



Planning & Zoning

Agendas & Minutes

MINUTES OF THE SPECIAL MEETING OF FEBRUARY 20, 2007

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday afternoon, February 20, 2007 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. 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. Gordy, seconded by Mr. Smith and carried with four votes to approve the Agenda as amended by moving Item 3 of Other Business ahead of Item 8 of Old Business and by deletion of Item 12 from Other Business. Motion carried 4 – 0. Mr. Johnson was absent.

OLD BUSINESS

C/U #1675 – application of **COLONIAL EAST, LTD.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for expansion of existing manufactured home community (82 additional lots) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 20.79 acres, more or less, lying northeast of Minos Conaway Road (Road 265), 1,100 feet north of Route 9.

Mr. Wheatley abstained from any participation on this application and asked Vice Chairman Gordy to act as Chairman on this application.

The Commission discussed this application which has been deferred since January 11, 2007.

Mr. Johnson asked if the applicant had responded to the PLUS comments.

Mr. Lank advised the Commission that a response has not been received.

Mr. Johnson asked if a response to the PLUS comments was required.

Mr. Lank advised the Commission that, based on the PLUS comments of March 15, 2006, McCrone, Inc. was notified in bold print in the next to last paragraph that “Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore”.

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Mr. Johnson stated that he would move that the Commission recommend denial of Conditional Use #1675 for Colonial East, Ltd. for the following reasons:

1. The Applicant did not provide a response to the PLUS comments.
2. Originally, County Council approved only 104 homes on 52 acres. This approval came after public hearings where there was significant opposition to the project. The reduced number of units was apparently a compromise reached as a result of the opposition.
3. County Council also apparently reduced the number of allowable units so that the project would be more compatible with the density and uses on neighboring and adjacent properties.
4. The Developer chose to locate all of the dwellings on about one-half of the site, and now it wants to increase the density previously permitted by Ordinance No. 1187.
5. In general, I have concerns about a recommendation for approval of this application, since it would undo the apparent compromise decision reached by County Council in light of the substantial opposition to the development.
6. In conclusion, since the number of units allowed on the site was County Council’s decision, I believe it should be Council’s decision to allow more units if they feel it is appropriate to do so.

Motion by Mr. Johnson, seconded by Mr. Smith to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion failed with 2 yeas and 2 nays. Mr. Wheatley not voting.

Vote by roll call:

Mr. Johnson: aye, Mr. Burton: nay, Mr. Smith: aye, and Mr. Gordy: nay.

Application denied since a majority vote was not recorded.

C/U #1711 – application of **ARTESIAN WATER COMPANY, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a sewer

treatment facility to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 13.41 acres, more or less, lying north of Route 336 (Piney Neck Road), 2,100 feet west of Route 335 (Bunting Road), and 2,200 feet east of Road 335A (Adams Road).

The Commission discussed this application which has been deferred since November 11, 2006.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to defer action and to leave the record open until the Special Meeting in March 2007.

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Subdivision #2005-86 – application of **DALE WHEATLEY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 27.65 acres into 34 lots, (Cluster Development), located west of Road 598, 600 feet north of Road 611.

The Commission discussed this application, which has been deferred since December 7, 2006.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 86 for Dale Wheatley based upon the record and for the following reasons:

1. The project is located within the AR-1 District.
2. The Development is designed in accordance with the Cluster Development Ordinance. The proposed Cluster design is superior to a standard subdivision with increased open space and a density of only 1.23 lots per acre, which is significantly less than what is permitted within an AR-1 subdivision. Also, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
3. The project will not have an adverse impact on the neighboring properties, community or schools.
4. Lots will be served by individual wells and septic systems.
5. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
7. This approval is subject to the following conditions:

- There shall be no more than 34 lots within the Subdivision.
- The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, buffers, storm water management facilities, and other common areas.
- The storm water management system shall meet or exceed the requirements of the State and County. Best Management Practices shall be used in the design and maintenance of the system, and it shall maximize ground water recharge.
- All entrances shall comply with all of DelDOT's requirements.

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- As stated by the Applicants, sidewalks shall be installed on at least one side of all streets. Streetlights shall also be provided.
- The Agricultural Use Protection Notice shall be included on the Final Site Plan and within the Restrictive Covenants.
- Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- 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 #2005-90 – application of **RIVER ROCK, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 29.31 acres into 26 lots, (Cluster Development), located southeast of Road 258, 0.5 mile northeast of Road 88.

The Commission discussed this application, which has been deferred since January 11, 2007.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 90 for River Rock, L.L.C. based upon the record and for the following reasons:

1. The Development is designed in accordance with the Cluster Development Ordinance. The proposed Cluster design is superior to a standard subdivision and

preserves significant areas of the Project as open space. The design is also superior to the plan that received preliminary approval for this same property.

2. The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
3. The applicant has proposed 26 lots within the project, which is within the allowable density for an AR-1 subdivision on this land.
4. The project will not have an adverse impact on the neighboring properties or community.

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5. The Subdivision will include walking paths and jogging trails.
6. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance, and promotes the orderly growth of the County.
7. This recommendation is subject to the following conditions:
 - There shall be no more than 26 lots within the subdivision.
 - The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
 - The storm water management system shall meet or exceed the requirements of the State and County.
 - All entrances shall comply with all of DelDOT's requirements.
 - A walking and jogging path shall be installed throughout the Subdivision, as stated by the Applicant.
 - An area set aside for a future school bus shelter shall be depicted on the Final Site Plan.
 - A Notice shall be included in the Restrictive Covenants similar to the Agricultural Notice set forth in the County Subdivision Ordinance indicating that adjacent properties are actively hunted.
 - The Restrictive Covenants and Final Site Plan shall contain the following notice:

“ This property is located in the vicinity of land used as an airport. There may be frequent flights over the property conveyed in this deed that will generate noises associated with aircraft in flight or aircraft engines operating. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal airport uses and activities.”

Motion by Mr. Burton, 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.

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Subdivision #2005-91 – application of **HIGHLAND DEVELOPMENT CORPORATION** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 195.93 acres into 420 lots, (Environmentally Sensitive Developing District Overlay Zone), located south of Route 24, approximately 1 mile west of Road 309.

The Commission discussed this application, which has been deferred since January 11, 2007.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 91 for Highland Development Corporation based upon the record made at the public hearing and for the following reasons:

1. The project is located in a Development District according to the County's 1997 Land Use Plan, and is located within the Environmentally Sensitive Development Area according to the 2002 Update.
2. Although the applicant has proposed 420 lots within the project, only 391 are permitted as the allowable density for an AR-1 subdivision on this land. The applicant has acknowledged this reduction.
3. Through a cluster design, the Applicant has maintained in excess of 40% open space, while maintaining average lot sizes of 9,500 square feet. Also, all of the lots adjoin open space.
4. The project will be served by the County as part of the Oak Orchard Sanitary Sewer District and the Sussex County Engineering Department states that there is adequate capacity for the project as proposed.
5. Central water will be provided to the project.

6. The applicant has also favorably addressed the items described in Section 99-9C of the Subdivision Code. In addition, the site's design has a minimal impact on wetlands and no wetlands are included within any lots.
7. DelDOT has indicated that part of this land may fall within the area planned for a County By-Pass. For this reason, one of the conditions that I am placing on this approval is that a phasing plan be established so that the area DelDOT is considering will remain unobstructed until the last stage of the project's development.
8. This approval is subject to the following conditions:

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- Per DelDOT's request, the applicant should design and phase the project such that the area occupied by the Eastern Bypass Alternatives alignment is developed as the last phase. In this manner, if one of the Eastern Bypass Alternatives is selected as the preferred alternative, this alignment can be protected from development allowing the new roadway to be built. If one of the Eastern Bypass Alternatives is not selected, the applicant could proceed with development of the entire site.
- Per DelDOT's request, the applicant should design and build the subdivision to ensure that all community facilities, including sewage treatment facilities, pump stations, utilities, storm water management facilities, parks, required open space, or any similar facilities, are located outside the area occupied by the Eastern Bypass Alternatives' alignment until and if a decision is made that an Eastern Bypass will not be selected as the preferred alternative.
- There shall be no more than 391 lots within the Subdivision. The Applicant shall coordinate with DelDOT to develop a phasing plan so that the area DelDOT is considering for a bypass shall be the last phase of development on the site. This phasing plan shall be shown as part of the Final Site Plan.
- The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
- The storm water management system shall meet or exceed the requirements of the State and County. The storm water management system shall maximize ground water recharge and erosion and sediment control measures and shall comply with all State and County requirements.
- All entrances shall comply with all of DelDOT's requirements.

- A system of street lighting shall be provided by the Applicant, and the location of the streetlights shall be shown on the final site plan.
- Sidewalks shall be installed on at least one side of all streets within the Subdivision.
- No wetlands shall be included within any lot lines.
- Within 1 year of the issuance of the first residential building permit, the developer shall construct a community swimming pool and community center, trails and community pier with no more than 4 boat slips.

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- The development shall be served as part of the Oak Orchard Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
- Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- The Applicant shall coordinate with the local school district to establish the location and character of a school bus stop within the project. The location of the bus stop shall be shown on the Final Site Plan.
- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.
- The Agricultural Use Protection Notice shall be included on the Final Site Plan and in the Restrictive Covenants.
- A Notice shall be included in the Restrictive Covenants similar to the Agricultural Notice indicating that adjacent properties are actively hunted.
- The Restrictive Covenants and Final Site Plan shall include a Notice to all property owners as follows:

“ This property is located in the vicinity of a poultry processing plant and feed mill operating 24 hours a day. Such agricultural and industrial uses and activities involve noise, dust, truck traffic, offensive odors, glare and other possible annoyances associated with such 24-hour live poultry and feed mill operations. The use and enjoyment of the property is expressly conditioned upon the acceptance of any such annoyance or inconvenience, which may result from such heavy uses and activities.”

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

Subdivision #2005-94 – application of **SEACOAST INVESTMENTS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 81.84 acres into 199 lots, (Cluster Development), located east of U.S. Route 113, south of Road 325, and west of Road 326.

The Commission discussed this application, which has been deferred since January 11, 2007.

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Mr. Johnson stated that he would move that the Commission defer action on Subdivision #2005 – 94 for Seacoast Investments, L.L.C. since that during the public hearing, there was a question about whether this land qualified for consideration as part of a Moderately Priced Housing Unit project. Since County Council is responsible for approving whether a project qualifies as a Moderately Priced Housing Unit development, Mr. Johnson would like Council to clarify its decision on this one, since there seems to be some questions about whether it qualifies, and because this is the first project of its kind under the new ordinance.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action for the reasons stated. Motion carried 5 – 0.

Subdivision #2006-33 – application of **BETHANY SHORT PROPERTIES, LLC** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 20.08 acres into 49 lots, (Environmentally Sensitive Developing District Overlay Zone), located west of Route One, 3,500 feet north of Fred Hudson Road (Road 360).

The Commission discussed this application, which has been deferred since November 16, 2006.

Mr. Smith stated that he would move that the Commission grant preliminary approval for Subdivision #2006 – 33 for Bethany Short Properties, L.L.C. based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance by protecting the orderly growth of the County.

2. The property is zoned MR, which permits development of approximately 4 lots per acre. The proposed subdivision has a density of approximately 2.4 lots per acre.
3. The subdivision is in character with other residential development in the area, and there are also businesses and services in the area that will serve the subdivision.
4. Although there was some concern from neighbors about setbacks and height limits, these are governed by the requirements of the existing MR zoning for the property.
5. The subdivision has been designed to have a minimal impact on wetlands, and no wetlands are included within any lot lines.

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6. The Applicant has adequately addressed all of the applicable issues in Section 99-9C of the Subdivision Ordinance.
7. This recommendation is subject to the following conditions:
 - The maximum number of lots shall not exceed 49.
 - The Applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of streets, roads, buffers, storm water management facilities, recreational areas, and other common areas.
 - The storm water management system shall meet or exceed the requirements of the State and County and Best Management Practices shall be utilized when appropriate.
 - Street lighting shall be provided, and the location of the streetlights shall be shown on the final site plan.
 - No wetlands shall be included within any lot lines.
 - The Restrictive Covenants governing the project must include the wetlands notice and notice of hunting activities occurring on adjacent properties.
 - Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - The development shall be served by a central water system operated by an approved public utility company.

- The development shall be served as part of a Sussex County Sanitary Sewer District.
- The applicant shall comply with roadway and entrance improvements required by DelDOT.
- Sidewalks shall be located on at least one side of all internal subdivision streets.
- The recreation area shall be constructed and open for use by residents of the development within two (2) years of the issuance of the first residential building permit.

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- Because the project adjoins the Fresh Pond State Park, a chain link or similar type of fence shall be installed along the western boundary to limit access to the Park from the project. This is necessary to not only protect the environment within the Park, but also to limit access while the park is being actively hunted. And, access to the Park from this development should be limited since the State charges fees to access the Park.
- Final Site Plan approval 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 #2004-48 – application of **CHARLES GUY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 57.81 acres into 38 lots and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 534, 625 feet northwest of Road 546 and railroad.

Mr. Wheatley stated that the Commission would refer back to this application after a decision is made on Item #3 under Old Business.

After acting on Item #3 under Old Business, the Commission referred back to this application.

Mr. Abbott advised the Commission that this is a final record plan for a 38-lot standard subdivision; that the Commission granted preliminary approval on October 13, 2005 and

a one-year time extension retroactive to the anniversary date of the preliminary approval on February 20, 2007; that the final record plan complies with the Subdivision Ordinance and conditions of approval; and that all agency approvals have been received.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve this application as a final. Motion carried 5 – 0.

OTHER BUSINESS

Subdivision #2004 – 16 - - Dyer Reed, L.L.C.
Time Extension – Herring Point

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval on February 17, 2005 and a one-year

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time extension on February 1, 2006; that this is the second request for an extension; that approval have been received from DelDOT, Department of Agriculture, and the Office of the State Fire Marshal, that the plans have been submitted to Sussex County Engineering and Sussex Conservation District; and that the developer anticipates having these approvals with 30 to 60 days.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval.
Motion carried 5 – 0.

Subdivision #2004 – 44 - - Fran Gonzon
Time Extension – Hummingbird Meadows

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval on October 13, 2005; that this is the first request for an extension; and that if an extension is granted, it should be retroactive to the anniversary date of preliminary approval.

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval.
Motion carried 5 – 0.

Subdivision #2004 – 48 - - Charles Guy
Time Extension – Ross Station

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval on October 13, 2005; that this is the first request for an extension; that if an extension is granted, it should be retroactive to the

anniversary date of the preliminary approval; and that if an extension is granted, this item is also under Old Business for final record plan approval.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval. Motion carried 5 – 0.

Beaver Creek
Amenity Area Site Plan – Route 9

Mr. Abbott advised the Commission that this is a site plan for a community clubhouse and 2 swimming pools; that the clubhouse contains 2,496 square feet; that the pools are 1,000 and 296 square feet in size; that the setbacks meet the requirements of the zoning code; that 30 parking spaces are provided and that 14 are located within the front yard

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setback; 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. Burton 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.

Mills Warehouses
CU #1664 Revised Site Plan – Road 382

Mr. Abbott advised the Commission that this is a revised site plan for an office/warehouse complex located on 16.82 acres; that the Conditional Use was approved on August 15, 2006 with 14 conditions; that the Commission granted preliminary site plan approval on January 18, 2007; that the revised site plan is for the relocation of some of the buildings; that 10 buildings are still proposed; that the setbacks meet the requirements of the zoning code; that the 14 conditions of approval are referenced on the site plan and the site plan complies with the conditions of the 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.

Philadelphia Pentecostal Holiness Church, Inc.
CU #1371 Site Plan – Road 213

Mr. Wheatley advised the Commission that he would not participate in this discussion.

Mr. Abbott advised the Commission that this is a site plan for 12 townhouse units located 19.83 acres; that the Conditional Use was approved on December 19, 2000; that the Commission granted one-year time extensions on July 11, 2002 and on December 18, 2003; that the extension granted in 2003 was the last extension that the Commission has the authority to grant; that the applicant's surveyor is requesting that the project be allowed to move forward; and that the application should be considered voided since no substantial construction has commenced.

Bishop Major Foster was present and advised the Commission that the applicants ran into difficulties with the road crossing over the wetlands; that the applicants have a permit from the Corps of Engineers to cross the wetlands; that there were also problems with the drainage ditch on the site; and that Mr. Allen advised him that a shed could be placed on the site and that the use would be considered substantially underway; that a permit for a

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shed was obtained and that the shed is located on the site; and that the road leading to the townhouse units has been installed.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to defer action for further legal consideration. Motion carried 4 – 0, with Mr. Wheatley not participating.

Lighthouse Cove

Preliminary Multi-Family Site Plan – Route 54

Mr. Abbott advised the Commission that this is a preliminary site plan for 18 townhouse units located on 2.30 acres; that the site is zoned C-1; that there are 0.54 acres of State tidal wetlands on the site; that the density is based on 1.76 acres since State tidal wetlands cannot be included in density calculations; that 21 units would be permitted by the zoning code; that the building setbacks, building lengths and building separation distances meet the minimum requirements of the zoning code; that 44 parking spaces are required and provided including an attached garage for each unit; that 2 spaces are located within the front yard setback and are subject to site plan review; that a swimming pool and clubhouse are also proposed; that since the parcel was created prior to July 19, 1988, there are no setback requirements from the State tidal wetlands; that the site is located in an AE 5" flood zone; that the site will be served by central sewer and water; 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. Johnson and carried unanimously to approve the site plan as submitted as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Anita Baker Wright

Parcel with a 50' Right of Way – Road 431

Mr. Abbott advised the Commission that this is a request to create an 8.15 acre parcel with access from a 50-foot right of way; that the owner proposes to subdivide the parcel following an existing ditch, which is a natural boundary; that there is 57.90 feet of road frontage existing on the north side of the ditch; and that this request can be approved as submitted or require an application for a variance or a major subdivision.

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

John J. Hearn

Parcel on Existing 50' Right of Way – Road 47

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Mr. Abbott advised the Commission that this is a request to create a 2.60 acres parcel out of a 23.62 acre tract with access from an existing 50-foot right of way; that this would be the second parcel having access from the right of way; and that the Commission usually considers a maximum of 3 lots having access from a right of way without a public hearing.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this request as a concept. Motion carried 5 – 0.

Charles Ross Ritter

Parcel with a 50' Right of Way – Road 265A

Mr. Abbott advised the Commission that this is a request to create a 1.93-acre parcel with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing driveway; and that the request can be approved as submitted or require an application for a variance or a major subdivision.

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

Gary L. and Cynthia A. White

3 Lots with a 50' Right of Way – Route 30

Mr. Abbott advised the Commission that this is a request to subdivide 6.13 acres into 3 lots with access from a 50-foot right of way; that this request was deferred at the December 14, 2006 meeting pending receipt of a survey; that the owner proposes to create the right of way over an existing stone driveway; that the lots would be 3.00, 0.99 and 1.03 acres; that the 3.00 acre parcel has an existing dwelling located on it; that the

1.03 acre parcel has sheds located on it; that there is a shed that needs to be relocated; and that the request can be approved as submitted or require an application for a major subdivision; and that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the request as submitted as a concept with the stipulations that a cul-de-sac be added on the proposed lot 3 and that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Sandra Wharton
Parcel with a 50' Right of Way – Road 288

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This item was removed from the Agenda on February 20, 2007.

Michael J. Hubbard
2 Parcels with a 50' Right of Way – Road 487A

Mr. Abbott advised the Commission that this is a request to create a 6.59 acre parcel out of an 82.97 acre parcel with access from an existing 50-foot right of way; that the 6.59 acre parcel has an existing dwelling located on it; that this would be the fourth parcel having access from the right of way; that the policy of the Commission has been to allow 3 lots having access from a right of way without an application for a major subdivision; and that since this would be the fourth lot having access from the right of way, a public hearing for a major subdivision should be required.

James Fuqua; Attorney representing the applicant, advised the Commission that this request is due to a divorce settlement; and that the proposed parcel would have marginal impacts to the right of way.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Smith Acres
Consideration of Substantial Construction – Road 454

Mr. Abbott advised the Commission that this 6-lot subdivision application received final approval on February 8, 2001; that the developer was unaware of the 5-year sun setting provision of the subdivision ordinance; that the street section for these lots has not been built; that part of this street already serves 8 lots that were existing; that since the 8 lots

exist, the developer is requesting that this be considered substantially under construction; and that if the request is denied, the developer is seeking a one-year time extension.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action to allow the staff time to inspect the site. Motion carried 5 – 0.

Sam Yoder & Son Quality Meats
Amended Conditions – Route 16

Mr. Abbott advised the Commission that this is a request to amend a conditional of approval; that one of the conditions of approval was that there shall be no Sunday hours; that the owner is requesting that this condition be deleted; that the condition originated at the Commission level and the Commission has the authority to amend the condition; that

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the applicant submitted this condition during there presentation; and that no parties appeared in support of or in opposition to this application.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve this request. Motion carried 5 – 0.

The Peninsula MR/RPC
Amended Condition – Road 299

Mr. Abbott advised the Commission that this is a request to delete a condition of approval; that this request was deferred on January 18, 2007 to allow the staff time to review the record; that one of the conditions of approval was that the applicants will provide a shuttle service within the project; that during the public hearing, the applicants submitted this condition; and that since the condition originated at the Commission level, the Commission has the authority to amend this condition.

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

ADDITIONAL BUSINESS

There was a consensus of the Commission to hold a Special Meeting in Council Chambers on March 15, 2007 at 3:00 p.m. for consideration of Old Business and Other Business.

Meeting adjourned at 4:30 p.m.