



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE REGULAR MEETING OF MARCH 23, 2006

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 23, 2006 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. Wheatley, Mr. Johnson, Mr. Smith, and Mr. Burton with Mr. Robertson – Assistant County Attorney, Mr. Lank – Director, Mr. Abbott – Assistant Director, and Mr. Kautz – Land Use Planner.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Agenda as circulated. Motion carried 4 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the Minutes of March 9, 2006 as circulated. Motion carried 4 – 0.

### OLD BUSINESS

**Subdivision #2005-24** – application of **CASCADE PROPERTIES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 258.64 acres into 494 lots (Cluster Development), located north of Road 16, south of Road 231 (Reynolds Pond Road) and 2,400 feet east of Road 226 (Holly Tree Road).

Mr. Burton stated that he would move that the Commission approve Subdivision #2005 – 24 for Cascade Properties, L.L.C. based upon the record and for the following reasons:

1. The project meets the purpose of the Subdivision Code by protecting the health, safety, convenience, orderly growth and welfare of the County residents.
2. The project is adjacent to a Developing Area established by the Sussex County Land Use Plan Update that connects to the Town of Ellendale.
3. The project will not have an adverse impact on the neighboring properties or community. The adjacent Nature Conservancy has not objected to the project and substantial buffers are provided along the Conservancy boundary and other adjacent properties.

4. The lots will be served by central sewer and water. The Developer is also seeking to incorporate the project into a regional wastewater treatment system including other projects and possibly the Town of Ellendale. This would lessen this project's impact on the environment and would provide an economic benefit to other residents of the area.
5. The projects promotes the housing element of the County's Comprehensive Plan

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Update. One of the Plan's goals is to provide housing for all Sussex County residents and that there is a need for moderate-income family housing. The project, as described by the Applicant, will address this need in Sussex County.

6. The project is situated along Route 16, which is recognized by DelDOT as a major collector road. It also adjoins an existing mobile home park and a gas station, which are compatible uses.
7. This project is not an example of scattered development. The Comprehensive Plan directs development to areas planned for the efficient extension of public services. This project promotes the Goals of the Plan because it is adjacent to a Development District; is along Delaware Route 16 in close proximity to the Town of Ellendale; may be incorporated into a regional water treatment system; and promotes moderate income housing.
8. I am satisfied that the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed. For example:
  - The subdivision is integrated into the existing terrain and landscape through the use of open space next to other properties and with a reduction in the number of lots and activities requiring tree removal. Also, sixty-foot buffers have been provided from all wetlands. The wastewater treatment facility was also relocated to the center of the property to reduce impacts on adjacent properties. There would be no impact to any existing vegetation next to the lands of the Nature Conservancy, and reforestation will occur creating a better buffer to the Conservancy's' lands than what currently exists. And, the existing old borrow pit would be redeveloped into an amenity and storm water management pond.
  - 117 acre of the site will be used as open space in a variety of ways. The Applicant has stated that the "Statewide Comprehensive Outdoor Resource Plan" says that the primary recreation needs in Sussex County are jogging, bike paths and fishing areas with other needs like picnic areas, canoe/kayak access, hiking trails, swimming pools, play grounds and tennis courts. The

project has provided all of the primary needs recognized by the State's Plan and six of the State's other needs.

- Tree, vegetation and soil removal will be minimized. The site plan was revised to minimize tree removal and any removal that is required will not result in fragmentation of existing forested blocks, particularly along the wetlands and stream areas on the property. And, if any trees that are removed

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would be offset by a corresponding reforestation on the site and under the management of the Nature Conservancy on the adjacent Ponders Tract.

- Any objectionable features would be screened from neighboring properties and roadways through large buffers. Pollution of surface and groundwater and erosion and sedimentation will be minimized by the conservation design, existing forest lands and reforestation efforts, and the efforts to connect to a central regional wastewater system. Also, the developer has proposed an innovative storm water management system that incorporated the redevelopment of an existing on-site borrow pit, and Best Management Practices will be used in the operation of all storm water management facilities. And, the Developer has recognized that the County is moving forward with a ground water recharge ordinance and the revised site plan incorporated recharge throughout the development through rain gardens, bio-retention, bio-filtration along all roadways and riparian buffers along all natural resources.
  - The project provides for safe vehicular and pedestrian movement through the internal streets with entrances onto County Road 231 and Delaware Route 16 in close proximity to the Town of Ellendale. In addition, there are more than ten miles of walking/jogging/bike trails throughout the development with a ten-foot wide multi-modal path along both public roads adjacent to the project.
  - The project does not adversely affect the conservation of farmland, and there are substantial buffers adjacent to any existing agricultural properties.
  - The project will not adversely affect area roadways and public transportation. The final Traffic Impact Study has been approved by DelDOT and a DART transit stop will be incorporated into the project with service connections throughout the state.
9. The development is designed in accordance with the Cluster Ordinance. The proposed cluster design is superior to a standard subdivision with at least 47% of

the site remaining open space. It is also superior to a standard subdivision for the following reasons:

- A traditional subdivision with three quarter acre lots could result in less open space and more disturbance of natural features with less reforestation and buffering.

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- With smaller lot sizes allowed through clustering, the cost of individual lot/home packages can be marketed to moderate income families as directed by the Comprehensive Plan
- The number of lots in the proposed development allows significant active amenities with maintenance costs spread evenly and affordably across all of the lots in keeping with the goal of providing housing for moderate-income families.
- The Design incorporates buffers from wetlands, neighboring properties and other natural features in excess of the minimum requirements of the Subdivision Ordinance. This provides better protection for the existing ecology and wildlife.
- The Design incorporates contiguous forested areas and avoids fragmentation of the existing tree areas. It also enables the developer to provide fairly extensive reforestation.

10. This approval is subject to the following conditions:

1. The maximum number of lots shall not exceed 494.
2. The interior street design shall be in accordance with or exceed Sussex County street design requirements.
3. A multi-modal path shall be included on at least one side of all streets.
4. Street lighting shall be included throughout the subdivision. The location of all streetlights shall be shown on the final site plan.
5. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT.

6. All amenities, including trails, athletic fields, pool and community center shall be open and available to use by residents within two years of the issuance of the first residential building permit.
7. The project shall be served by a publicly regulated central sewer system as defined by the County Ordinance and shall be incorporated into a regional wastewater treatment system if at all possible. The operation of the sewer system shall be subject to the Delaware Public Service Commission and all applicable State and County regulations.

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8. The project shall be served by central water.
9. Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements and shall be operated using Best Management Practices to provide ground water recharge.
10. No wetlands shall be included within any lots. Wetlands shall be maintained as non-disturbance areas, except where authorized by a Federal or State Permit.
11. All reforestation areas shall be shown on a landscape plan submitted as part of the Final Site Plan review process. In addition, the Applicant has stated that conservation easement areas shall be located along all rear setbacks of lots within the subdivision. This shall specifically be referenced on the Final Site Plan.
12. The Applicant shall form a Homeowners' Association to be responsible for the maintenance of the streets, roads, buffers, storm water management facilities and other common areas.
13. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
14. Because the project will be for moderate-income families, additional tot lots shall be included within the site. The location of these tot lots shall be spread throughout the project and shown on the Final Site Plan.
15. As stated by the Applicant, no commercial uses shall be included within the project.
16. An area to be used as a school bus shelter with parking for 5 vehicles shall be set aside near the entrances to the project in the event they are needed for the protection and safety of children living in the subdivision.

17. A fence shall be installed along the east side of the property as stated by the Applicant, and shall be shown on the Final Site Plan.

18. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve this application as a preliminary, for the reasons and with the conditions stated. Motion carried 4 – 0.

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**C/U #1639** – application of **BETHANY COURT, LLC** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (proposing 6 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.2873 acres, more or less, lying east of Route One, 900 feet north of Dune Road within Tower Shores.

The Commission discussed this application, which has been deferred since March 9, 2006.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

**C/U #1642** – application of **CARROLL AND DIANE BRASURE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for parking service vehicles in garages to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 0.99 acres, more or less, lying southwest of Route 20 (a.k.a. Zion Church Road) 600 feet southeast of Road 92.

The Commission discussed this application, which has been deferred since March 9, 2006.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1641 for Carroll and Diane Brasure to park service vehicles in garages 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.
- 2) The project is for the relocation of one aspect of an existing business from another property in the general vicinity of this Conditional Use site. This relocation will not generate any significant new traffic in this 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. The existing home on the property shall continue to be used as a residence. Any future use other than residential shall require a public hearing for consideration of that future proposed use.
  2. There shall be no signage on the project.
  3. The hours of operation for the site shall be from 8:00 a.m. to 5:00 p.m. Monday through Friday.

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4. The service vehicles shall be parked in the garages when not on road ready status. The service vehicle drivers shall park their personal vehicles in the inside garage spaces vacated by the service vehicles. There shall be no outside storage of vehicles.
5. There shall be no outside storage on the premises, except a 6-yard trash dumpster, and shall be screened from view from neighboring properties.
6. Any security light shall only be installed on the buildings and shall be directed downward and away from impacting neighboring properties.
7. The shed in the right-of-way is to be relocated or removed.
8. There shall be no storage of pesticides on site, except that which is routinely stored on the service vehicles.
9. The site plan shall be subject to 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 and stipulations stated. Motion carried 4 – 0.

**C/Z #1590** - application of **PENINSULA OIL CO., INC.** 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 Seaford Hundred, Sussex County, land lying at the northeast corner of the intersection of Hebron Street Extended (a.k.a. Hitchens Road) and Nanticoke Avenue (a.k.a. Cargill Road), 1,100 feet south of railroad, 500 feet north of the Nanticoke River and west of the city limits of Seaford, to be located on 4.99 acres, more or less.

The Commission discussed this application, which has been deferred since March 9, 2006.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1590 for Peninsula Oil Co., Inc. to amend the Comprehensive Zoning Map for a parcel of land at the intersection of Hebron Street Extended and Nanticoke Avenue near the City of Seaford 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 with the Town Center Area according to the 2002 Update to the Comprehensive Plan and C-1 zoning is appropriate in this area according to the Plan.
- 2) The change of zoning will not have an adverse impact on the neighboring properties or community.
- 3) The project is in an area that contains HI-1 zoned properties and properties zoned for commercial use by the City of Seaford.

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- 4) The Applicant has stated that it will meet or exceed all DelDOT requirements.
- 5) C-1 zoning is appropriate for this property, 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 where a general mixture of commercial and service activities now exists.

Motion by Mr. Smith, seconded by Mr. Johnson and carried with 3 votes to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 3 – 0. Mr. Wheatley did not participate in the discussion or vote.

## PUBLIC HEARINGS

**Subdivision #2005-26** – application of **IVY BRANCH ASSOCIATES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 200.60 acres into 360 lots (Cluster Development), located on both sides of Road 303, 520 feet southwest of Road 303A.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on July 20, 2005 and that the report will be made a part of the record for this application; that on March 9, 2006 the applicants submitted an Exhibit Booklet and a revised preliminary plan that will be made a part of the record for this application; and that a letter in opposition to this application was received from Norma Lee Burton Derrickson and that the letter will be made a part of the record.

The Commission found that Dennis Schrader; Attorney, Jennifer Finch of Ivy Branch Associates, and Rebecca Michaels and Jason Palkewicz of McCrone, Inc. 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 phases 10 through 13; that this project is a continuation of the previously approved 9 phases; that the project adjoins



phase 9 and another subdivision that has received preliminary approval; that the site is located in a low density Level 4 area; that the site contains 200.00 acres; that the project has been designed utilizing the cluster development option; that the site is zoned AR-1 and is currently cultivated; that there is an interconnection road that connects to phase 9; that open space and recreational amenities including walking trails, a pool and community clubhouse are proposed; that there is open and passive recreational areas provided; that 360 lots are proposed; that the forested areas will be retained; that buffers from the wetlands are provided; that the storm water management ponds have been relocated away from the wetlands; that the project is surrounded by developments that are under construction or have received preliminary approval; that Townsend Road is being reconstructed as per the recommendations made by DelDOT; that DelDOT has reviewed and approved the traffic impact study prepared by the applicants; that the plan has been

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reduced to 360 lots to maintain as many trees as possible; that sidewalks and street lighting will be provided throughout the project; that if this were a standard subdivision, there would be a loss of the forested areas, the lots would be adjacent to the wetlands, there would not be much open space, and there would not be any walking trails; that the cluster design allows the lots to adjoin open space; that by keeping the area forested, environmental impacts will be minimized; that none of the lots will have access to the County Roads; that the wetlands will be non-disturbed and in most cases there will be a 100-foot buffer from the wetlands; that an access easement will be provided to the cemetery on the site and will be maintained by the developers; that the preserved forested areas will provide scenic views; that limited grade changes are proposed; that landscaped buffers will be provided; that Artesian Water Company will provide and maintain central sewer and water to the project; that the storm water management facilities will meet the requirements of the Sussex Conservation District; that the entrances will meet the requirements of DelDOT; that a 15-foot buffer along Townsend Road will be provided; that the streets will be private and meet or exceed the requirements of Sussex County; that the project will increase property values in the area; that this project is in-fill; that the restrictive covenants will be the same as the other 9 phases; that there will be a single trash removal contractor for the project; that the project meets the requirements of the cluster ordinance and subdivision code; that walking and jogging paths are provided along with bike trails, picnic areas and tennis courts; that there is adequate parking adjacent to the club house; that a pedestrian walkway has been provided across Townsend Road; that DelDOT is requiring multi-modal paths along both sides of Townsend Road; that there is not an interconnection road to the adjacent Double Eagle Subdivision since the applicants do not own that project; that the treatment plant may not be necessary for these phases since it is possible that the approved existing treatment plant may be able to serve these phases; that bus shelters can be provided; that none of the lots will contain any wetlands; that the cemetery on phase 7 has been delineated and clearly marked with a fence around the perimeter; that the cemetery on this site will be marked the same way; that a formal landscape plan has not yet been designed; that the sidewalks and paths will be connected; that Phase 2 has been completely built out; that

phases 3 and 4 are currently under construction; and that these phases will be developed in progression with the other phases.

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

The Commission found that Tiffany Burton was present in opposition to this application and advised the Commission that the project will cause negative impacts to the agricultural community; that there will be negative impacts to Phillips Branch; that the project if approved will result in a loss of farmland; that the local school districts cannot handle more students; and the project will increase traffic in an already congested area.

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

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Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

**C/U #1644** – application of **ROBERT SAMES** to consider the Conditional Use of land in a GR General Residential District for a multi-family dwelling structure (2 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 11,828 square feet, more or less, lying at the northeast corner of Shady Ridge Drive and Field Lane and Route 270-A, and being more particularly described as Lot 1 in Shady Ridge Subdivision.

This application was withdrawn on March 9, 2006.

**C/U #1645** – application of **MICHAEL AND MICHELE MEARS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a plumbing, heating, and air conditioning business to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 1.0 acre, more or less, lying north of Road 471, 1,400 feet west of Road 432.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service “A” of Road 471 will not change as a result of this application.

The Commission found that Michael and Michele Mears were present and stated in their presentations and in response to questions raised by the Commission that he owns and operates a plumbing business from the site; that he has two (2) employees and two (2) work vans; that the employees meet on the site in the morning and leave in the vans for job sites; that they are only occasional deliveries to the site; that most materials are sent to job sites; that he has some storage in the garage, but only at a minimum; that business hours are from 7:00 a.m. to 5:00 p.m. Monday through Friday; that he originally applied for a plumbing, heating and air conditioning business, but he only operates a plumbing

business; that the company works on new construction only and does not do service work; that there is no fabrication work performed on site; that the existing sign is adequate and he has no need for a larger sign; and that he has no plans to increase the number of employees or the business.

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 this application should not impact the neighborhood and should not create any additional traffic problems.

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Mr. Smith stated that he would move that the Commission recommend approval of C/U #1645 for Michael and Michele Mears to operate a plumbing, heating and air conditioning business based upon the record made at the public hearing and for the following reasons:

- 1) The proposed Conditional Use is generally small and is compatible with other residential uses in the area.
- 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 operation of a plumbing business will not generate a significant increase in traffic or noise, since the majority of the work will be conducted off-site.
- 4) This recommendation for approval is subject to the following conditions and stipulations:
  1. All trucks and trailers associated with the business shall only be parked in the designated parking area as shown on the site plan. There shall be no more than two (2) business vehicles or trailers parked in this area at any one time.
  2. There will only be one unlighted sign on the premises that shall not exceed six (6) square feet in size.
  3. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or toward Road 471.
  4. No outside storage, except for the trailers, shall be allowed on the premises.
  5. The hours of operation for the business on this site shall be limited to 7:00 a.m. to 5:00 p.m. Monday through Friday.
  6. All trash dumpsters on the site shall be screened from neighboring properties.
  7. There shall be no more than two (2) non-relative employees.
  8. The site plan shall be subject to 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 and stipulations stated. Motion carried 4 –0.

**CZ #1586** – application of **EUGENE D. BOOKHAMMER** 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 and being in Lewes and Rehoboth Hundred, Sussex County, land lying southeast of Route 24, 800 feet northeast of Love Creek, to be located on 1.002 acres, more or less.

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The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that the existing Level of Service “E” of Route 24 will not change as a result of this application; that the Department trust that the County is aware that approving this application would contribute to an existing traffic problem; and that the subject segment of Route 24, between Camp Arrowhead Road and the traffic signal at the Cape Henlopen Middle School, operates at Level of Service “E” during summer weekday peak hours.

The Commission found that the Applicant had provided letters in support of his application from Deborah Appleby, Herring Chiropractic Clinics, Midway Service, Inc., Beach Homes, Mid-Atlantic Family Practice, Ralph V. McMahon, Marianne and Arlin Berlinger, and Lillian L. Greener, all property owners in the immediate area.

The Commission found that Eugene Bookhammer was present with Cathy Chong, contract purchaser of the property, and that they stated in their presentations and in response to questions raised by the Commission that Mrs. Chong originally proposed to place a business in the dwelling; that since the application was filed she has had a baby and is delayed in going forward; that she will now reside in the dwelling; that any use of the premises will be permitted uses within the B-1 Neighborhood Business District; that business and commercial uses in the immediate area include a beauty salon, modular home sales, appliance sales, small engine repairs, doctors offices, a glass blower, a chiropractic office, and a mobile home rental park.

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. Wheatley reminded the Commission that they will have to decide if B-1 zoning is appropriate for this site.

Mr. Robertson asked if residential use is the highest and best use of this site.

Mr. Kautz reminded the Commission that the site is in an area mapped as Environmentally Sensitive Developing Area which allows for application for B-1 and that the size of the parcel limits the type of uses.

Mr. Johnson stated that he would move that the Commission recommend denial if C/Z #1586 for Eugene Bookhammer seeking a rezoning from AR-1 to B-1 based on the record made at the public hearing and for the following reasons:

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- 1) The orderly growth of the County does not justify creating the requested additional B-1 zoning of the property and the permitted uses available under such zoning classification in the area where the property is located.
- 2) Approval of the application may lead to increased congestion on Route 24.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 4 – 0.

**C/Z #1593** – application of **DONALD J. WARRINGTON** 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 Little Creek Hundred, Sussex County, land lying east of U.S. Route 13, ¼ mile south of Road 462 (Gordy Road) east of Laurel, to be located on 5.9458 acres, more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study was recommended, that the site is located in the Department's Corridor Capacity Preservation Program; that the Program's primary goal is to manage and preserve the existing regional highways; that the Program's Manager had referenced in a letter that the intended use of the site is to expand the Route 13 Outlet Market; that the letter also referenced that as an independent property the only available access is directly to US Route 13; that the property is located in a Level 2 area of the Strategies for State Policies and Spending; and that direct access would be permitted as a right in/right out entrance.

The Commission found that Donald J. Warrington was present with David Rutt, Attorney, and that they stated in their presentations and in response to questions raised by the Commission that the site is triangular in shape and wedged between other commercial sites to the north, east and south; that the site has 1,100 feet of frontage along U.S. Route 13; that the Applicant has a contract to sell the property to the Route 13 Outlet Market; that the use of the property will be subject to review of a site plan by the Planning and

Zoning Commission; that a traffic impact study is inappropriate since the developer will be required to obtain approval from DelDOT before proceeding with any construction; that the application is an in-fill zoning; that U.S. Route 13 split the farm when the right-of-ways were created; that the size and shape of the property limits its agricultural uses; that the site is located in a Developing Area according to the Comprehensive Plan Update; that no central water or sewer exists on site; that commercial and business uses surround the site; that the uses will comply with the C-1 General Commercial District permitted uses and is along an arterial highway; that the highest and best use of this site is commercial; and that the Applicant's family has owned the site for 45 to 40 years.

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

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

Mr. Johnson noted that there are commercial uses on both sides of the property and that the intended use is expansion of the existing Route 13 Outlet Market.

Mr. Wheatley noted that the expansion should improve the access to the market; that the site is located in a Developing Area along a highway corridor; and that the Comprehensive Plan references development along highway corridors.

Mr. Smith stated that he would move that the Commission recommend approval of this application based on the record and for the following reasons:

- 1) The Applicant has satisfied me that this is the highest and best use of the property since the site is surrounded by present C-1 zoning.
- 2) The site is in a developing area along a highway corridor.
- 3) The Comprehensive Plan Update promotes development along highway corridors.
- 4) This will protect and promote the best interest of the County.

Motion by Mr. Smith, seconded by Mr. Burton and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4 – 0.

**Ordinance Amendment** –AN ORDINANCE TO AMEND CHAPTER 115 SECTION 162, RELATING TO THE NUMBER OF OFF STREET PARKING SPACES REQUIRED FOR MULTIFAMILY DWELLINGS AND TOWNHOUSES.

Mr. Lank introduced and summarized the Ordinance Amendment.

Mr. Robertson questioned if there should be a definition for bedrooms and the references to 15% and 20% reductions.

Mr. Robertson added that there may be some wording problems.

Mr. Kautz stated that there is no bedroom definition in the Ocean City regulations and that enforcement could be a problem.

Mr. Kautz stated that clarifications may be needed in reference to the 15% and 20% reductions.

Mr. Kautz added that regulations from Counties adjacent to Sussex County were considered in the preparation of this Ordinance Amendment.

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Carl Bartelle was present and stated that he purchased a condominium with two (2) parking spaces, one in the garage and one on the driveway; that if the County is counting the garage as a parking space the driveway space should not be counted; that there should be no stacking of parking spaces; that there is no place for a guest to park; that the more units that are created the more problems; that spaces are marked per unit in his development; and that there are some overflow spaces, minimal.

Wendy Baker was present and stated that she lives in a condominium unit and stated that she feels that the parking ordinance offers a positive impact to the environment; that she wears two hats, one as President and CEO of the Sussex County Land Trust, and one as a Project Manager for some developments; that her statements are her personal beliefs; that parking for residents and visitors is not only expensive to build and maintain but it often can requires as much or more space in a multi-family project than the land needed for housing; that excessive parking wastes land, results in stormwater runoff into streams, limits flexibility in site design, and deters pedestrian and transit uses; that according to the Urban Land Institute communities across the nation are seeking ways in which to grow and prosper and ways in which to protect and enhance local and regional environmental resources; that it is clear that pressure will intensify for development to both accommodate growth and do its part to protect the environment and conserve energy; that the US population is expected to grow by more than 60 million by the year 2025; that the majority of the growth will occur in coastal metropolitan areas where environmental resources tend to be fragile; that the public is concerned about the loss of open space; that open space protection efforts are valuable but the efforts are not sufficient to address the long-term environmental and economic objectives; that these objectives need a broader range of options; that one important tool in the effort to make growth more environmentally sensitive will be the development of more projects that meet environmental objectives; that many barriers, related to regulatory issues, financing problems, market issues and neighborhood opposition, stand in the way of developers who want to build projects that promote environmental quality; that these efforts are crucial, because accommodating future growth without a serious loss of environmental

quality requires viewing environmentally sensitive projects as a solution, not as an exception; that we should keep in mind that environmental protection and land development are not necessarily incompatible objectives; that by developing the land with care natural resources can be enhanced; that compact development usually harms the environment less than a comparable amount of scattered lower-density development; that by using less land, by concentrating development in less sensitive areas and by minimizing impervious surfaces, compact development compared with low-density development infringes less on wetlands and forests, prevents the fragmentation of wildlife habitat, reduces stormwater runoff, and saves pristine open space; that the amount of roads and parking necessary to support compact development is less, which means that less impervious cover is needed; that less impervious cover means less urban runoff, which is urbanization's leading pollutant; that compact development can achieve

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a 30% reduction in runoff compared with conventional suburban development, according to a study completed by the State of New Jersey; and that she hopes that the Commission gives a favorable recommendation to the Ordinance Amendment.

Ms. Baker, speaking on behalf of Preston Schell, submitted some photographs, taken early in the morning on July 3, 2004, of some residential developments with vacant parking areas, and stated that some of the project have an over abundance of parking spaces; that good developers try to plan their parking areas with design and open space, not large parking areas; that the photographs include photographs of The Village of Five Points, Sanibel Village, Creekwood, and Captiva Sands; and that almost all of the units in east area photographed had been sold.

At the conclusion of the public hearings, the Commission discussed this Ordinance Amendment.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to defer action. Motion carried 4 – 0.

**Ordinance Amendment** – AN ORDINANCE TO AMEND CHAPTER 115, ZONING ARTICLE XI, PART ONE, RELATING TO PERMITTED USES AND TO CLOSE THE EXISTING C-1 DISTRICT; PART TWO, SECTION 3, TO CREATE A NEW CR-1 DISTRICT; PART THREE, ARTICLE X, TO AMEND THE B-1 DISTRICT RELATING TO CONDITIONAL USES; AND PART FOUR, ARTICLE XX TO AMEND THE HEIGHT, AREA AND BULK REQUIREMENTS.

Mr. Lank introduced and summarized the proposed Ordinance Amendment.

The Commission discussed the Ordinance Amendment.



Mr. Lank stated that multi-family uses in C-1 General Commercial areas are taking up commercial sites and that the County will have to create more commercial sites to serve the multi-family uses.

Mr. Kautz stated that the CR-1 District will be a new district and will not be assigned to any properties, therefore, an applicant will be required to go through public hearings to create such a district and then apply for a Conditional Use to request multi-family uses.

Mr. Robertson asked where in the Comprehensive Plan Update 20 units per acre was referenced.

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Mr. Kautz stated that one of the Goals in the Comprehensive Plan referenced reduction from 12 units per acre to 4 units per acre, and that consideration may be given to mixed uses of business/commercial uses with residential uses above them.

Mr. Robertson stated that a new Ordinance Amendment would be required to alter the Ordinance or create a new district, and that the County could be hard pressed to create a CR-1 District when the Comprehensive Plan does not reference a CR-1 District or 20-units per acre.

The Commission found, based on a memorandum received from John J. Ashman, Director of Utility Planning for the County Engineering Department, that the Engineering Department has concerns regarding the Ordinance Amendment; that the South Coastal Area Planning Study has cost \$388,959.00 and that the North Coastal Area Planning Study has cost \$671,366.00; that numerous hours and dollars have been spent preparing these planning studies to provide sufficient sewer capacity for many areas of the County; that none of these plans have been prepared using the 20 units/acre densities that are mentioned in this Ordinance Amendment; that if this Ordinance Amendment is approved as proposed, it would render all of the studies which have been in process obsolete; that the Engineering Department would need to know where these areas would be, how many there could be, to even start work to study the impacts that could be caused by these increased capacities; that the Engineering Department believes that a decision to approve this type of change is more appropriately addressed in the next update of the County's Comprehensive Plan, so that the overall impacts is assessed properly; that approval of this Ordinance Amendment would seriously affect existing wastewater collection, transmission and treatment facilities; that this would also cause the County to spend more time and money revisiting these planning areas and delay important planning decisions; and that several important projects being funded by the development community would be delayed pending the incorporation of higher densities.

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

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

Meeting adjourned at 9:14 p.m.