



Planning & Zoning

Agendas & Minutes

MINUTES OF THE SPECIAL MEETING OF APRIL 19, 2007

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as amended by removal of Other Business Item #25. Motion carried 5 – 0.

OLD BUSINESS

C/U #1681 – application of **W. EDWARD METZ** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a campground with area for boat and RV storage to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 59.866 acres, more or less, lying east of Shingle Point Road (Road 249), across from Road 253.

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

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1681 for W. Edward Metz for a campground with boat and RV storage based on the record and for the following reasons:

1. This application is for a campground with 172 campsites and 21 cabin sites.
2. The site is located in a rural area and a Low Density Area according to the Comprehensive Plan Update and this recreational use is compatible with the location.
3. A central water system and an on-site wastewater system are proposed to serve the project.

4. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
5. There is a need for this type of campground in Sussex County.
6. This recommendation for approval is subject to the following conditions and stipulations:
 1. The campground shall occupy approximately 40 acres and have 172 designated campsites and 21 designated cabin sites consistent with the site plan submitted with the conditional use application.
 2. The campsites and cabin sites and other amenities shall be served by central on site sewer and water as approved by DNREC and the Division of Water Resources, and the Sussex County Engineering Department, as applicable.

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3. The campsites shall be occupied seasonally only from April 1st to November 1st. A note confirming this shall be included on the Final Site Plan.
4. All campers and trailers occupying the campsites must be removable, must be camping capable and must have camping features.
5. All roads will be gravel and meet Sussex County standards for campsites.
6. The cabins shall be portable and on skids which will be anchored and/or strapped to the ground. The cabins will contain no more than 400 square feet and will be 30 feet apart. The cabins will be for sleeping only and may contain electric, a window ac unit, a small fridge and a microwave.
7. All campsites will be a minimum of 2,400 square feet.
8. The campground shall include a temporary portable office as located on the site plan.
9. Amenities shall include a management center, small laundry, game room, bathhouse, playground, four pavilions, inground swimming pool and a recreational field for a tennis court and basketball.
10. In addition, a pond with vegetated buffer will be located and maintained with DNREC's approval on the campground.
11. The site will include security lighting throughout the facility.
12. Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
13. One sign shall be located near the entrance of the campground identifying the campground. Sites will be marked by numbers. In addition, the amenities shall be identified with signs on or near the facility.
14. The campground shall be served by one entrance onto County Road 249, Shingle Point Road, and the entrance shall be subject to an entrance permit approved by DelDOT.
15. The site plan shall be subject to the approval of the Planning and Zoning Commission. The RV and boat storage area shall be depicted on the site plan. The 30 future campsites shall be subject to a future site plan revision

subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton 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 5 –0.

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C/U #1683 – application of **WAYNE BAKER, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a borrow pit to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 72.72 acres, more or less, lying at the northeast corner of Avalon Road (Road 302A) and Lawson Road (Road 296).

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

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1683 for Wayne Baker, LLC for excavation of a borrow pit based upon the record made at the public hearing and for the following reasons:

1. This application is for a 20-acre borrow pit on an 834.99-acre tract owned by the applicant. The pit and the operations associated with it will occupy a total of approximately 60 acres.
2. A need exists in the area for dirt, sand and gravel, and existing borrow pit sources are becoming depleted. The material removed from this site will be used throughout the County for a variety of residential and commercial uses.
3. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on traffic or the neighboring properties or community.
4. The borrow pit will be converted into a conservation/wildlife pond upon completion of the excavation activities.
5. Buffers will be established along all borders.
6. The pit area will be at least 600 feet from Avalon Road and Lawson Road, and the closest dwelling is at least 700 feet away across Lawson Road.
7. The recommendation for approval is subject to the following conditions and stipulations:
 1. No materials shall be brought from off the site for processing, mixing or similar purposes.

2. Water or a water truck shall be available to control dust from road traffic when conditions require.
3. Any roadway and entrance improvements required by DelDOT shall be completed by the applicant. All entrances shall be secured when the borrow pit is not in operation.
- 3A. As noted at the public hearing, preliminary discussions with DelDOT indicate that the applicant will be required to upgrade Lawson Road from the entrance to the intersection with Avalon Road and Lawson Road. It is further recommended by the Planning and Zoning Commission that the road from the intersection of Avalon Road and Lawson Road to the intersection of Lawson Road and Zoar Road, approximately 1-mile, be improved to DelDOT specifications at the applicant's expense if required

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- by DelDOT. This section of the road is equally in need of improvements to safely handle the truck traffic to be generated by the proposed borrow pit operation, let alone the additional stress on the road service caused by 70,000 pound loaded dump trucks.
- 3B. All truck traffic to and from the borrow pit is to be directed, per DelDOT's recommendation, to and from the borrow pit entrance to the intersection of Lawson Road and Zoar Road. The trucks utilizing the borrow pit are to be prohibited from using Avalon Road except for local deliveries on Avalon Road. The trucks utilizing the borrow pit are to be prohibited from using Lawson Road to the north of the borrow pit entrance except for local deliveries on Lawson Road.
 4. The hours of operation for the business on this site shall only occur between the hours of 7:30 am to 6:00 pm Monday through Friday and 7:30 am until 2:00 pm on Saturdays. There shall not be any borrow pit activity on Sundays.
 5. Per the applicant, there shall be no more than 25 loads of materials hauled from the site on any given day.
 6. No fuel shall be stored on-site for the borrow pit operations.
 7. No dredging activities shall be permitted on the site.
 8. No stumps, branches, debris or similar items shall be buried or placed in the site of the borrow pit.
 9. The borrow pit shall have 3:1 slopes and the slopes shall be seeded and planted to control erosion. The pit shall not be greater than 25 feet in depth at any point.
 10. A Final Site Plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations. Reclamation plans shall indicate finished grading, seeding and planting schedules designed to create a pleasing appearance.

- 10A. The vegetative buffers to be established and maintained along the borders of Lawson Road and Avalon Road shall be shown in detail on the Final Site Plan. The buffers shall include mature plantings with a minimum height of six (6) feet and shall be placed within 30-feet of Lawson Road and Avalon Road rights-of-way. Crops are not to be considered part of the vegetative buffer. Rather, the buffer is to be designed to provide a visual, dust and other nuisance barrier.
- 11. The applicant shall comply with all State and County erosion and sediment control regulations.
- 12. Markers and signs shall be placed at appropriate locations to designate pit areas.

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- 13. The borrow pit shall be surrounded by a densely landscaped un-excavated buffer strip a minimum distance of 100-feet from any street lines, 100-feet from any single family lots, 100-feet from the existing cemetery, and 50-feet from all other property lines. In addition, the borrow pit shall be at least 200-feet from any dwelling on property of other ownership. The pit itself shall not cover an area greater than 25 acres. The densely landscaped buffer shall be shown on the site plan.
- 14. The pit shall be at least 600-feet from Avalon Road and Lawson Road.
- 15. Every 5 years after the start of excavation, the Office of Planning and Zoning may inspect the site and request written comments from all appropriate State agencies so that the Planning and Zoning Commission can review the comments and verify compliance with all regulations.
- 16. The applicant shall also comply with all of the requirements set forth in Section 115-172B of the Sussex County Zoning Ordinance.
- 17. It is recommended that the Sussex County Council require performance guarantees to assure completion of any approved reclamation plan, pursuant to Section 115-172B(6)(e).

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 5 – 0.

C/Z #1608 – application of **MASSEY’S LANDING PROPERTIES, 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 at the eastern end and on both sides of Long Neck Road (Route 23), to be located on 56.85 acres, more or less.

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

Mr. Burton stated that he would move that the Commission recommend approval of C/Z #1608 for Massey's Landing 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 because it promotes the orderly growth of the County and because the proposed project is in a Development District as established by the Comprehensive Plan Update.
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 by Sussex County. Water service will be provided by a public utility.
3. The RPC designation is appropriate for this parcel of land because 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.
4. The proposed density of 120 homes is consistent with the density of other residential developments in the immediate area, including mobile home parks and multi-family developments.
5. The project will have no adverse impact upon the uses or values of neighboring and adjacent properties in the area.
6. There are neighboring shopping and recreational areas conveniently located along Long Neck Road.
7. The development is designed and incorporates appropriate features to protect and preserve the adjacent and nearby natural environment.
8. This recommendation is subject to the following conditions:
 1. The maximum number of dwelling units shall not exceed 120, consisting of 48 single family lots and 48 duplex lots on the north side of Long Neck Road and 24 duplex lots on the south side of Long Neck Road.
 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
 3. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 3 years of issuance of the first building permit. These amenities shall include a swimming pool,

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community center, tot lots and sidewalks on at least one side of all streets and other recreational facilities.

4. The development shall be served by Sussex County Sewer District and the system shall be designed in accordance with Sussex County Engineering specifications.
5. The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
6. Stormwater management and erosion and sediment control system shall maximize ground water recharge and shall be constructed in accordance with applicable State and County requirements, using Best Management Practices with regard to the construction and maintenance of these features.

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7. Site plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.
8. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. A system of street lighting shall also be provided.
9. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
10. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur during the hours of 7:00 am and 6:00 pm.
11. State and Federal wetlands shall be maintained as non-disturbance areas, except for disturbance authorized by a valid Federal or State permit. There shall be no construction in any wetlands without valid permits. No lots shall contain any wetlands.
12. The applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, stormwater management areas, and other common areas.
13. A school bus stop shall be established within the project. The location of the bus stop shall be coordinated with the local school district and shall be shown on the Final Site Plan.
14. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
15. 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. 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 5 – 0.

Subdivision #2003 – 50 - - application of **KAPLAN, GALLO & HOWETT** 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 discussed this application, which has been deferred since February 8, 2007.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision #2003 – 50 for Kaplan, Gallo and Howett based upon the record and for the following reasons:

1. This proposed subdivision has been significantly revised to address many of the

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- Commission's prior concerns about design, traffic and the project's impact on nearby natural areas. The number of lots has been reduced from 53 lots to 47 lots, and the property between Round Pole Bridge Road and Beaver Dam Creek has been eliminated from the subdivision.
2. The Development is designed in accordance with the Cluster Development Ordinance, with 20,000 square foot lots served by an on-site sewer system. The revised design will not adversely affect wetlands or other natural features of the area.
3. The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
4. The revised application contains 47 lots within the project, which is within the allowable density for an AR-1 subdivision on this land.
5. The Applicant has provided a detailed Traffic Impact Study that has addressed many of the Commission's prior concerns. Also, the elimination of the lots on the north side of Round Pole Bridge Road has reduced some of the traffic and safety concerns expressed by the Commission over the original design.
6. The Subdivision will include sidewalks and streetlights.
7. Central water will be provided to the project.
8. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.

9. This preliminary approval is subject to the following conditions:
- A. The property on the north side of Round Pole Bridge Road shall not be included within this Subdivision. Any future subdivision of the land on the north side of Round Pole Bridge Road shall be subject to the review and approval of the Planning and Zoning Commission.
 - B. There shall be no more than 47 lots within the Subdivision.
 - C. The Applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
 - D. The subdivision shall be served by central water and sewer.
 - E. The storm water management system shall meet or exceed the requirements of the State and County.
 - F. The use of a central community sewer system and storm water management system shall maximize ground water recharge and erosion and sediment control measures and shall comply with all State and County requirements.
 - G. All entrances and roadway improvements shall comply with all of DelDOT's requirements.
 - H. Street lighting shall be provided, and the location of the streetlights shall be shown on the final site plan.
 - I. Sidewalks shall be installed on both sides of all streets within the subdivision.
 - J. A tot lot and gazebo shall be constructed within 2 years of the first residential building permit issued for the subdivision.
 - K. There shall be a 50-foot buffer from any wetlands and no wetlands shall be included within any lots.
 - L. The Final Site Plan and the Restrictive Covenants shall include the Agricultural Use Protection Notice and a similar notice that hunting activities occur on nearby properties.
 - M. The Final Site Plan and Restrictive Covenants shall include the following notice:

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“THIS PROPERTY IS LOCATED IN THE VICINITY OF LAND USED AS AN AIRPORT. THERE MAY BE FREQUENT FLIGHTS OVER THE PROPERTY THAT WILL GENERATE NOISES ASSOCIATED WITH AIRCRAFT IN FLIGHT OR AIRCRAFT ENGINES OPERATING. THE USE AND ENJOYMENT OF THIS PROPERTY IS EXPRESSLY CONDITIONED ON ACCEPTANCE OF ANY ANNOYANCE OR INCONVENIENCE WHICH MAY RESULT FROM SUCH NORMAL AIRPORT USES AND ACTIVITIES.”

- N. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- O. A bus stop area shall be located within the site. The location shall be coordinated with the local school district and shall be shown on the Final Site Plan.

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- P. 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 approve this application as a preliminary, for the reasons and with the conditions stated. Motion carried 5 – 0.

Subdivision #2005 – 8 - - application of **BUNTING ROAD, L.L.C.** to consider the Subdivision of land in an AR-1, Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 6.00 acres into 8 lots (Cluster Development) located west of Road 335, 1,016.56 feet north of Road 336.

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

Subdivision #2005 – 38 - - application of **JAY F. PRATT** to consider the Subdivision of land in an AR-1, Agricultural Residential District in Northwest Fork Hundred, Sussex County, by dividing 24.18 acres into 17 lots, located west of Road 562, 879 feet north of Road 566.

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

Subdivision #2005 – 84 - - application of **JOHN AND DEBRA PULLI** to consider the Subdivision of land in an AR-1, Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 4.35 acres into 3 lots, located south of Road 280, 1,865 feet southeast of Road 290.

Mr. Johnson stated that he would move that the Commission grant preliminary and final approval of Subdivision #2005 – 84 for John and Debra Pulli, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low density single-family residential development. The proposed subdivision density of 3 lots on 4.35 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be a restricted residential development consistent with the area and will not adversely affect nearby uses or property values.

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4. The Applicant has provided the requisite 51% consent from the other property owners within the existing subdivision.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
6. The proposed subdivision will not adversely affect traffic on area roadways.

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

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

Mr. Abbott advised the Commission that the applicant's attorney has submitted a letter requesting that the Commission defer action on this application pending reconsideration from the Sussex County Council in reference to the Moderately Priced Housing Unit Ordinance.

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

Subdivision #2005 – 96 - - application of **ARION DEVELOPMENT** to consider the Subdivision of land in an AR-1, Agricultural Residential District and a GR, General

Residential District in Little Creek Hundred, Sussex County, by dividing 86.43 acres into 99 lots, located north of Road 462, 1,995 feet east of Road 461.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 96 for Arion Development, based upon the record and for the following reasons:

1. This property is zoned both AR-1 and GR.
2. The Development is designed in accordance with the Cluster Development Ordinance. The proposed Cluster design is superior to a standard subdivision with 22.19 acres of open space and 90% of the lots facing open space. Also, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed. For instance, the use of $\frac{3}{4}$ acre lots would result in little or no open space.

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3. The applicant has proposed 99 lots within the project, which is less than the allowable density for an AR-1 subdivision on this land.
4. The project is consistent with neighboring and adjacent properties and will not have an adverse impact on the neighboring properties or community. It is next to a manufactured home community containing 101 leased lots at a density of about 4.6 units per acre. There is a mix of other residential uses in the area.
5. The lots will be served by individual wells and septic systems. DNREC has approved the project for individual septs.
6. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance and the Comprehensive Land Use Plan.
7. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 99 lots within the Subdivision.
 - B. The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
 - C. The storm water management system shall meet or exceed the requirements of the State and County.

- D. All entrances and roadway improvements shall comply with all of DelDOT's requirements.
- E. Street lighting shall be provided and the location of the streetlights shall be shown on the Final Site Plan.
- F. Sidewalks shall be installed on at least one side of all streets within the Subdivision. In addition, there shall be a jogging loop and other walkways and trails as shown on the preliminary site plan.
- G. As stated during the Applicant's presentation, the Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- H. Amenities shall be constructed on the site, including a swimming pool and tot lot. These amenities shall be completed within 2 years of the issuance of the first residential building permit.

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- I. A school bus stop shall be included within the subdivision. The location of the bus stop shall be coordinated with the local school district and shall be shown on the Final Site Plan.
- J. Road naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- K. The applicant is encouraged to continue discussing with the State to relocate access to the James Branch Preserve and to possibly convey additional lands to the State.
- L. No wetlands shall be included within any lot lines.
- M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

Subdivision #2006 – 1 - - application of **THOMAS HEAD, H & H INVESTMENT ASSOCIATES, L.L.C.** to consider the Subdivision of land in an AR-1, Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 62.41 acres into 48 lots, located south of Road 548 (Horseshoe Road), 1,770 feet southwest of Road 552 (Neals School Road).

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision of #2006 – 1 for Thomas Head, H & H Investments, L.L.C. based upon the record and for the following reasons:

1. The subdivision is within an AR-1 District with all lots exceeding $\frac{3}{4}$ of an acre in size.
2. The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
3. The applicant has proposed 48 lots within the project, which is within the allowable density form an AR-1 subdivision on this land.
4. The project will not have an adverse impact on the neighboring properties or community. It is also in an area where similar residential lots already exist.

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5. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance and the Comprehensive Land Use Plan and promotes the orderly growth of the County.
6. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 48 lots within the Subdivision.
 - B. The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
 - C. The storm water management system shall meet or exceed the requirements of the State and County.
 - D. All entrances and roadway improvements shall comply with all of DelDOT's requirements.
 - E. Street lighting shall be provided, and the location of the streetlights shall be shown on the final site plan.
 - F. An area set aside for a future school bus stop shall be depicted on the Final Site Plan. The location of the bus stop shall be coordinated with the local school district.

- G. The “Wetlands Disclosure” shall be included in the Restrictive Covenants governing the Community. In addition, no lots shall include any wetlands.
- H. Road naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- I. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

OTHER BUSINESS

Salt Pond Plaza
Commercial Site Plan – Roads 357 and 360

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Mr. Abbott advised the Commission that this is a preliminary site plan for a 48,775 square foot grocery store, a 12,900 square foot pharmacy and a 3,800 square foot bank; that the site is zoned MR/RPC and that this section is the area that is approved for the B-1 uses as part of the community; that the total developed area is 5.57-acres; that the building setbacks meet the minimum requirements of the zoning code; that 328 parking spaces are required and provided; that the 120 parking spaces along the perimeter of the site are designated a pervious turf pavers; that these parking spaces are also located within the front yard setbacks and are subject to site plan review; that the closest parking areas located near residential lots is 85 feet; that central sewer is provided by Sussex County and central water is provided by Sussex Shores Water Company; that ingress/egress to the site is off of Bethany Loop; that there is no direct access to Roads 357 or 360; that the Commission members were provided a copy of a letter received from the Salt Pond Homeowners’ association and that the letter is a part of the record; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Mr. Smith raised questions about the uses being permitted, whether Technical Advisory Committee review is required, whether a public hearing is required, concerns about traffic and storm water management and drainage overflow.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to deny the site plan as submitted. Motion carried 5 – 0.

Bridgeville Microtel
Commercial Site Plan – Delaware Route 404

Mr. Abbott advised the Commission that this is a preliminary site plan for a 3-story, 59-room hotel located on 3.42 acres; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 91 parking spaces are required and provided; that 33 spaces are located within the front yard setback and are subject to site plan review; that the closest space from the right of way is 20 feet; that the site plan shows the parking of the adjoining Food Lion, McDonalds and Sonic Restaurant which is located within the front yard setbacks; that the frontage long Route 404 has curbing and a guardrail; that central sewer will be provided by the Town of Bridgeville provided adequate capacity is available; that Tidewater Utilities will provide central water; that access to the site is from an interior service road; that there is no direct access to Route 13 or Route 404; that there are not any wetlands on the site and the site is not located in a flood zone; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the site plan as a preliminary with the stipulations that the final site plan shall include a

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Landscaping plan along Route 404 and that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Long Neck Back Bay Center Commercial Site Plan – Route 24

Mr. Abbott advised the Commission that this is a preliminary site plan for a 3,562 square foot bank located on 0.77-acres and an 11,560 square foot retail building located on 1.35-acres; that both parcels are zoned C-1; that the setbacks meet the requirements of the zoning code; that the bank requires 18 parking spaces and that 33 are provided; that the retail building requires 58 spaces and that 58 are provided; that the bank has 7 spaces and the retail building has 34 spaces located within the front yard setback that are subject to site plan review; that the closest space from the Route 24 right of way is 16.7-feet; that access to both sites is from an interior service road; that there is no direct access to Route 24; that Sussex County will provide central sewer and that Tidewater Utilities will provide central water; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Mr. Johnson expressed concerns about the parking spaces being located within the front yard setback and noted that even though the adjoining site has parking within the front yard setback, it is located further away from Route 24 than the plan being considered.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to deny the site plan as submitted. Motion carried 5 – 0.

Nutter's Grant
Multi-Family Site Plan – U.S. Route 13

Mr. Abbott advised the Commission that this is a revised site plan for 52 multi-family units located on 4.60-acres; that the site is zoned C-1; that the Commission previously approved the site plan for 52 units on September 28, 2001; that the layout is the same as the previously approved plan; that the revision is for the reduction in the number of parking spaces based on the revised parking ordinance; that 104 spaces are required and provided; that the revision creates more open space; that the setbacks meet the requirements of the zoning code; that the final site plan needs to show the minimum 40-foot building separation between buildings; that there are 6, 6-unit buildings and 2, 8-unit buildings proposed; that central sewer will be provided by the Town of Bridgeville provided adequate capacity is available; that 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.

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

Fenwick Plaza
Commercial Site Plan – Parking Reconsideration – Route 54

Mr. Abbott advised the Commission that this is a request that the Commission reconsider their decision to not allow parking within the front yard setback for a commercial site plan that received preliminary approval on March 15, 2007; that 27 parking spaces were proposed to be located within the front yard setback; that the Happy Harry's site directly across West Fenwick Boulevard received approval from the Commission on May 12, 2005 with 20 parking spaces located within the front yard setback; and that the applicant's engineer submitted a letter advising of other sites in the immediate area with parking located within the front yard setback.

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

Bayville Shores RPC
Revised Site Plan – Route 54

Mr. Abbott advised the Commission that this is a revised site plan to allow 2, 6-unit storage buildings as accessory structures to an approved multi-family project; that each

building is 45-feet by 60-feet; that the 2 buildings will replace a 1 building, 36 unit storage building; 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. 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 5 – 0.

S & E Gallo Family
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 44 parking spaces are required and that 48 are proposed; 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-

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foot landscaped buffer or a variance needs to be obtained from the Board of Adjustment; and that final approval could be subject to the staff receiving all agency approvals and the buffer issue being resolved.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals and the buffer being in compliance with the zoning code or a variance being obtained. Motion carried 5 – 0.

Oak Creek MR/RPC
Final Record Plan – Road 274

Mr. Abbott advised the Commission that this is the final record plan for a 226 lot residential planned community; that the record plan was previously approved as a MR subdivision; that the site was rezoned by the County Council on March 27, 2007; that the only revision is for the setbacks and a cart crossing between this project and Kings Creek Subdivision; and that the conditions of approval are referenced on the record plan.

Mr. Lank questioned if there is a signed agreement between this project and Kings Creek and that the plan needs to be recorded with the correct name of the development.

Gary Cuppels, Surveyor, of ECI Corporation advised the Commission that there is a signed agreement between the two developments and that the plan will be recorded with the correct name.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the record plan as a final with the stipulation that the signed agreement be reviewed and approved by Mr. Robertson and that the correct name of the development be on the record plan. Motion carried 5 – 0.

Bay City MHP
Revised Lots – Berry Street

Mr. Abbott requested that the Commission defer action on this item.

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

Subdivision #2005 – 79 – Paradise Property
Revised Preliminary – Pepper Creek Point

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Mr. Abbott advised the Commission that this application received preliminary approval for 169 lots on January 18, 2007; that the applicant is proposing revising the storm water management system to bio-filtration swales to the east of the site, which would result in less loss of forested areas; that the storm water management system to the west will be the same as the east side; that a loop road has been deleted; and that a parking area has been provided for the proposed boat ramp.

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

Subdivision #2005 – 42 – Wilkinson Development, L.L.C.
Revised Preliminary and Time Extension

Mr. Abbott advised the Commission that this application received preliminary approval for 188 lots on June 8, 2006; that the revised plan is for the street layout and the relocation of the storm water management ponds; that the revision creates more open space; that the applicants are also requesting a one-year time extension; and that this is the first request for an extension.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the revised plan as submitted as a preliminary and to grant a one-year time extension. Motion carried 5 – 0.

Subdivision #2002 – 44 – Junior Armiger
Revised Final – Hill N Dale

Mr. Abbott advised the Commission that this application received final approval from the Commission on April 27, 2006 for 40 lots; that due to a change of policy with Delmarva Power, they no longer allow storm water management areas or any portion of buildable areas under their easements; that the revised plan relocates these two items away from this area; and that the revised plan has been reduced to 38 lots.

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

Peninsula Lakes MR/RPC
Revised Master Plan – Road 299

Mr. Abbott advised the Commission that the master plan for this 660-unit residential planned community was approved by the Commission on October 18, 2006; that in reviewing the individual phases for this project, it was found that the depths of most lots was 97-feet; that the minimum lot depth for all lots is 100-feet; that on the approved

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master plan, there was a typical lot layout that depicted lot widths and setbacks but not the lot depths; that zoning code may allow certain requirements not be required in the residential planned community section; that the engineer and developers are requesting that the lots be permitted to maintain a minimum lot depth of 97-feet; at certain points on the lots, the lot depth exceeds 100-feet; and that the engineer has submitted a letter explaining this request.

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

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

Mr. Abbott advised the Commission that this is a request to determine if the 12-unit multi-family project is substantially underway; that approvals have been received from all agencies; that some site work has been performed; and that the wetlands problem has been resolved.

Mr. Robertson advised the Commission that the applicants engineer has provided him with photographs of the work that has been done; that DelDOT has approved the entrance; that the wetlands issue has been resolved; and that he is satisfied that the project is substantially underway.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to consider the project substantially underway. Motion carried 5 – 0.

Subdivision #2000 – 12 – Lee Littleton
Consideration of Substantial Construction

Mr. Abbott advised the Commission that this standard 6-lot subdivision received final approval on February 8, 2001; that the owner sent a letter advising the staff that he was not aware of the sunset provisions of the subdivision code; that the owner is requesting a time extension or that the project be considered underway since the existing dirt road serves 6 other parcels; and that an on-site inspection on February 28, 2007 verified that there has not been any site work completed.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to deny this request. Motion carried 5 – 0.

W & J Jones Family, L.P.
2 Parcels and a 50' Right of Way – Road 268

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Mr. Abbott advised the Commission that this is a request to subdivide a 26.29-acre parcel into 2 parcels and create a 50-foot cross access easement; that Parcel A will contain 24.33-acres and be accessed by a 50-foot cross access easement; that Parcel B will contain 1.96-acres and the cross access easement will be located across it; that DelDOT has issued a letter of no objection; and that both parcels are the subject site of future rezoning applications.

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

Anthony and Penny Rovillard
2 Parcels and a 50' Right of Way – Road 48

Mr. Abbott advised the Commission that this is a request to subdivide a 5.11-acre parcel into 2 lots and create a 50-foot right of way; that Parcel A will contain 3.51-acres and be served by a 50-foot right of way; that the residual lands will contain 1.50-acres; and that the proposed right of way will be created over an existing 20-foot driveway.

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

John and Marilyn Hall
2 Lots and a 50' Right of Way – Road 308

Mr. Abbott advised the Commission that this is a request to subdivide a 2.39-acre parcel into 2 lots and create a 50-foot right of way; that the owner proposes to create a 0.75-acre lot with 150-feet of road frontage along Road 308; that the residual land will contain 1.64-acres and have access from a 50-foot right of way; and that DelDOT has issued a letter of no objection.

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

Gordon and Patricia Rossiter
2 Lots and a 50' Right of Way – Road 435

Mr. Abbott advised the Commission that this is a request to subdivide a 1.97-acre parcel into 2 lots and create a 50-foot right of way; that the owner proposes to create a 1.00-acre parcel with 158.57-feet of road frontage; that the residual land will contain 0.97-acres and have access from the 50-foot right of way; and that DelDOT has issued a letter of no objection.

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

Harry Seipp
2 Parcels and a 50' Right of Way – Road 486

Mr. Abbott advised the Commission that this is a request to create 2 lots with access from a 50-foot right of way; that each lot needs to be a minimum of 1.00-acre and have a minimum lot width of 150-feet since the site is located in a conservation zone.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to deny the request as submitted. Motion carried 5 – 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 2 parcels and a 50-foot right of way; that one parcel will contain 2.87-acres and have access from a 50-foot right of way; that the right of way will be created over an existing driveway; that the residual land contains 39.65-acres and is the subject site of a future major subdivision application; and that the proposed right of way and future subdivision entrance are not in the same location.

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

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

Mr. Abbott advised the Commission that this is a request to subdivide 4.55-acres into 3 lots which all will have access from an existing 50-foot private road; that the lots will contain 1.28-acres, 2.01-acres and 1.26-acres; that each lot contains over 150-feet of lot width which is required since the site is located in a conservation zone; that the applicants own the existing street; and that DelDOT has issued a letter of no objection.

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

Subdivision #2005 – 37 – Durwood Bennett
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension;

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that the Commission granted preliminary approval on June 8, 2006; and that this is the first request for an extension.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension. Motion carried 5 – 0.

Subdivision #2006 – 33 – Bethany Short Properties, L.L.C.
Reconsideration of Condition of Approval

Mr. Abbott advised the Commission that the staff has received a letter from Mr. Fuqua, the Applicant's Attorney, requesting that the Commission reconsider one of the conditions of the preliminary approval that was granted on February 20, 2007; that the condition being requested to be reconsidered states "Because the project adjoins the Fresh Pond State Park, a chain link or similar type of fence shall be installed along the western boundary to limit access to the Park from the project. This is necessary to not only protect the environment within the Park, but also to limit access while the park is being actively hunted. And, access to the Park from this development should be limited since the State charges fees to access the Park."; and that the applicants are requesting that this condition be removed.

Mr. Smith advised the Commission that the condition should be reconsidered; that he has met with Mr. Fuqua; that he inspected the site again; that the original condition was

intended to protect the environment; and that he now feels that a fence may not be necessary.

Mr. Fuqua, the Applicant's Attorney, advised the Commission that he is requesting that condition of approval number 13 be reconsidered; that he has visited and inspected the site in detail; that there is a canal that drains from the Fresh Pond; that a natural boundary separates the site from the Pond and that only a few feet may be accessed; that there is a culvert on the north side of the site; and that the applicants would like to be able to erect a gate at the culvert crossing and will erect signs that state that the site is designated as State lands and that hunting occurs on the site.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to amend the condition of approval be allowing the applicant to erect a gate at the culvert and to delete the remaining portion about fencing be required. Motion carried 5 – 0.

Forest Landing MR/RPC
Amended Condition of Approval

This item was removed from the Agenda on April 12, 2007 at the request of the Applicant's Attorney.

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The Vineyards
Commercial and Multi-Family Site Plan – Route 9

Mr. Abbott advised the Commission that this is a revised site plan for a mixed-use project located on 82.00-acres; that the site is zoned C-1; that ingress/egress to the site is off of Route 9 and Nassau Commons Boulevard; 350,000 square feet of retail area, 75,000 square feet of professional office space, a 150-room hotel, 35,000 square feet of clubhouse space and 927 residential units are proposed; that the project is proposed to be built in 10 phases and that each phase addresses the number of square footage and residential uses for each; that the setbacks, building separation distances and building lengths meet the requirements of the zoning code; that 4 parking garages are proposed; that based on the Shared Parking Ordinance, 3,970 parking spaces are required and that 4,068 spaces are proposed; that this is an increase of 99 spaces; that the applicants have submitted the required shared parking study which has been certified by a professional engineer; that the staff has met with the applicants and agree with the shared parking study; that there are not any wetlands on the site; that central sewer will be provided by Sussex County; that Tidewater Utilities will provide central water; that the site is also the subject of a variance request or a determination application with the Board of Adjustment; that the Board of Adjustment case has no bearing on the site plan approval; and that if preliminary approval is granted; final approval could be subject to the staff receiving all agency approvals.

Jim Fuqua, Attorney, and Jeff Clark of Land Tech Land Planning were present on behalf of this project and stated in their presentations and in response to questions raised by the Commission that this plan is similar to the plan that received conceptual approval on October 18, 2006; that the parking requirements have been met; that no parking occurs within the front yard setback on any portion of the site; that parking will be provided for each phase; that there will be no shared parking in the early phases of the project; that there will never be less parking than what is required; that the project will probably be built out in 12 to 15 years; and that the Board of Adjustment application has no impact on the 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 final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Rodney Smith
2 Lots – Ocean Pines Lane

Mr. Smith excused himself from the meeting.

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Mr. Abbott advised the Commission that this is a request to subdivide a 100-foot by 108-foot parcel into 2 lots; that a deed recorded in deed book 404 page 525 describes the site as 2, 50-foot lots known as lots 7 and 8; and that this request is similar to the one the Commission approved for parcel 20 in 2006.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried 4 votes to none, with Mr. Smith not participating, to approve the request as a concept. Motion carried 4 – 0 – 1.

ADDITIONAL BUSINESS

There was a consensus of the Commission to have a special meeting on May 16, 2007 at 3:00 p.m. for the purpose of reviewing Old Business and Other Business items.

Mr. Abbott advised the Commission that the staff has been getting a lot of questions about requiring a jurisdictional determination of wetlands for projects if the engineers and/or soil scientist state that there are no wetlands on the site. These engineers have advised the staff that the Corps of Engineers is not issuing the jurisdictional determinations due to a court ruling issued last year and that this is holding up projects.

It was the consensus of the Commission that a soil scientist can sign a plan indicating that there are no wetlands on the site and that this will be acceptable.

Mr. Johnson advised the Commission that he sent a letter to all Commission members and to Mr. Lank and stated that he would like the letter to be included on a future agenda under Other Business for consideration by the Commission.

Mr. Smith discussed a recent power point presentation in regards to Tax Ditch Easements that the Commission may want on a future agenda as an Other Business item.

Meeting adjourned at 5:40 p.m.