

MINUTES OF THE REGULAR MEETING OF NOVEMBER 14, 2002

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 14, 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, Mr. Kautz – Planner, and Ms. Mowbray – Zoning Inspector III.

Mr. Abbott advised the Commission that Item #3 under Old Business has been removed from the agenda.

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the minutes of October 24, 2002 as amended.

Mr. Schrader described how the public hearings and agenda items will be conducted.

PUBLIC HEARINGS

C/U #1468 - - application of **LANE N. BRASURE**, to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a playing area for paintball games, to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 8.26 acres, more or less, of a 163 acre tract, lying north of Road 92, 1,350 feet east of Road 385.

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 Fallsington sandy loam and Pocomoke sandy loam; that the suitability of the soils for the intended use are severe; that with respect to erosion and sedimentation control, the developer will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction; that the farmland rating of both soils is of Statewide Importance, Prime Farmland, Hydric Soil; that no storm flood hazard area is affected; that it may not be necessary for any off-site drainage improvements; that it may be necessary for any on-site drainage improvements because of the poorly drained and very poorly drained soils on site; that there may be jurisdictional wetlands regulated by the Army Corps of Engineers and permits may be required; and that no tax ditch area is affected.

The Commission found that Lane Brasure was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that paintball games are played on Sundays from noon to dusk; that sometimes on Saturdays games are played for private parties such as birthday parties and tournaments; that all employees are family members; that there are poles erected for the purpose of holding the safety nets; that the paintballs will not go through the safety netting; that the site has adequate room for parking of the customers; that the parking area is a stone area; that no lighting is proposed; that no signage is proposed; that the tournaments usually start earlier around 9:00 A.M.; that the average number of participants is around 30 to 35 people; that the existing woods will remain as that is where the games are played; that the games are very popular with younger children and teenagers; that they have been holding games played at the site; that the reason for the application is because they sell paintballs and CO-2 to the people playing the games; that the entire property is marked with string and surveyor's tape; that airguns shoot the paintballs; that they rent equipment to the players; that they may put a shed on the property to store equipment in the future; that the shed would be put into the wooded area; and that the marking spaces can be marked.

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

The Commission found that Cardell Keiser was present in opposition to this application and stated that he has resided at his property for over 25 years; that the area is an agricultural area; that there are noises associated with the paintball guns, noises from the filling of CO2 tanks, noises from air horns and talking; that the use is an amusement type use; and also submitted a letter from his mother, Marvel Keiser, opposed to this application.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the hearing.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved with the following applications:

- 1) The hours of operation shall be from 12 noon to dusk on Saturdays and Sundays only.
- 2) Adequate parking shall be provided and marked.
- 3) The site plan shall be subject to the review and approval by the Planning and Zoning Commission.

Motion carried 5 – 0.

C/U #1469 - - application of **GREGORY S. HEISHMAN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an embroidery business to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 0.75 acre, more or less, lying east of Road 225 and 415 feet south of Road 225-D.

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 Evesboro loamy sand; that the suitability of the soils for the intended use have slight limitations; that with respect to erosion and sedimentation control, the developer will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after completion of any construction; that the farmland rating of the soils is Statewide Importance, Hydric Soil in small depressions; that no storm flood hazard area is affected; that it may not be necessary for any off-site or on-site drainage improvements; and that no tax ditch is affected.

The Commission found that Greg Heishman was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he and his family have operating the embroidery business in their home under an approved home occupation business; that his daughter has recently move out of their home and that they need to hire 2 unrelated employees to operate the business; that the work is conducted in a 20-foot by 20-foot addition to the dwelling; that 90 percent of the work orders are taken over the internet or by e-mail; that there are usually 2 to 3 walk ins during any month; that no signage is proposed; that there are not any noises associated with the business since all work is done inside; that deliveries and pick ups are done by the United Parcel Service and Fed – Ex approximately 2 to 3 times per week; that occasionally tractor trailers make deliveries; that adequate parking is available for employees and walk in customers; and that they have been working at the residence since 1998.

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

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the hearing.

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

Motion carried 5 – 0.

C/Z #1482 - - application of **DONALD DERRICKSON** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District-Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southeast of Road 283 (Postal Lane) and 800 feet southwest of Route One, to be located on 44.83 acres, more or less.

Mr. Abbott advised the Commission that the applicant's attorney submitted a packet on November 8, 2002 and that the packet contained a drawing of the proposed layout, a copy of a portion of the tax map for the area, a letter from Tidewater Utilities Inc. stating that they are able and willing to provide central water to the site, a letter of no objection for the entrance only location from DelDOT, a letter from the applicant to the Sussex County Engineering Department in reference to sewer, a letter from Sussex County Engineering Department in reference to sewer, and 9 proposed conditions of approval and a booklet containing colored drawings of the layout, colored drawings of the proposed duplexes, heritage townhouses, and an aerial photograph of the site.

The Commission found, based on comments received from DelDOT, that the Department of Transportation has reviewed the site plan, dated June 28, 2002 and has no objection as shown on the drawing and noted; that the letter is for entrance location only; that a traffic impact study is being prepared for the project; that upon its completion, the department will forward a letter that describes the traffic impact and may recommend improvements to the road network.

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on site are Sassafras loam; that the suitability of the soil for the intended use has slight limitations; that with respect to erosion and sedimentation control, the developer will be required to follow recommended erosion and sedimentation control practices during any construction and to maintain vegetation after completion of any construction; that the farmland rating of the soil is Prime Farmland; that no storm flood hazard area is affected; that it may 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 Division of Public Works, that the proposed project should be subject to review by the Planning and Zoning Commission's Technical Advisory Committee; that the roads should be designed, constructed and inspected in accordance with the street design requirements of Sussex County Code Chapter 99; that the streets should be curbed and utilize a closed pipe drainage system for the multi-family areas as

construction of high density dwellings destroys earthwork and finished grades of drainage swales; that sidewalks and streetlights should be provided for all multi-family areas; that adequate safety features should be provided that would not require pedestrians to walk within the streets or in the dark to access their units and community areas; and that the plan should be revised to separate the golf cart path from the streets, providing pedestrian access to the pro shop and to extend the sidewalk to access the proposed pool.

The Commission found, based on comments received from the Sussex County Engineering Department Division of Planning and Permits, that the project is located in the West Rehoboth Expansion Area of the County operated and maintained sanitary sewer district; that wastewater capacity is available for this project; that Ordinance No. 38 is required; that there are not any system connection charge credits for the project; that additional system connection charges will be required for the project; that the current system connection charge rate is \$2,954.00 per EDU; that the connection point must be approved by Sussex County during the Ordinance 38 design process; that the project is not within the West Rehoboth Moratorium Area; that the project is not adjacent to a County operated Sanitary Sewer District; and that conformity to the West Rehoboth Planning Study or undertaking an amendment will be required.

The Commission found, based on comments received from the Office of State Planning Coordination, that the parcel is located within the "Developing" area of the Strategies for State Policies and Spending document approved by the Cabinet Committee on State Planning Issues in 1999; that the Developing areas are the areas where the State agrees that growth should happen; that the proposal is in compliance with the Strategies; that according to comments received by the Department of Transportation, the Traffic Impact Study (TIS) has not been finalized at this time; that while the State has no technical objections at this time, the State ask that this rezoning be held pending the outcome of the TIS; that DelDOT feels it is possible that they might have a completed report by the end of December and a response as early as late January 2003; that the State Historic Preservation Office has noted that there is a potential historic property west of this site and a medium probability for prehistoric archaeological sites; that this proposal could have a visual effect on the potential historic site, therefore some landscaping might be incorporated into the plan on the western edge to minimize the visual effect; that the Department of Natural Resources and Environmental Control has noted that according to the NRCS updated soil survey, the soils in the vicinity of the proposed construction are mapped as Greenwich; that Greenwich soils are a well drained upland soil that has few limitations for development; that should the applicant find any areas of the parcel containing wetland associated hydric soils, they must avoid construction/filling activities as they are subject to regulatory provisions of the Federal Clean Water Act 404 program governing jurisdictional wetlands; that tidal wetlands are subject to even more stringent regulatory protection than that accorded to non-tidal wetlands, and are regulated under

the DNREC administered State Tidal Wetlands Act; that the Inland Bays are designated as Waters of Exceptional Recreational or Ecological Significance (ERES Waters); that designated ERES waters shall be accorded a level of protection and monitoring in excess of that required by most other waters of the State; that both non-point and point nutrient sources in these waters may be subject to control through Best Management Practices (BMP's); that additional nutrient reduction methodologies may be instituted in the future should further reductions be deemed necessary; that the DNREC staff feels this parcel should be developed using appropriate pollution control strategies (e.g., stormwater management and buffers) consistent with TMDL "target rate reductions" to mitigate nutrient runoff into any adjoining streams or watercourses; that the development is also contingent upon the avoidance of impacts to wetlands; that the applicant is advised to contact the DNREC's Division of Water Resources Assessment Branch for more information regarding any requirements for total maximum daily load (TMDL) target rate reductions in this basin; that the developer should make a presentation to the Cape Henlopen School District for informational purposes; that in conclusion, the State asks that the County defer action on this proposal until the TIS can be completed and a response prepared by DelDOT for the County's review; and that once the County has reached a decision on this proposal, the State would like to be notified so that their records can be updated accordingly.

The Commission found that letters from William M. Torney and Lois A. Torney were received in opposition to this application.

The Commission found that Donald Derrickson and James Fuqua, Attorney, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the application is for a Medium Density Residential-Residential Planned Community with 147 multi-family units and a 9 hole golf course; that the applicant owns the property and currently operates the 9 hole golf course and a hotel on an adjacent parcel; that the proposed development will require a revised layout for the golf course; that the golf course will be revised to a 9 hole executive golf course and the addition of 146 multi-family units to the rear of the property; that the existing pro shop near the entrance currently has an approved apartment on the second floor approved by Conditional Use 1294 and would be the 147 unit on the site; that the residential units, a pool and bathhouse would be built at the south end of the site; that the existing entrance location will be used as access to the units and that DelDOT has approved the entrance location; that there will be an easement recorded for DelDOT to create a grid road if it is ever needed; that the golf course will remain open to the public and the multi-family units will be clustered to preserve the golf course as open space; that clustering of the units provides for open space and a public amenity; that there will be a deed restriction that states that the golf course area will remain as open space even if the golf course is not in operation anymore; that the proposed density of the project is 3.4 units per acre; that the

site is adjacent to the outlets shopping center which is zoned C-1, General Commercial; that there are numerous MR subdivisions such as Sandy Brae, The Plantations and Maplewood in the immediate area and have similar densities; that Woods Cove was approved as a HR-RPC at a density of 6 units per acre and that it adjoins this site; that there is undeveloped farmland to the west of the site that will eventually be developed in the future; that they submitted a copy of the Findings of Fact for the approval of the Woods Cove development; that Sandy Brae has three entrances of off Road 283 (Postal Lane) and submitted a copy of the record plan of Sandy Brae; that the proposed site has one entrance onto Postal Lane; that the stormwater management design will comply with the requirements of Sussex Conservation District; that central sewer will be provided by Sussex County; that Tidewater Utilities will provide central water to the site; that the Traffic Impact Study has been completed by Karins and Associates and will comply with the recommendations of DelDOT; that there are not any wetlands or unique environmental features located on the site; that there are restaurants and shopping areas in the immediate vicinity; that medical facilities are in close proximity to the site; that the project is located in a development district as established by the 1997 Comprehensive Land Use Plan; that the clustering of the units is consistent with the Land Use Plan; that clustering of units permits more open space; that growth should occur where infrastructure exist; that the proposed plan prevents sprawl; that the development district encourages higher densities; that according to the Office of State Planning Coordination, the plan complies with the State Strategies Map; that the applicant has come up with proposed conditions of approval and advised that they are referenced in the packet submitted prior to the public hearing; that the existing golf course is not economically viable at this time; that the proposed design follows the guidelines of the Comprehensive Land Use Plan; that the project will be developed by the applicant's family; that as of this time, no plans for street lighting has been discussed; that the existing lighting at the outlets flood the area with lighting at night time; that DelDOT's proposed grid road is adjacent to the Warrington lands; that if the golf course ever ceases operation, there will be a recorded deed restriction that the area will remain as open space and never be developed with housing; that the length of 4 holes on the existing golf course will be shortened; that the only rental units would be the four units that the Derrickson family will own; that the proposed street will be paved with asphalt; that the units will be sold under the unit property act and that a homeowner's association will be established.

The Commission found that Mr. Fuqua submitted a copy of the approved Ordinance No. 1528 for Woods Cove, a portion of the site plan for Woods Cove, a copy of the tax map of the area, and copies of Maplewood and Sandy Brae subdivision record plans.

The Commission found that William Lingo, an area Realtor and Appraiser, was present in support of this application and stated that he assisted in the feasibility of the project; that the proposed use is the best use of the property; and that the project will be an asset to Sussex County.

Mr. Abbott advised the Commission that certified letters were sent to the City of Lewes and the City of Rehoboth Beach and that the staff has not received any correspondence from either city.

The Commission found that Robert and Barbara McGowen, Sam Warrington, Mike Roney, Garrett vanBerk, and Pat Torrelli representing the Citizens Coalition were present in opposition to this application and stated that traffic congestion is a terrible problem on Postal Lane and Route One; that there is a possibility that wells in the area could go dry; that a better road system is needed in the area; that the Traffic Impact Study should be completed and reviewed prior to the County taking any action on this application; that the proposed entrance location is a hidden entrance off of Postal Lane; that the Traffic Impact Study should include other developments being built in the area; that Tidewater Utilities has closed two wells; and that Mrs. Torrelli submitted a written statement into the record.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to leave the record open for thirty (30) days after receipt of comments from DelDOT in reference to the Traffic Impact Study. The staff is to notify the six people who spoke in opposition upon receipt of the comments from DelDOT

Motion carried 5 – 0.

Subdivision #2002-25 - - application of **DALE WHEATLEY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 38.73 acres into 23 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located south of Route 9, 1,170 feet west of Road 254.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on September 18, 2002 and that the report will be made a part of the record for this application.

Mr. Abbott read a letter received from Basil C. Kollias, Attorney representing Allen Family Foods, Inc. in opposition to this application.

Mr. Abbott advised the Commission that a septic feasibility report, prepared by Ian Kauffman, was received on November 13, 2002 but that comments from the DNREC have not yet been received.

The Commission found that Dale Wheatley and Doug Simpson were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that Phase 1 of the development was for 18 strip lots along Route 9 and that 17 of the lots have been sold; that the concerns raised by Allen Family Foods should not be an issue due to the large wooded area between the two sites; that there are not any problems with odors from the Allen's plant; that only 2 of the proposed lots adjoin the Allen Family Foods site; that there will not be any problem installing a buffer between the two properties; that a homeowner's association will be established; that street lighting will be provided; that the cul-de-sac road is approximately 1,400 feet in length; that they are not opposed to providing deed restrictions but the restrictions should not be as restrictive as proposed by the attorney for Allen Family Foods; that the agricultural use protection deed restriction will be included and that it should be sufficient for what Allen Family Foods is requesting; and that the existing service road serving the 18 strip lots will be repaved once the cul-de-sac street is built.

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

The Commission found that Jennifer and Doug Layfield were present in opposition to this application and stated that they live next to the proposed entrance road; that lot 5 has never sold; that the existing service road is in atrocious shape; that there currently is not a homeowner's association for the existing lots; that the applicants have already accepted deposits on the proposed lots and the current owners were not asked about purchasing any of the lots; that there is a lot of odor and noises from the trucks at Allen Family Foods; that the area should be kept in its' natural state; and that there are problems with the area perking due to the amount of wetlands in the area.

The Commission found that Basil Kollias, attorney for Allen Family Foods, was present and spoke in opposition to this application and stated that the proposed length of the cul-de-sac is too long; that Allen's property is zoned Heavy Industrial and there are many noises and odors associated with the use of their property; that they want to remain good neighbors with any new purchasers; and that deed restrictions similar to the agricultural use protection notice should be included in the restrictive covenants.

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

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

Motion carried 5 – 0.

Subdivision #2002-26 - - application of **RICHARD BASHELOR AND DANIEL V. AND BONNIE J. BASHELOR** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 25.29 acres into 2 lots, a waiver from the street design requirements, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Road 579, 3,475 feet southwest of Road 527.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on September 18, 2002 and that the report will be made a part of the record for this application.

The Commission found that Richard Bashelor and Dean Campbell, Attorney, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that they are proposing to subdivide 25.29 acres into 2 lots; that the 12.76 acre parcel will have a new dwelling built on it; that the remaining 12.53 acre parcel already has an existing dwelling on it; that the parcel is adjacent to two existing subdivisions; that the parcel adjoins the Warren property which is an approved agricultural preservation district; that they will put in the required 30-foot forested buffer along the Warren property lines; that the proposed entrance and driveway will be crushed clamshells; and that there are two barns located on the property and that one of them will be moved to the parcel that will have the new dwelling built on it.

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

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the application as a preliminary, as submitted, with the stipulation that the required 30-foot forested buffer be installed along the Warren Agricultural Preservation District.

Motion carried 5 – 0.

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

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on September 18, 2002 and that the report will be made a part of the record for this application.

Mr. Abbott advised the Commission that the applicant's attorney submitted a packet on November 8, 2002 and that the packet contained a sketch plan of the subdivision, a petition from neighbors in support of the application, a cemetery easement, the restrictive covenants, and a letter of septic feasibility from the DNREC.

The Commission found that Jim and Carolyn Fox, James Fuqua, Attorney, and R.B. Kemp, surveyor, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the subdivision is located near Gums Crossroads; that a previous application for 145 lots was denied in the past year; that the proposed 4 lot subdivision application blends into the agricultural community; that the lots will be marketed as small farms; that the entrance is located off of Road 46; that the length of the cul-de-sac requires a variance from the Commission; that on site wells and septic systems are proposed; that there will not be any further subdivision of the property and will be referenced in the restrictive covenants; that there will be appropriate buffers established; that the site is cleared land and there are not any wetlands on the site except for the tax ditches; that the neighbors in the area are in support of this application; that there will be an easement to access the cemetery on lot 2 and that the restrictive covenants will require the owner of lot 2 to maintain the cemetery site and easement; that a homeowner's association will be established; that the 17 items referenced in the subdivision code will not be impacted; that the subdivision will allow for future owners to have small farms; that there is an out parcel proposed and the applicants will build a new dwelling on it; that the out parcel will have an entrance off of Road 484; that people are looking for large parcels of land so that they can have privacy; that the land can be rented for farming operations depending on the property owner's desire; and that the restrictive covenants will be revised to prohibit any noxious weeds from growing on the parcels.

The Commission found, by a show of hands, that 11 people were present in support of this application.

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

At the conclusion of the public hearings, the Commission discussed the points and issues raised during the public hearing.

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

Motion carried 5 – 0.

OLD BUSINESS

C/U #1466—application of **BRIDLE RIDGE PROPERTIES, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for 38 duplex style homes to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 11.96 acres, more or less, lying at the northwest corner of the intersection of Route 9 and Minos Conaway Road (Road 265).

The Chairman referred back to this application, which was deferred at the October 24, 2002 meeting.

Mr. Johnson stated that he would move that this application be recommended to be approved for the following reasons:

1. The proposed conditional use meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the site is in the Development District as established by the 1997 Sussex County Land Use Plan and that the Land Use Plan suggest an overall density of 4 residential units per acre when central sewer and water are available. The proposed density for this project is 3.12 units per acre.
2. A conditional use for the proposed project site is appropriate since the site is adjacent to and across from residential developments.
3. The recommendation of approval of this project is subject to the following conditions:
 1. The maximum number of units shall not exceed 38 units which shall be located in the 19 duplex buildings.
 2. The minimum size of each unit shall be 2,000 square feet.
 3. The project shall be served by central sewer.
 4. The project shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
 5. A landscape berm, not to exceed four (4) feet in height, shall be installed along the entire frontage of Route 9.
 6. A vinyl Clad Fence, a minimum of six (6) feet in height shall be erected on the subject site a reasonable distance from the Cypress trees along the lands of Brittany Acres Subdivision to allow for care and maintenance of the trees.
 7. Interior streets shall be built to Sussex County street specifications and shall include street lighting and sidewalks.
 8. Property addressing of the project shall be submitted to the County Addressing Division for review and approval.

- 9 • The site plan shall be subject to the review and approval by the Planning and Zoning Commission upon receipt of all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved based on the above referenced reasons and with the conditions.

Motion carried 5 – 0.

Subdivision #2002-24 - - application of **KUHN FAMILY SUSSEX PARTNERSHIP** to consider the Subdivision of land in an AR-1 Agricultural Residential District and GR General Residential District in Indian River Hundred, Sussex County, by dividing 138.80 acres into 120 lots, located southwest of Road 279, approximately 580 feet southeast of Road 277.

Mr. Abbott advised the Commission that this application was deferred at the October 24, 2002 meeting.

The Commission discussed the points and issues raised during the public hearing.

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

Motion carried 5 – 0.

Subdivision #2001-14 - - application of **BAYVILLE CAPITAL III, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 19.70 acres into 16 lots, located north of Road 298, 214 feet southeast of Route 24.

Mr. Abbott advised the Commission that this application was removed from the agenda on November 13, 2002.

OTHER BUSINESS

Myrtle Thomas
3 lots and 50' right of way – Road 310-A

Mr. Abbott advised the Commission that this is a concept to create 3 lots with access from a 50-foot right of way; that the owners propose to widen an existing driveway to 50-feet to serve as access for lots Band C; that lot A has an existing dwelling on it;

that lots B and C are being created for family members; and that the Commission can approve the subdivision as submitted or require a public hearing.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the 3 lots and 50-foot right of way as a concept as submitted.

Motion carried 5 – 0.

C/U #1420 – Pusey Rentals
Time Extension – Road 454-A

Mr. Abbott advised the Commission that the staff has received a request for a one-year time extension; that the application was approved by the County Council on October 30; that this is the first request for an extension and that the Commission may grant 2 on-year time extensions by the Zoning Ordinance; and that the Conditional Use was for the re-opening of a borrow pit.

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

Eric Sugrue
Parking Site Plan – Route One

Mr. Abbott advised the Commission that the Board of Adjustment approve a variance for a multi-family duplex dwelling structure; that a few years ago, the Board approved the variance for the units are the required parking spaces; that that application was voided since the use was not established within the one-year time period; that on the new application, the applicant did not request a variance from the parking requirements and it was stipulated that 3 spaces per unit are required; that there are two parking spaces located at the north end of the site and that there would be backing out onto Delaware Route One; that there are two spaces proposed at the east end of the building and they would also back out onto Delaware Route One; and that there are two spaces located to the south of the site that also have the same problem; and that there is not enough room for the 25-foot interior driveway.

Motion by Mr. Lynch, seconded by Mr. Wheatley, and carried unanimously to deny the site plan as submitted. It was the consensus of the Commission that the developer will need a variance from the parking requirements and interior driveway requirements from the Board of Adjustment.

Motion carried 5 – 0.

CHS Associates Parcel 2
Commercial Site Plan – Road 273-A

Mr. Abbott advised the Commission that this is a commercial site plan for a 3 story, 21,000 square foot office building at the southwest corner of the intersection of Delaware Route One and Road 273-A (Bay Vista Road); that the parcel is 1.03 acres; that 70 parking spaces are required and proposed; that the spaces located within the front yard setback needs a waiver from the Commission; that access to the site is off of Road 273-A; that the setbacks meet the requirements of the zoning code; that water will be provided by the City of Rehoboth Beach; that sewer will be provided by Sussex County; 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 and that final approval could be subject to the staff receiving all required agency approvals.

Motion by Mr. Lynch, seconded by Mr. Gordy, 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.

The Tides
Multi-Family Site Plan – Route One

Mr. Abbott advised the Commission that this is a preliminary site plan for 93 units on 7.76 acres; that the site is zoned C-1 General Commercial; that the staff has received a letter of no objection from DelDOT for the entrance location only; that the proposed density is 11.98 units per acre; that 12 units per acre are permitted by the Zoning Ordinance; that 4, 2-story buildings with 8 units each are proposed; that 3, 3-story buildings with 18 units each are proposed; and that 1, 2-story building with 7 units is proposed; that the setbacks meet the requirements of the Zoning Ordinance; that the minimum 40-foot separation between buildings is provided; that 279 parking spaces are required and proposed; that water will be provided by the City of Rehoboth Beach; that sewer will be provided by Sussex County; 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. Gordy, 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.

Subdivision #99-21 - - Wolfe Properties, Inc.
Reconsideration

Mr. Abbott advised the Commission that the staff received a letter requesting that the Commission reconsider their denying a time extension for Subdivision #99-21.

Jim Wolfe, developer, Lynn O'Donnell, attorney, and Charles Adams, surveyor, were present and requested that the Commission reconsider denying the time extension; that the plan has been submitted to all agencies for approval; that the only approval that they do not have is from the Sussex County Engineering Department; that if the applicant has to go through the subdivision process again, it will cause a financial hardship on the developer; that the plan should be approved by all agencies within sixty (60) days; that the plan was submitted to the agencies for approval in July 0f 2002; and that they request the Commission to allow for a sixty (60) time extension.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried unanimously to deny the reconsideration.

Motion carried 5 – 0.

Steve McCabe – Director of Public Works
Discussion

Steve McCabe, Director of Public Works for the Sussex County Engineering Department was present and discussed the stipulation that allows for work to begin on subdivisions and residential planned communities under the Sussex Conservation District approval and advised the Commission that there are inconsistencies with the Conservation District approval process; that permitting construction to begin is causing problems for the inspectors in his office as most of them are not aware of which projects have this stipulation; that the County should go back to the old policy that permits work to commence once all approvals have been obtained and the record plan is recorded; that allowing contractors to begin work is not beneficial to the public; questioned if the necessary bonds are being submitted; that the Planning and Zoning Office is not aware of which projects are actually being started; that the Planning and Zoning Office should send a letter of a notice to proceed before any work may begin; and that the stipulation was working until the word except was added to the stipulation; and that contractors have taken advantage of the rule.

It was the consensus of the Commission that Mr. McCabe and the staff try to find an idea that will work.

ADDITIONAL BUSINESS

Mr. Abbott advised the Commission that as of this date, there are 39 applications that have not been scheduled for public hearings yet; and questioned if the Commission would like to hold special meetings for these applications. The meetings probably will be held between the regularly scheduled meetings and will only contain public hearings. There will not be any old or other business items on these agendas.

It was the consensus of the Commission to have an extra meeting in the months of January, February, March, and April of 2003.

Meeting adjourned at 10:55 P.M.