



Planning & Zoning

Agendas & Minutes

MINUTES OF THE SPECIAL MEETING OF OCTOBER 18, 2006

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday afternoon, October 18, 2006 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: Robert Wheatley, Benjamin Gordy, I. G. Burton, III, Michael Johnson and Rodney Smith, with Vincent Robertson – Assistant County Attorney, Lawrence Lank – Director, Shane Abbott – Assistant Director and Richard Kautz, Land Use Planner.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the agenda as amended by removal of Subdivision #2005-39, which had been requested to be removed by the Engineer on behalf of the application.

OLD BUSINESS

Subdivision #2003-52 – application of **NORRIS L. NIBLETT** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 38.71 acres into 42 lots, located south of Road 46, 1,125 feet east of Road 526A.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve this application as a final. Motion carried 5 – 0.

Subdivision #2004-55 – application of **J. MICHAEL WARRING – MJR INVESTORS, L.L.C.** to reconsider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 76.85 acres into 100 lots, (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located northwesterly side of Road 297 (Mount Joy Road), 1,360 feet southeast of Road 308 (Cordrey Road).

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2004 – 55 for J. Michael Waring – MJR Investors, L.L.C., based upon the record and for the following reasons:

1. This Application was originally denied by the Commission in October of 2005. Some of the primary reasons for the denial included the Applicant's failure to address the 99-9C items in the Subdivision Ordinance and the large ponds located on the former Preliminary Site Plan. The Applicant has redesigned the Preliminary Site Plan to eliminate the design problems (including the size and bulk of the ponds) and has now adequately addressed the other issues raised by the Commission last October. Also, the Applicant has reduced the number of lots from 110 to 99.

Minutes
October 18, 2006
Page 2

2. The Development is now designed more in accordance with the Cluster Development Ordinance. The proposed Cluster design is superior to a standard subdivision with approximately 66% of the project as open space. Also, the items listed in Section 99-9C of the Subdivision Ordinance have now been favorably addressed.

3. The Applicant has redesigned the site plan so that nearly all lots adjoin open space to the rear of each lot.

4. The applicant has proposed 99 lots within the project, which is significantly less than the allowable density for a standard AR-1 subdivision on this land.

5. The project will not have an adverse impact on the neighboring properties or community. In fact, the Applicant has worked with the adjacent subdivision to attempt to improve the area's current storm water management and drainage concerns.

6. The lots will be served by central water and central sewer.

7. Amenities will be provided, including a clubhouse, pool, tennis courts, and trails.

8. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.

9. This approval is subject to the following conditions:

- There shall be no more than 99 lots within the Subdivision.
- The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, open spaces and other common areas.

- The storm water management system shall meet or exceed the requirements of the State and County. Best Management Practices shall be used in the maintenance of the system.
- All entrances shall comply with all of DeIDOT's requirements.
- Street lighting shall be provided, and the location of the streetlights shall be shown on the Final Site Plan.
- Sidewalks shall be installed on both sides of all streets within the subdivision. Sidewalks shall connect to the roadway at the entrance to the project.

Minutes
October 18, 2006
Page 3

- As stated by the Applicant, walking trails connected to the sidewalks and amenities shall be installed throughout the project, with their location shown on the Final Site Plan.
- As stated during the Applicant's presentation, the Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- Amenities shall be constructed on the site, including a community center, swimming pool and tennis court. The location of these areas shall be shown on the Final Site Plan. These amenities shall be constructed and open to use by residents within 2 years of the issuance of the first building permit.
- No wetlands shall be included within any lot lines.
- Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- A school bus stop shall be located within the project with at least 4 parking spaces for parents. The location of the school bus stop shall be approved by the local school district prior to the Final Site Plan approval.
- As volunteered and represented by the Applicant, the Applicant shall comply with the terms of a Memorandum of Understanding dated July 11, 2006 between it and the Indian Town Farms HOA.
- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

Subdivision #2005-25 – application of **NORTHERN OAK ESTATES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 13.72 acres into 13 lots, located north of Road 231 (Reynolds Pond Road), 1,266 feet northwest of Route 5.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 25 for Northern Oak Estates, L.L.C., based upon the record and for the following reasons:

Minutes
October 18, 2006
Page 4

1. The proposed subdivision meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The proposed subdivision density conforms with the density permitted by the existing AR-1 zoning. The lots will range in size from $\frac{3}{4}$ of an acre to 1 acre.
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 individual on site septic systems.
6. The site is mostly open with some wooded areas. The Applicant has stated that the woods will not be destroyed.
7. This approval is subject to the following conditions:
 - Only 13 single family lots shall be permitted.
 - The Applicant shall prepare and record formal Restrictive Covenants governing the development and form a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas. The Restrictions must also include a notice that an active rifle range exists on neighboring property.

- The storm water management system shall meet or exceed the requirements of the State and County.
- All entrances shall comply with all of DelDOT's requirements.
- The Restrictive Covenants shall include the Agricultural Use Protection Notice.
- State and or Federal wetlands appear to be located within the proposed project. The wetlands disclosure notice required by County Code must be in the Restrictive Covenants.
- The Final Site Plan shall be subject to the review and approval of the Planning and Commission.

Minutes
October 18, 2006
Page 5

- No wetlands on the site shall be impacted.
- There shall be streetlights on at least one side of the street. The location of the streetlights shall be shown on the Final Site Plan.
- The Applicant shall follow all recommendations made by the Technical Advisory Committee.
- Street naming and addressing shall be subject to review and approval of the Sussex County Mapping and Addressing Department.

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

Subdivision #2005-39 – application of **B & W VENTURES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 29.11 acres into 20 lots, located south of Road 215 (Slaughter Neck Road), 1,600 feet west of Route One.

This item was removed from the Agenda on October 12, 2006.

Subdivision #2005-57 – application of **BLACKWATER CREEK, INC.** to consider the Subdivision (Cluster Development) of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 200 acres into 400 lots, located south of Route 54, east of Road 504, and north of Road 512.

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

Subdivision #2005-65 – application of **REYNOLDS ROAD, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 47.55 acres into 95 lots, (Cluster Development), located west of Reynolds Road (Road 233), 2,278 feet north of Draper Road (Road 235).

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 65 for Reynolds Road, L.L.C., based upon the record and for the following reasons:

1. The Development is designed in accordance with the Cluster Development Ordinance. The proposed Cluster design is superior to a standard subdivision because the Applicant has only proposed 85 lots while 56% of the project as forested space that will remain

Minutes

October 18, 2006

Page 6

undisturbed on the site. This includes 100% of the natural forest. For these reasons, the Development is superior to a standard subdivision. Also, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.

2. The project will not have an adverse impact on the neighboring properties or community.
3. There will not be any adverse impact upon traffic in the area by this Development.
4. The lots will be served by central sewer and water.
5. The site's design has a minimal impact on wetlands and no wetlands are included within any lots, and there will be buffers from the wetland areas.
6. Storm water management ponds will be installed on the site. The Developer or Homeowners' Association will use Best Management Practices in maintaining these ponds.
7. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
8. Amenities will be provided, including a clubhouse, swimming pool, walking paths and a tot lot.
9. This approval is subject to the following conditions:
 - There shall be no more than 85 lots within the Subdivision.

- The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, buffers, storm water management facilities, and other common areas.
- The storm water management system shall meet or exceed the requirements of the State and County. Best Management Practices shall be used in the maintenance of the system.
- All entrances shall comply with all of DelDOT's requirements.
- 8 foot wide walking paths shall be installed on at least one side of all streets within the Subdivision and throughout the site, and shall connect with the amenities.

Minutes
October 18, 2006
Page 7

- As stated during the Applicant's presentation, the Applicant shall maintain 100% of the existing natural forested areas. The undisturbed forested areas shall be shown on the Final Site Plan.
- No wetlands shall be included within any lot lines, and there shall be a 100 foot buffer from all wetlands.
- Amenities, including a clubhouse, swimming pool, walking paths and tot lots shall be constructed and open to use by residents of the development within 2 years of the issuance of the first residential building permit.
- All homes shall be stick built on site.
- The area of the wastewater treatment facility shall be fenced. The location of the facility and the fencing shall be shown on the Final Site Plan.
- A school bus stop shall be located within the project with at least 4 parking spaces for parents. The location of the school bus stop shall be approved by the local school district prior to Final Site Plan approval.
- Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried 4 votes to none, with Mr. Smith not participating, to approve this application as a preliminary for the reasons and with the conditions stated. Motion carried 4 – 0 – 1.

Subdivision #2005-67 – application of **SUMMER HILL DEVELOPMENTS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 20.56 acres into 33 lots, (Environmentally Sensitive Developing District Overlay Zone), located southwest of Williamsville Road (Road 395), 4,100 feet southeast of Route 54.

Mr. Smith stated that he has reviewed the tape and file and visited the site and that he would move that the Commission grant preliminary approval of Subdivision #2005 – 67 for Summer Hill Developments, based upon the record and for the following reasons:

Minutes
October 18, 2006
Page 8

1. The subdivision meets the purpose and requirements of the subdivision code and protects the orderly growth of the county. The items listed in Section 99-9C have been favorably addressed.
2. The density is less than the maximum density permitted by the existing AR-1 zoning with the Environmentally Sensitive Developing District Overlay Zone designation.
3. The subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
5. The proposed subdivision has been designed in an environmentally responsible manner providing appropriate setbacks and buffers, preserving wetlands and a section of woodland.
6. The cluster design results in 51% of the site remaining as open space.
7. The site's design has a minimal impact on wetlands and no wetlands are included within any lot lines. Additional buffers from the wetlands are included in the project design.
8. Amenities will be provided, including a swimming pool, walking trail, and basketball court as shown on the submitted plot plan.

9. This recommendation is subject to the following conditions:

- There shall be no more than 33 residential lots within the Subdivision.
- The Applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of streets, roads, buffers, storm water management facilities, and other common areas.
- The storm water management system shall meet or exceed the requirements of the State and County. Best Management Practices shall be used in the maintenance system.
- The entrance shall comply with all of DelDOT's requirements.
- Street lighting shall be provided, and the location of the streetlights shall be shown on the final site plan.

Minutes
October 18, 2006
Page 9

- Sidewalks shall be installed on both sides of all streets within the Subdivision.
- No wetlands shall be included within any lot lines.
- Amenities, including a clubhouse and swimming pool, shall be constructed and open to use by residents of the development within 2 years of the issuance of the first residential building permit.
- Road naming and naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.
- The development shall be served by a central water system operated by an approved public utility company.
- The Development shall provide sewer service as part of the Sussex County sanitary sewer system. Ordinance No. 38 requirements are to be met. Conformity to the South Coastal Area Planning Study Update of 2005 and a concept plan are to be provided. The Pump Station shall be located as to minimize impacts on Williamsville Road (Road 395) and neighboring properties.

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.

C/Z #1595 – application of **BLACKWATER CREEK, INC.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, land lying at the northeast corner of the intersection of Route 54 and Road 504, to be located on 3.2 acre, more or less.

The Commission discussed this application which has been deferred since September 14, 2006.

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

C/Z #1596 – application of **BLACKWATER CREEK, INC.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to an AR-1 Agricultural Residential District – Residential Planned Community for a certain parcel of

Minutes

October 18, 2006

Page 10

land lying and being in Little Creek Hundred, Sussex County, land lying north of Route 54 and east of Road 504, to be located on 232.86 acre, more or less.

The Commission discussed this application which has been deferred since September 14, 2006.

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

C/Z #1597 – application of **BLACKWATER CREEK, INC.** to amend the Comprehensive Zoning Map from a GR General Residential District to a GR/RPC General Residential District – Residential Planned Community for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, land lying west of Road 504 and south of Route 54, to be located on 273.54 acre, more or less.

The Commission discussed this application which has been deferred since September 14, 2006.

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

C/Z #1602 – application of **TRIPLE D DOUBLE J, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a GR-RPC General Residential District – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying east of Road 365, northeast of Road 367A and across from Road 367B, to be located on 71.77 acres, more or less.

The Commission discussed this application which has been deferred since September 28, 2006.

Mr. Smith stated that he would move that the Commission recommend denial of C/Z #1602 for Triple D Double J, LLC, based on the record made at the public hearing and for the following reasons:

- 1) I do not believe that this application is consistent with the surrounding area. Large lot single-family homes, active poultry operations and a swine farm are the closest neighbors to this site.
- 2) The purpose of the existing AR-1 zoning is to provide for low density single-family homes. This proposed use would be out of character with the adjacent and surrounding properties.
- 3) Although the application has stated that GR zoning is in the area none are adjacent. The closest GR zoning supports a mobile home park developed in the 1970s.

Minutes
October 18, 2006
Page 11

- 4) The size and scale of the project and the multi-family aspect is inconsistent with the character, zoning and uses of the surrounding properties.
- 5) The change in zoning and the proposed project are not “in-fill”.
- 6) The application does not promote the health, safety, convenience and general welfare of the neighborhood or community.
- 7) Although the “RPC” designation allows for density ingenuity, I do not feel that has been achieved. For example, the proposed site plan places the highest density adjacent to farmland and larger single-family lots on adjacent properties.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 5 – 0.

OTHER BUSINESS

Joan C. Townsend
2 Parcels on 30' Right of Way – Road 357

Mr. Abbott advised the Commission that this is a request to subdivide a 27,659 square foot lot into 2 lots; that Lot A will contain 13,677 square feet and Lot B will contain 13,982 square feet; that the lots front on an existing 30-foot wide road; that the subdivision ordinance requires all lots to have access from a 50-foot right of way; that additional right of way will be required to be dedicated across each lot; that the site is zoned GR; and that the minimum lot size is 10,000 square feet when central sewer is available to the site.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve this request as a concept. Motion carried 5 – 0.

Eric Tingle

Lot and 50' Easement – Road 619

Mr. Abbott advised the Commission that this is a request to subdivide a 4.0-acre parcel into 2 lots and to create a 50-foot easement to serve as access; that the front parcel will be a minimum of 0.75-acre; that the residual land will have access from the 50-foot easement; that there is an existing dwelling located on the residual land; that the owner proposes to create the easement over an existing tar and chip driveway; and that the concept can be approved as submitted or be required to go through a major subdivision application.

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

Minutes

October 18, 2006

Page 12

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

Reddenwood Phase 2 – Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval with 3 conditions on October 27, 2005; that the staff has received 4 agency approvals; and that this is the first request for an extension.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve a one-year time extension. Motion carried 5 – 0.

Subdivision #2004 – 58 - - Norris Niblett

Cross Key Village – Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval with 5 conditions on October 13, 2005; and that this is the first request for an extension.

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

Subdivision #2005 – 59 - - Landlock, L.L.C.

Amended Conditions of Approval – Road 351

Mr. Abbott advised the Commission that this is a request to amend a condition of the preliminary approval for this subdivision; that the developer is requesting that the

condition requiring a community swimming pool and community center within one year of the issuance of the first building permit be deleted since there was not one shown on the preliminary subdivision plan and was not discussed during the public hearing.

Mr. Johnson questioned if the Commission has the authority to require any amenities.

Mr. Robertson advised the Commission that under Subsection 99-21, the Commission has the authority to require additional items.

Mr. Johnson stated that due to the size and number of lots proposed, the condition should stand.

Mr. Burton stated that he agrees with requiring open space but swimming pools should not be required.

Minutes
October 18, 2006
Page 13

Mr. Gordy stated that the question should have been raised at the public hearing.

Mr. Wheatley stated that the amenities should be up to the developer and that the market will dictate the type of amenities that residents want.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried 2 votes to 3 votes, with Mr. Gordy, Mr. Burton and Mr. Wheatley opposed to revise the condition from 1 year to 2 years. Motion defeated 2 – 3.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to amend the condition to read that within 2 years of the issuance of the first building permit, the developer shall construct a community swimming pool with a typical pool house including men and women's changing rooms. Motion carried 5 – 0.

CU #1595 – Shore Movement
Amended Conditions of Approval – Route 9

Mr. Abbott advised the Commission that the staff reviewed the record of the public hearing; that the staff has not received any correspondence from Mrs. Portmann; and advised that this item should be deferred.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action pending written comments from Mrs. Portmann in reference to a fence, parking and safety issues and whether a new public hearing will be required. Motion carried 5 – 0.

Short's Marine
CU #1551 Site Plan – Road 306A

Mr. Abbott advised the Commission that this is a site plan for an outdoor boat storage facility located on 10.78 acres; that the site is zoned GR and the Conditional Use was approved on September 9, 2004; that the Commission granted one year-year time extensions on September 8, 2005 and September 20, 2006; that the use needs to be underway by September 9, 2007; that there are 483, 10-foot by 25-foot spaces proposed; that the 9 conditions of approval are referenced on the site plan; that the site plan complies with the conditions of approval; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Burton, 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 5 – 0.

Minutes
October 18, 2006
Page 14

H.I.S.S., L.L.C.
Preliminary Commercial Site Plan – Route 9

Mr. Abbott advised the Commission that this is a preliminary site plan for a 1-story, 7,200 square foot general office building located on 1.08 acres; that the site is zoned C-1; that the proposed building is 60-feet by 120-feet; that the setbacks meet the requirements of the zoning code; that on-site septic and well are proposed; that 36 parking spaces are required and 56 spaces are provided; that ingress/egress to the site is located off of French Road within Saulsbury Switch Subdivision; that there is no direct access to Route 9; that there are not any wetlands on the site and the site is not located in a flood zone; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, 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 staff receiving all agency approvals. Motion carried 5 – 0.

Al Parker
Preliminary Commercial Site Plan – Route 9

Mr. Abbott advised the Commission that this is a preliminary site plan for a 3,200 square foot paving contractor office and shop located on 0.62 acres; that the site is zoned C-1; the proposed building is 40-feet by 80-feet; that the proposed office space is 400 square feet; that the building setbacks meet the requirements of the zoning code; that on-site septic and well are proposed; that 2 parking spaces are required and that 7 are provided; that ingress/egress to the site is located off of Route 9; that there are not any wetlands

located on the site and the site is not located in a flood zone; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

J.C. Owens of DC Group, L.L.C. advised the Commission that the existing dwelling located on the site may be used as an office at a later date; that the client chose to locate the shop to the rear of the site; that the storm water management design has not been designed at this time; and that the lot with the proposed shop is currently vacant.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the site plan as a preliminary with the stipulations that no parking shall be permitted within the front yard setback if the existing dwelling is converted into an office; that the storm water management area should be relocated, and that final approval shall be subject to the review and approval of the Commission upon receipt of all agency approvals. Motion carried 5 – 0.

Minutes
October 18, 2006
Page 15

Chesapeake Homes
Preliminary Commercial Site Plan – U.S. Route 13

Mr. Abbott advised the Commission that this is a preliminary site plan for a manufactured home sales lot located on 14.42 acres; that the site is zoned LI-2; that a 1,568 square foot manufactured home sales office is proposed; that 11 parking spaces are provided; that the building and display areas meet the requirements of the zoning code; that ingress/egress to the site is off of Route 13; that there is a 60-foot cross access easement across the front of the site; that on-site septic and well are proposed; that the wetlands on the site are not being impacted; 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 5 – 0.

Peter Demarie
Preliminary Commercial Site Plan – Route One

Mr. Abbott advised the Commission that this is a revised site plan for a 3-story, 9,957 square foot office building; that a 2-story, 7,140 square foot building was originally approved on November 25, 1997 meeting all of the requirements of the zoning code; that the revised plan enlarges the proposed building; that the site plan was approved prior to the Combined Highway Corridor Overlay Zone ordinance being adopted; and that the applicant's representative is requesting approval of the amended plan without the requirements of the overlay zone ordinance.

Jeff Clark of Land Tech Land Planning advised the Commission that there are several buildings on the site that will be razed; and submitted the plan approved on November 25, 1997.

Mr. Robertson advised the Commission that the site plan approved on November 25, 1997 is grandfathered in; and that the Commission needs to determine whether the revisions are significant.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried 4 votes to 1, with Mr. Johnson opposed, to approve the revised plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 1.

Community Bank of Delaware
Preliminary Commercial Site Plan – Route One

Minutes
October 18, 2006
Page 16

Mr. Abbott advised the Commission that this is a preliminary site plan for a 1-story, 1,800 square foot bank located on 0.67 acres; that the site is zoned C-1; that the site fronts on the service road that is parallel to Route One at the entrance to Rehoboth; that the building setbacks meet the requirements of the zoning code; that 9 parking spaces are required and that 22 are proposed; that there are 5 spaces located within the front yard setback and are subject to site plan review; that the required 20-foot landscaped buffer along the front of the site is provided; that central sewer will be provided by Sussex County and central water will be provided by the City of Rehoboth; that there are not any wetlands on the site and the site is not located in a flood zone; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Jessica Nichols, Professional Engineer with Meridian Architects and Engineers advised the Commission that the parking located within the front yard setback is for handicapped spaces and was located there at the client's request.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the site plan as a preliminary with the stipulation that the parking located within the front yard setback complies with all handicapped ordinances and that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Vines Creek Marina, L.P.
Conceptual Multi-Family Site Plan – Road 341B

Mr. Abbott advised the Commission that this is a conceptual site plan for 30 townhouse units located on 17.77 acres; that the site is zoned Marine; that 5 buildings are proposed;

that the setbacks meet the requirements of the zoning code; that 90 parking spaces are required and provided including an attached garage space for each unit; that the existing on-site septic and well are proposed; that the developers are requesting permission to construct 10 to 12 units utilizing the existing community wastewater system then build the remaining units when a central sewer is available; that the Engineering Department has advised that the site is located in the Vines Creek wastewater planning area and will ultimately be served by the South Coastal Regional Wastewater facility; that the site is located within a conservation zone which requires a community system; and that the engineering department does not feel that a community system meets the definition of a central system.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to defer action pending verification of what type of system the community system is. Motion carried 5 – 0.

Minutes
October 18, 2006
Page 17

Peninsula Lakes (formerly Bay Farm)
CZ #1474 Revised Master Plan – Road 299

Mr. Abbott advised the Commission that this is a revised master plan for a MR/RPC; that the master plan was previously approved by the Commission on October 28, 2004; that the site plan is for 660 residential units; that there are 588 single-family lots and 72 townhouse units; that the number of units is permitted by the approved ordinance; that the revised plan deletes over 1,000 feet of street area reducing impervious surfaces and utilities; that the revised plan straightens the streets and there are 3 less cul-de-sacs; that the existing pond adjacent to Bay Farm Road is being expanded but will not extend closer to the road than it does now; that the storm water ponds have been moved to the lowest parts of the site; that the revised plan will allow mature trees to be saved; that the townhouse and commercial areas will remain in the same location as the previously approved plan; that the front yard setbacks range from 20 to 40 feet depending on the lot location; that the intent of the master plan is to show how the project will be developed; that the name has been changed from Bay Farm to Peninsula Lakes; and that each phase of the project will be subject to the review and approval of the Commission.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the revised master plan as submitted. Motion carried 5 – 0.

Saw Grass MR/RPC
Clubhouse and Entry Features Site Plan – Road 274

Mr. Abbott advised the Commission that this is a site plan for the recreational amenity area and entry feature for this residential planned community; that at the entrance to the

site is a proposed bus pavilion, a proposed gatehouse with electric gates; that the recreational amenities include a 5,774 square foot clubhouse, a gazebo, 2 swimming pools and 2 tennis courts; that 51 parking spaces are provided; that the setbacks meet the requirements of the approved master plan; and that all agency approvals have been obtained.

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

Bayville Shores Tennis Area Townhomes
CZ #1585 Site Plan – Route 54

Mr. Abbott advised the Commission that this is a site plan for 10 multi-family units; that the RPC was approved on January 10, 2006; that 2 buildings are proposed with 6 units in one and 4 units in the other; that the setbacks, building lengths and separation distances meet the requirements of the zoning code; that the 10 units are permitted by the approved

Minutes

October 18, 2006

Page 18

ordinance; that 30 parking spaces are provided; that central water is supplied by Artesian Water Company and central sewer is provided by Sussex County; and that all agency approvals have been obtained.

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

Nassau Grove MR/RPC
CZ #1552 Revised Master Plan – Road 265

Mr. Abbott advised the Commission that this is a revised site plan for a 244 single-family detached residential planned community; that the master plan was previously approved on April 14, 2005; that the revision is for the dedication of future right of way for the West Rehoboth By-Pass; that this area contains 14.67 acres and is located to the east of the site along Route One; that the layout is similar to the previously approved plan except that the units have been shifted further west; that the same number of units are proposed; and that the intent of the master plan is to show how the project will be developed.

Frank Kea advised the Commission that the same number of units are proposed and that the site has shifted to the west.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the revised master plan as submitted. Motion carried 5 – 0.

Nassau Grove MR/RPC
CZ #1552 Final Record Plan Phase 1 – Road 265

Mr. Abbott advised the Commission that this is the final record plan for Phase 1 of the Nassau Grove residential planned community; that Phase 1 contains 122 single-family detached units; that the units are located within 165-foot building envelopes with 10-feet between each unit; that there is a 40-foot separation between the building envelopes; that Phase 1 is the same as the previously approved master plan; that the units have a 20-foot front yard setback; that this phase also includes a clubhouse and swimming pool; that Tidewater Utilities will provide central water and Sussex County will provide central sewer; that there is no disturbance to the wetlands; that the site is not located in a flood zone; and that all agency approvals have been received.

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

The Peninsula MR/RPC
Still Waters Revised Site Plan – Road 299

Minutes
October 18, 2006
Page 19

Mr. Abbott advised the Commission that this phase received master plan approval for 56 units; that the units were for 26 single-family lots and 30 condominium units; that the developers are requesting to delete the 30 condominium units and to increase the number of single-family lots to 48; that this will result in 8 fewer residential units; and that the street layout is the same.

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

The Peninsula MR/RPC
Conservancy – Revised Site Plan – Road 299

Mr. Abbott advised the Commission that Units 106 and 117 encroach into the Sussex County Sanitary Sewer Easement; that the engineering department has released a combined 40 square feet from the easement; and that the revised plan establishes a new easement area that has been approved by the engineering department.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the revised plan as submitted. Motion carried 5 – 0.

Hawkseye Subdivision
Revised Record Plan – Road 267

Mr. Abbott advised the Commission that this is a revised record plan for a revision to lots 73 through 77; that these lots will be smaller to allow for a connector road to serve the

adjoining parcel; that the adjoining parcel is the subject of a future subdivision hearing; and that the revision will allow for interconnectivity of the two projects.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve the revised record plan. Motion carried 5 – 0.

The Vineyards

Revised Conceptual Multi-Family and Commercial Site Plan – Route 9

Mr. Abbott advised the Commission that this is a revised site plan for retail and residential units located on 82 acres; that the site is zoned C-1; that the site plan last received preliminary approval on November 18, 2004; that 350,000 square feet of retail, 75,000 square feet of office space, 35,000 square feet of amenity area, a 150-room hotel and 927 residential units are proposed.

Jim Fuqua; Attorney, Wendy Baker of Ocean Atlantic Associates, Jeff Clark of Land Tech Land Planning and Michael Bunting; Architect with Shook Kelly were present and

Minutes

October 18, 2006

Page 20

advised the Commission that the site has been zoned commercial since the 1970's; that mixed uses are proposed; that the revised plan is due to the proposed Rehoboth By-Pass per DelDOT requirements; that the residential units will be located away from the proposed by-pass; that the combined commercial and residential uses creates an urban type development; that the connector road is probably at least 3 to 5 years away; that the connector road will be a bermed 4 lane highway according to DelDOT; that the site plan meets all setback and parking requirements; that there are 4 elevated parking garages proposed; that the developers will comply with all requirements; and that a preliminary plan with all requirements will be submitted for review and approval.

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

Subdivision #2005 – 56 - - Reynolds Pond, L.L.C.

Preliminary – Isaac's Glen

Mr. Abbott advised the Commission that the County Council reversed the Commission's March 1, 2006 denial of this 1,630 lot cluster subdivision on July 18, 2006; that the Council approved the application with 25 conditions of approval; that all conditions of approval are referenced on the preliminary plan and that all have been addressed.

Motion by Mr. Burton, seconded by Mr. Gordy, and carried unanimously to approve the subdivision plan as a preliminary in accordance with the motion and conditions of the County Council. Motion carried 5 – 0.

Meeting adjourned at 5:55 p.m.