



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 22, 2005

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 22, 2005 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. 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. Kautz – Land Use Planner.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the Agenda as revised by eliminating Sitton Living Trust from Other Business.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to defer action on the Minutes of August 11, 2005.

OLD BUSINESS

Subdivision #2003-29 – application of **WATERSIDE, INC.** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 31.87 acres into 36 lots, located 1,050 feet north of Route 26, 1,870 feet east of Road 349.

Mr. Lank advised the Commission that this is the final record plan for a 36-lot subdivision application; that the Commission granted preliminary approval for 36 lots on January 22, 2004 and granted a one-year time extension on March 10, 2005; that the final record plan complies with the conditions of the preliminary approval and meets the requirements of the subdivision and zoning codes; that all agency approvals have been received; that the name of the project has been changed to The Inlet at Pine Grove; and that the final record plan is suitable for final approval.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the subdivision as a final. 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. Lank advised the Commission that this is a preliminary plan for a 10-lot Cluster Subdivision application; that the application was deferred by the Commission on August 25, 2005 and the record was left open for clarification of the easement to the site and the rights of each party; that the easement has been received and reviewed by Mr. Robertson, Assistant County Attorney; and that the State DNREC has advised that the site is suitable for individual on-site septic systems on 21,780 square foot lots.

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Mr. Robertson advised the Commission that he did review the easement document and is satisfied with the text of the document.

Mr. Smith stated that he would move that the Commission approve Subdivision #2004-45 for Dagsboro Branch, L.L.C. based on the record and for the following reasons:

- 1) The project is located within an AR-1 Agricultural Residential District.
- 2) The project is designed in accordance with the Cluster Development Ordinance. The proposed cluster design is innovative and superior to a standard subdivision with 2.26 acres of open space protecting forested areas and gravesites on the site. The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
- 3) The Applicant has proposed 10 lots within the project, which is consistent within the allowable density for an AR-1 subdivision on this land.
- 4) The project is compatible with neighboring and adjacent properties and will not have an adverse impact on the neighboring properties or community. There are several projects along County Road 331 that are similar.
- 5) The site design has no impact on wetlands.
- 6) The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
- 7) This motion for approval is subject to the following conditions:
 1. There shall be no more than ten (10) lots
 2. The Applicant shall cause to be formed a homeowners association to be responsible for the maintenance of streets, roads, any buffers, stormwater management areas and other common areas.
 3. The stormwater management system shall meet or exceed State and County requirements.
 4. All entrances shall comply with all of DelDOT requirements.
 5. The gravesites located on the property shall be accessible, properly designated and maintained by the homeowners association.
 6. Agricultural notices and buffers shall be noted in the deeds.
 7. The areas around the stormwater management ponds will be landscaped with native plantings, including tall grasses, wildflowers, shrubs and trees

along the edges and buffers areas to deter nuisance species, such as Canada Geese.

8. The final site plan shall be subject to approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve Subdivision #2004-45 as a preliminary based on the reasons and conditions stated.
Motion carried 3 – 0.

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PUBLIC HEARINGS

C/U #1621 – application of **GREGORY AND PATRICIA WHITE** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (6 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 40,702 square feet, more or less, lying southwest of Route 26, 500 feet north of Route 54 and Road 365 at St. George's Church.

Mr. Lank provided the Commission with copies of a revised site plan submitted by the Applicant which depicted four-(4) single family detached dwellings rather than the originally proposed six (6) units within two (2) buildings.

The Commission found, based on comments received from DelDOT, that a Traffic Impact Study was not recommended and that the present level of service "E" 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 Evesboro loamy sand which has slight limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices and to maintain vegetation; that the soils have a farmland rating of Statewide Importance; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the Applicant provided a site evaluation for septic feasibility from Atlantic Resource Management, Inc.

The Commission found that Gregory White was present with Ray Blakeney of Land Design, Inc. and that Mr. Blakeney stated in his presentation and in response to questions raised by the Commission that the project is north of and adjacent to St. George's Church; that the site is zoned MR Medium Density Residential District; that the site is presently improved by a dwelling; that they propose to build four (4) single family

detached dwellings in a cluster; that detached dwelling units conform to the character of the neighborhood; that the project equals 4.3 units per acre which is similar to the current zoning density in MR; that 3 parking spaces are proposed for each unit; that each unit is proposed to have a 2 car garage; that the project will be served by an on-site well and on-site septic; that the soils are suitable for septic according to Atlantic Resource Management, Inc.; that the project can be connected to County sewer when made available; that the units will be sold as condominiums; that a homeowners association will be established for maintenance of common elements; that the existing hedges along property lines will be retained; that additional landscaping will be provided along the south side; that stormwater management will be provided in the front yard since the more

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suitable soils for septic are in the rear; that the adjacent lot to the north is improved with a dwelling; that a cemetery and church exists to the south; that the Millville Volunteer Fire Company recently purchased the site to the southwest; and that the stormwater management facility will be designed for a 25-year storm.

The Commission found that Susan and Steve Kramer, adjoining property owners to the north were present and stated that their well is in their front yard and that their septic system is in the rear yard; and that they have no objections to the project since they may intend to do something similar in the future.

The Commission found that there were no parties 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 on this application for further consideration. Motion carried 3 – 0.

C/U #1634 – application of **THOMAS AND SYLVIA TRICE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a public auction building to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 1.24 acres, more or less, lying on the northerly side of Route 404 (Seashore Highway), 336.79 feet southeast of Road 569 (Woodenhawk Road).

Mr. Lank provided the Commission with a copy of a sketch site plan for the proposed public auction building.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro sand and Evesboro loamy sand 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 the Evesboro sand is considered Hydric in depressions; that the Evesboro

loamy sand is considered of Statewide Importance; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that eight (8) letters were received from area residents in support of the application for a public auction and noting that they understand that the auction will not allow old vehicles or trash to accumulate on the property and that parking will be contained on the property.

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The Commission found that Thomas and Sylvia Trice were present on behalf of their application and stated in their presentation and in response to questions raised by the Commission that they propose twice-monthly auctions on Sunday afternoons from 1:00 p.m. to 6:00 p.m.; that no trash will accumulate on the property; that they propose to renovate the existing building on the property; that they propose to sell furniture, antiques and household items; that they do not intend to sell automotive vehicles unless the vehicles are a part of an estate sale; that they may display some box items outside during summer sales; that the interior of the building is in good condition; that the outside of the building needs some repair; that they propose to install security lighting and an alarm system; that they presently rent a building on Crystal Avenue in Denton, Maryland; that they are tired of renting space; that a lot of the attendees at their auctions in Denton are Sussex County residents; that there will be no outside storage when the site is not being used for an auction; and that attendance at their auction has included as many as 75 vehicles.

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. Gordy, seconded by Mr. Smith and carried unanimously to defer action. Motion carried 3 – 0.

C/Z #1580 – application of **RONALD WM. WRIGHT, JR.** to amend the Comprehensive Zoning Map from a GR General Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying northwest of Route 5, 290 feet north of Road 212B, to be located on 35,093 square feet, more or less.

Mr. Lank provided the Commission with a copy of a sketch site plan for the proposed public auction building.

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 Route 5 may change to a level of service “C”.

The Commission found, based on comments received from the Sussex Conservation District, that the site is not located in or adjacent to a County operated or maintained sanitary sewer or water district.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Rumford loamy sand which have slight limitations

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for development; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Rumford soils are considered of Statewide Importance; 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 Town of Milton that the Town Council discussed the application and decided to offer no opposition to the application.

The Commission found that Ronald Wright, Jr. and Jill Wright were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that they operate their landscaping and lawn care business from the site as accessory to their dwelling on the premise; that they have been in the business for seven (7) years; that they started the business as a home occupation by being the only employees; that they expanded the business last year and now employ as many as 14 seasonal employees; that they are self employed during winter months; that the Milton Service Center is located 0.1 mile to the north and in close proximity to the northerly Town limits of Milton; that they anticipate minimal traffic; that some materials are delivered to the site and some to job sites; that some mulch and some dirt is stored on the site; and that the majority of their equipment is stored in the existing building on the site.

The Commission found that the Applicants submitted eight (8) photographs of the site, neighboring properties and business and commercial uses in the area, and a computer generated aerial photograph.

The Commission found that the Applicants submitted two (2) letters in support of their application from Dean Sherman and Clement S. LeGates.

Mr. Robertson reminded the Commission that they need to review the permitted uses in a C-1 General Commercial District.

The Commission found that Sam Burke was present in support and stated that he and his sons own property in the immediate area; that the site is in close proximity to a 10-unit mobile home park and a propane gas facility; that it is anticipated that this area will convert to commercial uses due to the close proximity to the Town of Milton; that the area will not remain a residential area forever; that the site is across from the Food Lion Shopping Center; that the immediate neighbor to the north is in support of the application; that his property is improved by two (2) dwellings and five (5) sheds that have been historically used for commercial purposes.

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

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 for further consideration. Motion carried 3 – 0.

Subdivision #2004-52 – application of **HOLLAND MILLS DELAWARE, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 68.29 acres into 136 lots, (Cluster Development), located south of Road 260 (Walker Road), approximately 1 mile west of Road 258 (Hudson Road).

Mr. Lank reminded the Commission that the Technical Advisory Committee reviewed this application on February 16, 2005 and that the Technical Advisory Committee Report of that meeting is a part of the record for this application.

The Commission found that the Applicants had submitted a revised site plan and an exhibit booklet which contained a copy of the application form, a color site plan, preliminary site plans, a key plan, a wetlands delineation plan, a map of the State Strategies for the area, a map of the Comprehensive Plan for the area, a map showing the closeness to the Town of Milton and agricultural preservation areas, a map showing flood plains, a map showing water recharge areas, an aerial map of the area, a copy of the proposed restrictions and covenants, a copy of the Technical Advisory Committee agenda and minutes of February 16, 2005, a copy of the Preliminary Land Use Service (PLUS) application, PLUS comments, and response to the PLUS comments from DC Group on behalf of the Applicant, a soils summary prepared by DC Group, a soils feasibility letter from the State DNREC, a copy of a report of soil feasibility study prepared by Geo-Technology Associates, Inc., a copy of an approval letter on street names, a copy of a letter from DelDOT voicing no objection to the entrance location, and a nutrient loading assessment report prepared by DC Group.

The Commission found, based on comments received from the Office of State Planning Coordination, dated September 22, 2005, that the Office has reviewed the developer's responses and are pleased to see that the developer intends to take the lot lines out of the buffer area; that it was originally noted in the Office's letters that this project is located within an Investment Level 4 area according to the Strategies for State Policies and Spending and a Low Density Area according to the County Comprehensive Plan; that while the Office appreciates the changes made to the site plans in response to their comments, the State cannot support the project because of the location and will not support or participate in any improvements necessary to serve the development; and that

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it should be noted that the State law is explicit that the Agricultural Protection Notice appears in deeds.

The Commission found that Pret Dyer, Colby Cox, and Scott Daly of Holland Mills Delaware, L.L.C. were present with Mark Davidson of DC Group and stated in their presentations and in response to questions raised by the Commission that the project contains approximately 8.5 acres of streets and 2.4 acres of wetlands; that there are no activities proposed that will require any Federal permits; that 136 lots are proposed; that 25.2 acres of open space, equaling 37% of the site, are proposed; that the site is in a Level 4 area according to the State Strategies; that the site is adjacent to Beaverdam Creek, a pristine area containing a mature stand of trees; that originally the lot lines encroached into the buffer areas along the Creek; that they have revised the project to include a buffer of 100-feet minimum from the Creek; that the buffer area is planned to be protected; that a homeowners association will be created to maintain the common elements with assistance from CPR Property Management, a maintenance company; that the streets will be private; that stub streets will be added to connect to lands of other ownership; that a clubhouse and pool are proposed to serve this project and the Anthem project across Walker Road; that walking paths (natural mulch) are proposed to be located within the wooded area adjacent to the buffer; that 2.78 miles of sidewalks are proposed along both sides of the streets; that streetlights are proposed; that a large pond is proposed for stormwater management and aesthetics; that three fountains will be located in the pond; that DelDOT has no objection to the entrance location; that the pond will overflow discharge into Beaverdam Creek; that Best Management Practices will be utilized; that the soils are well suited for drainage and recharge; that a wastewater treatment facility will be located on the site for disposal on the Anthem project; that the wetlands have been delineated; that the proposed Nutrient Budget will reduce nitrogen on the site; that they believe that the project meets the Cluster Development Ordinance and meets community design standards; that a minimum of 30-foot buffer shall be created along agricultural lands; that lots will not have any direct access to Walker Road; that Tidewater Utilities, Inc. will operate the central water and central sewer facilities; that the design is superior to a standard subdivision; that the smallest lot size equals 9,000 square feet; that the average lot size equals 10,798 square feet; that the amount of open space is beneficial to

the neighborhood and the development; that a pathway surrounds the pond, the perimeter and over to the Anthem project across Walker Road; that a permanent protective easement will restrict the use of the walking path; that the site plan complies with 99-9C of the Subdivision Ordinance; that the walkways will interconnect with the sidewalks; that the streets will have curb and gutter; that the project will have a positive impact on property values; that they propose to expand the wording in the required State Agricultural Protection Notices; that there should be no negative impacts on the School District; that the internal roadway design will accommodate school buses; that there should be no negative impact on State roads; that this project is compatible to the area;

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that they have no objection to a school bus stop being required; that they have no objections to providing for tot-lots within the project; that they are willing to erect fencing along the Carpenter property to the south to eliminate any encroachments; that this project and the Anthem project are planned to be developed jointly due to the proposed wastewater treatment; that final site plan approval would require State DNREC approval for both projects prior to County approval; and that recreational facilities will be developed jointly to serve both projects.

The Commission found that Mr. Dyer provided the Commission with a letter from CPR Property Management confirming their willingness to assume the responsibility of property management, and a sketch showing proposed stub street connections.

Mr. Kautz provided the Commission with a map and assumed estimate of development of the six (6) large parcels along Walker Road which calculated a possible 10,600 vehicle trips per day if the six (6) parcels were totally developed.

The Commission found that Kay Carpenter Dukes and James L. Carpenter, Jr. were present with concerns for the loss of agricultural lands and stated that they would like to see the area remain conducive to agriculture; that the project is adjacent to three tracts of land that they own and other parcels of land that they farm; that they operate a 125-cow dairy, a lagoon, have a 81,000 capacity for poultry, a manure shed, a composter, and tillable acreage; that odors and dust from these operations will drift toward the project; that it is imperative that the "Right to Farm" legislation be applied since this project is going in an agricultural area; that the project has walking paths along their property line; that if the project is approved they request that a 10-foot high fence be erected by the Applicants along the property line since the residents of the project would increase their liability vulnerability; that both proposed projects are in turn around fly zones for crop dusters; that it is imperative that the residents of the projects be made aware of this activity prior to their purchase of lots.

The Commission found that Ms. Dukes provided a copy of her comments for the record.

The Commission found that Mr. Dyer stated that they have no objections to fencing the property line.

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.

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Subdivision #2004-53 – application of **ANTHEM DELAWARE, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 75.89 acres into 151 lots, (Cluster Development), located north of Road 260 (Walker Road), approximately 1 mile west of Road 258 (Hudson Road).

Mr. Lank reminded the Commission that the Technical Advisory Committee reviewed this application on February 16, 2005 and that the Technical Advisory Committee Report of that meeting is a part of the record for this application.

The Commission found that the Applicants had submitted a revised site plan and an exhibit booklet which contained a copy of the application form, a color site plan, preliminary site plans, a key plan, a wetlands delineation plan, a map of the State Strategies for the area, a map of the Comprehensive Plan for the area, a map showing the closeness to the Town of Milton and agricultural preservation areas, a map showing flood plains, a map showing water recharge areas, an aerial map of the area, a copy of the proposed restrictions and covenants, a copy of the Technical Advisory Committee agenda and minutes of February 16, 2005, a copy of the Preliminary Land Use Service (PLUS) application, PLUS comments, and response to the PLUS comments from DC Group on behalf of the Applicant, a soils summary prepared by DC Group, a soils feasibility letter from the State DNREC, a copy of a report of soil feasibility study prepared by Geo-Technology Associates, Inc., a copy of an approval letter on street names, a copy of a letter from DelDOT voicing no objection to the entrance location, and a nutrient loading assessment report prepared by DC Group.

The Commission found, based on comments received from the Office of State Planning Coordination, dated September 22, 2005, that the Office has reviewed the developer's responses and are pleased to see that the developer intends to take the lot lines out of the buffer area; that it was originally noted in the Office's letters that this project is located within an Investment Level 4 area according to the Strategies for State Policies and Spending and a Low Density Area according to the County Comprehensive Plan; that

while the Office appreciates the changes made to the site plans in response to their comments, the State cannot support the project because of the location and will not support or participate in any improvements necessary to serve the development; and that it should be noted that the State law is explicit that the Agricultural Protection Notice appears in deeds.

The Commission found that Pret Dyer, Colby Cox, and Scott Daly of Anthem Delaware, L.L.C. were present with Mark Davidson of DC Group and stated in their presentations and in response to questions raised by the Commission that the project contains

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approximately 8.26 acres of streets; that there are no activities proposed that will require any Federal permits; that 151 lots are proposed; that 24.5 acres of open space, equaling 32% of the site, are proposed; that the site is in a Level 4 area according to the State Strategies; that the site is also adjacent to Beaverdam Creek; that the site is not located in a flood plain; that originally the lot lines encroached into the buffer areas along the Creek; that they have revised the project to include a buffer of 100-feet minimum from the Creek; that the buffer area is planned to be protected; that a homeowners association will be create to maintain the common elements with assistance from CPR Property Management, a maintenance company; that the streets will be private; that stub streets will be added to connect to lands of other ownership; that the clubhouse and pool, proposed on the Holland Mills project is also proposed to serve this project; that walking paths (natural mulch) are proposed to be located within the wooded area adjacent to the buffer; that 3.6 miles of sidewalks are proposed along both sides of the streets; that streetlights are proposed; that two (2) ponds and bio-filtration areas are proposed for stormwater management; that DelDOT has no objection to the entrance location; that Best Management Practices will be utilized; that the soils are well suited for drainage and recharge; that wastewater disposal areas will be located on this site to serve both projects; that the wetlands have been delineated; that the proposed Nutrient Budget will reduce nitrogen on the site; that they believe that the project meets the Cluster Development Ordinance and meets community design standards; that a minimum of 30-foot buffer shall be created along agricultural lands; that lots will not have any direct access to Walker Road; that Tidewater Utilities, Inc. will operate the central water and central sewer facilities; that the design is superior to a standard subdivision; that the smallest lot size equals 9,066 square feet; that the average lot size equals 11,089 square feet; that the amount of open space is beneficial to the neighborhood and the development; that a pathway surrounds the pond, the perimeter and over to the Holland Mills project across Walker Road; that a permanent protective easement will restrict the use of the walking path; that the site plan complies with 99-9C of the Subdivision Ordinance; that the walkways will interconnect with the sidewalks; that the streets will have curb and gutter; that the project will have a positive impact on property values; that they propose to expand the wording in the required State Agricultural Protection Notices; that there should be no negative impacts on the School District; that the internal roadway design

will accommodate school buses; that there should be no negative impact on State roads; that this project is compatible to the area; that they have no objection to a school bus stop being required; that they have no objections to providing for tot-lots within the project; that this project and the Holland Mills project are planned to be developed jointly due to the proposed wastewater treatment; that final site plan approval would require State DNREC approval for both projects prior to County approval; and that recreational facilities will be developed jointly to serve both projects; that rapid infiltration basins will be bermed and planted and may attract some wildlife species; that the basins will be dry; and that the previously discussed fountains will be a benefit to water quality and the aesthetics of the project.

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Mr. Lank reminded the Commission that the comments made and the letter submitted by Ms. Dukes and Mr. Carpenter related to both projects and that the comments are also a part of the record for 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 for further consideration. Motion carried 3 – 0.

OTHER BUSINESS

Wilson Baker, Inc.
C/U #1593 – Site Plan – Route 30

Mr. Lank advised the Commission that this is a site plan for a propane, kerosene and diesel fuel storage and transfer facility; that the Conditional Use was approved by County Council on March 22, 2005 with 6 conditions; that a 7,200 square foot building (60' by 120') is proposed; that 3,000 square feet will be utilized as office space and 4,200 square feet will be utilized as a warehouse; that there are 6 – 60,000 gallon propane storage tanks and 3 kerosene and heating oil tanks proposed; that a 30,000 gallon water storage tank is also proposed; that the site is surrounded by a 6' high chain link security fence; that all setbacks meet the requirements of the zoning code; that 18 parking spaces have been provided; that the site plan is the same layout as the plan submitted for the public hearing; that an on-site septic system and a well are proposed; that there are not any wetlands located on the site; that the site is not located in a flood zone; that the site plan complies with the conditions of approval except that a landscaping plan needs to be submitted and the conditions need to be referenced on the site plan; that DelDOT has issued a letter of no objection for the entrance location; that the site plan is suitable for preliminary approval only; and that final approval should be subject to the review and approval by the Commission upon receipt of the two revisions.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant preliminary approval of the site plan. Final approval of the site plan shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of a landscape plan and the referencing of the conditions of approval being noted or shown on the site plan. Motion carried 3 – 0.

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Lourdes Aponte, M.D. – Office Building
C/U #1549 – Site Plan – Savannah Road (Route 9)

Mr. Lank advised the Commission that this is a site plan for a one-story 2,854 square foot medical office building; that the Conditional Use was approved by the County Council on October 26, 2004; that the setbacks meet the requirements of the zoning code; that 12 parking spaces are required and provided; that an on-site septic and on-site well are proposed; that all agency approvals have been received; and that the site plan is suitable for final approval.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approval the site plan as a preliminary. Final approval shall be subject to review and approval by the Planning and Zoning Commission. Motion carried 3 – 0.

Midway Highway, L.L.C.
Commercial Site Plan – Route One

Mr. Lank advised the Commission that this is a site plan for a 4-story 16,480 square foot office building with residential units; that the site is zoned C-1; that DeIDOT has issued a letter of no objection for the entrance; that there is an existing 1-story 6,280 square foot office building on the site that will remain; that 10, 320 square foot of the proposed building will be utilized for office space and the remaining 6,160 square foot will be utilized for residential space; that 85 parking spaces are required and 86 spaces are proposed; that central sewer will be provided by the County; that the Town of Lewes will provide central water; that the site plan is suitable for preliminary approval; and that final approval of the site plan could be subject to the staff receiving all appropriate agency approvals.

Mr. Lank noted that the original site plan depicted a side yard setback of 5-feet and that since residential uses are proposed the setback was revised to 10-feet.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the site plan as a preliminary. Final approval shall be subject to the staff receiving all agency approvals. Motion carried 3 – 0.

Dagsboro American Legion
Commercial Site Plan – Route 26

Mr. Lank advised the Commission that this is a commercial site plan for a 7,200 square foot meeting facility and banquet hall on 2.11 acres north of Route 26; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 104 parking spaces are required; that the Board of Adjustment granted a variance for a reduction of

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parking spaces to 70 spaces; that 70 spaces are proposed; that an on-site septic system and a 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. Final approval shall be subject to the staff receiving all agency approvals. Motion carried 3 – 0.

Windmill Ventures, L.L.C.
C/U #1502 – Time Extension – Road 352

Mr. Lank advised the Commission that this is a second request for a one-year time extension; that the Conditional Use was approved by the County Council on December 16, 2003; that the Commission granted preliminary site plan approval on June 24, 2004 and a one-year time extension on October 28, 2004; that this is the second request and the last extension that the Commission may grant; and that if granted, the use must be substantially underway by December 16, 2006.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension. The Applicant shall be advised that this is the last time extension that can be granted. Motion carried 3 – 0.

Sitton Living Trust
2 Lots – Ocean Pines Lane

Mr. Lank advised the Commission that this item was removed from the agenda on September 19, 2005.

Delmus Hickman
Lot – Piney Point Road

Mr. Lank advised the Commission that this is a request to create a lot off of Piney Point Road; that Piney Point Road is a public road but it is not maintained by DelDOT; that the minimum lot size would be 10,000 square feet since the site is zoned GR and since central sewer serves the area; and that the lot width would be 108 feet.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the lot in concept for a 10,000 square foot minimum lot size. Motion carried 3 – 0.

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Debra Tyre

Lot and a 50-foot Right-of-Way – Wells Lane off of Road 417B

Mr. Lank advised the Commission that this is a request to create a 1.0 acre lot with access from a 50-foot wide right-of-way; that the owner proposes to extend an existing 50-foot right-of-way to serve as access to the lot; that the 1.0 acre lot was previously approved as an extension to another parcel; and that the owner now wishes the lot to be a separate parcel.

The Commission found that Debra Tyre was present and stated that in 1982 one owner owned both lots; that the front lot has been sold twice since 1982; and that her son has purchased the lot and wants to build a home.

Mr. Lank advised the Commission that the lot was approved as an extension to the lot fronting Wells Lane and that it was noted when the lot was approved that it was to be an extension to the lot and not a separate building lot.

The Commission discussed the request.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action for a legal opinion.

G.W. Shockley & Sons, Inc.

Lot and a 50-foot Right-of-Way – Road 206

Mr. Lank advised the Commission that this is a request to create a 2.05 acre lot with access from a 50-foot right-of-way; that there is currently a 20-foot dirt lane; that the owner proposes to widen the right-of-way to 50-feet; and that the proposed lot is currently occupied by a dwelling.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the lot and 50-foot right-of-way with the condition that any further subdivision off of this right-of-way shall require a public hearing for a major subdivision. Motion carried 3 – 0.

Vincent Overlook MR-RPC
Final Record Plan – Route 88

Mr. Lank advised the Commission that this is a final record plan for a 250 lot residential planned community; that the Commission granted preliminary approval on January 13, 2005; that the final record plan is the same as the preliminary plan; that all agency approvals have been received except for the County Engineering Public Works Division;

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that the record plan is suitable for final approval subject to receipt of the Public Works Division approval.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant final approval of the record plan subject to receipt of the approval from the County Engineering Public Works Division. Motion carried 3 – 0.

Meeting adjourned at 10:35 p.m.