

## MINUTES OF THE REGULAR MEETING OF JANUARY 4, 2006

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, January 4, 2006 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Acting Chairman Wheatley presiding. The following members of the Commission were present: Mr. Wheatley, Mr. Gordy, 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. Gordy, seconded by Mr. Smith, and carried unanimously to approve the Agenda as corrected by removal of Item 3 under Other Business, Plantations Medical & Professional Center, from the agenda.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to approve the Minutes of December 8, 2005 and December 15, 2005 as amended.

### OLD BUSINESS

**C/U #1630** – application of **PHILIP L. TROYER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an auto repair garage to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 1.0 acre, more or less, lying west of a private road, 315 feet south of Route 16 and 750 feet east of Route 44.

The Commission discussed this application which has been deferred since December 8, 2005.

Mr. Burton stated that he would move that the Commission recommend approval of C/U #1639 for Philip L. Troyer for an auto repair garage based upon the record made at the public hearing and for the following reasons:

- 1) The proposed Conditional Use will have no significant impact upon traffic.
- 2) The site was previously used as an auto repair garage for at least 17 years prior to 1999.
- 3) The project, with the conditions and stipulations placed upon it will not have an adverse impact on the neighboring properties or community. The garage is also screened behind trees, a home and a privacy fence.
- 4) The use will provide a service to the Ellendale/Greenwood area to meet the expanding need for auto repair services.
- 5) This recommendation for approval is subject to the following conditions and stipulations:
  1. There shall be no more than 9 parking spaces on the site.
  2. There will not be any outside storage of junked vehicles, automobile parts, equipment, tires, or other materials used to repair cars.

3. No vehicles for sale will be displayed on the premises.
4. The only repair work allowed in the shop will be for automobiles and trucks.
5. The shop will only be operated between the hours of 8:00 a.m. until 8:00 p.m. Monday through Friday, and 8:00 a.m. until noon on Saturday.
6. There will be no more than two (2) employees in addition to the Applicant working on the premises at any one time.
7. There shall only be one (1) unlighted sign on the property advertising the business, not to exceed 32 square feet in size on either side.
8. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties.
9. The site plan shall be subject to approval of the Planning and Zoning Commission.
10. The existing fence on the property must remain or be improved in its current location.

Motion by Mr. Burton, 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/U #1631** – application of **DESIGN CONSULTANTS GROUP, L.L.C.** to consider the Conditional Use of land in a B-1 Neighborhood Business District for multi-family dwelling structures (120 units) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 11.86 acres, more or less, lying at the south end of a private road, 400 feet south of Route 24 and 200 feet west of Route 5 (Road 297).

The Commission discussed this application which has been deferred since December 8, 2005.

Mr. Lank advised the Commission that he had requested comments from the Engineering Department Planning and Permits Division in reference to the possible number of EDUs for the project and that he had not yet received the comments.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action to a later date pending receipt of the requested comments from the County Engineering Department and for further consideration. Motion carried 5 – 0.

**C/U #1655** – application of **EDWARD CHIASSON** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a gift shop to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 38,653 square feet, more or less, lying northwest of Route 54 across from Road 394A and ¼ mile southwest of Route 20.

The Commission discussed this application which has been deferred since December 15, 2005.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1655 for Edward Chiasson to operate a gift shop sales facility based upon the record and for the following reasons:

- 1) The use as a gift shop sales facility promotes local crafts and business viability and is desirable for the general welfare and convenience for the area.
- 2) The use as a gift shop sales facility, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
- 3) This recommendation for approval is subject to the following conditions and stipulations:
  1. Sales shall only occur between 8:00 a.m. and 6:00 p.m., seven (7) days per week, year round.
  2. The maximum number of employees shall be two (2).
  3. Signage shall be limited to one (1) lighted sign by State Route 54, not to exceed 32 square feet per side or facing, and one (1) lighted sign on the front elevation of the existing residence.
  4. The Applicant shall comply with all DelDOT requirements, including entrance permits.
  5. Sales displays of durable outside items shall be setback a minimum of 25-feet from the front property line of the Applicant that borders State Route 54.
  6. The outside storage shed and chain link fence, as shown on the plot to be alongside of lands, now or formerly, of Darryl W. Brasure shall be moved to be situated on the lands of the Applicant and to be in compliance with County heights and setbacks.
  7. The driveway and parking areas shall be paved.
  8. There shall not be any use of a portable toilet, except as an emergency and temporary nature.
  9. Any use of a dumpster on the site shall require the dumpster to be screened from view by neighboring properties and State Route 54.
  10. Any security lighting shall be directed downward and screened so as to be directed away from neighboring properties and State Route 54.

11. The site plan shall be subject to review and approval by 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 #1577** – application of **PGS PROPERTIES** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying at the northeast corner of Route 54 and Road 381 (Old Mill Bridge Road), to be located on 6.49 acres, more or less.

The Commission discussed this application which has been deferred since July 28, 2005.

Mr. Burton stated that he will abstain from participating in the discussion and vote.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1577 for PGS Properties to amend the Comprehensive Zoning Map for 6.4 acres along Route 54 from AR-1 Agricultural Residential to C-1 General Commercial based upon the record made at the public hearing and for the following reasons:

- 1) The project is located within the Environmentally Sensitive Developing Area according to the 2002 Comprehensive Plan Update, and C-1 zoning is appropriate in this area according to the Plan.
- 2) The project will not have an adverse impact on the neighboring properties or community.
- 3) The project is in an area that contains other B-1 and C-1 zoned properties, including properties zoned C-1 adjacent to the subject property.
- 4) The Applicant has stated that it will meet or exceed all DelDOT requirements.
- 5) C-1 zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for retail shopping and personal and miscellaneous service activities, and that such uses should be located along arterial roadways where a general mixture of commercial and service activities now exists. In this case, the project along Route 54 falls within the stated purposes of the C-1 District.
- 6) The Applicant has stated that it will limit the site to C-1 and B-1 type uses, and not multi-family residential uses.

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 stated. Motion carried 4 – 0. Mr. Burton did not vote.



**C/Z #1578** – application of **PGS PROPERTIES** to amend the Comprehensive Zoning Map for an AR-1 Agricultural Residential District to a HR-1 High Density Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying 600 feet north of Route 54 and 190 feet east of Road 381 (Old Mill Bridge Road), to be located on 12.68 acres, more or less.

The Commission discussed this application which has been deferred since July 28, 2005.

Mr. Burton stated that he will abstain from participating in the discussion and vote.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1578 for PGS Properties for a change of zone from AR-1 to HR-1 based upon the record and for the following reasons:

- 1) The 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 Plan Update. According to the Plan Update, permissible housing types in the Environmentally Sensitive Developing Area include townhouses, apartments and condominiums. The proposed change of zone is also in compliance with the Guidelines for Density for the Environmentally Sensitive Developing Area contained in the Plan Update.
- 2) The proposed change of zone is consistent with the "Purpose" of the HR District as described in the Zoning Code, because (a) it is in an area served by County Sewer; (b) central water is available; (c) it is well located with respect to Route 54; (d) it is near shopping facilities; and (e) it is near centers of employment along the Route 54 corridor.
- 3) The project will not have an adverse impact on the neighboring properties or community. The area has already developed with Commercial and Residential properties, including Americana Bayside RPC, Keenwick Sound RPC, Swann Cove RPC, the Refuge at Dirickson Creek RPC, Swann Keys GR Subdivision and B-1 and C-1 uses.
- 4) The project will be served by central water and sewer. But, any development will be subject to the approval of the Sussex County Engineering Department. The Engineering Department has stated that (a) there is adequate capacity in the existing lines to serve the maximum proposed density; and (b) Pump Station 30 may not be able to handle the additional capacity of the maximum density permitted under HR zoning. Consequently, the developer of the property will be required to comply with the Sussex County Engineering Department's allocation of ECU capacity for the project.

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 stated. Motion carried 4 – 0. Mr. Burton did not vote.

**Subdivision #96-2** – application of **SPRINGFIELD ENTERPRISES** to consider the Subdivision of land in a GR General Residential District in Little Creek Hundred by dividing 109.36 acres into 210 lots, located on the south side of Road 515, 125 feet west of Road 13A.

Mr. Abbott advised the Commission that this is a final record plan for 177 lots; that the Commission granted preliminary approval for 210 lots on February 26, 1996; that the Commission granted one year time extensions on February 13, 1997, February 12, 1998, and February 11, 1999; that the Commission granted final approval on August 12, 1999; that the Commission granted a revised preliminary approval for 177 lots on December 18, 2003; that the Commission denied a time extension request on August 26, 2004; that the County Council granted a one year time extension on January 25, 2005; that the final record plan meets the requirements of the subdivision and zoning codes; and that all agency approvals have been received.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the record plan as a final. Motion carried 4 – 0. Mr. Burton did not vote.

**Subdivision #2003-12** – application of **LT ASSOCIATES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 163.72 acres into 162 lots, located east of Road 267, 0.8 mile east of Road 268.

Mr. Abbott advised the Commission that this is the final record plan for 162 lots; that the Commission granted preliminary approval on August 14, 2003; that one year time extensions were granted on August 12, 2004 and August 11, 2005; that the final record plan meets the requirements of the subdivision and zoning codes; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the record plan as a final. Motion carried 4 – 0. Mr. Burton did not vote.

**Subdivision #2003-51** – application of **MORRIS MILL POND, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 156.39 acres into 150 lots, located on both sides of Road 48, 700 feet west of Road 297.

Mr. Abbott advised the Commission that this is the final record plan for 142 lots; that the Commission granted preliminary approval on September 13, 2004 for 150 lots; that the final plan has been reduced by 8 lots; that the final record plan meets the requirements of the subdivision and zoning codes; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the record plan as a final. Motion carried 4 – 0. Mr. Burton did not vote.

**Subdivision #2005-1** – application of **PINEWATER WOODS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 18.96 acres into 23 lots, (Cluster Development), located south of Road 49, 0.5 mile east of Route 24.

Mr. Abbott advised the Commission that this application was deferred on November 3, 2005 pending receipt of a septic feasibility statement from DNREC; that DNREC has indicated that the site is suitable for individual on site septic systems; and that if the plan receives preliminary approval, it should be stipulated that the 1,000 foot conservation zone be shown on the final record plan.

Mr. Johnson stated that he would move that the Commission grant preliminary approval for this application based on the record and for the following reasons:

1. The project promotes the orderly growth of the County.
2. The project will not have any adverse impacts on neighboring properties or the community.
3. The proposed lot sizes are similar in nature to the adjoining area.
4. The project originally proposed 23 lots and has since been reduced to 14 lots.
5. This approval is subject to the following condition:

1. The 1,000 foot conservation zone shall be shown on the final record plan.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the record plan as a preliminary for the reasons and with the condition stated. Motion carried 4 – 0. Mr. Burton did not vote.

**Subdivision #2005-7** – application of **THOMAS HEAD** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 46.43 acres into 43 lots, located south of Road 410 (Godwin School Road), 500 feet southeast of Route 20 (Hardscrabble Road).

Mr. Abbott advised the Commission that this application was deferred on December 8, 2005; and that DNREC has indicated that the site is suitable for individual on site septic systems.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 7, for Thomas Head, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
3. The proposed subdivision is integrated into the existing terrain and surroundings.
4. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
6. DNREC has indicated that the site is suitable for individual on site septic systems.
7. A homeowners' association will be created to maintain streets, open space, stormwater management areas and street lighting.
8. This recommendation is subject to the following conditions:
  1. The Applicant shall prepare and record Restrictive Covenants governing the development and cause to be formed a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
  2. The stormwater management system shall meet or exceed the requirements of the State and County.
  3. All entrances shall comply with all of DelDOT's requirements. Also, subject to DelDOT's approval, the entrance shall be relocated away from the existing residence on the Cieslik property, and an area for a school bus stop shall be established.
  4. A system of street lighting shall be provided by the Applicant, and the location of the street lights shall be shown on the final site plan. The street lights shall be maintained by the Applicant or a successor Homeowners' Association.
  5. There shall be sidewalks on at least one side of all streets.
  6. The Restrictive Covenants shall include the Agricultural Use Protection Notice.
  7. There shall be a 30-foot wide vegetated buffer around the perimeter of the property, with a 15-foot wide vegetated buffer adjacent to the Cieslik and Bond properties.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the record plan as a preliminary for the reasons and with the conditions stated. Motion carried 5 – 0.

#### OTHER BUSINESS

Bay Forest Club MR/RPC  
CZ #1526 Final Record Plan – Road 347



Mr. Abbott advised the Commission that this is the final record plan for Phase 1 of the Bay Forest Club MR/RPC; that this phase contains 201 single-family lots, 14 detached single-family units and 126 multi-family units; that this plan is the same as the master and preliminary approval plan that was approved by the Commission on February 3, 2005; that the developers are now requesting revised setbacks for the single-family lots and the single-family detached units; that for the lots the developers are requesting 10-foot front yard setbacks and 5-feet for the single-family detached units; that the master plan had 30-foot front yard setbacks; that since this is a residential planned community, the Commission has the authority to allow for different setbacks to create a better design; that the record plan is in compliance with the subdivision and zoning codes; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the record plan as a final as submitted. Motion carried 4 – 0. Mr. Burton did not vote.

Cedar Grove Estates MR/RPC  
CZ #1559 Final Record Plan – Road 283

Mr. Abbott advised the Commission that this is the final record plan for a 49-lot single-family residential planned community; that the final plan is the same as the preliminary plan that was approved by the Commission on April 7, 2005; that the record plan meets the requirements of the subdivision and zoning codes; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the record plan as a final. Motion carried 4 – 0. Mr. Burton did not vote.

Plantations Medical and Professional Center  
CU #1573 Final Site Plan – Road 275

This item was removed from the agenda on December 28, 2005.

Bayshore Plaza II  
Commercial Site Plan – Route 24

Bayshore Plaza II Parcel 4  
Commercial Site Plan – Route 24

Bayshore Plaza Parcel 2  
Commercial Site Plan – Route 24

Mr. Abbott advised the Commission that these 3 items should be reviewed together and

that each item should be voted on separately.

Mr. Abbott advised the Commission that Bayshore Plaza II is a preliminary site plan for a one-story 62,962 square foot grocery store on 5.22 acres; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that ingress/egress to this parcel is from a cross access easement from the adjoining parcel to the east of this site; that the entrance plan has been approved by DelDOT; that 246 parking spaces would be required; that on December 19, 2005 the Board of Adjustment granted a variance for the number of parking spaces; that there are 220 spaces on this site and another 79 spaces on the adjoining parcel to the east; that 18 spaces are located within the front yard setback; that Tidewater Utilities will provide central water and Sussex County will provide central sewer; that there are not any wetlands on the site and the site is not located in a flood plain; that all agency approval have been received; that Parcel 4 is a preliminary site plan for 31,875 square feet of retail area located on 5.92 acres; that the site is zoned C-1; that this item was deferred on November 9, 2005 and November 30, 2005; that one building contains 9,375 square feet and the other 22,500 square feet; that both buildings are one story; that the setbacks meet the requirements of the zoning code; that 160 parking spaces are required and 253 are provided; that 79 parking spaces are for the adjoining parcel to the west; that there are 11 spaces located in the front yard setback; that DelDOT has approved the entrance plan; that Tidewater Utilities will provide central water and Sussex County will provide central sewer; that there are not any wetlands located on the site and the site is not located in a flood plain; that all agency approvals have been received; that Parcel 2 is a preliminary plan for a one story 4,322 square foot bank located on 1.11 acres; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 21 parking spaces are required and 42 are proposed; that 13 spaces are located in the front yard setback; that access to the site is from a cross access easement from the adjoining parcel to the west; that Tidewater Utilities will provide central water and Sussex County will provide central sewer; that there are not any wetlands located on the site and the site is not located in a flood plain; and that all agency approvals have been received.

Mr. Johnson stated that he did not feel that the parking spaces should be located within the front yard setback; that there should not be anything in the setbacks; that parking should not be located close to major roads where additional right of way may be needed in the future for road widening; and that 42 spaces located in the front setback is extensive.

Pret Dyer, owner of Bayshore Plaza, advised the Commission that 15-feet has been voluntarily been dedicated to DelDOT; that there will be a landscaped buffer from the right of way; that if parking is not going to be permitted within the front yard setbacks, the ordinance needs to be revised to allow for lesser setbacks for structures; and that there are other projects in the immediate area that has parking within the front setback.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the site plan for Bayshore Plaza 11 as a final as submitted. Motion carried 5 – 0.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the site plan for Bayshore Plaza II Parcel 4 as a final as submitted. Motion carried 5 – 0.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the site plan for Bayshore Plaza II Parcel 2 as a final as submitted. Motion carried 5 – 0.

Rite Aid Store #4914  
Commercial Site Plan – Route 9 and U.S. Route 13

Mr. Abbott advised the Commission that this is a preliminary site plan for a one story 14,564 square foot retail/drive thru pharmacy located on 1.71 acres; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 60 parking spaces are required and 61 are provided; that 29 spaces or portions of the spaces are located within the front yard setback; that the Town of Laurel will provide water and sewer to the site within 2 years; that a temporary fire/water storage tank and a septic holding tank are proposed for now; that ingress/egress is from Route 9 and there is a right in only off of U.S. Route 13; that the site is not located in a flood zone and there are not any wetlands on the site; and that the final site plan will be required to comply with the Combined Highway Corridor Overlay Zone ordinance which includes a landscaping plan.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the site plan as a preliminary. Motion carried 5 – 0.

Growmark F/S  
Revised Site Plan – Poplar Street

Mr. Abbott advised the Commission that this is a revised site plan for a 23,200 square foot warehouse for a non-conforming use; that the site is zoned Ar-1; that the owner proposes to remove a 24,115 square foot warehouse and a 2,028 square foot building and replace it with the new warehouse; and that the new warehouse will have less square footage than what currently exist.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the revised site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Uhland T. Pepper  
2 Lots and a 50' Right of Way – Route 88

Mr. Abbott advised the Commission that this is a request to subdivide a 2.07-acre parcel into 2 lots; that there is an existing recorded ingress/egress road that serves as access to the parcel; that the owner proposes to create 2 equal lots; that the required 50-foot right of way would be across the 2 lots; that this was originally approved in February 2005 but the adjoining owners will not give up or sell the additional land to have a 50-foot right of way all the way out to Route 88.

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to approve the 2 lots and 50-foot right of way as a concept. Motion carried 5 – 0.

Fannie Mae Mills Wilkins  
Lot on a 50' Right of Way – Road 205

Mr. Abbott advised the Commission that this is a request to create a 0.75-acre lot with access from an existing 50-foot right of way off of Road 205; that the existing right of way contains an existing paved driveway and an existing dirt lane; and that this would be the second lot with access from the right of way.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the lot as a concept. Motion carried 5 – 0.

Carol Holland  
Lot and 50' Right of Way – Road 302

Mr. Abbott advised the Commission that this is a request to create a lot with access from a 50-foot right of way off of Road 302; that the owner proposes to create a 50-foot right of way over an existing driveway; that the Sussex County Addressing Department has erected a road sign naming the driveway Holland Road; that the residual land has a dwelling and a manufactured home located on it; and that if the request is approved, it would be 2 lots having access from a 50-foot right of way.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the lot and right of way as a concept. Motion carried 5 – 0.

William and Cynthia Hoban  
3 Lots and 50' Right of Way – Road 336

Mr. Abbott advised the Commission that this is a request to subdivide 7.76 acres into 3 lots with access from a 50-foot right of way; that the owner proposes to create a 50-foot right of way over an abandoned road and an existing driveway to serve as access to the 3 lots; that the proposed lots would be 2.20-acres, 4.07-acres, and 1.84-acres; that the 4.07-acre lot has an existing dwelling and accessory structures on it; and that if the request is



approved, it should be stipulated that any further subdivision of the property would require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the 3 lots and 50-foot right of way as a concept with the stipulation that any further subdivision of the property would require an application for a major subdivision. Motion carried 5 – 0.

Robert Muncy  
2 Lots and 50' Right of Way – U.S. Route 13

Mr. Abbott advised the Commission that this is a request to subdivide a 6.588-acre parcel into 2 lots and residual land with access from a 50-foot right of way off of U.S. Route 13; that the 2 lots would both be 0.894-acres and the residual land would be 4.8-acres; that the proposed lot 1 is vacant; that the proposed lot 2 has a dwelling on it; that the owner proposes to create the 50-foot right of way over an existing paved drive way; that lot 1 and the residual land both have road frontage along U.S. Route 13 but DelDOT will not grant an entrance off of it; and that if the request is approved, it should be stipulated that any further subdivision of the property would require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the 2 lots and 50-foot right of way as a concept with the stipulation that any further subdivision of the property would require an application for a major subdivision. Motion carried 5 – 0.

John and Rebecca Dyson  
3 Lots and a 50' Right of Way – Road 454A

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from a 50-foot right of way off of Road 454A; that the owner proposes to create a 50-foot right of way to serve as access to the lots; that the lots would be 1.03-acres, 1.09-acres and 4.34-acres; that the 4.34-acre lot has a dwelling located on it; that DelDOT has issued a letter of no objection; and that if the request is approved, it should be stipulated that any further subdivision of the property would require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the 3 lots and 50-foot right of way as a concept with the stipulation that any further subdivision of the property would require an application for a major subdivision. Motion carried 5 – 0.

Michael Mann  
Front Yard Determination – Pepper Avenue

Mr. Abbott advised the Commission that this is a request to have the Atlantic Ocean considered the front yard for setback purposes for a new dwelling; that the Commission has the authority to consider a water body the front yard for setback purposes; and that if this request is approved, the setbacks would be 30-feet from the easterly property line, 10-feet from the northerly property line, 10-feet from the westerly property line, and 15-feet from the southerly property line.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the request. Motion carried 5 – 0.

Subdivision #2004 – 58 – Norris L. Niblett  
Amended Conditions – Cross Key Village Subdivision

Mr. Abbott advised the Commission that this subdivision received preliminary approval for 12 lots on October 13, 2005; that one of the conditions of approval was that no wetlands be located on any individual lots; that the applicant's engineers are requesting that this condition of approval be removed since it was not discussed during the public hearing.

It was stated that this has been a conditional of approval on subdivisions for some time now and that the engineers should have been aware of this.

Mr. Abbott advised the Commission that the staff has not received verification from the Army Corps of Engineers for the wetlands delineation.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action pending receipt of the wetlands being verified by the Army Corps of Engineers. Motion carried 5 – 0.

Quality Upholstery & Canvas, Inc.  
CU #1579 – Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Conditional Use was approved by the County Council on January 18, 2005; that the Commission granted preliminary site plan approval on November 9, 2005; and that this is the first request for an extension.

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

Subdivision #2004 – 3 – Thomas L. Markle  
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension to obtain final record plan approval; that the Commission granted preliminary approval for 5 lots on January 6, 2005; and that this is the first request for an extension.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to grant a one-year time extension. Motion carried 4 – 0. Mr. Burton did not vote.

Subdivision #2004 – 55 – MJR Investors, L.L.C.  
Request for Reconsideration/Rehearing

Mr. Abbott advised the Commission that this is a request for reconsideration for a 110-lot subdivision application that the Commission denied on October 27, 2005; that the engineer has modified the plan and request that the applicant be given an opportunity to present relevant information; and that if the request is approved, a new application fee should have to be paid again as others have in the past few months.

James Fuqua advised the Commission that he now represents the applicants and is requesting reconsideration so that relevant information may be presented; and that if an appeal were made to the County Council, the Council would probably send the application back to the Commission anyway.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to reconsider relevant information to be presented as soon as possible once a new application fee has been paid. Motion carried 5 – 0.

Brian and Kelly DeLeon  
3 Parcels and 50' Right of Way – Route 30

Mr. Abbott advised the Commission that this is a request to create 3 parcels with access from a 50'-easement off of Route 30; that the owners propose to create an easement over an existing farm lane to serve as access to the 3 parcels; that the parcels will be 8.50-acres and 2, 4.17-acre parcels; and that if the request is approved, it should be stipulated that any further subdivision of the property would require an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the request as a concept with the stipulation that any further subdivision of the property would require an application for a major subdivision. Motion carried 5 – 0.

## REORGANIZATION

Mr. Wheatley appointed Mr. Lank as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Lank opened nominations for Chairman.

Motion by Mr. Gordy, seconded by Mr. Smith to nominate Mr. Wheatley as Chairman.

Motion by Mr. Smith, seconded by Mr. Gordy that the nominations for Chairman be closed. Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Wheatley as Chairman: 5 yeas.

Vote by roll call:

Mr. Gordy: yea  
Mr. Johnson: yea  
Mr. Wheatley: yea  
Mr. Smith: yea  
Mr. Burton: yea

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Wheatley, seconded by Mr. Smith to nominate Mr. Gordy as Vice-Chairman.

Motion by Mr. Johnson, seconded by Mr. Smith that the nominations for Vice-Chairman be closed. Nominations for Vice-Chairman were closed.

Motion was adopted to nominate Mr. Gordy as Vice-Chairman: 5 yeas.

Vote by roll call:

Mr. Burton: yea  
Mr. Gordy: yea  
Mr. Johnson: yea  
Mr. Smith: yea  
Mr. Wheatley: yea

The meeting was turned over to Mr. Wheatley, the newly elected Chairman.

It was noted that these terms of office run until the first meeting of July 2006.



Meeting adjourned at 5:08 p.m.