



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE SPECIAL MEETING OF FEBRUARY 20, 2008

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, February 20, 2008 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. I.G. Burton, Mr. Michael Johnson and Mr. Rodney Smith, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Mr. Shane Abbott – Assistant Director, and Mr. Richard Kautz – Land Use Planner.

Mr. Abbott advised the Commission that Items 1, 2 and 11 from Other Business have been removed from the agenda.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as amended by removal of Items 1, 2 and 11 from Other Business. Motion carried 5 – 0.

CONSENT AGENDA

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Consent Agenda as circulated. Motion carried 5 – 0.

The Consent Agenda includes:

Subdivision #2005 – 69 - - application of **WRIGHT BROTHERS PROPERTIES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 8.97 acres into 8 lots and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Old Mill Road (Road 265A), ½ mile north of Route One.

This is the final record plan for an 8-lot standard subdivision application. The Commission granted preliminary approval for 8 lots on October 26, 2006 and granted a one-year time extension on November 14, 2007. The final record plan is the same as the preliminary plan, complies with the subdivision code and the conditions of the preliminary approval, and all agency approvals have been received.

Time Extensions

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a. CU #1642 – Sunrise Ventures

This is a request for a one-year time extension. The County Council approved this conditional use on March 21, 2006. The Commission granted preliminary site plan approval and a one-year time extension on January 18, 2007. This is the second request for a time extension and the last one that the Commission has the authority to grant. If an extension is granted, the use needs to be substantially underway by March 21, 2009.

b. CU #1716 – Andrew Lubin

This is a request for a one-year time extension. The County Council approved this conditional use on January 16, 2007. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of approval. If an extension is granted, the use needs to be substantially underway by January 16, 2009.

c. CU #1748 – Delaware Electric Cooperative

This is a request for a one-year time extension. The County Council approved this conditional use on July 17, 2007. The Commission granted preliminary site plan approval on December 12, 2007 and the staff granted final site plan approval on January 2, 2008. This is the first request for an extension. The applicant's attorney advised by letter that the applicants intend to construct the project in 2009. If an extension is granted, the use needs to be substantially underway by July 17, 2009.

d. Subdivision #2005 – 11 - - PNH Harmon, L.L.C.

This is a request for a one-year time extension. The Commission granted preliminary approval for this 178-lot cluster subdivision on February 9, 2006 and granted a one-year time extension on January 18, 2007. This is the second request for a time extension. If an extension is granted, preliminary approval will be valid until February 9, 2009.

e. Subdivision #2005 – 21 - - Bierman Family, L.L.C.

This is a request for a one-year time extension. The Commission granted preliminary approval for this 41-lot standard subdivision on August 16, 2006. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval. If an extension is granted, preliminary approval will be valid until August 16, 2008.

f. Subdivision #2005 – 62 - - Dream Builders Construction, Inc.

This is a request for a one-year time extension. The Commission granted preliminary approval for this 79-lot standard subdivision on August 24, 2006. This is the first request for a time extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval. If an extension is granted, preliminary approval will be valid until August 24, 2008.

g. Subdivision #2005 – 72 - - Baywood, L.L.C.

This is a request for a one-year time extension. The Commission granted preliminary approval for this 679-lot cluster subdivision on January 18, 2007. This is the first request for a time extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval. If an extension is granted, preliminary approval will be valid until January 18, 2009.

h. Subdivision #2005 – 81 - - Bethany Ridge, L.L.C.

This is a request for a one-year time extension. The Commission granted preliminary approval for this 227-lot cluster subdivision on January 11, 2007. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval. If an extension is granted, preliminary approval will be valid until January 11, 2009.

i. Subdivision #2005 – 90 - - River Rock, L.L.C.

This is a request for a one-year time extension. The Commission granted preliminary approval for this 26-lot cluster subdivision on February 22, 2007. This is the first request for an extension. If an extension is granted, preliminary approval will be valid until February 22, 2009.

j. Subdivision #2005 – 95 - - Harlton Associates

This is a request for a one-year time extension. The Commission granted preliminary approval for this 197-lot cluster subdivision on February 8, 2007. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval. If an extension is granted, preliminary approval will be valid until February 8, 2009.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve all items on the Consent Agenda. Motion carried 5 – 0.

OLD BUSINESS

Subdivision #2005 – 63 - - application of DREAM BUILDERS CONSTRUCTION, INC. to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 307.71 acres into 251 lots, located south of Route 40, 580 feet west of Road 591.

This 251-lot standard subdivision was deferred on August 26, 2006 pending receipt of DelDOT's comments in reference to reviewing and approving the traffic impact study for the project. DelDOT has reviewed and approved the traffic impact study and has issued a

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Letter of No Objection for the entrance location. DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Subdivision #2005 – 85 - - application of **ERNEST H. HOSSE, III** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 31.70 acres into 21 lots (Cluster Development), located south of Route 18, 0.9 mile west of Road 529.

This 21-lot cluster subdivision application was deferred on December 7, 2006 pending receipt of a septic feasibility statement from DNREC. DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 85 for Ernest H. Hosse, III based upon the record and for the following reasons:

1. The development is designed in accordance with the Cluster Development Ordinance. The proposed clustered design is superior to a standard subdivision. For instance, clustering has been used to preserve approximately 1/3 of the site as open space or wooded area. Also, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
2. The applicant has proposed dividing 31 acres into 21 lots, which is a permissible density within an AR-1 subdivision on the land. And, the smallest lot will be more than 23,000 square feet in size.
3. The project will not adversely affect neighboring or adjacent properties.
4. The lots will be served by individual wells and septic systems and DNREC has issued a Septic Feasibility Statement.
5. The proposed subdivision meets the purposes and standards of the subdivision ordinance.
6. This recommendation is subject to the following conditions:
 - A. There shall be no more than 21 lots within the Subdivision.
 - B. The Applicant shall for a homeowners' association to be responsible for the maintenance of streets, roads, buffers, storm water management facilities, and other common areas.
 - C. The storm water management system shall meet or exceed the requirements of the State and County.
 - D. All entrances shall comply with all of DelDOT's requirements.
 - E. Sidewalks shall be installed on both sides of all streets within the subdivision.
 - F. The applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.

- G. No wetlands shall be included within any lot lines.
- H. A 30-foot forested Agricultural Buffer shall be shown along boundaries bordering on any land used primarily for any agricultural purpose. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
- I. The developer shall coordinate with the local school district to establish a school bus stop area. The location of the bus stop area shall be shown on the Final Site Plan.
- J. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- K. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
- L. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve this application as a preliminary, for the reasons and with the conditions stated. Motion carried 5 – 0.

Subdivision #2006 – 27 - - application of **O.A. NEWTON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 95.24 acres into 137 lots (Cluster Development), located north of Road 404, 1,900 feet west of Road 525.

This 131-lot cluster subdivision application received conceptual approval on September 19, 2007 with 17 conditions. A revised plan addressing the 17 conditions has been submitted. One of the conditions required open space between lots 120 through 124 and 125 through 131. The design engineer has provided a 20-foot landscaped easement between these lots. The staff questions if this is reasonable or should this area be dedicated open space? The Woodbridge School District has signed off on the location of the bus stop. All of the other conditions have been met.

Rob Rider and John Murray of Kercher Engineering advised the Commission that walking trails have been provided throughout the project; that the trails will be a hard pervious surface with either paving or concrete, that all of the lots have access to the paths; that the applicant is trying to keep the cost down; that the paths pass through green areas and open areas; that by having the paths to the rear of the lots; interconnectivity to adjacent and adjoining properties is achieved; that there are concerns about run-off into the swales; that the Public Works Division may not approve any modifications to the plan; and that there are no limitations as to putting the paths in front of the lots.

The Commission discussed whether the paths should be located in front of the lots; that it does not seem that there is any interconnectivity with the paths being located behind the lots; whether it is more expensive to put paths in the front of the lots; and whether there

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should be dedicated open space between lots 120 through 125 and 125 through 131. It was the consensus of the Commission to allow the open area be dedicated as an easement since the lots in question would be reduced.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this application as a preliminary with the 17 conditions of the conceptual approval of September 19, 2007 and the stipulation that sidewalks fronting all lots shall be provided. Motion carried 5 – 0.

Subdivision #2006 – 35 - - application of **2416 JOPPA ROAD, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 109.45 acres into 56 lots, located north of Road 553, 1,820 feet west of Road 558 and 900 feet east of the Delaware/Maryland State Line.

This 56-lot standard subdivision application was deferred on October 11, 2007 pending receipt of a septic feasibility statement from DNREC. DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems and DelDOT has issued a Letter of No Objection for the entrance location.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Subdivision #2006 – 38 - - application of **SCOTT BATZ AND RUTH SMITH** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Georgetown Hundred, Sussex County, by dividing 10.96 acres into 2 lots, and a waiver from the street design requirements, located southeast of Road 255, 85 feet northeast of Road 248 (Route 30).

This 2-lot standard subdivision application was deferred on October 11, 2007 pending receipt of a septic feasibility statement from DNREC. The applicant has provided the staff with an approved site evaluation. A low-pressure pipe disposal system will be installed.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 38 for Scott Batz and Ruth Smith, based upon the record and for the following reasons:

1. The proposed subdivision is a request to further subdivide a 10.20-acre parcel into 1 $\frac{3}{4}$ acre lot and the remainder lot, which has an existing dwelling.
2. The proposed subdivision meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County. There are similar lots (3/4 acre) in the area.
3. Both lots will be served by a 50-foot right of way.
4. The proposed subdivision will not adversely impact nearby uses, schools, public buildings and community facilities.

5. DNREC has issued a septic feasibility statement for a low-pressure pipe disposal system.
6. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 2 lots in this subdivision.
 - B. Any storm water management system required by the Sussex Conservation District shall meet or exceed the requirements of the State and County.
 - C. All entrances shall comply with all of DelDOT's requirements.
 - D. The 50-foot right of way shall be maintained by the owner of the remainder parcel.
 - E. Best Management Practices shall be utilized to prevent water run-off and flooding of adjacent properties.
 - F. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission following receipt of all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve this application as a preliminary, for the reasons and with the conditions stated. Motion carried 5 – 0.

Subdivision #2006 – 46 - - application of **McDANIEL CONSTRUCTION CO.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 17.496 acres into 17 lots, located west of Road 533, 550 feet south of Route 18 (Delaware Route 404).

This 17-lot standard subdivision application was deferred on December 13, 2007 pending receipt of a septic feasibility statement from DNREC and the proposed restrictive covenants. DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems. The restrictive covenants have been submitted. The wetland consultant has signed the appropriate signature.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 46 for McDaniel Construction Co., based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.

5. DNREC has indicated that the site is suitable for individual on-site septic systems.
6. This approval is subject to the following conditions:

- A. There shall be no more than 17 lots within the subdivision.
- B. The Applicant shall form a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
- C. The storm water management system shall meet or exceed the requirements of the State and County.
- D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established.
- E. A 30-foot forested Agricultural Buffer shall be shown along boundaries bordering on any land used primarily for any agricultural purpose. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
- F. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- G. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
- H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve this application as a preliminary for the reasons, and with the conditions stated. Motion carried 5 – 0.

Subdivision #2006 – 48 - - application of **DOUG COREY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 26.85 acres into 25 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located at the northwest corner of the intersection of Route 404 and Road 42.

This 25-lot standard subdivision application was deferred on December 20, 2007 for further consideration. DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems. DelDOT has issued a Letter of No Objection for the entrance location.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 48 for Doug Corey, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the

- Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
 3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
 4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
 5. DNREC has indicated that the site is suitable for individual on-site septic systems.
 6. A variance from the maximum allowed cul-de-sac length of 1,000 feet is appropriate given the shape of the parcel and the need to locate the entrance away from Route 404.
 7. This approval is subject to the following conditions:
 - A. There shall be no more than 25 lots within the subdivision.
 - B. The Applicant shall form a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
 - C. The storm water management system shall meet or exceed the requirements of the State and County.
 - D. All entrances shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established.
 - E. A 30-foot forested Agricultural Buffer shall be shown along the boundaries bordering on any land used primarily for any agricultural purpose. There shall also be a buffer established between lots 20 and 21 and Route 404. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
 - F. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - G. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
 - H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 5 – 0.

Subdivision #2006 – 51 - - application of **WOLFE PROPERTIES, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 155.00 acres into 184 lots, and a waiver from the forested buffer requirements, located north and south of Route 24, 1,200 feet east of Road 493 and Road 514.

This 184-lot standard subdivision application was deferred on December 20, 2007 pending receipt of a septic feasibility statement from DNREC. DNREC has issued a feasibility statement indicating that the site is suitable for a community wastewater disposal system.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

OTHER BUSINESS

The Peninsula MR/RPC
Amended Condition – Road 279

This item was removed from the Agenda.

Mr. Johnson questioned why this item was removed.

Mr. Lank advised the Commission that the applicants have filed an application to amend the conditions of approval and that the application will be heard as soon as possible.

The Vineyards
Site Work Authorization – Route 9

This item was removed from the Agenda.

Subdivision #2004 – 17 - - Hopkins Pettyjohn
Revised Condition – Route 9

Mr. Abbott advised the Commission that this is a request to delete a condition of approval in the Villages of Red Mill Pond North and South; that the developers are requesting to delete the condition that requires paths as shown in Figure 9.1 of the Exhibit Booklet; that the paths would cross individual lots; and that this request was denied at the December 12, 2007 special meeting.

David Hutt, Attorney, representing ABC Builders was present on behalf of this request and advised the Commission that in June of 2004, this application received preliminary approval for 544 lots; that the final record plan was reduced to 520 lots and recorded; that the conditions of approval were referenced on the final record plan; that the developers are requesting that the paths shown in Figure 9.1 be deleted since the paths would cross individual lot lines; that the developer is proposing to relocate the trails in another area; that the developers are requesting a modification to the recorded plan for a swimming pool and clubhouse on the southern portion of the community; that the trails across individual lots will cause maintenance problems; that there are 177 lots on the southern portion of the project; that there are 88 acres or over 35% of open space provided; and that the developers are trying to resolve this issue prior to any lots being sold.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to amend this condition by allowing for the relocation of the walking trails and the inclusion of a swimming pool and clubhouse on the southern portion of the project with the stipulation that a revised preliminary plan be submitted for the Commission's review and approval. Motion carried 5 – 0.

Subdivision #2006 – 31 - - South Shore Builders
Request for Reconsideration of Preliminary Approval

Mr. Abbott advised the Commission that this request was deferred at the January 12, 2008 special meeting; that the applicant's attorney is requesting reconsideration of Condition of Approval #2 that eliminated lots 11 through 16; and that the Commission was provided with a copy of a letter from the applicant's attorney explaining the request.

Tim Willard, Attorney, and John Murray of Kercher Engineering were present on behalf of this request and advised the Commission that the Condition of Approval probably originated from the Technical Advisory Committee comments; that there would be a timbered bridge crossing the wetlands and not any fill; that none of the proposed lots would contain any wetlands; that the developers will minimize tree removal; that the developers are proposing a 30-foot conservation easement; that the easement area could be mounumented; that there will be less disturbance; and submitted an amended condition of approval for consideration.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Ashley Manor HR/RPC
Revised Amenity Area Site Plan – Route 20 (Road 382)

Mr. Abbott advised the Commission that this is a revised site plan for a pavilion, relocation of the swimming pool, addition of a kiddie pool and grill area; that the setbacks meet the requirements of the zoning code; that 37 parking spaces are provided; that the previously approved plan provided a community clubhouse; that the pavilion will replace the clubhouse as the developers feel that this will be more user friendly; that a clubhouse was not a condition of approval; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the revised site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Heritage Village MR/RPC
Amended Condition – Postal Lane (Road 283)

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Mr. Abbott advised the Commission that this is a request to amend a condition of approval; that the Commission was provided a copy of a letter from the developer's attorney explaining this request; and that the total number of units permitted will remain 147 units.

Rob Gibbs, Attorney, was present on behalf of this request and advised the Commission that the term townhouse should probably not have been used since townhouse projects involve fee simple lots; and that the proposed units are actually multi-family units.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the request as submitted. Motion carried 5 – 0.

Five Points Square

Revised Preliminary Site Plan – Savannah and Shady Roads

Mr. Abbott advised the Commission that this is a revised commercial site plan for retail and office space; that Parcel A contains 2.71 acres and includes 14,820 square feet of retail area and 3,600 square feet of office space; that the setbacks meet the requirements of the zoning code; that 93 parking spaces are required and 104 are provided; that 24 spaces are located within the front yard setback and are subject to site plan review; that the previously approved plan dated March 3, 2005 had parking within the front yard setback; that Parcel B contains 5.48 acres and includes 37,530 square feet of retail area; that the setbacks meet the requirements of the zoning code; that 208 parking spaces are required and 209 are provided; that 60 spaces are within the front yard setback and are subject to site plan review; that the previously approved plan dated March 3, 2005 had parking in the front yard setback; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that both parcels are zoned C-1; that DelDOT has issued a Letter of No Objection for the entrance location; that the previously approved plan also had multi-family units and this plan does not; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the revised plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Jungle Jim's Amusement Park

Revised Site Plan – Road 273

Mr. Abbott advised the Commission that this is a revised site plan for the addition of a spray amusement structure to an existing water park; that the staff is questioning whether a conditional use application will be necessary; that the water park was originally built when amusements were a permitted use in the C-1 district; and that if a conditional use is not required, only conceptual approval should be considered since the site plan does not show the size of the structure.

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

Motion carried 5 – 0.

Auto Works Collision Center

Final Site Plan – U.S. Route 113

Mr. Abbott advised the Commission that this is the final site plan for an auto repair facility; that the Commission granted preliminary site plan approval on September 19, 2007; that the required landscaping plan has been submitted and includes 52 plantings; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the site plan as a final. Motion carried 5 – 0.

DRC Properties, L.L.C.

Preliminary Multi-Family Site Plan – Route 54

Mr. Abbott advised the Commission that this is a preliminary site plan for 100 multi-family dwelling units located on 12.73 acres; that the site is zoned HR-1; that 152 units are permitted by Code; that there are 4, 8-unit buildings, 4, 7-unit buildings, 4, 5-unit buildings and 5, 4-unit buildings proposed; that a community building and swimming pool are also proposed; that the setbacks, building separations and building lengths meet the requirements of the zoning code; that 300 parking spaces are required and 358 are provided including an attached 2-car garage for each unit; that there is no disturbance to the wetlands; that 5,981 linear feet of sidewalk is proposed; that central sewer will be provided by Sussex County; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Sandpiper Village Condominium

Parking and Restricted Development Easement – Road 270

This item was removed from the Agenda.

Mr. Natural Bottled Water

CU #1536 Determination of Use – Route 17

Mr. Abbott advised the Commission that this conditional use was approved on May 18, 2004 for an office and warehousing for a bottled water company; that the office and warehouse are established on the site; that the owner has rented the office to a one-person accountant; that the owner is requesting permission to continue renting the office to the accountant; and that the staff is questioning if an amended conditional use application will be required.

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Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to allow the office to be used by the accountant without an amended conditional use application. Motion carried 5 – 0.

Sports at the Beach

CU #1421 Revised Site Plan – Route 9

Mr. Abbott advised the Commission that this is a revised site plan for the addition of a new concession stand and maintenance building; that the setbacks meet the requirements of the zoning code; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the revised site plan as a final. Motion carried 5 – 0.

Delphose E. Price

Lot on 50' Right of Way – Beaver Dam Road

Mr. Abbott advised the Commission that this is a request to create a 1.21 acre lot with access from an existing 50-foot right of way known as Butcher Lane; that it appears that this would be the fourth lot having access from the right of way and the proposed lot should be required to go through the major subdivision process; and that the staff does not have verification that the applicant has permission to use the right of way.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to deny the request as submitted. It was the consensus of the Commission that the applicant be required to go through the major subdivision process. Motion carried 5 – 0.

Laconya & Osmond Eley

2 Lots on 50' Right of Way – Road 590

Mr. Abbott advised the Commission that this is a request to create 2 lots with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing lane adjacent to a ditch; that the aerial photograph shows the existing lane; and that the request may be approved as submitted or an application for a major subdivision may be required.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

ADDITIONAL BUSINESS

Mr. Lank advised the Commission that there will be a dinner/workshop meeting with the County Council on March 18, 2008 at the West Complex Building to discuss the update to the Comprehensive Land Use Plan and that there will be a special meeting for a Public Hearing on the Land Use Plan on April 3, 2008 at 6:00 p.m. probably at the Cheer Center.

There was a consensus of the Commission to hold a special meeting on April 16, 2008 at 3:00 p.m. for Old and Other Business items.

Meeting adjourned at 5:20 p.m.