

MINUTES OF THE REGULAR MEETING OF OCTOBER 23, 2003

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 23, 2003 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as circulated.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes of October 9, 2003 as amended.

OLD BUSINESS

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.

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

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1505 for David Ritter for boat storage based upon the record made at the public hearing and for the following reasons:

- 1) This application is appropriate for this property since commercial zoning exists on both sides of the site, and since a Conditional Use for a commercial use is immediately in front of the site.
- 2) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
- 3) The use as a boat storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
- 4) This recommendation for approval is subject to the following conditions and stipulations:
 - 1) The site plan shall be subject to all appropriate agency approvals prior to review and approval by the Commission.
 - 2) The boat storage facility will be open during daylight hours only.
 - 3) The perimeter of the site shall be fenced with a 7-foot high chain linked type of fencing.

- 4) No maintenance of boats or vehicles shall be performed on the site.
- 5) All persons visiting the site shall be accompanied by representatives of the Applicant.
- 6) All boats and boat trailers moved to and from the storage yard on the site shall only be moved by representatives of the Applicant.
- 7) This approval is for boat storage only, not vehicles or RV trailers.
- 8) There shall be no signage on the site.
- 9) Security lighting shall be provided on the site and shall be directed away from neighboring properties.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried with 4 votes to forward this application to the Sussex County Council with the recommendation that the application be approved with the above referenced reasons and conditions.

Motion carried 4-1 with Mr. Allen opposed to the motion.

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.

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

Mr. Johnson stated that, based on the record of opposition presented at the public hearing on September 25, 2003, he would move that the Commission recommend that the application of Ocean Highway, LLC be forwarded to the Sussex County Council with the recommendation that the application be denied for the following reasons:

- 1) The Delaware Department of Transportation (DelDOT) has recommended denial of the application.
- 2) The Office of State Planning Coordination has voiced objections to the application since the proposal does not meet the intent of the Strategies for State Policies and Spending document since it is located in a “Rural” area and since it is located in a “Low Density” area according to the 2002 Sussex County Comprehensive Plan Update.
- 3) The project is in close proximity to other commercial/business activities, but would be out of character with the immediate area since the immediate area is primarily residential and agricultural in nature.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried with 4 votes to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated above.

Motion carried 4 – 1 with Mr. Wheatley opposed to the motion.

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 discussed this application which has been deferred since October 9, 2003.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to defer action to allow the Applicant time for agency reviews.

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.

The Commission discussed this application which has been deferred since October 9, 2003.

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

Motion carried 5 – 0.

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.

The Commission discussed this application which has been deferred since October 9, 2003.

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

Motion carried 5 – 0.

Subdivision #2003-17 – application of **HAZZARD DEVELOPMENT CO., LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District and 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.

The Commission discussed this application which has been deferred since October 9, 2003.

Mr. Wheatley stated that he would move that the Commission grant preliminary approval of Subdivision #2003-17, for Hazzard Development Co., LLC, based upon the record and for the following reasons:

- 1) The proposed Subdivision meets the purpose of the Subdivision Ordinance in that it protects orderly growth of the County. It is also in an area where other residential development exists.
- 2) The proposed Subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
- 3) The proposed Subdivision will not adversely impact schools, public buildings and community facilities.
- 4) DelDOT has stated that it does not object to the proposed entrance location, since the sight distances from the proposed entrance are 900-feet to the east and 400-feet to the west.
- 5) The recommendation is subject to the following conditions:
 - 1) The Applicant shall prepare and record 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. These Restrictive Covenants shall include the Wetlands Notice required by Section 99-6H of the Subdivision Code.
 - 2) The stormwater management system shall meet or exceed the requirements of the State and County.
 - 3) No wetlands shall be included with any lot lines.
 - 4) All entrances shall comply with all of DelDOT's requirements.
 - 5) A system of street lighting shall be provided by the Applicant, and the location of the street lights shall be shown on the final site plan.

- 6) The Restrictive Covenants shall include the Agricultural Use Protection Notice, if required.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried with 4 votes to approve this Subdivision as a preliminary for the reasons and with the conditions stated above.

Motion carried 4 – 0 -1. Mr. Allen did not vote since he did not participate in the public hearing.

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.

Mr. Kautz submitted copies of some suggested revisions and advised the Commission that the revisions are in wording and in format to comply with the Delaware Code, and that the revisions are dated October 21, 2003.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to defer action on this Ordinance to give the Commission time to consider the revisions.

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.

Mr. Kautz submitted copies of some suggested revisions and advised the Commission that the revisions are in wording and in format to comply with the Delaware Code, and that the revisions are dated October 21, 2003.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to defer action on this Ordinance to give the Commission time to consider the revisions.

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.

Mr. Kautz submitted copies of some suggested alternatives dated October 23, 2003.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to defer action on this Ordinance to give the Commission time to consider the alternatives.

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.

Mr. Kautz distributed copies of some internet data on the Delaware Biotechnology Institute, the Delaware Technology Park, and a new article from “The Sun”, dated October 22, 2003, on Biotech companies for the Commission to review.

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

Motion carried 5 – 0.

PUBLIC HEARINGS

Mr. Robertson read a statement explaining how the public hearings are conducted and the procedures for hearing the applications.

Subdivision #2003-18 – application of **BOB REED** to consider the Subdivision of land in a B-1 Neighborhood Business District in Indian River Hundred, Sussex County, by dividing 21.90 acres into 24 lots, located southeast of Route 24, 375 feet west of Road 297 (Route 5).

Mr. Abbott advised the Commission that this application was approved by the Technical Advisory Committee on June 18, 2003 and that the report will be made a part of the record for this application; that the Natural Resources Conservation Service advised that the soils mapped on site are Evesboro loamy sand and Rumford loamy sand; that these soils have slight limitations for the intended use; and explained how a previous application for this site was subject to the sunseting regulations of Chapter 99 of the Code of Sussex County.

The Commission found that Bob Reed, developer, and Mark Davidson of the DC Group were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that Mr. Reed is the new owner; that they are seeking reapproval of a previous application; that the lots will range in size from 0.5 acres to 2.0 acres; that the stormwater management area will be approximately 1.0 acre; that Tidewater Utilities will provide central water; that a private community septic system is proposed; that the proposed uses will be those that are permitted by the zoning code; that the applicants will comply with the recommendations of the Technical Advisory Committee; that they have had discussions with the Sussex County Engineering Department and that central sewer is not available at this time; that none of the lots will be used for residential purposes; and that they have no objections to erecting a fence along the lands of the Boys and Girls Club of Delaware and their lands.

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

The Commission found that William Payne of Lewes was present and questioned if any residential units will be built and if a buffer is required for any portion of the subdivision.

Mr. Lank advised Mr. Payne that the applicants stated that no residential uses are proposed and that a buffer is not required since the subdivision is not for residential uses.

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

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

Motion carried 5 – 0.

Subdivision #2003-19 – application of **NORTHERN STEEL INVESTMENTS, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 22.71 acres into 14 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Road 285, 2,251 feet north of Road 286.

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; that the Natural Resources Conservation Service has advised that the soils mapped on site are Evesboro loamy sand, Klej loamy sand, Osier loamy sand, and Woodstown sandy loam; and that the limitations for the intended use have slight to severe limitations; and that the DNREC Underground Discharges Section has issued a septic feasibility statement indicating that the soils are suitable for individual on site septic systems.

The Commission found that Joss Hudson, developer, and Michael Riccatelli of Merestone Consultants were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the subdivision will be a private gated community; that open space has been preserved; that a portion of the site is wooded, cut over shrub and open field; that the wetland consultant is meeting with the Army Corps of Engineers the week of October 27, 2003; that they have not submitted a formal entrance plan to DelDOT yet; that the dwellings will be a minimum of 1,500 square feet in size; that the lots will be sold to individuals so that they can construct their own homes; that they will preserve as many trees as possible; that no manufactured or modular homes will be permitted; and that they will comply with all of the recommendations made by the Technical Advisory Committee except for DelDOT's request for an inter-connection to adjoining properties that may have to potential to be developed.

The Commission found that no one was present in support of this application.

The Commission found that Joanne Parsons, William Payne, and Jeremy Parsons were present and spoke in opposition to this application and expressed concerns about flooding on the property; questioned what type of septic systems will be used; raised concerns about traffic safety problems; and the lack of inter-connectivity to adjoining properties.

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

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

Motion carried 5 – 0.

C/U #1511 – application of **ANTHONY L. FREEMAN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a produce sales facility to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.91 acres, more or less, lying at the southwest corner of Route 277 and Route 275.

The Commission found, based on comments received from DelDOT, that the Department does not recommend that the County require a traffic impact study; that the Department is concerned about this application since they see it as encouraging more traffic in an area that has been identified as operating at unacceptable levels of service; that a temporary commercial entrance permit was issued on October 18, 2002 for a produce stand; and that the permit was valid for one-year.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras loam which has slight limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that the soils are considered Prime Farmland; 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 Tony Freeman was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that approximately 50% of the site has been utilized for asparagus for 10-years; that they grow a lot of produce on their farm; that the only produce that they sell is the excess produce from the farm; that they would like to be open for business Wednesday through Sunday during daytime hours; that there are no sanitary facilities on the site; that no entrances are proposed on Route 277; that the DelDOT permit approval is for an entrance on Route 275; that there have been no problems with the entrance to date; that their farm is approximately 1 mile from the site; and that they occasionally have had problems with people parking along Route 275.

The Commission found that a letter of support was received from Jackie L. King stating that residents of eastern Sussex County are desperately in need of a place to buy local produce while supporting the farming neighbors.

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

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

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

Motion carried 5 – 0.

C/U #1513 – application of **LINDA THURSTON AND KAREN NASH** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a bakery to be

located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 14.13 acres, more or less, lying south of Route 54 and 2,076 feet west of Road 389.

The Commission found, based on comments received from DeIDOT, 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 are mapped as Evesboro loamy sand, Fallsington sandy loam, Pocomoke sandy loam; and Woodstown sandy loam; that the Evesboro soils have slight limitations for development; that the 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 any construction and to maintain vegetation; that the Evesboro, Fallsington 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 Hydric, Hydric in depressions, or Hydric in small depressions; that there are no storm flood hazard areas affected; that the Bunting Tax Ditch may be affected; that it may be necessary for some on-site or off-site drainage improvements because of the presence of poorly drained soils with seasonal high water tables and the increased impervious areas.

The Commission found, based on comments received from the Office of State Planning Coordination, that this parcel is located within the "Rural" area of the Strategies for State Policies and Spending document; that, normally, the State would object to a conditional use for a commercial type of establishment in a rural area; that because the surrounding land use is commercial, the State does not feel that a bakery would adversely effect the character of the surrounding area; that the adjacent parcel is the Williamsville Ag District owned by the County and that if the County has no objections to the bakery being next to this district, the State has no objections; that site and building plans shall be required to be submitted to the State Fire Marshal's Office; that a revised entrance permit will be required; that the State Historic Preservation Office has found that there are potential historic properties on both sides of the site; that if any new construction is planned, the Applicant should be required to provide landscaping around the parcel, especially on the east side, to help minimize any visual effects the new construction might cause to the historic properties; that well permits will be required; that soil comments were submitted similar to the Sussex Conservation District comments; and that the State asks that the County consider the agency comments while reviewing this application.

Mr. Lank read the conditions/stipulations imposed by the Sussex County Council on C/U #1142, the application of Richard E. Tucker, for the same site.

The Commission found that Linda Thurston and Karen Nash were present and stated in their presentations and in response to questions raised by the Commission that they hope to utilize an existing structure on the site for a bakery; that the use will primarily be for production of desserts; that they deliver the majority of their products off site; that since the majority of the product is special ordered or catering, they would like to be open seven days per week from 6:00am to 8:00pm; that security lighting already exists on the site; that they may add more security lighting; that they would like to add they business sign on the marquee sign at the entrance; that they would like to place a wall sign on the building; that the proposed sign measures 18" by 18" minimum; that they do provide wholesale and retail sales; that they cater parties and weddings; that they do not propose to build a new building, only renovate the existing building; that no items are displayed; that they bake for planned events, i.e. weddings, parties, etc.; and that they only prepare desserts.

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 on this application.

Motion carried 5 – 0.

C/Z #1520 – application of **DAVID REICHERT AND REBECCA LEBLANC** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying northwest of Route 24, 1,400 feet northeast of Love Creek, to be located on 22,500 square feet, more or less.

The Commission found, based on comments received from DelDOT, that the Department does not recommend that the County require a traffic impact study for this rezoning; that if the County is inclined to approve the proposed use, the Department feels that a Conditional Use approval, limiting the use of the property to exactly what is now proposed, would be preferable to rezoning; that regardless of whether this application is a rezoning or a Conditional Use, the Department is concerned and see it as encouraging more traffic in an area that has been identified as operating at unacceptable levels of service; that the application would be inconsistent with the Strategies for State Policies and Spending document; and that the Department recommends that the County deny the application.

The Commission found, based on comments received from the Office of State Planning Coordination, that the State is concerned that if this parcel is rezoned to C-1 it could be redeveloped in a way that would contribute to the growing seasonal congestion along Route 24; that well permits are required; that the soil report is similar to the report from the Sussex Conservation District; and that the State asks that the County consider the State comments when reviewing this application.

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 Applicant 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 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 a letter was received from Roy E. Budd and Sandra M. Lyons in opposition to the application and expressing concerns about rezoning, the residential character of the lots in the immediate area, the fear of unrestricted commercial uses, the loss of the residential character, and increased traffic on the already congested Route 24.

The Commission found that Rebecca LeBlanc was present and stated in her presentation and in response to questions raised by the Commission that no construction is intended; that they propose a computer consulting office or travel agency; that they presently live in Wilmington; that her husband spends approximately 4 days per week at the site; and that they applied for rezoning since MR zoning does not allow for this type of Conditional Use.

Mr. Lank advised the Commission that the proposed use may fall into the Home Occupation category if there are no deed restrictions.

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

The Commission found that Patricia Wien read and submitted a petition letter of opposition signed by eight area residents and that the petition letter referenced concerns that the rezoning would destroy the residential character of the surrounding homes; traffic; the close proximity to the Love Creek Bridge; that commercial activities could increase the possibility of accidents, and that they purchased their homes in a residential area, not a commercial area.

The Commission found that William Payne was present and spoke in opposition and expressed concerns about spot zoning; sprawl; that commercial uses should be in commercial areas; that Route 24 is very busy; that Route 24 is proposed for widening; that rezoning will required higher prices for land being purchased for the widening; and that the use does not comply with the Liveable Delaware legislation.

The Commission found that there were four (4) parties present in opposition.

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

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried with 4 votes to defer action.

Motion carried 4 – 1. Mr. Wheatley opposed the motion.

C/Z #1521 – application of **1ST STATE STORAGE COMPANY** 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 Georgetown Hundred, Sussex County, land lying 330 feet south of Route 9 and 800 feet east of Route 321, and being part of Lots 3, 4, and 5 within the Village of Saulsbury Switch Subdivision, to be located on 1.5891 acres, more or less.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Fallsington sandy loam, and Woodstown sandy loam; that the Evesboro soils have slight limitations for development; that the Woodstown soils have slight to moderate limitations; that the Fallsington 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 Fallsington soils are considered of Statewide Importance; that the Fallsington and Woodstown soils are considered Prime Farmland; that the soils vary from Hydric to Hydric in small depressions; that no storm flood hazard areas or tax ditches are affected; that it may be necessary for some on-site and off-site drainage improvements because of the presence of poorly drained soils with seasonal high water tables and increased impervious areas; and that there may be regulated wetlands on site.

The Commission found that Mark Vugrenic of 1st State Storage Company was present and stated in his presentation and in response to questions raised by the Commission that all of the subdivision lots have been sold or contracted for sale; that the buyers for Lots 3, 4, and 5 propose to build duplex units; that he has tried to restrict the use of the lots to no more than duplex units with no business uses; that the lots have been engineered for septic systems; that foundations for duplexes have been built on Lots 1 and 2 in the C-1 District; that the Restrictive Covenants for the lots in the C-1 District are different from

the lots within the Saulsbury Switch Subdivision; and that there are no wetlands on the lots proposed for the rezoning.

Mr. Robertson stated that he would suggest deferral to verify deed restrictions.

The Commission found that Jean Dance and Diane Gruber, lot owners within the Saulsbury Switch Subdivision, were present in opposition to the application and expressed concerns about the many C-1 uses; homes being next to commercial; increased traffic; non-resident use; and questioning who would control the uses once rezoned.

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

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

Motion carried 5 – 0.

OTHER BUSINESS

Eagle Point Section II
C/U #1489 Site Plan – Road 276

Mr. Abbott advised the Commission that this is a multi-family site plan for 52 units on 13.0 acres; that 13 buildings with 4 units each are proposed; that the buildings are 137-feet by 67-feet; that the setbacks, building lengths and heights, building separations, and parking meet the requirements of the zoning code; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that there are not any wetlands on the site; that the property is not located in a flood zone; that the 12 conditions of approval have been addressed; that all agency approvals have been obtained and that the site plan is suitable for final approval.

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

Motion carried 5 – 0.

Lord Baltimore Landing
C/Z #1488 Final Record Plan – Road 84

Mr. Abbott advised the Commission that this is the final record plan for a 85-lot Medium Density Residential/Residential Planned Community o 38.63 acres; that the 85 lots are permitted by the approved ordinance; that the 15 conditions of approval have been

addressed; that the record plan meets the requirements of the zoning and subdivision codes; and that all agency approvals have been obtained.

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

Motion carried 5 – 0.

Royal Farms #125
Commercial Site Plan – U.S. Route 13 and Concord Road

Mr. Abbott advised the Commission that this is a preliminary commercial site plan for a 5,834 square foot convenience/gas retail store on 2.17 acres; that the site is zoned C-1 General Commercial; that the site is the current site of the Cock and Bull; that 3 ingress/egresses are proposed; that there is one on Route 13, Concord Road and Brickyard Road; that DelDOT has issued a letter of no objection for the entrance locations; that 34 parking spaces are required and 43 are proposed; that 1 loading space is required and proposed; that on-site septic and well are proposed; that there are 2 gas islands with 4 pumps each proposed; that all setbacks meet the requirements of the zoning code except for the proposed canopy; that the applicants have filed an application for a variance for the canopy; that there are not any wetlands on the site and the site is not located in a flood zone; that the site plan is suitable for preliminary approval pending a variance being granted; and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals and a variance being granted by the Board of Adjustment for the canopy. If the variance is denied, the canopy will be required to conform to the required setbacks.

Motion carried 5 – 0.

Kensington Park HR/RPC
C/Z #1511 Master Record Plan – Road 362

Mr. Abbott advised the Commission that this is the master record plan for a 59-unit residential planned community; that 47 multi-family units and 12 single family lots are proposed and permitted by the approved ordinance; that there are 7 multi-family buildings proposed; that a community swimming pool and bathhouse are proposed; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that there are not any wetlands on the site and the site is not

located in a flood zone; that the 16 conditions of approval have been referenced on the master plan; and that each phase will be subject to the review and approval by the Commission upon receipt of all agency approvals.

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

Motion carried 5 – 0.

Warwick Cove
C/U #1393 Site Plan – Road 312

Mr. Abbott advised the Commission that this is a site plan for 14 multi-family units on 2.99 acres; that the Commission granted a one-year time extension on March 27, 2003; that 2 buildings with 7 units each are proposed; that the setbacks, building lengths and heights, and building separations meet the requirements of the zoning code; that a central community on-site septic system is proposed; that central water will be provided by Tidewater Utilities; that all of the units are located in an X flood zone; and that all agency approvals have been received.

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

Motion carried 5 – 0.

Villas at Bay Crossing (formerly Beachplum Dunes)
Multi-Family Site Plan – Delaware Route One

Mr. Abbott advised the Commission that this is the final site plan for a 109 unit project on 11.64 acres; that the Commission granted preliminary approval for the site plan on December 19, 2002 for 109 units; that all agency approvals have been received; and that the staff has received verification from the adjoining property owner that they agree with the entrance design approved by DelDOT.

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

Motion carried 5 – 0.

Robert J. and Eleanor H. Bennett
Lot and 50' Right of Way – Route 16

Mr. Abbott advised the Commission that this is a request to create a 2.0-acre lot with access from a 50-foot right of way; that the owner proposes to widen an existing dirt lane to a 50-foot right way and create the lot.

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

Motion carried 5 – 0.

Glenn Hickman
Lot and 50' Right of Way – Road 346

Mr. Abbott advised the Commission that this is a request to create a 0.80 acre lot with access from a 50-foot right of way; that the owner proposes to extend an existing 50-foot right of way to serve as access to the new parcel; and that the lot is being created for mortgage reasons.

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

Motion carried 5 – 0.

Elizabeth Himes
Lot and 50' Right of Way – Route 13A

Mr. Abbott advised the Commission that this is a request to create a 0.75 acre lot with access from a 50-foot right of way; that the owner proposes to widen an existing driveway to a 50-foot right of way to serve as access to the proposed lot; and that the lot is for the owner's grandchild.

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

Motion carried 5 – 0.

Jonathan and Beth Webb
3 Parcels and 50' Right of Way – Road 370

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from a 50-foot right of way; that the owner proposes to widen an existing gravel lane to a 50-foot right of way to serve as access to the parcels; and that the 3 lots will be 18.42 acres, 4.12 acres, and 2.88 acres.

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

Motion carried 5 – 0.

Robert J. Wotring
Conceptual Parking Plan Route One and Route 9

Bob Wotring was present and discussed a request to be able to expand a retail sales center with parking that will be located on lands owned by the State of Delaware; that the realignment of Route 9 has created additional space; that he has a signed lease agreement with DelDOT for 7 years to use as a parking area; and that it would be more economically feasible to lease the land from DelDOT.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to defer action so that Mr. Robertson can review the lease agreement.

Motion carried 5 – 0.

Meeting adjourned at 9:55 P.M.