



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF FEBRUARY 14, 2008

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 14, 2008 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. I. G. Burton III with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of January 17, 2008 and the Minutes of January 24, 2008 as amended. Motion carried 5 – 0.

OLD BUSINESS

C/U #1715 – application of **GOOD EARTH MARKET, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office, professional space, café restaurant, and meeting space to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 9.2509 acres, more or less, lying south of Route 26, approximately 1,500 feet west of Route 17.

The Commission discussed this application which has been deferred since January 24, 2008.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1715 for Good Earth Market, LLC based upon the record and for the following reasons:

1. The proposed Conditional Use is similar to other uses in the vicinity of the property, and it is the expansion of an existing Conditional Use on this property.
2. The use as a professional space, café and meeting space promotes local employment, will compliment existing and proposed adjacent uses and is desirable for the general convenience and welfare of the area.
3. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
4. This recommendation for approval is subject to the following conditions and stipulations:

1. There shall be one lighted sign on the project. The sign is not to exceed 32 square feet on each side.
2. The hours of operation for the site shall be 10:00 a.m. to 6:00 p.m. November 1 through April 30 and 10:00 a.m. to 9:00 p.m. May 1 through October 31. The days of operation for the site shall be seven days per week.
3. There shall be no outside storage on the premises, except a trash dumpster screened from view from neighboring properties and inside a fenced in area, may be allowed.
4. Any security lights shall only be installed on the buildings and shall be directed downward and away from impacting neighboring properties.
5. The Applicant shall comply with all DelDOT requirements, including entrance permits.
6. All business related vehicle storage and delivery of received goods will be directed toward the rear of the building site at all times of the day.
7. The site will establish and maintain a highway corridor compatible vegetated buffer along Route 26. The vegetated buffer will use the Right Plant for the Right Place guidelines of the State of Delaware Forestry Department. This shall be shown on the Final Site Plan.
8. There shall be no parking in the front setback.
9. Any stormwater management pond shall be located away from the front setback and Route 26.
10. Final Site Plan and landscaping plans shall be subject to the review and approval of the Planning and Zoning Commission.

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 for the reasons and with the conditions stated. Motion carried 5 – 0.

C/U #1719 – application of **DANIEL D. RUPPERT, JR.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for professional office space to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.62 acres, more or less, lying southwest of Route 24, 315 feet south of Road 289.

The Commission discussed this application which has been deferred since January 24, 2008.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1719 for Daniel D. Ruppert, Jr. based upon the record and for the following reasons:

1. The Applicant is seeking a Conditional Use for professional office space. The proposed use is for a bookkeeping business and general contractor's office. As described during the public hearing, both of these proposed uses are very nearly home occupations and with the conditions and limitations placed upon them, will have little or no impact on neighboring or adjacent properties.

2. The use will be limited to the existing dwelling on the site and that only approximately 1,000 square feet of the dwelling will be utilized for office space for the contracting business and bookkeeping business. The Applicant and his wife will also be residing in the dwelling.
3. There will not be any manufacturing on the site, according to the Applicant. Also, the Applicant has stated that only one vehicle associated with the construction business use will be on the property at any time.
4. This recommendation is subject to the following conditions:
 1. The use of the property shall be limited to a small home occupation-style bookkeeping business and a contractor's office.
 2. There shall be no manufacturing allowed on the site.
 3. There shall be no materials associated with the Conditional Use stored outside on the premises.
 4. In addition to the Applicant's personal vehicles, only one vehicle owned by the Applicant and associated with the business use shall be permitted on the property.
 5. As stated by the Applicant, no signage shall be permitted.
 6. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.
 7. The Final Site Plan shall show specifically the section of the dwelling to be utilized for the bookkeeping and contracting offices. The Applicant described this to be approximately 1,000 square feet in size during the public hearing.
 8. The Final Site Plan shall show all parking and driveway areas as well as building entrances dedicated to the business use.

Motion by Mr. Johnson, seconded by Mr. Burton, 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 #1774 – application of **ROBINO SEA CHASE, LLC** to consider an ordinance to delete and/or modify the conditions imposed in Ordinance No. 1455 for Conditional Use No. 1379, the application of Robino Sea Chase, LLC to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, lying at the northwest corner of the intersection of Road 275 and Road 274.

The Commission discussed this application which has been deferred since January 24, 2008.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

C/U #1777 – application of **BEEBE MEDICAL CENTER, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a medical center to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex

County, containing 23.471 acres, more or less, lying south of Route 26, 0.25 mile west of Route 17.

The Commission discussed this application which has been deferred since January 24, 2008.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1777 for Beebe Medical Center, Inc. for a medical center on Route 26, based on the record and for the following reasons:

1. This use will benefit the health, safety and welfare of Sussex County residents by providing accessible medical services.
2. There is a need for these medical services in the area.
3. The project, with the conditions and stipulations placed upon it will not have an adverse impact on the neighboring properties or community.
4. This recommendation for approval is subject to the following conditions and stipulations:
 1. All applicable buffers and setbacks shall be complied with and shown on the Final Site Plan.
 2. Signage on the site shall be as permitted in the CR-1 District.
 3. No parking shall be permitted in the front setback.
 4. Any security lights shall be screened so that they do not shine on neighboring properties or toward Route 26.
 5. The Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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 for the reasons and with the conditions and stipulations stated. Motion carried 5 – 0.

PUBLIC HEARINGS

Mr. Robertson described how the public hearings would be conducted.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to move public hearing item #3, C/U #1723, to the first public hearing. Motion carried 5 – 0.

C/U #1723 – application of **JOHN WILLEY C/O PENINSULA OIL** to consider the Conditional Use of land in an AR-1 Agricultural Residential District and a C-1 General Commercial District for a mini-storage facility to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 9.93 acres, more or less, lying southwest of U.S. Route 113, 1,800 feet south of Route 26.

The Commission found, based on comments received from the Sussex County Engineering Department Utility Planning Division, that the site is located in the Dagsboro/Frankford Planning Area; that the proposed use will utilize an on-site septic

system; that the project is not capable of being annexed into a sewer district at this time; that the County will be extending sewer service to this area at some future time; that the County does not have a schedule for providing sewer service at this time; that the County has no objection to the project developing with an on-site septic system; that when the County provides sewer service, it is required that the on-site system be abandoned and a direct connection be made to the County system at the property owners expense; and that a concept plan is not required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Hammonton loamy sand, Mullica mucky sandy loam, and Mullica-Berryland complex; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the site may contain areas of hydric soils; that the Applicant will be required to follow all Federal and State wetland requirements; that no storm flood hazard areas are affected; that a tax ditch may be affected; that no off-site drainage improvements are necessary; and that the Applicant will be required to follow State sediment and stormwater guidelines for on-site drainage improvements.

The Commission found, based on comments received from DelDOT, that the property is adjacent to US Route 113 and therefore is subject to the Department's Corridor Capacity Preservation Program; that a traffic impact study was not recommended; that the Level of Service "B" of US Route 113 will not change as a result of this application; that the main goal of the Corridor Capacity Preservation Program is to maintain the capacity of the existing highway; that according to the State Strategies the property is located in a Level 3 Investment Area where the State will promote efficient and orderly development; according to the policy, in a Level 3 Investment Area, the Department will permit direct access to US Route 113 for a proposed land use that generates a maximum of 200 vehicular trips per day and that this proposal is estimated to generate 188 vehicular trips per day; that according to the US 113 North/South Study, there is a potential of developing an interchange within the vicinity of this site; and that the Department encourages the Applicant to stay informed of the US 113 North/South Corridor Study.

The Commission found that Ken Christenbury of Axiom Engineering was present with Sharon Jester and George Edward Long, the owners of the property, provided a power-point presentation and stated on behalf of the owners and in response to questions raised by the Commission that the Applicant, John Willey has decided not to develop the site and that the owners of the property plan to go forward with the application; that according to the Comprehensive Plan Update the site is located in a Developing Area around Dagsboro; that the front 500-feet of the site is zoned C-1 General Commercial; that the area has a mix of uses including a furniture store, cell towers, a service station, a tire store, offices, etc.; that according to DelDOT the use will generate a moderate amount of traffic; that the project will be developed over time; that commercial growth has been anticipated in this area for some time; that the mini-storage units will be located in the AR-1 portion of the site; that key-pad access is proposed; that an on-site office may be established; that hours will be limited to daylight hours; that at least one dumpster will be centralized on the site; that the area will be fenced; that there are no tax ditch rights-

of-way on the site; that stormwater management ponds will be sized for development of the entire site; that security lighting will be installed on the buildings and will be downward illuminated; that there will be no outside storage of materials, vehicles, trailers or boats.

Mr. Lank asked Mr. Christenbury to provide a copy of the power-point presentation for the record.

Karl Haller, attorney, was present on behalf of the owners and stated that they ratify the presentation made by Mr. Christenbury.

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. Smith stated that he would move that the Commission recommend approval of C/U #1723 for a mini-storage facility based upon the record made at the public hearing and for the following reasons:

1. The project is located in a Development District according to the County's Comprehensive Land Use Plan Update.
2. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
3. The project is located along U.S. Route 113 which is an appropriate location for such a use.
4. The use as a mini-storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of the neighboring properties and communities.
5. This recommendation for approval is subject to the following conditions and stipulations:
 1. There shall not be any building contractors or subcontractors offices or workshops within the project.
 2. There shall not be any storage of building materials or other construction materials within the project.
 3. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on any neighboring residential properties.
 4. No outside storage shall be allowed on the premises.
 5. Fencing, shown on the proposed site plan, with screening shall be installed along the border of the mini-storage site so that the mini-storage facility is screened from view from any adjacent residential property.
 6. Access to the facility shall be limited to daylight hours.
 7. The site plan shall be subject to the approval of the Planning and Zoning Commission.

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 for the reasons and with the conditions stated. Motion carried 5 – 0.

C/Z #1629 – application of **WILLIAM WARRINGTON** to amend the Comprehensive Zoning Map from a GR General Residential District to a GR-RPC General Residential District – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying west of Road 362, 0.35 mile south of Road 368, to be located on 16.02 acres, more or less.

Mr. Lank advised the Commission that the Technical Advisory Committee provided comments on this application on January 31, 2008 and that those comments are a part of the record for this application.

The Commission found that the Applicants had submitted an Exhibit Booklet on February 4, 2008 and that the Exhibit Booklet contains a project summary, references to compliance with Chapter 99-9C of the Subdivision Code, a copy of the application and public notices; a series of maps and aerials; a copy of the PLUS application and responses; and a copy of the DelDOT letter of no-objection to the entrance location.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located in the Miller Creek Sanitary Sewer District; that wastewater capacity is available for this project; that Ordinance No. 38 construction will be required; that the current system connection charge rate is \$3,235.00 per EDU; that a connection point has been provided along the parcels frontage on Parker House Road; that conformity to the South Coastal Area Planning Study 2005 Update will be required; that connection to the Sewer District is mandatory; that the District was established in 2001 and began planning and design of the sewer system; that construction is nearly completed in the area and that connections began in January 2008; that the proposed project is within planning area assumptions for sewer service and capacity will be adequate for the project; that the proposed development will require a developer installed collection system in accordance with County standard requirements and procedures; and that a concept plan will be required to be submitted for review and approval.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Hammonton sandy loam, Hurlock sandy loam and Mullica mucky sandy loam; that the Applicant will be required to follow recommended erosion and sediment control practices and to maintain vegetation; that the site contains areas of hydric soils; that the Applicant will be required to follow all Federal and State regulations regarding wetlands; that no storm flood hazard areas are affected; that a tax ditch may be affected; that off-site drainage improvements may be necessary to ensure that the project will have a clear outlet; and that the Applicant will have to follow State sediment and stormwater requirements.

The Commission found that John Murray, project manager with Kercher Engineering Inc., was present on behalf of the application and stated in his presentation and in response to questions raised by the Commission that there are several subdivisions adjacent and in close proximity to the project site; that this site and the adjacent subdivisions are zoned GR General Residential; that 49 lots are proposed; that the site will be served with central sewer from Sussex County and central water by Tidewater Utilities, Inc.; that the majority of the open space on the site will be around stormwater management facilities and the area next to Lots 10 and 11; that the area next to Lots 10 and 11 will be utilized for a tot-lot and pavilion amenity area; that street lighting will be provided; that sidewalks will be installed on both sides of all streets; that a 3-acre area of wetlands will be permanently preserved; that no wetlands will be included within any lots; that dwellings will contain a minimum of 1,800 square feet of living space; that they propose to retain the existing tree stand along the perimeter property line; that DelDOT will be requiring a 10-foot wide multi-use path; that a covered school bus shelter will be provided if requested by the School District; that wetlands have been delineated; that approximately 0.5 acre has been set aside for open space; that a 20-foot wide buffer is proposed along Parker House Road; that a buffer can be established to separate wetlands and the tot-lot area; that the amenity area will be partially cleared to allow for placement of the amenities; and that access to the triangular stormwater area may be from Parker House Road or by easement across lots 28, 29 or 30.

The Commission found that Eric Howard, Attorney, present on behalf of Mr. Warrington, stated that he agrees with the presentation made by Mr. Murray.

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 defer action for further consideration and for receipt of proposed restrictive covenants. Motion carried 5 – 0.

C/U #1721 – application of **RALPH N. KRUM** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a multi-family dwelling structure (2 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 5,730 square feet, more or less, lying at the southwest corner of Route 54 and Monroe Avenue.

Mr. Lank provided the Commission with a copy of the survey and a sketch of the property showing the existing improvements.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the existing Level of Service “E” of Route 54 will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located in the Fenwick Island Sanitary Sewer District; that wastewater capacity is available to serve the project; that Ordinance No. 38 construction is required; that the parcel is served by a 6-inch lateral which is adequate for the use; that the two dwelling units on the site are currently connected to the sewer system; that conformity to the South Coastal Area Planning Study 2005 Update will be required; that the two existing units must be properly disconnected and inspected by the County prior to removal, demolition, site work or issuance of a building permit.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Brockatonorton-Urban land complex; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that the site is located in a FEMA Flood Zone "A"; that no tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Ralph Krum was present and stated in his presentation and in response to questions raised by the Commission that the two unit structure already exists on the site and is compatible to Edgewater Acres development; that there are several multi-family units within Edgewater Acres; that he has owned the building for over 34 years; that he moved the structure onto the lot in 1973 from Ocean City; that the project was connected to central water and County sewer when service was available; that the units and building have been completely remodeled with new heat pumps, air-conditioning, and electric within the last 5 years; that the units have not been rented out during the last 5 years; that the units were rented up previously; that the Edgewater Acres Community Association acknowledges that some of the homes in the community are multi-family; that he intends to sell the property; that the units could be leased out or sold as condominium units; that the units are self contained; that the units have been totally upgraded in the last 5 years; and that he does not have any intention of increasing the number of units.

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. Smith stated that he would move that the Commission recommend approval of C/U #1721 for Ralph N. Krum based upon the record and for the following reasons:

1. The Applicant is seeking approval for a 2-unit multi-family dwelling structure. The existing structure with 2 units has been at this location since approximately 1973.
2. The Sussex County Engineering Department has already allocated 2 EDUs for the building and there are currently 2 sewer connections.
3. The Applicant has stated that there are other similar structures in the area, and the project will not adversely affect the neighborhood.

4. The property is in a Developing District according to the County Land Use Plan.
5. This approval is subject to the following conditions:
 1. There shall be no more than 2 units on the property.
 2. The Final Site Plan shall show all required parking.
 3. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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 for the reasons and with the conditions stated. Motion carried 5 – 0.

Subdivision #2006-53 – application of **JW & TG, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 14.03 acres into 12 lots, located west of Road 524, 1.14 mile south of Route 46.

Mr. Abbott advised the Commission that the Technical Advisory Committee review of March 27, 2007 will be made a part of the record for this application; that comments were received from Mr. Robertson in reference to the restrictive covenants on September 25, 2007; and that a preliminary soils investigation report was submitted with the application.

The Commission found that Mark Wolfe and Charles Adams, Surveyor, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this application is for 12 lots; that lot 1 has already been approved and recorded; that an interior street will be provided; that there are some wetlands and a ditch that exist on the site; that these have been delineated; that the ditch is not a tax ditch; that there are no wetlands on the individual lots; that a septic feasibility statement has been provided by DNREC and submitted a copy of this report; that the existing lot 1 will be a stand alone lot and will not be subject to the homeowners association; that individual on-site wells and septic are proposed; that all of the lots meet the minimum requirement of 0.75-acres; that stick built and modular homes with a minimum square footage of 1,200 to 1,600 square feet will be permitted; that a buffer between the drainage swale and wetlands is proposed; that this buffer is approximately 20-feet in width; that there is a 30-foot forested buffer adjacent to the adjoining agricultural lands; and that manufactured homes will not be permitted.

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

The Commission found that Gerald Walton and Doris Fields, adjoining property owners, were present in opposition to this application and advised the Commission that they have concerns about flooding in the area since flooding already occurs; that there could be trespassing problems; that the area is rural; that there is an existing culvert in the area that is clogged and does not provide good drainage; and that the site is wet in dry times.

Mr. Adams responded that the storm water management area is to be designed to the 2 to 10 year storm and 100 year storm if possible; and that if a majority of the woodlands on site are maintained, this will also help in the maintenance; and that approximately 2-acres has been set aside for storm water management with landscaping.

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Subdivision #2006-54 – application of **COOL SPRING REALTY ASSOCIATES, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District and a GR General Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 26.13 acres into 18 lots, and a variance from the maximum allowed cul-de-dac length of 1,000 feet, located west of Road 290, 800 feet north of Road 262.

Mr. Abbott advised the Commission that the Technical Advisory Committee review of April 18, 2007 will be made a part of the record for this application; that comments were received from Mr. Robertson in reference to the restrictive covenants on September 25, 2007 and February 7, 2008; that letters in opposition were received from James Badger and Donna Stotz and Brian and Lind Doan; that these letters will be made a part of the record; and that on February 4, 2008 the applicants submitted an Exhibit Booklet containing the Project Team, Subdivision application, Proposed Project, Location Map, Preliminary Site Plan, Subdivision Considerations, TAC Review Comments, Preliminary Subdivision Feasibility Letter, Wetlands Delineation, Covenants and Conditions and Proposed Findings of Fact and Conditions of Approval.

The Commission found that Dennis Schrader, Attorney, Rick Banning, Developer, and Jennifer Penozza, P.E. with Greenstone Engineering, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that an Exhibit Booklet was previously submitted into the record; that the site contains 26.13 acres; that 18 lots are proposed; that there are 14.7 acres of lots, 2.7 acres of streets, 8.7 acres of open space; that the minimum lot size is 0.75 acres; that the site is undeveloped; that on-site septic and wells are proposed; that the site is zoned AR-1 and GR; that the proposed density is 1.8 lots per acre; that the entrance is located off of Coolspring Road; that the site is located in a Low Density Area based on the Comprehensive Land Use Plan and in a Level 4 according to the State's Strategies Map; that the streets will be private and built to Sussex County specifications; that a homeowners association will be formed and they will be responsible for the maintenance of streets, common areas and buffers; that the items referenced in Section 99-9C of the Subdivision Code and referenced and addressed in the Exhibit Booklet; that the proposed use is consistent with the surrounding area; that the site adjoins residential lots and forested areas; that 32% of the site is open space; that 68% of the site is forested; that there are no negative impacts to the wetlands and a 50-foot buffer from all wetlands is proposed; that there are no historical features on the site; that the soil work has been completed and DNREC has issued a septic feasibility statement; that the site drains

towards Martin Branch; that the cul-de-sac length is 1,100 feet due to the topography of the site; that proposed findings of fact and conditions of approval have been submitted; that sidewalks will be provided on at least one side of all streets; that the restrictive covenants allow for ranchers and cape cod dwellings; that manufactured homes are not permitted; and that the site is not located in the CPCN area for Artesian Water Company.

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

The Commission found that Bill Fitler, John Doerfler, John Souder, Paul Esposito and Mark Leishear were present in opposition to this application and advised the Commission that they have concerns about the length of the cul-de-sac; that the site has been clear cut and that this has impacted the wetlands; that there has been a loss of wildlife habitat in the area; that when the site was clear cut, the roots from trees were even removed causing drainage problems on the site and to the area; that the adjoining property owners have concerns about run-off; expressed concerns about emergency vehicle access; concerns about the location of the public notice sign, and that if the project is approved, the number of lots should be cut in half.

Mr. Schrader responded that the site has been clear cut; that the property owners legally cut down the trees; that the run-off concerns will be addressed by the Sussex Conservation District and that run-off onto adjoining properties will not be permitted; that the site plan would have to be reviewed and approved by the State Fire Marshal's Office; and that the sign was posted on the site by the Planning and Zoning Office.

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 for further consideration. Motion carried 5 – 0.

Meeting adjourned at 9:10 p.m.