



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF APRIL 10, 2008

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 10, 2008 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

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

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of March 27, 2008 as amended. Motion carried 4 – 0.

OLD BUSINESS

C/Z #1637 – application of **EAST MARKET, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR Medium Density Residential District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying at the southeasterly corner and the northeasterly corner of Warwick Road (Road 310A) and Blue Claw Road (Road 313A), to be located on 22.49 acres, more or less.

The Commission discussed this application, which has been deferred since March 13, 2008.

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

C/U #1775 – application of **EAST MARKET, LLC** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures (70 units) to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 22.49 acres, more or less, lying at the southeasterly corner and the northeasterly corner of Warwick Road (Road 310A) and Blue Claw Road (Road 313A).

The Commission discussed this application, which has been deferred since March 13, 2008.

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

Subdivision #2006-61 – application of **MLK PARTNERS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 43.29 acres into 36 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located south of Road 488, 1,100 feet west of U. S. Route 13.

The Commission discussed this application, which has been deferred since March 13, 2008.

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

OTHER BUSINESS

The Vinyards
Site Work Authorization – Route 9

The Commission discussed this request, which was deferred on March 19, 2007.

Mr. Johnson stated that he would move that the Commission approve the Applicant's request to begin site work in the form of erosion and sedimentation control facilities and mass grading on the entire site as permitted by the Sussex Conservation District. In this case, the Sussex Conservation District has indicated that upon approval of the mass-grading plan, their office would have no objection to commencement of this type of site work prior to the Applicant receiving Final Site Plan approval for this commercially zoned project. The County Engineering Department has also stated that it does not object to the start of site work.

This approval is subject to the following conditions:

1. No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the Final Site Plan is approved, except such "Mass Grading" site work for which a permit has been issued by the Sussex Conservation District and authorized by the Sussex County Public Works Division.
2. Site work authorized by the Sussex Conservation District permit may commence upon submission of copies of the application for permits from the Sussex County Engineering Department, Office of the State Fire Marshal (Fire Protection Plan) and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the "Mass Grading" site work authorized by the Sussex Conservation District permit in a form acceptable to the County Attorney. The bond shall be released upon receipt of an approved Final Site Plan or completion of the "Mass Grading" work to the satisfaction of the Sussex Conservation District.
3. The permitted site work will be inspected by the Sussex Conservation District and the County's Public Works Division as is customary for all site work projects of this nature in Sussex County.

4. There will be no removal from or delivery to the site of grading materials as this site is said to be self-contained.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve this request to allow site work for the reasons and with the conditions stated. Motion carried 4 – 0.

Seacliffe MR/RPC
Utility Site Plan – Road 336

The Commission discussed this site plan, which has been deferred since March 19, 2008.

The Commission found that Greg Corey of Tidewater Utilities, Inc. was present in reference to the proposed temporary water treatment facility and stated that the site has been altered at the request of the developer due to the change from a public utility company service to sewer service by the County; that another site is proposed to be applied for to create a service facility; that all standards will be met; and that this facility is only a temporary facility pending approval of the proposed Conditional Use facility.

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

At the conclusion of the public hearings, Mr. Smith moved that the Commission reopen the discussion for further consideration. Mr. Johnson seconded the motion. The motion carried 4 – 0.

The Commission discussed this site plan.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the request to modify the site plan for the water treatment facility as submitted. Motion carried 4 – 0.

PUBLIC HEARINGS

Mr. Robertson described the procedures that will be followed for the public hearings.

C/U #1733 – application of **EDWARD A. AND JANET L. O'BRIEN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a multi-purpose sports facility to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.8683 acres, more or less, lying northwest of Road 265-A and 300 feet northeast of Route One.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service "A" of Old Mill Road will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located in the West Rehoboth Expansion – Northern Planning Area; that wastewater capacity is not available at this time; that the proposed use will

use an on-site septic system; that the property is not capable of being annexed into a County operated Sanitary Sewer District at this time; that when the County provides sewer service, connection to the system will be mandatory; and that the County does not have a firm schedule to provide sewer service at this time.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Evesboro loamy sand and Fort Mott loamy sand; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that it may not be necessary for any off-site drainage improvements; and that the Applicant will be required to follow State Sediment and Stormwater Requirements.

Mr. Lank advised the Commission that the application was filed on October 31, 2006 and that the stated intent of the Applicant is a multi-purpose sports facility for the creation of structured classes and clinics, with specific days and times scheduled for each activity.

The Commission found that Edward O'Brien was present with Eugene Lawson, Attorney, and that they stated in their presentations and in response to questions raised by the Commission that The use is requested for the establishment of a facility to serve middle aged individuals and older; that the site is just off of Route One in an area that is being developed; that there should be no negative impact on the neighborhood; that the facility is proposed to be open from 6:30 a.m. to 10:00 p.m.; that classes would be available for dance, yoga, exercise, basketball, tennis, etc.; that day care facilities are proposed to serve individuals while utilizing the facility; that the one outside court would only be utilized during daylight hours; that the outside court would not be lighted; that adequate space is available for parking; that the building will be constructed of metal on concrete flooring; that signage would be unlighted; that a need exists for this type of service; that the courts will be designed for multi-purpose use and could allow for team practices, i.e. soccer and/or baseball; that they will have memberships and some fee uses; that a dumpster will be provided; that there is no intent to serve meals; that a small retail service will be provided in the core building for the sale of equipment, i.e. shoes, clothing, tennis balls, etc.; that the core building will also contain an office, the proposed day care, locker-room and showers; that music will not be piped outside; that the outside court will be fenced; that there will not be an on-site athletic trainer; that they have not yet met with any agencies; that a full time daycare facility is not proposed, only a service to care for the children of the people using the facility; that an on-site well is proposed; and that the building is 38-feet tall at the peak.

The Commission found that Sue Brinhammer, John Braggor, John Brinhammer, Ellen Carta, Linelle Hearn, Michael Carta, Jeri Trifillis, and Margaret Wright Stasi were present in opposition to this application and expressed concerns about the use of the outside courts; the types of games that could be played on the outside courts; noise; the lack of direct access to Route One; security; lighting of the outside courts; traffic; increased traffic; the height of the fencing for the outside courts if approved; the number of people that could be using the courts and the facility at one time; the size of the property vs. the number of people using the site; the type of games that could be played at the facility; the commercial appearance of the proposed building in a residential area; adequate parking and parking on Old Mill Road; that Old Mill Road is a dead-end road; accidents in the area of Old Mill Road and Route One; the time it takes to get out onto

Route One to go south; that the increased volume of traffic will impact the road surface of Old Mill Road, a tar and chip road; the height of the proposed building; adults and children using the same facility; and questioning what happens to the property if the use fails.

The Commission found that Mr. O'Brien responded that generally less than 40 people could use the facility at any one time; that they can tell the clients option on how to get back to the south without crossing the closest median crossing; that no lighting is proposed on the outside courts; that use of the courts depends on what sporting activity is in season; that the courts could be utilized for portions of practice for soccer, football, baseball, golf, basketball, and volleyball; and that there will be no league games or teams using the facility.

The Commission found that there were no parties present in support of the application and that there were 14 people present in opposition.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action for further consideration and to allow Mr. Burton the opportunity to review the record. Motion carried 4 – 0.

C/U #1735 – application of **RICHARD AND SONYA WEST** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an airport and heliport to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 28.55 acres, more or less, lying 900 feet northwest of Route 17, 0.48 mile northeast of Road 370 (Daisy Road) with access from a 60-foot private road.

The Commission found that prior to the meeting the Applicant had provided an Exhibit Booklet which contained references to sections of the Zoning Code relating to the AR-1 District and Conditional Uses; references to the Comprehensive Plan; a letter from the Department of Transportation Office of Aeronautics; a Tax Map of the area; a Delaware Bicycle Map; a Site Plan; an aerial photograph of the area; a DelDOT Support Facilities Report; and proposed conditions.

The Commission found, based on comments received from DelDOT Office of Aeronautics, that the Delaware Aviation Advisory Committee supports the existence of West's Airport because of its location and support of current and future air traffic demands; that Coastal Sussex County does not currently have adequate airport availability (within 30 minutes drive); that Delaware supports the Conditional Use request of West's Airport as it supports various aviation-related businesses within the County and provides access to others doing business in Coastal Sussex County; that due to increasingly dense development and high land prices, there is little possibility of a new 'greenfield' airport being developed; that DelDOT would like to preserve this existing resource in our aviation system; and that DelDOT would support a new public-use airport in the Coastal Sussex area.

The Commission found, based on comments received from DelDOT, that DelDOT reviewed West Airport Road and reported that a traffic impact study was not recommended and that the Level of Service "A" of West Airport Road will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located in the Roxana Planning Area; that the proposed Conditional Use will use an on-site septic system; that the project is not capable of being annexed into a County operated Sanitary Sewer District at this time; that if and when the County provides sewer service, connection to the system will be mandatory; that the County does not have a schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Berryland mucky loamy sand and Mullica-Berryland complex; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that it may not be necessary for any off-site drainage improvements; that the Applicant shall be required to follow State Sediment and Stormwater Requirements; and that a Tax Ditch may be affected.

The Commission found that a petition containing nine (9) signatures was filed in support of the application and referenced support of the Applicant's in their efforts to continue their farm/airstrip/heliport operations helping other farmers and County residents as they have for the past 34 years.

The Commission found that prior to the meeting David J. Weidman, Attorney, of Hudson, Jones, Jaywork & Fisher, LLC, submitted a letter of opposition to this application on behalf of some residents who live in the vicinity of the application and the letter and attachments included his opinion; legal standards in reference the Enabling Statute, the Comprehensive Plan, the Zoning Code; a copy of the Violation Notice; a general map of the area; a aerial photograph; an Atlantic Flyway Map; a photograph of Snow Geese in the area; an aerial accident data base report for Delaware; a Sound Levels and Relative Loudness Chart; a copy of the Draft Future Land Use Map; and a copy of the State Strategies for Policies and Spending Map for the Draft Comprehensive Plan Update.

The Commission found that a petition in opposition was received which contained 51 signatures in opposition and referenced that those signers of the petition expressed concerns that the project raises immediate and long term physical safety issues in an area of rapidly expanding development; that the project degrades the quality-of-life of the surrounding areas by raising noise, stress and nuisance levels; that the project lowers surrounding property values; that the project will cause general neighborhood degradation and dislocation; that the project excessively burdens nearby neighbors without just compensation or equivalent benefit; and that the project is not a matter of urgent public necessity.

The Commission found that letters of opposition to this project were received from William C. and Anne H. Parker, Michael and Amelia Strucich, Jo Brown and Steve Cullen, and Brian C. and Patricia G. Lewis.

The Commission found that Richard and Sonya West were present with Tim Willard, Attorney, Bobbie Geier, Planning Supervisor for the DelDOT Office of Aeronautics, and Allen Chorman, an aerial sprayer, and that they stated in their testimony and in response to questions raised by the Commission that the airstrip has existed for over 30 years; that it is largely utilized for aerial application of fertilizers and pesticides; that they were given a violation notice by a Zoning Inspector for the helicopter use; that the site is located in an AR-1 District; that the use is consistent with the AR-1 zoning; that the use is a permitted Conditional Use in the AR-1 District; that the use has been a service use for spray planes, medivac and police use (a public use); that the use is consistent with the Comprehensive Plan; that the site is an appropriate location for such a use; that the site is located in a Low-Density Area according to the Comprehensive Plan; that DelDOT supports the use; that the use is of a public/semi-public character which serves the agriculture uses in the area; that the applicants and their daughter are licensed pilots; that typical use of the property is by family members, spray application pilots, and guests; that the airstrip measures 75-feet by 3,000-feet; that the applicant still tills the property around the airstrip; that a 60-foot wide easement is reserved to access the property; that a 15-foot access easement exists to the property from West Airport Road; that DelDOT did not require a traffic impact study; that DelDOT and the Delaware Aviation Advisory Committee support the use; that DelDOT would support a public use facility in Southeastern Sussex County; that a need exists for heliport facilities, agricultural spraying use, and landing fields; that the site has been utilized for aerial spraying for over 30 years; that the site is the only available airstrip for aerial spraying in the area; that fuel for spray planes cost \$5.00 per gallon and that the planes use 40 gallons per hour when spraying; that the spray planes use the facility twice per year, approximately 2 weeks in the spring and 2 weeks in the summer; that they normally use two planes for the aerial spraying each time; that the use is a modest use in an isolated area; that they propose the following conditions:

- a. Any landing of planes or helicopters shall be limited to the hours of 6:00 a.m. to 10:00 p.m.;
- b. All lighting on runways and heliport shall be limited to those necessary for directional purposes;
- c. The airport and heliport shall be for private use unless approved for public use by State and Federal aviation laws and regulations;
- d. The air landing field shall not be used for any planes towing banners;
- e. No storage of fuel or hazardous material shall be stored on the property unless in accordance with State and Federal laws and regulations;
- f. The applicant shall provide heliport and landing field permission to all emergency police and medivac agencies upon request;
- g. No more than 9 planes shall land on the field per day, except during crop dusting activities;
- h. One day per year the Applicant shall be permitted to have a fly-in for guests;
- i. No more than 2 helicopter landings shall be permitted per week, except for emergency services;

that Mr. West is the owner/operator of the airport and keeps a log book of all activities; that the State Police probably use the field once per month; that there has never been a fatality at the airport; that the Applicants have never charge a fee for use of the airport; that the Applicants are providing a service to local farmers at no charge by allowing the aerial spraying service to utilize the airport; that the airport is depicted by the FAA on maps; that the State has given the airport an identifier number; that some of the area residents have been misled and referenced that they are not paving the runway and that they are not building warehousing; that the site is not designated as a reliever field; that the Applicants belong to a group known as the "Flying Farmers"; that the Applicants attend safety seminars; that waterfowl have never been hit by aircraft landing or taking off from the airstrip; that aircraft are suppose to be 500-feet above persons, buildings and obstacles when flying, not when taking off or landing; that no fuel is stored on site; that no

chemicals are stored on site; that no noise studies have been performed; that when the airport was created there were very few homes existing in the area; that a hangar exists for storage of their personal plane; that they use tie-downs for parking guests planes; that the runway has been lit in the past, but is not currently; that spray fertilizing is an advantage when soil conditions are poor for truck fertilizing; that spray fertilizing also prevents disease from field to field by tractors and farm equipment; that spray fertilizing saves time in application; that fertilizers and pesticides are hauled in by truck when needed; that the airstrip is used regularly by the Applicant's, their daughter, and family friends living in Bethany and South Bethany; that fuel is not stored on site, but purchased at Sussex County Airport, Hudson Airport and Ocean City Airport; that they may build an additional hanger space for family members, not commercial hangar space; that banners have not been towed from the site for several years; that the only major change in the use is the heliport; that the Applicant's live within ½ mile of the site and can see the site from their home farm; that the Applicant's always know the condition of the field; and that if they build an additional hangar, it will not exceed 80-feet by 80-feet.

The Commission found that Mr. Willard submitted suggested Findings of Fact.

The Commission found that Kelly Jansen, Barry Morin, Anita West Warner, Paul Yannucci, Lisa Boyce, Tom Troublefield, Roland Marvel, Joel Wharton, and Greg McCabe were present and spoke in support of the application and referenced that longtime residents are used to farming operations; that newcomers are trying to change what farmers are doing; that it is questionable why a person would object to the activities if the activity was there when they purchased and why a longtime resident would object to the activity after 34 years of use; that small airstrips have closed due to population growth in areas; that general aviation has decreased in volume; that noise abatement procedures have helped; that the Applicants have tried to be considerate of neighbors and area residents; that permission must be granted by the owner to land at an airstrip based on Federal mandates; that pilots are instructed to avoid flying over homes when taking off and landing; that the Applicants are trying to bring their use into compliance; that the State has provided the airport with a number; that it is not intended that the airport become a public airport; that the use of the airport for emergency purposes saves response time; that some of the neighbors have no objections to the airport or the noise associated with the airport; that some of the neighbors do oppose towing banners, skydiving and helicopter shuttle services; that some of the neighbors enjoy watching the planes coming in and out of the airport; that the airplanes make a lot less noise than the typical motorcycle; and that the facility and the services provided are essential to the farming community to operate in southeastern Sussex County.

The Commission found that Ms. Jansen submitted petitions in support of the application, which contained an additional 40 signatures in support.

The Commission found that David Weidman, Attorney, was present, referenced his previously submitted letter of opposition and attachments, and added that the Comprehensive Plan does not support this activity; that the use is a more intense use that should be directed toward growth areas; that he is concerned about the DelDOT comments; that if the door is opened to this use a massive expansion could occur; that a legal option is recorded with 3 options; that if the use was approved and the number of maximum flights was adopted there could be over 3,000 flights per

year from the airport; and that if the use is approved the Commission should give consideration to the conditions suggested in his letter of opposition.

The Commission found that Mr. Weidman submitted a copy of the recorded Option referenced in his comments.

The Commission found that Mr. West responded that the owners/neighbors have an option to purchase the site; that Mr. Morin was given first option; and that Mr. West retained this property with the intent to continue flying.

The Commission found that Michael Izzo, Howard Hitch, Alan Daisey, Carolyn Tosti, Lulu Daisey, Bill Carroll, Steve Cullen, Lorraine DiDomenices, Jo Brown, Ross Cropper, Norman Farlow, Sandra Curcy, and Richard Curcy were present and spoke in opposition to this application and stated that some are not opposed to the use as it exist; that they oppose transit use of the site; that banners have come in and out in the last 5 years; that they have no problem with crop dusting; that the use should be limited to a specific number of aircraft; that they oppose nighttime activities; that they oppose directional lighting; that they oppose helicopter use and banners; that they are concerned about the lack of jurisdiction by the State and Federal governments; that they are opposed to a shuttle service being established for passengers; that they oppose commercial use; that they do support agricultural business use; that if the use is approved conditions should be imposed and enforced to protect area residents; that the adjoining residents are concerned about ownership of the 15-foot right-of-way and it's use; that trucks hauling chemicals should not be permitted to use the 15-foot right-of-way when a 60-foot right-of-way is approved for access to the site; that they are concerned that DelDOT commented on West Airport Road, rather than Route 17; that there should be some concern about powerlines in the area; that they are concerned about the types of pesticides and chemicals being sprayed; that documentation on the type of chemicals is needed; that the type of chemicals being sprayed should be posted on site so that the neighbors know what is being sprayed; that they Applicant ignored the violations sent; that the Applicant states that he does not what to change anything, but he has reduced the size of the farm from 114 acres down to 28 acres; that helicopter use should be limited to emergency use only; that the daily flights should be limited; that no one objects to emergency landings; that there are no objections to the crop dusting use; that safety precautions are needed; that the use needs supervision; and that the Applicant has been violated several times.

The Commission found that Mr. Curcy provided copies of three (3) violation notices and/or reminders from the Office of the Planning and Zoning Commission.

The Commission found by a show of hands that 22 people were present in support and that 19 people were present in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

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

Subdivision #2006-64 – application of **C. WALTON SMITH, C/O ROBERT HAYES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 5.46 acres into 4 lots, located north of a 50' private road (Bass Road) approximately 3,950 feet northerly of Road 527 and south of Collins Pond.

Mr. Abbott advised the Commission that the Technical Advisory Committee review of March 23, 2007 will be made a part of the record for this application; that an Exhibit Booklet was submitted April 7, 2008; that the applicant's attorney was not aware of the Commission's new procedures for submitting Exhibit Booklets and requested that the Exhibit Booklet be made a part of the record since everything in the booklet is already in the file; that restrictive covenants have been submitted and reviewed by Mr. Robertson; that a letter in support of this application from W. Allen Jones was received; and that a letter from Lynda and Richard Messick in opposition was received.

James Sharp, Attorney, and Walt Smith were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that an Exhibit Booklet was submitted and the items referenced in the booklet are already in the file; that 4 lots are proposed; that the site is zoned AR-1; that there is an existing cabin on the site; that the subject parcel was created in 1974 as part of a subdivision; that restrictive covenants have been submitted; that the design of the project complies with the purpose of the AR-1 district; that a wetlands delineation has not been performed yet; that the applicant will have a wetlands delineation performed and if any wetlands are found, the required notice will be made a part of the restrictive covenants; that a buffer in the form of an easement can be provided if required; that the uses permitted in the AR-1 district will be permitted uses in the project; that no signage is proposed; that the project meets the requirements and regulations of the subdivision and zoning codes; that the items listed in Section 99-9C of the subdivision code are addressed in the Exhibit Booklet; that Bass Road is a private dead end road; that the site is not in farmland; that manufactured homes will not be permitted, only stick built homes; that 3 additional dwellings are proposed; that this would make a total of 5 dwellings off of Bass Road; that the applicant proposes to create the lots for his children; that Collins Pond is a private pond and that membership is required to use the pond; that all of the lots are currently wooded; that a septic feasibility statement has not yet been issued; that there is room to provide a cul-de-sac or turn around on lot 4; that the proposed buffer from the pond is a result of comments made by the Technical Advisory Committee; and submitted proposed conditions of approval.

No parties appeared in support of this application.

Richard Messick, an adjoining property owner, advised the Commission that he is not opposed to the application but has concerns about Collins Pond being protected; that a wetlands delineation needs to be done since there are wetlands in the area; that there may be endangered species on the site; questioned what type of road improvements will be made since the road is a single lane road with pot holes in it; that he maintains the existing road; and that traffic will double if the project is approved.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action for further consideration, receipt of a septic feasibility statement from DNREC, and a wetlands delineation. Motion carried 4 – 0.

Subdivision #2006-65 – application of **EMMAUS WALK, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 37.40 acres into 31 lots, located north of Road 78, 1,325 feet southeast of Road 487.

Mr. Lank advised the Commission that this application was withdrawn on March 17, 2008.

Subdivision #2006-66 – application of **TRAP INVESTMENTS, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 57.51 acres into 40 lots, located north of Road 449, 4,020 feet east of Road 463.

Mr. Abbott advised the Commission that the Technical Advisory Committee review of May 23, 2007 will be made a part of the record; and that the applicants submitted an Exhibit Booklet on March 26, 2008 that is a part of the record.

Kevin Smith of Kercher Engineering, Inc. and Deborah Brittingham were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the application is for a standard 40-lot subdivision; that the site is located southwest of Trap Pond on the northerly side of Route 24; that the average lot size is a little less than 1.0-acre; that the proposed storm water management area is approximately 4.0-acres; that there are 9.68-acres of passive recreation; that there are 5.94-acres of wetlands on the site; that on-site septic and wells are proposed; that the streets will be private and built to County specifications with road side swales; that streetlights are proposed; that the storm water run-off will be directed towards the wetlands and branch; that there were no negative comments from the Technical Advisory Committee; that preliminary soil work has been performed but DNREC has not yet issued a septic feasibility statement; that DelDOT has no objections to the entrance location; that there are similar subdivisions in the immediate area such as Trussum Pond Estates, South Trap Haven and Nero's Acres; that the items listed in Section 99-9C are addressed in the Exhibit Booklet; that none of the lots are located in a flood zone; that there are no wetlands on individual lots; that approximately ½ of the site is forested; that the developer will maintain as many existing trees as possible; that restrictive covenants have not yet been submitted for review; that there is adequate room for a school bus stop if needed; that the site borders lands owned by the State of Delaware; that there is room to add a 50-foot buffer from the wetlands if required; that the State wanted to purchase the rear portion of the site but funding was not available; that the storm water management pond is not in the wetlands; that central sewer would make the economically unfeasible; and that monuments could be provided for a wetlands buffer.

There were no parties present in support of or in opposition to this application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action pending receipt of a septic feasibility statement from DNREC and a copy of the proposed restrictive covenants. Motion carried 4 – 0.

ADDITIONAL BUSINESS

Mr. Lank advised the Commission that the Commission needs to select the dates for a Special Meeting to discuss the Comprehensive Plan Update and for review of Site Plans and Old Business.

There was a consensus of the Commission that they meet on April 30, 2008 at 3:00 p.m. to further discuss the Comprehensive Plan Update.

There was a consensus of the Commission to meet on May 14, 2008 at 3:00 p.m. to review Old Business, Other Business and Site Plans.

Meeting adjourned at 10:45 p.m.