



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF JANUARY 25, 2007

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 25, 2007 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. I. G. Burton III with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Mr. Shane Abbott – Assistant Director and Mr. Richard Kautz – Land Use Planner.

Motion by Mr. Smith, seconded by Mr. Johnson and carried with four (4) votes to approve the Agenda as circulated. Mr. Gordy was absent.

Motion by Mr. Smith, seconded by Mr. Johnson and carried with four (4) votes to approve the Minutes of January 11, 2007 and January 18, 2007 as amended. Mr. Gordy was absent.

Mr. Robertson advised those parties present about the process that would be followed for the public hearings.

PUBLIC HEARINGS

Mr. Lank advised the Commission that a letter was received on January 22, 2007 from Glenn C. Mandalas, Esquire, an attorney on behalf of the Applicants, requesting that the public hearings for the four (4) zoning changes and the two (2) Conditional Uses be consolidated into a single public hearing in the interest of efficiency and practicality.

Motion by Mr. Johnson, seconded by Mr. Smith and carried with four (4) votes to consolidate the six (6) applications into a single public hearing with the understanding that each application will be acted on individually. Motion carried 4 – 0. Mr. Gordy was absent.

For the purpose of the record, Mr. Lank introduced the six (6) applications as follows:

C/Z #1615 – application of **NORTH MILTON DEVELOPMENT GROUP II** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying north of Route 16, 1,800 feet east of Route 30, to be located on 35.70 acres, more or less.

Minutes
January 25, 2007
Page 2

C/Z #1616 – application of **NORTH MILTON DEVELOPMENT GROUP II AND 1630 VENTURES, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying at the southeast corner of Route 16 and Route 30, and also south of Route 16, to be located on 56.48 acres, more or less.

C/Z #1617 – application of **NORTH MILTON DEVELOPMENT GROUP I AND NORTH MILTON DEVELOPMENT GROUP II** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-RPC High Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying north of Route 16, east of Route 30 and west of Road 212 (Cedar Creek Road), to be located on 435.67 acres, more or less.

C/Z #1618 – application of **NORTH MILTON DEVELOPMENT GROUP II AND 1630 VENTURES, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-RPC High Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying south of Route 16, east of Route 30 and west of the town limits of the Town of Milton, to be located on 226.41 acres, more or less.

C/U #1724 – application of **NORTH MILTON DEVELOPMENT GROUP II** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a sewage treatment plant to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 74.61 acres, more or less, lying east of Route 30, 0.6 miles south of Reynolds Pond Road (Road 231).

C/U #1725 – application of **HARRY ISAACS, JR.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for land application of sludge, treated sludge or any materials containing these materials by spray irrigation to be located on a

certain parcel of land lying and being in Broadkill and Cedar Creek Hundreds, Sussex County, containing 1,739.779 acres, more or less, lying on both sides of Route 16, both sides of Route 30, both sides of Road 231, east of Road 212, and both sides of Route 38.

Mr. Lank advised the Commission that the Technical Advisory Committee received copies of the Master Plan of the project in October of 2006 and responded by November 22, 2006.

Mr. Lank advised the Commission that the Applicants provided a spiral bound Exhibit Book on January 22, 2006 and that the Exhibit Book contains an Executive Summary; references to the Consultant Team; references to the Integration of the Proposed

Minutes

January 25, 2007

Page 3

Community into the Existing Community; references to the Minimal Use of Wetlands and Floodplains; references to the Preservation of Natural and Historic Features; references to Open Space and Scenic Vistas; references to the Minimization of Tree, Vegetation, Soil Removal and Grading Changes; references to the Screening of Views; references to Provisions of Water Supply; references to Provisions of Sewage Disposal; references to Surface and Groundwater Pollution Prevention; references to Erosion and Sediment Control/Stormwater Management; references to Safe Vehicular and Pedestrian Mobility; references to the Effect on Area Property Values; references to the Preservation and Conservation of Farmland; references to the Effect on Schools, Public Buildings and Community Facilities; references to Compatibility with other Area Land Uses; references to the Effect on Area Waterways; copies of the PLUS (Preliminary Land Use Service) comments with responses and copies of the Technical Advisory Committee comments; copies of ability to serve letters from the Delaware Electric Cooperative, Inc. and Delmarva Power; supporting statements in references to the Subdivision of land; references to Moderately Priced Housing Unit Provisions; a Market and Demographic Studies Executive Summary; a report on the History of the Annexation Process with the Town of Milton; proposed Findings of Fact and proposed Conditions of Approval for consideration; and a 1" = 200' Conceptual Site Plan.

Mr. Lank advised the Commission that the Applicants, just prior to the beginning of the meeting, provided a spiral bound booklet of the entire power-point presentation, a CD of the presentation for use by the Commission, and revised proposed Findings of Fact and proposed Conditions of Approval.

Mr. Lank advised the Commission that the Secretary of the Milton Fire Dept., Inc. had sent a letter on January 22, 2007 advising the Commission that the Department will be able to provide fire protection and fire prevention services to the Elizabethtown project.

Mr. Lank provided the Commission with copies of three (3) letters in opposition to the applications from Geraldine Marsh, Mary Ann Johnson, and Joyce and William Stout.

Mr. Gordy entered to participate in the public hearing.

The Commission found that John Paradee, Esquire, was present on behalf of the application and described the members of the Consultant Team, summarized the history of the proposed annexation with the Town of Milton, and stated that the infrastructure will be provided by the applicants and can serve the area surrounding the project; that they had numerous meetings with the Town of Milton; that the project should stand on its own and be given consideration; and that the project complies with the Comprehensive Plan, the Zoning Ordinance and the Subdivision Ordinance.

Minutes
January 25, 2007
Page 4

The Commission found that Sean Davis of MRA (Morris & Ritchie Associates, Inc.) and Randall Arendt of Greener Prospects were present and while utilizing the Power-Point Presentation stated that for the purpose of development goals and objectives the Applicants plan to: provide a variety of residential home types, including single family detached, single family attached, and multi-family homes, that can provide for the diverse housing needs of the region; incorporate Moderately Priced Housing Units throughout the community and in every home type; provide a variety of retail and employment opportunities within the community to serve the growing needs of the region; incorporate a variety of recreational and open space amenities to serve not only the community but the surrounding neighbors; provide the necessary infrastructure (sewer, water, roads, etc.) to serve the community and existing and future regional development; protect and enhance the existing environmental features of the site including, but not limited to, woodlands, wetlands, floodplains, and sensitive soils; respect the neighbors and ensure that the proposed community will blend into existing and planned development patterns and the local vernacular of the area; that in a regional context the site is centrally located in the Milford, Georgetown, Lewes Triad with excellent accessibility to the regions roadway network, and in close proximity to beach, State Parks, and regional amenities; that the development portion of the project is located within a Developing Area according to the Sussex County Comprehensive Plan Update of 2002; that the development portion of the project is located within a potential expansion area according to the Town of Milton Comprehensive Plan; that the development portion of the project is located within Level One, Level Two and a small portion of a Level Three Area according to the State Strategies; that the site has excellent views of existing agricultural uses to the north and west, beautiful views of forest and Wagamons Pond to the south, and transitional views along Route 16 through the property and to the east towards the Town of Milton; that a variety of commercial and business uses already exists in the area along Route 16; that the site has a flat topography with many high points and low points; that Route 16 acts as a ridge with the northern properties draining to Ingrams Branch and the southern properties draining to Pemberton Branch; that there are limited non-tidal wetlands and flood plains; that there are limited forest cover along the northern and southern boundaries and hedgerows; that there are multiple access points along Route 30, Route 16

and Cedar Creek Road; that the project is in close proximity to the existing urban area of the Town of Milton to the east; that a historic cemetery exists to the south on the site; that they plan on building structures similar in architecture to the existing residential, civic and commercial structures existing in and around the Town of Milton; that their concept is to preserve existing natural features and use forest stands and hedgerows as “place-makers”; to create a “there-there” along Route 16 at the heart of the community; to focus commercial uses along Route 16 and Route 30; to transition residential from high density next to commercial to low density along the perimeter; to create numerous residential neighborhoods with similar home types in each; to provide a variety of recreational opportunities throughout the community; and to interconnect a variety of uses through roads and pedestrian pathways; that affordable units will be mixed throughout the

Minutes

January 25, 2007

Page 5

neighborhoods; that a community center, a YMCA facility, small and large parks, and pedestrian mobility features will be provided throughout the community; that parks will have access to streets, roads and trails; that the total development area includes approximately 485 acres and includes 3,710 residential units of which 1,745 are proposed single family detached, 146 are proposed single family duplexes, 789 are proposed single family attached, 880 are proposed multi-family units, and 150 multi-family units over retail; that the development area calculated includes all residential, retail, mixed uses, road rights-of-way, and alleys; that 413,000 square feet of retail is proposed; that the total active open space equals approximately 202 acres and includes the YMCA site, the community center site, neighborhood parks, and active open space areas; that the total passive open space equals approximately 69 acres and includes environmental features, storm water management areas, and passive open space areas; that 35% of the development area is open space; that 73% of the applications are open space; that each neighborhood has a variety of open space parkland; that there are nine (9) different housing types within the proposed project; the housing types include large single family homes/lots, medium single family homes/lots, small single family homes/lots, duplex homes, detached town homes, large town homes, small town homes, multi-family units, and multi-family units over retail spaces; that there are 1.2 miles of roads with multi-modal paths within a 120-foot wide right-of-way; that there are 2.5 miles of roads with sidewalks and parking within a 70-foot wide right-of-way, that there are 15 miles of roads with sidewalks within a 50-foot wide right-of-way; that there are 14 miles of alleys with 20-foot wide right-of-ways; that there is a large variety of open spaces features; that there will be a minimum buffer of 100-foot width from Ingrams Branch and Pemberton Branch; that there are 7.0 miles of trails with a width of 12-feet proposed throughout the project; that the length of the sidewalks (both sides of all streets) equals 33.0 miles; that all homes will face streets or roads; that buffers will be provided along Route 30 and Cedar Creek Road; that the project will be phased with at least 10 phases over a 10 to 15 year span; that moderately priced homes will be included in all home types and within all phases; and that a total of 400 moderately priced homes will ultimately be developed within the project.

The Commission found that Todd Fritchman of Envirotech Environmental Consulting, Inc. was present and while utilizing the Power-Point Presentation stated that he has prepared a Comprehensive Open Space Management Plan that includes the conservation and/or enhancement of water quality, natural heritage, habitat, biological diversity, exotic invasive vegetation control, aesthetics, recreation and educational outreach and environmental interpretation; that water quality will be controlled with a comprehensive water quality management and implementation plan; that natural heritage will be maintained by extending habitat based on historic geological and biological research, existing vegetative conditions, and hydrology, providing educational outreach and environmental interpretation, and promoting stewardship; that habitat will be maintained by incorporating native beneficial vegetation into proposed landscape plans, conservation

Minutes

January 25, 2007

Page 6

areas and stormwater management areas in order to establish the proper microclimate; that biological diversity will be maintained by the installation of native beneficial vegetation to eco-sensitive areas, by the creation of successional units in and around naturally occurring riparian buffers and stormwater management ponds, the installation of wildlife nesting sites, and wildlife management; that exotic invasive vegetation will be controlled by the use of integrated vegetation best management practices to select against exotic invasive and/or native nuisance vegetation, and that native beneficial vegetation will be selected, which requires a license, herbicide application, pruning, clear cutting, and equipment; that aesthetics will be maintained by viable ecosystem restoration; that recreation will be established by the creation of facilities in which active human recreation may take place in the form of wildlife photography, fishing, environmental interpretation, educational outreach programs, boating and nature trails; that educational outreach and environmental interpretation can be generated by natural heritage and environmental education outreach through inquiry based learning programs; that open space will be enhanced and will be maintained with active environmental management services; that open space will be broken down into individual management units each with specific best management practices that are microclimate dependent; that the management units will include ponds, wetlands, stormwater management areas, riparian buffers and re-generation areas, ditches and streams, forested areas, and green spaces; that they propose to provide the best management practices and the recommended natural resource management products required to promote soil stabilization, enhance water quality, control exotic invasive and nuisance flora and fauna, maintain a diversity of fish and wildlife habitats, and provide an interpretation of the ecosystem in the ponds, wetlands and stormwater management areas; that monitoring and implementing best management practices are required to promote and control pond embankment and soil stabilization, nuisance aquatic and/or exotic aquatic invasive vegetation, algae and cyanobacterial control, fish and wildlife management, vegetative enhancements, water quality and habitat enhancement, removal of organic matter accumulation, monitoring physical water quality parameters, benthic macro-invertebrates analyses, aeration, appropriate mosquito control, proper selection of environmental management service products, and propagation of pond riparian buffers; that they propose to provide and

implement an integrated vegetation management program that will increase biodiversity, reduce negative environmental impacts from native nuisance, and exotic invasive species, improve water quality, and enhance wildlife habitat; that they propose integrated vegetation management practices specific for the control of exotic invasive and/or native nuisance vegetation; that target species may include, but are not limited to, common reed, multi-flora rose, poison ivy, green briar, tree of heaven, and any listed in the “Plant Invaders of Mid-Atlantic Natural Areas”; that all indigenous beneficial grasses, shrubs, and trees will be left intact; that pruning to the beneficial vegetation will take place if necessary; that the indigenous beneficial vegetation is outline in the Existing Conditions Report; that indigenous beneficial grasses, shrubs and trees that begin to re-colonize the areas void of vegetation, once occupied by invasive and nuisance species, will be selected

Minutes

January 25, 2007

Page 7

for and allowed to re-colonize as beneficial pioneer species; that they propose to provide drainage outlets for excess water that exceeds the infiltration ability of the soils within a specific watershed to decrease the chances of flooding of property, roadways and dwellings, to decrease public safety issues, and to decrease negative economical impacts; that drainage of the community and soil stabilization will occur with appropriate stormwater run-off retention and pre-discharge treatment, vegetated slopes and channels void of woody stemmed trees and flow restrictions, bank, channel and pipe inlet and outlet stabilization utilizing approved products, installation of riparian corridors, quarterly inspection of stream/ditch to identify any channel blockage, and allows for maintenance easements when necessary; that they propose to allow for the propagation of a climax community forest through a natural successional process that will promote biodiversity, provide wildlife habitat, provide educational outreach and environmental interpretation, improve aesthetics, improve water quality, and promote soil stabilization; that forested areas will be protected by monitoring dead fall accumulation for fire mitigation and with canopy elevation in designated areas only; that green spaces will provide urban dwellers with areas for passive and active recreational activities, educational outreach opportunities, increase pervious surface for infiltration, and enhance aesthetics; and that maintenance and management practices in the green spaces include implementation of conventional best turf management practices as described by the Professional Landcare Network (Planet) and implementation of best nutrient management practices.

The Commission found that Mr. Fritchman submitted a copy of the Comprehensive Open Space Management Plan for the record.

The Commission found that Bruce Kraenter of Artesian Resources Corporation was present and while utilizing the Power-Point Presentation stated that Artesian owns and operates water and wastewater facilities; that they have 200 employees dedicated to providing the highest quality service and committed to the communities they serve; that they provide water and wastewater services throughout Delaware for a population of 243,000 served; that they have licensed and experienced operations staff; that the water

and wastewater services are regulated by the Delaware Public Service Commission; that they anticipate an estimated water demand of 1.2 million gallons per day; that groundwater supply will be located in open space; that hydrogeologic testing is performed to determine safe yields; that an allocation permit will be issued by DNREC; that the wastewater treatment varies by raw water quality; that the water will be treated to State and EPA drinking water standards; that the treatment plant architecture will blend into the community; that water wells will be located in open space within the community; that the water treatment plant will be constructed to appear to be a home or an agricultural building; that an elevated water storage tank will be located adjacent to the

Minutes
January 25, 2007
Page 8

wastewater treatment plant site; that water capacity is anticipated to be 1.5 million gallons; and that the elevated storage tank will provide emergency storage of water, will provide flow for fire protection, and will maintain pressure in the system.

The Commission found that Brian Carbaugh, Director of Engineering Design for Artesian Resources Corporation, was present and while utilizing the Power-Point Presentation stated that the wastewater treatment facility will provide an opportunity for regional wastewater infrastructure, land application by spray irrigation on approximately 1,600 acres of preserved agricultural lands, and will have a potential capacity to serve neighboring municipalities; that the treatment plant building will appear to be an agricultural building; that bermed lagoons will be utilized in the treatment process; that the proposed system provides an “unlimited public access” level of treatment; that the water will be treated to advanced levels of disinfection; that the treatment process includes biological oxidation, clarification, coagulation/flocculation, filtration and disinfection; that the water is brought up to the cleanest possible water quality; that the project is reviewed by the Department of Agriculture and the DNREC; that the spray irrigation to agricultural land recycles precious water and nutrient resources; that irrigation rates will be determined by crop utilization and uptake limits rather than wastewater disposal; and that DNREC Division of Water Resources has written that the Groundwater Discharges Section of DNREC feels that the spray irrigation project proposed for the project meets the current criteria of the Site Selection and Evaluation Report for land treatment systems.

The Commission found that Carl Wilson of The Traffic Group, Inc. was present and while utilizing the Power-Point Presentation stated that in the process of preparing a traffic impact study The Traffic Group obtained a scope of work from DelDOT; that DelDOT included 15 off-site intersections for investigation; that the intersections included major intersections located within 6 miles of the site and all site access intersections; that 7 background developments had to be considered; that the intersections included Route One and Cedar Creek Road, US Route 113 and Route 16, site entrances, Route One and Route 16, Route 16 and Route 30; Route 30 and Sand Hill Road; that

traffic counts and distribution reports have been submitted; that they had to obtain AM, PM and Saturday counts; that they had to utilize seasonal adjustment factors; that they had to review project origins and destinations of site traffic; that they had to add regional growth rates; that the preliminary traffic impact study has been approved by DelDOT; and that they are in the process of preparing the final traffic impact study and will be required to prepare an analysis using methodology and standards required by DelDOT and to make recommendations for improvements to provide acceptable operations.

The Commission found that Joanne Andrews of Lipman Frizzell & Mitchell, LLC was present and while utilizing the Power-Point Presentation stated that in the process of preparing a residential market feasibility analysis she found that Sussex County

Minutes

January 25, 2007

Page 9

Demographics show a strong population and household growth rates nearly double those in the State; that the County shows an annual population growth rate of 3.4%, while the State shows an annual population growth rate of 1.9%; that the County shows an annual household growth rate of 3.6%, while the State shows an annual household growth rate of 2.0%; that residential market trends indicate that there were 3,882 multiple list sales in 2006, an average of 80 days on market; that the median home price in the County was \$246,000 and \$256,500 in the Town of Milton; that new for-sale housing projects in the County data reported that as of November 2006 2,509 single family detached homes were sold, 2,062 single family attached homes were sold, and 847 multi-family homes were sold in the County; that it is estimated that there are 7,000 to 8,000 units in various stages of predevelopment in this portion of the County, i.e. Isaacs Glen with 1,630 units; that the project has the potential to create its own destination residential community due to its size, scale and potential amenity packages; that the majority of the buyers will be active adults nearing retirement or retirees; that she recommends that the marketing effort include a model home park and a first class sales approach by at least four national builders; that she believes that the amenities planned within the community should be delivered early in the sales process and continue to come on line parallel with the residential development; that by offering competitive market pricing and amenity packages, the project could be expected to sell at an overall monthly pace of 20 units per month; and that she estimates that the project will have an absorption period of approximately 15 years.

The Commission found that Tom Martins of Economic Research Associates was present and while utilizing the Power-Point Presentation stated that he has reviewed the proposed project, the numbers of units, the types of units, the commercial uses and square footages, and the proposed office space and square footages and feels that the on-site fiscal benefit on real property taxes will exceed \$1.0 million and the realty transfer taxes will exceed \$21.8 million; that the on-site economic benefit will create approximately 750 full-time employment positions in retail and 411 full-time employment positions in the offices; that it is estimated that 8,455 residents will live in 3,710 dwellings, of which 1,461 may be school age children; that it is estimated that there will be up to \$14.3 million in annual

public school education costs at buildout (the estimate includes State funded costs); that it is estimated that there will be a total project investment of \$860 million with materials at \$224 million and wages at \$335.5 million; and that it is also estimated that there will be 958 full-time construction jobs on the project.

The Commission found that the project representatives, in response to questions raised by the Commission, stated that there are six individual applications; that two are proposed for commercial, two are proposed as residential planned communities, one is for a Conditional Use for Wastewater Treatment, and one is for spray irrigation; that ten phases are proposed and will take up to 15 years to complete; that no development area is proposed in Level 3 areas and only a small portion of the site is located in Level 3; that

Minutes

January 25, 2007

Page 10

stormwater discharge may outfall into the Ingrams Branch and that the outfall be not be any greater than the existing outfall from the site; that land is being set aside for a school site, if needed, and that if not needed it will be left in open space with no change in the density for the project; that they are willing to provide a site for a fire substation for the local fire department; that the location of the fire substation can be on Route 16 or Route 30 and the location can be determined by the local fire department; that they do not want to tunnel or bridge the intersection of Route 16 and Route 30 since it would be out of character with the area; that there are two access points proposed on Route 30; that they will comply with all of DelDOT determinations; that the 400 moderately priced homes will be scattered throughout the project in all phases; that the average sale price of a multi-family unit may be \$175,000; that the average sale price of a single family attached home may be \$225,000; and that the average sale price of a single family detached home may be \$310,000.

Mr. Robertson advised the Commission that, in reference to the moderately priced homes, an agreement must be reached between the applicants, the County Community Development and Housing Division, and a County Attorney.

The Commission found that Mr. Paradee agreed and added that the County can dictate the price of the homes.

The Commission found that the project representatives continued to respond to questions raised by the Commission and stated that they are planning on spray irrigation on the 1,650 acres of agricultural lands; that capacity can be available to serve others in the area; that the demand will be determined by regional needs; that the project originally started out as infrastructure to serve the project and the Town of Milton; that they doubt that the project will be annexed into the Town of Milton; that the residents of the project would have to agree to annexation; that the State Police serve the area; that they are willing to provide land and facilities for police services; that there is one proposed direct access to the commercial areas from Route 16; that there are several interconnections from the residential portions of the project to the commercial areas; that Envirotech is willing and

able to go from pre-design to long-term maintenance of the project for the developers; and that there are other firms in the area that can also perform the environmental services proposed.

Mr. Lank and Mr. Robertson expressed some concerns relating to lots having access only to alleys and no other frontage along a street or road.

The Commission found that Mr. Davis and Mr. Arendt responded that all homes have access to streets, but may not have frontage along those streets; that park areas adjacent to the public roads could be extended to the lots in question and then easements granted so

Minutes
January 25, 2007
Page 11

that no direct access to the public roads can be created; that most lots front streets and roads within the project with some having access only from the alleys; and that this type of design works well in condominium multi-family and townhouse projects.

Mr. Kautz questioned if the fire service has any problem with the 20-foot alley rights-of-way.

The Commission found that Mr. Davis responded that the separation from building to building across the 20-foot alleys is at least 60-feet; that the 20-foot alleys can be revised if necessary; that the single family lots on alleys can be changed to single family detached condominium lots, rather than fee simple lots; and that there are a total of 3,710 residential units proposed, of which 150 are units within the two (2) commercial application sites.

Mr. Robertson advised the Commission that the County cannot place any restrictions on the C-1 sites proposed for rezoning, and that any use permitted in a C-1 General Commercial District can be permitted.

The Commission found that the project representatives continued to respond to questions raised by the Commission and stated that there should be no negative impact by spray irrigation on adjacent properties; that some lots are only 45' by 100' and 55' by 100', less than the minimum of 7,500 square feet with 60' width; that if it is necessary that they apply for variances through the Board of Adjustment they will do so; that they understand that they may be required to come back to the County to negotiate the moderately priced housing units and the pricing; that there will be a home owners association for each neighborhood, not a master home owners association governing body; that the number of units in each phase averages 400 units with no phase exceeding 450 units; that they have discussed providing a security force throughout the project; and that they have also discussed providing a police station within the project.

The Commission found that Mr. Paradee, in closing, stated that the project complies with the County Comprehensive Plan; that the project complies with all County Code requirements; that the application is supported by the Office of State Planning Coordination; that they have satisfactorily addressed all PLUS comments; that there should be no adverse impact on the Town of Milton; and that the application is a model community as envisioned by Livable Delaware.

The Commission found that the projects representatives, in response to questions raised by the Commission, stated that they are proposing a self sustained/self contained project; that the project complies with Livable Delaware; that the project is appropriate at this location; that the density proposed is approximately 5 dwelling units per acre; that the Town of Milton permits up to 7 or 8 dwelling units per acre; that the project separates the

Minutes

January 25, 2007

Page 12

Town from the agricultural activities; that they are proposing real communities with a variety of housing types; that they are planning on preserving the historic resources; and that the design of the project reduces the impact of vehicles by creation of a project with connection to commercial areas, a mixture of housing types, street interconnection, trails, sidewalks, bike paths, and open spaces.

The Commission found that Terry Rasberry was present on behalf of the YMCA of Delaware, submitted and read a letter in support of the project, which referenced that the YMCA is interested in building within the project; that the gift of land for the YMCA will allow the YMCA to provide needed services to central Sussex County to build strong kids, strong families and strong communities; that the YMCA unites men, women, and children of all ages, faiths, backgrounds, abilities and income levels; and that this growing area of the County is in need of community building institutions. The letter is a part of the record.

The Commission found that George Dickerson, Town Manager of the Town of Milton, submitted and read a letter in opposition to the project, which referenced that the Mayor and Council, by a majority vote on January 8, 2007, passed a motion to convey their concerns; that the concerns included: that the magnitude of this project has the potential to severally diminish the Town of Milton as we know it today; that during the PLUS meeting the applicant was asked "will there be ground disturbance within 100 feet of wetlands" and that the applicant responded "no"; that however, when asked it was clearly stated that a wastewater line had to cross wetlands to service the area known as the Rust Farm and that an Army Corps. of Engineers permit would be required; that this is a misrepresentation filed by the applicant; that the project does not comply with the County Comprehensive Plan, the Town of Milton Comprehensive Plan, Governor Minner's Livable Delaware Plan, Delaware Strategies for State Policies and Spending, and Governor Minner's Executive Order 59 implementing the Strategies for State Policies and Spending; that the project area is within the Town of Milton Comprehensive Plan Growth Zone; that in the PLUS letter to the applicant, dated July 24, 2006, Ms. Andrea

Maucher of the Public Service Commission stated “the project is located in the area the Town of Milton designates as its existing service territory prudent to 26 Del. C. Subsection 203 D (b), in order for a private utility to provide wastewater services to the project, it would need approval from the Town of Milton and seek a CPCN from the Public Service Commission; that the State Office of Planning and Coordination stated concerns about the impacts of this development on the Town of Milton; that this development, when completed, would place 3,785 residential units and 439,000 square feet of commercial space immediately next to a town with a population of 2,500; that the Office recommends if this plan moves forward in the County, the developer, the County, and the Town of Milton should meet to discuss ways to mitigate the impacts this development will have on the Town of Milton and integrate the new community into the Town of Milton; that the Memorandum of Understanding between the County and the

Minutes

January 25, 2007

Page 13

Delaware Office of State Planning and Coordination, signed November 19, 2004, by Mrs. Constance C. Holland, Director, and Dale Dukes, President of the County Council on November 30, 2004, clearly identifies several items that must be reviewed by the State; these items are any Residential Planned Community, major residential subdivisions or developments containing more than 50 dwelling lots, any rezoning within the Environmentally Sensitive Development District, any application for rezoning that is inconsistent with the County Comprehensive Plan Update adopted December 10, 2002, and any local land use regulation, ordinance or requirement; that coordination by the County for the purpose of providing the County with advisory comments; that these include the modifications to the County zoning and subdivision ordinances that implement the Comprehensive Plan and any amendments, modifications or any update to the County Comprehensive Plan; that the rezoning of this project without the County having previously amended their Comprehensive Plan flaws the entire process; that the PLUS application filed by the applicant was a request for a zoning change from C-1 to CR-1; that on June 28, 2006 an E-mail from Mr. Lank stated the County did not have an approved CR-1 zone at that time; that as of June 28, 2006 the County Comprehensive Plan had not been amended to include a CR-1 zone; therefore, the applicant’s application to PLUS is seriously flawed; that the Town of Milton respectfully requests that the Commission deny the project; that the project impacts the historic values of Milton, impacts the Town of Milton, impacts the Town police force; that the County Council funds the State Police each year; that the Town police will be the first to respond to any incident in the project due to their close proximity; that the project is too dense; and that the Town does not want this project to proceed at this time.

The Commission found that the projects representatives, in response to questions raised by the Commission stated that only a small portion of the project site is located in Level 3 at the north end of the project along Ingrams Branch; that all spray irrigation sites are located in Level 4 and are typical agricultural activities; that they are not planning on tunneling under wetlands, they will be directional boring under the Branch without impacting the wetlands; that the applicants do not agree with DelDOT’s suggestion that

the intersection of Route 16 and Route 30 should be tunneled or bridged; that it is no secret that the Town has issues with sewer; that their intended capacity is 1.2 million gallons; that additional capacity can be made available to serve the Town and others; and that a Town letter to the Public Service Commission referenced that the Town should be able to serve the project with sewer.

The Commission found that Jim Welu, an adjacent property owner, stated that he was not in support or in opposition to the project; that public meetings should be held with neighboring property owners for each phase of development; that he is pleased to see that environmental issues are being addressed; that the Town of Milton is in negotiation with Tidewater Utilities for sewer; and that there is no reason to downsize the project.

Minutes
January 25, 2007
Page 14

The Commission found that Rebecca Woolman, an adjacent property owner, spoke in opposition and stated that she abuts the property on two sides; that it is a massive project; that it will impact area residents; that the site is a part of a farming community; that the majority of the lots in close proximity are at least 0.75 acre or more; and that to change the zoning would not be compatible with the area.

The Commission found that Donna Gordon, an area resident, spoke in opposition and stated that the Isaacs Glen project and this project dwarfs the population of Milton, Lewes, Georgetown and Rehoboth; that the project will impact the police services and fire services; that there was no reference to trash pick-up; that it will create an economic impact; that schools are already over crowded; that school buildings will be needed; that all of the presentation referenced benefits, not drawbacks; that the quality of life is being impacted; that Wagamons Pond and the Broadkill River will be negatively impacted; that the State DNREC does not have any teeth in their regulations to enforce environmental regulations; and that the County cannot handle a project that is four times the size of four (4) local towns.

The Commission found that Sonya Reeves, an area resident, stated that she abuts the Ochels property where the proposed wastewater treatment plant and elevated water tank are proposed to be located and that she is concerned about the appearance of the wastewater treatment plant lagoons; questioned if the lagoons would be visible; questioned the location of the elevated water tank; and questioned if the lagoons would be bermed.

The Commission found that Mr. Carbaugh responded that the wastewater lagoons would be bermed; that the buildings would appear as agricultural buildings; that the water tower would be centered within the parcel; and that the buildings would be buffered by the spray irrigation.

The Commission found that there were 16 parties present in support of the project and 10 parties present opposed to the project.

At the conclusion of the public hearings, the Commission discussed the applications.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to defer action on **CZ #1615** for **North Milton Development Group II** and that the record be left open for final comments from DelDOT on the Traffic Impact Study and then upon receipt of the final comments to leave the record open for 15 days for written comments on the Traffic Impact Study comments only. Motion carried 5 – 0.

Minutes
January 25, 2007
Page 15

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to defer action on **CZ #1616** for **North Milton Development Group II** and **1630 Ventures, L.L.C.** and that the record be left open for final comments from DelDOT on the Traffic Impact Study and then upon receipt of the final comments to leave the record open for 15 days for written comments on the Traffic Impact Study comments only. Motion carried 5 – 0.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to defer action on **CZ #1617** for **North Milton Development Group I** and **North Milton Development Group II** and that the record be left open for final comments from DelDOT on the Traffic Impact Study and then upon receipt of the final comments to leave the record open for 15 days for written comments on the Traffic Impact Study comments only. Motion carried 5 – 0.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to defer action on **CZ #1618** for **North Milton Development Group II** and **1630 Ventures, L.L.C.** and that the record be left open for final comments from DelDOT on the Traffic Impact Study and then upon receipt of the final comments to leave the record open for 15 days for written comments on the Traffic Impact Study comments only. Motion carried 5 – 0.

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to defer action on **CU #1724** for **North Milton Development Group II** for further consideration. Motion carried 5 – 0.

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to defer action on **CU #1725** for **Harry Isaacs, Jr.** for further consideration. Motion carried 5 – 0.

Meeting adjourned at 9:38 p.m.