



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF MARCH 11, 2004

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 11, 2004 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

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

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

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve the Minutes as amended.

OLD BUSINESS

C/U #1552 – application of **SSEW, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 18.33 acres, more or less, lying northeast of Route 275 (Plantation Road), 700 feet southeast of Road 276 (Shady Road).

The Commission discussed this application which has been deferred since February 12, 2004.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1522 for SSEW, LLC, based upon the record made at the public hearing and for the following reasons:

- 1) The proposed Conditional Use project meets the purpose of the zoning ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District.
- 2) The proposed Conditional Use is appropriate for the site because residential development of this type is appropriate in areas where central water and sewer are available. In this case, there will be central sewer provided by Sussex County and water will be provided by Tidewater Utilities.

- 3) The property is in an area that has developed with residential properties similar to the proposed project. These include Rolling Meadows, Eagle Point I and Eagle Point II.
- 4) The project will be served or benefited by amenities that are on-site. These amenities include a swimming pool, poolhouse, playground, trails and picnic area.
- 5) Although the project is situated on a filled borrow pit, the Applicant has tested the area and prepared a plan for remedial action that has been approved by DNREC.

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- The site's improvement from its present condition will be a benefit to the health, safety and welfare of the neighborhood and the County.
- 6) This recommendation for approval is subject to the following conditions:
 - 1) The maximum number of residential units shall not exceed 80 units.
 - 2) All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination. In addition, the Applicant shall comply with all of the conditions set forth in DelDOT's May 13, 2003 letter concerning the project.
 - 3) Recreational facilities, e.g., swimming pool, poolhouse, trails, picnic area, etc., shall be constructed and open to use simultaneously with the construction and occupancy of the residential units. The swimming pool, poolhouse, picnic area and playground shall be centrally located within the residential area of the project. It shall not be located along the entrance road as presented during the public hearing.
 - 4) The Applicant shall comply with the Remedial Action Plan approved by DNREC and any amendments to it. As represented by the Applicant, all debris that currently exists on the site shall be removed unless recycled on the site.
 - 5) The development shall be served as part of the Sussex County West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
 - 6) The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations and approvals, including DNREC, the State Fire Marshal and the Public Service Commission.
 - 7) Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
 - 8) The interior street design shall be in accordance with or exceed Sussex County street design requirements.
 - 9) There shall be sidewalks on both sides of the streets, and streetlighting. These shall be shown as part of the site plan review.
 - 10) The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.

- 11) 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 7:00am to 6:00pm.

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.

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Motion carried 5 – 0.

C/Z #1531 – application of **LAKE PLACID PROPERTIES, L.L.C.** 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 Indian River Hundred, Sussex County, land lying east of Route 24, 1,000 feet south of Route 5 and Route 22 (Long Neck Road), to be located on 14.23 acres, more or less.

The Commission discussed this application which has been deferred since February 12, 2004.

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1531 for Lake Placid Properties, LLC to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential to C-1 General Commercial based upon the record made at the public hearing and for the following reasons:

- 1) The project is located within the Environmentally Sensitive Developing Area according to the 2002 Comprehensive Plan Update. The proposal is a neighborhood shopping center or village scale shopping center, which is a preferred design under the 2002 Update.
- 2) The project will not have an adverse impact on the neighboring properties or community. The change in zone will benefit residential developments in this area of Long Neck Road, Bay Farm Road, and Route 24.
- 3) C-1 zoning is appropriate, since the County Zoning Code 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 24 falls within the stated purposes of the C-1 District.
- 4) The project is located within the Long Neck Sanitary Sewer District and the Sussex County Engineering Department states that there is adequate capacity for the project as proposed.

- 5) The location of a neighborhood shopping center on this parcel should have the effect of limiting trips on Route 24 by residents in this area who may otherwise have to travel farther on for their shopping needs.
- 6) The project is located in an area where other properties are zoned B-1 and C-1 with varying types of commercial activities on them.
- 7) The Applicant has stated that it will create a deed restriction to provide a 7-foot high solid fence along the Bayshore and Sherwood Forest Subdivisions.

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

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Motion carried 5 – 0.

Subdivision #2003-32 – application of **HM PROPERTIES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 136.20 acres into 120 lots, located south of Road 301, 1,820 feet east of Road 302.

Mr. Johnson stated that he would move to grant preliminary approval of Subdivision #2003 – 32 for HM Properties, 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 the orderly growth of the County.
2. The land is zoned AR-1 which permits low-density single family residential development at a density of approximately 2 lots per acre. The proposed subdivision density of 201 lots on 123.63 acres of land results in a gross density of 1.62 lots per acre.
3. The proposed subdivision is generally in character with other residential developments in the area, including an expansion of the Baywoods Development. It is also consistent with the historical trend of development in the area.
4. The proposed subdivision is adjacent to, and will be part of Subdivision #2002 – 49, which has been granted final record plan approval.
5. The site is in the vicinity of the intersection of Long Neck Road and Route 24, which contains a concentration of business and services for the Long Neck area and the proposed subdivision. This area includes a neighborhood-type residential shopping center.
6. The proposed subdivision will be a restricted residential development consistent with the area and will not adversely affect nearby uses or property values.
7. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
8. This recommendation is subject to the following conditions:

1. Agricultural buffers shall be provided in accordance with the Subdivision Ordinance, if necessary.
2. The Applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of streets, roads, any forested buffers, stormwater management facilities, and other common areas.
3. The Applicant shall use every effort to protect and maintain any mature trees outside of the roadway and house site areas.
4. Central water and a central community sewer system will be constructed as permitted by the County Zoning Ordinance and as regulated by DNREC.
5. The stormwater management system shall meet or exceed the requirements of the State and County.

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6. The use of a central community sewer system and stormwater management system shall maximize ground water recharge and erosion and sediment control measures and shall comply with all State and County requirements.
7. All entrances shall comply with all of DelDOT's requirements.
8. On the final site plan, all buffers shall be indicated.
9. On the final site plan, all existing woodlands shall be clearly delineated.
10. A system of street lighting shall be provided by the Applicant, and the location of the streetlights shall be shown on the final site plan.

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

Motion carried 5 – 0.

Subdivision #2003-34 – application of **PALISADES LAND, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 353.09 acres into 380 lots, located on both sides of Road 364, ½ mile southeast of Road 363, and on both sides of Road 364A, 2,000 feet south of Road 364.

Mr. Lynch stated that he would move that the Commission grant preliminary approval of Subdivision #2003 – 34, for Palisades Land, 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 Sussex County 2002 Comprehensive Plan Update designates the area as being within an Environmentally Sensitive Developing Area, a Development District that is desirable for appropriate development.
3. The land is zoned AR-1 which permits low density single family residential

4. The proposed subdivision will be a restricted development and will not adversely affect nearby uses or property values.
5. While the Commission found that a prior application for a RPC Development with substantially more dwelling units was out of character with the area, the proposed subdivision with substantially less single family lots and no multi-family dwellings is compatible with the existing area and uses.
6. The concerns about the prior RPC, including traffic and retention of forested areas, have been addressed with the Applicant's redesign of the project's roadways and number and location of single family lots.
7. The proposed subdivision will not adversely impact schools, public buildings and community facilities.

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8. The subdivision will be served by an on-site central wastewater facility. DNREC has stated that the project should provide adequate area for the central sewage system, pretreatment facility and LOWTDS. In addition, DNREC will be monitoring the wastewater treatment facility as it is constructed and in operation.
9. 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, stormwater management facilities, and other common areas.
 2. The Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the final site plan.
 3. Central water and a central community sewer system shall be constructed as permitted by the County Zoning Ordinance and as regulated by DNREC, and shall be constructed to Ordinance No. 38 standards.
 4. The stormwater management system shall meet or exceed the requirements of the State and County.
 5. The use of a central community sewer system's infiltration system and stormwater management system shall maximize ground water recharge and erosion and sediment control measures and shall comply with all State and County requirements.
 6. No wetlands shall be included within any lot lines.
 7. All entrances shall comply with all of DelDOT's requirements.

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

Motion carried 5 – 0.

PUBLIC HEARINGS

C/U #1559 – application of **BEEBE MEDICAL CENTER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for expansion of outpatient medical center to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 33.83 acres, more or less, lying southeast of Route 24 (John J. Williams Highway), 800 feet northeast of Road 275 (Warrington Road).

The Commission found, based on comments received from DelDOT, that on December 30, 2003 the Department recommended that a traffic impact study be required; that Beebe Medical Center asked the Department to drop the requirement for a traffic impact study because the facility that the Center seeks to build is urgently needed and the study would delay its construction; that the Department accepts the fact that the facility is urgently needed and that the study would delay its construction; that the proposed facility

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expansion is a small addition; that it would be reasonable for the County to grant the application without a traffic impact study; that the site is a portion of a 33.85 acre parcel, much of which appears to be developable and is as yet undeveloped; that the site is located on a section of Route 24 that is subject to considerable seasonal congestion; that while it is possible to phase development of the planned campus such that none of the facilities generate much traffic individually, it is likely that the sum of those facilities would generate a significant amount of traffic; that if the Center intends to develop this parcel as the name Beebe Medical Campus applied, the Department recommends that the County consider no further conditional use applications for this site after the one now proposed; that the Department recommends that the County either encourage the Center to apply for a rezoning to a district where the campus can be built by right; that the Center should be required to provide the County and DelDOT with a master plan for the entire campus and should be required to provide a traffic impact study based upon the master plan before any additional development beyond the Radiation Oncology Center is permitted.

The Commission found, based on comments received from the County Engineering Department Planning and Permit Division, that wastewater capacity is available for up to 63,000 gallons per day of wastewater; that the current system connection charge rate is \$3,369.00 per EDU; that an existing privately owned and maintained system, will be extended to connect the proposed Radiation Oncology Center; that that system was installed to serve the existing Outpatient Service Center; that a sewer district expansion to include the proposed project and the remainder of the parcel is currently being considered; that on February 3, 2004 the County Council approved starting the process to expand the sewer district to include the project; that a public hearing is scheduled for March 23, 2004 and the County Council could act on the request at the conclusion of the hearing; that the parcel is located in a Development District area where the County has agreed that sewer service can be provided; that on March 14, 2000 the County Council voted to accept 9.1 acres, of the 33.83 acre site, into the sewer district; that the site is

adjacent to the West Rehoboth Expansion Area; and that conformity to the West Rehoboth Expansion Area Planning Study and Amendment No. 3 will be required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Sassafras sandy loam and Sassafras loam which have slight limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that Sassafras soils are considered both Prime Farmland and of Statewide Importance; 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 James Moynihan, Vice President of Beebe Medical Center, was present and stated in his presentation and in response to questions raised by the

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Commission that there is an urgent need for this expansion; that the current equipment is being used at full capacity; that they propose to install a second accelerator for treatments; that the use is primarily an out-patient treatment center; that this expansion will double the service capacity of the facility; that the current equipment is approximately 7-years old; that they have exceeded their estimates of the number of users; that their next expansion will be for a medical oncology center for out-patient medical treatment; that relocation of the hospital from Lewes could cost \$130,000,000.00; that their future plans propose that all out-patients use this facility, rather than the out-patient facilities at the Beebe Hospital to allow for more patient rooms at the hospital and emergency center; and that they have no objections to a requirement that a master plan and/or traffic impact study be prepared.

The Commission found that John Lingo of J.G. Townsend and Co., Inc. was present in support of the application for expansion of the medical facility and stated that the facilities will be a benefit to the area.

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

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

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1559 for Beebe Medical Center based upon the record made at the public hearing for the following reasons:

- 1) The Applicant established by substantial evidence that the proposed use will help to serve the medical needs for Sussex County residents and visitors in the Route 24 corridor area, without adverse impact of any sort upon the character of the neighborhood, property values therein, traffic or the environment.

- 2) The proposed use meets the purposes and goals of the 2002 Comprehensive Plan Update.
- 3) This recommendation of approval is subject to the following conditions:
 - 1) The uses permitted are medical offices to support outpatient facility.
 - 2) The site plan shall be subject to review and approval by the Planning and Zoning Commission.
 - 3) A 30-foot vegetative buffer strip shall be approved by the Planning and Zoning Commission, after recommendation from the State Forester, on the common boundary line of this property and the Hitchens Subdivision.
 - 4) Any expansion of the use shall require additional conditional use applications.

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Motion by Mr. Johnson, seconded by Mr. Lynch, 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.

C/U #1560 – application of **NMB, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District and a C-1 General Commercial District for fuel storage and loading to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 9.43 acres, more or less, lying northeast of U.S. Route 113, 0.4 mile northwest of Road 432 (Stockley Road).

The Commission found, based on comments received from DelDOT, that DelDOT traffic engineers have looked at accident statistics for the area to evaluate the best location for an entrance to the property from which large gasoline type trucks will be entering and exiting; that DelDOT is willing to grant permission to construct the desired entrance directly across from the driveway to the Joseph property in the southbound lane of Route 113; and that there is already a median crossover at this location, which should adequately handle both cross traffic, as well as left turn movements north and south bound.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Borrow Pits, Evesboro loamy sand, and Johnston loam or silt loam; that the Evesboro soils have slight limitations for development; that the Johnston soils have severe limitations; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that the Johnston soils are considered Hydric; 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 Brian Pepper was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that they propose a fuel storage facility; that the site is adjacent to Don's Hydraulics and across from Melvin Joseph Construction yard, a sand plant, an asphalt plant and a concrete plant; that they need to move their facility from downtown Georgetown due to congestion; that they received a letter from Melvin L. Joseph Construction Co., Inc. voicing no objections to their proposal; that the tank storage area will be diked; that the storage facility will be for the storage of heating and diesel fuel only, not gasoline or propane; that approximately 10 trucks will be parked on the site; that the proposed dike will be constructed of concrete and will be 1.5 to 2 feet tall; that the entrance exists and

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that the entrance location has been approved by DelDOT; and that they may receive 40 to 50 deliveries per week.

The Commission found that Mr. Pepper submitted a copy of the letter referenced from Melvin L. Joseph Construction Co. Inc.

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.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1560 for NMB, LLC for fuel storage and loading based on the record of the public hearing and for the following reasons:

- 1) The use would be compatible to other commercial and industrial uses in the general area.
- 2) The use should cause no negative or adverse impacts on the area.
- 3) This recommendation for approval is subject to the following conditions:
 - 1) The use shall be limited to the storage of fuel oils and diesel fuel. There shall be no gasoline or propane storage on the site.
 - 2) The site plan shall be subject to the 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 this application be approved for the reasons and with the conditions stated.

Motion carried 5 – 0.

C/U #1561 – application of **PEP-UP, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for propane tanks (expansion of Conditional Use No. 1194) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 5.97 acres of a 16.56 acre tract, more or less, lying 700 feet west of Road 376 and 1,860 feet north of Road 376A.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Osier loamy sand and Pocomoke sandy loam which have severe limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Osier soils are considered of Statewide Importance; that the Pocomoke soils are considered of Statewide Importance and Prime Farmland; that there

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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 Brain Pepper was present on behalf of Pep-Up, Inc. and stated in his presentation and in response to questions raised by the Commission that his father lives across from the site on Road 376; that the farm surrounding the site is an Agricultural Preservation District owned by his family; that there are six (6) existing propane tanks on the site containing 180,000 gallons; that they propose to add six (6) additional tanks for an additional 360,000 gallons; that on occasion a limited supply of propane is available and the area is in need of additional fuel for homes, business uses, and poultry farms; that they are proposing to expand their capacity to try to meet the demand for fuel; that the Fire Marshal's Office will require a sprinkler system to protect the site; that they originally intended to install a railroad siding at the site and have found that the rail service is not reliable for expected deliveries; that they have been working with the Fire Marshal's Office for approval; and that the Fire Marshal's Office will not grant approval until they receive zoning approval.

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.

Mr. Lynch stated that he would move that the Commission recommend approval of C/U #1561 for Pep-Up, Inc. for propane tanks (expansion of Conditional Use No. 1194) based on the record made at the public hearings and for the following reasons:

- 1) The Applicant established by substantial evidence that the proposed use will serve the agricultural, commercial, and residential community in the County and will have no

adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.

- 2) The proposed use meets the purpose and goals of the Comprehensive Plan Update.
- 3) This recommendation for approval is subject to the following conditions:
 - 1) The site plan shall be subject to review and approval by the Planning and Zoning Commission with all appropriate agency approvals and/or permits.
 - 2) Fencing around the tank farm shall be subject to review and approval by the Office of the State Fire Marshal.
 - 3) Security lighting shall be provided if required by any agency.
 - 4) Tanks shall be located a minimum of 50-feet from the property line at the railroad.

Motion by Mr. Lynch, 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.

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Motion carried 5 – 0.

C/U #1529 – application of **BART AND BRENDA DONAWAY** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for automotive repairs to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 1.54 acres, more or less, lying at the northeast corner of Route 24 and Route 409.

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 are mapped as Evesboro loamy sand and Kenansville loamy sand which have slight limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that the Kenansville soils are 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.

The Commission found that a letter in opposition was received from James E. and Norma Sturgess, Robert B. Truitt, Sr., and G. Wayne and Nancy Scolah which referenced questions and concerns that the applicant built his building and has been operating his business without the necessary approvals; that the applicant has been living in the garage; that it is evident that they do not have a proper sewer system since a septic truck comes on a regular basis to pump the tank; questioning business hours; questioning noise levels; expressing concerns about the appearance of the grounds around the building, e.g.,

broken down vehicles, a backhoe, a trailer, a dump truck, a welding machine; a mobile barbecue grill, the size of the building, the impact on the property values for the surrounding homes; and noting that a lot of the homes in the area are on lots with restrictions.

The Commission found that Bart and Brenda Donaway were present and stated in their presentations and in response to questions raised by the Commission that they are in the process of construction of their home on the site and completing the shop; that the equipment and vehicles that are stored outside are his own vehicles and are intended to be stored indoors; that he does not intend to hire any employees; that he has no objections to limitations on business hours; that he does custom exhaust work and welding; that they are living in the garage until the home is completed; that one bay of the garage has doors on both ends; that all business activities are conducted indoors; that there are no outside repairs; that his hours vary from 9:00am to 9:00pm; that he has a valid septic system permit; that a portable toilet is being used on the site; that his contractor obtained a permit

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for the garage building; that plumbing was included on the permit; that living quarters were not indicated on the permit; that the home should be completed within 3 months; that the site is in close proximity to Parker Block Company and Rickards Restoration, an automotive body shop; that his shop includes one lift; that the building permit was obtained in August 2002; that he has an Automotive Serviceman's License from the State and an Automotive Dealers Sales License; that he has no intent of selling vehicles from the site; that he has a welder indoors and a portable welder on his truck; that the shop is not air conditioned; and that he normally works in the garage with the doors closed since the shop is well insulated.

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. Gordy, seconded by Mr. Lynch, and carried unanimously to defer action. The Commission asked the staff to provide them with a copy of the building permit for the shop.

Motion carried 5 – 0.

Subdivision #2003-30 – application of **KELLER FARM, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 101.90 acres into 98 lots, located south of Route 9, across from Road 265.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on August 20, 2003 and that the report will be made a part of the record for this application; that the applicants submitted an information booklet into the record on March 8, 2004; and that a letter from Thorne Winter, representing Rollins Continental, has been received requesting that the Commission defer action for at least 30 days so that they can review the proposed application.

The Commission found that James Fuqua; Attorney, Frank Kea; Developer, Rich Polk, Ross Harris; Engineer, and Ed Lunay; Wetlands Consultant were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that 97 lots are proposed; that the site is zoned AR-1; that low density single family developments are a permitted use in the AR-1 zoning district; that with a central sewer system, 20,000 square foot lots are permitted; that the site contains 101.90 acres; that the proposed density is less than 1 lot per acre; that the site is located on the south side of Route 9 approximately 1 mile west of Five Points across from Sussex West Manufactured Home Park; that agricultural lands are to the east and south; that a dwelling

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is west of the site; that Tidewater Utilities will provide central water to the project; that a central sewer system will be built to County Ordinance No. 38 standards; that DNREC has approved a septic feasibility statement; that DelDOT did not require a traffic impact study since the proposed number of units is less than what is permitted; that the applicants have completed a Phase 1 Environmental Study; that a 30-foot forested buffer is proposed along the perimeter of the site; that the deeds will contain the agricultural use protection notice; that the community septic area will be to the front of the site; that the dwellings will be located at least 300 feet from Route 9; that a recreation area will be provided with a swimming pool; that the large wooded areas will remain; that selective clearing will be done; that the development will have 65 acres of open space; that the homeowners' association will maintain all features in the development; that DelDOT did not have any negative comments about the proposed entrance location; that the entrance location will be required to have improvements made; that these improvements will be made when construction of the project begins; that the improvements are paid for by the developer; that there are not any wetlands on the site; that screening will be provided; that the development will not have any negative impacts on the local school district; that there are other single family developments located in the area; and submitted proposed finding of facts and conditions of approval into the record.

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

The Commission found that David Truitt and Helen Truitt, and Sophie Marvel, adjoining property owners, were present in opposition to this application and stated that the site is wet; questioned how many more lots will be proposed in the future; questioned the widths of the proposed buffer areas; questioned why the developers are not connecting to the County sewer district since it is in close proximity to the site; that wildlife is

negatively impacting telephone service in the area; that water sits on the site; that there will be negative impacts to existing wells in the area; possible trespassing; that there will be an increase of traffic in the area; and that there is usually 1 accident a month at the intersection of Route 9 and Road 265.

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

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

Motion carried 5 – 0.

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OTHER BUSINESS

The Vinyards at Nassau Valley
Revised Preliminary Site Plan – Route 9

Mr. Abbott advised the Commission that this revised site plan was reviewed by the Office of State Planning Coordination's PLUS program on February 19, 2004 and passed out copies of the comments from that meeting.

Jim Fuqua; Attorney, Preston Schell; developer, and Bob Raley; owner, were present and advised the Commission that this item is for informational purposes only; that the Commission previously granted preliminary approval for the site plan in 2003; that the site plan has been revised to meet the goals of Livable Delaware and smart growth; that the revised site plan expands on the commercial and office areas; that the revised site plan has been recommended by the Delaware Route One working group; that the developers are trying to create a community to serve the needs of residents west of Five Points; that the total retail area is proposed to be 183,200 square feet; that the office area will be 32,400 square feet; that 984 units are still proposed; that the engineers are still completing the final design and that the developers will be back before the Commission for preliminary site plan approval; that the commercial uses will target both residents and non-residents; that the area west of Five Points is developing; that the developers are targeting higher end retailers; that 4 to 5 restaurants are proposed; that the project is being designed with a mainstreet theme; that no superstores are proposed; that the fire marshal office restricts parking; that 5 to 6 parking garages are proposed; that bulkheading will surround the stormwater management ponds; that the zoning ordinance does not prohibit

what is being requested; and the plan is being designed according to large scale uses which requires 20 percent more parking.

The Commission took no action on this site plan.

Dr. Michael Poleck
C/U #1462 – Site Plan – Savannah Road

Mr. Abbott advised the Commission that the site plan is for a 2,425 square foot dental office; that the Conditional Use was approved on November 19, 2002; that the Commission granted a time extension on November 6, 2003; that the setbacks and parking meet the requirements of the zoning code; that on-site water and central sewer are proposed; that the 7 conditions of approval are referenced on the site plan; that the site plan is suitable for preliminary approval; and that final approval could be subject to the office receiving all agency approvals.

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Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 5 – 0.

Sposato's Office Building
C/U #1474 – Site Plan – Road 258

Mr. Abbott advised the Commission that the site plan is for a 3-story 40-foot by 60-foot office building for a landscaping business; that the Conditional Use was approved on January 14, 2003; that the setbacks and parking meet the requirements of the zoning ordinance; that on-site septic and water are proposed; that the site plan is suitable for preliminary approval; and that final approval could be subject to the office receiving all agency approvals.

Motion by Mr. Wheatley, seconded by Mr. Lynch, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 5 – 0.

Soul Saving Station Pentecostal Church of Rehoboth
Preliminary Site Plan – Norwood Street

Mr. Abbott advised the Commission that the site plan is for a 6,000 square foot church; that the site is zoned GR and churches are permitted in all zoning districts; that 50 parking spaces are required and that 90 spaces are provided; that the parking area is located on three different parcels; that the church owns two of the parcels and has a revocable lease on the adjoining parcel; that the front yard setback needs to be revised to 30 feet; that central sewer and water are proposed; and that the site plan is suitable for preliminary approval subject to the front yard setback being revised and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a preliminary with the stipulation that the front yard setback be revised and that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 5 – 0.

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Henry J. and Rosa Evans
2 Lots and 50' Easement – Road 319

Mr. Abbott advised the Commission that this is a request to create 2 lots with access from an existing 50-foot easement; that the proposed lots are 2.38 and 3.28 acres; that the residual land is 15 acres; that the 2 lots would make three lots with access from the easement and that any further subdivision will require a public hearing for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the 2 lots as submitted.

Motion carried 5 – 0.

Wade William Smith
Lot and 50' Easement – Road 48

Mr. Abbott advised the Commission that this is a request to create a 1.00 acre lot and a 50-foot right of way to serve as access to the residual land; and that since the right of way is being created, the owner should be required to file an application for a major subdivision or apply for a variance from the Board of Adjustment.

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

Motion carried 5 – 0.

Meeting adjourned at 10:15 P.M.