



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE REGULAR MEETING OF JANUARY 20, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 20, 2005 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Allen presiding. The following members of the Commission were present: Mr. Allen, Mr. Gordy, Mr. Johnson, Mr. Smith and Mr. Wheatley with Mr. Robertson, Assistant County Attorney, Mr. Lank – Director, Mr. Abbott – Assistant Director, and Richard Kautz – Planner.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the agenda as amended by removing Item #1 from Public Hearings and Item #1 from Other Business.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to approve the Minutes of January 6, 2005 as amended.

### OLD BUSINESS

Subdivision #2004-8 – application of **SPRING BREEZE ASSOCIATES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 139.05 acres into 275 lots, located north of Road 48 (Hollymount Road), 1,380 feet east of Road 285.

The Commission discussed this application which has been deferred since December 9, 2004.

Mr. Johnson asked Mr. Robertson to read Mr. Johnson's motion.

Mr. Robertson read that Mr. Johnson moves that the Commission deny preliminary approval of Subdivision #2004-8 for Spring Breeze Associates because he does not believe that Cluster Development is appropriate for this property; that according to the County's new Cluster Ordinance, the Commission is supposed to consider several factors: (1) whether the Cluster Development provides for a total environment and design which is superior to a standard subdivision; (2) whether it will preserve the natural environment and any historic or archeological resources; (3) whether all of the items in Section 99-9C of the Subdivision Ordinance have been addressed; and (4) whether

clustering will have an adverse impact on any of the Section 99-9C items; Mr. Johnson states that he does not believe that these requirements have been met: (1) The subdivision is in an area where there are currently large lots. The proposed cluster development with 7,500 square foot lots would be out of character with the surrounding development. (2) The property currently is heavily wooded. With the smaller clustered lots and the areas set aside for wastewater treatment, nearly all of the existing trees would have to be removed. (3) Mr. Johnson does not believe that the clustered design is innovative or creates a total environment for the residents that is superior to a standard subdivision.

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There is not a great deal of active open space for the residents, and the amenities that have been provided are not superior to those typically included in a standard subdivision. (4) The swimming pool and community center area is not centrally located within the community. It's not clearly shown anywhere on the site plan. Mr. Johnson thinks that the representative of the Applicant that spoke at the public hearing stated that it would be located with a community center at the entrance to the subdivision, which is next to an existing residential property. (5) The Applicant did not adequately address the items contained in Section 99-9C of the Subdivision Ordinance during the hearing. (6) Mr. Johnson believes that the items in Section 99-9C would be adversely affected by the clustering. Smaller lots would negatively affect the existing landscape and natural features. The open space does not appear designed to preserve either. Clustering would not minimize tree and vegetation removal. It would also potentially increase runoff and flooding. Also, it's not compatible with other area land uses, which are larger residential lots. (7) Taking this into consideration, Mr. Johnson believes that a standard subdivision of this parcel, with fewer lots that are larger in size, would be more appropriate than 275 clustered lots.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to deny Subdivision #2004-8 as submitted for the reasons stated.

Motion carried 5 – 0.

Subdivision #2004-43 – application of **TAMARI PROPERTIES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 332.71 acres into 455 lots, (Cluster Development), located west of Route 5 and Road 303A, and north of Road 302.

The Commission discussed this application which has been deferred since January 6, 2005.

Mr. Johnson asked Mr. Lank to read Mr. Johnson's motion.

Mr. Lank read that Mr. Johnson moves that the Commission grant preliminary approval of Subdivision #2004-43 for Tamari Properties since: (1) The proposed subdivision

generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County. In addition, the site's design has a minimal impact on wetlands and no wetlands are included within any lots. (2) The land is zoned AR-1 which permits low-density single family residential development at a density of approximately 2 lots per acre. The proposed subdivision density of 455 lots on 335 acres of land results in a gross density of 1.35 lots per acre. (3) The proposed subdivision is generally in character with other residential developments in the area, including an expansion of the Baywoods Development and the Stonewater Creek Subdivision. It is also consistent with the

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historical trend of development in the area. (4) The site is in the vicinity of the intersection of Long Neck Road and Route 24, which contains a concentration of business and services for the Long Neck area and the proposed subdivision. This area includes a neighborhood-type residential shopping center. (5) The proposed subdivision will be a restricted residential development consistent with the area and will not adversely affect nearby uses or property values. (6) The proposed subdivision will not adversely impact schools, public buildings and community facilities. (7) This recommendation is subject to the following conditions:

1. Agricultural Buffers shall be provided in accordance with the Subdivision Ordinance, if necessary,
2. The Applicant shall cause to be formed a homeowner's association to be responsible for the maintenance of streets, roads, forested buffers, stormwater management facilities, sidewalks, pedestrian paths, and other common areas.
3. No site preparation, site disturbance, site excavation, or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved final site plan.
4. As represented by the Applicant, no significant grade changes shall be made, and the Applicant shall use every effort to protect and maintain any mature trees outside of the roadway and house site areas.
5. Central water and a central community sewer system will be constructed as permitted by the County Zoning Ordinance and as regulated by DNREC.
6. The stormwater management system shall meet or exceed the requirements of the State and County.
7. The use of a central community sewer system and stormwater management system shall maximize ground water recharge and erosion and sediment control measures and shall comply with all State and County requirements.

8. All entrances shall comply with all of DelDOT's requirements.
9. A system of street lighting shall be provided by the Applicant, and the location of the streetlights shall be shown on the final site plan. The streetlights shall be maintained by the Applicant or a successor Homeowner's Association as part of the common elements of the subdivision.
10. Sidewalks shall be provided on at least one side of all streets within the development.

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11. Sheltered bus stops shall be provided at locations acceptable to the Cape Henlopen School District.
12. Multi-modal paths shall be provided as indicated on the preliminary site plan.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried with 4 votes to grant preliminary approval of this Subdivision.

Motion carried 4 – 1 with Mr. Wheatley opposing the motion.

C/U #1581 – application of **LEON L. BURTON** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a boat storage facility to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 29.138 acres, more or less, lying south of Route 22 (Long Neck Road), 4,300 feet east of Road 298 and 1,000 feet west of Road 22C.

The Commission discussed this application which has been deferred since January 6, 2005.

Mr. Johnson asked Mr. Lank to read Mr. Johnson's motion.

Mr. Lank read that Mr. Johnson moves that the Commission recommend approval of Conditional Use #1581 for Leon L. Burton since the use is of a public or semi-public character that will serve the citizens of the Long Neck Area and with the following conditions:

1. This Conditional Use is for boat and boat trailer storage only and shall not permit the storage of RV campers, motor homes or other automotive vehicles.
2. The storage facility will be open from 7:00 a.m. to 5:00 p.m.
3. The perimeter of the site shall be fenced with a 7-foot high chain-linked type of fencing.
4. No maintenance or repair of boats shall be performed on the site.
5. Any security lighting on the site shall be mercury vapor or similar type lights that are directed away from neighboring properties.
6. All boats and boats trailers shall be setback a minimum of 50 feet from Route 22, 20 feet from the rear, and 15 feet from the sites, except along the Goepel property.

7. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Wheatley and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated.

Motion carried 5 – 0.

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### PUBLIC HEARINGS

C/U #1584 – application of **JOSE A. PANDO, M.D.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a medical office to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.028 acres, more or less, lying northeast of Route One, 900 feet east of Road 258.

Mr. Lank advised the Commission that this application was withdrawn earlier today, January 20, 2005.

C/U #1585 – application of **HELLENS HEATING AND AIR, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office and shop for a heating and air conditioning business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.0 acre, more or less, lying southwest of Route 5, 900 feet southeast of Route 47.

The Commission found, based on comments received from DelDOT, that the proposed action will have no significant impact on traffic.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand which has slight limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the soils are considered of Statewide Importance and Hydric in small depressions; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that letters in opposition to the application were received from Nick Sansalone and Michael Walsh expressing concerns about having a commercial property so close to residences; that additional businesses would threaten what's left of the residences and agricultural acreage in the area, and devaluation of property values.

The Commission found that Mike Hellens was present and stated in his presentation and in response to questions raised by the Commission that he proposes an office and shop

for his heating and air conditioning business; that the company has 4 trucks; that employees take the trucks home, that he has 5 employees; that business hours are from 8:00 a.m. to 5:00 p.m. Monday through Friday with some weekend hours for emergencies; that he will probably have a small sign on the building; that any waste will be stored behind the building in a fenced area; that he will provide security lighting on the building and that the lighting will not be directed toward Route 5 or neighboring properties; that all piping and equipment will be stored indoors; that there will be no outside storage of materials; that no fabrication is performed on site; that he proposes a

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30-foot by 30-foot office building with an attached 40-foot by 60-foot shop/warehouse; and that there may be an occasional truck parked outside.

John Davidson was present in support of the application and stated that he has known the Applicant and his family for several years and that they always keep their properties neat and orderly, and that he has no objections.

The Commission found that there were no parties present in opposition.

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

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved with the following conditions:

1. One lighted ground sign, not exceeding 32 square foot per side or facing, may be permitted.
2. Business hours shall be from 8:00 a.m. to 6:00 p.m.
3. Any outside storage shall be stored in a fenced in area to the rear of the building.
4. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion carried 5 – 0.

C/Z #1571 – application of **GREGORY T. WHITE AND OTHERS** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying northeast of Route 26, 400 feet north of the intersection of Route 54 and Road 365, to be located on 2.8274 acres, more or less.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is not within a County operated or maintained sanitary sewer and/or water district; that the site is within the proposed Vines Creek Planning Area; that conformity to the South Coastal Area Planning Study will be required; that the change of zone will exceed EDU projections made for the South

Coastal Area Planning Study Update and will exceed wastewater allocations at the South Coastal Regional Wastewater Facility; that the Department opposes this project due to the change of zone request; and that the County has no schedule to provide service to this parcel at this time.

The Commission found, based on comments received from the Office of State Planning Coordination Preliminary Land Use Service (PLUS) review, that the Applicant proposes a 17,600 square foot retail building with 6 apartments above and a 5,000 square foot

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contractors storage building; that the Office has concerns about the proposed rezoning and the development of the parcel, specifically in light of the concerns raised by DNREC regarding on-site septic and well suitability of the site and the comments raised by the County that sewer is not currently available; that the State Historic Preservation Office has requested permission to access the property to obtain final documentation of the house on the site before it is demolished; that DelDOT provided comments and is negotiating with the Applicant; that a sidewalk would be desirable along the parcels road frontage; that DelDOT will probably limit the project to a single access point; that a nutrient budget should be required; that removal of forest cover will almost certainly increase pollutant loading into the Inland Bays and make it more difficult for Delaware to comply with the TMDL nutrient load reduction requirements; that the ditch on the site is a tax ditch with a 25-foot right-of-way from the top of the ditch bank; that the Applicant should contact the US Fish and Wildlife Service in reference to the Delmarva Fox Squirrel; that a forested buffer is required between the proposed parcel and all adjacent properties in active agriculture; that the Applicant should take a close look at the comments of the agencies along with his proposed uses and the limitations of the site and decide what actually can be accomplished; that a Conditional Use may be a preferred; that the Applicant may need to provide a report relating to the Environmental Sensitive Development District; and that the County Engineering Department opposes the change of zone and has no schedule to provide service to the parcel at this time.

The Commission found that DelDOT had provided comments relating to this application September 24, 2003, November 4, 2003, December 23, 2003 and September 21, 2004; that the comments included a support facilities report and references to the uses intended and possible deed restrictions that will limit the use of the property; that the deed restrictions were recorded and that the Applicant is requesting permission from DelDOT to amend the restrictions.

Mr. Lank advised the Commission that earlier this day he had spoken to William Brockenbrough of DelDOT and that Mr. Brockenbrough had advised him that he and the Applicant had discussed utilizing the site for a 210-foot by 70-foot professional medical building; and that a traffic impact study will not be required, but it will require the Applicant to revise the deed restrictions with an inclusion of the square footage allowed for the professional medical office building.

The Commission found that Gregory White was present and stated in his presentation and in response to questions raised by the Commission that he proposes a smart growth project; that the site contains 2.82 acres and could permit 33 residential units, if approved; that he contacted the surrounding neighbors, prepared a letter, and obtained some signatures in support; that a neighbor suggested the creation of a professional center; that the growth of the area would not be impacted since this site may reduce traffic going toward shopping areas near the beach by providing areas to shop or receive

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services; that septic feasibility has not been received; that he proposed to erect a commercial building with 6 units above; that the uses would be restricted to the uses referenced in the deed restrictions; that the proposed buildings are at least 25-feet from the top of the ditch bank for the tax ditch; that the rental storage area will be fenced to secure backhoes and other equipment; that the dwelling on the premise is presently rented; that no other commercial activities presently exist on the site; that adjacent to the site is a parking lot for a church, a repair shop and tire center, and an auto parts store; and that the zoning around the site is AR-1 and MR.

The Commission found that Mr. White submitted a copy of the letter that he prepared for the area residents. The letter included signatures of 6 area residents.

The Commission found that Wayne Bowden, representing the St. George's Church, questioned the number of uses proposed, the possible impact on the church's parking lot next to the site; and advised the Commission that DelDOT has advised representatives of the church that DelDOT may be taking approximately 10-feet for future expansion of Route 26.

The Commission found that Mr. White stated that his revised site plan depicts one access point to the north end of the parcel.

The Commission found that Tiffany Derrickson and Norma Lee Burton Derrickson were present in opposition to the application and stated that the area is primarily residential and in close proximity to a historic church; that the church should be protected; that the rezoning would be considered spot zoning; and that the area should remain residential and agricultural, not commercial.

The Commission found that Mr. White addressed the deed restrictions and submitted a letter from Thomas M. Banez, Project Manager for DelDOT on the SR26 project, which referenced that there may be no impact on his property based on the mainline project for SR26 and that the St. George's Church parking lot may be impacted by the proposed improvements to SR26.

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



Mr. Smith stated that he would move that the Commission recommend denial of C/Z #1571 for Gregory T. While for the following reasons:

1. The application is not consistent with the character of the surrounding property. With one exception, the rest of the area is agricultural or residential or a church.
2. Although it's been stated that the intended uses are limited, the C-1 zoning would potentially allow more intensive uses that are not compatible with the surrounding property.

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3. I don't feel that it's appropriate to recommend approval with so much uncertainty about the septic system, especially since County sewer is not available.

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

Motion carried 5 – 0.

Subdivision #2004-13 – application of **DOUBLE EAGLE FARMS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 65.13 acres into 70 lots, located north and south of Road 303, approximately 0.95 mile southwest of Road 303A.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on August 18, 2004 and that the report will be made a part of the record for this application; that the applicant's engineers have submitted a revised plan reflecting the changes recommended by the Technical Advisory Committee; and read a letter in opposition to this application received from Norma Lee Burton Derrickson.

The Commission found that Jessica Nichols, Engineer with Meridian Architects and Engineers was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that the site contains 65 acres located on Townsend Road in Indian River Hundred; that the site is zoned AR-1; that the site is located in a rural area as designated by the State Strategies Map and in a low density area as defined by the Sussex County Comprehensive Land Use Plan; that 70 lots are proposed on 65 acres for a density of 1.07 lots per acre; that the preliminary subdivision plan has been through the PLUS process with the Office of State Planning Coordination; that the plan has been reviewed by the Technical Advisory Committee; that a revised plan was submitted addressing the recommendations made by both of these meetings; that the Office of State Planning Coordination, State Historic Preservation Office, DNREC, and the Department of Agriculture were concerned with the lot lines being in the wetlands and forested areas and that the plan has been reconfigured to stay out of these environmentally sensitive areas; that the layout has been revised such that all lot lines and

right of ways are a minimum of 20 feet from wooded and wetland areas; that the woods and wetlands will be dedicated as community open space and placed into a permanent conservation easement; that the covenants and restrictions have been revised per Mr. Robertson's comments to state that manufactured and modular homes are prohibited; that the agricultural use protection notice has been added; that there are obligations of the homeowners' association to own, maintain and manage the common areas including but not limited to the forested buffer strip, the storm water management and erosion and sedimentation control facilities; and wetlands buffers that have been added; that

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obligations of the homeowners' association also include the maintenance of the streets in the subdivision; that the minimum lot size is one-half acre; that there are 17.2 acres of open space provided which represents 26% of the site; that the open space includes 8.9 acres of wetlands, leaving 8.3 acres of upland area for storm water and recreational use; that a 1.2 acre parcel has been set aside for a swimming pool and pool house; that street lighting and sidewalks are proposed for the subdivision; that individual on site septic and wells are proposed; that the subdivision layout is in compliance with the provisions of the zoning ordinance for the AR-1 district; that the upland soils in the vicinity of the lots are designated as Type A and B soils which are well drained and suitable for gravity septic systems; that the site is not located in a flood plain; that there will not be any impacts to the delineated wetlands as they are a minimum of 20 feet from any lot line or street right of way; that no waterways, natural topography, or historic landmarks will be impacted by this development; that soil removal and grade changes will be minimal and limited to areas where it is required to achieve acceptable street grading and storm water management; that limited tree removal is proposed; that the storm water management and erosion and sedimentation control facilities will be designed to meet or exceed the current standards set forth by the Sussex Conservation District thus minimizing erosion and sedimentation, changes in groundwater levels and potential for flooding; that the runoff from the site will be reduced and the potential for groundwater recharge increased with the conversion of the site from row crops to a subdivision; that although the development of this property as proposed will increase the number of trips on this section of roadway, improvements will be made by widening the road and construction right turn, bypass and through lanes to meet or exceed DelDOT's requirements; that the subdivision is designed to be in accordance with Sussex County requirements; and that the subdivision will have a positive affect on the contiguous properties in this area.

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

The Commission found that Elliott Wright and Tiffany Derrickson were present in opposition to this application and stated that an environmental impact study should be conducted especially with respect to sewage disposal and accessibility to existing or planned roads; pollution to the Rehoboth Bay will increase if the subdivision is approved; that number of lots that have been approved in the immediate area and the number of homes currently under construction; that the development will cause negative impacts to

the area and quality of life; that farm land is being lost; and submitted letters into the record.

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

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action pending receipt of a septic feasibility statement from DNREC.

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Motion carried 5 – 0.

Subdivision #2004-14 – application of **BARBARA F. CAIRNS** to consider the Subdivision of land in a GR General Residential District in Indian River Hundred, Sussex County, by dividing 5.22 acres into 3 lots, located east of Road 279, 1,170 feet north of Road 277.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on May 19, 2004 and that the report will be made a part of the record for this application; and read a letter in opposition to this application from Roger and Emma Edwards and Adele Fluharty.

The Commission found that Barbara Cairns was present on behalf of this application and stated in her presentation and in response to questions raised by the Commission that the application is for 3 lots; that the site is all wooded; that she will save as many trees as possible; that doublewide manufactured homes or stick built homes will be permitted; that the street will be improved with crusher run as permitted by the Subdivision Ordinance; that there is currently an old cottage located on the site and that it will be removed; that there is an old well on the site and that it will need to be upgraded; and that she will reside on one of the lots.

The Commission found that Carol Wilczynski and Roger Edwards were present and questioned the type of homes that will be permitted; the lot sizes that are proposed; that a previous owner of the property tried to subdivide the property and was not allowed to so; that there is enough traffic congestion in the area now; and that septic systems in the area are failing.

The Commission found that Mrs. Cairns responded that stick built or doublewides will be permitted; that the property cannot be subdivided without a public hearing; and that the proposed entrance to the site is parallel to the Fluharty property.

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

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to defer action pending receipt of a septic feasibility statement from DNREC.

Motion carried 5 – 0.

Subdivision #2004-21 – application of **SPRINGFIELD SELF STORAGE, L.P.** to consider the Subdivision (Clustered Development) of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 17.27 acres into 34 lots, located north of Route 48, 1,750 feet southwest of Route 5.

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Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on July 14, 2004 and that the report will be made a part of the record for this application; that the applicant's attorney submitted an Exhibit Booklet on January 18, 2005 and that the booklet will be made a part of the record for this application; and read a letter in opposition to this application from Nick Sansalone.

The Commission found that Tim Willard; Attorney, Glen Urquhart; Applicant, and Gary Moore; Engineer with River Basin Engineering were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site is located on Road 48 west of Route 5; that the site contains 17.25 acres and is zoned AR-1; that 34 lots are proposed meeting the design requirements of the Cluster Ordinance; that a circular street is proposed; that sidewalks and streetlights are proposed; that 54% of the site is dedicated as open space; that the storm water management and septic disposal area are a part of the open space; that the application is consistent with the community design element of the Land Use Plan; that there are commercial uses in the area at the intersection of Road 48 and Route 5; that the site adjoins Hollyville Acres which is a single family residential subdivision; that there are mixed uses in the immediate area; that the site is not feasible for agricultural purposes; that the previous owner of the lands supports this application; that the former owner of the lands owns property adjoining this site and submitted a letter in support of this application; that there are not any wetlands on the site; that 30% of the site is open space; that the design of the project meets the requirements of the Cluster Ordinance; that a community on-site septic system is proposed; that the necessary agricultural buffers will be provided; that there will be a bus stop provided along Road 48; that walking paths will be provided throughout the development; that the community on-site septic system will be subsurface, similar to drip irrigation; that public water will be provided; that the soils on site seem suitable for the community septic system design per the requirements of DNREC; that the storm water management area will be located in an area where there is currently a small depression; that the utilities will be provided by the letters referenced in the Exhibit Booklet; that the community septic system could handle the septic for the homes in Hollyville Acres if those systems ever failed; that there will be a small structure for septic system maintenance located at the south end of the disposal field; that the location of the structure would not impact neighboring properties with noises or odors; that the septic

system will be owned and operated by Tidewater Utilities; that the system is regulated as a public utility and is subject to DNREC requirements; that there will be grass vegetation on the disposal area; that a traffic impact study was not warranted by DelDOT; that the site is located in the Delaware State Police Troop 7 jurisdiction and in the Indian River Fire Company fire district; that the site is located in the Cape Henlopen School District; that the proposed dwellings will range in size from 1,500 to 2,600 square feet; that the restrictive covenants have been submitted; that the proposed development is integrated into the area; that the development is similar to other subdivisions in the area; that the homeowners' association will come in effect once all the lots have been sold; that a

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community pool is not proposed; and submitted proposed findings of approval and proposed conditions of approval.

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

The Commission found that Jean Lofland, Joe and Cheryl Gordon, residents of Hollyville Acres, and Tammy Drain, an adjoining property owner were present in opposition to this application and stated in their presentations that the proposed septic system would be directly next to their property; that wells are located within 26 feet to the proposed disposal area; that the site is very low and is wet most of the time; that the amount of homes planned is too much for a small area of land; that the soils do not permit individual septic systems; that Road 48 is narrow and has no markings or lights; that the Delaware Solid Waste is building a complex across from Road 48; that the area is subject to flooding; that the proposed subdivision does not fit in with the character of the area; that they have concerns about the proposed lot sizes and the size of the proposed homes; that the proposed septic disposal area is located too close to the existing homes in Hollyville Acres; that they are opposed to cluster development; that there is a horse farm adjacent to the proposed site; that they have concerns about trespassing; that there are safety concerns for the horses; that the area is predominately large farms; that the development will create additional traffic to the area; and that a fence should be required along these lands and the lands of the horse farm.

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

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to defer action pending receipt of a septic feasibility statement from DNREC.

Motion carried 5 – 0.

Ordinance Amendment – AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE I AND ARTICLE XXV RELATING TO FLOOD PRONE DISTRICTS.

Mr. Lank summarized the text of the proposed Ordinance Amendment and advised the Commission that Section 1, Section 2 and Section 5 of the proposed Ordinance Amendment have been required by FEMA; that Section 3 and Section 4 of the proposed Ordinance Amendments have been recommended by Staff; and that Section 6 of the proposed Ordinance Amendments has been suggested by the National Flood Insurance Program Coordinator through DNREC, but is not mandated by FEMA.

The Commission discussed the proposed Ordinance Amendments.

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The Commission found that there were no parties present in support of or in opposition to the proposed Ordinance Amendments.

At the conclusion of the public hearings, the Commission discussed the proposed Ordinance Amendments.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to forward the proposed Ordinance Amendments to the Sussex County Council with the recommendation that the Ordinance Amendments be adopted as presented.

Motion carried 5 – 0.

#### OTHER BUSINESS

Hudson Homes Route No. 24  
Multi-Family Site Plan – Route 24

This item was removed from the agenda at the beginning of the meeting.

Bahama Mamas Redevelopment  
Multi-Family Site Plan – Fenwick Avenue

Mr. Abbott advised the Commission that this is a preliminary multi-family site plan for 6 units on 27,583.20 square feet; that the site is zoned C-1; that 7 units are permitted by the zoning code; that the 6 units are proposed to be detached units and built within a 165' by 165' building envelope; that each unit is 28' by 42' with an 8' porch; that each unit is 3 stories; that the setbacks meet the requirements of the zoning code; that 18 parking spaces are required and provided including an attached garage for each unit; that 3 parking spaces are located within the front yard setback and need a waiver from the Commission; that there are not any wetlands located on the site; that Sussex County will provide central sewer and Artesian Water Company will provide central water; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all agency approvals.

Clinton Bunting was present on behalf of this item and advised the Commission that the site plan meets the requirements of the zoning code; that the proposed use will create less traffic than the present use miniature golf course; and that the Engineering Department has advised that there are sufficient EDU's for this project.

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

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Motion carried 5 – 0.

Mike and Dianna DiGiacoma  
Parcel and 50' Right of Way – Road 565

Mr. Abbott advised the Commission that this is a concept to widen an existing driveway to a 50' right of way to serve as access to a 3.50 acre parcel with a dwelling on it; that the owner is proposing to create a 0.75 acre lot on each side of the right of way; that DelDOT has granted entrance approval to serve the 3 lots; and that this can be approved as submitted or require an application for a major subdivision.

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to approve the request as submitted.

Motion carried 5 – 0.

Meeting adjourned at 10:45 p.m.