



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF OCTOBER 8, 2009

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 8, 2009, in the County Council Chambers, County Administrative Office Building, in 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. Rodney Smith, Mr. Michael Johnson, and Mr. Martin Ross with Mr. Vincent Robertson – Assistant County Attorney, and Mr. Lawrence Lank – Director.

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

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action on the Minutes of August 27, 2009. Motion carried 4 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of September 10, 2009 as amended. Motion carried 4 - 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of September 16, 2009 as circulated. Motion carried 4 – 0.

Motion by Mr. Smith, seconded by Mr. Ross, and carried with 3 votes to approve the Minutes of September 24, 2009 as circulated. Motion carried 3 – 0. Mr. Johnson not voting.

### PUBLIC HEARINGS

**Subdivision #2008-15** – application of **JASON P. AND DONNA S. MARTINI** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 5.72 acres into 2 lots, located south of Road 231, 762 feet east of Road 226.

Mr. Lank advised the Commission that no Technical Advisory Committee review was necessary since the lots are strip lots along existing road frontage; that the maximum number of minor lots had already been created; that a DelDOT letter of “No Objection” was received on August 8, 2008; that Lots 1 through 4 were created in 2002; and that Lots 5 through 7 were created in 2005.

The Commission found that Donna Martini was present and stated that she proposes to retain a lot for a residence for herself; that the home should be nicer than the existing homes in the area; and that she does not yet have a septic feasibility for the lot.

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

Mr. Johnson stated that he would move that the Commission grant preliminary and final approval of Subdivision #2008-15 for Jason P. and Donna S. Martini, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 2 lots on 5.72 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. The nature of this particular subdivision does not require any conditions to be imposed on it, and it is appropriate to grant preliminary and final approval of this subdivision at this time.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to grant preliminary and final approval of Subdivision #2009-15 for the reasons stated. Motion carried 4 – 0.

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**Subdivision #2009-4** – application of **ROGER C. TWADDELL** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 1.86 acres into 2 lots, and a waiver from the street design requirements, located at the northwest end of 50' private road west of Road 228A, 1,150 feet south of Route 38.

Mr. Lank advised the Commission that the Technical Advisory Committee provided comments through June 5, 2009; that letters from three (3) adjoining property owners, who utilize Beideman Way, have been received voicing no objection to the subdivision; that 4 lots already exist within the subdivision; and that the Applicant owns the lot and is converting it into two (2) lots.

The Commission found that Roger C. Twaddell was present and stated that the existing roadway is covered with crusher-run stone; that deed restrictions exist that provide that street maintenance be performed by the owners; that everyone with access to the roadway prefers the stone surface; and that the easement already exist for the existing right-of-way.

The Commission found that Charles Beideman was present and stated that he did not object to Mr. Twaddell subdividing a lot off of his property, but did object to the taking of some of his property for additional right-of-way; and that he had not authorized the taking of his property for right-of-way purposes.

Mr. Robertson suggested that Mr. Twaddell and Mr. Beideman get together and resolve the issue of the right-of-way.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action and to leave the record open for 15 days to allow the Applicant time to provide documentation and copies of easements for and maintenance of the roadway. Motion carried 4 – 0.

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**Subdivision #2008-6** – application of **BAY TWENTY** to consider the Subdivision of land in a GR General Residential District in Baltimore Hundred, Sussex County, by dividing 34.18 acres into 76 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located at the southwest corner of the intersection of Route 20 and Road 390.

The Commission found that on September 28, 2009 the Applicant provided an Exhibit Booklet which includes an Executive Summary, an aerial photograph of the area with an overlay of the site plan, a copy of a portion of the 2003 Comprehensive Plan Update - Future Land Use Map of the area, a copy of a portion of the 2008 Comprehensive Plan Update – Future Land Use Map of the area, a copy of the County Tax Map of the area showing the site and surrounding zoning, a color rendering of the site plan overlaid on an aerial photograph of the area, reduced copies of the site plan, a site data sheet, references to compliance with 99-9C of the Subdivision Ordinance, a copy of letters, dated May 17, 2007 and April 9, 2008, from the Department of Agriculture relating to buffers, a copy of a letter, dated June 30, 2009, from DelDOT, a copy of a memo, dated April 14, 2008, from the Assessment Division relating to street naming, a copy of a letter, dated September 21, 2009, from the County Engineering Department relating to the Johnson's Corner Sanitary Sewer District, a copy of the Applicant's response to the PLUS comments, a copy of a memo with attached letters and memos, dated May 14, 2008, from the DNREC Division of Soil and Water Conservation Drainage Program, a copy of a memo from the County Engineering Department Public Works Division, a copy of letters, dated September 23, 2009, from JCM Environmental in reference to State and Federal Permit Status and Corps. of Engineers notification, copies of existing and proposed conditions – wetlands mapping and wetland impact references, a copy of a memo, dated September 22, 2009, from the DNREC Wetlands and Subaqueous Lands Section, a copy of a letter, dated December 10, 2008, from PMP Associates, a copy of a letter, dated September 21, 2009, from Fuqua & Yori, P.A. in reference to the Declaration of Restrictions for the project, and suggested Proposed Findings of Fact and Conditions of Approval.

Mr. Lank advised the Commission that the Technical Advisory Committee provided comments through May 18, 2008; that a letter of "No Objection" was received from DelDOT on July 9, 2009; that the Exhibit Booklet and Revised Preliminary Plan was received on September 28, 2009; that there are two parcels being combined to create this subdivision; that County sewer is available and mandatory; and that central water will be provided by Artesian Water Company.

Mr. Lank advised the Commission that DelDOT, on June 30, 2009, issued a letter for entrance location approval that does not authorize the commencement of entrance construction and also noted that: This site shall have access from Route 20, as shown on the preliminary site plan; that entrance and roadway improvements include but are not limited to the following: a. A 2-inch hot mix overlay along Route 20. The limits of this improvement shall be from the western most

property line to the intersection of Route 20 and Road 382A; b. Widen Route 20 to 12-foot wide travel lanes and 8-foot wide shoulder to match the roadway classification for a Major Collector. The limits of this improvement shall be from the western most property line to the intersection of Route 20 and Road 382A; c. Install a 10-foot wide multi-modal path along the property frontage of Route 20 and Road 382A; d. Construct a protected left turn lane into the site; e. Construct a deceleration lane into the site; f. Construct a deceleration lane from Route 20 onto Road 382A; g. Accommodate bicyclist and pedestrian facilities; and upon application of the 10<sup>th</sup> building permit, the entrance and entrance improvements to the Woods at Johnson Corners shall begin construction; upon application of the 20<sup>th</sup> building permit, the entrance improvements to the Woods at Johnson Corners shall be completely constructed, final inspected and accepted by DelDOT. No additional building permits shall be issued until these improvements are completely constructed, final inspected and accepted by DelDOT. If any phase of this development is sold, it will be the responsibility of the new owner/developer to make and/or complete the necessary improvements associated with this development, as noted on the Record Plan. Entrance plans shall be developed in accordance with the Department's rules and regulations prior to entrance approval.

The Commission found that Tim Willard, Attorney with Fuqua & Yori, P.A. was present on behalf of the Applicant with Virgil Bullis, Realtor, Ken Christenbury, Professional Engineer with Axiom Engineering, L.L.C., and Amy Nazdrowicz, Environmental Scientist with JCM Environmental and that they stated in their presentations and in response to questions raised by the Commission that this application was originally filed in 2007 and withdrawn to provide more detail on the wetlands; that the site is located in the Johnsons Corner Sanitary Sewer District; that the site is located in a GR General Residential District and adjacent to a proposed Conditional Use site for a medical complex for PMP Associates; that the site is in close proximity to other subdivisions, commercial and business uses, and a campground; that the 2003 Comprehensive Plan Update references that the site is located in a Low Density Area; that the 2008 Comprehensive Plan Update references that the site is located in the Environmentally Sensitive Developing Area; that 2.22 units per acre are proposed; that 3.46 acres of wetlands exist on the site; that they are proposing to provide sidewalks on one side of the streets with connection to trails on the property; that a picnic area with park benches and a gazebo will be provided; that a multi-modal path will be provided as required by DelDOT; that central water will be provided by Artesian Water Company; that sewer will be provided by the County; that forested buffers will be provided where required; that wetlands mitigation will be necessary for road crossings; that they have been working with the State and Federal agencies in reference to wetlands issues; that 0.17 acre will be impacted by ditch relocations; that the mitigations will include adding plantings of native species; that 2.7 acres of conservation easement is proposed; that the State Historic Preservation Office reports no record of any historic impacts; that they have responded to the 99-9C in the Exhibit Booklet; that they have provided proposed Findings of Fact and Condition of Approval for consideration; that an Environmental Impact Assessment has not been provided since the application was filed prior to the requirement; that a sewer pump station is under construction on a portion of the site for the Johnsons Corner Sanitary Sewer District; that the front half of the property drains across Route 20; that the stormwater management pond in the front of the site is a proposed water feature; that they will coordinate the location of a bus stop with the school district; that the preliminary plan meets the Zoning and Subdivision Codes; that the project will be an environmental improvement over agricultural use of the property; that the

deed restrictions will include a reference to the required agricultural notice; that the project will meet or exceed the requirements of the Sussex Conservation District; that the required wetlands crossings could be built now under the Nationwide Permit process; that homes will be permitted per the GR General Residential District regulations; that the Applicants have participated in a \$1,000,200 contribution to the sewer district with the developers of Twin Cedars and PMP Associates; that discharge/runoff will be no greater than existing discharge/runoff; that there are no navigable waters on the site; that there are no State wetlands on the site; that no wetlands buffers have been proposed on this project; and that they have not yet received a final response to their response to PLUS.

The Commission found that Steven Krebs of Creative Gardens was present, not in opposition, but concerned that the tax ditch across Route 20 is eroding; that tax ditches need maintenance; and that there have been several accidents at the Johnsons Corner intersection.

The Commission found that William Payne was present, not in opposition, but concerned about handicap accessibility.

The Commission found that Mr. Christenbury responded that the multi-modal path and the sidewalks will be handicap accessible.

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

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration and to leave the record open for the final PLUS response. Motion carried 4 – 0.

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**Subdivision #2008-7** – application of **BRUCE AND CARLA RICKARDS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 7.96 acres into 8 lots, located east of Road 465A, 463 feet south of Road 465.

Mr. Lank advised the Commission that the Technical Advisory Committee provided comments through May 18, 2008; that supporting statements were submitted on March 17, 2008; that four (4) minor subdivision lots have already been created; that the Applicant is proposing to create four (4) additional minor subdivision lots and four (4) lots with access from a private roadway; that one (1) of the lots on the private roadway is already improved with a dwelling; that a 21 lot subdivision “Barron’s Place” is adjacent to the site; and that “Barron’s Place” was recorded in July 2009 and has not yet started being developed.

Mr. Lank summarized a packet of information received from the Applicant earlier, which referenced an informal summary of the restrictive covenants; included a letter from the Sussex Conservation District referencing approval of a sediment control and stormwater management plan; provided copies of septic permits for Lots 5 through 9, and Lots 11 and 12; noting that Lot 10 is already improved with a dwelling; and a revised survey depicting a stormwater management area to serve Lots 9 through 12.

The Commission found that Bruce and Carla Rickards were present with Steve Adkins of Steven M. Adkins Land Surveying, LLC and that they stated that the plans have been revised from the original submittal due to the Sussex Conservation District requirement that stormwater management is necessary to serve the proposed roadway; that the only approval pending is an approval from DelDOT for the entrance; that a Homeowners Association will be established for Lots 9 through 12 only for maintenance of the roadway and the stormwater management area; that the road is proposed to be improved with crusher run; and that the pond is designed for a paved surface so that in the future the roadway could be paved if the residents so desire.

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

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

Mr. Ross stated that he would move that the Commission grant preliminary approval of Subdivision #2008-7 for Bruce and Carla Rickards, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 8 lots on 7.96 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. This preliminary approval is subject to the following conditions:
  - a. There shall be no more than 8 lots within this subdivision.
  - b. All entrances shall comply with all of DelDOTs requirements.
  - c. There shall be an agreement recorded for Lots 9, 10, 11 and 12 governing the maintenance of Rickard's Way, and the stormwater management area and drainage swales.
  - d. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to grant preliminary approval of Subdivision #2008-7 for Bruce and Carla Rickards per the reasons and with the conditions stated. Motion carried 4 – 0.

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Mr. Lank advised the Commission that the Applicants have requested that one public hearing be held on Subdivision #2009-8 and C/U #1794 for presentation purposes, and acknowledging that decisions will be rendered separately.

There was a consensus of the Commission to consolidate the two applications into one public hearing.

**Subdivision #2008-8** – application of **VESCO, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 162.95 acres into 183 lots, (Cluster Development), located east of Road 277 (Robinsonville Road), 400 feet south of Road 287 (Kendale Road).

**C/U #1794** – application of **VESCO, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for multi-family dwelling structures (30 units) in association to a 183 lot cluster subdivision, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 162.95 acres, more or less, lying east of Road 277 (Robinsonville Road), 400 feet south of Road 287 (Kendale Road).

Mr. Lank advised the Commission that the Technical Advisory Committee provided comments through May 18, 2008 and that the Technical Advisory Committee report was provided previously to the Commission.

The Commission found that on October 8, 2009 the County Engineering Department Utility Planning Division provided comments and referenced that the site is located in the Angola Neck Planning Area; that the proposed project proposes to develop using a central community on-site wastewater system; that the project is not capable of being annexed into a County operated Sanitary Sewer District at this time; that conformity to the North Coastal Area Planning Study will be required; that the project is in the Environmentally Sensitive Developing Area and the Angola Neck Planning Area; that the County plans to serve the area within the Angola Neck Sanitary Sewer District but does not expect to provide service to the parcel before 2010; that the Division recommends that the wastewater system be operated under a long-term contract with a capable wastewater utility that meets TMDL limits for Delaware's Inland Bays; that the Division recommends that the Applicant have a wastewater utility provider prior to approving the project; that the County requires design and construction of the collection and transmission system to meet County sewer standards and specifications; that the Engineering Department requires that a Sewer Concept Plan be submitted for review and approval prior to construction plan approval; that a review and approval of the treatment and disposal system by the Department is required and plan review fees may apply; that disposal fields should not be counted as open space; the wastewater disposal fields should be clearly identified on recorded plats and separate from lot area; that these comments are based on the preliminary site plan showing on-site treatment and disposal; that the project would be required to connect to the Angola Neck Sanitary Sewer District if there is a change to off-site treatment or disposal; that if the County ever provides sewer service and the project has a CPCN, it is recommended that the treatment system be abandoned and a direct connection made to the County system at the developer's and/or owners expense; that if the County ever provides sewer service and the project does not have a CPCN, it is required that the treatment system be abandoned and a direct connection made to the County system at the developer's and/or owners expense; and that these comments are valid for a two year period ending May 13, 2010.

The Commission found that the Applicant provided an Exhibit Booklet and a Phase I Environmental Site Assessment on September 28, 2009 which contains references to the project

team, a project overview with a photographic review of existing conditions, a copy of a letter from DNREC Division of Air and Waste Management, dated December 7, 2007, referencing remedial DNREC work performed on site, a copy of a letter from DNREC Division of Air and Waste Management, dated May 3, 2006, referencing a Remedy Evaluation Report, a copy of the final PLUS response letter, dated April 23, 2008, with the Applicants response, dated February 25, 2008, to the original PLUS report, a school enrollment report prepared by Dane A. Brandenberger, Ed. D., dated January 9, 2008, a copy of the Technical Advisory Committee report for May 18, 2008, a copy of the subdivision application form, a copy of the Applicants Sussex County Development Report, a copy of the Applicants response to compliance with 99-9C of the Subdivision Code, a copy of the Applicants response to compliance with the Zoning Code, copies of portions of the Future Land Use map, Strategies for State Policies and Spending Map, and Zoning map from the Comprehensive Plan Update, a copy of an aerial photograph of the site and immediate area, a Tax Map of the area, a FEMA Flood Map of the area, a Recharge map of the area, a USGS Quad map of the area, a Soils map of the area, a State Resource Areas map of the area, letters from the DNREC Natural Heritage & Endangered Species Section, dated July 10, 2007 and April 24, 2008, a map of the wooded areas of the site, a color rendering of the site plan and a site data sheet, an open space rendering of the site, renderings with dimensions showing distances to 404 wetlands from lot lines, a rendering of site amenities, a topographic map of the site, a stormwater management approach report and preliminary stormwater concept rendering, a letter from DelDOT, dated March 3, 2009, referencing the entrance, a street cross-section rendering and key rendering, a pedestrian circulation rendering, a street naming rendering and approval letter from the Assessment Division, a Preliminary Soils Reconnaissance for On-site Wastewater Treatment and Disposal Systems report prepared by Atlantic Resource Management, Inc., a sewer service availability letter, dated November 20, 2008, from County Engineering, a letter from Tidewater Environmental Services, Inc., dated September 21, 2009 referencing wastewater utility service, a willing and able to serve letter from Tidewater Environmental Services, Inc., dated March 24, 2008, referencing that they were willing and able to serve the site with sanitary sewer and public water, a willing and able to serve letter from Delaware Electric Cooperative, Inc., dated March 20, 2008, a willing and able to serve letter from Verizon, dated September 21, 2009, a willing and able to serve letter from Mediacom, dated March 25, 2008, a copy of the proposed declaration of covenants, conditions and restrictions for the project, a copy of a proposed Open Space Management Plan for the project, a copy of a letter from the present owner to the Delaware Agricultural Lands Preservation Foundation, dated January 18, 2008, advising the Foundation that they no longer desire to remain an Agricultural Preservation District and that they will terminate their District agreement when it reached maturity, a copy of the original Agricultural Preservation District Agreement, dated February 21, 2000, a copy of a Declaration of Restrictions between the Vessels Company and DNREC for the remedial action, proposed Findings of Fact and Conditions of Approval for the Subdivision application, a copy of the Conditional Use application form, a rendering of the multi-family portion of the site plan, references to compliance with the Zoning Code for Conditional Use #1794, a copy of the Code of Regulations for the Condominium, a rendering of a lot alternative in the area of the multi-family units for comparison, and proposed Findings of Fact and Conditions of Approval for the Conditional Use application.

The Commission found that Michael Daniels of Vesco, L.L.C. was present with Dennis Schrader, Attorney with Wilson, Halbrook & Bayard, P.A., Thomas Ford, Landscape Architect

with Land Design, Inc., and Wesley Allen, Project Coordinator with Envirotech Environmental Consulting, Inc. and that they stated in their presentations and in response to questions raised by the Commission that they are proposing a 183 lot cluster subdivision and a 30 unit condominium project on the same site that will be developed jointly; that the project area contains approximately 162 acres with 43.3 acres in lots, 1.16 acres for multi-family units, 14 acres for streets, and approximately 103 acres in open space; that the density equals 1.37 units per acre; that the site is located in the Environmentally Sensitive Developing Area; that the State Strategies indicate that the site is located in an Investment Level 4 area; that a portion of the site was previously a wood preservative and treatment site and has been remediated for DNREC; that the streets will be private and constructed to County specifications; that central sewer should be available from Tidewater Environmental Services, Inc. once released from County jurisdiction; that central water will also be available from Tidewater; that they looked at the RPC option and preferred the Cluster option; that this plan is similar to the plans submitted to the PLUS process; that within three miles of the site you can reach Route One, the State Police Barracks, and Beebe Medical on Route 24; that the site is presently an Agricultural Preservation District and that the District will terminate in April of 2010; that the site is adjacent to the Love Creek headwaters; that the photographic review shows that the site contains open farm land along Robinsonville Road, internal woodland with wet areas with semi-mature woodland growth, deciduous emergent growth, evergreen emergent growth, riparian semi-mature woodland edges along Love Creek, well monitoring locations for water table data, some stabilized clearing in the center of the emergent woodlands, logging roads, and wooded debris piles on site; that well monitoring has been on-going for 2 years; that Sussex Lumber and Vessels Lumber treated wood products on the site; that the treatment of wood products ceased in 1975; that the remediation site contains approximately 0.25 acre; that final remediation was completed in 2006; that the final PLUS response references that because this parcel is within a Level 4 Investment Area, the State cannot support the proposed development; that the State understands that this parcel has development on three sides; and the State appreciates the efforts the developer has taken to protect the environment, including the 100-foot buffer and the 60% forest conservation; that they will comply with DelDOT requirements; that the layout of the project is based on the natural existing lay of the land; that they have offered the condominium section because State Housing has asked for more variety in housing types; that subdividing the area of the multi-family units creates more of an impact on the wooded areas; that they are proposing detention and infiltration, rather than wet ponds on the majority of the project; that they are trying to create a walkable, bikeable, liveable project; that no wetlands are including on any lots; that they feel that they can comply with 99-9C of the Subdivision Code; that they will be requesting a crabbing pier on Love Creek, subject to the approval of DNREC; that sidewalks will be provided on both sides of all streets; that the closest unit to the right-of-way of Robinsonville Road is 170-feet away; that the lot lines distance to 404 wetlands vary from 42.29-feet to 230.99-feet; that the closest multi-family building is 193.74 feet from 404 wetlands; that the average of all of the lots and multi-family buildings from wetlands is 107.13-feet; that the amenities will be phased into the project; that the crabbing pier is to be constructed in conjunction with the beginning of site construction; that the swimming pool construction is to begin upon the settlement of the 50<sup>th</sup> lot; that the tennis court/tot lot constructed is to begin before the swimming pool is completed; that the paths/trails construction are to be ongoing as each contiguous area is developed; that the stormwater management approach includes numerous bio-swales, natural infiltration, grass filter strips, and detention ponding in combination with bio-swale outfall; that the proposed 5-foot wide

sidewalks on both sides of the streets total 4 miles of sidewalks; that the multi-modal path has a length of approximately 1 mile; that a total of 5 miles of hard surface is being set aside for pedestrian use; that they have been monitoring the water quality for over 2 years; that the multi-family area will have 24-foot wide driveways per Code; that the lot alternative layout with single family lots equals 26 lots, takes up more space than the proposed multi-family units, and takes out more woodlands; that the remediation site has a special covenant and cannot be used for a residential site; that a standard subdivision would yield from 250 to 260 lots; that the project as proposed has a superior design over a standard subdivision; that they realize that there may be some concerns about the multi-family portion being out of character, but they are attempting to design the project so that they do not have to take out any more trees; that the remediation site was remediated due to the previous use of arsenic, salts and creosote; that this area has been cleaned and covered with an approved seal cover of materials; that the closest site with existing multi-family units may be the Plantations; that the closest site with proposed multi-family units may be the Coastal Club, a.k.a. Marine Farm; that a hunting activity in the area notice can be incorporated into the covenants; that the monitoring wells were monitored from 1997 through 2006; that the monitoring wells were abandoned in 2008; that they will not be back for additional units if the wastewater treatment area is not developed due to the availability of access to off-site treatment and disposal facilities; and that the multi-family buildings include three (3) six (6) unit buildings and three (3) four (4) unit buildings.

The Commission found that there were no parties present in support of these applications.

The Commission found that Sarah Street, Joe Street, William Payne and Daniel Rosell were present in opposition to this application and expressed concerns about traffic congestion and traffic safety; that water quality is poor in this area; that the project will impact the wildlife in the area; that hunting does take place in the area; that the multi-family proposal is not compatible with the agricultural single family residential character of the area; that flash flooding has occurred in the area from run-off from this site; that all sidewalks and multi-modal paths should be handicap accessible with curb ramps; that sidewalks should be at least 5-foot wide; that multi-modal paths should be 8-foot wide; that due to run-off concerns the pool, clubhouse and wastewater treatment area should be relocated further from Love Creek; that relocating the pool and clubhouse into the open field area would help preserve more trees; that flash flooding damages can be costly and are not protected with flood insurance; that the Creek will be affected and impacted by the drainage from the wastewater treatment and disposal fields as well as the hard surfaces of parking area, streets, and other impervious surfaces; that it would be logical to connect to the Tidewater plant proposed on Route 24; that trees should not be destroyed for clubhouses and swimming pools; and that either the County or the State should conduct a traffic study on Robinsonville Road from Route 24 to Plantation Road.

The Commission found that Mr. Payne submitted a letter in opposition for the record.

The Commission found that Mr. Schrader responded to some of the concerns by stating that the project is in the Angola Neck Study Area; that the County is not able to serve the area at this time; that Tidewater Environmental Services, Inc. is proposing to develop a wastewater treatment facility on Route 24; that they have been advised that the County is willing to refer the

project to the Tidewater Environmental Services, Inc. facility; and that the 50 lots referenced for stating the amenities previously can include both single family lots and multi-family units.

At the conclusion of the public hearings, the Commission discussed these applications.

In reference to Subdivision #2008-8:

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

In reference to C/U #1794:

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

Meeting adjourned at 10:00 p.m.