



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF APRIL 30, 2009

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 30, 2009 in the County Council Chambers, County Administrative Office Building, in Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Benjamin Gordy, and Mr. I. G. Burton III with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

Motion by Mr. Gordy, seconded by Mr. Burton, and carried unanimously to approve the Agenda as circulated. Motion carried 3 – 0.

Motion by Mr. Gordy, seconded by Mr. Burton, and carried unanimously to approve the Minutes of April 16, 2009 as amended. Motion carried 3 – 0.

### OLD BUSINESS

**Subdivision #2008-24** – application of **GREGORY A. AND CHARLOTTE L. HASTINGS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 14.37 acres into 10 lots, (Cluster Subdivision), located south of Route 404, 2,700 feet west of Road 528.

The Commission discussed this application which has been deferred since April 16, 2009.

Motion by Mr. Gordy, seconded by Mr. Burton, and carried unanimously to defer action for further consideration since Mr. Johnson and Mr. Smith were absent and may want to participate in the decision. Motion carried 3 – 0.

**C/U #1776** – application of **MARK SCHAEFFER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a mini-storage facility to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 8.05 acres, more or less, lying north of Route 9, 500 feet west of Route 5 at Harbeson.

The Commission discussed this application which has been deferred since April 16, 2009.

Motion by Mr. Gordy, seconded by Mr. Burton, and carried unanimously to defer action for further consideration since this site is located in Mr. Johnson's area and since Mr. Johnson was absent and may want to participate in the decision. Motion carried 3 – 0.

**C/Z #1681** – application of **SHIPBUILDERS, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District and a GR General Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, land lying west of Route 213 (Old State Road) and southeast of Road 641 (Sharons Road) and also 118 feet south of Wild Cherry Street, to be located on 141.086 acres, more or less.

The Commission discussed this application which has been deferred since April 16, 2009.

Motion by Mr. Burton, seconded by Mr. Gordy, and carried unanimously to defer action for further consideration. Motion carried 3 – 0.

### PUBLIC HEARINGS

**C/U #1778** – application of **TIMOTHY ELDER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for antiques, gifts and produce and barbeque sales to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.0 acres, more or less, lying on the westerly side of Double Bridges Road (Road 363) 700 feet south of Muddy Neck Road (Road 361).

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

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is not located within a County operated and maintained sanitary sewer or water district; that the site is located within the South Bethany Planning Area; that an individual on-site septic system exists on the site; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that when the County provides sanitary sewer service in the future, connection is mandatory; and that a concept plan is not required.

The Commission found that when the Applicant originally made application he provided a listing of some of the uses intended with this application that included the sale of ice cream, shaved ice, barbeque, sodas, hot dogs, hamburgers, produce, plants, antiques, beach supplies, lawn furniture, souvenirs, t-shirts, surfboards, and firewood.

The Commission found that Timothy Elder was present and stated in his presentation and in response to questions raised by the Commission that he intends to operate a small barbeque and produce business; that he presently uses the garage on the site for storage for his business on the boardwalk in Bethany Beach; that he has other sites with similar intents; that he hopes to create jobs and to expand the use; that he plans on providing picnic tables under the canopy on the site for patrons of the barbeque; that the use is seasonal from May 15 through October 15; that there

will be no night time activities; that signage will remain unlighted; that all materials storage will be indoors; that business hours are proposed from 9:00 a.m. to 7:00 p.m. seven (7) days per week; that some of his plans have changed since he originally applied 2 years ago; that the lawn furniture will be wooded furniture; that he may eliminate the sale of antiques; that the survey has suggested that 3 parking spaces on the site will be adequate and that he and his employees can park on other portions of the site; that he has plans to have 2 employees per shift with 2 shifts; and that he will not be manufacturing any furniture.

The Commission found that there were no parties present in support of this application.

The Commission found that Eldridge Murray was present in opposition and stated that he is not opposed to antique sales; that the dwelling is a rental; that the ditches are tidal ditches and have overflowed; that there are no bikepaths or pedestrian walkways on the shoulder of Double Bridges Road; that a bridge and guardrail are adjacent to the existing entrance; that he has concerns about the entrance location; that the site is surrounded by developments; that he opposes the barbeque and barbeque smoke; that he is opposed to the use of porta-toilets; that he does not want to have to look at a flea market atmosphere across from his home; that Double Bridges Road is heavily travelled and is presently in poor condition and needs repair.

The Commission found that Nancy Jordan was present in opposition and stated that she agrees with Mr. Murray; that her major concern is safety; that Double Bridges Road is designated as an Alternate Route 54; that the road has long straightaways and curves; that the road is heavily travelled; that she is concerned about the quality of the road, traffic especially in summer months; that the road is the main travelway between Bethany and Camp Barnes and Assawoman Wildlife Area; that cyclists and pedestrians travel along the road; that the use is out of character; that the site is located in the Environmentally Sensitive Developing Area; and that she is concerned about noise, smoke, odors and safety.

The Commission found that Mrs. Jordan submitted six (6) photographs including Double Bridges Road and some of the homes in the area.

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

Motion by Mr. Gordy, seconded by Mr. Burton, and carried unanimously to defer action since the site is located in Mr. Smith's area. Motion carried 3 – 0.

**C/Z #1641** – application of **THOMAS E. FRANK** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, lying west of Muddy Neck Road (Road 361) and northwest of Parker House Road (Road 362), to be located on 3.93 acres, more or less.

The Commission found that on April 20, 2009 the Applicant provided the Commission with an Exhibit Booklet which contained a project narrative, color site plan, a map of area commercial properties and residential subdivisions, a copy of the application form, an approval letter to combine properties, proposed Conditions, proposed Findings of Fact, legal descriptions, surveys,

deeds, a preliminary site plan, references to the Environmentally Sensitive Developing District Overlay Zone, E-mails and letters between DC Group and the Office of State Planning Coordination, an Environmental Assessment Report, DelDOT correspondence, a willing and able to serve letter from Tidewater Utilities, Inc., and a series of maps.

The Commission found that DelDOT had provided comments on August 13, 2007, August 15, 2008, and on April 23, 2009 and that the most recent comments reference that the Department has reviewed the site plan, dated February 4, 2009, last revised April 14, 2009, and has no objection; that the Department has no objection to the entrance location, but does not authorize the commencement of entrance construction; that the site shall have a commercial entrance from Road 361 and the entrance shall be designed and constructed for the total build-out of the site; that the site plan proposes 3 buildings totaling 27,448 square feet; that a building permit for this site shall not be issued until the entrance and roadway improvements plans have been approved by DelDOT; that a Certificate of Occupancy for this site shall not be issued for any of the buildings until all the entrance and roadway improvements have been completely constructed and final inspected and approved by the South District Permit Supervisor; and that entrance plans shall be developed in accordance with DelDOT rules and regulations prior to entrance approval. The Commission found, based on comments received from the Office of State Planning Coordination, that this project has been considered exempt from the PLUS review process since the project is in keeping with the adjacent, proposed, and existing land use activities in the area.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located within the South Ocean View Sanitary Sewer District; that wastewater capacity is available for the project so long as the project does not exceed 15.01 EDU if annexed into the Town of Ocean View or 12.08 EDU if the parcel develops under County zoning; that Ordinance No. 38 construction will be required; that the current System Connection Charge Rate is \$5,306.00 per EDU; that the parcel is currently served with a lateral along the parcel's frontage on Muddy Neck Road; that an upgrade may be required; that conformity to the South Coastal Area Planning Study – 2005 Update will be required; that connection to the sanitary sewer system is mandatory; that the proposed development will require a developer installed collection system in accordance with Sussex County standard requirements and procedures; that the County Engineer must approve the connection point; and that the Engineering Department requires that a Sewer Concept Plan be submitted for review and approval.

The Commission found that Thomas E. Frank was present with Heidi Balliet, Attorney, from Tunnell & Raysor, P.A. and Mark Davidson of Design Consultants Group, L.L.C. and that they stated in their presentations and in response to questions raised by the Commission that they realize that the application is for rezoning and not for a site plan; that they realize that the Commission must consider if the uses permitted in a B-1 District are appropriate for this location; that the purpose of a B-1 District is to provide primarily for retail shopping and personal service uses, to be developed either as a unit or in individual parcels, to serve the needs of a relatively small area, primarily nearby rural, low-density or medium-density residential neighborhoods; that the site is surrounded by various uses, i.e. a funeral home in a B-1 District, GR General Residential subdivisions, RPC - Residential Planned Communities, a non-conforming produce stand; that AR-1 zoning may be out of character, non-compatible and

offensive to some of the residents in the area due to some farming practices that cause dust, odor and noises; that they are proposing self-imposed deed restrictions; that the Applicant is willing to proffer limits to uses, and offers: 1) a six-foot high privacy fence will be planted along the common boundary line of this property and Shady Dell Park Subdivision; 2) all lighting will be downward illumination and will not encroach onto adjacent properties; 3) all trash dumpsters will be located at least 25-feet from all boundary lines; 4) all required DelDOT road improvements will be completed at the developer's expense prior to issuance of Certificate of Occupancy by Sussex County; 5) any commercial ventilation fans, vents and heating and A/C units will be placed on the roofs of the building and will be placed at least 30-feet from the adjacent boundary lines; 6) the front and side view of the buildings will reflect the architectural style and look of a residential style structure in the community; 7) pedestrian walkway access will be provided to adjacent properties as shown on the plan; 8) no outside open storage of pallets, crates, or building materials will be permitted; 9) no outside speakers, bells or ringers will be permitted for any use; 10) hours of operation shall be limited to 11:00 p.m. in the evening; and 11) all utilities serving the property, i.e. Electric, Phone, Cable, etc will be placed underground; that the Applicant will comply with all agency requirements; that the project will be served with County sewer; that the project will be provided with water from Tidewater Utilities, Inc.; that they have not received any objections from DelDOT; that the site has adequate space for parking; that the site could accommodate a restaurant, bakery, professional offices, or similar uses; that B-1 District uses should be compatible with and serve Developing Areas; that property values should increase, not decrease; that it their intent that the project have the look and feel of a residential character; that pedestrian walkways will be provided; that 3 buildings are proposed with a total of approximately 27,000 square feet; that the site is an appropriate site for this type of use and will comply with the County Comprehensive Land Use Plan; that the Office of State Planning Coordination has voiced no objection to the proposed zoning change; that the project is within an area, which according to the Comprehensive Land Use Plan, where a wide variety of business uses should be allowed to serve the residential neighborhoods in the area; that this property is located in a Short Term Annexation Area for the Town of Ocean View; that the site is served by an existing County sanitary sewer system and is allocated 15.72 EDUs; that Muddy Neck Road and Parker House Road are classified as Major Collector Roads according to the State Functional Classification Map; that some of the guidelines for the Environmentally Sensitive Developing Area reference light commercial uses that are appropriate to provide for convenient services and to allow people to work and shop close to home; that the Applicant has provided an Environmental Assessment Report analyzing the projects potential environmental impacts, including the effects on stormwater runoff, nitrogen and phosphorous loading, wetlands, wastewater and water systems; that the State Strategies reference that the site is located in an Investment Level 2 area which are areas characterized by a variety of housing types, commercial and office uses serving primarily local residents; that the Applicant realizes that off-site road improvements will be required as a part of the entrance plan approval and that the Applicant will meet or exceed those DelDOT requirements; that the project will not have an adverse impact on neighboring properties or the community; that highly complementary support and services related to nearby residents and business uses should be expected; that the location of a neighborhood business providing personal service uses on this parcel should have the effect of limiting trips on Route 26 by residents of the area who may otherwise have to travel farther on for their shopping and housing needs; that the property is in relative proximity to the Town of Ocean View and will provide

employment opportunities for the residents of the County and the Town; that the development of this property will generate revenues for the County from the sewer impact and user fees, building permits, inspection fees, and real estate fees; that there are no wetlands on the site; that a small drainage swale on the site provides drainage to part of the Shady Dell Park Subdivision; that a downstream analysis will be performed; that stormwater management will be provided on the site; that soils work has been performed; that a nutrient loading assessment per the Pollution Control Strategy has been performed; that Best Management Practices will be utilized; that a Phase I Environmental Site Assessment has been performed; that 2 dry stormwater management ponds with bio-filtration are proposed with landscaping; that recharging groundwater reduces pollutants; that in response questions in the Environmentally Sensitive Developing District Overlay Zone stormwater structures are one of the most effective techniques for providing pollutant removal prior to entering the ground water; that stormwater structures are among the most adaptable, effective and widely applied stormwater treatment practices in developing areas; that the popularity of stormwater structures can be attributed to their proven ability to attenuate runoffs from design storms; that bio-filtration systems primary function is to mitigate the normal impacts of urbanization on the natural water balance; that this is done by turning water that would normally become surface runoff into a resource that waters trees and recharge groundwater; that infiltration systems also function to improve water quality by removing pollutants; that bio-swales and filter strips can be easily incorporated into the design of projects with minimal loss of usable ground since they simultaneously filter and infiltrate runoff and that they are not only effective in reducing pollutant loads, they can also provide considerable recharge; that during the design of stormwater practices the designers and the developer will work with the Sussex Conservation District to achieve the best management practices for the project; that a detailed nutrient accounting process, known as a Nutrient Budget, was prepared via DNREC's Nutrient Protocol and that resultant data indicate that the mandated TMDL (Total Maximum Daily Load) reduction will be met for this property; that parking lot trees will be furnished throughout the site; that the benefit of parking lot trees have been thoroughly documented; that the trees play a prominent role in carbon removal, air pollution absorption, traffic calming and asphalt life cycle extension, energy conservation, and provide intangible sociological benefits; that as part of the preparation of site utility plans by County Engineering, the State Fire Marshal, and the Office of Drinking Water (Public Health), an approval by Tidewater Utilities, Inc. will be secured; that the site plan shows a traffic flow schematic delineating the type of entrance and number of proposed average daily trips; that the project will have one entrance directly across from Butler Boulevard; that a letter of No Objection for entrance location has been applied for and will be approved by DelDOT; that no State or Federal listed species or their habitat was identified within the property; that it is the opinion of W. Redinger Environmental Services that the proposed project should not have any effect on listed species; that no Federal or State regulated wetlands are present within the subject property based on the absence of hydrophilic vegetation; that approximately 1.32 acres of open space is proposed on the site plan generated for the purpose of this application at this time; that the open space is in the form of landscape, sidewalks and stormwater management green best management practices; that Muddy Neck Road improvements along the frontage of the property, meeting the minimum DelDOT requirements, will be provided by the Developers; that road widening, five-foot shoulders and asphalt overlays will be required; that a ten-foot wide multi-modal type of pedestrian access will be constructed along the County road frontage of this project; that underground water lines will be constructed to meet the minimum requirements of

the Office of the State Fire Marshal for minimum fire flow requirements, Office of Drinking Water for minimum drinking water standards and Tidewater Utilities, Inc. who will be responsible for the overall maintenance of the lines once the system is built to their standards; that the sanitary sewer lateral will need to be upgraded to current criteria for serving the project; that the proposed rezoning will enhance the general character of the neighborhood by providing retail shopping and personal service uses to serve the needs of the relatively residential area; that a search of the property on the Division of Historical and Cultural Affairs Office data base showing that nothing is known for this parcel; that careful attention was directed at the location of the buildings, parking lot and loading areas to the adjoining properties; that pedestrian connectivity and safety has been implemented with the off-site road improvements being undertaken as well as the walkways being proposed to connect to adjacent properties; that the Applicant desires to target uses of this site that will provide a personal service to the residential neighborhood while maintaining a natural condition in a way that will result in a cohesive character with a strong sense of community identity; that the Applicant has met with some of the residents in the area; that a minimum of 20-foot wide landscape buffering is proposed with 6-foot high solid privacy fence to help reduce noise; and that hours will be restricted.

The Commission found that there were no parties present in support of this application.

The Commission found that Gary Lee Cox, President of Shady Dell Park Homeowners Association, Ron Liberto, President of Providence Homeowners Association, and Diane Liberto, Lori Fry, Sandy Pool, James Cullen, and Diana Emlet were present and spoke in opposition to this application expressing concerns that a restaurant may close at 9:00 p.m. or 11:00 p.m., but the employees are still dumping bottles, etc. into dumpsters after midnight; that most of the residents in Shady Dell Park Subdivision oppose the application; that the residents have a fear of a precedent being set and the unknown uses; that dry ponds collect junk and debris if not maintained; that the site plan presented is not a guarantee of what may be built on the site; that residents do not want to look at mechanical equipment on roof-tops; that there are very few business uses along Muddy Neck Road; that building a commercial building with a residential appearance is still a commercial building; that the use is out of character with the residential area; that most of the residents purchased their properties knowing the zoning was residential; that this type of use should be built along Route 26; that they are concerned about additional traffic; that they are concerned about crime; that they are concerned about the safety of cyclists and pedestrians; that the quiet resort atmosphere should be maintained; property owners along State roads have already given up right-of-way and fear that more right-of-way will be taken; that traffic accidents are a concern; that the adjoining townhouses second floor decks will look down on the project; and that a need is questionable since the County has been overdeveloped already.

The Commission found that Diane Liberto read a letter in opposition from Janis M. Penman and referenced that the letter represented the opinion of the majority of the letters received in opposition.

The Commission found that Lori Fry read and submitted a statement and submitted petitions in opposition from residents of Shady Dell Park Subdivision, Providence RPC, Summerfield Subdivision, and Hunter's Run RPC containing approximately 112 signatures in opposition.

The Commission found that Sandy Pool read and submitted a statement and submitted petitions in opposition from residents of Plantation Park Subdivision, Plantation Park Marina Subdivision, Kensington Park RPC, Forest Reach RPC, Ocean Air Subdivision, South Hampton RPC, Summerset Subdivision, and Silverwoods Subdivision containing approximately 175 signatures of the 186 people contacted.

At the conclusion of the public hearings, the Commission discussed this application. Motion by Mr. Gordy, seconded by Mr. Burton, and carried unanimously to defer action since the site is located in Mr. Smith's area. Motion carried 3 – 0.

**Subdivision #2007-29** – application of **SPRING BREEZE ASSOCIATION** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 113.93 acres into 167 lots, (Cluster Development), located south of Road 280-B, 1,985 feet west of Road 288.

Mr. Abbott advised the Commission that this application was filed on July 13, 2007; that the record includes an August 13, 2007 PLUS response and the applicant's response to the PLUS comments; the Technical Advisory Committee review of November 21, 2007; April 6, 2009 correspondence pertaining to revised plan addressing the PLUS and TAC comments; a letter addressing the items in Section 99-9C, a response to the Cluster Ordinance, a letter addressing the TAC comments; the applicant's response to revised PLUS comments; an Exhibit Booklet that was submitted by the applicants on April 16, 2009 and letters from Tiffany Derrickson and Marie and Bob Smith in opposition.

The Commission found that Gene Bayard, Esquire, and Ring Lardner, P.E. with Davis, Bowen and Friedel, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the applicants are Spring Breeze Associates; that the proposed title is The Woods at Burton Pond; that the developers are giving a 300 foot buffer from the County landfill site; that the Sussex County Engineering Department is requiring the buffer from the landfill at no cost; that the County Engineer wants the applicants to also install a fence; that there is no disturbance to the wetlands and the developer is providing a 50-foot buffer from all wetlands; that the 300-foot buffer will be a non-disturbed area; that the site contains no rare or endangered species; that a salamander may be present on the site; that there are no wetlands on the individual lots; that tree removal will be limited to street area and areas to construct homes and open space; that 62% of the woodlands will remain undisturbed; that the closest lot to Chapel Branch is in excess of 300 feet; that the site is excess of 5,000 from Burton's Pond; that the amenities will include a poolhouse, swimming pool, basketball court and a 150-foot by 300-foot multi purpose sport field; that the amenities will be constructed at the issuance of the 60<sup>th</sup> building permit and will be completed and open to use of the residents by the issuance of the 120<sup>th</sup> building permit; that four storm water management ponds are proposed; that the storm water management will be bio-swales and all storm water management will be handled on site; that DelDOT did not require a traffic impact study; that the proposed density is less than what is permitted; that DelDOT will require improvements along the frontage and from Route 23 to Dorman Road; that the improvements will include multi-modal paths, turn lane and deceleration lanes; that the items referenced in Section 99-9C of the Subdivision Code are



addressed in the Exhibit Booklet and briefly summarized these items; that the applicant's response to the PLUS comments are listed in the Exhibit Booklet; that a majority of the site is located in a Level 4 based on the State's Strategies Map; that the State does not support development in Level 4 and that is why the State is not in support of this application; that Tidewater Utilities has provided a willing and able to serve letter; that the developer will meet all requirements of the Sussex Conservation District; that the entire site will have a 50-foot wooded buffer around the perimeter of the project; that the project meets the requirements of the Pollution Control Strategies and the Source Water Protection Ordinance; that the requirements of the Cluster Ordinance are addressed in the exhibit booklet and briefly summarized the requirements; that the applicants have demonstrated compliance with the Subdivision and Cluster Ordinances; that there is adequate room for bus stops and that two bus stops are proposed; that the buffers from the wetlands will be marked with signage; that the closest lot to Conley Chapel road is 50 feet; that the minimum lot size is 7,500 square feet with an average lot size of 9,500 square feet; that there are no tax ditches on the site; that the restrictive covenants prohibit tree clearing/cutting; that there is not a blue line stream on the site; that sewer will be extended from Spring Breeze I; that stick-built homes in the price range of \$225,000.00 to \$400,000.00 are proposed; that the minimum square footage of the dwellings will be 1,800 square feet; that manufactured homes are not permitted; that there are no interconnections to Spring Breeze I proposed; that they do not know the statues of Spring Breeze I and submitted proposed findings of fact, conditions of approval and proposed restrictive covenants.

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

The Commission found that Dean Betts, Henry Glowiak, Amelia Sloan, Bob Smith, Ann Conlon, Lee Robinson, Paul Croft, Jocelyn Robinson, Carey Price, Patty Bashera, Mike Tyler and Mark Mastin were present in opposition to this application and advised the Commission that the development is out of character with the area due to the proposed lot sizes and sizes of the proposed homes; that the development does not conform to State guidelines for development; that there will be negative impacts to existing property values; that there are too many available lots and homes in the area; that the project will look like Heron Bay; that the development will cause an increase in traffic to the area; that the sewer construction will impact local roads; that the Cape Henlopen School District does not support the application; that there is a mandate to meet the Clean Water Act; that the land is not suitable for development since it is swampy; that wildlife habitat will be negatively impacted; questioned guarantees of buffers as other projects ' buffers have been destroyed; that Tidewater will provide sewer and water and that Artesian has a well in the area; that more trees will be destroyed than what the applicants are stating; that storm run-off will occur on adjacent properties; that young residents cannot afford \$500,000.00 homes; that construction and delivery vehicles will destroy local roads; questioned if DNREC has issued a septic feasibility statement; that the area is rural and quiet; that the market is not good for new homes as many homes are facing foreclosure; and read and submitted written statements and petitions against the project.

Mr. Lardner responded that Tidewater Utilities has provided a willing and able to serve letter; that a Tidewater representative is not present; that the developer cannot alter groundwater; that 62% of the woodlands will be retained; that modular and stick built homes will be permitted; that DelDOT did not require a traffic impact study due to the number of lots proposed; that the

entrance location is required by DelDOT; that some of the soils are not suitable for development therefore there are no lots proposed in those locations; that a septic feasibility statement is not required since the site will be served by off-site central sewer; that the project meets the requirements of the Pollution Control Strategies and Total Maximum Daily Loads; that an endangered species study has been performed; and that DelDOT will require area road improvements.

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 since the site is located in Mr. Johnson's area. Motion carried 3 – 0.

**Subdivision #2007-30** – application of **TIMOTHY RAMEY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 33.72 acres into 29 lots, located south of Road 472, 1,600 feet east of Road 62.

Mr. Abbott advised the Commission that this application was filed on August 13, 2007 and that the record contains the Technical Advisory Committee report of November 21, 2007; a DelDOT Letter of No Objection issued on December 22, 2008 and an Exhibit Booklet and revised preliminary plan filed on April 20, 2009.

John Murray, Project Manager with Kercher Engineering was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the project is known as Trinity Glen subdivision; that 21 single-family lots are proposed on 21.0-acres; that the proposed density is 0.68 lots per acre; that the plan has been revised to include 21, 20,000 square foot lots since Tidewater Utilities will provide central sewer to the site; that the project will be served by individual on-site wells; that Tidewater Utilities has provided a willing and able to serve letter in the Exhibit Book; that DelDOT has issued a Letter of No Objection in reference to the entrance location; that a 30-foot forested buffer is planned around the perimeter of the project except along the existing strip lots; that there are wetlands on the site but they are not located on the individual lots; that a 50-foot buffer from wetlands is proposed; that there are 9.23-acres of residual lands that could be developed in the future if the market dictates a need for additional lots; that the minimum living area of the dwellings will be 1,000 square feet; that land/home packages will start around the \$150,000.00 range; that the developer sold strip lots off of the frontage and they sold quickly; that there is a need for affordable housing in the area; that the DelDOT Letter of No Objection will require 11-foot travel lanes with 5-foot shoulders along with a 15-foot multi-modal path; that there are other approved developments in the immediate area such as Trap Haven North and South, Cypress Meadows and Barron's Place; that the developer will utilize green technologies in the design; that the items referenced in Section 99-9C are addressed in the Exhibit Booklet; that the developer is aware that the area set aside for possible future development will require another application; that the residual lands will be open space at this time; that at this time sidewalks are not proposed as the developer is trying to make this a cost effective development; that if the Commission does require sidewalks, the applicants are requesting that they be required on one side of the streets only; that street lights and a bus stop will be provided; that no amenities are

planned since the project is directed toward work force residents; and that the 30-foot forested buffer is within the 50-foot buffer from wetlands in some instances.

Debbie Brittingham was present in support of this application and advised the Commission that the applicant has owned the property for over three years; that he is trying to provide local work force housing; that the dwellings will contain 1,000 to 1,450 square feet of living area; and that the applicant is trying to make the development cost effective.

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

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

Motion by Mr. Gordy, seconded by Mr. Burton and carried unanimously for further consideration. Motion carried 3 – 0.

**Subdivision #2007-31** – application of **SUSSEX VENTURES, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 28 acres into 28 lots, (Cluster Development), located north of Road 485A, and east of U.S. Route 13.

Mr. Abbott advised the Commission that this application was filed on August 14, 2007 and that the record contains the Technical Advisory Committee review of November 21, 2007; PLUS' response to the applicants response to PLUS comments that was received on June 3, 2008; a DelDOT Letter of No Objection that was received on December 3, 2008; an Exhibit Booklet that was received on April 17, 2009; a revised preliminary plan that was received on April 20, 2009 and letters in support from Bruce Wardwell, Randy Hill and Bobby Niblett, Jr.

Drew Ward and John Murray, Project Manager with Kercher Engineering were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this is a proposed 28-lot community on approximately 28 acres; that the site is located south of Seaford on Easter Lane; that the proposed subdivision is designed to provide housing for 1<sup>st</sup> time home buyers; that with new businesses, it appears to be a good location for a housing community where the local workforce can raise a family; that the project has been designed using the cluster option; that the cluster design is superior to that of a standard subdivision by leaving approximately 9 acres of open space; that the open space will allow residents an area for passive recreation as well as providing a buffer between homes; that the developer feels the proposed size and density of this project better fits with the overall character of the community than one of higher density and less open space; that the plan calls for 32% of open space; that on-site septic and wells are proposed; that DNREC has issued a septic feasibility statement indicating that the site is suitable for on-site septic disposal systems; that the streets are to be built to County specifications; that there will be a 15MPH speed limit posted; that an asphalt walking path will be provided throughout the community for safe pedestrian movement within the community; that storm water management will meet the requirements of the State and Sussex Conservation District; that lot prices will be in the \$50,000 to \$60,000 range and homes will be from \$159,000 to \$199,000; that these price points seem to be consistent with the current real estate market; that restrictive covenants have been submitted; that stick-built and modular

homes will be permitted; that the proposed subdivision application is a low density, single-family community in a country setting; that the request is for significantly fewer lots than the code allows; that the items referenced in Section 99-9C have been positively addressed in the Exhibit Book; that a homeowners association will be responsible for the maintenance of the streets, buffers, storm water areas and other common areas; that the developers request preliminary approval; that a bus stop location may have to be relocated depending on the Seaford School District's wishes; and that the buffer to the rear of the site has already been planted.

Randy Waters and Walt Bammer spoke in support of this application and advised the Commission that the developers build quality developments and provides quality housing; that the design includes a nice layout; that the developer has done everything asked of them; and that the agricultural use protection deed restriction is included in the restrictive covenants.

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

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

Motion by Mr. Gordy, seconded by Mr. Burton and carried unanimously to defer action for further consideration. Motion carried 3 – 0.

#### ADDITIONAL BUSINESS

Mr. Lank reminded the Commission that a Luncheon Meeting is scheduled with the County Council for May 12, 2009 at 12:00 Noon at the Annex Building on U.S. Route 113.

Mr. Lank provided the Commission with a copy of the PLUS response for C/Z #1639, the application of Todd Bariglio, and advised the Commission that the record will be left open for written comments until the close of business on May 14, 2009.

Meeting adjourned at 10:30 p.m.