

MINUTES OF THE SPECIAL MEETING OF NOVEMBER 14, 2007

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, November 14, 2007 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. I.G. Burton and Mr. Rodney Smith, with Ms. Rebecca Trifillis – 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 amended. Motion carried 4 – 0.

CONSENT AGENDA

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

The Consent Agenda includes:

1. Subdivision #2004-34 – Dagsboro Trace, L.L.C.
A Final Subdivision Plan titled “Dagsboro Trace”
2. Subdivision #2005-75 – Top Drawer, L.L.C.
A Final Subdivision Plan titled “Cypress Point”
3. Time Extensions (Request for one-year):
 - a. Subdivision #2003-33 for John A. Mast
 - b. Subdivision #2004-37 for Wayne Mitchell
 - c. Subdivision #2004-46 for Caldera Properties – Long Neck I, L.L.C.
 - d. Subdivision #2004-53 for Anthem Delaware, L.L.C.
 - e. Subdivision #2004-55 for J. Michael Warring
 - f. Subdivision #2005-56 for Ocean Atlantic VIII, L.L.C.
 - g. Subdivision #2005-2 for Carriage Springs Run, L.L.C.
 - h. Subdivision #2005-50 for KGH Properties Development, L.L.C.
 - i. Subdivision #2005-57 for Blackwater Creek, Inc.
 - j. Subdivision #2005-65 for Reynolds Pond, L.L.C.
 - k. Subdivision #2005-69 for Wright Brothers Properties
 - l. Subdivision #2005-73 for Landlock, L.L.C.
 - m. Subdivision #2005-79 for Paradise Property
 - n. Subdivision #2005-91 for Highland Development Corp.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve all requested items on the Consent Agenda. Motion carried 4 – 0.

OLD BUSINESS

C/U #1758 – application of **BRIDLE RIDGE PROPERTIES, LLC** to consider the conditional use of land in a MR Medium Density Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 16.18 acres, more or less, lying west of Plantation Road (Road 275) across from Shady Road (Road 276).

The Commission discussed this application, which has been deferred since October 11, 2007.

Mr. Lank advised the Commission that this application was deferred on October 11, 2007 and the record was left open until receipt of a Legal Counsel opinion on the memo provided by the Applicant and for further consideration.

Mr. Lank read a letter from Richard E. Berl, Jr., Assistant County Attorney, dated November 6, 2007 which references that Mr. Berl received and reviewed a memo dated October 30, 2007 from Pret Dyer in connection to this application; that the memo mentioned a couple of relatively minor changes to the initial acreage figures provided in the first memo; that those changes or corrections do not trigger any changes in his original opinion; and that the density will still be reduced in the subdivision, and as a result the voting requirements of the subdivision statute do not come into play.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action so that Mr. Johnson can review the comments. Motion carried 4 – 0.

C/U #1759 – application of **BRIDLE RIDGE PROPERTIES, LLC** to consider the conditional use of land in an AR-1 Agricultural Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 13.00 acres, more or less, lying at the southwest corner of the intersection of Plantation Road (Road 275) across from Beaver Dam Road (Road 23).

The Commission discussed this application, which has been deferred since October 11, 2007.

Mr. Lank advised the Commission that this application was deferred on October 11, 2007 and the record was left open until receipt of a Legal Counsel opinion on the memo provided by the Applicant and for further consideration.

Mr. Lank referenced that he had read a letter from Richard E. Berl, Jr., Assistant County Attorney, dated November 6, 2007, during the discussion of C/U #1758 and that the letter also referenced C/U #1759.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action so that Mr. Johnson can review the comments. Motion carried 4 – 0.

C/U #1703 – application of **RWR9, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for general offices and mini-storage to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.91 acres, more or less, lying south of Route 9, approximately 908 feet southwest of the intersection of Route 9 and Road 282.

The Commission discussed this application, which has been deferred since October 25, 2007.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action since Mr. Johnson was not present. Motion carried 4 – 0.

C/U #1704 – application of **PMP ASSOCIATES** to consider the Conditional Use of land in a GR General Residential District for health care and medical offices to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 33.045 acres, more or less, lying on the southerly side of Zion Church Road (Road 382) and 0.25 mile west of Bayard Road (Road 384).

The Commission discussed this application, which has been deferred since October 25, 2007.

Mr. Smith stated that he realizes that action was deferred for further consideration and that the record was left open until the close of business on November 8, 2007 for receipt of the PLUS response; that the PLUS response has not been received; that the County Council also deferred action for the same reason; and that he feels that the Commission can take action on this application.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1704 for PMP Associates for a healthcare and office complex based upon the record made at the public hearing and for the following reasons:

1. This project is in an expanding area of Sussex County and is located less than 2 miles from the intersection of Route 54 and Route 20.
2. The developer proposes to provide healthcare and offices, which will ultimately consist of 6 office buildings on a 33-acre tract.
3. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or the community.
4. The proposed development is consistent with the purposes of a conditional use in that it is of a public or semi-public character that is essential and desirable for the general convenience and welfare of the current and future citizens of Sussex County.
5. This recommendation for approval is subject to the following conditions and stipulations:
 1. Water shall be provided by a public central water system.
 2. The project shall be served as part of a Sussex County Sewer District in accordance with Sussex County Engineering Department standards.

3. Site Plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.
4. Construction, site work, grading and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.
5. The offices shall be limited to business, professional or medical care or other services incidental to such a use.
6. Parking shall be in compliance with County ordinances.
7. All lighting shall be downward screened so that it does not shine on neighboring or adjacent properties.
8. A 50-foot wide buffer shall be installed or maintained from all wetlands.
9. Dumpsters shall be centralized within the site and screened from view.
10. The project shall comply with all DelDOT entrance requirements.
11. There shall be one sign at the entrance to the property no larger than 32 square feet in size. Each building shall also be allowed to have one sign not to exceed 12 square feet in size.

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 4 – 0.

Subdivision #2005 – 63 - - application of DREAM BUILDERS CONSTRUCTION, INC. to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 307.71 acres into 251 lots, located south of Route 40, 580 feet west of Road 591.

This item was removed from the Agenda on October 31, 2007.

Subdivision #2006 – 26 - - application of GRAVEL HILL PROPERTIES, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 204.47 acres into 276 lots (Cluster Development) and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located east of Route 30, 200 feet north of Road 251.

Mr. Abbott advised the Commission that this is a revised preliminary site plan in compliance with the conditions of conceptual approval granted by the Commission on August 23, 2007; that the conceptual approval was granted with 20 conditions; and that the revised plan meets the conditions of the conceptual approval.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the revised site plan as a preliminary. Motion carried 4 – 0.

Subdivision #2006 – 31 - - application of SOUTH SHORE BUILDERS, L.L.C. to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 33.71 acres into 24 lots, and a variance from

the maximum allowed cul-de-sac length of 1,000 feet, located west of Road 38, 250 feet north of Road 232.

Mr. Abbott advised the Commission that this 24-lot standard subdivision application was deferred on September 27, 2007; that DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on site septic systems; and that DelDOT has issued an entrance permit.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 31 for South Shore Builders, L.L.C., based upon the record and for the following reasons:

1. With the exceptions of Lots 11 through 16, the proposed subdivision meets the purpose of the Subdivision Ordinance and protects the orderly growth of the County, and its design complies with the standard subdivision requirements for $\frac{3}{4}$ acre lots.
2. The proposed subdivision density does not exceed the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
5. DNREC has indicated that the site is suitable for septic.
6. This preliminary approval is subject to the following conditions:
 - A. The number of lots shall not exceed 18.
 - B. Lots 11 through 16 shall be eliminated, so that there are no lots on the western side of the streams running through the site. As stated by DNREC, these lots are disconnected from the rest of the development and will result in forest loss, wetland filling and inadequate wetland buffers. These 6 lots also do not favorably promote the items within Section 99-9C of the Subdivision Code, such as the integration of the subdivision into the existing terrain and landscape; minimal use of wetlands; preservation of open space; minimization of tree, vegetation and soil removal; and the preservation of natural features.
 - C. There shall be a walking trail installed throughout the project. The location of the trail shall be shown on the Final Site Plan.
 - D. The Applicant shall prepare and record Restrictive Covenants governing the development and form a homeowners' association to be responsible for the perpetual maintenance of streets, roads, buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
 - E. The storm water management system shall meet or exceed the requirements of the State and County. If there is an outfall into the existing stream that must clearly be shown on the Final Site Plan.
 - F. All entrances shall comply with all of DelDOT's requirements.

- G. The Restrictive Covenants shall include the Agricultural Use Protection Notice.
- H. The location for a school bus stop shall be coordinated with the local school district. The location for the bus stop shall be shown on the Final Site Plan.
- I. Street naming and addressing shall be subject to review and approval of the Sussex County Mapping and Addressing Department.
- J. A hunting notice similar to the Agricultural Use Notice shall be included within the restrictive covenants to advise homeowners that hunting activities occur on adjacent properties.
- K. No lots shall include any wetlands. The restrictive covenants shall include the Wetlands Disclosure required by the Subdivision Ordinance.
- L. The interior street design shall meet or exceed Sussex County's design requirements, and shall include a system of street lighting.
- M. As stated by the Applicant, trees shall be preserved to the maximum extent possible. The Final Site Plan shall show the limits of tree removal, and the restrictive covenants shall prohibit the removal of trees except as necessary for construction.
- N. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
- O. 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. Smith and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 4 – 0.

Subdivision #2006 – 36 - - application of **DONALD K. MILLER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 4.41 acres into 4 lots, located east of Road 484, 4,900 feet north of Road 46.

Mr. Abbott advised the Commission that this application has been deferred since September 27, 2007; that the applicant has provided approved site evaluations for the lots; that a wetlands jurisdictional report has been provided; and the restrictive covenants have been submitted and only stick-built dwellings with a minimum square area of 1,400 square feet of living space is required.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 31 for Donald K. Miller based upon the record and for the following reasons:

1. The subdivision meets the purpose of the Subdivision Ordinance and protects the orderly growth of the County.

2. The subdivision density is less than the density permitted by the existing AR-1 zoning.
3. The subdivision is integrated into the existing terrain and surroundings.
4. The subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
5. The 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. This recommendation is subject to the following conditions:
 - A. The Applicant shall prepare and record Restrictive Covenants governing the development and requiring the perpetual maintenance of roads, any buffers, storm water management facilities and common areas.
 - B. The storm water management system shall meet or exceed the requirements of the State and County.
 - C. All entrances shall comply with all of DelDOT's requirements.
 - D. A Forested Buffer shall be included around the perimeter of the subdivision where the adjacent property is used for agricultural purposes. The Final Site Plan shall contain a landscape plan for any required buffers.
 - E. Street naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - F. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.
 - G. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas.

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

Subdivision #2006 – 39 - - application of **HENRY JAMES JOHNSON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 42.11 acres into 38 lots (Cluster Development), located on both sides of Road 296, 950 feet north of Road 305.

Mr. Abbott advised the Commission that this application has been deferred since October 25, 2007; and that DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.

Motion by Mr. Gordy, seconded by Mr. Burton and carried unanimously to defer action so that Mr. Johnson may participate in the discussion. Motion carried 4 – 0.

OTHER BUSINESS

Sunset Harbor

CU #1612 Revised Site Plan – Road 357

Mr. Abbott advised the Commission that this is a revised multi-family project site plan for single-family detached units; that the revisions include the removal of 1 unit for a new total of 86 units; that a swimming pool and clubhouse have also been added; that the pool and clubhouse are located in the area where the unit was removed; that an entrance feature has been added; that propane tanks have been added in the right of way of Erie avenue; that the tanks will be covered by berms and landscaping; and that a landscape plan has also been submitted.

Frank Kea of Caldera Properties advised the Commission that the entry feature is located 25-feet from the right of way of Cedar Neck Road; that this is the setback required for subdivision signs; and that the gated entrance is located further back from the entry feature.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the revised site plan as submitted as a preliminary. Motion carried 4 – 0.

Shoreview Woods

CU #1666 Site Plan – Route 9 and Road 258

Mr. Abbott advised the Commission that this is a preliminary site plan for a 96-unit multi-family project located on 28.18 acres; that the County Council approved this conditional use on March 27, 2007; that the proposed entrance is off of Road 258; that there are 16, 5-unit buildings, and 4, 4-unit buildings proposed; that the maximum length of the buildings appears to be 140 feet and there is a 40-foot separation between buildings; that the dimensions and distances need to be shown on the final site plan; that the amenities include sidewalks on both sides of the interior driveways, a clubhouse and pool and a multi-purpose game court; that central sewer and water are proposed and the final site plan needs to reference the provider; that streetlights are provided; that a landscape plan needs to be submitted with the final site plan; that a school bus shelter needs to be provided; that the site plan references the 17 conditions of approval; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals and the site plan addressing all of the conditions of approval.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the review and approval of the Commission upon receipt of all agency approvals.

Subdivision #2005 – 61 - - Delmarva Woodlands Alliance 3, L.L.C.
Revised Preliminary

Mr. Abbott advised the Commission that this is a request to revise a preliminary subdivision approval; that the Commission approved this application on September 14, 2006 for 43 single-family lots; that the Commission granted a time extension on September 19, 2007; that the 43 lots were approved on 101.28 acres; that the proposed revisions are to strip 4 lots fronting on Road 315 subject to DelDOT's approval and revise the interior to 12 lots having access from an internal 50-foot street along with a storm water management area; that the smallest interior lot is 0.93 acres; that the revised plan will include 32.64 acres or 32% open space; that the revised plan creates less impervious areas; that during the public hearing, two people spoke in opposition to the application; and that the revised plan may be approved as amended or the Commission may require another application for a public hearing.

Mark Chura of Delmarva Woodlands Alliance 3, L.L.C. advised the Commission that the revised plan is a result of a market driven decision; and that the plan reduces the total number of lots from 43 to 16.

Motion by Mr. Gordy, seconded by Mr. Burton and carried unanimously to approve the revised plan as a revised preliminary. Motion carried 4 – 0.

Subdivision #2005 – 78 - - Delmarva Woodlands Alliance
Revised Preliminary

Mr. Abbott advised the Commission that this is a revised preliminary subdivision plan for a 226-lot cluster subdivision located on 215.23 acres; that the site is zoned AR-1; that the Commission granted preliminary approval for 226 lots on December 14, 2006; that during the design process, Kercher Engineering found that there were design limitations that would prevent 54 single-family lots from being developed on the south side of Road 280; that these limitations include but are not limited to DelDOT requesting an area to treat water run-off by both Stockley and Cool Spring Road; that the revised plan relocates the 54 lots that were proposed to be on the south side to the north side; that all of the lots are now on the same side of the road; that the south side of Road 280 will serve as a large storm water management facility; that 226 lots are still proposed; that during the public hearing, there were 11 people that spoke in opposition to the application; and that the Commission may approve the revised plan as submitted as a preliminary or the Commission may require another application for a public hearing.

Mark Chura of Delmarva Woodlands Alliance and John Murray of Kercher Engineering advised the Commission that there is ample room on the south side of Road 280 to landscape the storm water management area; that the proposed pond will be a wet pond; and that the pond is setback approximately 96 feet from the front property line.

Motion by Mr. Gordy, seconded by Mr. Burton and carried unanimously to approve the revised plan as a revised preliminary as submitted with the stipulation that a landscape plan be submitted with the final site plan. Motion carried 4 – 0.

Massey's Landing MR/RPC
CZ #1608 Master Record Plan – Route 23

Mr. Abbott advised the Commission that this a master record plan for a 120-unit residential planned community; that this application was approved by the County Council on May 15, 2007 with 15 conditions of approval; that the conditions of approval are referenced on the master plan; that the intent of the master plan is to show how the project will be developed; that the north side contains 48 single-family lots and 48 duplex lots; that the south side contains 24 duplexes lots; that this total is permitted by the approved ordinance; that the proposed setbacks are 15-foot front yard, 6-foot side yards and 10-foot rear yards; that the interior streets are 20-foot paved with a 2-foot curb, a 5-foot planting strip and a 5-foot sidewalk proposed on each side; that a community center and pool and tot lot are proposed; that a 50-foot buffer from State Tidal wetlands is provided; and that since the project is a residential planned community, site plan approval shall be required for each phase.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the master plan as submitted. Motion carried 4 – 0.

Phillips Recycle
Preliminary Commercial Site Plan – U.S. Route 13

Mr. Abbott advised the Commission that this is a preliminary site plan for 2 warehouses and an office located on 14.19 acres; that the site is zoned C-1; that the office contains 1,175 square feet; and the warehouses contain 8,775 square feet and 9,600 square feet; that the setbacks meet the requirements of the zoning code; that 6 parking spaces are required and provided; that DelDOT has issued a letter of no objection for the entrance location; that access will be from a cross access easement that runs across the front of the site; that there is a 20-foot landscape buffer provided with the types of plantings proposed listed on the site plan; that on-site sewer and water are proposed; that the proposed storm water management pond is located in an AR-1 zone; that the wetlands statement needs to be referenced on the site plan; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Jeremy Day Retail Building
Preliminary Commercial Site Plan – U.S. Route 113

Mr. Abbott advised the Commission that this is a preliminary site plan for a 4,000 square foot retail building located on 21,633 square feet; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 10 parking spaces are required and 13 are provided; that the parking area is located within the front yard setback and is subject to site plan review; that a 20-foot landscape buffer is required since the site is

located in a Combined Highway Corridor Overlay Zone; that ingress/egress to the site is from an adjoining property by a cross access easement; that the adjoining site is the applicant's residence; and that all agency approvals have been received.

Douglas Parker, Surveyor, advised the Commission that the site is limited due to the size of the parcel; that there are no perpendicular property lines; that the buffer would encroach onto the entrance; that the building cannot be moved farther back due to access problems; that a variance has been granted for the storm water management area; and there are a lot of wetlands located on the rear of the site.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the 20-foot landscape issue being resolved. Motion carried 4 – 0.

Route 20 Postal Facility Preliminary Commercial Site Plan – Route 20

Mr. Abbott advised the Commission that this is a preliminary site plan to convert an existing commercial operation to a postal sorting facility located on 4.00 acres; that the site is zoned C-1; that there is an existing one-story office building and an existing warehouse on the site; the developers are proposing a 9,880 square foot building and a 1,545 square foot addition to the existing warehouse; that the setbacks meet the requirements of the zoning code; that 75 new parking spaces are proposed along with the existing 14 spaces; that on-site septic and water are proposed; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the site plan as a preliminary as submitted with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Rent Equip Preliminary Commercial Site Plan – Route 26

Mr. Abbott advised the Commission that this is a preliminary site plan for a 4,476 square foot commercial building located on 1.04 acres; that the site is zoned C-1; that the proposed use is for equipment rentals; that the setbacks meet the requirements of the zoning code; that 16 parking spaces are provided; that 5 spaces are located within the front yard setback and are subject to site plan review; that on-site septic and water are proposed; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Ray Blakeney of Land Design Inc. was present and advised the Commission that the site is located outside of the Millville expansion of Bethany Beach Sanitary Sewer District.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the site plan as a preliminary as submitted with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Truitt Property – Phase 1

Preliminary Commercial Site Plan – Route One and Bay and Guthrie Roads

Mr. Abbott advised the Commission that this is a preliminary site plan for a 2-story, 5,000 square foot retail building located on 1.90 acres; that the site is zoned C-1; that Phase 1 contains 0.75 acres; that the setbacks meet the requirements of the zoning code; that the required 20-foot landscape buffer is provided but does not show the type of plantings proposed; that they will be required to be shown on the final site plan; that 28 parking spaces are required and 36 are proposed; that 12 spaces are located within the front yard setback and are subject to site plan review; that Sussex County will provide central sewer and water to the site; that there are not any wetlands on the site; that ingress/egress will be from the existing 2 entrances along Route One and one from Guthrie Road; that DelDOT has issued a Letter of No Objection; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Burton and carried unanimously to approve the site plan as a preliminary as submitted with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Hummingbird Meadows

Subdivision #2004 – 44 – Amended Condition

Mr. Abbott advised the Commission that the staff has received a letter requesting that the condition of approval requiring sidewalks on both sides of all streets be amended to require them on one side only; that the engineering firm representing the applicant submitted a letter stating that the developers feel that with sidewalks on both sides of a 20-foot uncurbed road seems excessive and will unlikely be used by the future residents; that by eliminating sidewalks on both sides will allow the homes to be sold at a more affordable price; and this would also reduce the amount of impervious areas.

Bill Stephen of Meridian Architects and Engineers and Phil Wemlinger, Developer, were present and advised the Commission that the sidewalks would not be used; that sidewalks on both sides of all streets is expensive and that the developers are providing other walking trails throughout the project.

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to deny the request. Motion carried 4 – 0.

1st Mariner Bank

Parcel – Road 462

Mr. Abbott advised the Commission that this is a request to subdivide a 9.365 acre parcel into 2 parcels; that the parcel with the existing dwelling contains 1.339 acres with 170.68 feet of road frontage; that the residual parcel contains 8.062 acres with 100 feet of road frontage; that the residual parcel is being sold to the State of Delaware Division of Parks and Recreation and the survey notes that the parcel is non-buildable; and that the 100 feet of road frontage will serve as access to the site.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

David Milliken
Parcel and 50' Right of Way – Road 549

Mr. Abbott advised the Commission that this is a request to create a 5.01 acre parcel with access from a 50-foot right of way; that the adjoining property owner has agreed to grant access through an existing 50-foot right of way and has sent a letter verifying this permission; that Mr. Milliken will be responsible for the maintenance of the right of way; that this request may be approved as submitted or you can require an application for a major subdivision; and that if the request is approved as submitted, the proposed parcel would be the second parcel having access from the right of way.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

Vincent and Sandra Oddo
4 Lots and 50' Right of Way – Road 436

Mr. Abbott advised the Commission that this is a request to subdivide 6.999 acres into 4 lots and create a 50-foot right way to serve as access to the lots; that the aerial photograph does not show any existing road, lane or driveway where the proposed right of way is to be located; and even if there was one, the request should be denied as submitted since 4 lots are proposed and an application for a major subdivision shall be required.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to deny the request as submitted and require the applicants to go through the major subdivision process. Motion carried 4 – 0.

The Vineyards
Phase 1 Preliminary Site Plan – Route 9

Mr. Abbott advised the Commission that this is a preliminary site plan for Phase 1 located on 15.49 acres of an 82.00 acre tract; that the site is zoned C-1; that this phase contains 80,713 square feet of retail, 27,638 square feet of office space, 1,600 square feet of civic area and 88 residential units; that 6 buildings are proposed; that the setbacks meet the requirements of the zoning code; that 725 parking spaces are provided; that 2 parking garages are proposed; that the preliminary plan is the same as the approved master plan;

and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Meeting adjourned at 4:35 p.m.

Consent Agenda for Special Meeting of November 14, 2007

Consent Agenda

1. Subdivision #2004 – 34 - - Dagsboro Trace, L.L.C. RS
Final – Dagsboro Trace

This is the final record plan for a 25-lot clustered subdivision application. The Commission granted conceptual approval for 25 lots on June 23, 2005, preliminary approval on November 17, 2005 and a one-year time extension on December 14, 2006. The final record plan is the same as the preliminary plan, complies with the subdivision ordinance and the conditions of approval, and all agency approvals have been received.

2. Subdivision #2005 – 75 - - Top Drawer, L.L.C. BG
Final – Cypress Point

This is the final record plan for a 72-lot standard subdivision application. The Commission granted preliminary approval for 72 lots on December 14, 2006. The final record plan is the same as the preliminary plan, complies with the subdivision ordinance and the conditions of approval. Although it was not a condition, the developers have added a 3-foot sidewalk along one side of all streets. All agency approvals have been received.

3. Time Extensions

- a. Subdivision #2003 – 33 - - John A. Mast RW

This is a request for a one-year time extension. The Commission granted preliminary approval on July 27, 2006. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and preliminary approval will be valid until July 27, 2008. No agency approvals have been received to date.

b. Subdivision #2004 – 37 - - Wayne Mitchell
Time Extension

MJ

This is a request for a one-year time extension. The Commission granted preliminary approval on February 1, 2006. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and preliminary approval will expire on February 1, 2008. Approvals have been received from DelDOT and Sussex County Engineering Division of Public Works.

c. Subdivision #2004 – 46 - - Caldera Properties – Long Neck I, L.L.C.
Time Extension

MJ

This is a request for a one-year time extension. The Commission granted preliminary approval on November 19, 2005 and granted a one-year time extension on May 16, 2007. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and preliminary approval will expire on November 19, 2008. No agency approvals have been received to date.

d. Subdivision #2004 – 53 - - Anthem Delaware, L.L.C.
Time Extension

MJ

This is a request for a one-year time extension. The Commission granted preliminary approval on November 9, 2005 and granted a one-year time extension on December 14, 2006. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and preliminary approval will expire on November 9, 2008. Approvals have been received from Sussex Conservation District and Sussex County Engineering Division of Public Works.

e. Subdivision #2004 – 55 - - J. Michael Warring
Time Extension

MJ

This is a request for a one-year time extension. The Commission granted preliminary approval on October 18, 2006. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and

preliminary approval will expire on October 18, 2008. No agency approvals have been received to date.

f. Subdivision #2004 – 56 - - Ocean Atlantic VIII, L.L.C.
Time Extension

MJ

This is a request for a one-year time extension. The Commission granted preliminary approval on October 27, 2005 and granted a one-year time extension on October 18, 2006. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and preliminary approval will expire on October 27, 2008. Approvals have been received from Sussex Conservation District, Sussex County Engineering, Sussex County Mapping and Addressing, Office of the State Fire Marshal, and Department of Agriculture.

g. Subdivision #2005 – 2 - - Carriage Springs Run, L.L.C.
Time Extension

MJ

This is a request for a one-year time extension. The Commission granted preliminary approval on November 17, 2005 and granted a one-year time extension on December 14, 2006. This is the second request for a time extension. If an extension is granted, preliminary approval will be valid until November 17, 2008. DelDOT is the only agency approval received to date.

h. Subdivision #2005 – 50 - - KGH Properties, L.L.C.
Time Extension

MJ

This is a request for a one-year time extension. The Commission granted preliminary approval on January 18, 2007. This is the first request for an extension. If an extension is granted, preliminary approval will be valid until January 18, 2009.

- i. Subdivision #2005 – 57 - - Blackwater Creek, Inc.
Time Extension

BG

This is a request for a one-year time extension. The Commission granted preliminary approval on October 26, 2006. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and preliminary approval will be valid until October 26, 2008.

- j. Subdivision #2005 – 65 - - Reynolds Road, L.L.C.
Time Extension

IGB

This is a request for a one-year time extension. The Commission granted preliminary approval on October 18, 2006. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and if an extension is granted, preliminary approval will be valid until October 18, 2008.

- k. Subdivision #2005 – 69 - - Wright Brother Properties
Time Extension

IGB

This is a request for a one-year time extension. The Commission granted preliminary approval on October 26, 2006. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and preliminary approval will be valid until October 26, 2008.

- l. Subdivision #2005 – 73 - - Landlock, L.L.C.
Time Extension

MJ

This is a request for a one-year time extension. The Commission granted preliminary approval on November 11, 2006. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and preliminary approval will be valid until November 11, 2008.

m. Subdivision #2005 – 79 - - Paradise Property
Time Extension

RS

This is a request for a one-year time extension. The Commission granted preliminary approval on January 18, 2007. This is the first request for an extension. If an extension is granted, preliminary approval will be valid until January 18, 2009.

n. Subdivision #2005 – 91 - - Highland Development Corporation
Time Extension

MJ

This is a request for a one-year time extension. The Commission granted preliminary approval on February 28, 2007. This is the first request for an extension. If an extension is granted, preliminary approval will be valid until February 28, 2009.