



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF JANUARY 11, 2007

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 11, 2007 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

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

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of December 21, 2006 as amended.

OLD BUSINESS

C/U #1722 – application of **WEST REHOBOTH COMMUNITY LAND TRUST** to consider the Conditional Use of land in a GR General Residential District for multi-family dwelling structures (4 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 17,500 square feet, more or less, lying southwest of Burton Street, 550 feet northwest of Hebron Street and 110 feet southeast of Duffy Street within West Rehoboth Subdivision, and being more particularly described as Lots 13 and 14 in West Rehoboth Subdivision.

The Commission discussed this application which has been deferred since December 7, 2006.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1722 for The West Rehoboth Community Land Trust for 2 multi-family dwelling structures of 2 units each based on the record made at the public hearing and for the following reasons:

1. The property is located in a GR General Residential District.
2. The proposed Conditional Use will have no significant impact upon traffic.

3. This project is consistent with Charles Mills' design of West Rehoboth to provide housing for working families of Sussex County. Through its proposed 2 family units per lot and the use of leased ground, this project has been designed to promote affordable home ownership for working families. By recommending approval of this project, we are not encouraging future multi-family dwelling structures such as condos, townhouses and apartments. Rather this project is unique on its own merit by incorporating the sense of community and affordable housing for working families which is promoted by the West Rehoboth Community Land Trust. Unlike some other Conditional Uses or change in

Minutes

January 11, 2007

Page 2

- zonings in the surrounding area, this project should promote the historical concept and design of West Rehoboth as a community of working families, rather than investors, speculators, and/or vacationers.
4. This project will not have an adverse impact on the neighboring properties or community.
 5. The project, with the conditions I am recommending will appear to be 2 single family residences on separate lots.
 6. Although this project exceeds the density recommended by the County Engineering Department, the fact that it is only 4 units limits the overall impact on the County Sewer System. And, adding system upgrades will be the applicant's responsibility.
 7. This recommendation for approval is subject to the following conditions and stipulations:
 1. Only 4 units shall be constructed upon the property. These units shall be in the form of two separate buildings with 2 units in each.
 2. The project shall be subject to the approval of the Sussex County Engineering Department. The applicant shall be required to design; fund and construct any upgrades to the County sewer system that are necessary to serve the 4 units.
 3. The project shall not exceed the County's height and setback requirements.
 4. The 2 buildings shall be designed to resemble single family dwellings. An example of this would be a separation of the entrances so that no two entrances are on the same side of these buildings.
 5. At the time of site plan approval, the applicant shall also submit front, side and rear elevation drawings of the buildings to the Planning and Zoning Commission.
 6. The site plan shall include redesigned parking spaces to comply with County Ordinances and to reduce or limit backing onto the streets from the site.
 7. The site plan shall be subject to approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, 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 and with the conditions and stipulations stated. Motion carried 5 – 0.

Minutes
January 11, 2007
Page 3

C/U #1673 – application of **WILLIAM KEVIN CLARK** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an automotive sales lot to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 1.14 acres, more or less, lying south of Jefferson Road (Route 38), approximately 2,100 feet west of Route 30.

The Commission discussed this application which has been deferred since December 21, 2006.

Mr. Burton stated that he would move that the Commission recommend denial of C/U #1673 for William Kevin Clark for an automotive sales lot based on the record made at the public hearing and for the following reasons:

1. In making this motion, I am sympathetic to the applicant's desire to maintain a business on his family's property so that he can work and earn a living from his home. But, I don't feel that an approval would be a good land use decision.
2. I do not feel that the application is consistent with the character of the surrounding property. The purpose of this application is to allow a Conditional Use to operate an automotive sales lot on a residential property. This use would be out of character with the adjacent and surrounding properties.
3. Although the applicant stated that the intended use is limited and would occur while the property is also used as his family's residence, I believe that there are other locations in the County that are currently zoned for business or commercial use that are available and better-suited for the intended use.
4. The application does not promote the health, safety, convenience and general welfare of the neighborhood or community.
5. The proposed use as an automotive sales lot is not consistent with the purposes of the AR-1 District as set forth in the County Zoning Code.

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 denied for the reasons stated. Motion carried 5 – 0.

Subdivision #2005-81 – application of **BETHANY RIDGE, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 104.32 acres into 227 lots, (Environmentally Sensitive Developing District Overlay Zone), located north of Road 349, 1,600 feet east of Road 348.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 81 for Bethany Ridge, L.L.C. based upon the record and for the following reasons:

Minutes
January 11, 2007
Page 4

1. The project will be compatible with other area land uses, including existing residential developments located in the area. Surface storm water will be contained and treated on site through the project's storm water management plan resulting in improvement to the quality of storm water.
2. The subdivision is located in the environmentally sensitive development area under the Sussex County Comprehensive Plan which is a designated growth area. The subdivision complies with the use and density envisioned by the plan.
3. The subdivision is in compliance with the environmental sensitive overlay ordinance and favorably addressed the requirements of the ordinance by submittal of an environmental and public facilities report. The subdivision utilizes cluster lot sizes and maintains over 30% of the site as open space.
4. The subdivision will be served by a central water system operated by Tidewater Utilities and central sewer as part of the Sussex County sanitary sewer system. The property is located in an existing Sussex County sewer district where development is anticipated and directed.
5. The density is in compliance with the density permitted by the existing AR-1 zoning and the environmental overlay ordinance and is less than the density assumption used for Sussex County Engineering Department Planning Purposes.
6. The project is consistent with neighboring and adjacent properties and will not have an adverse impact on the neighboring properties or community. The project is in the vicinity of other existing developments with similar characteristics and density.
7. The property is located in the Level 3 area under the state strategies map and the Office of State Planning Coordination stated that it supported development that was sensitive to the natural environment.
8. The subdivision has been designed in an environmentally sensitive manner providing appropriate setbacks, buffers, open space and woodland preservation and provides significant active and passive recreational uses on site.

9. The subdivision, subject to the conditions imposed, will not adversely affect uses, values or the natural environment of the area.
10. This preliminary approval is subject to the following conditions:
 - A. The maximum number of single-family lots shall not exceed 227 as shown on the applicant's site plan.
 - B. Site plan review shall be required for each phase of development.
 - C. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Street design shall include sidewalks, and street lighting as approved by the Planning and Zoning Commission. The applicant shall submit as part of the site plan review

Minutes

January 11, 2007

Page 5

a landscape plan showing the proposed tree and shrub landscaping design of the project.

- D. All entrances, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the applicant as required by DelDOT.
- E. Recreational facilities and trails shall be constructed and open to use by the residents within two (2) years of the issuance of the first building permit.
- F. The subdivision shall be served by an existing or an extended Sussex County sanitary sewer district in accordance with applicable regulations.
- G. The subdivision shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
- H. Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements and the system shall be designed and operated using Best Management Practices.
- I. The applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of the streets, roads, buffers, storm water management facilities, and other common areas.
- J. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.

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

Subdivision #2005-87 – application of **DERIC PARKER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 22.491 acres into 23 lots and a variance from the maximum allowed cul-de-

sac length of 1,000 feet, located at the northeast corner of the intersection of Road 40 and Road 591.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 87, for Deric Parker, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Ordinance in that it protects orderly growth of the County.
2. The land is zoned AR-1 which permits low-density single-family residential development at a density of approximately 2 lots per acre. The proposed

Minutes

January 11, 2007

Page 6

subdivision density is less than the density permitted by the existing AR-1 zoning.

3. The proposed subdivision will be a restricted residential development consistent with the area and will not adversely affect nearby uses or property values.
4. All of the items in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
6. A variance from the maximum allowed cul-de-sac length is appropriate, given the configuration and size of the property.
7. This approval is subject to the following conditions:
 - A. The maximum number of lots shall not exceed 23.
 - 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 DeIDOT's requirements.
 - D. A system of street lighting shall be provided by the applicant.
 - E. The streets and roads shall be maintained by the Developer and/or Homeowners' Association.
 - F. As stated by the applicant, the existing 4 lot minor subdivision shall be incorporated into this one and shall be governed by this projects' homeowners' association.
 - G. A school bus stop shall be designed and located as required by the local school district. The location of the bus stop shall be shown on the final site plan.
 - H. As stated by the applicant, all homes shall exceed 1,400 square feet in size, with attached 2 car garages.
 - I. The final site plan shall be subject to the review and approval of the Planning and Zoning Commission.

- J. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.

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

Subdivision #2005-88 – application of **LINDA MCILVAINE** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 2.867 acres into 3 lots, located at the southeast corner of the intersection of Road 48 and Road 317.

Minutes
January 11, 2007
Page 7

Mr. Johnson stated that he would move that the Commission grant preliminary and final approval of Subdivision #2005 – 88 for Linda McIlvaine, based upon the record ad for the following reasons:

1. The Applicant is seeking to divide 2 existing lots into 3 lots within an existing subdivision.
2. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
3. The Applicant has provided the required consent of the existing property owners within the subdivision.
4. The land is zoned AR-1 which permits low-density single-family residential development of this type.
5. The proposed subdivision is generally in character with the existing subdivision and the size of the other adjacent lots.
6. The proposed subdivision will not have an adverse impact on the neighboring properties or community.

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

PUBLIC HEARINGS

C/U #1675 -- application of **COLONIAL EAST, LTD.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for expansion of existing manufactured home community (82 additional lots) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 20.79 acres, more or less, lying northeast of Minos Conaway Road (Road 265), 1,100 feet north of Route 9.

Mr. Wheatley advised the Commission that he would not be participating in this public hearing and turned the gavel over to Mr. Gordy, Vice Chairman.

Mr. Lank advised the Commission that this project was reviewed through the PLUS (Preliminary Land Use Service) for the State on February 22, 2006, that the PLUS report was dated March 15, 2006, that the PLUS report is a part of the record for this application, and that a response to the PLUS comments has not yet been received.

Mr. Lank provided the Commission with a copy of Ordinance No. 1187, the County Council decision on the original Conditional Use #1198, dated October 21, 1997.

Mr. Lank advised the Commission that a letter in opposition to the application was received from David and Suzanne Shevock, which stated that the applicant's earlier application was the subject of heated public hearings, with substantial opposition registered by neighboring

Minutes

January 11, 2007

Page 8

communities includes Edgewater Estates, Mallard Point, Red Mill Farms and Brittany Acres; that part of the objections included the argument that development of the type and density proposed by Colonial East was inconsistent with the character of the neighborhood; that the Council reached a fair and reasonable compromise and granted the applicant a permit to place 104 homes on 52 acres, or a density of two units per acre, consistent with the character of the neighborhood as developed; that the Council left the applicant the option to locate those 104 homes anywhere on the property, consistent with the County lot size and setback requirements; that now the applicant is back asking to increase the density on its 52 acre parcel to that which it originally sought and which Council rejected; that Council should keep the faith with Edgewater Estates, Mallard Point, Red Mill Farms and Brittany Acres, and neighboring large property owners the Shevocks, the Davidsons and the Bakers, by denying this application which is motivated by the applicant's apparent belief that Council has forgotten its earlier decision and by the applicant's greed; that Council has already granted the applicant a reasonable return on his investment in this property; that a new Conditional Use application seems to be legally inappropriate; that the proper course would appear to be to file an application to amend the earlier Conditional Use permit; that as development on Minos Conaway Road is almost complete from Route 1 to Route 9, traffic is intense and no additional traffic is warranted; that one of the conditions imposed on the original Conditional Use permit was that the existing hedgerow was to be maintained as a buffer, undisturbed; that since that Conditional Use approval, the hedgerow has been substantially thinned, with many trees removed and without replanting; that now directly across from my home I now have a view of a stockpile of material (dirt and stone) and a view of stored manufactured homes; that the County Council made a decision, which although not to entire liking of the applicant's neighbors, was a fair and reasonable compromise; and that there is no compelling reason and in fact there is every reason not to approve this application.

The Commission found that Steven Class of Colonial East, Ltd. was present with Heidi Balliet, Attorney, and Brian Pinkerton and Kevin Burdette of McCrone, Inc. and that they stated in their presentations and in response to questions raised by the Commission that the

purpose of this application is to extend the existing manufactured home park; that no retail sales or commercial uses are proposed; that this is an appropriate site for a Conditional Use; that all items referenced in the Conditional Use Section of the Zoning Ordinance are being met; that there will be no direct access from any lots to Route 9 or Minos Conaway Road; that the streets within the project will be built to County specifications; that proper drainage will be provided; that central water and sewer will be provided; that trash collection will be provided; that all lots exceed the minimum requirements of the Code; that a community clubhouse and recreational areas already exists and serve the community; that the clubhouse is utilized by the County Book Mobile, the homeowners association, charitable associations, and others; that the project is age restricted for 55 years or older; that no single wide units will be permitted; that no sheds are permitted; that they propose 82 additional lots for lease only; that the project is clean and desirable; that a need has been shown for additional lots by

Minutes

January 11, 2007

Page 9

the waiting list being maintained by the applicants; that the use should be consistent with the area; that the use should be consistent with the Comprehensive Plan since it is an expansion of an existing manufactured home park within the Environmentally Sensitive Developing District; that there should be no impact to property values; that the site is surrounded by other developments; that visibility is good at both entrances; that in 1997 there were several developments near the site; that today there are additional developments near the site; that the net density is 3.4 units per acres; that 25% open space is provided; that the expansion does not require a new entrance since the entrances were designed for DelDOT at the maximum proposed originally in 1997; that the stormwater management facilities are adequate to serve the entire project with minor adjustments; that the perimeter is to be buffered with vegetation; that Tidewater Utilities will provide central water; that the County will provide public sewer; that pump-station upgrades may be required; that the 1997 expansion was limited to 2 units per acre; that it is estimated that 3.5 units per acre exists in the entire existing park; that at full build-out it is estimated that 3.4 units per acre will exist; that the existing site contains a 7-acre open area with the community building; that lot sizes vary from 6,500 to 15,000 square feet; that the County requires a minimum of 5,000 square feet per lot; that they have not yet responded to the PLUS comments; that tenants pay approximately \$360 per month for land rent; that outfall from the stormwater management facilities discharge into a DelDOT ditch along Minos Conaway Road; that adequate area exists for open space; and that the 2.6 acres of open space referenced includes the buffers along the perimeter.

The Commission found that Ms. Balliet provided a letter in support of the application from the Sussex Communities Association President Jean Stewart.

The Commission found that there were no parties present in support of the application.

The Commission found that Wayne Baker was present in opposition to this application and stated that he agreed with Mr. Shevock's letter, and that the area residents knew when the original application was approved that the applicant would be back with an expansion; that

they thought that they would see a farm field in this portion of the property; that all of the development along Minos Conaway Road have access to Minos Conaway Road only; that the applicant had his opportunity to develop his property in 1997 and received approval; that expansion should be denied; that there have been numerous accidents at the intersection of Route 9 and Minos Conaway Road; that due to the amount of traffic and lack of shoulders along Minos Conaway Road people cannot walk or ride bicycles along the road; and that he opposes the application.

The Commission found that Debbie Parklow was present in opposition to this application and stated that she lives directly across the railroad tracks from the site; that she is concerned about noise pollution, additional traffic, and that she also does not recommend that anyone walk along Minos Conaway Road.

Minutes
January 11, 2007
Page 10

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

Mr. Johnson stated that he would move that the Commission deny Conditional Use #1675 for Colonial East, Ltd. based upon the record and for the following reasons:

1. In 1997, the County Council specifically found, in Ordinance No. 1187, that the allowable number of units on this property could not exceed 108.
2. The County Council decision was based upon many concerns that were expressed during the hearing process, including the character of the residential lots adjacent to the project.
3. Since County Council made this specific finding, I do not feel that it would be appropriate to recommend a change in the number of units or density on this parcel of land.

The Motion died for the lack of a second.

Motion by Mr. Smith, seconded by Mr. Johnson and carried with 4 votes to defer action for further consideration. Motion carried 4 – 0. Mr. Wheatley not voting.

Subdivision #2005-90 -- application of **RIVER ROCK, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 29.31 acres into 26 lots, (Cluster Development), located southeast of Road 258, 0.5 mile northeast of Road 88.

Mr. Robertson advised the Commission that he would not be participating in the discussion of this application.

Mr. Abbott advised the Commission that this application was reviewed by the Sussex County Technical Advisory Committee on July 26, 2006 and that the report will be made a part of the record for this application; that the applicants submitted an Exhibit Booklet and a Revised Preliminary Plan on January 8, 2007; that an approved entrance approval and a

septic feasibility statement has been submitted; and that all of these will be made a part of the record.

The Commission found that Heidi Balliet; Attorney, Mark Davidson and JC Ownes of Design Consultants Group, and Dale Faulkner of River Rock, L.L.C. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this is an application for a 26-lot cluster subdivision application; that 26 lots on 29.31 acres are proposed; that the proposed density is approximately 1 lot per acre; that this site was previously approved for 26 standard lots under a previous subdivision application; that the items referenced in Subsection 99-9C of the Subdivision Ordinance have been addressed in the Exhibit Booklet submitted by the applicants; that the cluster design incorporates a new and innovative design; that the storm water management area has

Minutes

January 11, 2007

Page 11

been centrally relocated within the project; that walking and jogging trails, picnic areas with benches will be provided; that the lots range in size from ½ to 1 acre; that the site is located in a low-density area; that the entrance has been approved by DelDOT and has been constructed; that the project will provide affordable housing in the area; that the storm water management area is approximately 3.50 acres; that on-site septic and wells are proposed; that the streets will be private and built to county specifications; that the dwellings will range from \$250,000 to \$400,000; and submitted proposed findings of fact and conditions.

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

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

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

Subdivision #2005-91 -- application of HIGHLAND DEVELOPMENT

CORPORATION to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 195.93 acres into 420 lots, (Environmentally Sensitive Developing District Overlay Zone), located south of Route 24, approximately 1 mile west of Road 309.

Mr. Abbott advised the Commission that this application was reviewed by the Sussex County Technical Advisory Committee on May 18, 2005; that DelDOT submitted a revised letter on October 27, 2006; that the applicants submitted a revised plan on January 5, 2007 and revised restrictive covenants on January 8, 2007; and that all of these will be made a part of the record for this application.

The Commission found that John Sergovic and Shannon Carmean; Attorneys, and Chris Carbaugh and Brian Carbaugh; Engineers, were present on behalf of this application and

stated in their presentations and in response to questions raised by the Commission that the site is located in an Environmentally Sensitive Development District Overlay Zone; that the project is located on the Indian River Bay; that the lots have been over calculated on the preliminary plan; that the maximum number of lots permitted is 391 lots; that the site adjoins lands owned by the Nature Conservancy; that there are 21 acres of wetlands on the site, 16 acres of forested lands and 156 acres of agricultural lands; that the site is located in a growth area; that the Millsboro Fire Company provides fire protection to the site; that police protection is provided by the Delaware State Police Troop 4; that shopping is available in the Millsboro area; that there will not be any impacts to the wetlands on the site; that the average lot size is 9,500 square feet; that 77 acres of open space is proposed; that a clubhouse will be provided near the Indian River Bay with a swimming pool; that the project will provide sidewalks, streetlights, a tot lot, walking and jogging trails and a beach;

Minutes

January 11, 2007

Page 12

that Sussex County will provide central sewer to the site; that Artesian Water Company will provide central water; that other infrastructure will be provided by Mediacom, Verizon and Delmarva Power and Light; that none of the proposed lots adjoin the lands owned by the Nature Conservancy; that a homeowners' association will be established, that a 50-foot buffer will be provided along Route 24; that only 5 of the lots are located in a flood plain; that the site is not considered prime farmland; addressed the items referenced in Subsection 99-9C of the subdivision code; that adequate buffers will be provided throughout the project; that this is more a superior design than a standard subdivision; that all of the lots adjoin open space; that there are not any wetlands located on any of the individual lots; that the project will not negatively impact the Nature Conservancy lands; that more than 40% of the site is open space; that a community pier will be provided with 4 boat slips; that the pier will not be considered as a marina; that the applicant is aware that DelDOT is opposed to this application and are considering all of DelDOT's recommendations; that the design of the project complies with all ordinances and the Land Use Plan; that there will be deed restrictions notifying future residents of the agricultural operations conducted on the Mountaire site; that the applicants will preserve as many existing trees as possible; that some of the lots along Route 24 may be deleted; that 29 lots need to be deleted; that an environmental assessment report has been performed and submitted into the record and was included in the Exhibit Booklet; that the restrictive covenants will also include a hunting notice; and that a pet or dog park could be included in the design of the project.

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

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

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

Subdivision #2005-94 -- application of **SEACOAST INVESTMENTS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 81.84 acres into 199 lots, (Cluster Development), located east of U.S. Route 113, south of Road 325, and west of Road 326.

Mr. Robertson explained how the Moderately Priced Housing Unit Ordinance operates including bonus density, setbacks, reduced lot sizes, etc; that these type of applications receive faster consideration by the County Council; and that this is the first type of this kind of application that the Commission has reviewed.

Mr. Abbott advised the Commission that this application was reviewed by the Sussex County Technical Advisory Committee on July 26, 2006 and submitted an Exhibit Booklet

Minutes
January 11, 2007
Page 13

and Revised Preliminary Plan on January 8, 2007 and that all of these will be made a part of the record for this application.

The Commission found that James Fuqua, Attorney, Kevin McBride with Morris, Ritchie Associates, Inc. and Bob Minutoli, a member of the applicant, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this project is for 199 single-family lots located on 81.84 acres; that the site is located south of Georgetown and bounded by Roads 325, 326 and U.S. Route 113; that the site currently has a non-conforming race track with parking, grandstands and pit areas located on it; the site is located in the low-density area; that single-family lots are proposed; that the proposed density is 2.43 lots/acre; that the bonus density is permitted by the moderately price housing unit ordinance; that this ordinance creates an expedited review process by the County; that the bonus density creates 41 additional lots; that the site is centrally located in the County; that this is the first type of this application; that access is provided to major arterial roadways; that the County Council has to approve the RFP prior to this type of application being submitted; that central water will be provided by the Town of Georgetown; that central on site sewer will be provided and that DNREC has issued a septic feasibility statement; that DelDOT did not require a traffic impact study for this project; that the site is located in the jurisdiction of the Georgetown Fire Company, that police protection is provided by the Delaware State Police Troop 4; that the site is located in the Indian River School District; that there is local shopping available in the area; that a homeowners' association will be established; that the site is not feasible to continue operating as a race track; that the race track will operate in 2007 since the lease has already been sent out and signed; that a residential subdivision is more in character with the area since the area is predominately residential; that the project will increase property values in the area; that the project will provide housing opportunities; that there will not be any impacts to wetlands; that sidewalks will be provided on both sides of all streets; that a tot lot will be provided; that the items referenced in Subsection 99-9C of the Subdivision Ordinance have been addressed in the Exhibit Booklet; that

there will be a buffer around the perimeter if the site; that the existing berms will remain and other wills be added; that the site has a fair groundwater recharge potential; that multi-modal paths will be provided; that the homes will be from the \$250,000.00 to \$350,000.00 price range; that the project will provide economic benefits to the County; that the site is not viable for farming; that the project would probably add 50 to 75 new students to the Indian River School District; that the applicants met with the Office of State Planning Coordination through the PLUS process and have responded to the comments and that the comments are addressed in the Exhibit Booklet; that the project has been accepted by the County Council; that the design complies with the Cluster Ordinance; that the developers sympathize with the people that want the racing to continue; that the project will be an asset to the area; that the project is not located in the Town of Georgetown's annexation plan at this time; that the moderately priced housing

Minutes
January 11, 2007
Page 14

units will not be any different from the remaining dwellings in the project; that if the project is approved, the developer would like to begin construction as soon as possible; that the central sewer system has not been designed yet but it could be a spray irrigation system or a rapid infiltration bed system; that this type of development targets professionals, teachers, firemen and police and correctional officers; and that the number of moderately priced homes to be built will be at a 3/1 ratio; and submitted proposed findings of fact and conditions of approval into the record.

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

The Commission found that Donald Dutton, Sr., Ira Hitchens, Michael Chorman, Jim Greer, Nancy Chorman and Roland Hitchens were present in opposition to this application and stated in their presentations that they have concerns about the location of the sewer system; that 199 homes will create more traffic to the area and cause more accidents; questioned where the wastewater will go and how much will be generated; that the Town of Georgetown is not providing central sewer to the site; that the possible low income housing will negatively affect property values in the area; that Bethesda Road is a tar and chip road; that the roads in the area cannot handle additional traffic; and that the soils on the site are not conducive to development since there has been a race track operated on the site for many years.

The Commission found, by a show of hands, that 14 people were present in opposition to this application.

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

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

Meeting adjourned at 9:35 p.m.