



Planning & Zoning

Agendas & Minutes

MINUTES OF THE SPECIAL MEETING OF MARCH 15, 2007

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday afternoon, March 15, 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 with Rebecca Trifillis – 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 unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

OLD BUSINESS

C/Z #1605 – application of **NENTEGO PROPERTIES, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District and a GR General Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying southeast of Route 24, 2,400 feet southwest of Route 5 and Road 297, to be located on 93.67 acres, more or less.

The Commission discussed this application, which has been deferred since February 8, 2007.

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1605 for Nentego Properties, LLC based upon the information contained in the record and for the following reasons:

1. The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District as established by the Comprehensive Land Use Plan.
2. MR zoning is appropriate for the site because medium density development is appropriate in areas where central water and sewer are available. In this case, sewer service will be provided and the project is within a County operated

- Sanitary Sewer District, and adequate wastewater capacity is available for the project. Water service will be provided by a publicly regulated water company. Also, this location is developing with an urban character in accordance with the purpose of the MR District.
3. The subject property is in an area that is growing with a variety of mixed uses, including a number of commercially zoned properties. It is also consistent with the variety of surrounding zoning and residential uses, including single-family subdivisions, mobile home parks, multi-family projects and commercial areas.

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4. The RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large-scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses. In this case, the applicant has used design ingenuity to increase required buffers, maintain undisturbed common areas, and to create interconnecting roadways and pedestrian walkways.
5. The development has a proposed density of 3.982 units per acre, which is less than what is permitted in the existing GR District and the proposed MR District.
6. This recommendation is subject to the following conditions:
 1. The maximum number of dwelling units shall not exceed 373 townhouse-style units.
 2. The Construction of this project shall be phased over a 6-year period. No more than 125 residential unit building permits shall be issued within any calendar year.
 3. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determinations.
 4. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first residential building permit. Those amenities shall include a swimming pool and poolhouse.
 5. The development shall be served as part of the appropriate Sussex County Oak Orchard Sanitary Sewer District in accordance with the Sussex County Engineering Department specifications and regulations.
 6. The MR/RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 7. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
 8. The applicant, its successors and/or assigns, including a homeowners or condo association that will be formed, shall operate the stormwater

management facilities in a manner that is consistent with Best Management Practices.

9. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include curbs, sidewalks, and street lighting.
10. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.

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12. The applicant shall form a homeowners or condo association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
13. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
14. A school bus stop with parking shall be provided. The location and character of the school bus stop shall be coordinated with the local school district's transportation coordinator. The location of the school bus stop shall be shown on the Final Site Plan.
15. Agricultural buffers shall be provided as required. The Agricultural Use Notice shall be included in condominium documents or instruments of conveyance.
16. Site plan review by the Planning and Zoning Commission shall be required for the Master Plan and each phase of the proposed development.
17. The RPC shall expire after 5 years, if not substantially underway, as provided by 99-40 E of the Subdivision Ordinance to be similar to a subdivision application.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated. Motion carried 4 – 0.

C/Z #1606 – application of **NENTEGO PROPERTIES, LLC** 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 Indian River Hundred, Sussex County, land lying southwest of Route 24, 1,400 feet southwest of Route 5 and Road 297, to be located on 15.73 acres, more or less.

The Commission discussed this application, which has been deferred since February 8, 2007.

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1606 for Nentego Properties, LLC to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential to C-1 General Commercial based upon the record made at the public hearing and for the following reasons:

1. The project is located within the Environmentally Sensitive Development Area according to the 2002 Land Use Plan Update. The proposal will provide neighborhood convenience shopping, which is one of the guidelines for use in the 2002 Update.
2. The use will not have an adverse impact on the neighboring properties or community.

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3. The project is adjacent to intersections that contain other C-1 and B-1 zoned properties. These include a shopping center with various uses, stores, gas stations, restaurants and warehousing. The intersection also has other community uses including a church and community center.
4. The applicant has stated that it will meet or exceed DelDOT requirements.
5. C-1 zoning is appropriate, since the County Zoning Ordinance states that the purpose of such zoning is to provide for retail shopping and personal and miscellaneous service activities, and that such uses should be located along arterial roadways where a general mixture of commercial and service activities now exists. In this case, the proposed location along Route 24 falls within the stated purpose of the C-1 District.
6. The project will be providing interconnecting roads and sidewalks from the adjoining MR-RPC project to reduce traffic and to provide for safe pedestrian travel.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4 – 0.

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 16, 2006.

Mr. Smith stated that he would move that the Commission recommend denial of C/U #1711 for Artesian Water Company, Inc. based upon the record and for the following reasons:

1. Sussex County has spent considerable amounts of time, energy, and money to acquire land in this area for this very purpose.
2. This application is contrary to the position of the Sussex County Engineering Department.
3. No less than eight (8) neighbors spoke in opposition at the public hearing with concerns about this application.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 4 – 0.

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C/Z #1609 – application of **OAK CREEK, LLC** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying east of Road 274 (Old Landing Road) and 0.7 mile south of Road 275 (Warrington Road), to be located on 115.29 acres, more or less.

The Commission discussed this application, which has been deferred since February 22, 2007.

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1609 for Oak Creek, LLC to amend the Comprehensive Zoning Map from MR Medium Density Residential to a MR-RPC based upon the record and for the following reasons:

1. This project was previously approved as a nearly identical MR Subdivision.
2. It is immediately adjacent to another approved MR-RPC project identified as Warrington Creek (C/Z #1503).
3. The purpose of this application is to consolidate the two projects into one and allow them both to follow the same design.
4. A number of lots within the project will not change. Instead, by consolidating the two projects, there is a possibility for a combined homeowners association and interconnectivity that benefits both projects. Lots 98 and 134 are being removed.
5. This application is essentially a change in status only, since the basic elements of the originally approved subdivision will not change. As a result, it will not adversely affect any neighboring or adjacent properties and it continues to be consistent with development in the area.
6. I also find that the same findings for the approved Subdivision #2003-28 apply equally for this MR-RPC.
7. This recommendation is subject to the ten (10) conditions set forth in the approval of Subdivision #2003-28, and in addition the following shall also apply”

1. Minimum setbacks shall be: Front = 15-feet; Side = 5-feet; Rear = 10-feet. However, at all corner lots, there shall be a 15-foot setback from all road frontages.
2. A proposed bridge connecting the development to Kings Creek Country Club shall be subject to approval of the appropriate Kings Creek entity and the approval of DNREC and any other applicable agency and shall be for pedestrian and golf cart use only. All other types of motorized vehicles shall be prohibited.

Motion by Mr. Johnson, seconded by Smith and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0.

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C/Z #1610 – application of **BURTON’S POND COMMUNITIES, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying east of Route 24 and on both sides of Route 49 (Pinewater Road), to be located on 41.94 acres, more or less.

The Commission discussed this application, which has been deferred since February 22, 2007.

Mr. Johnson stated that he would move that the Commission recommend denial of C/Z #1610 for Burton’s Pond Communities, LLC for the following reasons:

While the proposed project may meet a growing need for Sussex County, the orderly growth of the County does not justify locating this project where it has been proposed. Although it is in an area identified as a development district, the site is not appropriate for this project because:

1. The proposed project is out of character with the area where it is proposed to be located. The surrounding area is primarily zoned AR-1 with only single-family residential uses. There are no other MR zoned properties or multi-family dwellings in the immediate area. While the applicant referenced Baywoods, the multi-family part of that development is oriented to the Long Neck area. Even the perimeter of the Baywoods project nearest this one consists of single-family lots. There are no adjacent MR zoned properties to this proposed project.
2. The Zoning Ordinance states that the purpose of the MR District is to provide for areas that are urban or are expected to become generally urban in character. In this case, I do not believe that MR zoning is appropriate since the area is not currently urban and will not be developing with an urban character. On the contrary, all the adjacent areas consist of single-family homes and agricultural related areas.

3. Given the character of this area, AR-1 zoning is more appropriate, since the AR-1 District seeks to provide for low-density single-family homes.

Motion by Mr. Johnson, seconded by Mr. Smith and carried with 3 votes to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 3 – 1, with Mr. Gordy opposed to the motion.

Subdivision #2006-32 – application of **BURTON'S POND COMMUNITIES, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 158.70 acres into 265 lots, (Environmentally Sensitive Developing District Overlay Zone), located north and south of Route 48, and west of Route 24.

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The Commission discussed this application, which has been deferred since February 22, 2007.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2006-32 for Burton's Pond Communities, LLC based upon the record and for the following reasons:

1. The project complies with the Sussex County Subdivision Code. It lies partly within the Environmentally Sensitive Development District Overlay Zone. It is zoned AR-1 and meets the purposes and requirements of that District.
2. 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 wooded areas and the natural buffer next to the wetlands and Burton's Pond, and there are greenways and small parks throughout the site. Most of the lots are adjacent to open space. There are also sidewalks and walking, jogging and bike trails promoting interconnectivity within the project.
3. The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
4. The applicant has proposed 265 lots within the project, which is a permissible density within an AR-1 subdivision on the land.
5. The project will not adversely affect neighboring or adjacent properties. The project is consistent with existing single-family development in the area.
6. The lots will be served by central water and sewer, in accordance with Federal, State and County requirements.
7. The site's design has a minimal impact on wetlands and no wetlands are included within any lots.
8. The development will protect and enhance the existing environmental features at the site, including the wetland and woodland areas. It will do this through the use of an Environmental Management Plan to evaluate, monitor and address non-

point source pollution, water quality, wildlife habitat, invasive species and aesthetics in and around Burton's Pond and its watershed.

9. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
10. This preliminary approval is subject to the following conditions:
 1. There shall be no more than 265 lots within the subdivision.
 2. The applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, open space, and other common areas, including an Environmental Management Plan for Burton's Pond.
 3. The stormwater management system shall meet or exceed the requirements of the State and County. The system shall be operated using Best Management Practices to provide groundwater recharge.

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4. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the applicant as required by DelDOT. In addition, the relocation of Hollymount Road shall be completed within the first phase of the development.
5. Street lighting shall be provided and the location of the streetlights shall be shown on the Final Site Plan.
6. Sidewalks shall be installed on both sides of all streets within the subdivision. There shall also be walking, jogging and bike paths throughout the subdivision as shown on the Preliminary Site Plan.
7. The subdivision shall be served by a central sewer system as defined by the Sussex County Zoning Ordinance, designed in accordance with the Sussex County Engineering Department specification and in conformity with all DNREC regulations.
8. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
9. A school bus shelter with parking shall be provided on the Final Site Plan. The developer shall coordinate and cooperate with the local school district's transportation coordinator to establish the school bus stop area. The location of the bus stop area shall be shown on the Final Site Plan.
10. No wetlands shall be included within any lot lines. The trees surrounding the wetland areas shall be preserved.
11. The undisturbed forested areas shall be shown on the Final Site Plan.
12. Within two years of issuance of the first residential building permit, the developer shall construct all of the recreational amenities. It is highly recommended that the recreational facilities near the Pond be relocated to a more central location to promote pedestrian safety.
13. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.

14. All agricultural and wetland buffers shall be provided in accordance with applicable regulations.
15. As represented by the applicant, the applicant shall establish an Environmental Management Plan for Burton's Pond including designing and implementing monitoring and managing strategies for the Pond and it's watershed. This responsibility shall be transferred to the Homeowners' Association and an adequate budget shall be established to accomplish the intent of the Plan.
16. The developer will design and install a landscape buffer of berms and plantings running South to North along the entire property boundary with Route 24.
17. As represented by the applicant, the use of Burton's Pond by residents of this subdivision shall be subject to the following conditions:

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- a) Watercraft shall be limited to fishing boats with electric motors and non-motorized watercraft.
 - b) Watercraft use of Burton's Pond by community residents shall be limited to a maximum of 30 watercraft at any one time. The Homeowners' Association will establish a system of ownership or registration to implement this policy.
 - c) Hunting will not be permitted on Burton's Pond. Signs will be posted.
18. As represented by the applicant, the use of Burton's Pond will also be made available to the public and that the public will be able to utilize the proposed parking area to access the pond.
 19. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant preliminary approval of Subdivision #2006-32 for the reasons and with the conditions and stipulations stated. Motion carried 4 – 0.

Subdivision #2003-50 – application of **KAPLAN, GALLO & HOWLETT** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 57.00 acres into 53 lots, located on both sides of Road 257, approximately 2,465 feet southwest of Route One.

The Commission found that this application has been deferred since February 8, 2007.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action since Mr. Burton was not present. Motion carried 4 – 0.

Subdivision #2004 – 13 - - application of **DOUBLE EAGLE FARMS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 65.13 acres into 70 lots, located north and south of Road 303, approximately 0.95 miles southwest of Road 303A.

Mr. Abbott advised the Commission that this is the final record plan for a 70-lot subdivision application; that the Commission granted preliminary approval on April 7, 2005 and granted a one-year time extension on April 13, 2006; that the final record plan complies with the 7 conditions of approval and the subdivision ordinance; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve this application as a final. Motion carried 4 – 0.

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Subdivision #2005 – 55 - - application of **WILLIAM STREET** to consider the Subdivision of land in an AR-1 Agricultural Residential District and GR General Residential District in Indian River Hundred, Sussex County, by dividing 4.30 acres into 5 lots, located north of Road 306A, 762 feet west of Road 299.

Mr. Abbott advised the Commission that this application has been deferred since July 27, 2006; that DNREC has approved individual site evaluations for each lot; that a revised plan has been submitted reducing the number of lots to 4; and that the proposed street has been relocated to the western side of the property since the applicant does not have approval to utilize Samantha Drive.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 55 for William Street based upon the record made at the public hearing and for the following reasons:

1. The proposed subdivision is in an Agricultural Residential District as established by the 2002 Sussex County Comprehensive Land Use Plan that encourages low-density single family homes on lots $\frac{3}{4}$ of an acre or greater.
2. The proposed density is less than the density permitted by the existing AR-1 zoning.
3. There will not be any adverse impacts on traffic or area roadways, schools, public buildings and community facilities.
4. The subdivision is integrated into the existing terrain and surroundings.

5. The subdivision will not adversely affect neighboring properties or property values.
6. DNREC has indicated that the site is suitable for individual on-site septic systems.
7. This recommendation is subject to the following conditions:
 - The applicant shall form a homeowners' association to be responsible for the maintenance of the roadway, buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
 - Storm water management and erosion and sediment control shall equal or exceed all applicable State and County regulations. In addition, the applicant and the homeowners' association shall use best management practices to insure that

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neighboring and adjacent properties are not flooded or affected by the storm water management areas.

- There shall be no more than 4 lots. Storm water management requirements by the Sussex Conservation District may further reduce the number of lots available for development on this project.
- All entrances shall comply with DelDOT's requirements. The location of all right of ways required by DelDOT shall be included in the final site plan.
- The road to be built to service the proposed development shall be built according to County Engineering specifications.
- Any storm water management facilities that may be required by the Sussex Conservation District are not to be located at the front of the property.
- Street naming and addressing shall be subject to 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. Johnson, seconded by Mr. Smith and carried unanimously to approve this application as a preliminary for the reasons and with the conditions stated. Motion carried 4 – 0.

Subdivision #2005 – 92 - - application of **LARRY E. WILLEY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 7.53 acres into 4 lots, located east of Road 493, 431 feet south of Road 494.

Mr. Abbott advised the Commission that this is the final record plan for a 4-lot strip subdivision; that the Commission granted preliminary approval on February 8, 2007; that DelDOT has approved the entrance locations; that DNREC has approved individual septic systems for each lot; and that the frontage for Lot 8 has been corrected.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve this application as a final. Motion carried 4 – 0.

OTHER BUSINESS

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Americana Bayside MR/RPC
Phase 6B – Final Record Plan – Route 54

Mr. Abbott advised the Commission that this is the final record plan for 67 multi-family units; that preliminary approval was granted on November 30, 2005; that the final record plan is the same; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the record plan as a final. Motion carried 4 – 0.

The Peninsula MR/RPC
18th at Marina Bay – Amended Site Plan – Road 299

Mr. Abbott advised the Commission that this is a revised site plan for 195 units; that the approved master plan permitted 198 units; that 13 multi-family buildings with 15 units each is proposed; that the setbacks, building separation and building lengths meet the requirements of the zoning code; and that the revision creates more open space along the golf course.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the revised site plan as a preliminary. Motion carried 4 – 0.

Nassau Grove MR/RPC
Phase 2 – Final Record Plan – Road 265

Mr. Abbott advised the Commission that this is the final record plan for 122 detached single-family dwelling units; that the record plan is the same as the approved revised master plan that was approved by the Commission on October 18, 2006; that the site plan complies with the conditions of approval and 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 record plan as a final. Motion carried 4 – 0.

North Beach Community
CU #1507 – Revised Site Plan – Road 360

Mr. Abbott advised the Commission that this is a request to permit an additional 190-foot extension to an existing boardwalk to be used as an amenity to this project; that the Commission approved the existing boardwalk as an amenity on July 6, 2006; and that the Commission was provided a copy of a letter and photographs of the site that was prepared by the applicant's wetlands consultant.

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Linclon Davis of Beezer Homes was present and advised the Commission that the site was last farmed approximately 5 to 6 years ago; that no lighting is proposed along the boardwalk; that the developers own the entire parcel; that the boardwalk will end just short of the pond; that a pier is not permitted by the approved Ordinance; and that there are no plans for any additional boardwalk.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the request. Motion carried 4 – 0.

Hawkseye Subdivision
Amenity Area Site Plan – Road 267

Mr. Abbott advised the Commission that this is a site plan for a 1,578 square foot pool house and an 11, 283 square foot pool area; that the pool area includes a swimming pool and decking; that 38 parking spaces are provided; that the setbacks meet the requirements of the zoning code; 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. 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 4 – 0.

Heron Bay Subdivision
Amenity Area Site Plan – Road 286

Mr. Abbott advised the Commission that this is a site plan for the amenity area for the Heron Bay Subdivision; that a 6,595 square foot clubhouse, swimming pool and wading pool, four game courts and a jogging path are proposed; that 50 parking spaces are provided; that the setbacks meet the requirements of the zoning code; 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. 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 4 – 0.

The Coastal Group
Preliminary Commercial Site Plan – Delaware Route One

Mr. Abbott advised the Commission that this is a preliminary site plan for a restaurant located on 3.22 acres and an office building located on 4.63 acres; that both parcels are zoned C-1; that DelDOT has issued a Letter of No Objection to the entrance location; that

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DelDOT will permit one rights in only for the two parcels; that the proposed restaurant is one-story and contains 5,240 square feet; that 3,000 square feet is for patron area; that 19 parking spaces are located within the front yard setback and are subject to site plan review; that the proposed office building is two-stories and contains 7,280 square feet; that 23 parking spaces are located within the front yard setback and are subject to site plan review; that the setbacks for both projects meets the requirements of the zoning code; that Sussex County will provide central water and Tidewater Utilities will provide central water; that the site is not located in a flood zone and there are not any wetlands located on the site; that the final site plan needs to include the 20-foot landscaped buffer along Route One; 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 site plan as a preliminary with the stipulation that the final site plan shall include the required 20-foot landscaped buffer along Route One and that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Capstone Homes, LLC
Preliminary Commercial Site Plan – Route 9

Mr. Abbott advised the Commission that this is a preliminary site plan for a model home, office and future storage building project located on 0.76 acres; that the site is zoned C-1; that 2 model homes, an office and garage and a future storage building are proposed; that the setbacks meet the requirements of the zoning code; that 6 parking spaces are provided and that 4 spaces are located within the front yard setback and are subject to site plan

review; that on-site septic and well are proposed; that the site is not located in a flood zone and there are not any wetlands on the site; 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. 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 and that concrete curb bumpers be provided for the 4 parking spaces located within the front yard setback. Motion carried 4 – 0.

Chevy Chase Bank and Fenwick Plaza
Preliminary Commercial Site Plan – Route 54

Mr. Abbott advised the Commission that this is a preliminary site plan for a 3,650 square foot bank located on 0.84 acres and a preliminary site plan for a 34,928 square foot grocery store and an 8,260 square foot retail building located on 5.19 acres; that both of the sites are zoned B-1; that access to both sites is off of West Fenwick Boulevard within Swann Cove subdivision; that the proposed bank is one-story; that 18 parking spaces are

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required and that 26 are provided; that the setbacks meet the requirements of the zoning code; that Sussex County will provide central sewer and Artesian Water Company will provide central water to both sites; that the grocery and retail store are both one-story; that 216 parking spaces are required and 220 spaces are provided; that 27 parking spaces are located within the front yard setback and are subject to site plan review; that the setbacks meet the requirements of the zoning code; 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 plans as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals and that the parking within the front yard setback for the Fenwick Plaza site shall not be permitted. Motion carried 4 – 0.

Rite Aid Corporation
Preliminary Commercial Site Plan – Route 26

Mr. Abbott advised the Commission that this is a preliminary site plan for a 14,564 square foot retail store located on 2.52 acres; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 63 parking spaces are required and that 72 are provided; that 26 spaces are located within the front yard setback and are subject to site plan review; that on-site septic and well are proposed; 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 3 votes to 1, with Mr. Johnson opposed, to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 3 – 1.

S & E Gallo Family

Preliminary Commercial Site Plan – Delaware Route One

Mr. Abbott advised the Commission that this is a preliminary site plan for a 2-story, 8,722 square foot professional building located on 0.64 acres; that the site is zoned B-1; that the setbacks meet the requirements of the zoning code; that the corner side yard setback needs to be revised to 15 feet and not the 10 as shown; 44 parking spaces are required and 48 are provided; that 24 spaces are located within the front yard setback and are subject to site plan review; that the final site plan needs to show the required 20-foot landscaped buffer along Route One or a variance would be required from the Board of Adjustment; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals along with the required revisions.

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

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Motion carried 4 – 0.

Philadelphia Pentecostal Holiness Church, Inc.

CU #1371 – Site Plan – Road 213

Mr. Abbott advised the Commission that this item was deferred on February 20, 2007 to allow Mr. Robertson time to research the ordinance and that the staff has not received anything yet.

Motion by Mr. Gordy, seconded by Mr. Smith and carried 3 votes to none, with Mr. Wheatley not participating, to defer action. Motion carried 3 – 0 – 1.

Sean and Lisa Lasher

3 Parcels on an Existing 50' Right of Way – Road 321

Mr. Abbott advised the Commission that this is a request to create 3 parcels with access from an existing 50-foot right of way; that the proposed parcels will contain 5.0, 3.0 and 2.0-acres; and that if the request is approved as submitted, it should be stipulated that any further subdivision would require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to approve the request as submitted with the stipulation that any further subdivision will require an application for a major subdivision. Motion carried 4 – 0.

Robert and Genevieve Ritter
3 Parcels and a 50' Right of Way – Ritter Road

Mr. Abbott advised the Commission that this is a request to subdivide a 7.66-acre parcel into 3 lots with access from a 50-foot right of way; that the owner proposes to extend an existing 50-foot right of way approximately 300 feet in length; that the owner advised the staff that the extended right of way would be paved; and that if the request is approved as submitted, it should be stipulated that any further subdivision of the site will require an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the request as submitted with the stipulation that any further subdivision of the site will require an application for a major subdivision. Motion carried 4 – 0.

Richard Banks
Parcel and a 50' Right of Way – Road 522A

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Mr. Abbott advised the Commission that this is a request to create a 1.0-acre lot with access from a 50-foot right; that the owner proposes to create the right of way over an existing 12-foot dirt road; that the proposed lot has a new dwelling located on it; that the residual land contains a dwelling and a manufactured home; that the manufactured home will be removed from the site; and that this request can be approved as submitted or require an application for a major subdivision.

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 site will require an application for a major subdivision. Motion carried 4 – 0.

John T. and Melinda A. Duryea
3 Parcels on an Existing 50' Right of Way – Road 490

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from an existing private street known as Morgan Branch Drive; that the proposed lots contain 1.28, 2.01 and 1.26-acres; that DeIDOT has issued a Letter of No Objection for the subdivision; and that this request should be deferred pending verification that the applicants own or have permission to utilize the road.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action. Motion carried 4 – 0.

William and Dawn Thompson

Parcel and a 75' Right of Way – Route 9

This item was withdrawn on February 27, 2007.

Harold and Tamara Hazzard
Parcel and a 50' Right of Way – Road 215

Mr. Abbott advised the Commission that this is a request to subdivide a 1.97-acre parcel into 2 lots and a 50-foot right of way; that one of the parcels will contain 1.0-acre and has 157.04 feet of road frontage; that the residual land contains 0.87-acres and would have access from a 50-foot right of way; that DelDOT has issued a Letter of No Objection; and that the request can be approved as submitted or require an application for a major subdivision or a variance.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to approve the request as submitted. Motion carried 4 – 0.

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Tom McCoy
2 Parcels on an Existing 50' Right of Way – Road 494

Mr. Abbott advised the Commission that this is a request to subdivide a 10.01-acre parcel into a 4.96-acre and a 5.05-acre parcel with access from an existing 60-foot right of way; that the 4.96-acre parcel contains pole buildings and the 5.05-acre parcel contains a poultry house; and that the request can be approved as submitted or require an application for a major subdivision.

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 site will require an application for a major subdivision. Motion carried 4 – 0.

Joseph H. Black
2 Parcels and a 50' Right of Way – Road 249

Mr. Abbott advised the Commission that this is a request to create a 2.87-acre parcel with access from a 50-foot right of way; the proposed parcel has an existing dwelling located on it; the residual land contains 39.65-acres and there are 7 poultry houses located on it; that one of the poultry houses is noted to be removed; the owner proposes to create the right of way over an existing gravel driveway; and that the remaining lands is the subject of a major subdivision application.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to defer action.
Motion carried 4 – 0.

Smith Acres Subdivision

Consideration of Substantial Construction – Road 454

Mr. Abbott advised the Commission that this item was deferred at the February 20, 2007 meeting; that this application received final approval for 6 lots on February 8, 2001; that the owner advised the staff by a letter that he was not aware of the sun setting provisions of the subdivision ordinance; that the owner is requesting that the subdivision be considered under substantial construction since the existing right of way currently serves as access to 6 lots or the owner is requesting a time extension; and that on February 28, 2007 an on-site inspection of the site showed that the area is the same as it was back in 2001.

Lee Littleton was present and advised the Commission that there were concerns about the right of way; that he was not aware of the sun setting provisions; that he is requesting a one-year time extension; that Kercher Engineering has completed all the engineering and site work; and that financing is now available.

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Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action.
Motion carried 4 – 0.

Subdivision #2005 – 16 - - Joseph L. Warnell

Time Extension – Cypress Creek Estates

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval for 187 lots on March 1, 2006; that this is the first request for an extension; that the plans have been submitted to all agencies for approval; that the engineers have received comments from the agencies and have an approval from the Office of the State Fire Marshal; that the request was received on February 5, 2007; and that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve a one-year time extension retroactive to the anniversary date of the preliminary approval.
Motion carried 4 – 0.

Ellendale Royal Farms Site

CU #777 – Determination – Route 16 and U.S. Route 113

Mr. Abbott advised the Commission that this conditional use was approved on May 30, 1972 for a commercial store; that it is currently operated as a convenience store with gas

and diesel sales; that Royal Farms has purchased the site and would like to a new convenience store and add 8 additional gas pumps and a car wash; and that the developers are questioning if a new conditional use application is necessary since the use is the same.

Mr. Lank advised the Commission that the store and gas sales already exist and that is the same use; and that if a car wash is added, it should be required to have anew application.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to require a new conditional use application. Motion carried 4 – 0.

Lewes Body Works
CU #1158 – Determination – Road 266

Mr. Abbott advised the Commission that this conditional for the expansion of an auto body repair shop was approved on July 9, 1996; that the owner is requesting to convert the site to an auto repair shop since he is having difficulty keeping employees; and is questioning if an amended conditional use application is required.

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Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the request since an auto repair shop is similar to the auto body repair shop and that the conditions of approval will not be affected. Motion carried 4 – 0.

ADDITIONAL BUSINESS

There was a consensus of the Commission to have a special meeting on April 19, 2007 at 3:00 p.m. for the purpose of reviewing Old Business and Other Business items.

Meeting adjourned at 5:00 p.m.