



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE REGULAR MEETING OF APRIL 27, 2006

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 27, 2006 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: I. G. Burton, III, Benjamin Gordy, Rodney Smith and Robert Wheatley, with Vincent Robertson – Assistant County Attorney, Lawrence Lank – Director, and Shane Abbott – Assistant Director.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the agenda as circulated.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of April 6, 2006 and the Minutes of April 13, 2006 as circulated.

### OLD BUSINESS

**C/U #1647** – application of **BDP INVESTMENTS, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a warehouse facility to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 10.0 acres, more or less, lying southeast of Route 9, 960 feet southwest of Route 329 and Route 46.

The Commission discussed this application, which has been deferred since April 6, 2006.

Mr. Gordy stated that he would move that the Commission recommend denial of C/U #1647 for BDP Investments, L.L.C. for a warehouse facility based on the record made at the public hearing and for the following reasons:

1. I do not believe that the application is consistent with the character of the surrounding property, which is mostly rural.
2. The purpose of this application is to allow a Conditional Use for warehouses for an insulation business with 60 employees and at least 24 trucks, not including deliveries. While there is some limited business or commercial zoning or uses along this area of Route 9, these are small and most of the area is farmed or residential. This intensive use would be out of character with the adjacent and surrounding properties.
3. I believe that there are other locations that are currently zoned for business, industrial or commercial use that are better suited for the intended use.

4. The application would substantially increase traffic on Route 9 and it does not promote the health, safety, convenience and welfare of the area.

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

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**Subdivision #2004-59** – application of **DONALD K. MILLER AND DEBORAH BRITTINGHAM** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 2.15 acres into 2 lots, located south of Road 494, 1,350 feet east of Road 498.

Mr. Abbott advised the Commission that this application was deferred on February 23, 2006 pending receipt of a septic feasibility statement from DNREC; and that DNREC has issued 2 approved septic permits.

Mr. Gordy stated that he would move that the Commission grant preliminary and final approval of Subdivision #2004 – 59 for Sharptown Road, L.L.C. based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the subdivision ordinance in that it protects the orderly growth of the County.
2. The proposed subdivision density conforms with the density permitted by the existing AR-1 zoning.
3. The subdivision will not adversely impact schools, public buildings, community facilities or roadway and public transportation.
4. DNREC has indicated that the site is suitable for individual on-site septic systems.
5. All entrances shall comply with all of DelDOT's requirements.

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

**Subdivision # 2005-27** – application of **BURCAP PARTNERS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 29.37 acres into 30 lots, located at the southeast corner of the intersection of Route 5 and Road 234B.

Mr. Abbott advised the Commission that this application was deferred on April 6, 2006 pending receipt of a septic feasibility statement from DNREC; that the office has received the septic feasibility statement; and that DNREC has indicated that the site is suitable for individual on-site septic systems.

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

**Subdivision #2002-44** – application of **JUNIOR ARMIGER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 47.93 acres into 41 lots, located at the south end of Armiger Drive, 380 feet southeast of Grace Circle within Hill’N’Dale Subdivision on the east side of Road 490.

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Mr. Abbott advised the Commission that this is the final record plan for a 40-lot subdivision; that the Commission granted preliminary approval for 41 lots on May 22, 2003 and granted one-year time extensions on June 10, 2004 and March 1, 2006; that the final record plan has been reduced by 1 lot; that the plan meets the requirements of the subdivision ordinance; and that all agency approvals have been received.

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

**Subdivision #2003-54** – application of **OYSTER ROCK PROPERTIES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 33.60 acres into 7 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located approximately 1,950 feet north of Road 264 and approximately 2,900 feet northeast of Route One.

Mr. Abbott advised the Commission that this is the final record plan for a 7-lot subdivision; that the Commission granted preliminary approval for 7 lots on August 26, 2004 and a one-year time extension on July 14, 2005; that the final record plan meets the requirements of the subdivision ordinance; and that all agency approvals have been received.

Motion by Mr. Gordy, seconded by Mr. Smith and carried 3 votes to none, with Mr. Burton not voting, to approve this application as a final. Motion carried 3 – 0 – 1.

**Subdivision #2004-51** – application of **W. JAMES AND ROBERT A. BOSCH** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 16.68 acres into 14 lots, located south of Road 252, ¾ mile west of Route 30.

Mr. Abbott advised the Commission that this is the final record plan for a 14-lot subdivision; that the Commission granted preliminary approval for 14 lots on September 8, 2005; that the final record plan meets the requirements of the subdivision ordinance; and that all agency approvals have been received.

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

**Subdivision #2005-13** – application of **LYNN AND KAREN MCCOLLEY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 39.60 acres into 46 lots (Cluster Development), located southwest of Road 202, 1,000 feet northwest of Road 206.

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Mr. Abbott advised the Commission that this is a preliminary plan for a 45-lot cluster subdivision; that the Commission granted conceptual approval for 46 lots on February 9, 2006 with six conditions; that one of the conditions of approval was that a revised preliminary plan must be submitted and must reflect a design that is superior to a standard subdivision, including the provision for more open space and provide a bus stop at the entrance and a playground; that the revised plan deletes the original lot 1 and makes it open space with a playground and also includes a bus shelter; and that this area contains 22,047 square feet.

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to approve the revised plan as a preliminary with the conditions of conceptual approval that was granted on February 9, 2006. Motion carried 4 – 0.

**ORDINANCE AMENDMENT – AN ORDINANCE TO AMEND CHAPTER 115 SECTION 162, RELATING TO THE NUMBER OF OFF STREET PARKING SPACES REQUIRED FOR MULTIFAMILY DWELLINGS AND TOWNHOUSES.**

The Commission discussed this Ordinance Amendment which has been deferred since March 23, 2006.

Motion by Mr. Burton, seconded by Mr. Smith and carried unanimously to defer action on this Ordinance Amendment until it can be discussed with a full Commission present. Motion carried 4 – 0.

**ORDINANCE AMENDMENT – AN ORDINANCE TO AMEND CHAPTER 115, ZONING, ARTICLE XI, PART ONE, RELATING TO PERMITTED USES AND TO CLOSE THE EXISTING C-1 DISTRICT; PART TWO, SECTION 3, TO CREATE A NEW CR-1 DISTRICT; PART THREE, ARTICLE X, TO AMEND THE B-1 DISTRICT RELATING TO CONDITIONAL USES; AND PART FOUR, ARTICLE XX TO AMEND THE HEIGHT, AREA AND BULK REQUIREMENTS.**

The Commission discussed this Ordinance Amendment which has been deferred since March 23, 2006.

Motion by Mr. Burton, seconded by Mr. Smith and carried unanimously to defer action on this Ordinance Amendment until it can be discussed with a full Commission present. Motion carried 4 – 0.

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## PUBLIC HEARINGS

**C/U #1649** – application of **RONALD W. MORGAN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a garage and parking of trucks and trailers to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 3.54 acres, more or less, lying west of Route 213, 416 feet south of Route 625.

The Commission found that the Applicant had submitted an Exhibit Booklet prior to the meeting and that the Exhibit Booklet contains a copy of the Application form, a Planning and Zoning Information Sheet, a copy of the deed to the property, a site location map, a site plan, a copy of the DelDOT correspondence, a copy of a Board of Adjustment decision from January 4, 2002, a copy of the decision of a Superior Court of the State of Delaware, dated January 29, 2003 on an appeal from the decision of the Board of Adjustment, letters of support for this application, letters of support from the referenced Board of Adjustment case, photographs of the site and surrounding area, and an addendum which included a letter of support from Truex Enterprises, the owner/operators of Seawatch, a clam company operating in Milford, Delaware and New Bedford, Massachusetts.

The Commission found, based on comments received from DelDOT, that the Department has commented on similar applications for this site previously and had recommended denial because of concerns about the site entrance and the distribution of truck traffic and because the proposed use is inconsistent with the Strategies for State Policies and Spending; that the Department acknowledges that the Applicant, through his Attorney, has proposed conditions and altered the site location to address the Department's concerns, and that though the proposed conditions address the Department's concerns regarding the entrance and truck traffic distribution, the proposed use is still inconsistent with the Strategies. Therefore the Department's recommendation for denial remains the same.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on this site are mapped as Sassafras sandy loam which has slight limitations for development; that the Applicant will be required to follow recommended

erosion and sediment control practices during construction and to maintain vegetation; that the Sassafras soils are considered Prime Farmland; that there are no storm flood hazard areas or tax ditches affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that a letter of support was received from William H. and Barbara E. Morgan.

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The Commission found that letters of objection were received from Vaughn H. Morgan, with an attached copy of a decision of the Superior Court of the State of Delaware, and Beatrice Whitehead, expressing concerns about the Applicant's disregard for the referenced Court decision, that trucks and trailers continue to run into and out of the property, the accumulating of junk, that the size of the parcel to be utilized should be specific, not "more or less", that, if approved, the use should be restricted and monitored for compliance, concerns about noise, heavy traffic, narrow roads being impacted by truck traffic, and the impact on the agricultural/residential area.

The Commission found that Ronald W. Morgan was present with David Rutt, Attorney, on behalf of this application and that they stated in their presentations and in response to questions raised by the Commission that the Morgan family has been in the trucking business for approximately 60 years; that the site is a part of the family farm; that the Applicant's grandparents operated a trucking business from this site in the past; that William Morgan set up a trucking business across Route 213 years ago; that the Applicant has been operating a trucking business from the farm for several years; that the Applicant filed an application to the County Board of Adjustment for a determination of the existence of a non-conforming use for a trucking operation and that the Board denied the request; that the Superior Court of the State of Delaware upheld the Board decision in reference to the determination; that the Court disagreed with the County ruling that the farm equipment had to be removed; that a plan was established between Mr. Rutt and the Counsel for the Board of Adjustment to relocate the trucking business to a site near Ellendale; that the proposed site contains 3.54 acres of a larger tract of land; that the Applicant intends to utilize an existing 40' by 60' pole building for a shop and to add an addition for a total building size of 40' by 100'; that a fenced area for outside storage is proposed; that the site plan also shows a small office building and an area for truck and trailer parking; that the Applicant presently employs 6 employees and hopes to have a maximum of 20 employees in the future; that most of the employees are truck drivers that are only on the site part-time; that the Applicant anticipates a maximum of 20 trucks and 30 trailers; that the trailers would be a variety of types including refrigerated, grain, and logging trailers; that there is not any loading or unloading performed on the site; that all service and repair work will be performed inside of the shop, not outside; that there will be no Sunday hours; that the office and garage will utilize on-site water and septic; that trucks routing can be established with no truck traffic utilizing Road 625, except for the

Applicant to get to his home; that the trucks haul grain, lumber, clams, etc.; that customers include J.V. Wells, Inc., Truex, Mountaire, etc.; that no signage is proposed; that the south end of one of the future proposed U.S. Route 113 By-Pass crosses south of the site; that they question the concerns addressed by DelDOT; that the letters referenced in the Exhibit Booklet as relating to the Board of Adjustment were extracted from the Board file; that additional letters of support have been received; that most of the affected neighbors have not voiced any objections; that the use is an appropriate Conditional Use in the area; that the use is a benefit to the agricultural community; that the business is

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utilized by local and regional farms; that there should be no adverse impact on property values; that the use provides jobs and a vital service to the area; that the William Morgan trucking facility has never been closed; that the business presently operates with 5 trucks and 12 trailers; that 85% of the trailers parked on the site are empty; that the garage will be utilized for general maintenance, oil changes and repairs to the trucks; that small parts will be kept inside and larger parts will be stored in the fenced area; that the Applicant has no objections to fencing, if required; that no mechanical work will be performed for others; that clams are hauled in refrigerated trailers; and that the Applicant has no objections to solid fencing around the outside storage area.

The Commission found that Mr. Rutt provided copies of a letter of support from Marceil Morgan, the Applicant's Grandmother and owner of the farm, and a petition with two (2) signatures in support of the application.

The Commission found that Mr. Rutt provided the Commission with suggested Conditions of Approval (17 items) for the record.

The Commission found that 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. Burton, seconded by Mr. Gordy and carried unanimously to defer action. Motion carried 4 – 0.

**C/U #1650** – application of **J. V. INDUSTRIAL, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a small machine shop to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 5.05 acres, more or less, lying northwest of Route 257 (Round Pole Bridge Road), 1.2 miles southwest of Route 258.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the present Level of Service "A" of Route 257 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on this site are mapped as Evesboro loamy sand and Johnston loam or silt loam; that the Evesboro soils have slight limitations for development; that the Johnston soils have severe limitations; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that the

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Johnston soils are considered Hydric; that there are no storm flood hazard areas or tax ditches affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Ronald Doughty was present on behalf of his application and stated that he is a one-man operation; that he has no employees; that no signs are proposed; that he built this home and plans on cutting back on his work and would like to cut cost be working at home; that he is presently operating a shop in Milford; that 99% of his work is with stainless steel; that there is minimal noise; that he makes small parts for Allen's Foods and Perdue for their production lines; that there is a minimal amount of scrap from the machine work; that there is no need for outside storage; that UPS type trucks deliver materials once a week; that a steel truck may deliver once a month; that he uses small amounts of cutting oils and parts cleaners; that he has no security concerns; and that he does not do any gunsmithing.

The Commission found that 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. 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 since the use is consistent with the residential use of the property; since there are no employees; since the use supports the agricultural uses in the surrounding area and agricultural industry; and with the following conditions:

- 1) There shall be no expansions to the business.
- 2) The machine shop shall be operated within the existing shop structure.
- 3) There shall be no signage advertising the business.
- 4) There shall be no employees.

Motion carried 4 – 0.

**Subdivision #2005 – 32** - - application of **ERNEST DEANGELIS, JR.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred,



Sussex County, by dividing 11.64 acres into 10 lots, located east of Route 30, 1,760 feet north of Road 319.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on August 17, 2005 and that the report will be made a part of the record for this application; and that the applicants submitted an Exhibit Booklet and a revised plan reflecting the recommendations of the Technical Advisory Committee and will be made a part of the record for this application.

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The Commission found that Doug Warner and Matt Peterson of Element Design Group were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site contains 11.64 acres; that 10 lots are proposed; that the site is on the east side of Route 30 south of Route 16; that the site is cleared land; that the existing dwelling on the property will remain on one of the lots; that the entrance will be landscaped; that the largest lot is 1.13 acres; that the site contains 1.17 acres of open space; that the streets will be private and built to County specifications; that the plan has been revised to meet the recommendations of the Technical Advisory Committee; that there are not any wetlands on the site; that DNREC has issued a septic feasibility statement and that the site is suitable for individual on-site septic systems; that only stick built homes will be permitted; that the size of the dwellings will range from 2,500 to 3,000 square feet; that the lots will be sold; that Melendez Drive currently exists; and that the restrictive covenants have not yet been submitted.

The Commission found that no parties appeared in support of or in opposition to this application.

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

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to defer action pending review and approval of the restrictive covenants that need to be submitted.  
Motion carried 4 – 0.

**Subdivision #2005 – 35** - - application of **LARRY E. WILLEY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 5.613 acres into 4 lots, located at the northwest corner of the intersection of Road 434A and Road 436.

Mr. Abbott advised the Commission that DelDOT has issued a letter of no objection for the entrance locations; and that the 11 property owners of the previous subdivisions are aware of and agrees with the application.

The Commission found that Larry Willey was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that he is

selling 4 lots; that DNREC has approved individual on-site septic systems for each lot; that no commercial uses are permitted; and that either stick built, modular or double wide homes will be permitted.

The Commission found that no parties appeared in support of or in opposition to this application.

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

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Mr. Gordy stated that he would move that the Commission grant preliminary and final approval of Subdivision #2005 – 33, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the subdivision ordinance in that it protects the orderly growth of the County.
2. The proposed subdivision will not adversely affect nearby property values.
3. The proposed subdivision density conforms with the density permitted by the existing AR-1 zoning.
4. The proposed 4 lots are in character with other lots in the area.
5. The proposed subdivision will not adversely impact schools, public transportation or area roadways.
6. DNREC has indicated that the site is suitable for individual on-site septic systems.
7. All entrances shall comply with all of DelDOT's requirements.

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

**Subdivision #2005 – 34** - - application of **POT-NETS LAKESIDE, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 38.00 acres into 82 lots (Environmentally Sensitive Development District Overlay Zone), located northeast of Road 299 (Bay Farm Road), 125 feet northwest of Road 299A.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on September 21, 2005 and that the report will be made a part of the record for this application; that the applicants submitted an Exhibit Booklet and revised plan addressing the recommendations of the Technical Advisory Committee and P.L.U.S.; and that three e-mails were received in opposition to this application and that they will all be made a part of the record for this application.

The Commission found that Gene Bayard; Attorney, Robert Tunnell, Jr., Jason Palkewicz and Holly Hearn with McCrone, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this is considered Phase 6 of Lakeside; that the project has been designed utilizing the

Environmentally Sensitive Developing District Overlay Zone ordinance; that the proposed density is two units per acre; that central water and sewer are proposed; that there will be a central trash collection; that the open space will be maintained by the developer; that the preliminary plan has been reduced to 76 lots; that restrictive covenants were not submitted since the lots will be leased and are subject to a lease agreement; that none of the lots contain any wetlands; that there is a 100-foot buffer from the wetlands; that 45% of the site is open space; that some trees will be relocated; that there are not any rare or endangered species on the site; that the project has been reviewed by P.L.U.S.;

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that there are interconnection roads to the existing Lakeside park; that the existing development will utilize the recreational amenity area; that none of the wetlands will be disturbed; that sidewalks are not proposed; that walking trails have been provided; that streetlights are proposed; that there is a fifty foot buffer along Bay Farm Road; that the streets will be built to county specifications; that drainage problems in the existing development will be improved; that a wooden timber bridge is proposed; that this will be the last extension to Lakeside; that the types of dwellings will be the same as the existing Lakeside; that the project conforms with all of the regulations referenced in 99-9C of the subdivision ordinance; and that a permit is not required by the Corps of Engineers to drive piling in wetlands.

The Commission found that George Banest was present in support of this application and advised the Commission that he has met with the developers and all of his concerns have been addressed.

The Commission found that no parties appeared in opposition to this application.

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

Mr. Robertson advised the Commission that this project is in an Environmentally Sensitive Developing District Overlay Zone and the exact type of housing proposed needs to be clarified.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to defer action so that Mr. Robertson can review the type of housing proposed. Motion carried 4 – 0.

**Subdivision #2005 – 35** –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 44.87 acres into 46 lots, located south of Road 488, 960 feet west of U.S. Route 13.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on September 21, 2005 and that the report will be made a part of the

record for this application; and that the applicant's engineer has submitted a revised plan addressing the recommendations of the Technical Advisory Committee.

The Commission found that Shannon Carmean; Attorney, John Murray with Kercher Engineering, Inc., and Richard Mahetta; one of the partners, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the application originally proposed 46 lots; that the revised plan is for 36 lots; that the site is zoned AR-1 and is located in a low density area; that the site currently has an abandoned poultry house located on it; that thirty foot agricultural

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buffers are provided; that the minimum lot size is 0.75-acres; that on-site septic and wells are proposed; that the design meets the requirements of the subdivision code and land use plan; that the proposed density is 0.83 lots per acre; that single family lots are a permitted use; that the subdivision is in character with the surrounding area; that the project will provide affordable housing to the western side of the county; that the project will increase property values; that the plan has been revised to comply with the recommendations of the Technical Advisory Committee; that DNREC has issued a septic feasibility statement and the lots are suitable for individual on-site septic systems; that the storm water management facilities will be maintained by a property management company; that DelDOT will not grant an entrance to U.S. Route 13A, that the streets will be private and built to county specifications; that there is no easement of record for the existing dirt road that runs across the property; that the applicants purchased the property in July of 2005; that the price of the homes will range from \$200,000.00 to \$235,000.00; that the dwellings will be stick built; that there is adequate room for a bus shelter at the entrance to the project; that walking trails will be provided throughout the project; that there will be an easement between lots 35 and 36 to serve as access to the storm water management facilities; that a traffic calming device has been proposed between lots 8 and 9; that the restrictive covenants have been submitted; and submitted a copy of the septic feasibility statement into the record.

The Commission found that no parties appeared in support of this application.

The Commission found that Sue Ockels, Martin Ockels, Jr., Donna Ockels, James Osborne, Donald Morgan and Brian Massy, area residents, were present in opposition to this application and expressed concerns about the number of homes proposed; that there is no need for any additional homes in the area; that the entrance is located on a sharp curve; that there is heavy vehicle, farm machinery and large truck traffic in the immediate area; that there have been numerous accidents along this road; that each dwelling could possibly have four vehicles each; that there are three poultry farms surrounding the project; that the poultry companies remove the birds at different times; that there is a working dairy farm in the area; that new residents do not like the lifestyle of farmers and often complain about noise and odors; that farmers are required to follow nutrient management plans; that homeowners will use fertilizers that cause more negative impacts than

farmers; questioned the type of septic systems that are proposed; that some of the residents have permission to use the dirt road; that there could possibly be vandalism and destruction of property if the project is approved; and that there are drainage and run-off concerns.

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. Motion carried 4 – 0.

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**Subdivision #2005 – 36** - - application of **BETTY D. BLACK** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 11.03 acres into 11 lots and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Road 319, 1,560 feet south of Road 242.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on September 21, 2005 and that the report will be made a part of the record for this application.

The Commission found that Harry Murphy of Charles Murphy Associates was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the site is suitable for individual on-site septic systems; that eleven lots are proposed; that on-site septic and wells are proposed; that the streets will be built to State of Delaware standards; that agricultural buffers have been provided where required; that the minimum size of the dwellings will be 2,000 square feet; that stick built or modular homes will be permitted; that a twenty foot drainage easement is proposed across the back of lots 7, 8, 9 and 10; that there are single family dwellings in the immediate area; that manufactured homes will not be permitted; that the restrictive covenants have recently been submitted; and submitted a copy of the septic feasibility statement from DNREC.

The Commission found that no parties appeared in support of or in opposition to this application.

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

Motion by Mr. Burton, seconded by Mr. Smith and carried unanimously to defer action pending review of the restrictive covenants. Motion carried 4 – 0.

#### ADDITIONAL BUSINESS

The Commission discussed upcoming seminars and courses.

The Commission discussed possible revisions to the three lots and fifty-foot rights-of-way policy.

Meeting adjourned at 9:02 p.m.