



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF AUGUST 25, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 25, 2005 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 pm with Acting Chairman Wheatley presiding. The following members of the Commission were present: Mr. Gordy, Mr. Smith, and Mr. Wheatley with Mr. Robertson – Assistant County Attorney, Mr. Lank – Director, and Mr. Abbott – Assistant Director.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the Revised Agenda as circulated.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the Minutes of August 11, 2005 as circulated.

OLD BUSINESS

Subdivision #2004-39 – application of **SENECA HARBOR JOINT VENTURE** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 234 acres into 400 lots, (Clustered Development), located at the northeast corner of the intersection of Road 306 and Road 305.

Mr. Abbott advised the Commission that this application, a 400 lot Cluster Development, was deferred on August 11, 2005 and that the State DNREC has indicated that the proposed spray irrigation wastewater treatment and disposal system meets their criteria.

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

Motion carried 3 – 0.

Subdivision #2003-37 – application of **GARY WATSON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 41.86 acres into 40 lots, located north of Road 465, 2,318 feet west of Road 479.

Mr. Abbott advised the Commission that this is the final record plan for a 39-lot subdivision application; that the application received preliminary approval on May 27, 2004; that the Commission granted a one-year time extension on May 26, 2005; that preliminary approval was granted with a stipulation that a central sewer system be built to Ordinance No. 38 standards; that individual on-site septic is now proposed and DNREC has advised that the site is suitable for individual on-site septic systems; that the final record plan has been revised to include two cul-de-sac streets instead of a loop road; that

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the final record plan meets the requirements of the subdivision ordinance; and that all agency approvals have been received.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the revised record plan as a final.

Motion carried 3 – 0.

Subdivision #2003-35 – application of **ROUTE 30, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 30.25 acres into 28 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located at the southwest corner of the intersection of Routes 30 and 38.

Mr. Abbott advised the Commission that this is the final record plan for a 28-lot subdivision; that the application received preliminary approval on July 8, 2004; that the final record plan meets the requirements of the subdivision ordinance; and that all agency approvals have been received.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the record plan as a final.

Motion carried 3 – 0.

Subdivision #2004-5 – application of **RITTER FARM, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 218.45 acres into 225 lots, located northeast of Road 286 (Hopkins Road), 2,319.82 feet northwest of Road 285 (Beaver Dam Road).

Mr. Abbott advised the Commission that this is the final record plan for a 225-lot subdivision; that the application received preliminary approval on January 6, 2005; that the final record plan meets the requirements of the subdivision ordinance; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the record plan as a final.

Motion carried 3 – 0.

Subdivision #2004-12 – application of **HARFORD DELAWARE VENTURE, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in

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Dagsboro Hundred, Sussex County, by dividing 77.98 acres into 68 lots, located east of Road 317, 0.4 mile north of Road 48.

Mr. Abbott advised the Commission that this is the final record plan for a 68-lot subdivision application; that the application received preliminary approval on January 13, 2005; that the final record plan meets the requirements of the subdivision ordinance; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the record plan as a final.

Motion carried 3 – 0.

PUBLIC HEARINGS

C/U #1619 – application of **HELENA DOVE** to consider the Conditional Use of land in a GR General Residential District for multi-family dwelling structures (5 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 19,723 square feet, more or less, lying northeast of Road 270A (Munchy Branch Road), ½ mile northeast of Route One.

The Commission found that the Applicant had submitted an Exhibit Booklet and that the Exhibit Booklet contained a tax map showing the zoning in the area, nine (9) photographs of business, commercial and multi-family uses in the general area, a survey of the property, a proposed site plan for a multi-family building, elevation drawings of the proposed building and two (2) photographs of a similar building, a copy of a portion of the Comprehensive Plan Update referencing “Guidelines for Housing Types”, a copy of a portion of the State Strategies for State Policies and Spending Update referencing “Directing Growth”, a copy of the DelDOT Support Facilities Report, a copy of a letter from Tidewater Utilities, Inc. referencing that they are willing and able to serve the project, and some proposed conditions of approval.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the present Level of Service "B" of Road 270A 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 3 types of Sassafras sandy loam and Sassafras loam which have 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 all 3 soil types are considered Prime Farmland; that no storm

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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 Sussex County Engineering Department Planning and Permits Division, that the site is located in the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District; that the system design assumption is 1.0 EDU for the site; that 1.0 dwelling unit is currently connected to the system; that the system design did not consider redevelopment of the site; that the proposed project exceeds the system design assumptions for the area; that the proposed project has a density of 11.04 units per acre; that approval of projects at an increased density in this area has the potential to cause significant capacity issues in this drainage area and limits options for other property owners; that approval of projects at densities greater than design assumptions has a negative impact on sewer system capacity; that the Engineering Department does not support the density of 11.04 units per acre because of the overall detriment to the treatment plant; that proposals that exceed planning study assumptions increase existing line deficiencies and hasten the need to perform upgrades; that further evaluation at the developer's expense is required to determine what upgrades are required to serve the proposed project; that all required upgrades would be completed by the developer and would also be at the developer's expense; that the Engineering Department recommends against exceeding 4.0 EDUs per acre; that Ordinance No. 38 construction will be required; that additional system connection charges will be required; that the current system connection charge rate is \$3,716.00 per EDU; that the parcel is currently served with a 6-inch sewer lateral and that is not adequate for the proposed project; that installation of an additional lateral would be required; that proper disconnection of the existing dwelling is required before the dwelling is demolished or a building permit is issued for the proposed project; that a disconnection permit is required for each parcel and the disconnection must be inspected by the County; and that conformity to the West Rehoboth Area Planning Study will be required.

The Commission found that 14 letters in opposition to this application had been received and that the letters referenced the narrowness of Road 270A, increased traffic and

accidents, additional traffic generation from the proposed project, safety concerns for pedestrians, cyclist and children, the lack of sidewalks, the lack of street lighting, impacts on well water, devaluation of property values, parking, and the proposed building height compared to existing buildings; that the use is out of character with the immediate area housing types; and that the use would be more appropriately located along Route One.

The Commission found that Helena Dove was present with Tim Willard, Attorney, and that they stated in their presentations and in response to questions raised by the Commission that the Applicant proposes to develop 5 townhouses on the 19,723 square foot parcel; that the site is currently occupied by a dwelling; that the site is zoned GR

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General Residential; that the use will not disrupt the area; that a construction site exists on the C-1 General Commercial across Road 270A; that B-1 and C-1 zoning exists in close proximity; that C-1 zoning permits 12 units per acre; that the area includes subdivisions, manufactured home parks, retail and office uses, a construction site, multi-family uses and large scale retail uses; that 3 parking spaces will be provided per unit; that one of the parking spaces will be within a garage for each unit; that the Comprehensive Plan Update references that the site is located in an Environmentally Sensitive Developing Area and that housing types approved in these areas include single family detached homes, townhouses, apartments, condominiums and manufactured housing; that the Strategies for State Policies and Spending document references that the site is located in an Investment Level 2 which references to encourage a broader mix of housing types and rehabilitation efforts to ensure safe and habitable housing and that Investment Level 2 Areas may be appropriate locations for compact development; that DelDOT did not recommend a traffic impact study; that there should be no traffic impact; that there should be no significant impact on the neighborhood; that Tidewater Utilities, Inc. are willing and able to serve the project with central water; that stormwater management will include recommended best management practices; that the site has adequate space for parking per the Zoning Code; that the Applicant is willing to comply with all agency requirements; that mixed use in this area is appropriate; that the use provides an alternative use for the area; that the majority of the immediate area are single family uses, not attached houses; and that the entire parcel fronts Road 270A and is not a within a subdivision.

The Commission found that Mr. Willard submitted a letter of no objections from John M. Howard, a landowner of property across Road 270A.

The Commission found that Faye Marsh, an immediate neighbor, was present in support of the application and stated that there are several apartments in the immediate area; that removal of the existing home, which sits close to the front property line, will improve the site; and that she has no objections to the installation of central water.

The Commission found that Teresa Rowe and Clifford Booz were present in opposition to the application and stated that the area is composed of private neighborhoods; that traffic is a concern; that the neighborhoods are quiet; that run-off is a concern of some of the residents in the area; that the homes in the area are primarily one story; that they object to 3-story units; that mailboxes have been hit on several occasions due to the narrowness of the road; that the road is heavily traveled; that additional traffic will impact the area; and that multi-family units do exist near Route One, but not in this immediate area.

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

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Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action for further consideration of the testimony and evidence presented.

Motion carried 3 – 0.

C/U #1620 – application of **P.G.S. PROPERTIES, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a borrow pit to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 67.39 acres, more or less, lying south of Road 433 (Country Living Road), approximately 0.5 mile east of Road 412 (Lakeview Road) and north of Long Drain Ditch.

Mr. Lank provided the Commission with revised site plans for this application.

The Commission found, based on comments received from DelDOT, that traffic volumes in the area are relatively light and that the Department does not expect that the borrow pits will generate enough traffic to create congestion; that a traffic impact study was not recommended; that the Department is concerned that truck traffic to and from the pits could damage roads in the vicinity of the project; that the Department recommends that the County require the Applicant to provide DelDOT with additional information pertaining to trip generation and trip distribution before the Department makes recommendations about any entrance requirements; that trip generation information should include estimates of the average daily trips and the average morning and evening peak hour trips that the pits would generate while operating and the percentages of those trips that would be made by heavy trucks; that in order for the County to better understand the traffic that the pits would generate, the Department recommends that the County require the Applicant to provide this information to DelDOT and the County before the County acts on the application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as 3 types of Evesboro loamy sand and Johnston loam or silt loam; that 2 of the Evesboro soils have slight limitations for

development; that 1 of the Evesboro soils has moderate limitations; that the Johnston soils have severe limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that the Johnston soils are considered Hydric; 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; and that there may be regulated wetlands on the site.

The Commission found that Preston Dyer and Gary McCrea, Principals in PGS Properties were present with Mark Davidson of DC Group and stated in their presentations and in response to questions raised by the Commission that they are

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proposing 2 pits on the site; that the pits will be designed as ponds for a future subdivision project; that Pond A contains 1.83 acres; that Pond B contains 3.65 acres; that the site contains 67.46 acres of which 7.5 acres will be disturbed by this proposed application; that the disturbance will include the pits, the entrance and driveways that connect the pits; that no off-site materials will be brought to the site; that operation hours are from 7:00 am to 5:00 pm Monday through Friday and 7:00 am to 11:00 am Saturdays; that no more than 30 loads will be hauled from the site daily; that the maximum duration of the pits will be 4 years after issuance of the final approval; that the borrow pits will be dug in compliance with stormwater management pond regulations; that a 50-foot wide landscape buffer has been established along the adjoining Indian River School District property line; that this landscape buffer will be left in its natural state, a mature stand of large trees; that the site plan meets the requirements of the Zoning Code; that the reclamation plan for the project is to develop the site as a subdivision; that wetlands have been delineated and were approved by the Corps. of Engineers in March 2005; that the entrance will be subject to the approval of DelDOT; that they will comply with all erosion and sediment control practices; that Pond A will not exceed a depth of 10-feet; that Pond B will not exceed a depth of 20-feet; that the pond sizes have been calculated per stormwater management designs for the site; that best management practices will be incorporated into the design and maintenance of the project; that the site is entirely wooded; that the water table is approximately 10-feet; that they have assumed that truck traffic will leave the site in a westerly direction along Road 433, then north along Road 412, then north along Road 432 to Route 20 where trucks can proceed east or west; that in reference to the PLUS comments: they plan on minimizing the impact on existing trees; that stockpiling and berming of materials on the site would disturb approximately 13 acres, therefore they propose to sell some materials and to use some of the materials on other project being developed by them; that they feel that they have met the criteria for the creation of borrow pits; that there should not be any negative impact on neighboring properties; that the site entrance will be gated; that the pond locations were determined by soil feasibility's; that the study was based on soil quality; that the remaining area of the site is suitable for standard gravity septic systems; and that they will build a standard construction entrance with stone to help clean dirt and sand from the truck tires.

The Commission found that the Applicants submitted copies of their display boards which included a color concept of the site with pit locations and a typical cross-section of a pit, a copy of the site plan, a copy of a conceptual subdivision for the site, a construction vehicle travel plan, a stormwater analysis, a stockpile/berm plan, and soil profile notes from Environmental Resources, Inc. and Hillis-Carnes Engineering Associates, Inc.

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

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

Mr. Gordy stated that he would move that the Commission recommend approval of Conditional Use #1620 for P.G.S. Properties, LLC for excavation of a borrow pit based upon the record made at the public hearing and for the following reasons:

- 1) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on traffic or the neighboring properties or community.
- 2) Buffers will be established along all borders and around all wetland areas, and the wetland areas will be undisturbed. The applicants are only proposing a disturbance of 7.5 acres as part of this Conditional Use.
- 3) This recommendation for approval is subject to the following conditions and stipulations:
 1. No materials shall be brought from off the site for processing, mixing or similar purpose.
 2. Water or a water truck shall be available to control dust from road traffic when conditions require.
 3. Any entrance improvements required by DelDOT shall be completed by the Applicant. All entrance shall be gated and secured when the borrow pit is not in operation.
 4. The hours of operation for the business on this site shall only occur between the hours of 7:00 am to 5:00 pm Monday through Friday and 7:00 am until 11:00 am Saturdays. There shall not be any borrow pit activity on Sundays.
 5. No fuel shall be stored on-site for borrow pit operations.
 6. No stumps, branches, debris or similar items shall be buried on the site of the borrow pit.
 7. The borrow pit shall have 3:1 slopes and the slopes shall be seeded and planted to control erosion.
 8. A final site plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations.

Reclamation plans shall indicate finished grading, seeding and planting schedules designed to create a pleasing appearance.

9. The Applicants shall comply with all State and County erosion and sediment control regulations.
10. Markers and signs shall be placed at appropriate locations to designate pit areas.
11. The borrow pit shall be surrounded by a densely landscaped unexcavated buffer strip or the existing mature trees on the site a minimum distance of 100 feet from any street lines, 100 feet from proposed single family lots, 50 feet from all other property lines and 25 feet from all Federal wetlands.

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In addition, the borrow pit shall be at least 200 feet from any dwelling on property of other ownership.

12. The Applicant shall also comply with all of the requirements set forth in Section 115-72B of the Sussex County Zoning Ordinance.
13. It is recommended that County Council require performance guarantees to assure completion of an approved reclamation plan, pursuant to Section 115-172B (6)(e).
14. Only 30 truck loads per day shall be hauled during each day of operation.
15. The borrow pit shall only be in operation for a period of 4 years from the date of Final Site Plan approval.

Motion by Mr. Gordy, seconded by Mr. Smith 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 and stipulations stated.

Motion carried 3 – 0.

Subdivision #2004-44 – application of **FRAN GONZON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 161.91 acres into 205 lots, (Cluster Development), located south of Road 227, east of Road 226, and north of Road 231.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on January 19, 2005 and that the report will be made a part of the record for this application; that Meridian Architects and Engineers have submitted a letter addressing the items referenced in Subsection 99-9C of the Subdivision Ordinance; and that a letter in opposition has been received from Francis Herbert.

The Commission found that John Sergovic; Attorney, John Barwick of Meridian Architects and Engineers, and Mr. DiSabatino and Phil Wemlinger; partners, 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 bounded by State Roads on three sides; that the owner could have over 50 strip lots with entrances along the three roads; that none of the lots contain any wetlands; that the wooded areas are being preserved; that sidewalks will be provided on both sides of all streets within the subdivision; that street lighting is proposed; that active open area is centrally located within the project; that the community area will include a pool and clubhouse with game courts; that the design complies with the Cluster Ordinance; that the dense wooded area will remain undisturbed and become a conservation easement; that the sidewalks and walking trails promotes interconnectivity within the project; that on site septic and well are proposed; that DNREC has issued a septic feasibility statement; that the restrictive covenants are being addressed; that there are not any agricultural preservation districts in the area; that central

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sewer is not available; that the site is not currently farmed; that the community area contains 14.46 acres; that the individual wells will be located in the front yards and the septic systems in the rear yards; and that a 25-foot buffer surrounds the site.

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

The Commission found that Patricia King, Linda Davis and Tom Davis were present in opposition to this application and raised concerns about the width of the buffer, storm water run-off, setbacks from septic drain fields, the number of lots proposed, additional traffic on Reynolds Pond Road, and that the roads in the area are not maintained.

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

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

Motion carried 3 – 0.

Subdivision #2004-45 – application of **DAGSBORO BRANCH, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 8.74 acres into 10 lots, (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located southwest of the intersection of Road 331 and Pennsylvania Railroad Crossing.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on January 19, 2005 and that the report will be made a part of the record for this application; that the applicant's attorney submitted an Exhibit Booklet that contains a revised site plan, a copy of the tax map, a copy of the declaration of restrictive covenants, a copy of the septic feasibility statement from DNREC, an easement, and a Mumford Cemetery Report and that the booklet will be made a part of the record and that a letter in support of this application has been received from Patricia Anne Bennett.

The Commission found that Tim Willard; Attorney, Virgil Bullis; Realtor, and Ken Christenbury of Axiom Engineering were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the proposed lots are ½ acre clustered lots; that 10 lots are proposed; that a variance for the cul-de-sac length is requested; that the site is located on Iron Branch Road; that the site is adjacent to a GR zoning district; that there are not any wetlands on the site; that the site is mainly wooded; that farmland is located on the south side and a 30-foot forested buffer has been provided; that DNREC has issued a septic feasibility statement and the site is suitable for individual on site septic systems; that 25 percent of the site is open space; that no amenities are proposed since there are only 10 lots proposed; that the developer will leave as many trees as possible to protect the agricultural area; that there is an approved

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easement across the lands owned by Bennett; that a cemetery has been discovered on the site; that the cemetery will have a buffer around it and access will be provided to the heirs; that the storm water management ponds will be dry ponds; that the minimum square footage of the dwellings will be 1,300 to 1,350 square feet; that the site is located in the Indian River School District and the project will not negatively impact the district; that by clustering the subdivision, more open space will be provided; and submitted a copy of a standard ¾ acre subdivision design.

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

The Commission found that Walter Willman was present in opposition to this application and advised the Commission that the project will cause negative impacts to existing wells and septic systems in the area; that the storm water management ponds will cause mosquito problems; that the site contains wetlands; and questioned if any type of sound barrier is required.

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 and to leave the record open for clarification of the easement agreement.

Motion carried 3 – 0.

Subdivision #2004-45 – application of **CALDERA PROPERTIES – LONG NECK I, L.L.C.** to consider the Subdivision of land in a GR General Residential District in Indian River Hundred, Sussex County, by dividing 59.71 acres into 196 lots, (Environmentally Sensitive Development District Overlay Zone), located north of Route 5, 1,780 feet southeast of Road 311.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on January 19, 2005 and that the report will be made a part of the

record for this application; that the applicant's attorney submitted an Exhibit Booklet and an Appendices Book that will be made a part of the record; and that a letter addressing the comments from the PLUS meeting has been submitted into the record.

The Commission found that James Fuqua; Attorney, Rich Polk of Caldera Properties – Long Neck I, L.L.C., James Willey of George, Miles & Buhr, and Steve Engel of Vista Design Group were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site contains 59.71 acres and is located off of Route 5 near Oak Orchard; that the site is zoned GR and the design meets the requirements of the Environmentally Sensitive Development District Overlay Zone Ordinance; that the site is located in a developing area; that Sussex County will

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provide central sewer; that the proposed density is 4.3 lots per acre; that 259 lots are permitted but the applicant is seeking 196 lots; that central water will be provided for fire protection and drinking; that a Phase 1 Environmental Assessment, Cultural Resource Assessment and a Wetland Delineation have been performed; that the Army Corps of Engineers has approved the wetland delineation; that there are no threatened or endangered species on the site; that a traffic impact study has been reviewed by DelDOT and submitted the report into the record; that if the project is approved, the applicant will comply and contribute to all of DelDOT's recommendations; that the project is compatible to other land uses in the area; that the project is infill as it is surrounded by other developments; that the Indian River Fire Department at Oak Orchard is 0.3 mile away; that the lots range from 7,500 to 14,000 square feet; that the average lot size is 8,400 square feet; that none of the streets have cul-de-sacs; that sidewalks will be provided on both sides of all streets within the project; that the sidewalks will be 4.1 miles in length; that 3,000 linear feet of walking trails will be provided throughout the project; that the design allows for a central park area; that a community center with a swimming pool, clubhouse, tennis and basketball courts will be provided; that there are 2, 1.0-acre village open spaces for a tot lot and walkways; that the streets will be built to Sussex County specifications; that street lights will be provided; that there will be landscaping along all streets; that the project will not impact any wetlands; that there will be minimal impact on the woodlands; that the developers will provide a year round buffer from the Clark property; that the applicants have meet with the Office of State Planning Coordination through the PLUS process; that Emily Gut will be buffered; that the design complies with the requirements of Subsection 99-9C of the Subdivision Code; that single family housing is proposed; that there is a minimum 50-foot buffer from the wetlands along Emily Gut; that no piers, boat docks, or launching of canoes will be permitted; that there are not any wetlands located on the individual lots; that the Indian River School District has not made any comments on the project; that a school bus shelter could be provided along Route 5 at the entrance to the site; and submitted proposed finding of facts for approval along with proposed conditions of approval into the record.

The Commission found that David Rutt; Attorney, representing the Moore family was present in support of this application and stated that the Moore family has 11 lots across from the entrance to the site and that they would not be impacted by the project.

The Commission found that Lawrence Friend of Oak Orchard Manor and Charles Clark, IV were present and raised questions about the hedgerow between this site and Oak Orchard Manor and Mr. Clark's land.

Mr. Polk advised the Commission that the developers will meet with the two to come to an agreement on possible buffers.

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

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Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to defer action and to leave the record open for an agreement on the landscaping between the developers and Mr. Clark and Mr. Friend.

Motion carried 3 – 0.

OTHER BUSINESS

Woodbridge School District
CU #1627 Site Plan – Road 585

Mr. Abbott advised the Commission that this is a site plan for athletic fields, a pole barn and associated parking; that the conditional use was approved on June 14, 2005; that the site plan is the same as the one submitted for the public hearing; that there are 7 fields proposed with 6 future fields and a school proposed; and that all agency approvals have been received.

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

Motion carried 3 – 0.

Dukes Professional Buildings
Commercial Site Plan – Route 5

Mr. Abbott advised the Commission that this is a commercial site plan for 4, 60-foot by 130-foot professional buildings; that the site is zoned B-1; that there is an existing 40-foot by 68-foot building on the site; that 50 parking spaces and 9 loading spaces are provided; that the setbacks meet the requirements of the zoning code; that on-site septic and well are proposed; that there are not any wetlands on the site and the site is not located in a

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

Motion carried 3 – 0.

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Doug Jones
Lot on a 50' Easement – Road 335

Mr. Abbott advised the Commission that this is a request to create a 5.69-acre parcel with access from a 50-foot easement; that there is an existing 10-foot road and the owner proposes to make it an easement to serve as access to the proposed parcel.

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

Motion carried 3 – 0.

Charles and Helen Schamburg
Lot on a 50' Right of Way – Road 74

Mr. Abbott advised the Commission that this is a request to create a 1.03-acre lot with access from a 50-foot right of way; that the proposed 50-foot right of way is the remaining road frontage along Road 74; and that the required 150 feet of road frontage for the remaining land is on Road 434.

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

Motion carried 3 – 0.

William T. and Karen B. Peden
Lot on a 50' Right of Way – Route 9

Mr. Abbott advised the Commission that this is a request to create a 1.16-acre lot with access from a 50-foot right of way; and that if the Commission is favorable to this

request, only conceptual approval should be considered since a variance will be needed for the garage along the new division line.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the request with the stipulation that the new division line be relocated so that the garage meets the setback requirements and a variance won't be required.

Motion carried 3 – 0.

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Paul Bacon
3 Lots and a 50' Right of Way – Route 36

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from a 50-foot right of way; that the smallest lot is 1.0-acre; that the lots are for family members; and that the request can be approved as submitted or an application for a major subdivision can be required.

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

Motion carried 3 – 0.

Sitton Living Trust
2 Lots – Ocean Pines Lane

Mr. Abbott advised the Commission that this is a request to subdivide a 24,800 square foot lot into 2 lots; that the lots would be 11,613 and 13,187 square feet; that the site is zoned MR and the minimum lot size is 10,000 square feet with sewer; and that Ocean Pines Lane is dedicated to public use.

The Commission took no action on this request.

Living Water Church
Site Plan – Road 474

Mr. Abbott advised the Commission that this is a site plan for a 32-foot by 72-foot church, a future fellowship hall the same size, parking and a proposed ball field; that the site is zoned AR-1 and contains over 14 acres; that the church will have 200 seats and requires 50 parking spaces; that the fellowship hall requires 47 parking spaces; that 107

parking spaces are provided; that on-site septic and well 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. Gordy, seconded by Mr. Smith, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals.

Motion carried 3 – 0.

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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 use was approved with seven conditions and the site plan complies with the conditions of approval; and that all agency approvals have been received.

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

Motion carried 3 – 0.

ADDITIONAL BUSINESS

Meeting Agendas

The Commission discussed the meeting process.

There was a consensus of the Commission that beginning in October the meetings would start at 6:00 pm; that the regular meetings would be limited to Old Business and Public Hearings; that site plans and other business would not be a part of the regular meetings; that the number of public hearings reviewed during the regular meetings shall not exceed seven (7); and that an additional meeting night would be set aside each month to review site plans and other business.

Meeting adjourned at 10:33 p.m.