



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE REGULAR MEETING OF February 17, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 17, 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. Johnson, Mr. Smith, and Mr. Wheatley with Mr. Robertson – Assistant County Attorney, Mr. Lank – Director, Mr. Abbott – Assistant Director, and Mr. Kautz – Land Use Planner.

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of February 3, 2005 as amended.

### OLD BUSINESS

C/U #1586 – application of **FAR EAST CAPITAL, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a small engine repair to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 15,011 square feet, more or less, of a 2.88 acre parcel, lying northeast of Pennypacker Lane, a private road, 1,130 feet northwest of Road 283 (Cedar Grove Road) and 1,700 feet southwest of Road 275 (Plantation Road).

The Commission discussed this application which has been deferred since February 3, 2005.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1586 for Far East Capital, Inc. to operate a shop for small engine repair based upon the record made at the public hearing and for the following reasons:

- 1) The proposed Conditional Use will have no significant impact upon traffic.
- 2) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
- 3) This recommendation for approval is subject to the following conditions and stipulations:

1. There will not be any outside storage of any type, including but not limited to, lawn mowers, engines or similar equipment related to small engine repair unless screened from neighboring and adjacent properties.
2. No lawnmowers or similar equipment for sale will be displayed outside on the premises.
3. No repair work will be performed outside.

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4. The only repair work allowed in the shop will be for small engines with a maximum 30 horsepower; lawn maintenance or equipment with similar characteristics, with the exception of the Division of Fish and Wildlife Go-Devil extended shaft boat motor. No other repairs of any kind will be permitted without a modification of the Conditional Use.
5. The shop will only be operated between the hours of 8:00 a.m. until 5:00 p.m. Monday through Friday and 8:00 a.m. to 12:00 Noon on Saturday. There will be no Sunday hours.
6. There will be no more than one non-relative employee of the Applicant working on the premises at any one time.
7. There will not be any signs on the property advertising the business except for the signs currently on the building.
8. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties.
9. One unlighted sign, not exceeding 2' by 4', may be erected at the entrance to the site.
10. A solid fencing, with a height of 6' will be erected on the sides and rear perimeter of the property to serve as a sight and sound screen/buffer from the neighboring properties. The location of the fencing will be shown on the final site plan.
11. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

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

Motion carried 5 – 0.

Subdivision #2004-16 – application of **DYER REED, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 78.15 acres into 170 lots, and a variance from the maximum allowed

cul-de-sac length of 1,000 feet, located east of Road 278, adjacent to The Cove of Herring Creek, and northeast of Herring Creek.

Mr. Johnson stated that he move that the Commission grants preliminary approval of Subdivision #2004 – 16 for Dyer Reed, LLC based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects orderly growth of the County.
2. The 2002 Sussex County Comprehensive Plan Update designates the area as being

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within the Environmentally Sensitive Developing Area, a Development District that is desirable for appropriate development.

3. The proposed subdivision density is in accordance with the density permitted by the existing AR-1 zoning under the Environmentally Sensitive Development District Overlay Zone. Within this Overlay Zone minimum lot size of 7,500 square feet is permitted when using central water and sewer.
4. The proposed subdivision will be restricted residential development consistent with the area and will not adversely affect nearby uses or property values.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
6. The site has an innovative design that integrates the land, existing vegetation and Herring Creek into the subdivision. It will also have a minimal impact on wetlands and no wetlands are included within any lot lines. A 50' buffer will be provided along the Tidal Wetlands.
7. Considerable open space will be provided (33% not including wetlands), within the Development and along Herring Creek, and that its scenic views will be protected for the enjoyment of the residents.
8. The Applicant has stated that there will be no significant grade changes, that the natural features and contours of the site will be maintained and tree clearing will be prohibited in the 50-foot buffer along the wetlands.
9. Central Sewer and Water will be provided.
10. This recommendation is subject to 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, including the community center.
  2. The Applicant shall maintain as many existing trees as possible with no tree clearing in the 50' buffer along the tidal wetlands. The undisturbed-forested areas shall be shown on the Final Site Plan.
  3. The Development shall be served by Central Water and Sewer.
  4. The Sewer System shall be designed per County Standards.

5. The storm water management system shall meet or exceed the requirements of the State and County.
6. Environmental Buffers shall be shown on the Final Site Plan.
7. No wetlands shall be included within any lot lines.
8. All entrances and roadway improvements shall be constructed or funded in accordance with all of DelDOT's requirements. In addition, the Developer shall comply with any additional or future DelDOT requirements concerning the project.
9. A system of street lighting shall be provided throughout the project. The location of all streetlights shall be shown on the Final Site Plan.

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10. The network of sidewalks, pond walks and pedestrian paths shall be shown on the Final Site Plan. That access to all common areas will be provided and shown on the Final Site Plan.
11. All amenities and recreational facilities shall be constructed and open to use by the residents of the Development within 2 years of the issuance of the first Building Permit.
12. The Final Site Plan shall show all require Buffers from neighboring lands, wetlands and the community center.
13. The Developer shall construct a community center to include a pool and fitness center for use by the residents of the subdivision and their guests. These amenities shall be constructed and open to use by the residents with 2 years of issuance of the first building permit. The community center shall be relocated to the interior of the subdivision away from any adjacent properties. The new location of the community center shall be shown on the Final Site Plan and will have a fence and a 20-foot buffer for the parking lot, and that the lighting for the parking lot and community center will be shielded from the neighboring property owners. There will not be any activities at the clubhouse after 9:30 p.m. and the clubhouse will not be leased or rented to nonresidents.
14. Addressing shall be subject to review and approval by the County Mapping and Addressing Department.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions as stated.

Motion carried 5 – 0.

Subdivision #2004-42 – application of **COLBY COX, INTEGRITY HOMES, II, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 180.33 acres into 360 lots (Cluster Development), located north of Road 88 (Cave Neck Road), 1,380 feet east of Road 261 (Dairy Farm Road).

Mr. Wheatley stated that he would move that the Commission grant preliminary approval of Subdivision #2004 – 42 for Colby Cox, Integrity Homes, II, LLC based upon the record and for the following reasons:

1. The project is partly located within the Environmentally Sensitive Development Area.
2. The remainder of the Development is designed in accordance with the Cluster Development Ordinance. The proposed Cluster design is superior to a standard subdivision with 75.64 acres of open space protecting forested areas on the site. Also, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.

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3. The applicant has proposed 360 lots within the project, which is less than the allowable density for an AR-1 subdivision on this land.
4. The project is consistent with neighboring and adjacent properties and will not have an adverse impact on the neighboring properties or community. Along Route 88 there are several projects on neighboring or adjacent properties.
5. The Subdivision will include amenities such as the following: walking paths, tot lots, community center, swimming pool and fitness center.
6. Central Water and Sewer will be provided to the project by Tidewater Utilities.
7. The site's design has a minimal impact on wetlands and no wetlands are included within any lots.
8. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
9. This recommendation is subject to the following conditions:
  1. There shall be no more than 360 lots within the Subdivision.
  2. 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.
  3. The storm water management system shall meet or exceed the requirements of the State and County.
  4. The use of a central community sewer system and storm water management system shall maximize ground water recharge and erosion and sediment control measures and shall comply with all State and County requirements.
  5. All entrances shall comply with all of DeIDOT's requirements.
  6. Street lighting shall be provided, and the location of the streetlights shall be shown on the final site plan.
  7. Sidewalks shall be installed on both sides of all streets within the subdivision.
  8. The Applicant shall maintain as many existing trees as possible. The undisturbed-forested areas shall be shown on the Final Site Plan.
  9. No wetlands shall be included within any lot lines.

10. Within 1 year of the issuance of the first Building Permit, the Developer shall construct a community swimming pool and community center.
11. Addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated.

Motion carried 5 – 0.

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Subdivision #2002-31 – application of **SUSSEX VENTURES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 76.44 acres into 64 lots, located south of Road 297, 2,930 feet west of Route 30.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried 4 votes to none, with Mr. Johnson not participating, to approve this application as a final.

Motion carried 4 – 0 – 1.

Subdivision #2002-43 – application of **BOCA EAST, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 258.11 acres into 180 lots, located east of Road 279, 0.9 mile southeast of Road 277.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried 4 votes to none, with Mr. Johnson not participating, to approve Phase II as a final.

Motion carried 4 – 0 – 1.

#### PUBLIC HEARINGS

C/U #1592 – application of **ATLANTIC EYE CARE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for medical offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 14,999 square feet, more or less, lying southeast of Route 18 (Savannah Road), 1,700 feet northeast of Woodland Avenue and 1,050 feet southwest of Road 263.

The Commission reviewed the site plan and an aerial photograph of the area.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that the Department sees this application as encouraging more traffic in an area that has been identified as operating at unacceptable levels of service; and that the subject road segment of Savannah Road operates at level of service "E" during the summer peak hour.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Johnston loam or silt loam, which has severe limitations for development, and Sassafras sandy loam, which has slight limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that the Johnston soils are considered Hydric; that the Sassafras soils are considered Prime Farmland; that no storm

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flood areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

Mr. Lank submitted a copy of a portion of a zoning map of the area showing the number of Conditional Uses that have been approved along Savannah Road.

The Commission found that Nelson Hayden, Business Administrator for Atlantic Eye Care, and Fred Horn, Architect, were present and stated in their presentations and in response to questions raised by the Commission that the requested Conditional Use is for a single doctor practice; that the doctor sees approximately 25 patients per day by appointment; that adequate area exists for parking on the site; that business hours are proposed to be from 8:00 a.m. to 5:00 p.m. Monday, Wednesday, Thursday and Friday, and 9:00 a.m. to 6:00 p.m. on Tuesday, with no weekend hours, except for emergencies; that the access driveway is from New Castle Street, not Route 9; that they presently rent space and have outgrown that space; that they will not be performing eye surgery on the site; that they are working with DNREC to get a permit for relocation of the septic field; and that they are working on the entrance design for submittal to DelDOT.

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

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved since the use will serve public convenience and welfare and since the use is in character with the uses in the area, and with the following conditions:

- 1) One unlighted ground sign, not exceeding 32 square feet per side or facing, may be permitted

- 2) Business hours shall be from 8:00 a.m. to 6:00 p.m. weekdays. Any weekend hours shall be for emergencies only.
- 3) Security lighting shall be downward illuminated so as not to impact neighboring properties.
- 4) There shall be no parking in the front yard.
- 5) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 5 – 0.

C/U #1593 – application of **WILSON BAKER, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a propane, kerosene, and diesel fuel storage and transfer facility to be located on a certain parcel of land lying and being in

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Broadkill Hundred, Sussex County, containing 9.03 acres, more or less, lying west of Route 30, south of the Railroad, and being 3,140 feet south of Route 16.

The Commission reviewed the site plan and an aerial photograph of the area.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service of Route 30 should not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Rumford loamy sand and Sassafras sandy loam which have slight limitations for development; that the Rumford soils are considered of Statewide Importance; that the Sassafras soils are considered Prime Farmland; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; 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 the Applicants had submitted a letter referencing that two entrances off of Route 30 are necessary to provide access to a commercial pump island; that the island is to serve as a fueling point for company trucks as well as other commercial accounts; that vehicles, such as tractor-trailers, 10 –wheel dump trucks, and trucks pulling trailers need and deserve a safe place with good ingress and egress to fuel; that since Route 30 is a designated Truck Route the company feels that this is an appropriate request and should be granted; that diesel fuel will be the primary product dispensed, as there are no diesel fueling facilities in the Milton area; that they anticipate fewer than 20-trips on an average day; and that this would be far fewer than if the parcel was developed with single family homes.



The Commission found that Wayne Baker, President of Wilson Baker, Inc. was present with Eugene Bayard, Attorney, and that they stated in their presentations and in response to questions raised by the Commission that Mr. Baker's father started the business in 1950 near Shortly; that over the years they also acquired a site on Route One near Lewes and the Milton Service Center in Milton; that they are fuel suppliers and have run out of room; that they intend to delete that tanks at the Lewes site; that they acquired this site in September 2004; that they propose an office building with related storage and parking for customers and employees; that there will be ten (10) trucks stored on the site over night; that they propose a 30,000 gallon water storage tank for fire protection; that they propose six (6) 60,000 gallon mounted propane tanks; that the propane tanks will be half buried in the ground; that they propose three (3) heating oil and kerosene tanks with capacity of less than 40,000 gallons each; that they fueling station will be for company trucks and commercial accounts; that there will be no retail sales of gasoline, only an automated

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card system; that the site adjoins farmland and woodlands, the railroad, and Route 30; that the radio communication tower on the residual acreage is owned by the State; that they have not yet contacted DelDOT about the proposed two entrances; that Route 30 is a dedicated Truck Route; that no truck repairs are proposed; that all truck service work is performed by licensed shops off site; that they may build open sheds to cover the trucks that will be parked on the site; that the site will be fenced; that security lighting will be provided; that this area of the County has had problems getting propane during winter months; that the proposed rail spur is a possible option to remedy acquiring propane; that presently all propane is delivered by truck; that the Conditional Use method was chosen, rather than a Change of Zone, since the use is of a public or semi-public use and since rezoning may have been impacted by the Coastal Zone regulations if it were to be rezoned; that according to the 2002 Comprehensive Plan Update the site is not within a Development District; that the Development District is across Route 30; that the use will serve the area; and that obtaining propane by rail will be more expensive that by truck.

The Commission found that there were no parties present in support 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. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved since there was no opposition; since the site is located on a Truck Route; since a need exists for the service; since the use will serve a public need; and since the site is adjacent to a railroad; and with the following conditions:

- 1) There shall be no truck repair performed on site.
- 2) There shall be no retail sales of fuel for vehicles except for Wilson Baker customer accounts.
- 3) A landscape plan shall be a part of the final site plan.

- 4) The entrance shall be constructed per DelDOT requirements.
- 5) The site plan shall be subject to review and approval by the Planning and Zoning Commission and shall be similar to the plan submitted during the public hearing, unless altered by agency requirements.

Motion carried 5 – 0.

C/U #1594 – application of **R. CRAIG HUDSON** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office (sales center) to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 1.08 acres, more or less, lying at the northwest corner of the intersection of Route 9 and Route 30 at Gravel Hill.

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The Commission reviewed the site plan and an aerial photograph of the area.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service of Route 9 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as part of a borrow pit; Kenansville loamy sand and Keyport fine sandy loam; that the Kenansville soils have slight limitations for development; that the Keyport soils have slight to severe limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that Kenansville soils are considered Prime Farmland; that Keyport soils are considered of Statewide Importance and 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 Mark Chura, present on behalf of Ocean Atlantic, and Robert Pack, present on behalf of Schell Brothers, were present and stated in their presentations and in response to questions raised by the Commission that since the application was filed R. Craig Hudson sold the property to Saddlecreek, L.L.C.; that they propose to utilize the site for a show place for projects off of Route 9; that this site is centrally located to serve project being built by Schell Brothers; that they believe that the signs on the site were permitted; that the original building permit was for a dwelling; that an office is proposed in the garage and will be manned by two (2) employees; that the sales office will be open by appointment only; that the dwelling will be used as a display model to show the quality of their work and different materials that they have to offer; that one entrance on Route 9 and one on Route 30 were eliminated; that the entrance location is at an existing entrance on Route 30; that they are willing to dedicate right-of-way to DelDOT for expansion of Route 9; and that the site is a very visible location.

The Commission found that Chris Hudson was present in support of the option/design center and stated that the site is a great location for such a use.

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

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

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

Motion carried 5 – 0.

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C/Z #1564 – application of **JULIO MARCOS** 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 Nanticoke Hundred, Sussex County, land lying at the southeast corner of the intersection of Route 18 and Road 527, to be located on 2.6409 acres, more or less.

The Commission reviewed the site plan and an aerial photograph of the area.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the level of service of Road 527 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand, Kenansville loamy sand, and Woodstown sandy loam; that the Evesboro and Kenansville 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 Evesboro soils are considered of Statewide Importance; that Kenansville and Woodstown 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.

Mr. Lank advised the Commission that he had written a letter to Mr. Marcos referencing that he needs to contact the Office of State Planning Coordination for a Preliminary Land Use Service (PLUS) submittal.

The Commission found that Julio Marcos was present and stated in his presentation and in response to questions raised by the Commission that he does not remember receiving the letter from Mr. Lank; that he purchased the property 12 years ago; that the area has a

lack of apartments for professionals; that the use may enhance the area; that he proposed to build a duplex; that he originally intended to apply for a Conditional Use and was told that there was no method to make an application; and that he would not object to re-applying for a Conditional Use.

The Commission discussed the application and it was determined that Mr. Marcos applied for a DelDOT traffic summary report February 13, 2004; that there was no catch-all provision in the Conditional Use sections of the Zoning Ordinance from January 27, 2004 through April 6, 2004 since that section of the Ordinance had been amended.

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

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The Commission found that Mark Hunsberger was present in opposition and stated that he is opposed to C-1 zoning and the uses permitted.

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 the application be denied as submitted; since the rezoning would be out of character with the area; since the rezoning would be inconsistent with the 2002 Comprehensive Plan Update and the surrounding area; and since the rezoning may be considered spot zoning. If the Applicant chooses to apply for a Conditional Use the fee may be waived, however there was a consensus of the Commission that the staff advise the Applicant that a Conditional Use application would still be difficult to grant for multi-family use since it would be out of character in this area.

Motion carried 5 – 0.

Subdivision #2004-20 – application of **STAR PARTNERS, L.P.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 4.10 acres into 4 lots, located east of Road 579, 1,220 feet north of Route 18.

Mr. Abbott advised the Commission that DelDOT has issued a Letter of No Objection; that lots 11 and 12 will have a combined entrance; and that lots 13 and 14 will have a combined entrance.

The Commission found that Mark Hunsberger was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he is applying for 4 additional lots; that the maximum number of lots by right have been

approved and recorded; that the existing entrances located off of Road 579 are the entrances for lots 7 through 10; that DelDOT has approved the entrances; that at this time, he has no intentions of developing the interior of the property; and that 436 feet of road frontage will remain.

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. Smith, and carried unanimously to approve the application as a preliminary and as a final since the use is in character with the area, and that the project will not cause any negative impacts to surrounding properties.

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## OTHER BUSINESS

### Sports at the Beach

#### C/U #1421 – Revised Site Plan – Route 9

Mr. Abbott advised the Commission that this is a request to revise the site plan for a proposed 80-foot by 80-foot infirmary to be attached to an existing kitchen and a 30-foot by 40-foot arcade building; that the setbacks meet the requirements of the zoning code; that the last revision to the site plan was on October 28, 2004; that the proposed uses are accessory uses to the property; and that the site plan can be amended as submitted or that the Commission may require another Conditional Use application.

The Commission discussed this request and it was the consensus of the Commission that the applicant be required to file an amended application for a conditional use.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to deny the request as submitted.

Motion carried 5 – 0.

### Bay Café

#### Preliminary Multi-Family Site Plan – Route 54

Mr. Abbott advised the Commission that this is a site plan for 30 multi-family units located on 2.6 acres; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 90 parking spaces are required and proposed including an attached garage for each unit; that 25 parking spaces are located in the front yard setback and need a waiver from the Commission; that there is an interconnection provided to the adjoining Mallard Cove multi-family project to the east; that the building lengths and building

separations meet the requirements of the zoning code; that on the final site plan, the parking spaces need to be revised to 10-feet by 20-feet; that 2 swimming pools and recreation facilities are provided; that there are not any encroachments into the wetlands; that central sewer and water 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. Smith, seconded by Mr. Gordy, and carried unanimously to approve the site as submitted as a preliminary with the stipulation that final approval shall be subject to the staff receiving all required agency approvals.

Motion carried 5 – 0.

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Rehoboth U-Store

C/U #1521 – Time Extension – Route One

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the County Council approved the Conditional Use on March 9, 2004; that the Commission granted preliminary and final site plan approval on January 13, 2005; and that this is the first request for a time extension.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to grant a one-year time extension.

Motion carried 5 – 0.

Bridge Branch, Inc.

2 lots and 50' Right-of-way – Road 40

Mr. Abbott advised the Commission that this is a request to subdivide a 1.50-acre parcel into 2, 0.75-acre lots with access from a 50-foot easement; that the owner proposes to widen an existing dirt road to a 50-foot right of way to serve as access to lot 2; and that the request can be approved as submitted or the Commission can require a public hearing for a major subdivision.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to approve this request as submitted.

Motion carried 5 – 0.

Mildred Owens

Lot and 50' Right-of-way – Road 92

Mr. Abbott advised the Commission that this is a request to create a 0.75-acre lot; that the residual road frontage would be 50-feet and that there is an existing driveway there; that the owner proposes to make this a 50-foot right of way to serve as access to the remaining land; and that the request can be approved as submitted or the Commission can require a public hearing for a major subdivision.

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

Motion carried 5 – 0.

Meeting adjourned at 9:15 p.m.