



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE REGULAR MEETING OF JUNE 10, 2004

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the Revised Agenda as circulated. Item #4 under Old Business was taken off of the agenda.

Motion by Mr. Lynch, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of May 27, 2004 as amended.

### OLD BUSINESS

C/U #1539 – application of **RUSSELL BANKS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a recycling and storage facility for recycling concrete, blacktop, and soils to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 4.45 acres, more or less, lying west of Route 348, 840 feet north of Route 349.

The Commission discussed this application which has been deferred since May 13, 2004.

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

C/U #1540 – application of **JAMES R. GIBSON** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (3 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 11,850 square feet, more or less, lying southwest of Pine Lane, 350 feet west of Lake Drive (Road 50) and north of Lake Comegy's. being Lot 3A of Silver Lake Heights.

The Commission discussed this application which has been deferred since May 13, 2004.

The Commission noted that there are similar uses nearby; that there was some concern about the difference in the height of this project and the adjoining project; that the building appears to be a big building on a small lot; that the applicant changed his proposal during the public hearing without showing revised site plans; and questioned if the height and setbacks could be altered from those required by the Zoning Ordinance.

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Mr. Robertson stated that the height and setbacks are based on the Zoning Ordinance and that he did not feel that the Commission could limit the height to a lesser dimension or limit the setbacks to a greater dimension.

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

Motion carried 5 – 0.

C/Z # 1538 – application of **REBAY, LLC** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southeast of Route 271 (Holland Glade Road), 3,150 feet northeast of Route One, to be located on 180.60 acres, more or less.

The Commission discussed this application which has been deferred since May 6, 2004.

Mr. Johnson asked Mr. Robertson to read Mr. Johnson's recommendations.

Mr. Robertson read that Mr. Johnson moves that the Commission recommend approval of C/Z #1538 for REBAY, LLC based upon the information contained in the record and for the following reasons:

- 1) The proposed MR-RPC 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 as established by the Comprehensive Land Use Plan.
- 2) Most of this property has been zoned Medium Density Residential for a long time.
- 3) Sewer service will be provided as part of a County operated Sanitary Sewer District, and adequate wastewater capacity is available for the project.
- 4) The Project, with the conditions placed upon it, will contain a diversity of housing types and pedestrian and motor vehicular circulation. It will also promote interconnection between this area and surrounding developments and Rehoboth Beach.

- 5) With the conditions placed upon this project, the RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
- 6) The project will have a net density of 3.58 units per acre. This is consistent with the existing MR zoning of the property.
- 7) This recommendation is subject to the following conditions:
  - 1) The maximum number of residential units shall not exceed 617 units as follows:

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310 Single Family Lots

307 Multi-Family or Townhouse Units

- 2) There shall not be any multi-family or townhouse units within 300 feet of the Henlopen Keys development.
- 3) The reference to "County Service Area" must be deleted from the Final Site Plan.
- 4) Site plan review shall be required for each phase of development.
- 5) All entrance, intersection, interconnection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements, or in accordance with any further modifications required by DelDOT.
- 6) Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit.
- 7) The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
- 8) The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
- 9) Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs).
- 10) The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.
- 11) The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
- 12) 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 7:00 a.m. and 6:00 p.m.

- 13) The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
- 14) State wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.
- 15) No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.

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- 16) The proposed Senior Center, based on the testimony by the applicant and supporters of the project, shall be located on at least four (4) acres of land. It shall include parking in accordance with County requirements for a large-scale center such as the one proposed for a capacity of at least 500 people, as stated during the public hearing. This parking shall be shown on the Final Site Plan.
- 17) There shall be no commercial uses in the project, including the area adjacent to Sandalwood, with the limited exception of a sales facility for the duration of the development of the project.
- 18) No multi-family units shall be located in the area adjacent to the pond shown on the preliminary site plan between this project and Canal Corkran. Only townhouses or single family units shall be located in this area.
- 19) Any residential uses between Sandalwood and the Connector Road, also known as Hebron Road, shall be limited to single family lots

Mr. Johnson moved that the Commission recommend approval of the application for the reasons and with the conditions read.

The motion died for the lack of a second.

The Commission discussed the reasons and conditions.

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 following reasons and with the following conditions:

- 1) The proposed MR-RPC 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 as established by the Comprehensive Land Use Plan.
- 2) Most of this property has been zoned Medium Density Residential for a long time.
- 3) Sewer service will be provided as part of a County operated Sanitary Sewer District, and adequate wastewater capacity is available for the project.
- 4) The Project, with the conditions placed upon it, will contain a diversity of housing

types and pedestrian and motor vehicular circulation. It will also promote interconnection between this area and surrounding developments and Rehoboth Beach.

- 5) With the conditions placed upon this project, the RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
- 6) The project will have a net density of 3.58 units per acre. This is consistent with the existing MR zoning of the property.

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- 7) This recommendation is subject to the following conditions:
  - 1) The maximum number of residential units shall not exceed 562 units as follows:

310 Single Family Lots  
252 Multi-Family or Townhouse Units
  - 2) There shall not be any multi-family or townhouse units within 300 feet of the Henlopen Keys development.
  - 3) The reference to "County Service Area" must be deleted from the Final Site Plan.
  - 4) Site plan review shall be required for each phase of development.
  - 5) All entrance, intersection, interconnection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements, or in accordance with any further modifications required by DelDOT.
  - 6) Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit.
  - 7) The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
  - 8) The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
  - 9) Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs).
  - 10) The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.
  - 11) The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.

- 12) 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 7:00 a.m. and 6:00 p.m.
- 13) The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
- 14) State wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.

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- 15) No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.
- 16) The proposed Senior Center, based on the testimony by the applicant and supporters of the project, shall be located on at least four (4) acres of land to the east of the connector road. It shall include parking in accordance with County requirements for a large-scale center such as the one proposed for a capacity of at least 500 people, as stated during the public hearing. This parking shall be shown on the Final Site Plan.
- 17) There shall be no commercial uses in the project, including the area adjacent to Sandalwood, with the limited exception of a sales facility for the duration of the development of the project and located within the project east of the connector road and not adjacent to Sandalwood.
- 18) No multi-family units shall be located in the area adjacent to the pond shown on the preliminary site plan between this project and Canal Corkran. Only townhouses or single family units shall be located in this area.
- 19) Any residential uses between Sandalwood and the Connector Road, also known as Hebron Road, shall be limited to single family lots

Motion carried 5 – 0.

Subdivision #2003-27 – application of **MAIN STREET HOMES, 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 24.40 acres into 35 lots, located at the end of Fairway Drive within Old Landing Development, approximately 1,950 feet west of Road 274 (Old Landing Road).

This Subdivision was removed from the agenda.

Subdivision #2003-17 – application of **NATELLI COMMUNITIES, LTD. PARTNERSHIP** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 250.13 acres into 544 lots, located north of Route 9, 0.25 miles east of Road 261.

Mr. Johnson stated that he would move that the Commission grant preliminary approval for Subdivision #2004 – 17, for Natelli Communities, Ltd. Partnership, based upon the record and for the following reasons, and asked Mr. Robertson to read his motion.

Mr. Robertson read that Mr. Johnson moves that the Commission grant preliminary approval of Subdivision #2004 – 17 for Natelli Communities, Ltd. Partnership, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance

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in that it protects the orderly growth of the County.

2. The Sussex County Comprehensive Plan Update designated the area as being within the 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 development at a density of approximately 2 lots per acre. The proposed density is consistent with the density permitted by the existing AR-1 zoning and the Environmentally Sensitive Development District.
4. The proposed subdivision will be a 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 or community facilities.
6. The Applicant has proposed an innovative design that integrates the land, existing vegetation and Red Mill Pond into the subdivision. It will also have minimal impact on wetlands and no wetlands are included within any lot lines.
7. Considerable open space will be provided within the Development and along Red Mill Pond.
8. The Applicant has stated that there will be no significant grade changes and that forested areas outside of the roadways and homesites will be maintained.
9. Central Sewer will be provided by Sussex County. Central water will be provided by Tidewater Utilities.
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, 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. The Development shall be served by Central Water and by the Sussex County Sewer System.

4. The stormwater management system shall meet or exceed the requirements of the State and County.
5. Environmental Buffers, as shown in Figure 8.1 of the Applicant's exhibit book shall be shown on the Final Site Plan. This includes a buffer of at least 100 feet from Red Mill Pond and 25 foot buffers from all non-tidal wetlands.
6. No wetlands shall be included within any lot lines.
7. 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. This includes any requirements concerning the railroad track that runs through the project.

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8. A system of street lighting shall be provided throughout the project. The location of all streetlights shall be shown on the Final Site Plan.
9. The network of sidewalks, nature trails, boardwalks, pond walks and bike paths shall be completed as shown in Figure 9.1 of the Applicant's exhibit book. In addition, the Final Site Plan shall show the specific means of pedestrian and bicycle interconnection between the two areas of the Development separated by the railroad.
10. The use of Red Mill Pond from this project shall be limited to non-motorized boats, such as canoes and kayaks, with the exception of the existing Hopkins homesite and no more than 8 electric boats owned and operated by the Developer or the Homeowners' Association.
11. All amenities and recreational facilities shall be constructed and open to use by the residents of the Development within 2 years or the issuance of the first Building Permit.
12. As requested by the Lewes Fire Department, the areas of the project separated by the railroad shall be given names that identify each area to avoid emergency response delays. Also, each house shall have address numbers at least 3 inches in size.
13. The Final Site Plan shall show all required Buffers from the neighboring lands used for agricultural purposes. The Agricultural Use Protection Notice shall also be included in the Restrictions and in every deed to lots within the development.
14. The "Flag Lots" shown on the preliminary plan must be reconfigured so that they have a more conventional shape consistent with the other lots in the subdivision.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary for the reasons and with the conditions as stated. Motion carried 5 – 0.

#### PUBLIC HEARINGS

APD #2004-1 – application of **IRENE V. HOUSEMAN** (Houseman Tracts District) to consider an Agricultural Preservation District in an AR-1 Agricultural Residential Zoning District in Cedar Creek Hundred for four (4) parcels of land totaling 1,086 acres, more or

less, located on both sides of Route 213, south of Route 623, south of Route 224, both sides of Route 226, both sides of Route 232 and east of railroad for the purpose of a recommendation to the Delaware Agricultural Lands Preservation Foundation.

Mr. Lank advised the Commission that the Delaware Agricultural Lands Preservation Foundation report indicates that the farm is used for growing grain and lima beans; and that the farm contains 462 acres of cropland; that the remainder of the farm is woodland.

Mr. Lank advised the Commission that the Sussex County Farmland Preservation Committee unanimously recommended that the application be approved.

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The Commission found that Lawrence Houseman was present on behalf of his mother and stated that the farm is mostly wooded and that they plan on continuing farming the tillable lands.

Mr. Allen stated that he thought that this application contained more acreage than any previous applications for Agricultural Preservation Districts.

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 Delaware Agricultural Lands Preservation Foundation with a recommendation that the Agricultural Preservation District be approved.

Motion carried 5 – 0.

C/U #1541 – application of **JAMES B. WALSH** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for both storage to be located on a certain parcel of land lying and being Broadkill Hundred, Sussex County, containing 6.44 acres of a 26.13 acre tract, more or less, lying 500 feet west of Route 290 and 350 feet north of Route 262.

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, Rumford loamy sand, and Woodstown sandy loam; that the Evesboro and Rumford 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 the Evesboro and Rumford soils are considered of Statewide Importance; that the Woodstown 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 James B. Walsh was present and stated in his presentation and in response to questions raised by the Commission that he proposes a boat storage facility in the center of the parcel; that he may build a garage with an apartment above it on the site for security purposes; that the site is improved with a stone driveway; that approximately 2-acres of the site has been totally cleared; that electric will be provided to

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the site; that he proposes to fence the boat storage area with an 8-foot high chain link type fencing with barbed wire above; that a gate will be installed approximately 200-feet from the entrance and that access through the gate will be activated by a credit card system; that business hours would be from 9:00 a.m. to 4:00 p.m.; that he owns Anglers Marina in Lewes; that at least 200-feet will remain wooded from any neighbors properties; that he will fence the entire 6.44 acres; that trailered boats can be hauled by the owners to and from the site.

The Commission found that John Doerfler and Mark Leishear were present in opposition and expressed concerns that the driveway is not 200-feet from their property line; that the area should remain agricultural and residential; that they purchased their homes knowing that the area was residential; that the driveway to the site is between their homes; that they are concerned about traffic, business hours, possible impacts on wetlands, leaking fluids from the boats contaminating the soil and drinking water, children's safety, and trespassing; and questions how the applicant could clear the land and improve the driveway for the intended use prior to approval to use the site.

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.

C/Z #1540 – application of **LOUIS J. TRAVALINI, SR.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying at the southwest corner of Route 26 and Road 346 near Clarksville, to be located on 2.9 acres, more or less.

The Commission found, based on comments received from DelDOT, that the Department does not recommend a traffic impact study for this rezoning, but are concerned about the

rezoning because they see it as encouraging more traffic in an area that has been identified as operating at unacceptable levels of service.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Swamp; that the Evesboro soils have slight limitations for development and that the Swamp soils have severe limitations; that the application will be required to follow recommended erosion and sedimentation control practices and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that there are no storm flood hazard areas or tax ditches affected; that if the project is not established on Swamp soils off-site and on-site

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drainage improvements should not be needed; and that since Swamp soils are hydric soils wetlands may be present.

The Commission found that Louis J. Travalini, Sr. was present and stated in his presentation and in response to questions raised by the Commission that he proposes to develop the site with a sales office and model homes; that he has been in contact with DelDOT and advised them that the site is mostly wetlands and that approximately 1 acre of the site is uplands; that the model homes are Baracah Homes built in Greenwood; that if the use of the model homes ceases they may be converted into professional offices; that the models are small homes, but built to show the quality of the construction; that the wetlands have been delineated; that he chose to apply for rezoning rather than a Conditional Use so that he could convert from model homes to professional office if the model homes concept does not productive, and since a Conditional Use would limit the use and require additional applications in the future.

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.

Mr. Lynch stated that he would move that the Commission recommend denial of C/Z #1540 for Louis J. Travalini, Sr. seeking a change of zone from AR-1 to B-1 based on the record made at the public hearing and for the following reasons:

- 1) I do not believe that the application is consistent with the character of the surrounding properties. All of the adjacent property on the same side of Route 26 is zoned AR-1. There is some B-1 zoning across the intersection, but I do not believe that additional B-1 land is appropriate for this area.
- 2) Although the Applicant stated that the intended uses are limited, a change of zone to B-1 would potentially allow more intensive uses that are not compatible with the intersection or surrounding area.

- 3) If the Applicant should choose to reapply for a Conditional Use, I recommend that the application fee be waived.

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

Motion carried 5 – 0.

Subdivision #2003-43 – application of **BUTTONWOOD CORP.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek

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Hundred, Sussex County, by dividing 3.18 acres into 4 lots, located at the southwest corner of the intersection of Road 480 and Road 489.

No one was present on behalf of this application.

Mr. Allen stated that the Commission would come back to this application at the conclusion of the public hearings.

The Chairman referred back to this application.

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

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to deny this application due to a lack of a record in support of this application.

Motion carried 5 – 0.

Subdivision #2003-44 – application of **MICHAEL AND KATHY MIXON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 13.51 acres into 10 lots, located west of Road 258, 1,790 feet south of Road 257.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on November 19, 2003 and that the report will be made a part of the record for this application; that the Ground Water Discharges Section of DNREC has issued a non-binding septic feasibility statement; that revised Restrictive Covenants have been submitted; and that letters in opposition to this application have been received from Joseph K. Larrimore, President of Eagle Crest Homeowners' Association, Linda D. Larrimore, Charles B. McKeown, and Charles and Robin Clendaniel and that they will be made a part of the record for this application.

The Commission found that John Tarburton; Attorney, Mike Cooksey; Developer, and Michael Riccitelli with Merestone Consultants were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site is entirely wooded; that lots 1 through 5 are 0.75-acres; that the remaining lots are all greater than 1-acre; that lot 5 will be conveyed as an extension to an adjoining property owner; that access to the stormwater management area will be by an easement; that revised restrictive covenants have been submitted that limits grade changes, tree removal, etc.; that a forested buffer strip is proposed; that the proposed development is not being developed to its full density; that deposits have been taken for 6 lots; that the attorney is not aware of contracts for the lots being accepted; that the site drains to the southwest; that the location of the stormwater management area should work but if it

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doesn't, there is adequate room on site to relocate it; that the development will not discharge stormwater onto adjoining properties; that manufactured and modular homes will not be permitted on the lots, only on-site stick built homes are permitted; that the "T" turnaround at the end of White Cap Lane is acceptable to the Office of the State Fire Marshal since the street is less than 300-feet in length; and that the "T" turnaround minimizes impervious areas.

Mr. Robertson advised the Commission that the revised restrictive covenants have addressed his concerns.

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

The Commission found that Robert Cress, Joe Larrimore, Robert Jennings, and Joe Melchiorre, Jr. were present in opposition to this application and advised the Commission that there is an airport located across the street from the proposed site; that the new developments in the area have residents who complain about noise associated with the airport; that no open space is proposed in the subdivision; that new residents could cause trespassing incidents; that there are major drainage concerns in the area; that the developers have accepted money for lots that have not yet been approved; that there will be increased traffic in the area and that Road 258 is a small crowned road; that there are approximately 1,000 lots available in the area; and that there is no need for additional lots in the area.

The Commission found that Mr. Larrimore read his letter into the record.

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

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

Motion carried 5 – 0.

Subdivision #2003-45 – application of **JEREMY AND ANASTASIA DAY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Gumboro Hundred, Sussex County, by dividing 3.189 acres into 3 lots, located south of Road 419 (Bethel Road), northeast of Road 413.

Mr. Abbott advised the Commission that the staff has not received any correspondence on this application since it is for 3 lots along a numbered road.

The Commission found that Jeremy Day was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that 3

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lots are proposed; that none of the lots have been sold; that there is an existing dwelling located on lot 13; that he and his wife own and reside on lot 13; that lots 14 and 15 will be sold; that he will permitted manufactured homes on lots 14 and 15 provided they have a 5/12 roof pitch; that there are other manufactured homes in the area; that the minimum home size will be 1,500 square feet; that there are no plans to develop the remaining acreage since it is mostly wetlands and that the remaining acreage will probably be sold.

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. Gordy, seconded by Mr. Lynch, and carried unanimously to approve this application as a preliminary and final since it meets the purpose of the Subdivision Ordinance and it is compatible with the area.

Motion carried 5 – 0.

#### OTHER BUSINESS

The Peninsula MR/RPC  
Phase 1B Final Site Plan

Mr. Abbott advised the Commission that this is the final record plan for Phase 1B which consists of Sailside, Lakeside, Sanctuary, and Marina Bay; that this phase received preliminary approval on December 11, 2003; that all agency approvals have been received and the site plan is suitable for final approval.

Motion by Mr. Johnson, seconded by Mr. Lynch, and carried unanimously to approve Phase 1B as a final.

Motion carried 5 – 0.

The Peninsula MR/RPC  
Lakeside Village and Nature Center  
Preliminary Site Plan

Mr. Abbott advised the Commission that this is the preliminary site plan for Lakeside Village consisting of an 18,120 square foot fitness center, a 407 square foot tennis center, and a 5,714 square foot retail center; that 180 parking spaces are required and 220 spaces are proposed; that the proposed setbacks are the standard MR district setbacks; that the tower on the proposed building is 62 feet; that the Commission has the authority to

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amend the height since the project is a residential planned community; that the Nature Center portion of the site plan contains a 1,000 square foot building and a 1,300 square foot building; that 16 parking spaces are required and 24 spaces are proposed; that the site plan is suitable for preliminary approval and that final approval is subject to the review and approval by the Commission upon receipt of all agency approvals.

Jim Fuqua, Attorney, was present and advised the Commission that the height of the tower is 62 feet; that it is basically an ornamental feature; and that there is not any living or usable space in the tower.

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

Motion carried 5 – 0.

The Peninsula MR/RPC  
Villages of The Mooring, Windswept, Conservancy and Veranda  
Preliminary Site Plan

Mr. Abbott advised the Commission that The Mooring contains 42 single family detached condominium units; that the Conservancy contains 153 units consisting of 38 single family detached condominium units and 115 townhomes; that the Veranda contains 134 single family detached condominiums; that Windswept contains 181 multi-family units; that the proposed building height for some of the buildings in Windswept is 52 feet; that the Commission may modify the building height since this is a residential planned community; that the setbacks, building lengths and building separations meet the requirements of the zoning code; that the parking requirements have been met; that the site plan is suitable for preliminary approval and that final approval is subject to the review and approval by the Commission upon receipt of all agency approvals.

Jim Fuqua, Attorney, advised the Commission that the height of some of the buildings in Windswept will be 52 feet to the tallest point and that this is required due to the architectural design of the buildings.

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

Motion carried 5 – 0.

Pep – Up, Inc.  
C/U #1560 Site Plan – U.S. Route 113

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Mr. Abbott advised the Commission that the site plan is for storage of fuel oils and diesel fuel; that 6 29,600- gallon tanks are proposed; that the setbacks meet the requirements of the zoning code; and that all agency approvals have been received.

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

Motion carried 5 – 0.

Pep – Up, Inc.  
C/U #1561 Site Plan – Road 376

Mr. Abbott advised the Commission that the site plan is for 6 68,000- gallon propane storage tanks; that the setbacks meet the requirements of the zoning code and the conditions of approval; and that all agency approvals have been received.

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

Motion carried 5 – 0.

Subdivision #2002 – 44 - - Junior Armiger  
Time Extension

Mr. Abbott advised the Commission that the staff has received a request for a time extension; that the Commission granted preliminary approval on May 22, 2003; that if an extension is granted, it should be retroactive to the original approval date; and that the staff has not received any agency approvals to date.

Motion by Mr. Wheatly, seconded by Mr. Johnson, and carried unanimously to approve a one-year time extension retroactive to the original approval date.

Motion carried 5 – 0.

Subdivision #2003 – 2 - - Wolfe Properties, Inc.  
Time Extension

Mr. Abbott advised the Commission that the staff has received a request for a time extension; that the Commission granted preliminary approval on June 26, 2003; and that approvals have been received from DNREC and Sussex Conservation District.

Motion by Mr. Gordy, seconded by Mr. Lynch, and carried unanimously to approve a

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one year time extension.

Motion carried 5 – 0.

Meeting adjourned at 9:55 P.M.