



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE SPECIAL MEETING OF MARCH 19, 2008

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, March 19, 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. I.G. Burton, III, Mr. Michael Johnson and Mr. Rodney Smith with Mr. Richard Berl – Assistant County Attorney, Mr. Lawrence Lank – Director, Mr. Shane Abbott – Assistant Director and Mr. Richard Kautz – Land Use Planner.

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

### CONSENT AGENDA

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the Consent Agenda as circulated. Motion carried 4 – 0.

The Consent Agenda includes:

**Subdivision #2005 – 32** - - application of **ERNEST DEANGELIS, JR.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 11.64 acres into 10 lots, located east of Route 30, 1,760 feet north of Road 319.

This is the final record plan for a 10-lot standard subdivision application. The Commission granted preliminary approval for 10 lots on May 31, 2006 with 7 conditions and granted a one-year time extension on June 20, 2007. The final record plan is the same as the preliminary plan and complies with the subdivision and zoning codes and the conditions of approval, and all agency approvals have been received.

### Time Extensions

Subdivision #2004 – 10 - - Windsor Farm, L.L.C.

This is a request for a one-year time extension. The Commission granted preliminary approval for 21 lots on April 7, 2005 and granted one-year time extensions on March 31,

2006 and May 16, 2007. The staff is in receipt of the final record plan and it will be on the agenda for the special meeting in April.

b. Subdivision #2005 – 12 - - Lacrosse Homes of Delaware, Inc.

This is a request for a one-year time extension. The Commission denied this application and the County Council granted preliminary approval on an appeal on April 3, 2007. This is the first request for an extension.

Subdivision #2005 – 18 - - JKC, L.L.C.

This is a request for a one-year time extension. The Commission granted preliminary approval for 133 lots on February 23, 2006 and granted a one-year time extension on May 16, 2007. This is the second 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 23, 2009.

Subdivision #2006 – 1 - - Thomas Head

This is a request for a one-year time extension. The Commission granted preliminary approval for 49 lots on April 19, 2007. This is the first request for an extension.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the items on the Consent Agenda. Motion carried 4 – 0.

#### OLD BUSINESS

**CU #1728** - - application of **MTC PROPERTIES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office, storage and steel truss manufacturing to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 24.83 acres, more or less, lying east of U.S. Route 13, 1,250 feet south of Road 583 (Adams Road).

The Chairman referred back to this application, which was deferred on March 5, 2008.

Mr. Burton stated that he would move that the Commission recommend approval for CU #1728 for MTC Properties for an office, storage and steel truss manufacturing business based upon the record and for the following reasons:

1. The property is located in the vicinity of U.S. Route 13, which is an appropriate location for a business such as this. Also, the application is an expansion of an existing truss manufacturing facility at this site.
2. There are similar uses to the North of this property. The proposed use is consistent with these uses.

3. With the conditions and stipulations placed upon this application, it will not adversely affect neighboring or adjacent properties.
4. This recommendation is subject to the following conditions:
  - A. All fabrication shall be done inside of the buildings. Outside storage of raw materials and finished product shall be permitted, but shall be screened from view of roadways and neighboring properties to the north.
  - B. The location for future possible roadway connections to neighboring properties shall be shown on the Final Site Plan.
  - C. The applicant has proposed a phasing plan for the expansion of the existing truss manufacturing facility. The phasing plan shall be noted on the Final Site Plan.
  - D. The applicant shall comply with all of DelDOT's requirements, including the closure of the existing entrance. When the existing entrance is removed, its former location shall be seeded and mulched.
  - E. A lighted sign, not to exceed 32 square feet per side or facing, shall be permitted.
  - F. All dumpsters on the property shall be screened from view. Their location shall be shown on the Final Site Plan.
  - G. All outside lighting shall be downward screened so it does not shine onto adjacent roadways or neighboring properties.
  - H. The storm water management system serving the property shall be designed and maintained using Best Management Practices to promote groundwater recharge.
  - I. The hours of operation shall be from 7:00 a.m. to 5:00 p.m., Monday through Friday.
  - J. As stated by the applicant, no improvements shall be within 160 feet of the closest wetlands.
  - K. All parking areas and outside storage areas shall be shown on the Final Site Plan.
  - L. The Tax Ditch Easement shall be shown on the Final Site Plan.

- M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

**CU #1729** - - application of **PAGE MELSON** to consider the Conditional Use of land in an MR Medium Density Residential District for multi-family dwelling structures (2 units) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 43,558 square feet, more or less, lying west of Route 5, 700 feet south of Route 9.

The Chairman referred back to this application, which was deferred on March 5, 2008.

Mr. Johnson stated that he would move that the Commission recommend denial of CU #1729 for Page Melson for two multi-family dwelling units in a MR Medium Density Residential District based upon the record and for the following reasons:

1. The property that is the subject of this application is not suitable for the multi-family use that has been proposed. It is a pre-existing single-family lot. The surrounding properties in the immediate vicinity of the project consist primarily of single-family homes or lots. The multi-family project that is proposed would not be in character with the neighboring and adjacent single-family properties.
2. The applicant has sought approval for two multi-family units, when the record indicates that there is already an unapproved separate dwelling unit within the main building on the property. Consequently, the application should be seeking approval for three separate dwelling units.
3. If approved, the project would concentrate density in an area of single-family dwellings and lots that is not already densely developed, and it does not utilize any existing infrastructure. The project would not be served by central water or sewer.
4. The applicant has not provided documentation that the existing septic system is permitted for two, let alone three, dwelling units on this property.
5. DNREC's Division of Water Resources has no record of a septic system installation and no record of a request for authorization to use an existing system to serve two or three separate units on this property. As a result, DNREC has stated that "any requests to allow greater flow to the existing system by adding onto the existing dwelling or allow additional living space to be created by converting the use of existing non-living space should be denied."

6. The applicant has not, in the Commission's opinion, satisfied the requirements for such a conditional use, including the full protection of the surrounding properties, that it is of a public or semi-public character, or that it benefits the general convenience and welfare of the County residents.

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

**CU #1730** - - application of **PAGE MELSON** to consider the Conditional Use of land in an MR Medium Density Residential District for multi-family dwelling structures (2 units) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 20,000 square feet, more or less, lying east of Route 5, 900 feet south of Route 9.

The Chairman referred back to this application, which was deferred on March 5, 2008.

Mr. Johnson stated that he would move that the Commission recommend denial of CU #1730 for Page Melson for two multi-family dwelling units in a MR Medium Density Residential District based upon the record and for the following reasons:

1. The property that is the subject of this application is not suitable for the multi-family use that has been proposed. It is a pre-existing single-family lot. The surrounding properties in the immediate vicinity of the project consist primarily of single-family homes or lots. The multi-family project that is proposed would not be in character with the neighboring and adjacent single-family properties.
2. If approved, the project would concentrate density in an area of single-family dwellings and lots that is not already densely developed, and it does not utilize any existing infrastructure. The project would not be served by central water or sewer.
3. The applicant has not provided documentation that the existing septic system is permitted for two dwelling units on the property.
4. DNREC's Division of Water Resources has no record of a septic system installation and no record of a request for authorization to use an existing system to serve two separate units on this property. As a result, DNREC has stated that "any requests to allow greater flow to the existing system by adding onto the existing dwelling or allowing additional living space to be created by converting the use of existing non-living space should be denied."
5. The applicant has not, in the Commission's opinion, satisfied the requirements for such a conditional use, including the full protection of the surrounding

properties, that it is of a public or semi-public character, or that it benefits the general convenience and welfare of the County residents.

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

**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.

Mr. Abbott advised the Commission that this 251-lot standard subdivision application 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; that DelDOT has reviewed and approved the traffic impact study and has issued a Letter of No Objection for the entrance location; and that DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 63 for Dream Builders Construction, Inc. based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose and requirements of the Subdivision Ordinance and protects the orderly growth of the County.
2. The proposed subdivision density does not exceed the density permitted by the existing AR-1 zoning. It is a subdivision with 3/4-acre lots at a density of only 0.82 lots per acre. This is significantly less than the permitted density of 2 lots per acre. Also, as the applicant stated, it could be possible to design more than 400 lots in a cluster subdivision on this site.
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. Approximately 55% of the site will remain as open space, and this will include active and passive amenities provided by the developer.
6. The Woodbridge School District has supported this development.
7. DelDOT has approved the traffic impact study and has issued a letter of No Objection for the entrance to the project.
8. DNREC has indicated that the site is suitable for septic.

9. This preliminary approval is subject to the following conditions:
- A. The number of lots shall not exceed 251.
  - B. The Applicant shall prepare and record Restrictive Covenants governing the development and formation of a homeowners' association to be responsible for the perpetual maintenance of streets, roads, 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.
  - E. The Restrictive Covenants shall include the Agricultural Use Protection Notice.
  - F. The location for a school bus stop with parking for at least 5 vehicles shall be coordinated with the Woodbridge School District. The location for the bus stop shall be shown on the Final Site Plan.
  - G. Street naming and addressing shall be subject to review and approval of the Sussex County Mapping and Addressing Department.
  - H. A hunting notice similar to the Agricultural Use Notice shall be included within the restrictive covenants to advise homeowners that hunting activities occur on adjacent properties.
  - I. No lots shall include any wetlands. The restrictive covenants shall include the Wetlands Disclosure required by the Subdivision Ordinance.
  - J. The interior street design shall meet or exceed Sussex County's design requirements, and shall include a system of street lighting.
  - 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. 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 buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.

- M. 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. Burton and carried 3 votes 1, with Mr. Johnson opposed, to approve this application as a preliminary for the reasons and with the conditions stated. Motion carried 3 – 1.

**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.

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

Mr. Smith stated that he would move that the Commission deny Subdivision #2006 – 35 for 2416 Joppa Road, L.L.C. based upon the record and for the following reasons:

1. The proposed 56-lot subdivision does not meet the purpose of the Subdivision Ordinance in that it does not protect the orderly growth of the County. Also, the proposed site is not in a Development District as established by the 2002 Land Use Plan.
2. According to the Subdivision Ordinance, land should not be subdivided if it is unsuitable for subdivision or development because of flooding, poor drainage or other adverse features which are reasonably harmful to the safety, health and general welfare of the present or future inhabitants of the proposed subdivision. The Commission believes that flooding, poor drainage, erosions sedimentation, increased rates of runoff and the potential for pollution of surface water and groundwater will likely occur if the subdivision is approved. There was testimony in the record about flooding occurring on the site and along Callaway Road. And the site plan and testimony indicates that there are significant areas of poorly drained soils on the site. The Commission is not satisfied that these areas of concern have been satisfactorily addressed by the applicant such that future inhabitants of the proposed subdivision would be protected from the effects of erosion, increased runoff, poor drainage or flooding that occurs on the property.
3. While the Commission is not bound by the State's PLUS comments, they are part of the record. In this case, the Commission agrees with the reasons given by the State in its PLUS report that development of this site is inappropriate. This is a very rural area outside of any designated development or growth

area, and there are no plans for infrastructure improvements by the State or County.

4. The project is in an area that has not developed with similar projects, and this subdivision would be inconsistent with the character of the neighboring and adjacent properties.
5. The project does not promote the convenient and proper location of a subdivision. It is not close to schools, police, fire service or shopping.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to deny this application for the reasons stated. Motion carried 4 – 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.

Mr. Abbott advised the Commission that this 184-lot cluster subdivision application was deferred on December 20, 2007 pending receipt of a septic feasibility statement from DNREC; and that DNREC has issued a septic feasibility statement indicating that the site is suitable for a community wastewater disposal system.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

**Subdivision #2006 – 52** - - application of **L.T. ASSOCIATES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 119.14 acres into 242 lots, (Environmentally Sensitive Developing District Overlay Zone), located southeast of Road 267, and south of Hawkseye and Wolfe Runne Subdivisions.

Mr. Abbott advised the Commission that this 242-lot environmentally sensitive developing district overlay subdivision application was deferred on December 20, 2007 for further consideration; and that the project will be served by central sewer from Sussex County.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

## OTHER BUSINESS

Villages of Red Mill Pond North and South  
Amenity Area Site Plan – Route 9

Mr. Abbott advised the Commission that this is a site plan for the amenity area for the South project; that conceptual approval was granted by the Commission on February 20, 2008; that the site plan is for a swimming pool and changing rooms on what was formerly lot 114; that the setbacks meet the requirements of the zoning code; that revised walking/nature trails have also been provided north and west of the lots in the southern portion of the project; that walking/nature trails have also been added on the northern portion of the project as submitted at the February 20, 2008 meeting; and that if the Commission is favorable toward the site plan, final approval could be granted since all agency approvals have been received.

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

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

Mr. Abbott advised the Commission that this item was deferred at the January 17, 2008 and February 20, 2008 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 previously provided a copy of a letter from the applicant's attorney explaining the reasoning behind this request.

Mr. Burton stated that after considering South Shore Builders' request for reconsideration of his original approval of Subdivision #2006 – 31 for only 24 lots, and after considering the additional information presented by the applicant of the request on lots 11 through 16, that he would move that the Commission grant approval for Subdivision #2006 – 31 for South Shore Builders to allow lots on the western side of the stream or wetlands area in addition to the lots previously approved for the following reasons and subject to the following conditions:

1. The Applicant has stated its intentions to minimize tree removal on the western side of the stream as much as possible.
2. The Applicant has stated that no wetlands will be filled, and that the proposed timber bridge will not materially impact the wetlands.
3. The Applicant has addressed many of the concerns about conservation and buffers on the western side of the stream.
4. The following conditions shall be imposed in addition to those contained in the prior preliminary approval:
  - A. A 30 foot forested buffer shall surround the boundary of the project on the western side of the stream or wetlands area. This buffer shall not be included as part of any of the lots in this area. The Final Site Plan

shall contain a landscape plan addressing the vegetation in this buffer area.

- B. The Applicant has stated that the stream dividing the project is a “blue line stream” or perennial stream. As a result, a 50-foot buffer must be placed on both sides of this stream as required by the Zoning Code.
- C. Because these conditions are materially different from the Preliminary Site Plan originally submitted with this application, a revised Preliminary Site Plan shall be submitted to the Commission taking into account the original conditions of approval plus these additional conditions.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the applicant’s request for reconsideration for the reasons, and with the conditions stated.  
Motion carried 4 – 0.

Lisa Phillips Trustee  
CU #1708 – Site Plan – Road 497

Mr. Abbott advised the Commission that this is a site plan for a 5.0-acre borrow pit located on 19.24 acres; that the site is zoned AR-1 and the Conditional Use was approved on December 11, 2007; that the site plan complies with the 14 conditions of approval and are referenced on the site plan; that the reclamation plan will be a farm pond; that the Natural Resources Conservation Service has approved the design and provided the staff with a pond data sheet that references size, type of pond, depth of excavation, depth of water, side slopes, seeding plans and setbacks; that DelDOT has granted a Letter of No Objection; 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 a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Independence  
Revised Record Plan – Route 5

Mr. Abbott advised the Commission that this is a revised record plan for the deletion of an on-site community wastewater disposal system and the relocation of 15 lots; that all wastewater will now be collected off site by Artesian Water Company; that the applicants have provided a memorandum of agreement where Artesian will be responsible for the wastewater; that 15 lots are being relocated from the west side of the project to the easterly side of the project; that 2 cul-de-sac streets will be eliminated from the west side of the project where the lots were previously approved; that by deleting the cul-de-sacs, there will be less impervious area; that the 15 lots will be relocated on the southerly side of Samuel Adams Circle, in the location that was originally the wastewater disposal area;

that 455 total lots are still proposed; and that if a revised 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 revised record plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

Dansk, L.L.C.

CU #1697 – Conceptual Site Plan – Route 54

Mr. Abbott advised the Commission that this is a conceptual site plan for a water park expansion; that this conditional use was approved on December 18, 2007; the applicants are proposing to remove two proposed smaller slides and landing pool area and replace with a wet playground area, replace a proposed wading/activity pool and existing sand play area with a small lazy river that allows sliders to continue on their ride without having to queue back in line for the big slides right away; that bathroom facilities have been expanded as required; that the storm water management pond has been relocated and do rock work landscaping along Route 54 to provide a buffer between customers and Route 54 traffic; that the developers propose to place boardwalk/pathway from the rear parking lot along Virginia Avenue to Route 54 as required but would like to note they have a concern that this might spur pedestrian crossing over Route 54 at this location instead of the main intersection designed for crossing; that the 39 parking spaces will remain; that when the Council approved the conditional use, the miniature golf course was deleted; and that if the Commission is favorable toward the site plan, only conceptual approval should be considered since an engineered site plan is required to be submitted for review and approval.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve this request as a concept with the stipulation that an engineered preliminary site plan be submitted for review and approval and with the stipulation that the storm water management pond shall be setback further away from Route 54. Motion carried 4 – 0.

Adam R. Dickerson

Parcel and 50' Easement – Road 494

Mr. Abbott advised the Commission that this is a request to create a parcel and a 50-foot easement; that Parcel “A” will contain 13.087 acres and have 2 poultry houses and a manure shed located on it; that this parcel has 150-feet of road frontage along Road 494; that the residual land to the north contains 33.36 acres and will have access from a 50-foot easement over Parcel “A”; that the owner proposes to create the right of way over an existing dirt driveway; that DelDOT has issued a Letter of No Objection for both parcels; and that may be approved as submitted or require an application for a major subdivision.

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

Vincent and Sandra Oddo  
Lots and 50' Right of Way – Road 436

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing dirt road; that Lots 1 and 2 will contain 2.50-acres and the residual land will contain 1.62 acres; that there is an existing dwelling located on the residual land; that the request may 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 will require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Johnson 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.

Mabel W. Savage Heirs  
Lot on 50' Right of Way – Road 633

Mr. Abbott advised the Commission that this is a request to subdivide a 1.87-acre lot into 2 lots off of an existing 50-foot right of way; that Lot 3 will contain 0.87 acres and has an existing dwelling located on it and Lot 3A will contain 1.07 acres; that there is an existing storage building on this lot that is noted to be removed; that if approved, this would make 3 lots with access from the 50-foot right of way; and that if approved as submitted, it should be stipulated that any further subdivision will require an application for a major subdivision.

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

H. P. Layton Partnership  
Lot on 50' Right of Way – Road 257

Mr. Abbott advised the Commission that this is a request to create a 1.9382-acre parcel with access from a 50-foot right of way; that there is 1.0 acre of uplands on the proposed lot and 0.9832 acres of 404 wetlands; that the owner proposes to create a 50-foot right to serve as access to the lot; that a 2006 aerial photograph of the site does not show any type of road in the area where the proposed right of way will be located; that DelDOT has issued a Letter of No Objection; and that the request may be approved as submitted or require an application for a major subdivision.

Sam Burke was present on behalf of this request and advised the Commission that tidal wetlands do exist on the site; that he proposes to build a boat dock with access; that he has no objection to limit the size to a 1.0-acre minimum; and not opposed to any wetlands being located on the lot.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the request as submitted as a concept with the stipulations that the minimum lot size shall be 1.0 acre and that no wetlands shall be included on the on the lot. Motion carried 4 – 0.

Lucian Szczepanski

3 Lots and 50' Right of Way – Road 436

Mr. Abbott advised the Commission that this is a request to create 3 lots with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing stone driveway; that each lot will contain 1.37 acres; that there is an existing dwelling within the right of way and lot 1 that will need to be relocated; that if the request is approved, a special use exception to retain a manufactured home (legally placed as an on farm trailer in 1992) on Lot 1 will be required from the Board of Adjustment or the manufactured home will need to be removed; that the request may be approved as submitted or require an application for a major subdivision; and that if approved as submitted, it should be as a concept only pending resolving the dwelling and manufactured home issues and with the stipulation that any further subdivision will require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

C.V. Townsend, III

Lot and 50' Easement – Road 341

Mr. Abbott advised the Commission that this is a request to create a 36,830 square foot lot with access from an existing 50-foot easement; and that this parcel is a landlocked parcel that was created when the easement was approved in 2001.

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

Brian Short

Lot and 50' Easement – Road 310A

Mr. Abbott advised the Commission that this is a request to create a 32,810 square foot lot with access from a 50-foot easement; that if the Commission is favorable toward this request, a variance for the lot size will be needed or the lot will need to be revised to 1-acre since the site is located in a conservation zone and central sewer is not available; and that the request may be approved as a concept subject to the lot size being corrected, or require an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the request as a concept with the stipulation that the minimum lot size shall be 1.0-acre since the site is located in a Conservation Zone. Motion carried 4 – 0.

David A. Ross

Parcel on 50' Right of Way – Road 66

Mr. Abbott advised the Commission that this is a request to create a 35.0-acre parcel with access from an existing 50-foot right of way; that the owner is creating a 0.75-acre lot with 150-feet of road frontage along Road 66; that the residual land only has 147.84 feet of road frontage; that there is almost 800 feet of frontage along the existing right of way; that if approved, this would be the third lot having access from the right of way; and that if the request is approved as submitted, it should be stipulated that any further subdivision will require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Johnson 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.

Harold Clyde Betts  
Parcel and 50' Right of Way – Route 16

Mr. Abbott advised the Commission that this is a request to create a 7.27-acre parcel with access from a 50-foot right of way; that the owner is creating 2 lots with 150-feet of road frontage along Route 16; that the residual land contains 7.27 acres and has remaining road frontage of 72.20 feet; that the owner proposes to create the remaining frontage as access to the residual land; and that the request may be approved as submitted or require the owner to file for a variance.

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

Seacliffe Subdivision  
Utility Site Plan – Piney Neck Road (Road 336)

Mr. Abbott advised the Commission that this is a site plan for temporary water plant within the Seacliffe MR/RPC; that Tidewater Utilities is providing central water to this project; that the temporary storage tank will be 8-feet wide by 20-feet long by 10-feet in height; that the portable storage tank will be on wheels; and that DNREC has issued a well permit.

Steve McCabe, P.E. and Eric Prince, P.E. with George Miles and Buhr, L.L.C. and Greg Corey, P.E. with Tidewater Utilities were present on behalf of this request and advised the Commission that the revised site plan is for a drinking water facility; that the temporary use would probably be for less than 6 months; that a conditional use application will be filed in the near future for a regional water facility; and that they have obtained well permits from DNREC.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

Nentego

Commercial Site Plan – Route 24

Mr. Abbott advised the Commission that this is a preliminary commercial site plan for retail sales, a bank and a restaurant located on two separate parcels; that both sites are zoned C-1 and were rezoned May 27, 2007; that Tax Map 2-34-29-67.04 proposes a 41,600 square foot shopping center, a 19,200 square foot shopping center and a 4,710 square foot restaurant; that the setbacks meet the requirements of the zoning code; that 304 parking spaces are required for the shopping centers and 306 spaces are provided; that the restaurant requires 41 spaces and 45 spaces are provided; that there are no parking spaces located within the sixty-foot front yard setback; that 7 loading spaces are required and provided; that Tax Map 2-34-29-69.05 proposes a 41,600 square foot shopping center, a 22,400 square foot shopping center and a 5,500 square foot bank; that the setbacks meet the requirements of the zoning code; that 320 parking spaces are required for the shopping centers and 336 spaces are provided; that the bank requires 28 parking spaces and 28 spaces are provided; that the cover sheet needs to be revised to delete diagonal parking for the bank since the spaces are perpendicular; that a fence or screening needs to be included on the final site plan along the easterly and southerly boundary lines since there are more than 10 parking spaces adjacent to residential zoned lands; that a landscaping plan was not submitted with the preliminary plan; that the final site plan needs to reference sewer and water supply and provider, and the required wetlands statement; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals and the required revisions to the final site plan.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the site plan as a preliminary with the stipulation that a landscaping plan shall be submitted with the final site plan, that the required screening or fencing shall be provided on the final site plan, that the wetlands statement and sewer and water providers shall be referenced on the final site plan, and that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

The Vineyards

Site Work Authorization and Revised Site Plan – Route 9

Mr. Abbott advised the Commission that this is a request to begin site work permitted by the Sussex Conservation District and for a revised preliminary site plan for Phase 1; that by letter, the Sussex Conservation District has indicated that upon approval of the mass grading plan, their office would have no objection to commencement of site work starting prior to the developer receiving final site plan approval as this project will received the same attention from their staff as other projects with regard to inspection fees, plan review, preconstruction meeting, etc.; that the County has gotten away from this policy since there were problems with previous projects that had this clause; that the revised site plan has changed from the previous approved plan of November 14, 2007; that below is a comparison of the previously approved plan and the revised plan.

Previous approved plan

Revised plan

Building 3D Retail 16,858 sq. ft.	19,030 sq. ft.
Office 20,000 “	21,324 “
Res. 2 1-bedroom	4 1-bedroom
6 2/3 bedrooms	6 2/3 bedrooms
Building 3E Retail 18,705 sq. ft.	19,910 sq. ft.
Res. 8 1-bedroom	8 1-bedroom
12 2/3 bedrooms	12 2/3 bedrooms
	2 4-bedrooms
Building 4A Retail 11, 195 sq. ft.	20,250 sq. ft.
Office 7,638 “	
Res. 4 1-bedroom	12 1-bedroom
14 2/3 bedrooms	12 2/3 bedrooms
	9 4 bedrooms
Building 4D Retail 17,172 sq. ft.	18,372 sq. ft.
Res. 14 1-bedroom	8 1-bedroom
10 2/3 bedrooms	14 2/3 bedrooms
Building 5D Retail 5,973 sq. ft.	13,290 sq. ft.
Res. 6 1-bedroom	3 1-bedroom
8 2/3 bedrooms	10 2/3 bedrooms
	2 4 bedrooms
Building 6A Retail 10,810 sq. ft.	17,746 sq. ft.
Civic 1,600 “	1,600 “
Res. 4 2/3 bedrooms	12 2/3 bedrooms

That the revised plan is based on the actual architectural design of the buildings; that 882 parking spaces are required and 883 have been provided; that a parking garage is also provided; that no parking is located within the front yard setback; that the setbacks meet the requirements of the zoning code; that a 16-foot forestry lane is provided across the front of the site; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Preston Schell and Wendy Baker of Ocean Atlantic Associates and Jeff Clark of Land Tech Land Planning were present on behalf of this application and advised the Commission that the proposed work would be redistributing the dirt on the site to other areas on the site; that there would not be any materials coming to or leaving the site; that the mass grading would be what is permitted by the Sussex Conservation District's approval; that the Conservation District and Sussex County Engineering Department have no problems with letting site work begin provided their departments have approved the plan; that the proposed structures have been architecturally design and that is the

difference in the square footage size; and that the required parking for Phase 1 is provided and that the shared parking agreement approved by the Commission is not needed for this phase.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the revised Phase 1 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.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action on the site work authorization request for further consideration with the stipulation that this request will be put on the first available agenda. Motion carried 4 – 0.

#### ADDITIONAL BUSINESS

Mr. Abbott advised the Commission that they have been provided Exhibit Booklets for the March 27, 2008 meeting.

Meeting adjourned at 5:00 p.m.