



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF JULY 14, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 14, 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 Mr. Kautz – Land Use Planner.

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

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the Minutes of June 23, 2005 as amended.

OLD BUSINESS

C/Z #1576 – application of **REYNOLDS POND, 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 Cedar Creek Hundred, Sussex County, land lying at the intersection of Road 227 and Route 30, and southwest of Road 212, to be located on 826.84 acres, more or less.

Mr. Allen stated that he will abstain from participating in the discussion on this application since he abstained from participating in the public hearing.

Mr. Johnson stated that he will also be abstaining from participation since he was not present during the public hearing.

Mr. Allen turned the discussion over to Mr. Wheatley, Vice-Chairman.

The Commission discussed this application which has been deferred since May 12, 2005.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried with 3 votes to defer action to allow the Commission to review and study the comments received with Mr. Lank's memorandum, dated July 13, 2005.

Motion carried 3 – 0. Mr. Allen and Mr. Johnson did not participate.

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C/U #1612 – application of **CANAL PLACE, LLC** to consider the Conditional Use of land in a GR General Residential District for multi-family dwelling structures (87 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 14.6 acres, more or less, lying west of Cedar Neck Road (Road 357), across from Fred Hudson Road (Road 360), and east of White's Creek.

The Commission discussed this application which has been deferred since June 9, 2005.

Mr. Smith stated that the existing land use is non-conforming and that he has studied the site as if it is a vacant parcel; that he has some concerns about the proposed density; that there are 11.67 acres of developable land; and that in trying to assume density for the site he deducted 16% for streets, etc. and came up with a calculation of 42 units.

Mr. Allen stated that he deducted 25% for streets, etc. and came up with a calculation of 50 units.

Mr. Wheatley stated that when the use changes the current regulations should apply.

Mr. Johnson agreed and stated that the mobile home park is non-conforming and that the EDU calculation for sewer was designed for the park, not the proposed use.

Mr. Gordy agreed with all comments.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1612 for Canal Place, L.L.C. based upon the record made at the public hearing and for the following reasons:

- 1) The proposed Conditional Use 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 Sussex County Comprehensive Plan.
- 2) The proposed Conditional Use is appropriate for the site because residential development of this type is appropriate in areas where central water and sewer are available. In this case, there will be central sewer provided by the Sussex County Cedar Neck Sewer District and water provided by Sussex Shores Water Company.

- 3) The property is in an area that has developed with residential properties similar to the proposed project.
- 4) The recommendation for approval is subject to the following conditions:
 1. The maximum number of residential units shall not exceed 42.
 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.

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3. The development shall be served as part of the Sussex County Cedar Neck Sewer District.
4. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by application regulations.
5. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
6. The site plan of the development shall be subject to site plan review and approval by the Planning and Zoning Commission.
7. The interior street design shall be in accordance with or exceed Sussex County street design requirements with curb and guttering. Street lighting shall also be installed as stated in the record.
8. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
9. Road naming and addressing shall be subject to the approval of the County Mapping and Addressing Department.
10. A 50-foot buffer shall be provided from the State wetlands line as shown on the site plan as it corresponds to the delineation from Whites Creek.
11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur during the hours of 8:00 a.m. to 5:00 p.m.
12. Access to the boat ramp/launch area shall be available at all times to first responders, fire and E.M.S. crews and vehicles in the event of marine emergencies in the White's Creek Area.

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

Motion carried 5 – 0.

Subdivision #2003-39 – application of **JAMES D. AND MARY BETH PARKER** to consider the Subdivision of land in an AR-1 Agricultural Residential District and GR General Residential District in Indian River Hundred, Sussex County, by dividing 101.67 acres into 88 lots, located east of Route 30, approximately 2,984 feet north of Road 314.

Mr. Abbott advised the Commission that this is the final record plan for an 88-lot subdivision; that the application received preliminary approval on May 27, 2004; that the Commission granted a one-year time extension on May 26, 2005; that the final record plan complies with the subdivision and zoning codes; and that all agency approvals have been received.

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Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve this application as a final.

Motion carried 5 – 0.

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 139.62 acres into 235 lots, located north of Road 48 (Hollymount Road), 1,380 feet east of Road 285.

Mr. Abbott advised the Commission that this is a preliminary plan for a 235-lot (Cluster Subdivision) subdivision application that was deferred on June 23, 2005; and that DNREC has issued a septic feasibility statement indicating that the site is suitable for a large on-site wastewater treatment and disposal system.

The Commission discussed this application raising concerns about whether this subdivision is more superior than a standard subdivision; that the previous application was 275 lots compared to the 235 lots now proposed; that there would be a substantial loss of forest lands in developing the project; that soil removal and grade changes will occur; that the site would not be visible from the public roads due to the proposed buffers; that the items referenced in Subsection 99 – 9C have been addressed; and that more time is needed to review the application.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to defer action for further review.

Motion carried 5 – 0.

Subdivision #2004-35 – application of **MCRYAN PROPERTIES, L.L.C.** to consider the Subdivision (Cluster Development) of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 37.84 acres into 41 lots, located at the northeast corner of Route 225 and Route 224.

Mr. Abbott advised the Commission that this is a preliminary plan for a 39-lot (Cluster Development) subdivision application that was deferred on June 23, 2005; and that DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.

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Mr. Wheatley stated that he would move that the Commission conceptually approve Subdivision #2004 – 35 for McRyan Properties, L.L.C. 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 of ½ acre.
2. A subdivision on this site will not have an adverse impact on the neighboring properties or community, and that there are other residential areas in the general vicinity of this project.
3. The lots will be served by individual wells and septic systems. A Statement of Feasibility has been presented for the septic systems.
4. Due to the existing nature of the site no significant grade changes are expected, and the applicant has stated its intentions to preserve trees located outside of the roadway and house areas.
5. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
6. This motion is for approval of the subdivision concept only, because Mr. Wheatley is not satisfied that the preliminary site plan, as presented, is superior to a standard subdivision as required by the AR-1 Clustering Ordinance. Generally, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed. However, the Applicant has not maximized the amount of useable open space or improved the overall design of the subdivision. Also, the size and location of the only “Active Open Space” should be revised. Mr. Wheatley is not satisfied that leaving 4.03 acres of basically inaccessible open space behind a storm water management pond as the only other major open area represents a superior design.
7. This conceptual approval is subject to the following conditions:
 1. There shall be no more than 39 lots within the Subdivision.
 2. The Applicant shall cause to be formed a homeowners’ association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
 3. The storm water management system shall meet or exceed the requirements of the State and County.
 4. All entrances shall comply with all of DelDOT’s requirements.
 5. As stated by the Applicant, all streets must have curbs and gutters.

6. The Applicant shall maintain as many existing trees as possible. The undisturbed-forested areas shall be shown on the revised Preliminary Site Plan.
7. The Preliminary Site Plan must be redesigned to reflect a design that is superior to a standard subdivision by providing more centrally located open space within the project and by relocating the active open space where the proposed tot lot will be to an area that is not adjacent to a County Road.

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8. The Applicant shall submit a revised Preliminary Site Plan in compliance with the conditions of this conceptual approval, to be considered by the Commission at a future meeting under "Old Business".

Motion by Mr. Wheatley, seconded by Mr. Johnson, and carried unanimously to grant conceptual approval for the reasons and with the conditions stated.

Motion carried 5 – 0.

PUBLIC HEARINGS

C/U #1614 – application of **BEAU MARR** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for welding and fabrication to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 41,915 square feet, more or less, lying east of Route 30, 550 feet south of Route 9 at Gravel Hill.

Mr. Lank provided the Commission with copies of the site plan for this application.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service "B" of Route 30 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Borrow pits, Kenansville loamy sand, and Woodstown sandy loam; that the Kenansville soils have slight limitations for development; that the Woodstown soils have slight to moderate limitations; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Kenansville and Woodstown soils are considered Prime Farmland; that there are no storm flood hazard areas or tax ditches affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that a letter was received from William Schab, an adjoining property owner, voicing no objection to the application since most of the property in the area is used for other than residential purposes, and that he does not believe that the request is detrimental to the surrounding area.

The Commission found that Beau Marr was present with Nathan Landis, a partner in the business, and Kashif I. Chowdhry, Attorney, and that they stated in their presentations and in response to questions raised by the Commission that the proposed business is for manufacturing and installation of T-tops for boats; that T-tops are roof-overs for standard

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Boats requiring custom work; that it may take 3 days per T-top from manufacturing to installation; that there should be no more than 2 or 3 customer boats on the site at any one time; that the site is close to Route 9 where there are several business uses; that the adjacent property is used for a landscaping business; that there should be no adverse impact on the neighborhood or property values; that they propose to erect a 40' by 40' shop building; that there may be some boats stored to the rear of the proposed building; that they will receive no more than 2 deliveries per month by truck, primarily stainless piping; that the piping comes in 23' lengths; that the applicant lives on the site and that there will be no need for additional septic; business hours are proposed from 7:00 a.m. to 6:00 p.m. Monday through Saturday; that there will not be any Sunday hours; that a motion detector light will be installed on the building; that no additional employees are anticipated; that no outside work is planned; that all work should be performed indoors; that the sheds shown on the site plan have already been removed or will be moved; that no vehicles will back out into Route 9; that they have no objections to a limitation on the number of boats stored outside on the site; that they have not planned on erecting any fences; that all storage will be maintained inside of the building; that they have fabricated 2 T-tops for display purposes; that noise will be limited to metal cutting with a chop-saw and welding; that the proposed steel building will not have any windows, only overhead doors.

The Commission found that the Applicant provided a copy of a letter of no objection from Curtis O. Harmon and two photographs of boats with T-tops.

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

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

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to defer action for further consideration.

Motion carried 5 – 0.

C/U #1615 – application of **J & M ENTERPRISES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for multi-family dwelling structures (12 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.86 acres, more or less, lying northwest of Dove Knoll Road, as extension of Melson Road, 600 feet northeast of Route One.

This application was withdrawn on June 20, 2005.

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C/U #1616 – application of **PAUL KASE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for professional offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 41,611 square feet, more or less, lying at the southeast corner of Route 275 (Plantation Road) and Route 276 (Shady Road).

The Commission found that the Applicant had submitted an exhibit booklet which contained some suggested conditions of approval, a copy of the survey of the property, a proposed site plan, a copy of the Tax Map of the area, ten photographs of the site and area, a copy of the guidelines for non-residential use in the Environmentally Sensitive Developing Area from the Comprehensive Plan, references to the Strategies for State Policies and Spending Update referencing Investment Level 2 uses, copies of correspondences between the Office of State Planning Coordination and Tim Willard, the Applicants Attorney, and DelDOT comments.

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 construction and to maintain vegetation; that Sassafras soils are considered Prime Farmland; 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, based on comments received from the County Engineering Department Planning and Permits Division, that the site is located in the West Rehoboth Expansion Area; that capacity is available for up to 6.0 EDUs or an office of up to 6,000 square feet; that Ordinance No. 38 construction will not be required; that the current System Connection Charge Rate is \$3,716.00 per EDU; that each parcel is served with a 6-inch lateral that is not adequate for the proposed project; that installation of an 8-inch lateral is recommended; that proper disconnection of the two existing single-family dwellings is required before the dwellings are demolished or a building permit is issued for the office building; that a disconnection permit is required for each parcel and the

disconnections must be inspected by the County; that conformity to the West Rehoboth Area Planning Study will be required; and that a concept plan is not required.

The Commission found that James Fuqua, Attorney, John Lester, Architect, and Dr. Jose Pando were present and stated in their presentations and in response to questions raised by the Commission that they propose to build professional offices on the site; that two single-family dwellings exists on the site and will be removed; that Shady Road has several business uses including an auto repair, a storage facility, and access to a restaurant; that the commercial zoning across Shady Road backs up to the Lowe's

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facility; that they originally intended to apply for B-1 Neighborhood Business; that they revised the application to a Conditional Use per the recommendation of the Office of State Planning Coordination after the PLUS meeting; that there should be no negative impact on the sewer district; that central water will be provided by Tidewater Utilities, Inc.; that DelDOT did not require a traffic impact study; that the Applicant will be dedicating additional right-of-way to DelDOT; that standard business hours are planned Monday through Friday and part-time on Saturday; that they propose to install one ground sign, not exceeding 32 square feet per side or facing; that Dr. Pando intends to purchase the property to relocate his medical offices; that the maximum proposed usable building space will be 9,000 square feet; that a need exist for professional medical offices in the area to be close to the Beebe Hospital and the Beebe Out-Patient Clinic on Route 24; that the site is in close proximity to other commercial and business uses; that Dr. Pando will have 6 or 7 staff on the premise serving 2 doctors; that the peak patient number should not exceed 20 to 30 patients per day; that Dr. Pando also has offices in Ocean View; that the building is designed to be compatible to other structures in the general area; that construction materials will be similar to other structures in the area; that the building will also house an indoor therapy pool; that no narcotics are stored on the premises; that the Applicant has no objection to a condition that the offices shall be limited to medical offices only; and that no residential use of the premises intended.

The Commission found that Irvin Jackson was present in opposition and expressed concerns about the location being on the corner of Plantations Road and Shady Road; traffic; that the State continues to say that they are going to improve the roads in the area; that traffic backs up at the intersection; that he anticipates that it will be difficult to exit the site due to traffic; that he is concerned about the size of the building; that he is concerned about where dumpsters may be installed; that the use is out of character on this end of Shady Road, which is primarily residential; that commercial uses should be across Shady Road in the commercial district; that there is no need for offices in a residential area; that flooding has occurred on Plantation Road since the development of Henlopen Landing started; that the garage on the site has been used for storage of some type of business; that there are 80 townhouses being proposed along his driveway; and that more properties are being developed 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 defer action.

Motion carried 5 – 0.

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C/U #1617 – application of **GLEN R. JONES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for expansion of an existing RV campground (C/U No. 827) to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 56.7103 acres, more or less, lying south of Route 787A (Old Sailor Path), 0.4 mile south of Route 78 and north of Broad Creek.

Mr. Lank provided the Commission with copies of the proposed site plan for expansion of the campground.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service “A” of Road 78A will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as three type of Evesboro loamy sand, Johnston loam or silt loam, Osier loamy sand, Rumford loamy sand, and Tidal marsh, fresh; that two of the Evesboro soils and the Rumford soils have slight limitations for development; that one of the Evesboro soils has moderate limitations; that the Johnston, Osier and Tidal marsh soils have severe limitations; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that two of the Evesboro soils, the Osier soils and the Rumford soils are considered of Statewide Importance; that the Johnston and Tidal marsh soils are considered Hydric; that there are no storm flood hazard areas or tax ditches affected; that it may not be necessary for any on-site or off-site drainage improvements; and that there may be regulated wetlands on the site.

The Commission found, based on comments received from the Mayor and Council of Laurel, that the Town, at their meeting of July 5, 2005, reviewed the plans for the project; that the project is adjacent to the municipal boundaries of the Town; that the property is within the Town’s “Certified” Comprehensive Plan’s growth and annexation boundary; that the property may be annexed in the near future; that the Town is willing to offer water and wastewater service to the property with the condition that the developer bear

all infrastructure cost; that it is understood that the property may remain as a campground for the next five years, and within ten years of annexation, residential development will begin to take place.

The Commission found that the Sussex County Council granted approval of Conditional Use #827, the application of Glen R. Jones and Sally A. S. Jones, on July 30, 1985 and that the findings included that the use is compatible with the neighborhood; that there would be no adverse affect on traffic; that the use conforms to the Comprehensive Plan which has been adopted by the County; and that there appears to be no negative impact according to letters received.

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The Commission found that Dennis Schrader, Attorney, was present with Bob Harris of Gulfstream Development Corp. and Bill Stephens of Stephens Environmental Consulting, Inc. and stated in their presentations and in response to questions raised by the Commission that the property is under contract to purchase from Glen Jones; that 47 recreational vehicles sites exists per the Conditional Use approved in 1985; that they propose to expand the campground to a total of 129 sites; that a private wastewater system and a private water system exists on the site; that a boat dock area exists on the site; that recreational amenities exists; that the Town of Laurel has voiced no objections to the proposed expansion; that the site is within the Town's annexation area per the Town of Laurel Comprehensive Plan; that the site is located within a Developing Area according to the Sussex County Comprehensive Plan Update; that they propose to redesign the existing sites and the new sites with modern campground features and mostly back-in spaces; that the project will have key card access when open; that recreational facilities will be added; that a laundry will be provided; that additional shower buildings will be erected; that playgrounds will be improved; that they propose to improve the existing dock and ramp area; that seasonal use is planned; that the camp sites are setback 400 feet from any adjacent residential homes; that 50-foot buffers have been provided; that wetlands have been delineated; that no encroachments into wetlands or flood plains are proposed; that proposed buildings on the site will include, but not be limited to, a park office, park store, activity center and a manager's office; that recreational uses will include, but not be limited to, playgrounds, volleyball, horseshoes, and a pool; that the sites will be landscaped; that individual spaces will include picnic tables, a mounted grille, utilities and landscaping; that utilities will include power, water, sewer, and possibly cable; that each camper space will be contained within wooden timbers and covered with stone; that the stone will be installed above grade to eliminate tenants walking in water; that trails will be established through-out the park; that streets will be at least 20-feet wide with all trees removed; that it will be an environmental plus to eliminate the existing community septic system; that water and sewer services will be provided by the Town of Laurel; that the project will start immediately upon receipt of all appropriate agency approvals; that the original site will be improved upon completion of some of the new sites so that existing tenants can relocate to the new sites; that the Town

of Laurel is in support of the project and that the Developers will develop all of the infrastructure; that all sites shall comply with Code; and that no tent camping is proposed.

The Commission found that Gene White was present on behalf of some of the tenants within the campground and some of the neighbors in opposition and stated that the campground has only been operated seasonally from April 1 to November 15; that the campground, as developed by Mr. Jones, is an environmentally sound project; that some of the units have decks attached to keep a level space to reside; that the Applicants propose to clear-cut the site for future residential development; that most people in Laurel do not know that the campground exists; that the letter from the Town of Laurel was not approved by the Mayor and Council; that the traffic summary report should be redone to

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include the Laurel area; that no comments have been received from DNREC; that the Laurel treatment plant needs repairs and up-grading before taking on more users; and that they are not aware of any environmental studies being performed.

The Commission found that Mr. White submitted a petition in opposition which contains 108 signatures.

The Commission found that there were a total of 21 parties present in opposition to the application.

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

Motion by Mr. Gordy, seconded by Mr. Wheatley and carried unanimously to defer action to allow the Commission time to review the record and the comments presented.

Motion carried 5 – 0.

Subdivision #2005-6 – application of **S. K. PEPPER CREEK, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 65.39 acres into 125 lots, (Environmentally Sensitive Development District Overlay Zone), located south of Road 336 (Piney Neck Road), 1,170 feet east of Road 335A and north of Pepper Creek.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on April 20, 2005 and that the report will be made a part of the record for this application; that a revised site plan and information booklet were submitted by the Applicants on July 8, 2005; that the revised preliminary plan reflects the recommendations made by the Technical Advisory Committee; that comments have been received from the PLUS process; and that a letter in opposition has been received from the Robert L. and Karen A. Martin.

The Commission found that Dane Bauer of George Miles and Buhr and Kirk Taylor of S.K. Pepper Creek 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 made up of two tracts totaling 65.39 acres; that 125 lots are proposed in an Environmentally Sensitive Overlay Zone District; that none of the lots abut the creek; that 11.90 acres of open space is provided; that the minimum lot size proposed is 7,500 square feet; that the site was a junk yard for boats and that the developers have cleaned up the site; that there is a non-conforming marina on the site and that it is being improved under DNREC regulations; that the marina currently has 65 boat slips and will be expanded to 88 slips; that Tidewater Utilities will provide central sewer and central water; that the adjoining site is approved for a MR/RPC; that the central sewer system will probably be a spray

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irrigation system; that there will not be any fuel pumps at the marina; that the exhibit booklet contains willing and able to serve letters from utility companies for the proposed infrastructure; that the amenities will include a boat house, restrooms, a clubhouse, swimming pool, a tot lot, and walking paths; that there will not be any impacts to the wetlands; that the soils on the site are well drained; that the parcel on the north side of Piney Neck Road will be used for the sewer treatment; that there are not any bald eagles nesting on the site; and that there are other developments in the immediate area.

The Commission found that John Ashton; President of Holly Cove Homeowners' Association, Dave Brelsford, and Pat Fry were present in opposition to this application and stated that if approved, the project would put at least another 250 vehicles onto Piney Neck Road; that with the marina being improved, there will be additional traffic on Piney Neck Road; questioned whether or not DelDOT required a traffic impact study; that bald eagles are nesting in the area; questioned whether or not the clubhouse will be for residents only or open to the community; that rainbow sunfish in the creek limits bulk heading, docks and piers; that the sewer treatment plant will be adjacent to a residence; questioned where the water will go and what types of buffers are proposed; that the density is too great; that all of the homes will be on small parcels; that no other homes in the area are located on ¼ acre lots; that very little open space is proposed; that the site does not contain many trees; and that there could be negative impacts to Pepper Creek.

Mr. Bauer responded that the clubhouse will be open to both residents of the development and the community; that a traffic impact study was not required by DelDOT; that DelDOT is not requiring any improvements to Piney Neck Road according to their traffic consultant; and that they are leaning towards a spray irrigation system as regulated by DNREC.

The Commission found, by a show of hands, that 4 people were present in support of this application; and that 9 people were present in opposition to this application.

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

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

Motion carried 5 – 0.

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OTHER BUSINESS

Sandy Cove Townhouse Community
CU #1557 Site Plan – Road 358

Mr. Abbott advised the Commission that this is the preliminary and final site plan for an 84-unit townhouse project located on 20.22 acres; that the Conditional Use was approved on November 9, 2004; that 7 buildings with 7 units, 4 buildings with 6 units, 2 buildings with 4 units and 1 building with 3 units are proposed; that all setbacks, building lengths and building separations meet the requirements of the zoning code; that 252 parking spaces are required and provided which includes an attached garage for each unit; that a clubhouse and swimming pool are proposed; that the 11 conditions of approval are referenced on the site plan and the conditions of approval have been met; that central sewer will be provided by Sussex County and that central water will be provided by Sussex Shores Water Company; that all agency approvals have been received and that the site plan is suitable for final approval.

Motion by Mr. Smith, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary and as a final.

Motion carried 5 – 0.

Rehoboth Beach Associates, L.L.C.
CU #1524 Revised Site Plan – Road 274

Mr. Abbott advised the Commission that this is a revised site plan for 70 duplex buildings (140 units) located on 23.52 acres; that the Conditional Use was approved on June 8, 2004; that the Commission granted preliminary site plan approval on October 28, 2004 and a one-year time extension May 26, 2005; that the site plan has been revised to have the duplexes designed in a 122-foot by 50-foot building envelope with a 40-foot separation between the building envelopes; that 420 parking spaces are required and

provided which includes an attached garage for each unit; that a swimming pool, pool house, sidewalks and street lights are provided; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that the revised 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. Gordy, and carried unanimously to approve the revised 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.

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The Seasons HR-1/RPC
CZ #1546 Site Plan – Road 273

Mr. Abbott advised the Commission that this is the preliminary site plan for a 118-unit residential planned community; that the 118 units are permitted by the approved ordinance; that there are 32 single family detached homes, 56 duplex units, and 30 multi-family units proposed; that 28 duplex buildings, 2 buildings with 6 units, and 6 buildings with 3 units are proposed; that 204 parking spaces are required and provided; that a community swimming pool and clubhouse are provided along with sidewalks and street lights; that the 14 conditions of approval are referenced on the site plan; that a landscaping plan has also been submitted; that central sewer will be provided by Sussex County and that central water will be provided by Tidewater Utilities; that the site plan is suitable for preliminary approval and that final approval shall be subject to the Commission upon receipt of all agency approvals since the project is a residential planned community.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve the site plan as a preliminary.

Motion carried 5 – 0.

Douglas Brockway
CU #1568 Site Plan – Road 288

Mr. Abbott advised the Commission that this is a site plan for a boat repair and accessory installation business; that the Conditional Use was approved on March 15, 2005; that the applicant has submitted the same site plan that was used for the public hearing with a revised access from Road 288; that the applicant submitted a separate sheet of the conditions of approval; that some of the conditions have been addressed and that the Commission needs to determine if the applicant has complied with the others; that if the Commission determines that the conditions of approval have been met, then the site plan

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

It was the consensus of the Commission that the applicant has not complied with the Leyland Cypress condition of approval.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to deny the site plan as submitted.

Motion carried 5 – 0.

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Heritage Village MR/RPC
Model Home Request – Road 283

Mr. Abbott advised the Commission that the developers are requesting permission to construct 2 model duplex buildings adjacent to the existing golf course; that 4 units are proposed; that these units are located directly behind the golf pro shop; that the Commission granted preliminary site plan approval on June 9, 2005; that if the Commission is favorable to this request, no Certificates of Occupancy and Compliance will be issued until the final record plan is approved and recorded.

Robert Robinson, an Attorney on behalf of the developer, advised the Commission that the developers are requesting permission to build one building with 4 units; that a revised letter should have been sent requesting this; and that the location for the one building is the same as where the duplex buildings were described.

Motion by Mr. Johnson, seconded by Mr. Wheatley, and carried unanimously to approve this request to permit the construction of one building with 4 units to be used as a model building with the stipulation that a Certificate of Occupancy and Compliance will not be issued until the final site plan is approved and recorded.

Motion carried 5 – 0.

Subdivision #2003 – 54 - - Oyster Rock Properties, L.L.C.
The Woods at Oyster Rock – Time Extension

Mr. Abbott advised the Commission that this is a request for a one year time extension to obtain final record plan approval; that the Commission granted preliminary approval on August 26, 2004 for 7 lots; that the engineering firm is in the process of obtaining all agency approvals; and that this is the first request for an extension.

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

Motion carried 5 – 0.

Joseph L. Warnell
4 Lots – Road 207 and 214

Mr. Abbott advised the Commission that this is a request to create 4 lots along Roads 207 and 214; that there is a 60-foot easement located between lots 1 and 2 and lots 3 and 4; that DelDOT has granted entrance approval from the 2 easements; that the proposed easements will become a subdivision street if the application for a major subdivision for

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the remaining land is approved; and that the remaining 96.63 acres is the subject of a major subdivision application (#2005 – 16 – Cypress Creek Estates) which has not yet been scheduled for a public hearing.

John Van Sickle with Davis, Bowen & Friedel advised the Commission that the developer wants to build on the 4 lots at this time and that these lots will not be a part of the major subdivision application.

Joe Warnell advised the Commission that he would like to build 4 nice homes on these lots to serve as model homes for the major subdivision.

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

Motion carried 5 – 0.

Delmarva Power and Light
Parcel and 50' Right of Way – Road 258

Mr. Abbott advised the Commission that this is a concept to create an 8.04 acre parcel with access from a 50-foot right of way; that Delmarva Power and Light is selling 36.23 acres and retaining 8.04 acres; that the 8.04 acre parcel will not be built on; and that the Commission can approve the request as submitted or require an application for a major subdivision.

Kevin Burdette of McCrone, Inc. advised the Commission that Delmarva Power and Light is retaining the 8.04 acres for maintenance of the power lines.

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

Motion carried 5 – 0.

REORGANIZATION

Mr. Allen appointed Mr. Lank as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Lank opened nominations for Chairman.

Motion by Mr. Wheatley, seconded by Mr. Johnson to nominate Mr. Allen as Chairman.

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Motion by Mr. Wheatley, seconded by Mr. Johnson that the nominations for Chairman be closed. Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Allen as Chairman: 4 yea and 1 abstaining.

Vote by roll call:

Mr. Gordy: yea
Mr. Johnson: yea
Mr. Wheatley: yea
Mr. Smith: yea
Mr. Allen: abstaining

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Gordy, seconded by Mr. Allen to nominate Mr. Wheatley as Vice-Chairman.

Motion by Mr. Allen, seconded by Mr. Johnson that the nominations for Vice-Chairman be closed. Nominations for Vice-Chairman were closed.

Motion was adopted to nominate Mr. Wheatley as Vice-Chairman: 4 yea and 1 abstaining.

Vote by roll call:

Mr. Allen: yea
Mr. Gordy: yea
Mr. Johnson: yea
Mr. Smith: yea
Mr. Wheatley: abstaining

The meeting was turned over to Mr. Allen, the re-elected Chairman.

Mr. Allen appointed Mr. Lank as Secretary for the Commission.

Mr. Allen authorized Mr. Lank, Director, Mr. Abbott, Assistant Director, and Mr. Shockley, Environmental Planner, to sign record plats for recordation on behalf of the Commission.

Meeting adjourned at 10:50 p.m.