



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF JANUARY 13, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 13, 2005 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. Smith, and Mr. Wheatley, with Mr. Robertson – Assistant County Attorney, Mr. Abbott – Assistant Director, and Mr. Kautz – Land Use Planner.

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

PUBLIC HEARINGS

CU #1583 - - application of **TIDEWATER UTILITIES, INC.** to consider the Conditional Use of land in a MR-RPC Medium Density Residential District – Residential Planned Community for an elevated water storage tank with logo to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 20,087 square feet more or less, lying southeast of Legion Road (Road 298), approximately 2,920 feet southeast of the intersection of Legion Road and Route 24.

Mr. Abbott advised the Commission that on January 10, 2005 the applicant's attorney submitted an Exhibit Booklet that contains a site plan, a Letter in support from the Delaware Office of Drinking Water, a Question and Answer Sheet, a Geo-Tech Report from Hillis-Carnes Engineering Associates, Inc., a Technical Specification Sheet, a copy of "The Meadows" Water Service District Map, and proposed Conditions of Approval; and that the booklet will be made a part of the record for this application.

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 on site are Klej loamy sand and Rumford loamy sand; that the suitability of the soils for the intended use have slight to moderate limitations; that with respect to erosion and sedimentation control, the applicant will be required to follow

recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that the Farmland Rating of the Soils is of Statewide Importance and Hydric Soil in depressions; that no storm flood hazard area or tax ditch is affected; and it will not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments from the Sussex County Engineering Department Planning and Permits Division, that the site is located in the Long Neck Sanitary Sewer District; that there is adequate wastewater capacity for the proposed use;

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that Ordinance 38 is not required; that there are not any System Connection Charge (SCC) credits for the project; that it is likely that additional SCC's will be required; that the System Connection Charge Rate is \$2,793.00 per EDU; that the location and size of lateral(s) need to be approved by the Sussex County Engineer; that there is no service to the parcel at this time; that facilities are not being constructed by Sussex County; that conformity to the Long Neck Planning Study Expansion Area No.1 Amendment No. 1, dated January 8, 2002, or an undertaking will be required; that if the proposed or future use generates domestic type wastewater, a connection to the sewer system is required; that if filtration backwash or other treatment plant operations will discharge to the wastewater system, additional information is required prior to receiving connection approval from the Sussex County Engineering Department; that Sussex County will require pretreatment or may not approve connection to the sewer system; that the proposed use must be included in a sewer concept plan for review and approval because the proposed use is not shown on the currently approved concept plan for the Bay Farm; and it is not clear how sewer will be provided.

The Commission found that James Fuqua; Attorney, Gerald Esposito and Bruce Patrick from Tidewater Utilities, Inc, and Ken Davis from Cabe Associates, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site is off of Legion Road; that the site will be located in the Bay Farm residential planned community; that there are three large residential planned communities in the area; that the Commission approved a revised master plan for the Bay Farm in November 2004 and that the site plan showed the location of the proposed storage tank; that the projects will be served by central water and that the site are located in the Tidewater Utilities franchise area; that the site is located in the district known as The Meadows and discussed the site map that was submitted in the exhibit booklet; that no treatment or well facilities are needed; that only an elevated storage tank is proposed; that the site is 20,087 square feet; that the Division of Public Health supports the proposed use and has issued a letter in support of this application; that the elevated water storage tank will improve the overall reliability of a water system; that the tank will help provide consistent pressure and fire flows, meet peak demands, and ensure water supply during power outages; that an elevated tank currently does not exist in Tidewater's Meadow District; that Cabe Associates performed a Meadows District Study

in which the construction of an elevated tank was recommended in order to serve the expected customer growth in the area based on the planned/approved developments and the existing customer base; that the existing wells are located at Tidewater's Long Neck Church, Vera Lane, Meadows, Driftwood Village, River Breeze, and Lingo Estates sites; that this location is optimal due to the majority of the growth planned in this region with the proposed developments of the Peninsula, Bay Farm, and Long Neck Shores; that this location will also allow new water main infrastructure to be installed to enhance the existing distribution system and provide hydraulic efficiency; that the tank could be

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incorporated within the newly planned development of the Bay Farm; that the tank would be visited five times per week; that the soils can support the load of the tank based on the geotechnical report contained in the exhibit booklet; that the proposed tank will have a 500,000 gallon capacity; that the Home Depot site tank has a capacity of 750,000 gallons; that the maximum height of this tower will be 178 feet; that the current plan submitted shows the tank at 160 feet but the plans are still being reviewed, that the new tower will be of new construction; that there will be vehicle and personnel doors at the base of the tower for service; that there will not be any ladders or steps located on the outside of the tower; that the revised site plan proposes access to the site from an internal subdivision street within the Bay Farm development and not from Road 298 as originally shown; that the site will be enclosed with an 8-foot high chain-link fence with a security gate; that the tower will either be white or neutral sky blue in color; that the Tidewater logo will be on two sides of the tower; that the only lighting on the tower will be what is required by the Federal Aviation Administration; that no noises or odors will be associated with the sue; that there will not be any buildings located on the site; that the tower will be provide for antenna space; that 50% will be reserved for government uses such as local fire department, police and Sussex County; that the tower will conform to AWWA regulations that were established after 9/11; that the tower will comply with all applicable regulations; that the proposed water storage tank will help to protect the environment as referenced in the Comprehensive Land Use Plan; that the proposed use is a public or semi public use in character; that fire hydrants will be located at the base of the tower for local fire department connections; that the tower will provide pressure to existing developments that have fire hydrants; that the Fire Chief of the Indian River Vol. Fire Co. has written a letter in support of this application and submitted the letter into the record; submitted renderings of the proposed water tower; and summarized the 8 proposed conditions of approval.

The Commission found that Jay Stephenson, an area resident, was present in support of this application and advised the Commission that he is a member of the Indian River Vol. Fire Co.; that the proposed tower will provide for fire protection for the community; that the tower will be a benefit to the community; and questioned how much of the area would be used for the tower since there is wildlife in the area.

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

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

Motion by Mr. Wheatley, 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 record made by the applicants, that the proposed use is a public utility; that there is a need for this type of use in the area, and with the following conditions:

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1. The maximum capacity of the tower shall not exceed 500,000 gallons.
2. The maximum height of the tower shall not exceed 178 feet.
3. The lighting at the tower shall be limited to normal security lights and safety lights required by the Federal Aviation Administration on the tower.
4. The tower shall be painted white or a sky neutral color and lettering shall be limited to identification of the Water Company.
5. The water facilities shall be surrounded by a security fence at least eight (8) feet in height.
6. Structural design and operation of the water facility shall comply at a minimum with industry standards.
7. The applicant has offered to allow placement of antenna on the tower by government agencies at no charge and will reserve 50% of antenna space for such use.
8. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all applicable agency approvals.

Motion carried 4 – 0.

CZ #1562 - - application of **JOHN T. AND KAREN L. FITZGERALD** 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 Cedar Creek Hundred, Sussex County, land lying north of Road 207, 212 feet west of U.S. Route 113, to be located on 1.11 acres, more or less.

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils mapped on site are Rumford loamy sand and Sassafras sandy loam; that the suitability of the soils for the intended use have slight limitations; that with respect to erosion and sedimentation control, the applicant 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 Rumford soils is of Statewide Importance and that the farmland rating of the Sassafras

soils is Prime Farmland; that no storm flood hazard area or tax ditch is affected; and that it will not be necessary for any on-site or off-site drainage improvements.

The Commission found that Scott Fitzgerald was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the proposed use is for office space for Fitzgerald Salvage Company; that there are currently two dwellings on the site; that the one-story dwelling is rented and that the two-story dwelling is vacant; that the two-story dwelling will be converted to offices; that no new

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buildings are proposed; that there are currently existing entrances to the site; and that employees will park at the salvage yard operation.

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 this application.

Motion by Mr. Wheatley, 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 record made by the applicant and since the site is adjacent to lands that are zoned HI-1 Heavy Industrial which is a higher zoning classification, and that the proposed use is suited for the area.

Motion carried 4 – 0.

Subdivision #2004 – 11 - - application of **URQUHART & COMPANY** to consider the Subdivision (Clustered Development) of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 11.19 acres into 40 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 349, 1,500 feet southeast of Road 347.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on April 21, 2004 and that the report will be made a part of the record for this application.

The Commission found that an Exhibit Booklet was submitted by the applicant's attorney on January 10, 2005 and that the booklet will be made a part of the record for this application.

The Commission found that Tim Willard; Attorney, Glen Urquhart; Developer, and Gary Moore; Engineer with River Basin Engineering were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission

that the application is for 40 lots located on 11.19 acres; that the site is zoned MR; that the minimum lot size is 7,500 square feet; that the project was designed to the Environmentally Sensitive Overlay District ordinance; that single family dwellings are proposed; that the site will be served by central sewer provided by Sussex County and central water provided by Tidewater Utilities; that the lots have been clustered; that the application has been revised doing away with the cul-de-sac therefore a variance is not required for the maximum length of 1,000 feet; that the site was previously a recorded subdivision that was never built and was therefore subject to the sunset provisions of

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the subdivision ordinance; that the site is adjacent to Collins Creek Estates subdivision and the proposed Bay Forest Club residential planned community; that the site is entirely wooded; that there are no wetlands on the site except for along the drainage ditch along the western boundary; that these are waters of the United States; that there are other subdivisions in the immediate area; that the proposed development is consistent with the character of the area; that the project is considered an in-fill development; that the proposed density is 3.57 lots/acres; that the streets will be private and built to Sussex County specifications; that pathways are provided throughout the development; that sidewalks will be provided; that Tidewater Utilities has issued a letter stating that they are willing and able to provide the development with central water; that fire hydrants will be provided for fire protection; that the storm water management system will be handled on site; that Sharp Energy will provide gas; that Delaware Electric Cooperative will provide electricity; that Verizon will provide telephone service; and that MediaCom will provide cable television; that the size of the dwelling will range from 1,500 to 2,500 square feet excluding attached garages and submitted photographs of the proposed dwellings; that the storm water management areas are a part of the open space areas and drainage ditch; that 10% of the site is dedicated as open space; that the local fire department's apparatus will be able to traverse the streets within the development; that the drainage ditch is not a tax ditch; that a homeowners' association will be established and they will be responsible for the maintenance of streets, open areas, and buffers; that the developer will maintain as many trees as possible; that there will be a planted buffer along the boundary with Collins Creek Estates subdivision; that the site is located in the Millville Fire Department district; that an area for a bus shelter has been provided; that the site is part of Delaware State Police Troop 7 jurisdiction; that the applicants have contacted the Indian River School District and that they have not commented; that the proposed development is integrated into the area; that the development will be secluded; that street lights will be provided; that the subdivision will enhance area property values; that the proposed restrictive covenants have been submitted; that the proposed setbacks are what is permitted in the MR Medium Density Residential District; that the proposed buffer will exceed the minimum rear yard setback requirements; that the storm water management design has not yet been finalized; that pedestrian interconnections with the proposed Bay Forest Club have been provided; summarized the proposed conditions for approval; and submitted photographs of the proposed dwellings.

The Commission found that Fred Jackwood was present and advised the Commission that he is not opposed to upscale development; that he thought that the site was going to be used for storage; questioned if there are road interconnections with Bay Forest Club proposed; that only 2 lots of Collins Creek Estates Subdivision adjoin the proposed site; that the ditch along the boundary lines has been determined to be wetlands; questioned the size of the proposed dwellings and setbacks.

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The Commission found that Ed Hiner and Mary Holiday, residents of Collins Creek Estates were present in opposition to this application and stated that they have concerns about the roadway, sidewalks and storm water management areas; that trees should be required to be planted; that the applicants have not met with the residents of Collins Creek Estates to discuss the project; that there will be increased traffic to the area; that there is wildlife habitat in the area that will be lost; raised concerns about emergency vehicles being able to access the development; questioned if street lights will be provided; and questioned where the sewer and water will come from.

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

Motion by Mr. Smith, seconded by Mr. Wheatley, and carried unanimously to approve this application as a preliminary based on the record made by the applicants and since the subdivision promotes the orderly growth of the County, that the application complies with the Subdivision Code, and with the following conditions:

1. Final site plan review shall be required for the development.
2. The development shall be served as part of an existing or extended Sussex County Sanitary District in accordance with Sussex County Engineering Department specifications and regulations.
3. Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
4. The applicant, its successors and/or assigns, including a homeowners' association that will be formed, shall operate the storm water management facilities in a manner that is consistent with Best Management Practices (BMP's).
5. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on at least one side of the streets and street lighting.
6. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00a.m and 6:00 p.m.
7. The applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of the streets, roads, buffers, open spaces, storm water

- management facilities and other common areas.
8. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
 9. Pedestrian walkways and connections shall be constructed in accordance with the site plan. There shall be no vehicular interconnections to the Bay Forest Club project.
 10. Existing trees and vegetation buffers shall be maintained in accordance with the site plan.

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Motion carried 4 – 0.

Subdivision #2004 – 12 - - application of **HARFORD DELAWARE VENTURE, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 77.98 acres into 68 lots, located east of Road 317, 0.4 mile north of Road 48.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on April 21, 2004 and that the report will be made a part of the record for this application.

The Commission found that the applicant's attorney submitted an Exhibit Booklet on December 22, 2004 and that the booklet will be made a part of the record for this application.

The Commission found that James Fuqua; Attorney, Jim Wolfe; Developer, and Kevin McBride with Morris Ritchie Associates were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the project is for 68 single family lots; that the minimum lot size is 0.75 acre; that the site is zoned AR-1 Agricultural Residential and that a zoning change is not required; that the site is located in a low density area based on the Comprehensive Land Use Plan; that there are other developments in the area; that the proposed density is 0.8 lots/acre; that the streets will be private and built to Sussex County specifications; that on-site septic systems and wells are proposed; that DNREC has issued a non-binding septic feasibility statement; that the wetlands will remain undisturbed; that no wetlands will be included within any lot lines; that there are no environmental concerns; that the site is located in the Millsboro Fire Company jurisdiction; that the site is located in the Indian River School District and that the new Sussex Central High School is approximately 1 mile from the site; that the development is a neo-traditional subdivision; that sidewalks and street lights will be provided throughout the project; that a homeowners' association will be created and will be responsible for the maintenance of streets, common areas, and buffers; that 18% of the site is dedicated to open space; that 3 storm water management ponds are proposed; that there will be a vegetative buffer along Road 317 and the

adjacent farmland; that there will be trees planted to create a streetscape throughout the project; that gazebos will be placed next to the storm water management ponds; that walking trails and benches will be provided; that the site is in the vicinity of Sussex Pines Country Club; addressed the issues of Subsection 99-9C in that the site plan is configured to minimize cut and fill; that roads are designed on grade where possible to allow a majority of the open space and site perimeter to remain undisturbed; that the single family lots are entirely out of the wetlands and will remain undisturbed; that the storm water management basins are configured to minimize grading impacts to the forested areas; that there are no known historic structures on the site; that the original

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stream bank areas that typically yield artifacts from the pre Historic Era are inundated by Morris Mill Pond and will remain undisturbed; that disturbance to the woodline along Morris Mill Pond and Eli Walls Ditch is being minimized; that open space along Peterkins Road (Road 317) has been preserved by providing a generous buffer between the lots and the right of way; that views are buffered with landforms and plantings along Peterkins Road; that woodlands and wetlands have been preserved and incorporated into open space, while development is restrained to the existing cleared areas; that topsoil is being removed from structural fill areas only and being distributed in berms and in places where there are sumps and poor permeation to achieve a balanced site; that grading is being kept out of existing vegetation wherever possible; that less than half an acre of clearing is required to construct the storm water management facilities; that the site design features landscaped berms along Peterkins Road and the southern boundary, along with preserved natural features to screen neighboring properties and undesirable views; that potable water supply will be through individual wells on each lot; that the provision for sewer disposal will be through individual on site septic systems; that a Septic Suitability Plan and Master Septic Plan is provided in the exhibit booklet that shows the capabilities and relationships to dwellings and wells; that storm water managements BMP's will enhance water quality before it is discharged off-site; that roadside swales and large lots converted from cropland will result in 40% reduction of nitrogen to Morris Mill Pond; that the site lies in an area of "Fair Recharge Potential", according to the Delaware Geological Survey; that the use of unlined retention basins will treat surface water prior to infiltration into the aquifer; that over 80% of the site will remain undisturbed with grading limited to roads, right of way, buffer berms and storm water retention areas; that the design minimizes cut and fill and ground disturbance; that open swales along the roads will allow for infiltration and groundwater recharge; that the site lies outside of any mapped flood zone per FEMA; that five-foot bituminous sidewalks will be provided along one side of interior roads and link to Peterkins Road; that all roads will be constructed to Sussex County standards; that a road connection to the adjacent parcel is provided to create an interconnected road network; that it is anticipated the homes will initially sell for approximately \$300,000; that this project should have a positive effect on the surrounding property values; that the site is not mapped as a high ranking parcel of cropland per Green Infrastructure of Delaware, Cropland Focus Areas, March 2004; that the soils on site lack nutrients and have poor permeability and crop

yields, making the site desirable for development; that the project is anticipated only 1 student per 6 dwellings and a newly constructed Sussex Central High School is $\frac{3}{4}$ of a mile away; that this project did not meet DelDOT's minimum criteria to require a traffic report; that the entrance and Peterkins Road improvements will be reviewed and approved by DelDOT; that considerations have been made for a future bike lane along Peterkins Road; that neighboring parcels have been developed; that the Estates at Morris Mill is a recently approved subdivision and the adjacent parcel owned by Melvin Joseph as well as his remaining acres across the street are poised to be developed in the near future making this subdivision an infill project; that the water quality will meet or exceed

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State standards for nutrient discharge and the agriculture practice of fertilizer and pesticide applications will be eliminated; that the development will create significant revenue to the County through transfer taxes; that the developer is trying to duplicate the adjoining Blue Heron Estates Subdivision; that there is not a lot of common area provided since the lots are greater than 0.75 acre; that the design is not for a clustered subdivision; that the development is consistent with the area; that there is no access to Morris Mill Pond from the site; and submitted proposed conditions of approval.

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 this application.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to approve this application as a preliminary based on the record made at the public hearing, and since the development promotes the orderly growth of the County; that the application conforms to the Subdivision Ordinance and Comprehensive Land Use Plan; that there is a general need for this type of development in the area, and with the following conditions:

1. The applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
2. The storm water management system shall meet or exceed the requirements of the State and County.
3. No wetlands shall be included within 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. There shall be sidewalks on at least one side of each street within the subdivision.
7. All lots shall be at least 0.75 acre.

Motion carried 4 – 0.

OTHER BUSINESS

Vincent Overlook MR/RPC

CZ #1543 Master Record Plan – Roads 88 and 261

Mr. Abbott advised the Commission that this is the master record plan for a 250-lot single-family residential planned community; that 250 lots are permitted by the approved

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ordinance; that a community center with a clubhouse, swimming pool and tennis courts are proposed; that there are 38 parking spaces proposed for the community center; that the developers are requesting the standard MR district setbacks; that the minimum lot size is 7,500 square feet; that the site is not located in a flood zone and there are not any wetlands located on the site; that no commercial uses are proposed or permitted; that 28% of the site is dedicated as open space; that Sussex County will provide central sewer and Tidewater Utilities will provide central water; that the application was approved with 15 conditions and that these conditions are listed on the master plan; that the master plan complies with the conditions and the zoning code; that ingress/egress to the site is off of Road 88 with an emergency only ingress/egress located off of Road 261; that sidewalks on at least one side of all streets is provided; that the purpose of the master plan is to show how the project will be developed; and that each phase of the project will be subject to the review and approval of the Planning and Zoning Commission upon receipt of all agency approvals.

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

Motion carried 4 – 0.

Rehoboth U-Store

CU #1521 Site Plan – Route One

Mr. Abbott advised the Commission that this is a site plan for 4 self storage buildings; that the site is zoned AR-1 Agricultural Residential and that a conditional use was approved by the County Council on March 9, 2004; that two, 6,000 square foot buildings, a 6,650 square foot building and a 6,300 square feet building are proposed; that a stockade fence and Leyland Cypress buffer is provided; that the setbacks meet the requirements of the zoning code; that the application was approved with 9 conditions and these conditions are listed on the site plan; that the site plan complies with the conditions of approval; that all agency approvals have been received; and that the site plan is suitable for final approval.

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

Motion carried 4 – 0.

Gills Neck Shopping Center
Revised Site Plan – Route One

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Mr. Abbott advised the Commission that this is a revised site plan for a 419 square foot kiosk for gasoline sales; that a building and 6 gas pumps are proposed; that the setbacks meet the requirements of the zoning code; that with the proposed addition, 423 parking spaces are required and that 500 spaces are proposed; 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. Wheatley, seconded by Mr. Gordy, and carried unanimously to approve the revised site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 4 – 0.

Americana Bayside MR/RPC
Revised Preliminary and Final Site Plans
Phase 1A, Lots 5 and 6 and Phase 1B – Route 54

Mr. Abbott advised the Commission that the revisions for lots 5 and 6 are a change in types of buildings; that lots 5 and 6 originally were for a 30-unit multi-family building with associated perking; that the revised site plan is for residential units over retail buildings containing 14,664 square feet of commercial space with 6 multi-family units located above and parking; that there will also be 6 garage units on the lower level for the multi-family units; that Phase 1B was originally approved for 8 town house units and 66 residential over retail units; that the revision is for 12, 30-foot wide town homes, 24 multi-family units in 2, 12-unit buildings, and 40 residential over retail multi-family units along with 73,444 square feet of commercial space; that the revisions meet the requirements of the approved ordinance and all agency approvals have been received; and that the revised site plan is suitable for final approval.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried 3 votes to none, with Mr. Smith not participating in the vote, to approve the revised site plans as a final.

Motion carried 3 – 0 – 1.

Subdivision #2004 – 26 - - Lawrence Biasotto
Fresh Pond – Revised Condition – Road 359

Mr. Abbott advised the Commission that this application received preliminary approval on December 9, 2004 with 7 conditions; that one of the conditions states that the stormwater management pond shown on the preliminary site plan shall be relocated so that it is not adjacent to other residential properties; that the applicant and the two property owners who spoke in opposition to the application have agreed that the current

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storm water pond location is acceptable provided a ten-foot wide planting buffer be located between the pond and Murray Estates lot lines; that the applicant's attorney is suggesting that the condition be amended to state the stormwater management pond shown in the southeast corner on the preliminary site plan shall be modified to provide a ten foot wide planting buffer between the pond and the Murray Estates lot lines for tax map parcels 1-34-9-300 and 301.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried 3 votes to none, with Mr. Smith not participating in the vote, to approve the condition as amended by the applicant's attorney.

Motion carried 3 – 0 – 1.

Atlantic Auction Co., Inc.
CU #1518 – Time Extension – Road 353

Mr. Abbott advised the Commission that this is a request for a time extension; that the County Council approved the Conditional Use on January 27, 2004; that the Planning and Zoning Commission granted final site plan approval on October 14, 2004; that based on the zoning ordinance, the Commission has the authority to grant a maximum of 2, one-year time extensions; and that this is the first request for an extension.

Motion by Mr. Smith, seconded by Mr. Wheatley, and carried unanimously to grant a one-year time extension for this application.

Motion carried 4 – 0.

Meeting adjourned at 9:10 A.M.