



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF MARCH 10, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 10, 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 and Mr. Kautz – Land Use Planner.

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

OLD BUSINESS

Subdivision #2003-17 – application of **HAZZARD DEVELOPMENT CO., LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District and a MR Medium Density Residential District in Cedar Creek Hundred, Sussex County, by dividing 48.62 acres into 47 lots, located south of Road 634, 2,246.33 feet southeasterly of Road 633.

Mr. Lank advised the Commission that this is a final record plan for a 47-lot subdivision application; that the Commission granted preliminary approval on October 23, 2003 and granted a time extension on December 9, 2004 retroactive to the anniversary of the preliminary approval date; that the final record plan meets the requirements of the Subdivision Ordinance; and that all agency approvals have been received.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to grant final approval of this subdivision. Motion carried 5 – 0.

Subdivision #2003-28 – application of **CARD, L.L.C.** to consider the Subdivision of land in a MR Medium Density Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 115.29 acres into 234 lots, located east of Road 274 (Old Landing Road) approximately 3,750 feet south of Road 275.

Mr. Lank advised the Commission that this is a final record plan for a 227-lot subdivision application; that the Commission granted preliminary approval on May 13, 2004; that the final record plan meets the requirements of the Subdivision Ordinance; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to grant final approval of this subdivision. Motion carried 5 – 0.

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PUBLIC HEARINGS

C/U #1599 – application of **ONEIDA JUSTICE** to consider the Conditional Use of land in a GR General Residential District for a contractor's equipment building and yard to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.67 acres, more or less, lying northwest of Road 362 (Parkerhouse Road), 0.4 mile south of Road 368.

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 362 will not change as a result of this application.

The Commission found, based on comments received from the Office of State Planning Coordination, that the application has been reviewed through the PLUS process and that comments were provided by the Office of State Planning Coordination, DelDOT, DNREC, the State Fire Marshal's Office, and the County; that the Applicant had responded to the Office of State Planning Coordination on the PLUS comments; and that the Office of State Planning Coordination was pleased to see that the Applicant had changed her application from a rezoning to a Conditional Use.

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

The Commission found that Oneida Justice was present with Michael Justice and Daniel W. Magee and that Mr. Justice and Mr. Magee stated in their presentations and in

response to questions raised by the Commission that the existing business is located next to a parcel zoned C-1 General Commercial; that the business has expanded; that they need more space for storing equipment, trucks, and pavers; that they may use the existing buildings for other contractors; that there are no rental buildings on this site; that the rental buildings will be on the C-1 site; that they would like to build some covered storage for their equipment; that there will not be any storage of boats or RV's; that typical business hours are from 7:00 a.m. to 5:00 p.m.; that the commercial site has a timed security gate; that there is no need for additional signage; that deliveries are made during working hours; that they will be fencing the storage area; and that there are three existing buildings with 6-bays each on the C-1 site.

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The Commission found that Mr. Magee submitted a letter of support from K. Mary Straub and Jean L. Bainter.

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. Smith, seconded by Mr. Gordy, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved based on the record, since the use is essential and desirable for the general convenience and welfare of the citizens of the County, since there will be no adverse impact on neighboring properties, and with the following conditions:

- 1) There shall be no rentals of any building to outside contractors on this Conditional Use site.
- 2) The storage yard shall be fenced with chain link type fencing.
- 3) All security lighting shall be downward illuminated so that they will not impact neighboring properties.
- 4) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 5 – 0.

C/U #1601 – application of **PIERCE HARDY LIMITED PARTNERSHIP** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a wholesale building materials sales and storage facility to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 23.10 acres, more or less, lying south of Route 26, 1,100 feet west of Route 17.

The Commission found that the Applicants had submitted earlier this week revised site plan reducing the square area of the application, 21 photographs of the site and other businesses in the area, and an exhibit booklet, and that the exhibit booklet contains a

small site plan, a copy of the PLUS review, a response to the PLUS review, an Environmental Assessment and Public Facility Evaluation Report, a copy of a tax map depicting zoning designations, and suggested conditions of approval.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Fallsington sandy loam; that the Evesboro soils have slight limitations for development; that the Fallsington soils have severe limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that both soil types are considered of Statewide Importance; that the

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Fallsington soils are also considered Prime Farmland; that there are no storm flood hazard areas or tax ditches affected; that it may be necessary for some on-site and off-site drainage improvements because of the presence of poorly drained soils and the increased impervious areas; and that the Applicants should contact the U.S. Army Corps. of Engineers to verify if any wetlands exists on the site.

The Commission found, based on comments received from the State Department of Agriculture, that the site is located in a rural area; that this type of operation is consistent with generally accepted uses in a rural area; that the Department strongly urges and requests that the Applicant be required to install and maintain at least a 30-foot wide vegetative buffer surrounding the site; that the normal dust and noise associated with this site can be detrimental to neighboring landowners and their livestock; that since a Conditional Use is not a by-right use, it is within the County's authority to require actions which allow for additional protections benefiting neighboring landowners; that the installation of such a buffer would also serve as some protection from nuisance complaints for 84 Lumber by demonstrating a desire to be a good neighbor; that there are active and viable agricultural operations in the area and that those landowners have expressed concerns about this facility's current operations and of its proposed expansion; that the Department believes that such concerns are legitimate and should be recognized and solutions to address them developed and implemented; and that the Department offers any assistance necessary in selecting appropriate buffer species and design.

The Commission found that letters were received from the Honorable George H. Bunting, Jr., State Senator, and the Honorable Gerald W. Hocker, State Representative, on behalf of their constituents who have expressed concerns about this application and referencing concerns relating to the size of the project, the negative effects of the expansion of the project, the overburdened Route 26, and increased traffic.

The Commission found that a letter had been received from Harvey Melson in opposition and expressing concerns about the amount of trucks and other traffic, and that the roads cannot handle more traffic which is a major public safety hazard for themselves, neighbors and visitors.

The Commission found that Joe Hardy, C.E.O. of 84 Lumber was present with James Fuqua, Attorney, Charlie Miller, Environmental Consultant, Jim Zaunick, Professional Engineer, and Bob Bossard, 84 Lumber Store Manager, and that they stated in their presentations and in response to questions raised by the Commission that this Conditional Use application is for expansion of the existing 84 Lumber facility; that the proposal provides for relocation of the entrance from its current location to a location west of the existing store building; that 4 additional buildings are proposed; that the store will be relocated to the main building on the expansion site; that the company opened the business in 1995 at this location; that 84 Lumber, a family owned business, is a national

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company with 500 stores; that the company focuses on wholesale sales to contractors and builders; that currently 80% of their sales at this location is to contractors and builders; that the existing facility has had problems with the existing entrance location and activities; that the County denied a recent attempt to rezone additional lands, except for approximately 1.1 acre to the rear of the existing buildings that was improved with a storage building; that the company chose this location since it is adjacent to their existing facility; that the demand for construction material is high in this area; that the company has 4 sites in Sussex County; that this facility serves the resort area of the County; that the total value of building permits has increased 85% since the year 2000; that a good majority of that construction is in this area; that they applied for Conditional Use knowing that the County could place conditions on the application; that the square area of the application has been reduced from 23.10 acres to 5.81 acres for the area just west of the existing facility; that some wetlands exists on the remaining acreage, not this site; that truck traffic has been a community concern in the past; that the number of deliveries will be reduced because of the amount of storage area being created; that the entrance location will be moved to the west of the existing facility per DelDOT requirements and recommendations; that the existing entrance will be closed, except for emergencies; that the expansion facility will provide for on-site parking of tractor trailers, rather than have them park in front of the gate at the existing facility or parking along Route 26; that the intended use is not to create a distribution facility for the company, only expansion of the existing store and storage; that no milling or fabrication will be performed on the site; that the existing entrance at the existing store will be closed except for emergencies; that the existing stormwater management pond will be filled for a future storage yard; that stormwater and landscaping will be provided between the new store and Route 26 to buffer the facility; that the size of the site was reduced after they met with the PLUS agencies who expressed some concerns about impacts on wetlands and woodlands; that the site presently is an open field; that the entrance road is designed to show access to the rear of the site; that they have no plans presently for development of the property to the rear of this proposal; that they plan on landscaping or fencing along the westerly property line; that they will have on site wells and septic; that fire protection will be provided by the Millville Fire Company; that the site and buildings will be designed to meet the Office of the State Fire Marshal's regulations; that a stand pipe will be provided

in the stormwater management pond for water access for the local fire company; that the use is not changing, only expanding; that business hours are from 7:00 a.m. to 6:00 p.m. weekdays during the winter, 7:00 a.m. to 7:00 p.m. weekdays during the summer, 8:00 a.m. to 5:00 p.m. Saturdays, and 9:00 a.m. to 4:00 p.m. on Sundays; that there are many commercial and business uses in the immediate area, including but not limited to a funeral home, a car wash, retail sales, automotive sales, boat sales, produce markets, and a large grocery store; that the 2002 Comprehensive Plan Update references that this site is in an Environmentally Sensitive Developing Area where commercial uses are needed to serve the rapid growing population; that if materials are not delivered from this site, they will have to be delivered from other sites that are a further distance away that will cause

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traffic impacts on more properties; that the Office of State Planning Coordination has no objection to this Conditional Use application, as it is an expansion of an existing operation; that on May 5, 2004 DelDOT informed the County that a traffic impact study would not be required for this application and that the proposed development would provide more space for arriving trucks to queue on the site; that truck parking on the Route 26 right-of-way and in nearby parking lots are a significant problem for area residents and businesses; that the proposed Conditional Use application, if approved, would address this issue; that the Applicants have offered the following suggested conditions of approval, if the use is approved: 1) The extension to the existing 84 Lumber Facility will be comprised of the following: a) A 100' x 100' building containing 6,150 square feet of retail area, 1,550 square feet of storage area and 2,300 square feet of office space; b) A 10,000 square foot storage building; c) A 10,000 square foot storage building; d) A 6,800 square foot storage building, all as depicted on the Conditional Use site plan. 2) The existing entrance to the 84 Lumber site will be closed (Emergency use only) and a new entrance as approved by DelDOT will be located on the western side of the existing 84 Lumber building. 3) All entrance, intersection and roadway improvements required by DelDOT shall be completed by the Applicant. 4) Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. 5) Federal wetlands shall be maintained as non-disturbance areas except where use is authorized by State and/or Federal permits. 6) A landscaped buffer shall be planted and maintained along the western boundary of the property and around the storm water management area as depicted on the Conditional Use site plan. 7) The Applicant shall notify all delivery truck operators that no parking shall take place on any State road right-of-ways or on private property owned by others. All truck parking and "stacking" shall occur on lands of the Applicant. 8) All lighting shall be directed on site and shall be located so as to not interfere with neighboring properties. 9) Any future use of the remainder of the Applicant's property shall be subject to compliance with the provisions of the Sussex County Zoning and Subdivision Ordinances. 10) All storm water ponds shall be maintained in a manner to minimize any impact on neighboring properties. 11) The business will operate so that a minimum of 75% of gross sales will be to professional contractors and builders in accordance with DelDOT's entrance requirements. 12) The site shall not be used as a distribution center to supply other 84 Lumber stores, nor will

any milling or fabrication take place on site. 13) Final site plan design shall be reviewed and approved by the Planning and Zoning Commission.; that the business is planning for it's future; that they have addressed concerns of the community as they relate to a use that already exists and is expanding; that delivery truck notices will be posted referencing the location of space to park trucks; that the company has 4 delivery trucks at this store; that all of the company delivery trucks are parked to the rear of the site; that they presently receive deliveries daily; that the existing site has been very successful and needs to expand; that the company does not want trucks parking along Route 26 or on property owned by others; that they do not need to develop the rear site; that the rear site may

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never be developed; that they had to purchase the entire site to acquire the proposed site; and that the storm water management pond is approximately 80 to 100 feet from the right-of-way of Route 26.

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

The Commission found that Norman Barnett, Attorney, was present on behalf of some of the residents in the area that are in opposition to this application and stated that historically the site was an agricultural parcel; that Bob's Marine acquired the existing business parcel and requested rezoning for an access off of Route 26 and boat storage; that almost immediately thereafter 84 Lumber purchased the site and started construction of the existing store; that the 84 Lumber store opened in July 1995; that the company has tripled the activity and number of delivery trucks and doubled the number of employees on the site; that the neighbors are opposed to any expansion; that the neighbors are concerned about noise, tractor trailer engines running at all hours, that the expansion will generate more business, more traffic, more trucks, and more noise for 7 days a week closer to neighboring properties than the existing store site; that Route 26 is planned for expansion and widening that may impact the site; that the noise on the site is not only trucks, but includes the unloading and loading of materials onto 84 Lumber trucks for delivery the next day late into the evening and as late as 11:00 p.m. and prior to the store opening in the morning; and that the 84 Lumber stores in Selbyville or Georgetown may be better choices for expansion.

The Commission found that Mr. Barnett submitted copies of opponents petitions, letters, DelDOT reports, relating to C/Z #1485, the most recent application of Pierce Hardy Limited Partnership for expansion of the existing site.

The Commission found that Mr. Fuqua objected to the submittal of the petitions because they related to a previous change of zoning application, not this Conditional Use application.

Mr. Robertson stated that the copies could be placed in the record for content only and advised the Commission that the signatures and number of signatures could not be considered since they related to another application.

The Commission found that Patrick Hammond, Cheryl Hammond, Brooke Kirts, Sabie Carey, Susan Ryan, Lois Dalby and Keith Parsell of the nine (9) people present in opposition expressed concerns that the application may correct existing entrance problems for the Applicant, but impacts the rest of the community; that concerns were expressed that the Applicants may reapply for zoning in the future; that there have never been any buffers provided since the store first opened, even after continued complaints and objections being voiced during public hearings; that noise has always been a

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problem; that business hours have never changed; that litter is a problem; that there has been total disregard for the community by the Applicants; that DelDOT will not grant a circular driveway for a private residence since it may impact Route 26, yet DelDOT did not require a traffic impact study for this application; that concerns were expressed about mosquito breeding in stormwater management ponds; that a few trees and a stormwater management pond does not buffer noise; that trucks using the roadway along the westerly property line will disturb animals grazing on the adjacent farm; that concerns were expressed that the Applicants propose to fill and pipe a portion of the existing St. George's Tax Ditch; concerns that the roadway on the westerly property line will offer access to the rear fields for off-roaders; that Route 26 is at capacity now; that the use is an industrial use and should be located on a major thoroughfare or railroad, not in a primarily residential and agricultural area; that the expansion is neither essential or desirable for the general convenience and welfare of the residents of this area; that the area is already served by at least 4 other lumber companies that manage to do so from far less invasive locations; that no information is being offered about the remaining acreage owned by the Applicants to the rear, except that they have no plans for the acreage at this time; that the majority of the business uses in the community are small cottage type businesses, not industrial; that trucks park along Route 26 and on properties owned by others without permission; that the safety of children in the area is a primary concern, especially with the location of the storm water management pond since trees and water seems to attract children; that the only people that will benefit by approval of this application will be the Applicants; that expanding the business to twice its present size will create twice the noise, twice the business, twice the traffic, twice the litter, and twice the problems; that corrections were promised by the Applicants after the previous public hearings and have never been corrected; and questioning how the County can restrict use of the existing gated entrance and who would enforce any conditions or stipulations.

Mr. Robertson asked the Applicants if the ditch crossing the site is a tax ditch.

The Commission found that Charlie Miller, Environmental Consultant, stated that he does not believe that the ditch is a recorded tax ditch, but added that they will research further to verify the status.

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

Mr. Smith stated that he would move that the Commission recommend approval of this application, that he does so with reasons and conditions: that he believes that the use is essential and desirable for the general convenience and welfare of the County; that he believes in some of the proposed conditions provided by the Applicant; that the use is an expansion of an existing use; that the use will improve existing conditions on the site including: traffic entering and exiting the property through a dedicated entrance and not a shared entrance with an adjacent property owner; that it will allow deceleration lanes at

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the entrance and left and right turn lanes within the site; that all truck parking will be accommodated on the site; that the expansion area is directed toward Route 26; that in the past application, one of the major objections was the development of the rear land that is surrounded by mainly residential properties; that the Applicant has reduced the size and scope of the project in accordance with the PLUS process, and that this will leave existing woodlands and wetlands undisturbed; that because the application is for a Conditional Use the use will be limited to what is proposed with the conditions that may be placed upon the approval; that the application is in an area where other properties have been developed with commercial and business uses; that the expansion of the existing 84 Lumber business is desirable and is a business that will serve the needs of the County and its residents; that the Office of State Planning Coordination has no objections to this application; that this application has addressed many of the County's concerns raised during the consideration of Change of Zone #1485; and that this recommendation is made with consideration to the proposed conditions offered by the Applicant.

Mr. Wheatley advised Mr. Smith that he may want to wait and see if he gets a second to his motion before he states all of the conditions.

Mr. Smith added that he changed the suggested proposed condition #7 to include that signage for truck drivers should be written in English, French and Spanish.

Mr. Robertson stated that a friendly amendment to the conditions would be to limit the hours of operation to determine when the business would be open to customers and also the hours of activities on the site so that doors are closed and truck noise and pallets are not being banged around.

Mr. Allen stated that he feels that the existing gate should not be allowed for emergency use, but closed.

Mr. Robertson stated that the Applicants have offered that the existing entrance be closed, except for emergency use, and that since it is not on the site of this application it cannot be stipulated that the gate be closed, but it can be stipulated that the gate be used for emergency purposes only.

Mr. Gordy expressed concerns over the long driveway along the westerly property line.

Mr. Johnson agreed that the driveway could create a stacking area for tractor-trailer parking.

Mr. Wheatley stated that he has concerns with the entire application; that we are making a bad situation worse; that Mr. Hardy is a man of substantial means, as he indicated; that if Mr. Hardy wants to have the kind of capability for the business he will relocate the

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business; that it will not be a difficult thing for him to do; that it may not create a particular hardship; that the process has been frequently misunderstood by neighbors and others; that when something is being reviewed for rezoning it is not about what an Applicant says that they are going to do on the land, it is about whether the land should be rezoned in the first place; had the neighbors known that the property was going to be transferred for the use originally, they never would have agreed to it; that to think that they are going to double the size of the facility and have less traffic insults my intelligence; that we are making something bad worse and if we contain it now, we can take some other form of action.

Mr. Smith stated that his motion stands.

The motion died for the lack of a second.

Mr. Gordy stated that he would move that the Commission defer action for further discussion.

The motion died for the lack of a second.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried with three (3) votes to forward this application to the Sussex County Council with the recommendation that the application be denied based on the record and for the following reasons:

- 1) It does not promote the convenience and welfare of the residents.
- 2) To grant the expansion would be to grant an expansion to an already annoying and potentially dangerous traffic situation.
- 3) It is not in character with other businesses in the area.

Motion carried 3 – 2 with Mr. Smith and Mr. Gordy opposed to the motion.

C/Z #1566 – application of **BARBARA CHEVALLIER BAILEY** to amend the Comprehensive Zoning Map from a GR General Residential District to an AR-1 Agricultural Residential District for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, land lying east of Route 502, 1,100 feet north of Route 512 and the Delaware/Maryland Line, to be located on 18.76 acres, more or less.

Mr. Lank read comments received from DelDOT and the Sussex Conservation District.

The Commission found that no one was present on behalf of the application.

The Commission found that there were three (3) people present with questions relating to the application.

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There was a consensus of the Commission to defer this application to the end of the public hearings in case the Applicant returns.

At the conclusion of the public hearings the Chairman reopened the public hearing.

The Commission again found that no one was present on behalf of the application.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried with four (4) votes to deny this application for the lack of a record since no one appeared on behalf of the application. Motion carried 4 – 0. Mr. Smith was absent during the vote.

C/Z #1567 – application of **EDWARD AND DARLENE GARTSIDE** 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 Baltimore Hundred, Sussex County, land lying east of Route 20, a.k.a. Road 382, 800 feet south of Road 383, to be located on 1.61 acres, more or less.

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 20 at this location will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand, Fallsington sandy loam and Pocomoke sandy loam; that the Evesboro soils have slight limitations for development; that the Fallsington and Pocomoke soils have severe limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that the three soil types are considered of Statewide Importance; that the Fallsington and Pocomoke soils are also considered Prime Farmland; 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.

Mr. Lank advised the Commission that he had spoken to Ann Marie Townshend of the Office of State Planning Coordination and have agreed that the Gartside's will not be required to go through the PLUS process.

The Commission found that Darlene and Edward Gartside were present and stated in their presentations and in response to questions raised by the Commission that there are no buildings proposed; that the plan on using half of the garage for a gift shop and the other half for storage; that they own the restaurant on the north side which is zoned C-1 General Commercial; that the cleaning service on the adjoining parcel to the south is zoned B-1 Neighborhood Business; that she will be the operator of the business; that her

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granddaughter may help some; that she may receive deliveries once or twice a week from FED-EX or UPS; that they would like to erect a small 4' by 6' sign; and that business hours would be from 10:00 a.m. to 6:00 p.m. seven days per week.

The Commission found that Mrs. Gartside submitted a petition in support of the application containing 82 signatures and a sketch map of business and commercial uses in the general area.

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. Smith, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved based on the record and since there will not be any adverse impact on the neighboring properties or community, and since C-1 zoning is appropriate since the Zoning Ordinance states that the purpose of such zoning is to provide for retail shopping and personal and miscellaneous service activities and that such uses should be located along arterial roadways where a general mixture of commercial and service activities now exists. In this case, the project along Route 20 falls within the stated purposes of the C-1 District. Motion carried 5 – 0.

Subdivision #2004-24 – application of **LYNN NICOLE SANTARELLI** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 4.04 acres into 2 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 365, 480 feet south of Road 368.

Mr. Lank advised the Commission that this subdivision was reviewed by the Technical Advisory Committee on August 18, 2004 and that the Technical Advisory Committee Report is a part of the record for this application.

The Commission found that Lynn Nicole Santarelli and Nick Santarelli were present and stated in their presentations that they are acquiring the property from Lynn's father; that they plan on building on the lot in the rear; that all of the mobile homes will be removed, except for the one in the front, which is occupied by Lynn's father; and that they are not sure when they will be building.

Mr. Robertson advised the Santarelli's that maintenance provisions for the street shall be required to be in the deeds to the parcels.

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Mr. Lank advised the Santarelli's that the street will have to be built to County standards with crusher-run since the subdivision contains less than 4 lots.

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

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

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to grant preliminary approval of the subdivision based on the record and to grant a variance for the length of the cul-de-sac. Final approval shall be subject to receipt of all appropriate agency approvals and review and approval by the Commission. Motion carried 5 – 0.

OTHER BUSINESS

1. Fairfield Commons
Commercial Site Plan – Route One and Road 271

Mr. Lank advised the Commission that this is a preliminary site plan for a four-story 117-room hotel, a one-story 6,807 square foot restaurant, and a three-story 19,800 square foot professional office building located on 7.31 acres; that the site is zoned C-1 General Commercial; that DelDOT has issued a letter of no objection for the entrance locations; that the site will have rights-in only from Route One and full access from Road 271 (Holland Glade Road); that for all of the uses, 366 parking spaces are required and provided; that there are 14 spaces located within the front yard setback and need a waiver from the Commission; that green spaces and landscape islands are provided; that the setbacks meet the requirements of the Code; that central sewer will be provided by the County; that central water will be provided by the City of Rehoboth; that there are not any wetlands located on the site; that the site is not located in a flood zone; that the site

plan is suitable for preliminary approval and final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to grant preliminary approval of the site plan and a waiver for the 14 parking spaces in the front setback. Final approval shall be subject to the staff receiving all appropriate agency approvals. Motion carried 5 – 0.

2. The Arbors of Cottage Dale
C/U #1522 – Model Home – Road 275

Mr. Lank advised the Commission that this is a request to erect a temporary 39' by 60' model home with a covered porch and deck; that the Conditional Use was approved on

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March 30, 2004 for 80 units; that the Commission granted preliminary site plan approval for the 80 units on May 13, 2004; that the model home is proposed to be located on the north side of the entrance road into the project; that this area is depicted as open space on the approved preliminary site plan; that there is also a sales office shown on the site plan; and that the Commission has the options of approving the model home as a part of an amended site plan or require another Conditional Use application to include the model home.

The Commission found that Dorothy Novack was present on behalf of the developers and stated that the model home is designed to be built on piers so that it can be relocated into the area of the proposed units for conversion into a clubhouse; that the unit will only be displayed on the site temporarily while the construction is taking place on the site; and that the unit will not be hooked up to sewer or water, it will only be a display model.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action so that the developers can provide a site plan showing the proposed location of the model home and the proposed location of the unit when converted into a clubhouse in the area of the residential units, and a reference to the amount of time that the unit will be located as a model home. Motion carried 5 – 0.

3. Robert Fitzgerald
Parcel and 50' Right-of-Way – Road 633

The Commission reviewed the information provided by Mr. Lank in their packet that referenced that this is a request to create a 2+ acre parcel with access from a 50' right-of-way; that the owner proposes to extend an existing 50' right-of-way to serve as access to the parcel; that this would be the third parcel with access to the right-of-way; and that any further subdivision of the property would require a public hearing for a major subdivision.

Motion by Mr. Wheatley, seconded by Mr. Smith, and carried unanimously to approve the concept based on the information provided. Motion carried 5 – 0.

4. C/U #1523 – Raab/Ford
Time Extension – Route 54

Mr. Lank advised the Commission that this is a request for a time extension; that the Conditional Use was approved on March 9, 2004; that the developer has three agency approvals and is waiting for County Engineering and the Conservation District approvals; and that this is the first request for a time extension for this application.

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Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to grant a one-year time extension. Motion carried 5 – 0.

5. Subdivision #2003-29 – Waterside, Inc.
Time Extension – Route 26

Mr. Lank advised the Commission that this is a request for a time extension; that the application received preliminary approval on January 22, 2004 for 36 lots; that the engineers are working on obtaining agency approvals for final approval; that this is the first request for an extension; and that if granted, the extension should be retroactive to the date of the preliminary approval.

Motion by Mr. Smith, seconded by Mr. Wheatley, and carried unanimously to grant a one-year time extension and that this time extension shall expire on January 22, 2006. Motion carried 5 – 0.

Meeting adjourned at 10:40 p.m.