



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE REGULAR MEETING OF JUNE 8, 2006

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 8, 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: Robert Wheatley, Benjamin Gordy, Rodney Smith, Michael Johnson and I.G. Burton with Vincent Robertson – Assistant County Attorney, Lawrence Lank – Director, and Richard. Kautz – Land Use Planner.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of May 25, 2006 and the Minutes of May 31, 2006 as circulated. Motion carried 5 – 0.

### OLD BUSINESS

**C/Z #1607** – application of **MARINE FARM, L.L.C.** to amend the Comprehensive Zoning Map from a MR-RPC Medium Density Residential District – Residential Planned Community to an AR-1-RPC Agricultural Residential District – Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying southwest of Jimtown Road (Road 285A), 1,000 feet northwest of Road 277, to be located on 19.84 acres, more or less.

The Commission discussed this application which has been deferred since May 11, 2006.

Mr. Johnson stated that he was not present during the public hearing, but he did listen to the tape recording and reviewed the record.

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1607 for Marine Farm, L.L.C. for a change of zone from MR-RPC to AR1-RPC based upon the record and for the following reasons:

- 1) The Applicant has simultaneously applied for a Conditional Use to establish a stable for recreational and therapeutic horseback riding, which requires agricultural zoning. Since I will also be recommending approval of the stable under Conditional Use, I believe this change of zone is appropriate.

- 2) This application is consistent with the nature of the surrounding property along Jimtown Road. All of that property is zoned AR-1. When the original application was considered, one of the reasons that homes were eliminated from this area was because of its relationship to the existing zoning and uses along Jimtown Road. Since homes were not permitted in the area, it is appropriate to return the underlying zoning back to AR-1.

Minutes  
June 8, 2006  
Page 2

- 3) The proposed use as a stable for recreational and therapeutic horseback riding is consistent with the purposes of the AR-1 District, as set forth in the Zoning Ordinance.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 5 – 0.

**C/U #1678** – application of **MARINE FARM, L.L.C.** to consider the Conditional Use of land in an AR-1-RPC Agricultural Residential District – Residential Planned Community for a recreational/therapeutic equestrian facility to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 19.84 acres, more or less, lying southwest of Jimtown Road (Road 285A), 1,000 feet northwest of Road 277.

The Commission discussed this application which has been deferred since May 11, 2006.

Mr. Johnson stated that he was not present during the public hearing, but he did listen to the tape recording and reviewed the record.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use #1678 for Marine Farm, L.L.C. to operate a recreational/therapeutic equestrian facility, based on the record and for the following reasons:

- 1) The proposed use is one that is agricultural in nature. In fact, it nearly falls under the category of a permitted use under Section 115-20 of the Zoning Ordinance, which allows public stables on 5 acres or more.
- 2) The project, with the conditions and limitations placed upon it, will not adversely affect the neighboring properties or community.
- 3) The site is within a Development Area, as shown on the current County Comprehensive Plan Update.
- 4) The Conditional Use, providing therapeutic horseback riding for children and adults with special needs, promotes the health, safety, convenience and general welfare of the residents of Sussex County. This use also satisfies the defined purpose of Conditional Uses, since it is a use that will benefit the public.

- 5) This recommendation is subject to the following conditions:
1. All entrance and roadway improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
  2. The development shall be served as part of the Marine Farm RPC Central Sanitary Sewer System.
  3. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.

Minutes  
June 8, 2006  
Page 3

4. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
5. Construction, site work, grading and deliveries of construction materials, landscaping materials and fill, on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.
6. Addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
7. The Conditional Use shall be for the operation of a therapeutic and recreational horseback riding facility, which includes three special events per year. The events shall be related to the permitted use, and shall not last longer than 2 days each.
8. Hours of operation for clients and the public shall be 9:00 a.m. to 9:00 p.m. These hours of operation shall also apply to all special events.
9. Lighting for the area, parking lot and any similar outside areas shall be turned off by 10:00 p.m. All lighting shall be screened so it does not shine onto Jimtown Road or neighboring properties.
10. One lighted identification sign at the site entrance shall be permitted.
11. Horse manure shall be stored and removed in accordance with applicable regulations.
12. The maximum number of horses boarded at the facility shall be fifteen (15).
13. There shall be no interconnection between this site and the Marine Farm MR-RPC.
14. A buffer of existing and planted trees shall be established along County Road 285A.

Motion by Mr. Johnson, seconded by Mr. Gordy 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.

**C/Z #1594** – application of **RICHARD J. POPPLETON** to amend the Comprehensive Zoning Map from a GR General Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying on the western side of Central Avenue, 350 feet northeast of

Harmon Street, and being more particularly described as Lot 24, Block 1, of the "George E. Shockley's Land" Subdivision, to be located on 5,000 square feet, more or less.

The Commission discussed this application which has been deferred since May 25, 2006.

Minutes  
June 8, 2006  
Page 4

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1594 for Richard J. Poppleton to amend the Comprehensive Zoning Map from GR General Residential to C-1 General Commercial based upon the record made at the public hearing and for the following reasons:

- 1) The project will not have an adverse impact on the neighboring properties or community.
- 2) While I am sensitive to the concerns expressed by neighbors in this community, the project is in an area that is surrounded by C-1 zoning. In fact, this property was originally zoned C-1, but was rezoned to GR only so that a mobile home could be placed on it.
- 3) This rezoning will make this parcel consistent with the others around it.

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 stated. Motion carried 5 – 0.

**Subdivision #2005-37** – application of **DURWOOD BENNETT** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 9.85 acres into 10 lots, located north of Road 84, 250 feet northwest of Road 363.

The Commission discussed this application which has been deferred since May 11, 2006.

Mr. Lank advised the Commission that DNREC has issued a septic feasibility statement indicating that the lots are suitable for a community on-site treatment system.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2005-37 for Durwood Bennett based on the record and for the following reasons:

- 1) With the conditions placed upon it, the subdivision meets the purpose and requirements of the Subdivision Ordinance and protects the orderly growth of the County. All of the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.

- 2) The density is less than the maximum density permitted by the existing AR-1 zoning. All lots shall exceed  $\frac{3}{4}$  acre in size.
- 3) The subdivision is integrated into the existing terrain and surroundings.
- 4) The subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
- 5) The subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
- 6) DNREC has provided a septic feasibility statement for the community disposal system.

Minutes  
June 8, 2006  
Page 5

- 7) A homeowner's association will be created to maintain streets, open space, stormwater management areas and street lighting.
- 8) This recommendation is subject to the following conditions:
  1. There shall be no more than 10 lots within the subdivision.
  2. A forested buffer of at least 30 feet shall be established along the property line next to lands used for agricultural purposes. As required by Section 99-5 of the Subdivision Ordinance, this buffer shall not be included within any lots.
  3. The Applicant shall prepare and record Restrictive Covenants governing the development and cause to be formed a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas. The proposed Restrictive Covenants must be supplied to the County Attorney prior to Final Site Plan review.
  4. The stormwater management system shall meet or exceed the requirements of the State and County, including specifically the direction of the County Engineering Department.
  5. All entrances shall comply with all of DelDOT's requirements. Also, an area for a school bus stop shall be established near the entrance to the project.
  6. A system of street lighting shall be provided by the Applicant, and the location of the streetlights shall be shown on the Final Site Plan.
  7. The Restrictive Covenants shall include the Agricultural Use Protection Notice.
  8. The Applicant shall maintain as many existing trees as possible. The location of all remaining trees shall be shown on the Final Site Plan.
  9. Street naming and addressing shall be subject to the review of the Sussex County Mapping and Addressing Department.
  10. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to grant preliminary approval of Subdivision #2005-37 for the reasons and with the conditions stated. Motion carried 5 – 0.

**Subdivision #2005-41** – application of **KEITH PROPERTIES** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 22.01 acres into 6 lots, located at the end of Nature's Walk Way within Fenwick Shoals Subdivision on the south side of Route 54, east of Fenwick Farms Subdivision.

The Commission discussed this application which has been deferred since May 25, 2006.

Minutes

June 8, 2006

Page 6

Mr. Lank advised the Commission that the Applicants have obtained all agency approvals.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2005-41 for Keith Properties, based upon the record and for the following reasons:

- 1) The subdivision meets the purpose of the Subdivision Ordinance by protecting the orderly growth of the County.
- 2) The subdivision is in character with other residential development in the area. It is the third and final phase of an existing, approved residential development.
- 3) There are businesses and services in the immediate area to serve the subdivision residents.
- 4) The project will be served by central water and County sewer.
- 5) The proposed subdivision will be a restricted development and will not negatively affect nearby uses or property values. The Applicant has submitted Restrictive Covenants for the record.
- 6) The proposed subdivision will not adversely impact schools, roadways or community facilities.
- 7) The application has been reviewed by the Technical Advisory Committee. Letters from the Corps. of Engineers, Sussex Conservation District, Division of Water Resources and other agencies have been made a part of the record.
- 8) The Corps. of Engineers has approved the wetland mitigation plan. As part of that mitigation over four hundred trees are to be planted. The mitigation, when completed, will double the size of the previous wetlands.
- 9) This approval is subject to the following conditions:
  1. The Restrictive Covenants shall be recorded. This phase of the subdivision shall be part of the homeowners association for the existing subdivision.
  2. No wetlands shall be included within any lot lines.
  3. There shall be no more than six (6) lots.
  4. Street naming shall be subject to the review of the County Mapping and Addressing Department.

5. The conditions of approval for Subdivision #2002-38 shall apply.
6. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant preliminary approval of Subdivision #2005-41 for the reasons and with the conditions stated. Motion carried 5 – 0.

Minutes  
June 8, 2006  
Page 7

**Subdivision #2005-42** – application of **WILKINSON DEVELOPMENT, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 120.20 acres into 214 lots, (Cluster Development), located east of Road 290 (Cool Spring Road), 2,000 feet north of Route 5.

The Commission discussed this application which has been deferred since May 25, 2006.

Mr. Lank advised the Commission that DNREC has issued a septic feasibility statement indicating that the site is suitable for a community septic system.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005-42 for Wilkinson Development, L.L.C. based upon the record and for the following reasons:

- 1) The development is designed in accordance with the Cluster Development Ordinance. The proposed cluster design is superior to a standard subdivision with 51% of the project as open space on the site. Also, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed. And, a standard subdivision could conceivably result in little or no open space.
- 2) The Applicant has reduced the proposed number of lots from 214 to 188 with smaller lots. The Applicant maintained a large amount of open space and preserved forested areas, including a natural buffer to the wetlands. For these reasons, the development is superior to a standard subdivision.
- 3) The project will not have an adverse impact on the neighboring properties or community. It is also in an area that has developed with other commercial uses, a church, and a large State of Delaware Solid Waste Facility.
- 4) The development will not cause any adverse impact upon traffic in the area by this development.
- 5) The lots will be served by central sewer and water.
- 6) The site's design has a minimal impact on wetlands and no wetlands are included within any lots, and there will be buffers from the wetland areas.

- 7) The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
- 8) Amenities will be provided, including a clubhouse, pool, and walking and jogging trails.
- 9) This approval is subject to the following conditions:
  1. There shall be no more than 188 lots within the subdivision.
  2. The Applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas.
  3. The stormwater management system shall meet or exceed the requirements of the State and County. Best Management Practices shall be used in the maintenance of the system.

Minutes

June 8, 2006

Page 8

4. All entrances shall comply with all of DelDOT's requirements.
5. Street lighting shall be provided, and the location of the streetlights shall be shown on the Final Site Plan.
6. Sidewalks shall be installed on both sides of all streets within the Subdivision.
7. 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.
8. No wetlands shall be included within any lot lines.
9. Amenities, including a clubhouse and swimming pool, shall be constructed and open to use by residents of the development within 2 years of the issuance of the first residential building permit.
10. The Restrictive Covenants governing the project must include the Agricultural Use Protection Notice and the Wetlands Notice.
11. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
12. A school bus shelter with parking for at least 4 vehicles shall be established at the entrance to the project.
13. On the lots adjacent to land used for agricultural purposes there shall be a deed-restricted 10 foot "no-cut" zone requiring all existing trees and vegetation to remain undisturbed.
14. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant preliminary approval of Subdivision #2005-42 for the reasons and with the conditions stated. Motion carried 5 – 0.

PUBLIC HEARINGS

**C/U #1654** – application of **BETHANY SHORT PROPERTIES, L.L.C.** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures designed as single-family detached condominiums to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 20.0836 acres, more or less, lying west of Route One, 3,500 feet north of Route 360.

Mr. Wheatley announced that this application was withdrawn on May 24, 2006.

Minutes  
June 8, 2006  
Page 9

**Subdivision #2005-43** – application of **BOBBY R. AND DIANE J. JONES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 13.39 acres into 6 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located northwest of Road 611, 0.27 mile south of Route 16.

Mr. Lank advised the Commission that this application was reviewed by the Technical Advisory Committee on October 19, 2005 and that the Technical Advisory Committee meeting report is a part of the record for this application.

Mr. Lank advised the Commission that DelDOT has approved the entrance location.

The Commission found that Bobby R. Jones was present and stated in his presentation and in response to questions raised by the Commission that one (1) right-of-way is proposed to serve both his lots and the lots of Diane J. Jones; that a driveway exists at this location; that a cul-de-sac will be created at the end of the street on lands of Diane J. Jones; that the ditch along the southerly property line will encroach approximately 10-feet into the right-of-way; that he lives on 2.95 acres in front of the proposed lots 1 – 4 on his property; and that improvements placed or built on the lots will be a double-wide on a foundation or better.

Mr. Lank advised the Commission that 30-foot agricultural buffers will be required along the southwesterly and northeasterly property lines and that no septic feasibility was found in the file.

Mr. Kautz encouraged water recharge.

Mr. Robertson advised Mr. Jones that restrictive covenants are needed and that the Agricultural Protection Notice shall be required to be included in the restrictions.

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. Johnson and carried unanimously to defer action for a septic feasibility. Motion carried 5 – 0.

Minutes  
June 8, 2006  
Page 10

**Subdivision #2005-44** – application of **PAF, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 25.27 acres into 7 lots, located at the northeast corner of the intersection of Road 329 and Road 469.

Mr. Lank advised the Commission that this application was not required to go through the Technical Advisory Committee since it is a minor subdivision.

The Commission found that Paul Kruger was present with Dean Campbell, Attorney, and Steve Cooper, Realtor, and that they stated in their presentations and in response to questions raised by the Commission that this is the final subdivision of the property; that six (6) lots already exists; that they have not yet received DelDOT's comments; that they anticipate that DelDOT will require shared entrances; that no homeowners' association is proposed; that the restrictive covenants will be the same as the restrictions for Lots 1 – 6; that each lot will have either a LPP septic or a sand mound, and will be subject to the DNREC; that each lot will have a private well; that the Sussex Conservation District has voiced no objections; that each lot complies with the County lot size minimums; that there should be no adverse impact on the neighborhood or community; that there are no wetlands on the property; that the lots may be irregular shaped, but do meet the required frontage; that the square footage of the dwellings shall be a part of the deed restrictions; and that they have no objections to a restriction that the lots cannot be subdivided.

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. Gordy, seconded by Mr. Smith and carried unanimously to defer action pending receipt of septic feasibility from DNREC and entrance location approval from DelDOT. Motion carried 5 – 0.

**Subdivision #2005-45** – application of **HFK, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 32.15 acres into 4 lots, located at the southeast corner of the intersection of Road 329 and Road 469.

Mr. Lank advised the Commission that this application was not required to go through the Technical Advisory Committee since it is a minor subdivision.

Minutes  
June 8, 2006  
Page 11

The Commission found that Paul Kruger was present with Dean Campbell, Attorney, and Steve Cooper, Realtor, and that they stated in their presentations and in response to questions raised by the Commission that this is the final subdivision of this portion of the property; that seven (7) lots already exists; that they have not yet received DelDOT's comments; that they anticipate that DelDOT will require shared entrances; that no homeowners' association is proposed; that the restrictive covenants will be the same as the restrictions for Lots 1 – 7; that they do not yet have a septic feasibility from DNREC; that each lot will have a private well; that the Sussex Conservation District has voiced no objections; that each lot complies with the County lot size minimums; that a tax ditch exists between Lots 10 and 11; that there should be no adverse impact on the neighborhood or community; that the wetlands have been delineated and that a small area of wetlands exists on Lot 11; that the Applicant can preserve as many trees as possible since they anticipate that only the areas for driveway, septic and the dwelling yard will be disturbed; that all dwellings will be stick-built and that the square footage of the dwellings shall be a part of the deed restrictions.

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. Gordy, seconded by Mr. Smith and carried unanimously to defer action pending receipt of septic feasibility from DNREC and entrance location approval from DelDOT. Motion carried 5 – 0.

**Subdivision #2005-46** – application of **BILL LINK AND ELMO SINGER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 16.25 acres into 15 lots, located northwest of Burton Street, 0.46 mile north of Road 535.

Mr. Lank advised the Commission that this application was reviewed by the Technical Advisory Committee on November 23, 2005 and that the Technical Advisory Committee meeting report is a part of the record for this application.

The Commission found that John Murray of Kercher Engineering, Inc. was present on behalf of the developer and that he stated in his presentation and in response to questions raised by the Commission that revised plans were submitted 4 or 5 months ago and that the revised plans are in response to concerns raised by the Technical Advisory Committee.

Mr. Lank advised the Commission that he has not seen any revised plans; that there are not any revised plans in the file; and that Miller-Lewis prepared the original plans.

Minutes

June 8, 2006

Page 12

Mr. Wheatley stated that since Mr. Murray is exhibiting the revised plan on an exhibit board and since the revised plan is addressing concerns raised by the Technical Advisory Committee the Commission can continue with the public hearing.

Mr. Murray continued by stating that they propose to divide 16.25 acres into 15 lots; that each lot will be improved with an individual well and an individual septic system; that access to the site is via Burton Street within Indian Village Subdivision; that Burton Street is a public street maintained by DelDOT; that according to DelDOT the cul-de-sac can be converted into a T-turnaround; that DelDOT is going to require the developer to overlay the public streets in Indian Village Subdivision with 2-inches of hot-mix; that the streets in this proposed subdivision are intended to be private streets; that DelDOT has advised them that the Department will not accept maintenance of the streets in this proposed subdivision; that the soils on site are suitable for water recharge into the existing groundwater; that the developer has received approvals from 51% of the homeowners in Indian Village to allow for this proposed subdivision expansion; that a homeowners' association will be established and will be responsible for maintenance of the streets, stormwater facilities and buffers within this project; that there are 45 lots within Indian Village Subdivision; that stick-built homes are proposed with a minimum square footage of 1,500 square feet for one-story homes and 1,800 square feet for two-story homes; that DNREC has not yet issued a septic feasibility for the project; that the Agriculture Protection Notice has been noted on the revised plans; that the site is approximately ½ mile from Road 535 (Middleford Road); that all of DelDOT requirements will be built by the developer; that wetlands have been delineated and that no wetlands will be included in any lot areas; that the soils are suitable for infiltration basins for stormwater management; that the buffers have been revised; that the ditch adjacent to the site has a name, but it has not been verified if it is a tax ditch; that the wooded buffer to the north will remain and that access to the wooded buffer can be provided.

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. Gordy, seconded by Mr. Smith and carried unanimously to defer action pending receipt of septic feasibility from DNREC. Motion carried 5 – 0.

**Subdivision #2005-47** – application of **DARRYL HUDSON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 11.30 acres into 2 lots, located at the end of Kawan Drive, east of Route 30.

Minutes  
June 8, 2006  
Page 13

Mr. Lank advised the Commission that this application was not required to go through the Technical Advisory Committee since it is a minor subdivision creating one lot.

The Commission found that Darryl Hudson was present and stated in his presentation and in response to questions raised by the Commission that he wants to create a lot for his daughter; that he has received approval from at least 51% of the landowners in Kawan Acres Subdivision to allow for the subdivision of his lot; that all lots within Kawan Acres Subdivision have gravity septic systems; that he has not yet received a septic feasibility for the lot; and that a stick built home is proposed.

Mr. Lank advised the Commission that a minimum lot width of 100-feet is required; that the proposed lot and Mr. Hudson remaining lands only have 85.71 feet of lot width; and that if the Commission is favorable in granting this subdivision it should only be conceptual since it will be necessary that the Applicant acquire a variance for the lot width.

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

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant conceptual approval only. It will be necessary that the Applicant obtain approval from the Board of Adjustment for a variance in lot width. It will also be necessary that the Applicant provide proof of septic feasibility for the lot from DNREC. Motion carried 5 – 0.

**Subdivision #2005-48** – application of **ZOAR ESTATES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 83.85 acres into 78 lots, (Cluster Development), located at the northeast corner of the intersection of Route 48 and Route 30.

Mr. Lank advised the Commission that this application was reviewed by the Technical Advisory Committee on November 23, 2005 and that the Technical Advisory Committee meeting report is a part of the record for this application.

The Commission found that Heidi Balliet, Attorney, was present on behalf of the applicants and stated in her presentation and in response to questions raised by the Commission that the site is located in a Low Density area according to the Comprehensive Plan Update; that the site was previously approved for a standard subdivision containing 78 – 0.75 acre lots; that they are proposing a cluster development containing 78 – 0.50 acre lots; that they conform to the criteria for cluster developments; that they meet all criteria established by Section 99-9C; that 31% of the site is open space and forested buffers; that there are no wetlands; that they are not located in a flood plain; that natural areas are protected by the reduction of lot sizes; that 25.67 acres of open

Minutes

June 8, 2006

Page 14

space has been set aside; that screening will be provided by the 30-foot buffers; that on-site wells will conform to DNREC requirements; that stormwater management facilities will comply with all State and County regulations and will improve water quality; that the project will contain 4 cul-de-sac streets; that sidewalks will be provided on one side of all streets; that street lighting shall be provided; that a recreational area abuts the open space; that no impact is anticipated on the neighborhood or community; that there is not any active farmland on site; that there should be no negative impact on schools or public facilities; that DelDOT did not offer any negative comments; that the cluster subdivision design is superior to the original approved standard subdivision design since they will be maintaining natural areas and woodlands by creation of the 31% of open space; that they may have some walking trails and a play area in the recreational area; that they have no plans of building a clubhouse; that they hope that the residents will walk within the community; that they have no objections to a requirement for a bus shelter; and that the stormwater management area is proposed to contain 5.26 acres.

The Commission found that John Barwick of Meridian Architects and Engineers advised the Commission that the Applicants have approval of a standard subdivision and propose a cluster subdivision, that they submitted their proposal to the PLUS process; and that they were advised that since the application had no significant changes it would not be required to be reviewed through the PLUS process.

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

The Commission found that Allen Anderson was present and questioned what type of septic systems were proposed; questioned if a deceleration lane was going to be required; questioned the capacity of the stormwater management pond and how deep the pond would be; and questioned where the pond would discharge.

Mr. Barwick advised the Commission that there would be some LPP septic systems and some gravity systems; that sidewalks will be located on one side of all streets; that the recreational area is an open field; that they are not planning an walking trails; and that the Applicant has no plans for a bus shelter.

Mr. Lank advised the Commission that the entrance plan does not include a deceleration lane.

Mr. Robertson suggested that the Commission review the conditions of approval for Subdivision #03-26, the original standard subdivision for the site.

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

Minutes  
June 8, 2006  
Page 15

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to defer action for further consideration.

Meeting adjourned at 8:13 p.m.