUSINESS

Washington Square
Multi-Family Site Plan – Route 1A (Church Street)

Mr. Abbott advised the Commission that this is a preliminary site plan for 10 units on 0.96 acres; that the site is zoned C-1 General Commercial; that there are 6 units proposed in 1 building and 2 units each in the other 2 buildings; that 30 parking spaces are required and proposed; that the 2 unit buildings each have an attached 1 car garage; that all setbacks, building lengths, heights, and building separations meet the requirements of the zoning code; that central sewer will be provided by Sussex County and central water will be provided by the City of Rehoboth Beach; that there are not any wetlands located on the site; that the site is not located in a flood zone; that the name has been revised to Washington Place; 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. Johnson, seconded by Mr. Wheatley, 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.

William D. Emmert & John T. Wakefield
Multi-Family Site Plan – Road 273-C (Oyster House Road)

Mr. Abbott advised the Commission that this is a preliminary site plan for 10 units on 0.88 acres; that the site is zoned C-1 General Commercial; that 8 units are proposed in 1 building and 2 units in another building; that each unit has an attached 1 car garage proposed; that all setbacks, building lengths and heights, and building separations meet the requirements of the zoning code; that wetlands and the flood zone are not referenced on this plan and that they will be required to be on the final site plan; that central sewer will be provided by Sussex County and central water will be provided by the City of Rehoboth Beach; 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. Johnson, seconded by Mr. Lynch, 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.

Douglas P. Corey
Parcel and 50' Right of Way – Route 18

Mr. Abbott advised the Commission that this is a request to create a 2.63-acre lot with access from a proposed 50-foot right of way; that the road frontage along Route 18 is over 1,500 feet; that there should be enough frontage to obtain the minimum lot width of 150-feet along a numbered road; and that the Commission can approve the request as submitted or require a public hearing for a major subdivision or a variance.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the request as submitted.

Motion carried 5 – 0.

Linda Booth Rogers
4 Parcels – Road 249

Mr. Abbott advised the Commission that the owner proposes to create 3 lots with access to each lot off of Road 249; that lot 1 will be 3.0-acres with 330 feet of road frontage; that the other 2 lots will be 1.6-acres with 192 feet of road frontage; that the remaining 28.41-acres has 50 feet of road frontage off of road 249 and would like to have the remaining 50 feet of frontage to serve as access to the remaining acreage.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the 4 lots as submitted.

Motion carried 5 – 0.

Robert Niblett
Lot and 50' Right of Way – Route 13-A

Mr. Abbott advised the Commission that this is a request to create a 1.0-acre lot with access from an existing 50-foot right of way; and that this would be the third lot with access from the right of way and that any further subdivision will require a public hearing.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the lot as submitted.

Motion carried 5 – 0.

Meeting adjourned at 10:15 P.M.