



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF FEBRUARY 3, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, February 3, 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. Mr. Allen introduced Michael Johnson, recently appointed to replace Layton Johnson. 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 – Land Use Planner.

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to approve the agenda as circulated.

Motion by Mr. Gordy, seconded by Mr. Smith and carried with 4 votes to approve the Minutes of January 13, 2005 as amended. Mr. Johnson did not participate in the vote.

Motion by Mr. Gordy, seconded by Mr. Wheatley and carried with 4 votes to approve the Minutes of January 20, 2005 as circulated. Mr. Johnson did not participate in the vote.

OLD BUSINESS

C/Z #1554 – application of **MARINE FARM, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southeast of Beaver Dam Road (Road 285) and southwest of Jim Town Road (Road 285A), to be located on 373.82 acres, more or less.

The Commission discussed this application which has been deferred since September 23, 2004.

Mr. Robertson advised the Commission that Mr. Smith and Mr. Johnson would not be participating in the discussion or vote since they were not members of the Commission during the public hearing held on September 23, 2004.

Mr. Gordy stated that he would move that the Commission recommend approval of C/Z #1554 for Marine Farm, L.L.C. based upon the information contained in the record and for the following reasons:

1. The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Developing Area as established by the 2002 Comprehensive Plan Update.
2. MR zoning is appropriate for the site because medium density development is appropriate in areas where central water and sewer are available. In this case,

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- central sewer service will be provided. Water service will be provided by Tidewater Utilities.
3. The RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses. In this case, the Applicant has used design ingenuity to establish buffers, maintain undisturbed common areas, create interconnecting corridors and minimize disturbance on existing vegetation and wildlife, and other design features.
 4. This recommendation is subject to the following conditions:
 1. The maximum number of dwelling units shall not exceed 630. The 20 lots with roadway connection to Jimtown Road shall be eliminated. The roadway connection to Jimtown Road shall also be eliminated.
 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determinations.
 3. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit. These amenities shall include a swimming pool, bath house and tennis courts.
 4. The development shall be served by central sewer.
 5. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. If it is determined that additional areas are required for stormwater management, parking or other use, the additional area shall be taken from lot areas, not designated Federal or State wetlands or other open space areas.
 7. The Applicant, its successors and/or assigns, including a homeowners association that will be formed, shall operate the stormwater management facilities in a manner that is consistent with Best Management Practices

(BMPs) as further described in the Applicant's documents submitted into the record.

8. Wetlands shall not be included in individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits.
9. No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.
10. Site plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.

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11. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. The street design shall include curbs, sidewalks, and street lighting.
12. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
13. The 42 acre "Wildlife Habitat Area" surrounding the existing bald eagle nest shall remain an open natural area in perpetuity, as shown on the Preliminary Site Plan.
14. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.
15. The Applicant shall cause to be formed an association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
16. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.

Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried with 3 votes 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. Mr. Allen added that he voted for the application since the site is located in a Developing Area, since central water and central sewer are proposed, since the 20 lots near Jimtown Road will be removed, and since 42 acres will be preserved as natural open space.

Motion carried 3 – 0 – 2. Mr. Johnson and Mr. Smith did not vote since they were not members of the Commission when the public hearing was held.

Subdivision #2002-45 – application of **FRANK GONZON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 84.34 acres into 81 lots, located south of Road 251, 2,650 feet east of Road 319.

Mr. Abbott advised the Commission that the final record plan contains 73 lots; that the Commission granted preliminary approval for 81 lots on August 28, 2003 and granted a one-year time extension on September 9, 2004; that Wilmington Canyon Road has been revised to a cul-de-sac street and does not connect to Masseys Canyon Road as submitted with the preliminary plan; that the final record plan meets the requirements of the zoning code and that all appropriate agency approvals have been obtained; and that the final record plan is suitable for final approval.

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Motion by Mr. Gordy, seconded by Mr. Wheatley, and carried with 3 votes to grant final approval for the 73-lot subdivision.

Motion carried 3 – 0 – 2. Mr. Johnson and Mr. Smith did not participate in the vote.

PUBLIC HEARINGS

C/U #1586 – application of **FAR EAST CAPITAL, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a small engine repair to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 15,011 square feet, more or less, of a 2.88 acre parcel, lying northeast of Pennypacker Lane, a private road, 1,130 feet northwest of Road 283 (Cedar Grove Road) and 1,700 feet southwest of Road 275 (Plantation Road).

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and 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 Sassafras sandy loam which has slight limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that Sassafras soils are considered Prime Farmland; that no storm flood hazard areas or tax ditches will be affected; and that it may not be necessary for any on-site or off-site drainage improvements.

Mr. Lank provided copies of 4 letters in opposition and summarized the concerns expressed relating to the use of a small engine repair shop in the predominant agricultural residential area; that a precedent may be established for other applications; additional traffic; noise; depreciation of property values; that the business is already being operated without approval; questioning the types of small engines being repaired; and concerns relating to the repair of boat motors, motorcycles, and larger tractors outside.

The Commission found that Roy Thomas was present on behalf of the application and requested permission to submit a presentation document into the record.

Mr. Robertson reviewed the presentation document and stated that he had no objections to it being submitted into the record.

Mr. Thomas stated in his presentation and in response to questions raised by the Commission that he wants to be a good neighbor; that a need exists for the use; that the

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site is centrally located to serve the residents and businesses in the Lewes area; that he is only applying to use approximately 10% of the 2.88 acre site for the business; that the building on the site is 147 feet from the property line to the east; that the building on the site is 39.9 feet from the property line to the south; that he plans to use an existing building on the site that measures 36-feet by 60-feet; that he proposes to provide a service to local homeowners and professional landscape companies where their small engines can be repaired in a timely fashion while providing quality sales and service; that there are no similar repair shops in close proximity to the site; that he plans to service and repair lawnmowers, trimmers, edgers, blowers and all yard equipment with small motors, to service and repair commercial lawnmowers and other equipment used by professional landscapers; that he plans on selling small yard equipment such as trimmers, edgers and chain saws; that he plans to sell and service Walker Commercial Mowers; that he presently provides service to the Delaware Division of Fish and Wildlife, the Division of Soil and Water, the Lewes Fire Department, the City of Lewes and the City of Rehoboth Beach; that he does service work for Environtech, Henlopen Acres, Activ Pest and Lawn, Mercury Lawn, Plantation Maintenance, Eagles Nest Ministry, Old Landing Golf Course, and Coastal Property Maintenance; that his business hours are from 8:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to 12:00 p.m. Noon on Saturdays during the Summer months; that the business hours include all business activities and repairs; that the business will close at 5:00 p.m.; that the business generates from 1 to 5 vehicle visits per day; that adequate space is available for parking on the site; that security lighting is provided on the front of the building only; that he would like to erect a 4-feet by 5-feet sign at the entrance to the site; that waste oils are stored inside of the building; that a restroom has been built in the building; that he has received 3 letters in support of the application and a petition in support signed by 19 people; that he has been in business on the site since April 2004; that the building was erected with the intent of use as a garage for storage of personal vehicles; that all displays will be indoors; that all equipment repaired shall be stored indoors; that he has no objections to providing a fenced area for storage; that the maximum horsepower to be worked on will be 25 horsepower; that minimal noise is generated; that the noise will be no louder than someone cutting grass; that he may receive one delivery per day; that the only boat motor that he works on is a Go-Devil extended shaft motor used by the Division of Fish and Wildlife in the marsh; that he considered several other sites prior to deciding to apply for this site; that he may

retain some used motors for parts; that he will not retain any junk lawnmowers; and that the majority of all of the work is engine repair.

The Commission found that Allen Quillen, an immediate neighbor, spoke in support of the application and expressed no objections to traffic or the screening, and added that the use does not impact his commercial kennel.

The Commission found that Robert Blumquiest and Bill Gremminger, residents within The Plantations, spoke in opposition to the application and expressed concerns that the

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existing tree buffer between the site and The Plantations does not screen the use from their view; that they are concerned about noise from testing motors for lawnmowers, trimmers and chain saws; that they are concerned that there will be more noise during the summer months since the shop doors will be open or the motors will be tested outside; that the use is out of character with the residential area; and that they oppose the use at this location.

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.

Motion carried 5 – 0.

C/U #1587 – application of **WEST BAY PARK** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a private wastewater treatment and disposal facility to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 10.66 acres, more or less, lying west of Camp Arrowhead Road (Road 279), 1.1 mile south of Angola Road (Road 277).

Mr. Lank provided copies of the site plan and a letter from Andrew C. Strine describing the intent of the Applicants.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand and Osier loamy sand; that the Evesboro soils have slight limitations for development; that the Osier soils have severe limitations; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that both soil types are considered of Statewide Importance; that no storm flood hazard areas or tax ditches are affected; that it may be necessary for some on-site and off-site drainage improvements due to the seasonally high water table of Osier soils; that there may be jurisdictional wetlands on the site and that the Applicant should check with the Army Corps. of Engineers for required permits.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is not located in a County operated or maintained sanitary sewer or water district; that there is no sewer service to the parcel at this time; that the service area of the proposed private wastewater treatment and disposal facility should be defined; that a concept plan must be provided to the Sussex County Engineering Department for review and approval; that the Engineering Department recommends that the wastewater system be operated under a long-term contract with a capable wastewater utility that meets TMDL limits for the Inland Bays;

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that a review and approval of the treatment and disposal system by the Engineering Department is required; that the use is within the Inland Bays Regional Planning Area for sewer service and that the County has undertaken a study that will consider the potential to provide central sewer service to the area; that the study started in November 2004 and is expected to take 18 months to complete; and that when the County provides sewer service, it is required that the treatment and disposal system be abandoned and a direct connection made to the County system at the developers, park owners and/or homeowners association expense.

The Commission found that Andy Strine was present on behalf of the Applicants and stated in his presentation and in response to questions raised by the Commission that they propose an on-site wastewater treatment and disposal system to serve the West Bay Park Manufactured Home Community; that the community contains 350 sites on septic systems; that the project was started in the 1960s and expanded in the 1980s; that the community was originally seasonally occupied; that recently a large number of the tenants have started occupying their units full-time; that they are trying to improve the community before some agency attempts to close the community due to septic problems; that the area and the Inland Bays will benefit by removal of nitrogen and phosphorus by the creation of the central sewer system; that they have met with DNREC and the County Engineering Department for design and are aware of the requirements for future conversion; that they have two other projects with similar systems and offered, by letters to neighboring property owners review of those projects; that the site is hilly with an approximate 30-foot of grade change; that the treatment building will be insulated and heated; that there will be minimal noise since the treatment system is located within the building; that they have upgraded some of the existing septic systems since tenants wanted larger units; that they have had no septic failures; that the company has maintained their other two projects since 1986; that they may not build the proposed community recreation center that was recently approved; that the treatment system may have as many as 80 grinders; that the system will be a rapid infiltration system; that they plan to start construction in the fall of 2005 and to be completed by summer of 2006; that they plan on installing split rail fencing with box wire fencing around the dosing beds; that the dosing beds will be grassed; that Bay Front project and the Village of Herring Creek project have similar systems under construction; that the Woods on Herring Creek

project has a central lagoon system that is failing; and that Angola Beach Community and Angola Estates share a central system; that there is adequate area on the site for the system and a space system; and that they have no intent to expand the facility to serve other projects in the area.

The Commission found that George Porter spoke in support of the application and stated that the system will be good for the people of Sussex County, the Inland Bays, and the clams and crabs.

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The Commission found that Ed Clifton spoke in opposition to the application and stated that he owns two properties next to the site; that his property is located at the lower portion of the proposed site; that he has concerns about the impact on the environment and wildlife, the impacts on the Inland Bays, depreciation of property values, and added an existing privately owned treatment system in the area is failing and polluting the area.

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

There was a consensus of the Commission that a need exists for this type of system and that the use is only intended to serve the West Bay Park Community.

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 since the use meets the purpose of a Conditional Use and promotes the health, safety and welfare of the citizens of the area and the County and with the following conditions:

1. The system shall only serve the West Bay Park Community.
2. The treatment facility shall be enclosed as presented by the Applicants.
3. The Site Plan shall be subject to review and approval of the Planning and Zoning Commission.

Motion carried 5 – 0.

Subdivision #2004-15 – application of **GEORGE AND PAULINE PORTER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 6.146 acres into 9 lots, and a waiver from the forested buffer requirements, located south of Route 9, 1,500 feet west of Road 265.

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; that the Sussex County Engineering Department advised that the site is in the North Coastal Planning Area Study that will look at future services in the

area; and that a letter was received from Barry and Lynn Lambertson in opposition to this application.

The Commission found that George Porter was present and stated in his presentation and in response to questions raised by the Commission that the site currently has a buffer surrounding the site; that the proposed subdivision was previously approved and recorded in the 1980's but was never built; that he found out that the subdivision was sunsetted since it was not built; that the wetlands delineation was done on the previous application; that proposed deed restrictions have not yet been submitted; that the proposed dwellings

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will be compatible with the existing dwellings in the area; and that doublewide manufactured homes will not be permitted.

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

The Commission found that Helen and David Truitt and Ed Clifton were present in opposition to this application and advised the Commission that the lot lines extend into the pond; questioned the size of the acreage of the site; questioned what types of homes will be permitted; that the site adjoins an agricultural preservation district; that the existing trees should be kept on site; that a forested buffer should be required as recommended by the Department of Agriculture; that there is no need for another development in the area; and that there would be negative effects on the wildlife in the area.

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

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to deny this application as submitted since the application is based on a previous recorded plan and that it does not meet the current subdivision regulation.

Motion carried 5 – 0.

It was the consensus of the Commission that if the applicant wishes to submit a revised plan meeting current regulations, the application fee will be waived and once the application is reviewed by the Technical Advisory Committee, the application will be placed on the earliest available agenda for consideration.

Subdivision #2004-16 – application of **DYER REED, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 78.15 acres into 170 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located east of Road 278, adjacent to The Cove on Herring Creek, and northeast of Herring Creek.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on August 18, 2005 and that the report will be made a part of the record for this application; that Tidewater Utilities, Inc. has sent a letter indicating that they are willing and able to serve the development with community wastewater and public water; that Remax Realty Group has sent a letter for the economic analysis for the project; and that a letter in opposition to this application was received from Janice Mosher.

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The Commission found that Preston Dyer and Joe Reed, applicants, John Barwick with Meridian Architects and Engineers, and Gerry Esposito with Tidewater Utilities, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that there will not be any activities in the wetlands; that they have had discussions with DelDOT about drainage and the entrance location; that DelDOT feels that the entrance location is suitable; that Tidewater Utilities will provide central sewer and water; that a 50-foot buffer is proposed along the Tidal wetlands; that the deed restrictions prohibit tree clearing in the buffer along the wetlands; that the site is adjacent to Herring Creek; that the project will utilize best management practices; that they will comply with the regulations of the Office of the State Fire Marshal; that there will be a pedestrian crossing across the wetlands to reach the proposed clubhouse area; that a management company will maintain all open areas, buffers and storm water management areas; that the project meets the requirements of Subsection 99-9C of the subdivision code; that the natural features and contours of the site will be maintained; that scenic views will be protected; that they will minimize excessive fill and cuts; that there are not any historic features on the site; that 41% of the site is open area; that not including wetlands, the site is 33% open space; that the proposed clubhouse area is located near the front of the project; that lots 13 through 15 will be required to have a fence and will be referenced in the deed restrictions; that the community center will have a fence and a 20-foot buffer for the parking lot; that the lighting for the parking area will be shielded; that they will meet the requirements of the Sussex Conservation District; that flooding will be minimized since there is a positive outfall; that sidewalks and pedestrian paths will be provided; that the development will have positive impacts on the surrounding properties; that the starting prices for the lots will begin at \$250,000.00; that the site is not productive for farming practices; that the development will not have any negative impacts on the local school district since the project is being marketed for active adults and second home buyers; that the development is in character with the existing subdivisions in the immediate area; that the average lot size is 9,055 square feet; that the smallest lots are 7,500 square feet as permitted by the zoning code; that the project will be an asset to the surrounding area; that the site plan complies with the Land Use Plan, Subdivision and Zoning Codes; made reference to the letter submitted by Remax; that the plan meets the requirements of the Environmentally Sensitive District Overlay Zone ordinance; that Meridian submitted a letter addressing

the requirements of the Environmentally Sensitive District Overlay Zone; that there will be 1.78 miles of walking trails throughout the project; that the community center will include an indoor pool and fitness center; that access to all common areas will be provided; that there will be scenic views to Herring Creek; that there will not be any activities at the clubhouse after 9:30 p.m.; that there will be deed restrictions that will prohibit the clubhouse being leased or rented; that steps have been taken to minimize detrimental impacts to the environment and surrounding communities; that most of the developments in the area contain single family dwellings with a few manufactured home

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parks; that the community sewer system will be shared with another subdivision; that there is adequate capacity for both developments; that the street design has been redesigned therefore a variance from the cul-de-sac length is not required; that the septic disposal area is not included in the open space; and that paddle boats and kayaks will be provided as a part of the recreation amenities.

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

The Commission found that Jim Shumate, John Hodges, Phil Sticks and Robert Partlow, residents of the Cove on Herring Creek were present in opposition to this application and stated that there are wooded areas that will have to be cleared; raised concerns about the location of the community center, parking areas, and proposed streets; that the proposed subdivision is not compatible with the area since the existing lots in other developments are larger than the proposed lots; raised concerns about erosion and sediment run-off, deforestation, and a traffic study; that the plan does not meet the intent of the cluster ordinance; that larger buffers should be provided; and submitted written comments from The Cove on Herring Creek Owners Association into the record.

The Commission found by a show of hands, that there were 37 people 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 defer action.

Motion carried 5 – 0.

Subdivision #2004-42 – application of **COLBY COX, INTEGRITY HOMES, II, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 180.33 acres into 360 lots (Cluster Development), located north of Road 88 (Cave Neck Road), 1,380 feet east of Road 261 (Dairy Farm Road).

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on December 15, 2004 and that the report will be made a part of the record for this application; that DelDOT has issued a letter of no objection for the entrance; that DNREC has issued a septic feasibility statement and that the site is suitable for the proposed septic design; and that the applicants submitted an Exhibit Booklet that will be made a part of the record.

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The Commission found that Preston Dyer, Colby Cox, Gary McCrea, and Karla Draper, applicants, Mark Davidson of DC Group, and Gerry Esposito of Tidewater Utilities, Inc. 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 off of Road 88; that the site is zoned AR-1; that 600 feet of the site is in the Environmentally Sensitive Developing Area; that 58.63 acres are located in this district and that the remaining 121.7 acres is outside of the district; that the site is located in a secondary developing area based on the State Strategies Map; that the site is near an existing sewer district and is in the future planning area for central sewer; that Tidewater Utilities has issued a letter stating that they are willing and able to provide the development with community wastewater and central water; that a portion of the development has been designed to meet the Environmentally Sensitive District Overlay Zone Ordinance and the remainder of the site has been designed to meet the Cluster Development Ordinance; that the proposed density has not been increased; that the project has been designed to create a superior living environment; that the cluster design will protect forested areas on the site; that by utilizing this design, impervious areas will be reduced by 10% to 15%; that the project will consist of three phases; that the first two phases will each contain 170 lots and that the last phase will be for 20 lots; that the last 20 lots would only be developed if and when central County sewer is available; that they could have a maximum of 392 lots and submitted a standard design that the developers do not feel is an acceptable plan to create a superior living environment; that 75.64 acres, which makes up 42% of the site is open space; that walking paths have been provided throughout the project; that forested buffers have been provided; that a community center with a clubhouse, swimming pool, and fitness center is proposed; that two, 0.75-acre tot lots have been provided; that an existing 11.3-acre water feature will be utilized as a park and not as a part of the storm water management area; that sidewalks and jogging paths have been provided; that there are interconnections to all of the open space areas; that parks and benches will be provided; that native plant species will be planted in the open areas; that the northeast portion of the site is a 22 acre area scattered with wetlands and uplands that will be a nature area; that a management group will maintain all open areas, buffers and storm water management areas; that the design provides for passive recreation; that all of the Technical Advisory Committee and PLUS comments have been addressed; that the soils are feasible for the proposed wastewater community system; that 15 acres will be used for spray irrigation;

that the developers have met with DelDOT and have agreed to the improvements that DelDOT will require and submitted these agreements; that the storm water management and erosion and sediment control facilities will meet or exceed State and County requirements; that best management practices will be utilized; that no wetlands will be contained on any lots; that the storm water management areas will not be located in any wetlands; that there are not any historical features on the site; that open space has been provided; that tree removal will be minimal; that evergreen screening will be provided for the lagoons and buffer areas along the front and west sides of the site; that the project will

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have positive economic impacts on surrounding properties; that there are other similar projects located in the immediate area; that landscaping along Road 88 will be provided; that the project will not have any negative impacts on the local school district; that the project is compatible to the existing uses in the area; that there would be economic benefits to the County; that the average lot size is 10,104 square feet; that the project will be marketed for active adults and second home buyers; and submitted a map of the area, an economic analysis report and a copy of the DelDOT agreement.

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

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

Motion by Mr. Wheatley, seconded by Mr. Gordy, and carried unanimously to defer action.

Motion carried 5 – 0.

OTHER BUSINESS

Bay Forest Club MR/RPC
CZ #1526 Master Record Plan – Roads 347 and 349

Mr. Abbott advised the Commission that this is the master record plan for an 808-unit residential planned community; that the County Council approved the rezoning on March 23, 2004 with 21 conditions; that the conditions of approval are referenced on the master plan; that the break down of the units are as follows: 225, 80-foot single family lots, 163, 70-foot single family lots, 93, 28-foot by 42-foot cottages, 177, 34-foot villas, 68, 30-foot villas, and 82, 22-foot townhouses; that the single family lots will have the standard MR zoning district setbacks; that the multi-family units will have the standard setbacks, building lengths and building separations; that the developer is requesting 20-foot setbacks for the front yard and 20-foot separation between units for the detached single family cottages; that 3 parking spaces per unit are provided for the multi-family units;

that the recreational amenities include tennis courts, a beach club, pool and snack bar, tot lots, neighborhood parks and village greens; that the streets will be private and built to county specifications; that Sussex County will provide central water and that Tidewater Utilities will provide central water; that the purpose of the master plan is to show how the project will be developed; that any revisions to the master plan will need to be reviewed and approved by the Commission; and that each phase of the project is subject to the review and approval of the Commission.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the
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master plan as submitted.

Motion carried 5 – 0.

Bay Forest Club MR/RPC
Preliminary Record Plan – Phase 1 – Roads 347 and 349

Mr. Abbott advised the Commission that this is the preliminary plan for Phase 1; that 196 single family lots, 14 detached single-family cottages, and 126 multi-family units are proposed for this phase; the recreational amenities are also included in this phase; there are 95 parking spaces proposed for the community center; the site plan is suitable for preliminary approval and final approval is subject to the review and approval of the Planning and Zoning Commission upon receipt of all agency approvals.

Motion by Mr. Smith, seconded by Mr. Wheatley, and carried unanimously to approve Phase 1 as a preliminary.

Motion carried 5 – 0.

Subdivision #2003 – 34 - - Palisades Land, L.L.C.
Williams Creek Estates – Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Planning and Zoning Commission granted preliminary approval for 380 lots on March 11, 2004; and that this is the first request for an extension.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to grant a one-year time extension.

Motion carried 5 – 0.

Carol Levitsky and Sara Tammany
CU #1596 Site Plan – Hebron Road (Road 273)

Mr. Abbott advised the Commission that this is a site plan for a 3,462 square foot appraiser's office; that the site is zoned GR and the County Council approved the Conditional Use of November 9, 2004; that 2,055 square feet will be used as office space and the remaining square footage will be for storage; that 11 parking spaces are required and provided; that the interior driveway needs to be revised to 25-feet; that the setbacks meet the requirements of the zoning code; that the 6 conditions of approval are referenced on the site plan; that privacy fencing or planted screens are required from the residential properties; that the minimum height at planting must be determined; that the site plan is

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suitable for preliminary approval; and that final approval could be subject to the staff receiving all required agency approvals.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary with the stipulations that final approval shall be subject to the staff receiving all required agency approvals, and that if screen plantings are used, the minimum height of the screens shall be five feet at planting.

Motion carried 5 – 0.

The Crab Barn Mini Golf
CU #1554 Site Plan – Road 22

Mr. Abbott advised the Commission that this is a site plan for a miniature golf course; that the County Council approved the Conditional Use on September 28, 2004; that the site plan is the same as the one submitted for the public hearing; that the plan complies with the zoning code and conditions of approval; that 18 new parking spaces are proposed; that the site plan is suitable for preliminary approval and that final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Wheatley, 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.

Hugh D. Stephens
3 Lots and an Existing 50' Right of Way – Road 376A

Mr. Abbott advised the Commission that this is a concept to create a 4.79-acre parcel with access from an existing 50-foot right of way; that the proposed parcel will have road frontage along Road 376A, but DelDOT will only permit access from the right of way; and that the other 2 lots will have access from Road 376A.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the request as submitted.

Motion carried 5 – 0.

Meeting adjourned at 11:45 P.M.