



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE SPECIAL MEETING OF JULY 6, 2006

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday afternoon, July 6, 2006 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: I.G. Burton, III, Benjamin Gordy, Michael Johnson, Rodney Smith and Robert Wheatley, with Vincent Robertson – Assistant County Attorney, Shane Abbott – Assistant Director, and Richard Kautz – Land Use Planner.

Mr. Abbott advised the Commission that item #6, Fenwick Shoals, under Other Business has been removed from the Agenda.

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

### OLD BUSINESS

CU #1660 - - application of **SYNAGRO-WWT, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for land application of DNREC approved biosolids as fertilizer and as an amendment to Conditional Use Nos. 1373, 1399, and 1498 to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 88.0 acres, more or less, lying southeast of Route 321, south of Route 324 and west of Railroad.

The Commission discussed this application, which has been deferred since June 22, 2006.

Mr. Johnson stated that he would move that the Commission recommend approval of CU #1660, application of SYNAGRO-WWT, Inc., to consider the conditional use of land in an AR-1 Agricultural Residential District for land application of DNREC approved biosolids as an agricultural fertilizer and as an amendment to CU #'s 1373, 1399, and 1498. This recommendation is based upon the record and for the following reasons:

1. Synagro (fka Bio Gro) has run a clean, safe, and environmentally sound operation on this property for approximately 15 years.

2. Synagro's application of biosolids shall be subject to DNREC and other appropriate regulatory approvals.
3. The application of biosolids shall be limited to biosolids from the Vlassic Foods (aka Pinnacle Foods) site in Millsboro as well as the Towns of Harrington, Laurel, Georgetown, and Selbyville, along with Mountaire.
4. There shall be no stockpiling of biosolids materials on the site.
5. Under the existing Conditional Use, the County must review and approve the continuation of the Conditional Use every five years. Since this process is regulated by DNREC, it is also my recommendation to the County Council that

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the Conditional Use be amended to state that it shall remain in effect for as long as a valid DNREC permit exists for the application of biosolids and shall automatically terminate in the event that the DNREC permit lapses, is terminated or expires.

6. Application of biosolids shall be limited to the hours of 6:00 a.m. to 9:00 p.m., Monday through Saturday.

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

CU #1661 - - application of **SYNAGRO-WWT, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for land application of DNREC approved biosolids as fertilizer and as an amendment to Conditional Use Nos. 1372, 1400, and 1499 to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 220 acres, more or less, lying northeast of Route 48, northeast of Railroad, southwest of Route 318, and on both sides of Route 432.

The Commission discussed this application, which has been deferred since June 22, 2006.

Mr. Johnson stated that he would move that the Commission recommend approval of CU #1661, application of Synagro-WWT, Inc. to consider the conditional use of land in an AR-1 Agricultural Residential District for land application of DNREC approved biosolids as an agricultural fertilizer and as an amendment to CU #'s 1372, 1400, and 1499. This recommendation is based upon the record and for the following reasons:

1. Synagro (fka Bio Gro) has run a clean, safe, and environmentally sound operation on this property for approximately 15 years.
2. Synagro's application of biosolids shall be subject to DNREC and other appropriate regulatory approval.
3. The application of biosolids shall be limited to biosolids from the Vlassic Foods (aka Pinnacle Foods) site in Millsboro as well as the Towns of Harrington, Laurel, Georgetown, and Selbyville, along with Mountaire.

4. There shall be no stockpiling of biosolids material on the site.
5. Under the existing Conditional Use, the County must review and approve the continuation of the Conditional Use every five years. Since this process is regulated by DNREC, it is also my recommendation to the County Council that the Conditional Use be amended to state that it shall remain in effect for as long as a valid DNREC permit exists for the application of biosolids and shall automatically terminate in the event that the DNREC permit lapses, is terminated or expires.
6. Application of biosolids shall be limited to the hours of 6:00 a.m. to 9:00 p.m.

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Monday through Saturday.

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

CU #1691 - - application of **PERDUE FARMS AGRIRECYCLE, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an amendment to conditions of approval of Conditional Use No. 1314 for a micro-nutrient plant with related truck entrance and rail spur for the processing and handling of poultry litter to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 228.88 acres, more or less, lying west of U.S. Route 13A and north of Route 485.

The Commission discussed this application, which has been deferred since June 22, 2006.

Mr. Gordy stated that he would move that the Commission recommend approval of Conditional Use #1691 for Perdue Farms Agrirecycle, L.L.C. to allow an amendment to the conditions of approval for prior Conditional Use #1314 for a micro-nutrient plant for the processing and handling of poultry litter based upon the record and for the following reasons:

1. This is an existing Conditional Use that was approved by the County Council in 1999. This application will not materially change the use that is permitted upon the property.
2. The Applicant is requesting reasonable changes to the existing Conditional Use Permit to meet its' needs for the recycling of poultry manure and marketing of the palletized micro-nutrients.
3. The use has proven to be a benefit for the family farm and agricultural industry in Sussex County. It has also proven to be a good way to eliminate a potential source of excess nitrates and phosphates from Sussex County soils.
4. The Applicant has requested the deletion of the 4<sup>th</sup> condition of its' Conditional Use to allow the movement and drop-off and pick-up of rail cars within the site at

any time. I agree with this request and recommend that the 4<sup>th</sup> condition be deleted.

5. The Applicant has requested that the 7<sup>th</sup> condition be deleted to allow truck travel to the site at any time. I agree that this is reasonable and recommend that the 7<sup>th</sup> condition be deleted. By allowing truck travel to the site at any time, the plant can be operated more efficiently and fuel costs will be reduced.
6. The Applicant has requested an amendment to the 9<sup>th</sup> condition to allow outside storage in watertight containers. I believe this is reasonable and the material will be stored in a neat and orderly fashion if it is inside watertight containers. This will also allow the plant to operate more efficiently. I recommend that condition

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number 9 be modified to state “all activities involving raw litter shall be inside of the building. The loading, unloading and processing of raw material/litter shall be within the negative air section of the building. Storage of finished product, both pellets and granulated, may be stored outside in watertight containers. The loading of the finished product onto transport vehicles shall be under the roof.”

7. The Applicant has requested that the 18<sup>th</sup> condition be amended to allow Sunday operations on an emergency basis. I believe this is a reasonable request. I also believe that there is confusion as to what the word “operate” means. I recommend that condition 18 should be amended to state that “the facility shall not be operated to convert poultry waste into micro-nutrient on Sundays, unless an emergency basis exists. The Applicant shall notify the Office of Planning and Zoning if it believes that a sufficient emergency exists to require Sunday operation and shall provide the Office of Planning and Zoning with it’s basis for the request. The Office of Planning and Zoning may, in appropriate circumstances, authorize Sunday operation after finding that a valid emergency exists.”
8. I believe that the Applicant has operated the facility very well during the past five years. Even with these recommended amendments to the existing conditional use, I believe that the noise, odor, or other effects of the operations are no different than other agricultural uses that exists all over Sussex County.

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

CZ #1598 - - application of **ELTON RAY BEAUCHAMP** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a LI-2 Light Industrial District for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, land lying west of U.S. Route 13, 0.10 mile south of Road 454A, to be located on 31.2267 acres, more or less.

The Commission discussed this application, which has been deferred since June 22, 2006.

Mr. Gordy stated that he would move that the Commission recommend approval of CZ #1598 for Elton Ray Beauchamp for a Change of Zone from AR-1 Agricultural Residential to LI-2 Light Industrial, based upon the record and for the following reasons:

1. The purpose of the LI-2 Light Industrial District is to provide for light manufacturing, fabricating, processing and warehousing. It should be located along major thoroughfares or railroads. This application is consistent with those purposes.

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2. The property is appropriately located for LI-2 use, since it is situated upon U.S. Route 13. DelDOT has looked favorably upon a right in/right out entrance on Route 13.
3. The Town of Delmar has stated that this parcel is located within the Town's five-year growth area and annexation is anticipated within that time frame. The Town has not objected to the Change of Zone.
4. The property is in relatively close proximity to the Town of Delmar and will provide employment opportunities for residents of the County and Town.
5. There are several other business, commercial and industrial uses in the area and this Change of Zone is not inconsistent with the area.
6. The LI-2 zoning and the proposed uses for the property will not adversely affect any neighboring or adjacent properties or residents.

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

Subdivision #2005 – 30 - - application of **SALVATORE CANGIANO** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 81.05 acres into 60 lots, located west of Road 258, 1,250 feet northwest of Road 264.

Mr. Abbott advised the Commission that this application for a 60-lot standard subdivision was deferred on April 6, 2006 pending receipt of P.L.U.S. comments from the State and a septic feasibility statement from DNREC; that the septic feasibility statement indicates that the site is suitable for individual on-site septic systems; and that the P.L.U.S. comments and the applicant's response was mailed to each Commission member.

Mr. Burton stated that he would move that the Commission grant preliminary approval for Subdivision #2005 – 30 for Salvatore Cangiano based upon the record and for the following reasons:

1. The subdivision is in compliance with the Sussex County Comprehensive Land Use Plan and the Subdivision Code. In particular, the applicant has also addressed all of the items set forth on Section 99-9C of the Subdivision Code.
2. The average lot size is 0.84-acres and the density is within the permitted density of the AR-1 zoning.
3. The subdivision promotes the orderly growth of Sussex County.
4. The subdivision will be served by central water and on-site septic will be provided.
5. The subdivision will include amenities such as a gazebo, beaches, basketball and multi-purpose courts and a tot lot. The project will also contain 28% open space,

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with 29 acres of trees being preserved.

6. The subdivision will be a restricted residential development that will not be adversely affect nearby uses or property values.
7. This preliminary approval is subject to the following conditions:
  - a. There shall be no more than 60 lots within the subdivision.
  - b. The applicant shall prepare and record restrictive covenants governing the development and form a homeowners' association to be responsible for the perpetual maintenance of streets, roads, storm water management facilities, erosion and sedimentation control facilities and other common areas.
  - c. The storm water management system shall meet or exceed the requirements of the State and County.
  - d. All entrances shall comply with all of DelDOT's requirements.
  - e. There shall be no wetlands within any lot lines.
  - f. Street naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
  - g. The final site plan shall be subject to the review and approval of the Planning and Zoning Commission.
  - h. There is an existing graveyard within the project. Adequate parking must be provided and the graveyard must be maintained by the homeowners' association. This maintenance obligation shall be referenced in the restrictive covenants to the project and set forth on the final site plan.
  - i. There shall be parking provided for the open space and active amenities of at least 8 parking spaces.
  - j. As stated by the developer, 29 acres of trees shall be provided. These areas shall be set forth on the final site plan and referenced in the restrictive covenants to designate the specific no cut zone for trees. There shall be a 50-foot buffer from any wetlands, as described by the applicant during the public hearing.
  - k. Lots 43, 44 and 45 must have a vegetative buffer and be shown on the final site plan.

- l. There shall be a school bus stop included within the site, with parking spaces for 6 vehicles.
- m. A system of street lighting throughout the project shall be shown on the final site plan.
- n. Sidewalks shall be included on at least one side of all streets.

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

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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 miles north of Road 535.

Mr. Abbott advised the Commission that this application for a standard 15-lot subdivision was deferred on June 8, 2006 pending receipt of a septic feasibility statement from DNREC; that the septic feasibility statement indicates that the site is suitable for individual on-site septic systems; and that the engineer has submitted a revised plan that references the wetlands on the site, moves the cul-de-sac inward, and relocates the storm water management systems.

Mr. Abbott advised the Commission that there are wetlands located in the storm water management area and on lots 12 and 13.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

#### OTHER BUSINESS

Pepper Creek MR/RPC  
CZ #1479 Final Record Plan – Road 336

Mr. Abbott advised the Commission that this is the final record plan for a 282-lot single-family residential planned community; that preliminary approval was granted on January 28, 2003; that the final record plan is the same as the preliminary plan, complies with the requirements of the subdivision and zoning codes, and the conditions of approval; and that all agency approvals have been received by the staff.

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

Bayview Landing HR/RPC  
CZ #1466 Revised Site Plan – Route 54

Mr. Abbott advised the Commission that this is a revised site plan to relocate 52 parking spaces within the development; that 48 parking spaces are being relocated due to the fact the 48 spaces are being converted to single driveways for the interior units; that the outer units will continue to have the double width driveways; that the homeowners' association is requesting this revision to reduce the amount of impervious area in front of the condo units and to allow for landscaping; and that 288 parking spaces are still provided.

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

Americana Bayside MR/RPC  
Preliminary Site Plan Phase 14 – Route 54

Mr. Abbott advised the Commission that this is a preliminary site plan for 109 multi-family units; that there are 61 townhouse units within 10 buildings and 48 units within 4, 12-plex buildings proposed; that the preliminary site plan is the same as the approved master plan; that the setbacks meet the requirements of the approved master plan; and that if the Commission grants preliminary approval, final approval shall be subject to the staff receiving all agency approvals.

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

Canal Place  
CU #1612 Site Plan – Road 357

Mr. Abbott advised the Commission that this is a site plan for 87 single-family detached units on 14.60 acres; that the conditional use was approved by the County Council on November 8, 2005; that the proposed units are clustered together with the maximum number of units in a cluster being 5; that the maximum length of each cluster is 165 feet; the distance between the units is 6 feet and that there is a minimum 40 foot separation distance between clusters; that each unit has an attached 2 car garage; that the County will provide central sewer and Sussex Shores Water Company will provide central water; that the 12 conditions of approval and the approved ordinance are referenced on the site plan; that the site plan complies with the conditions of approval; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.



Rich Polk advised the Commission that each unit has 4 parking spaces including an attached 2 car garage; and that the condominium documents will prohibit the owners from closing off the garages and making them into living areas.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the site plan as a preliminary with the stipulations that final approval shall be subject to the staff receiving all agency approvals and it be noted on the final site plan that the garages cannot be converted into living space. Motion carried 5 – 0.

North Beach Community  
CU #1507 Revised Site Plan – Road 360

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Mr. Abbott advised the Commission that this is a revised site plan to allow for a wooden walkway along the back and sides of the approved multi-family units; that the walkway extends into the 404 wetlands; that the conditions of approval do not prohibit any impacts to the wetlands; that the walkway is not considered as fill; and that the applicant's soil scientist has written a letter detailing the type of work proposed and how the Corps of Engineers regulates this type of use.

Lincoln Davis of Beezer Homes advised the Commission that the walkway will be an elevated boardwalk; that there are 4 entry points to the walkway; that the walkway will not cause any negative impacts to the wetlands; that there will be a 6-inch rail at the base of the walkway; that there will also be benches on the walkway; and that there are no plans to light the walkway.

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

Fenwick Shoals  
Commercial Site Plan – Route 26

This item was removed from the agenda on July 6, 2006 at the request of the engineer of the project.

Rehoboth Beach Volunteer Fire Company  
Revised Site Plan – Route One

Mr. Abbott advised the Commission that this is a revised site plan for a 2-story, 10,000 square foot building to house fire fighting equipment, a bunk area, a kitchen and office space located on 1.44 acres; that the site is zoned C-1; that there is currently a 5,244 square foot fire department on the site that will be razed; that 30 parking spaces are proposed; that 12 spaces are located within the front yard setback and are subject to site plan review; that the parking will be utilized by the firemen and employees; that the

building setbacks meet the minimum requirements of the zoning code; that Sussex County will provide central sewer to the site and that the City of Rehoboth Beach will provide central water; that there will not be any public functions or meetings at the site; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals and to approve a waiver for the parking to be located within the front yard setback. Motion carried 5 – 0.

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Tanger Midway  
Revised Site Plan – Delaware Route One

Mr. Abbott advised the Commission that this is a preliminary site plan for a 1-story, 5,871 square foot restaurant located on 17.60 acres; that the site is zoned C-1; that DelDOT has issued a letter of no objection for the entrance and advised that the existing entrance will not require any improvements; that the site is a pad site located within an existing shopping center; that the building setbacks meet the requirements of the zoning code; that 987 parking spaces are provided for the entire site; that the Board of Adjustment granted a variance for the reduction of the parking requirements; that 60 spaces are located within the front yard setback and are subject to site plan review; that there is already existing parking located within the front yard setback for this site and other sites in the immediate area; that Sussex County will provide central sewer and that the Tidewater Utilities will provide central water; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Doug Warner; Engineer with ECI, advised the Commission that the site is currently utilized as storm water management ponds; that the ponds will be covered and the storm water management will be blow the site; and that the project will not create any additional run-off.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals and to grant a waiver for the parking to be located within the front yard setback. Motion carried 5 – 0.

Boardwalk Builders  
Commercial Site Plan – Martin Street

Mr. Abbott advised the Commission that this a preliminary site plan for the conversion of an existing 2-story, 5,282 square foot building into office space and a warehouse; that the

structure meets the setbacks for a commercial district prior to the ordinance being amended to require a 60-foot front yard setback; that the site is zoned C-1; that 6 parking spaces are proposed and are located within the front yard setback and is subject to site plan review; that Sussex County provides central sewer to the site and the City of Rehoboth provides central water; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

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

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Bridgeville Mini Storage  
Commercial Site Plan – U.S. Route 13

Mr. Abbott advised the Commission that this is a preliminary site plan for a 74,888 square foot mini storage facility located on 8.82 acres; that the site is zoned C-1; that there are 9, 7,620 square foot buildings and 1, 6,308 square foot building proposed; that the site is fenced and gated; that the setbacks meet the requirements of the zoning code; that the final site plan needs to comply with the Highway Corridor Overlay Zone; that only preliminary or conceptual approval should be considered; and final approval will be subject to the review and approval of the Commission upon receipt of all agency approvals.

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

Beaver Creek Subdivision  
Recreational Area Site Plan – Route 9

Mr. Abbott advised the Commission that this is the recreational amenity site plan for this subdivision; that a 4,418 square foot clubhouse, a 1,348 square foot locker room, showers and office space, a 1,000 square foot swimming pool, a 256 square foot pool and a 2,500 square foot basketball court located on 1.43 acres; that the setbacks meet the requirements of the zoning code; that 38 parking spaces are required and that 44 are provided; that 14 spaces are located within the front yard setback and are subject to site plan review; that central sewer and water is provided by Artesian Water Company; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the

staff receiving all agency approvals and to grant a waiver for the parking to be located within the front yard setback. Motion carried 5 – 0.

Subdivision #2004 – 42 – Colby Cox, Integrity Homes II, L.L.C.  
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension in order to obtain final approval; that the Commission granted preliminary approval for a 360-lot cluster subdivision on February 17, 2005; that this is the first request for an extension and that if the extension is granted, it should be retroactive to the anniversary date of approval.

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Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to grant a one-year time extension retroactive to the anniversary date of approval. Motion carried 5 – 0.

Subdivision #2004 – 29 – Harley W. Tull and Jerry C. Dukes  
Time Extension

Mr. Abbott advised the Commission that this is a request for a one year time extension in order to obtain final record plan approval; that the Commission granted preliminary approval for this standard 86-lot subdivision on August 11, 2005; and that this is the first request for a time extension.

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

Subdivision #2005 – 34 – Pot-Nets Lakeside, L.L.C.  
Reconsideration of Condition of Approval #7

Mr. Abbott advised the Commission that this application received preliminary approval on May 31, 2006 with 10 conditions; that condition #7 requires multi-modal paved pathways on at least one side of all streets and the connector road to Bay Farm Road; and that the owners are requesting that this condition be deleted.

Robert Robinson; Attorney representing the applicants, advised the Commission that the developers would like this condition removed since no other developments in the area are required to do this and that this is an extension to an existing development that does not have this requirement.

Mr. Johnson stated that this development is different than the manufactured home park; that without the paths, travel will be hazardous in the development; and that he has safety concerns for pedestrians in the development.

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

Vincent Overlook MR/RPC  
Landscape Features – Route 88

Mr. Abbott advised the Commission that this is a request to permit ornamental features in this development that exceed the height requirements of the zoning code; that the proposed fence in front of the site would be 6-feet, 6-inches in height; that the zoning code permits the height to be 3-feet, 6-inches; that the architect feels that this can be considered under the design ingenuity clause of the residential planned community

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section of the ordinance; and that this request is similar to the one granted to Americana Bayside recently.

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

Peninsula Square  
Parcel and a 60' Easement – Route 24

Mr. Abbott advised the Commission that this is a request to create a parcel with access from a 60-foot easement; that the proposed parcel will contain 65.82 acres; that the easement will be created over a 30.0-acre parcel; that the two parcels will be combined into one at a later date; and that at this time, only the 30.0-acre parcel is being bought and would make the 65.82 acre parcel landlocked without the easement.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the parcel and the easement. Motion carried 5 – 0.

L. Edward Jestice, Jr. and Robin L.  
Parcel and a 50' Right of Way – Road 449A

Mr. Abbott advised the Commission that this is a request to create a 50-foot right of way to serve as access for a proposed 4.0-acre parcel; and that the owners are proposing to create the right of way over an existing farm road.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the parcel and right of way. Motion carried 5 – 0.

Chip Larson  
Lot and a 50' Right of Way – Route 9

Mr. Abbott advised the Commission that this is a request to create a 50-foot right of way to serve as access for a proposed 1.0-acre lot; and that the owners proposed to create the right of way over an existing gravel driveway.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the lot and right of way. Motion carried 5 – 0.

Michael Herholdt  
Parcel and a 50' Easement – McCauley Street Extended

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Mr. Abbott advised the Commission that this is a request to create a 50-foot easement to serve as access to a 12.07-acre parcel; that the owner proposes to create the easement over an existing driveway; that a shed will have to be relocated; and questioned if the dwelling needs to meet the 30-foot front yard setback requirement since only an easement is being proposed.

Mr. Robertson stated that there has been some issues raised whether an easement requires a setback and would like to review this further.

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

Dagsboro Tank Farm  
Lot and a 40' Easement – Route 26

Mr. Abbott advised the Commission that this is a request to create a 0.68-acre lot with access from a 40-foot easement; that the owners are proposing to separate the existing tank farm from a mini-storage facility; and that if this approved, it should be stipulated that the minimum width of the easement be 50 feet.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve this request with the stipulation that the minimum width of the easement be at least 50 feet. Motion carried 5 – 0.

Joanne Kandler  
Lot – Washington Street

Mr. Abbott advised the Commission that this is a request to create a 1.50-acre parcel off of Washington Street, which is a public road.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the lot. Motion carried 5 – 0.

Plantation Park Marina Subdivision  
Discussion – Road 363

Mr. Abbott advised the Commission that this subdivision was approved for 23 lots on April 14, 1988; that there is a 2.58-acre parcel that was labeled reserved for future development; that this area was used as a wastewater treatment and disposal facility; that the owners are requesting to convert this area into 7 building lots; that the engineer is questioning if the minimum lot width needs to be 150 feet in width, the necessity for a

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50-foot buffer from the State tidal wetlands, and 51% approval from the current property owners.

Jeff Clark of Land Tech advised the Commission that the plan was approved and recorded on April 14, 1988; that the proposed lots should not have to meet the 50-foot setback from State tidal wetlands since this ordinance did not go into effect until July 19, 1988; that the 7 lots are the same as lots 12 through 23; and questioned if this would be a minor subdivision.

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

Subdivision #2004 – 44 – Fran Gonzon  
Clarification of Condition of Approval #1

Mr. Abbott advised the Commission that when this application was applied for, the proposed number of lots was 205; that at the public hearing, the applicant's representative presented a revised plan that had been reduced to 180 lots; that on October 13, 2005, the Commission granted preliminary approval with conditions; that condition #1 stated that there shall be no more than 205 lots within the subdivision; and that since the plan was presented at 180 lots, should this be the maximum number of lots permitted.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to correct the Minutes of October 13, 2005 to state that the maximum number of lots shall not exceed 180 lots. Motion carried 5 – 0.

## REORGANIZATION

Mr. Wheatley appointed Mr. Abbott as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Abbott opened nominations for Chairman.

Motion by Mr. Gordy, seconded by Mr. Johnson to nominate Mr. Wheatley as Chairman.

Motion by Mr. Gordy, seconded by Mr. Smith that the nominations for Chairman be closed. Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Wheatley as Chairman. 4 Yea and 1 abstaining.

Vote by roll call:

Mr. Burton: yea

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Mr. Gordy: yea

Mr. Johnson: yea

Mr. Smith: yea

Mr. Wheatley: abstaining

Mr. Abbott opened nominations for Vice-Chairman.

Motion by Mr. Smith, seconded by Mr. Burton to nominate Mr. Gordy as Vice-Chairman.

Motion by Mr. Johnson, seconded by Mr. Wheatley that the nominations for Vice-Chairman be closed. Nominations for Vice-Chairman were closed.

Motion was adopted to nominate Mr. Gordy as Vice-Chairman: 4 Yea and 1 abstaining.

Vote by roll call:

Mr. Burton: yea

Mr. Gordy: abstaining

Mr. Johnson: yea

Mr. Smith: yea

Mr. Wheatley: yea

The meeting was turned over to Mr. Wheatley, the re-elected Chairman.

Mr. Wheatley appointed Mr. Lank as Secretary for the Commission.

Mr. Wheatley authorized Mr. Lank; Director, Mr. Abbott; Assistant Director, and Mr. Shockley; Environmental Planner, to sign record plats for recordation on behalf of the Commission.



### ADDITIONAL BUSINESS

It was suggested that there needs to be amendments to the Rules of Procedure of the Planning and Zoning Commission of Sussex County, Delaware that were adopted October 9, 1998 and that the Commission should adopt these each year since they are not listed on the County's website.

Meeting adjourned at 5:15 p.m.