



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE SPECIAL MEETING OF JANUARY 14, 2009

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, January 14, 2009 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. Michael Johnson and Mr. Rodney Smith with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director and Mr. Shane Abbott – Assistant Director.

Mr. Lank advised the Commission that item 2a. under the Consent Agenda and item 1 under Other Business have been removed from the Agenda.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the agenda as amended. Motion carried 4 – 0.

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

### CONSENT AGENDA

The Consent Agenda included:

**Subdivision #2006 – 71** - - application of **THOMAS E. AND CHARLENE A. JONES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 34.09 acres into 2 lots, located at the southwest corner of Emma Lane and Route 30 and 1,001 feet north of Road 252.

This is the final record plan for a 2-lot standard subdivision application. The Commission granted preliminary approval for 2 lots on July 16, 2008 with 4 conditions. The final record plan complies with the subdivision and zoning codes and the conditions of approval. All agency approvals have been received.

#### Time Extensions

a. CU #1704 – PMP Associates, LLC

This item has been removed from the Agenda as the Commission granted a one-year time extension on December 17, 2008.

b. CU #1708 – Lisa Phillips Trustee

This is a request for a one-year time extension. This Conditional Use for a borrow pit was approved on December 11, 2007. This is the first request for an extension and was received on December 4, 2008. Approvals have been obtained from DelDOT and the Office of the State Fire Marshal. The Commission granted preliminary site plan approval on March 19, 2008. If an extension is granted, it should be retroactive to the anniversary date of approval. If an extension is granted, approval will be valid until December 11, 2009.

c. CU #1716 –Andrew Lubin

This is a request for a one-year time extension. This Conditional Use for an Office Park for Medical and Professional and Retail buildings was approved on January 16, 2007. This is the second request for an extension. The Commission granted a one-year time extension on February 20, 2008. This is the last extension that the Commission has the authority to grant.

d. Subdivision #2005 – 74 - - Delmarva Woodlands Alliance

This is a request for a one-year time extension. The Commission granted preliminary approval on December 14, 2006 and granted a one-year time extension on January 17, 2008. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of preliminary approval. If an extension is granted, preliminary approval will be valid until December 14, 2009.

e. Subdivision #2005 – 89 - - Terrance Babbie

This is a request for a one-year time extension. The Commission granted preliminary approval December 21, 2006 and granted a one-year time extension on January 17, 2008. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of preliminary approval. If an extension is granted, preliminary approval will be valid until December 21, 2009.

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

OLD BUSINESS

**Subdivision #2007 – 20 - - application of GOLDEN ACRES LIMITED PARTNERSHIP** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 85.77 acres into 86 lots, located east of Road 449, 835 feet south of Route 24.

Mr. Gordy advised the Commission that he would not be participating in the discussion of this application since he was absent at the public hearing.

This 86-lot subdivision application was deferred on November 20, 2008. Central sewer and water will be provided by Tidewater Utilities.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2007 – 20 for Golden Acres Limited Partnership, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density of approximately one lot per acre is less than the density permitted by the existing AR-1 zoning. The minimum lot size will be 20,000 square feet with central sewer.
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. The project will be served by a community wastewater system in accordance with all State and County requirements.
6. This approval is subject to the following conditions:
  - A. There shall be no more than 86 lots within the subdivision.
  - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
  - C. The storm water management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
  - D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
  - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
  - F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
  - G. A forested Agricultural Buffer of at least 30 feet shall be shown along boundaries bordering on any land used primarily for any agricultural purpose. The Final Site Plan shall also contain a landscape plan for all of

the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.

- H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- I. No wetlands shall be included within any lots.
- J. A system of street lighting shall be established.
- K. As proposed by the Applicant, sidewalks shall be located on both sides of all streets in the subdivision.
- L. The subdivision shall be served by a central sewer system as defined by Sussex County Ordinance, designed in accordance with Sussex County Engineering Department and DNREC specifications.
- M. Upon the issuance of the 29<sup>th</sup> residential building permit, the developer shall begin construction on all of the recreational amenities, and they shall be completed before the issuance of the 57<sup>th</sup> residential building permit.
- N. This approval is contingent upon the approval of C/U #1807 for Tidewater Utilities for the central water and wastewater utilities that are proposed to serve this project.
- O. It is recommended that Lots 84, 85 and 86 be relocated to a more central location within the project to eliminate or reduce tree removal and to make them more integrated into the rest of the subdivision.
- P. As stated by the Applicant's Engineer, the pump station shall be relocated to a more centralized location within the project.
- Q. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried 3 votes to none, with Mr. Gordy abstaining, to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 3 – 0 – 1.

**Subdivision #2007 – 22** - - application of **KGH PROPERTIES DEVELOPMENT, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred and Lewes and Rehoboth Hundred, Sussex County, by dividing 74.85 acres into 66 lots (Cluster Development), located east of the intersection of Road 290 and Road 292 and south of Carriage Greens Phase 1.

This 66-lot cluster subdivision application was deferred on November 20, 2008. Central sewer will be provided by Tidewater Utilities and central water will be provided by Artesian Water Company.

Mr. Johnson stated that he would move that the Commission conceptually approve Subdivision #2007 – 22 for KGH Properties Development, LLC, based upon the record and for the following reasons:

1. This motion is for approval of the subdivision concept only at this time, since its design and construction is contingent upon the existence of Carriage Green Phase 1, which currently only has preliminary approval. When Phase 1 receives Final

Site Plan approval, this application should then be considered for Preliminary Approval as an "Old Business" item at a future meeting.

2. The Applicant is seeking approval of a clustered subdivision within the AR-1 zone. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet.
3. A subdivision on this site will not have an adverse impact on the neighboring properties or community, and will be integrated into Phase 1 of Carriage Greens, which received preliminary approval in 2005.
4. The subdivision will not adversely impact schools, public buildings, area roadways or public transportation.
5. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
6. The Commission is satisfied that this project is a superior design under the subdivision ordinance. It is a superior design because it preserves substantial amounts of open space, including woodlands and wetlands. It is screened by the existing woodlands, and is integrated into the equestrian theme of Phase 1.
7. The design addresses the requirements of Section 99-9C of the Code.
8. The subdivision will have no more than 66 lots on 74.5 acres. This results in a density that is less than the maximum density permitted in the AR-1 zone.
9. The subdivision will be served by central water and sewer.
10. This conceptual approval is subject to the following:
  - A. After Phase 1 receives Final Approval, the Applicant shall re-submit the Preliminary Site Plan in compliance with the conditions of this conceptual approval, and taking into account any changes caused by the Final Site Plan that may be approved for Phase 1. The Preliminary Site Plan shall be considered by the Commission at a future meeting under "Old Business".
  - B. There shall be no more than 66 lots within the subdivision.
  - C. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
  - D. The storm water management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
  - E. All entrances shall comply with all of DeIDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
  - F. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
  - G. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
  - H. A 30-foot forested Agricultural Buffer shall be shown along boundaries bordering on any land used primarily for any agricultural purpose. The Final Site Plan shall also contain a landscape plan for all of the buffer

areas, showing all of the landscaping and vegetation to be included in the buffer areas.

- I. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- J. No wetlands shall be included within any lots.
- K. A system of street lighting shall be established.
- L. As indicated by the Applicant, sidewalks shall be located on both sides of all streets in the subdivision.
- M. The subdivision shall be served by a central sewer system as defined by Sussex County Ordinance, designed in accordance with Sussex County Engineering Department and DNREC specifications.
- N. This Phase 2 shall be an extension of Phase 1 and shall utilize the amenities of Phase 1 including the clubhouse, swimming pool, playground area, basketball and tennis courts, trails and equestrian facility.
- O. 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 a concept, for the reasons, and with the conditions stated. Motion carried 4 – 0.

**Subdivision #2007 – 24** application of **CECELIA L. CRAIG** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 14,929 acres into 14 lots, located north of Road 38, 270 feet east of Road 229.

This 14-lot subdivision application was deferred on December 18, 2008. DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic disposal systems.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2007 – 24 for Cecelia L. Craig, based upon the record and for the following reasons:

- 1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
- 2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
- 3. The proposed subdivision 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. This approval is subject to the following conditions:

- A. There shall be no more than 14 lots within the subdivision.
- B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
- C. The storm water management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
- D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
- E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department. As stated by the Applicant, the primary road serving the subdivision shall be re-named.
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
- G. A 30-foot forested Agricultural Buffer shall be shown along boundaries bordering on any land used primarily for any agricultural purpose. As stated by the Applicant, it shall also be extended with a fence along the storm water management area and Lot 14. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
- H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- I. No wetlands shall be included within any lots.
- J. 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 a preliminary, for the reasons, and with the conditions stated. Motion carried 4 – 0.

**Subdivision #2007 – 27** - - application of **JESTICE FARMS, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 381.23 acres into 571 lots, located east of Road 463, 1,400 feet north of Route 24 and 2,100 feet east of Road 463.

This 566-lot cluster subdivision application was deferred on December 18, 2008. Central sewer and water will be provided by Tidewater Utilities.

Mr. Gordy stated that he would move that the Commission grant preliminary approval for Subdivision #2007 – 27 for Jestice Farms, LLC, based upon the record and for the following reasons:

1. The Applicant is seeking approval of a clustered subdivision within the AR-1 zone. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet.
2. A subdivision on this site will not have an adverse impact on the neighboring properties or community.
3. The subdivision will not adversely impact schools, public buildings, area roadways or public transportation.
4. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
5. The Commission is satisfied that this project is a superior design under the subdivision ordinance. It is a superior design because it preserves large tracts of open space totaling approximately 215 acres, with increased buffers around the outside of the project. It has a design that is consistent with agricultural uses in the area and it will have a farm like setting with a 12-acre community garden. There is also extensive tree preservation on the site.
6. The design addresses the requirements of Section 99-9C of the Code.
7. The subdivision will have no more than 566 lots on 381.23 acres.
8. The subdivision will be served by central water and sewer.
9. This preliminary approval is subject to the following:
  - A. There shall be no more than 566 lots within the subdivision.
  - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
  - C. The storm water management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
  - D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
  - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
  - F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
  - G. As proposed by the Applicant, a forested buffer shall be shown along the entire boundary of the project. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
  - H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
  - I. No wetlands shall be included within any lots.
  - J. A system of street lighting shall be established.
  - K. As proposed by the Applicant, sidewalks shall be located on both sides of all streets in the subdivision.



- L. The subdivision shall be served by a central sewer system as defined by Sussex County Ordinance, designed in accordance with Sussex County Engineering Department and DNREC specifications.
- M. Community amenities on the site shall include a multi-use field, recreation courts, clubhouse and pool. The amenities shall be under construction upon the issuance of the 188<sup>th</sup> residential building permit, and they shall all be completed prior to the issuance of the 377<sup>th</sup> residential building permit.
- N. Any use as a campground shall comply with the requirements of the County Zoning Code and shall require a Conditional Use approval.
- O. This approval is contingent upon the approval of C/U #1807 for Tidewater Utilities for sewer and water utility service to the project.
- P. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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 4 – 0.

**Subdivision #2006 – 67** - - application of **CH3, LLC c/o JOHN HERHOLDT** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 166.14 acres into 99 lots, located west of Road 216, 4,300 feet southwest of Road 214.

This 99-lot standard subdivision was deferred on May 22, 2008. DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic disposal systems. DelDOT has issued a Letter of No Objection for the entrance location. The engineer has provided an agreement between the applicant and Delmarva Power & Light Company that will be signed if the applicant receives preliminary approval.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 67 for CH3, LLC, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning, and the average lot size is nearly 42,000 square feet.
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. This preliminary approval is subject to the following conditions:

- A. There shall be no more than 99 lots within the subdivision.
- B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
- C. The storm water management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
- D. This Preliminary approval is contingent upon the Applicant obtaining an agreement with Delmarva Power and Light Company for access to the property.
- E. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
- F. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- G. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
- H. A 30-foot forested Agricultural Buffer shall be shown along boundaries bordering on any land used primarily for any agricultural purpose. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
- I. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- J. No wetlands shall be included within any lots.
- K. A system of street lighting shall be established.
- L. As stated by the Applicant, sidewalks shall be located on one side of all streets in the subdivision.
- M. 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 a preliminary, for the reasons, and with the conditions stated. Motion carried 4 – 0.

**C/Z #1623** - - application of **W AND J JONES FAMILY, L.P.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying northeast of King's Highway (Road 268) and across from Dartmouth Drive, to be located on 1.96 acres, more or less.

The Chairman referred back to this application, which has been deferred since December 11, 2008.

The Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action for further consideration. This application will be placed on the January 22, 2008 agenda. Motion carried 4 – 0.

**C/Z #1624** - - application of **W AND J JONES FAMILY, L.P.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential-Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying 181.48 feet northeast of King's Highway (Road 268) and across from Dartmouth Drive, to be located on 44.49 acres, more or less.

The Chairman referred back to this application, which has been deferred since December 11, 2008.

The Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action for further consideration. This application will be placed on the January 22, 2009 agenda. Motion carried 4 – 0.

**C/U #1793** - - application of **BLUE HEN ORGANICS, LLS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a compost facility to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 45.384 acres, more or less, lying east of Road 402A (Baker's Road), 2,000 feet south of Route 26.

The Chairman referred back to this application, which has been deferred since December 11, 2008.

Mr. Gordy stated that he would move that the Commission recommend approval of C/U #1793 for Blue Hen Organics, LLC, based upon the record and for the following reasons:

1. The use as a compost facility will benefit the citizens and the environment of Sussex County. By recycling materials such as yard waste and wood into compost, there will be a reduction of materials going to the landfills. There is not currently such a facility in this area of Sussex County.
2. The use will not adversely affect the neighboring properties or community, which consists primarily of poultry operations, manure storage facilities and a propane facility. There are no residences within 1,000 feet of the property line.
3. The compost generated at the site will be available for local agricultural and horticultural uses.
4. The use promotes the Conservation Element of the County's Comprehensive Land Use Plan.

5. The ongoing use will be monitored by DNREC.
6. This recommendation is subject to the following conditions:
  - A. The applicants shall comply with all requirements established by the Solid and Hazardous Waste Management Branch of DNREC and any other regulatory agency having jurisdiction over this use.
  - B. As stated by the Applicant, the .6 acres of forested wetlands on the site shall not be disturbed.
  - C. Material processing hours will be limited to 7:00 a.m. – 5:00 p.m., Monday through Friday.
  - D. Waste acceptance hours will be limited to 7:00 a.m. – 4:00 p.m., Monday through Saturday.
  - E. Compost sales hours will be limited to 7:00 a.m. – 4:00 p.m., Monday through Saturday.
  - F. The composting area at the site shall be fenced and gated.
  - G. A landscape plan showing the landscaping within the proposed buffer and the undisturbed forested areas shall be shown on the Final Site Plan.
  - H. A water truck shall be available to control dust within the site.
  - I. The Final Site Plan including all buildings shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to forward this application to the Sussex County Council with the recommendation that it be approved for the reasons, and with the conditions stated. Motion carried 4 – 0.

#### OTHER BUSINESS

Paradise Lakes  
Revised Buffer – Route 9

This item was removed from the Agenda on January 7, 2007.

Salt Pond Plaza  
Revised Commercial Site Plan – Roads 357 and 360

Mr. Abbott advised the Commission that this item was deferred at the December 17, 2009 meeting; that the revised site plan is for an increase of 1,731 square feet of retail area; that action was deferred since easement agreements between the developer and the Salt Pond HOA had not been executed; and that on January 13, 2008 the staff received notice that the agreements have been signed and that the Salt Pond Homeowners' Association has no objections to the revised plan.

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

Subdivision #2005 – 53 - - Polly and Mark Yoder, Jr.

#### Clarification on Conditions of Approval

Mr. Abbott advised the Commission that this item was deferred at the December 17, 2008 meeting; that the applicant's engineer is questioning condition 2 that states, "Recreational area with a minimum area of 1.5 acres shall be established in the project. This will be in addition to the open space and storm water pond area shown on the preliminary site plan" and "there shall be a 30-foot landscaped buffer retained or installed along the perimeter of the subdivision as shown on the preliminary site plan"; that the staff reviewed the record (minutes and tape recording) of July 27, 2006 and August 16, 2006; that there was no mention of additional recreational area during the discussion; and that it was stated that there was a lack of a record of support for this application.

Byron Jefferson questioned if the intent is to add an additional 1.50 acres of open space to what is already provided and if a buffer is required along the eastern boundary line since the adjoining parcel is an approved recorded single-family subdivision.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to table this item until the end of the agenda.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to un-table this item for further discussion.

Mr. Lank advised the Commission that the Blueberry Hill record plan depicts a forested buffer along the western boundary of their site, since the subject property was in agricultural use when the Blueberry Hill subdivision was filed.

Mr. Robertson advised the Commission that Mr. Burton felt that there was not sufficient recreational/open area provided on the preliminary plan and felt that additional area should be added.

The Commission discussed not requiring the buffer along the eastern side of the boundary since this site adjoins a single-family residential subdivision that is under construction although agricultural uses exist with the power line right of way easement.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to require an additional 1.50 acres of open space along with what has been provided and that the buffer along the eastern boundary of the site not be required. Motion carried 4 – 0.

#### Subdivision #2007 – 12 - - Ronald Sharp Clarification on Condition of Approval

Mr. Abbott advised the Commission that this is a request to obtain a clarification on Condition of approval D that states, "30-foot agricultural buffers shall be installed along adjacent boundaries used for agricultural purposes. The final site plan shall also contain a landscape plan for the buffer areas."; that a buffer would be required along lots 1 and 3; that when this application was filed, the adjoining land was not tilled; that since then, the

adjoining land has been planted with soybeans; that the applicant's designer is requesting that the buffers along lots 1 and 3 be permitted to be included within these individual lots; and that a copy of the letter submitted to this office explaining this request was provided to the Commission.

Mark Davidson of Design Consultants Group, LLC advised the Commission that the applicant is building a dwelling on lot 3; that the Department of Agriculture approved the buffer plan when the project was reviewed by the Technical Advisory Committee; that when the application was filed, the adjoining land was not used for agricultural purposes; and that the adjoining owner and Mr. Sharp agreed to plant a buffer along their common boundary line and that Mr. Watson has since passed away.

The Commission discussed this request.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to allow the lot lines to extend into the proposed buffer as provided on the landscape plan submitted by Mr. Davidson since the adjoining lands are an insignificant amount of agricultural lands and that when the application was filed, the adjoining lands were not actively used for agricultural purposes. Motion carried 4 – 0.

Malone Townhomes  
CU #1686 Site Plan – Road 22

Mr. Abbott advised the Commission that this is a preliminary site plan for a 41-unit multi-family project located on 12.77 acres; that the site is zoned AR-1 and the Conditional Use was approved on July 24, 2007; that the Planning and Zoning Commission granted a one-year time extension on April 16, 2008 and approval is valid until July 24, 2009; that 41 units are permitted by the approved Ordinance; that there are 6, 6-unit buildings and 1, 5-unit building are proposed; that the setbacks, building separations and building lengths meet the requirements of the zoning code; that 82 parking spaces are provided; that central sewer will be provided by Sussex County and central water will be provided by Long Neck Water Company; that the site plan meets the requirements of the 13 conditions of approval; that the final site plan needs to include a landscape plan along with dimensions for the parking spaces, driveway widths and buildings and the 13 conditions of approval; that preliminary approval could be considered; and that final approval should be subject to the review and approval by the Commission since a landscape plan is required and upon receipt of all agency approvals.

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

Pep – Up, Inc.  
CU #1561 Revised Site Plan – Road 376

Mr. Abbott advised the Commission that this is a revised site plan for the addition of 6, 68,000-gallon L.P. gas storage tanks; that the dimensions of the tanks are 100' by 11';

that there are currently 6, 30,000-gallon tanks and 6, 68,000 gallon tanks on the site; that the proposed minimum setback is 10-feet as the existing tanks are; that the staff is raising the question of whether the site plan can be revised as submitted or if an amended conditional use application is required; and that the previous application did not limit the number of tanks or gallons permitted.

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

Subdivision #2005 – 68 - - Sandy Landing, LLC  
Revised Preliminary

Mr. Abbott advised the Commission that this is a revised preliminary subdivision plan for 25 single-family lots; that this application received preliminary approval on November 27, 2006 for 77 lots and granted a one-year time extension on October 16, 2008; that the 77 lots were going to be served by an on-site community wastewater treatment system; that the revised 25 lots are to be served by individual on-site septic systems; that all of the lots exceed 1.0-acre in size; that a variance may be needed for the lot width requirement of 150-feet however this would be subject to Board of Adjustment approval; that the revised plan shows sidewalks on at least one side of all streets and a 50-foot buffer from State wetlands is provided; and that the staff is questioning if a new application is required.

Dennis Schrader, Esquire, advised the Commission that the revised plan is for 25 lots; that buffers, setbacks and easement requirements have been met; that a variance for the minimum lot width will be needed for 7 lots; that if a variance is denied, there will be less than 25 lots; and that the revised plan is a substantial reduction of the density.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the revised plan as submitted as a revised preliminary. Motion carried 4 – 0. For the record, the following conditions of the preliminary approval have been revised to include:

1. There shall be no more than 25 lots within the subdivision.
2. The use of a central sewer system has been deleted.
3. Sidewalks shall be installed on at least one side of all streets. This has been revised from both sides.
4. The residual lands will remain as open space has been deleted.

Martha E. Collins, Heirs  
3 Parcels and 50' Easement – Road 424

Mr. Abbott advised the Commission that this is a request to subdivide a 24.30-acre parcel into 3 parcels with access from a 50-foot easement and the residual land having access from Road 424; that the proposed parcels A and B will contain 7.55 acres, Parcel C 6.26 acres and the residual lands 2.93 acres; that the residual parcel has an existing dwelling located on it; that the owner proposes to create the 50-foot easement along an existing

ditch where an entrance currently exist; that the boundaries of the proposed parcels are physically created by ditches; that the proposed subdivision is to settle an estate; that DelDOT has issued a Letter of No Objection; that the request may be approved as submitted or an application for a major subdivision can be required; and that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 4 – 0.

#### Trivits Construction

##### 3 Parcels and 50' Right of Way – Road 628

Mr. Abbott advised the Commission that this is a request to subdivide a 10.825-acre parcel into 3 parcels with access from a 50-foot right of way; that Parcels A and B will contain 3.37-acres and Parcel C will contain 3.38-acres; that the owner proposes to create the 50-foot right of way over an existing entrance; that the aerial photograph shows the area wooded; that the request may be approved as submitted or an application for a major subdivision can be required; and that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 4 – 0.

#### Marie McGee

##### 2 Parcels and 50' Easement – Road 451

Mr. Abbott advised the Commission that this is a request to subdivide 16.68-acres into 2 parcels and create a 50-foot easement; that the proposed Lot 1 will contain 1.50-acres and it has an existing dwelling located on it; that the proposed Lot 2 will contain 14.46-acres and have access from the proposed 50-foot easement; that 0.72-acres will be an extension to Parcel 5-32-7-21.03; that the owner proposes to create the 50-foot easement over an existing dirt road; and that the request may be approved as submitted or an application for a major subdivision can be required.

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

#### Belva Ellis

##### 2 Parcels and 50' Easement – Road 500

Mr. Abbott advised the Commission that this is a request to subdivide a 9.0-acre parcel into 2 parcels and create a 50-foot easement; that one parcel will contain 2.0-acres and



the residual land will contain 7.0-acres; that the owner proposes to create the 50-foot easement over an existing driveway; and that the request can be approved as submitted or an application for a major subdivision can be required.

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

#### ADDITIONAL BUSINESS

The Commission scheduled special meetings for February 18, 2009, March 18, 2009, April 22, 2009, May 20, 2009, June 17, 2009, July 15, 2009, August 19, 2009, September 16, 2009, October 14, 2009, November 12, 2009 and December 16, 2009 for the purpose of review and consideration of Consent Agenda items, Old Business items, Other Business items, Discussions and Additional Business. These meetings are not intended or planned to include Public Hearings. These meetings will begin at 3:00 p.m.

Meeting adjourned at 5:10 p.m.