



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF JULY 9, 2009

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 9, 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. Michael Johnson, and Mr. Rodney Smith with Mr. Vincent Robertson – Assistant County Attorney, and Mr. Lawrence Lank – Director.

It was noted that future Planning and Zoning Commissioner Marty Ross was also in attendance. Mr. Ross' term will begin August 1, 2009.

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

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of June 17, 2009 as circulated and the Minutes of June 25, 2009 as amended. Motion carried 3 – 0.

### PUBLIC HEARINGS

**C/Z #1652** – application of **ELENA PADRELL** 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 Lewes and Rehoboth Hundred, Sussex County, land lying southeast of Savannah Road (Route 9), 180 feet southwest of Quaker Road, to be located on 25, 000 square feet, more or less.

The Commission found that on June 25, 2009 the Applicant submitted an Exhibit Booklet which contains a project description, a copy of the application form, a copy of the deed to the property, a copy of the survey showing existing improvements, a portion of the tax map of the area, a copy of the zoning information sheet, a copy of the zoning site location map, a copy of the DelDOT Support Facilities Report, a copy of current County sewer report, and proposed Findings of Fact.

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

The Commission found that the Sussex Conservation District provided comments on June 22, 2009 which referenced that the soils on the site are Ingleside loamy sand; that the developer will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any off-site drainage improvements; and that it may be necessary for some on-site drainage improvements.

The Commission found that the County Engineering Department Utility Planning Division provided comments on June 29, 2009 which reference that the site is located in the West Rehoboth Expansion Area; that the sewer planning study assumption for the parcel is 1.0 EDU reflecting a residential zoned parcel of less than one acre; that the Division opposes this rezoning because of the potential for increased wastewater flow from commercial uses; that the proposed commercial zoning and commercial use is located on residential lands not previously identified for commercial use by the Planning and Zoning Department; that the current System Connection Charge Rate is \$4,336.00 per EDU for the period July 1, 2009 through June 30, 2010; that the location and size of laterals shall be determined by the County Engineer; that the parcel is served with one 6-inch sanitary sewer lateral; that a lateral upgrade, at the property owner's expense could be required; that if the existing structure is to be removed, it must be properly disconnected requiring a disconnect permit with disconnection by a Sussex County licensed plumber and inspection by the County; that conformity to the West Rehoboth Expansion Area Planning Study will be required; and that a concept plan is not required.

The Commission found that a letter in opposition was received from Andrew S. Malinowski, D.D. S., referencing the change of zone and expressing concerns that the Quakertown area has a mixture of personal residences and professional office buildings; that B-1 zoning would allow for a number of various businesses including Laundromats, cigarette outlets, 7-Eleven stores, and other commercial and retail stores, which are not in character with Quakertown; and adding that he would support a Conditional Use.

The Commission found that a letter in opposition was received from Carol M. Short referencing her opposition to the rezoning.

The Commission found that Dr. Elena Padrell was present with Heidi A. Balliet, Attorney from Tunnel & Raysor, P.A. and that they stated in their presentation and in response to questions raised by the Commission that the dwelling is currently a residence for the Applicant, which she has owned since 2003; that she is proposing to convert the dwelling on the property into a doctor's office and that a doctor's office is considered a permitted use in a B-1 Neighborhood Business District; that Dr. Padrell is a licensed Psychiatrist who collaborates with Beebe Hospital as a consultant; that her goal is to open a medical office at the site for which she can utilize as an office for her own use and to grow her practice by adding other doctors to serve the area; that the property is located within a Developing Area according to the Comprehensive Plan Update; that the property is served by County sewer; that a private well exists on the site; that the property lies within an area of Savannah Road that has converted former private residences into medical offices; that the County Site Location Map confirms the many surrounding properties that have been converted to Conditional Uses or rezoned to B-1 uses; that there are approximately 5 Conditional Uses and 2 B-1 uses within 500-feet of the property; that there are also numerous

other properties within the immediate area that have Conditional Uses, B-1 zoning or C-1 zoning; that some of the other uses include medical offices, a bank loan office, a real estate office, law offices, etc.; that DelDOT voiced no objection; that adequate space is available on the site for parking subject to the approval of a site plan; that the area needs additional office space for doctors due to the close proximity to the Beebe Hospital; that the use is compatible to the area; that the Comprehensive Plan references that retail and office uses are appropriate in the Environmentally Sensitive Developing Area; that the proposed change of zone is consistent with the land use and development trends in the area and is in character with the area uses; that the location of the project does not add to or create traffic problems since the proposed use is consistent with the surrounding uses in the general vicinity; that the size of the parcel will not permit a use of the site that would create excessive traffic flow to or from the site; that the granting of the change of zone is appropriate for this property based on the change of area uses to be more B-1 than AR-1; that the change of zone is in accordance with the Comprehensive Plan Update, in that it promotes health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the County; that the approval of this rezoning is for the general convenience and welfare of the inhabitants of the County; that the change of use from a full-time residence to an office should not need additional EDUs; that the rezoning will eliminate the need for repeat applications for Conditional Use; and that some AR-1 uses are no longer appropriate in this area.

The Commission found that Dr. Padrell submitted a copy of a sketch of the existing footprint of the residence which includes floor area calculations and living area breakdowns.

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

The Commission found that Andrew S. Malinowski was present in opposition, not to the use, but to the rezoning to B-1 and expressed concerns about the many other uses that are permitted in the B-1 zoning classification; that he was required to obtain a Conditional Use for his offices across Savannah Road; and that he would not object to a Conditional Use for the doctors' offices.

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

Mr. Johnson stated that he would move that the Commission recommend denial of C/Z #1652 for Elena Padrell to change the zoning from AR-1 to B-1 based on the record and since the property is located in the area of Route 9 (Savannah Road) where other properties have been subject to Conditional Use; that the use would be better suited with a Conditional Use instead of a B-1 zoning, which would allow for greater development of the property than the adjoining properties; that he would recommend to the Sussex County Council and to suggest to the Applicant that she withdraw the application for B-1, and that in so doing, to give the Applicant an expedited review for a Conditional Use on the property.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 3 – 0.

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**C/Z #1653** – application of **DEERFIELD MEADOWS, LLC** to amend the Comprehensive Zoning Map from a GR General Residential District to an AR-1 Agricultural Residential District for a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, land lying south of Route 20, 1,850 feet east of Road 483, to be located on 28.12 acres, more or less.

The Commission found that on June 26, 2009 the Applicants provided an Exhibit Booklet which contains a description of the intent of the Applicants for the development of this property, a copy of the survey/site plan of the property showing the dividing line between the AR-1 and GR zoning of the property, and a copy of the site plan.

Mr. Lank advised the Commission that this site is the subject of a subdivision application scheduled for July 23, 2009.

The Commission found that, based on a letter from DelDOT, that the Department has no objections to the entrance location as proposed on the subdivision of this property.

The Commission found that the State DNREC has issued a non-binding statement of feasibility for the subdivision.

The Commission found that the Sussex Conservation District provided comments on June 22, 2009 which referenced that there are seven (7) soil types on this property; that the developer will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any off-site drainage improvements; and that it may be necessary for some on-site drainage improvements.

The Commission found that the County Engineering Department Utility Planning Division provided comments on June 29, 2009 which reference that the site is located in the Blades Planning Area #2; that individual on-site septic systems are proposed; that the project is not in an area where the County has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Drew Ward was present on behalf of Deerfield Meadows, LLC and stated in his presentation and in response to questions raised by the Commission that he has proposed to change the zone to allow for a proposed cluster subdivision; that the front 13.69 acres of the property is zoned AR-1 and the rear 28.12 acres is zoned GR; that the Code does not provide for a cluster subdivision method in the GR zone; that the cluster design will enable the subdivision to have approximately 1 lot per acre while maintaining over 30% open space, including the entire wooded area to the rear of the parcel; that the cluster concept is vastly superior to a standard lot format; that this application is a down-zoning and reduces the potential number of lots that could be developed; that he is proposing a low density restricted community consisting of moderately priced stick-built or modular homes that local residents can afford; that the anticipated land/home packages will range from \$159,000 to \$179,000; that because of the proposed restrictions the homes will be consistent with the homes currently existing in the

neighborhood; that DNREC has issued a Statement of Feasibility that will allow on-site septic systems; that DelDOT has issued a Letter of No Objection regarding the location of the entrance; that this application will provide homes consistent with those in the area and will not adversely affect the neighborhood or surrounding area; and that when he purchased the property he had assumed that the entire property was zoned AR-1.

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. It was noted that the application is proposed as a down-zoning from GR to AR-1, and that the rezoning will bring the entire parcel into one zoning category.

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1653 for Deerfield Meadows, LLC for a change of zone from GR General Residential to AR-1 Agricultural Residential based upon the record and for the following reasons:

1. The change in zone from GR to AR-1 is essentially a down-zoning that will result in less intensive uses of development of the property in the future.
2. AR-1 zoning is appropriate for the property and will be consistent with other zoning in the area.
3. This change in zone is appropriate since it will create zoning district boundaries that are consistent with property boundaries.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved for the reasons stated. Motion carried 3 – 0.

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James A. Fuqua, Jr., Attorney with Fuqua and Yori, P.A., was present and requested that he be permitted to present Subdivision #2007-39 and Subdivision #2007-40 in one presentation, and acknowledged that he realizes that the Commission will render separate decisions on both applications.

The Chairman asked Mr. Lank to read the descriptions of both applications for the record.

**Subdivision #2007-39** – application of **JESSE FREDERICK CONAWAY AND EVERETT T. CONAWAY** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 105.14 acres into 84 lots, (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located south of Road 78, 150 feet east of Road 490A.

**Subdivision #2007-40** – application of **JESSE FREDERICK CONAWAY AND EVERETT T. CONAWAY** to consider the Subdivision of land in an AR-1 Agricultural Residential District

in Broad Creek Hundred, Sussex County, by dividing 55.06 acres into 40 lots, (Cluster Development), located south of Road 78, 150 feet east of Road 490A.

Mr. Lank advised the Commission that Subdivision #2007-39, proposed to be developed by Jesse Frederick Conaway, was filed on December 14, 2007; that the Technical Advisory Committee members reviewed the project and submitted comments on or before February 28, 2008 and that the Committee comments are a part of the record for this application; that the State agencies reviewed the project through the PLUS process on January 2, 2008; that the Office of State Planning Coordination provided a PLUS report on January 28, 2008; that the Developer responded to the PLUS comments on December 18, 2008; that the Office of State Planning Coordination provided a response to the Developer response on February 23, 2009; that on June 22, 2009 the Developer responded with additional comments to the February 23, 2009 response; that revised site plans were received on June 24, 2009; and that an Exhibit Booklet was received on June 26, 2009. These comments, reports and responses are a part of the record for this application.

The Commission found that the Exhibit Booklet for Subdivision #2007-39, titled "Nathaniel's Landing @ Cherry Walk", contains site data, a historic plat, an aerial map overlaid with the conceptual layout of the subdivision and a color rendering of the subdivision, a septic system feasibility report from DNREC with attachments, references to compliance with Section 99-9C of the Subdivision Code, Environmental Documents, PLUS comments and responses.

Mr. Lank advised the Commission that Subdivision #2007-40, proposed to be developed by Jesse Frederick Conaway and Everett T. Conaway, was filed on December 14, 2007; that the Technical Advisory Committee members reviewed the project and submitted comments on or before February 28, 2008 and that the Committee comments are a part of the record for this application; that the State agencies reviewed the project through the PLUS process on January 2, 2008; that the Office of State Planning Coordination provided a PLUS report on January 28, 2008; that the Developer responded to the PLUS comments on December 18, 2008; that the Office of State Planning Coordination provided a response to the Developer response on February 23, 2009; that on June 22, 2009 the Developer responded with additional comments to the February 23, 2009 response; that revised site plans were received on June 24, 2009; and that an Exhibit Booklet was received on June 26, 2009. These comments, reports and responses are a part of the record for this application.

The Commission found that the Exhibit Booklet for Subdivision #2007-40, titled "Nathaniel's Landing @ Captain's Hill", contains site data, a historic plat, an aerial map overlaid with the conceptual layout of the subdivision and a color rendering of the subdivision, a septic system feasibility report from DNREC with attachments, references to compliance with Section 99-9C of the Subdivision Code, Environmental Documents, PLUS comments and responses.

The Commission found that a letter, dated March 4, 2008, was received from George B. Smith, Attorney, of Smith, O'Donnell Feinberg & Berl, LLP, on behalf of Byard and Phyllis Layton and referencing the applications, stated that they own adjoining lands; that they have no objection to a subdivision; that there is an existing poultry farm on their land; that the poultry farm is posted with bio-hazard signs and propane tanks on the site, all in compliance with the grower's

regulations; and that the letter is presented to put future homeowners on record that a poultry farm does exist on the adjoining property.

Mr. Lank presented revised and corrective references Section 99-9C of the Subdivision Ordinance, received July 6, 2009 from Mr. Fuqua, and stated that Mr. Fuqua requests that the corrective references be a part of the record for Subdivision #2007-39.

The Commission found that Jesse Frederick Conaway was present with James A. Fuqua, Jr., Attorney, and Jerry Friedel, Professional Engineer of Davis, Bowen & Friedel, Inc. and that they stated in their presentations and in response to questions raised by the Commission that both applications are designed using the cluster development option which allows for the minimum lot size to be reduced to one-half acre (21,780 square feet) where soil conditions are suitable as approved by DNREC; that the total number of lots allowed shall not exceed the number of lots that would be permitted under the standard lot option; that the entrance to both subdivisions will be from an existing access road from Route 78 (Woodland Ferry Road); that Everett T. Conaway currently resides on the property; that Subdivision #2007-39 was originally submitted to PLUS as a 105.14 acre tract to be divided into 84 lots; that the plans were modified by deletion of 9 acres in the southwest corner of the property from the development at the request of State agencies; that the 9 acres included one proposed lot, amenities, a former marina proposed for reconstruction, a bird observation station, wetlands and uplands; that Subdivision #2007-39 now proposes to develop 96.3 acres with 83 cluster lots with individual on-site septic systems and individual on-site wells; that the State DNREC has granted a non-binding statement of feasibility that the soils on this site are suitable for septic systems; that a standard subdivision could generate 120 – ¾ acre lots; that 41.9 acres of open space will be established in Subdivision #2007-39; that this site is wooded and that restrictive covenants will limit clearing; that it is the Applicants intent to preserve mature trees; that the entrance at Woodland Ferry Road will be built to DelDOT specifications; that all wetlands have been delineated; that there will be no wetlands on any proposed lots; that a 50-foot minimum buffer is proposed from all State wetlands; that a bus stop area will be provided and that the location will be subject to the approval of the local school district; that recreational amenities include a clubhouse, swimming pool, tennis and multi-purpose courts, a golf putting and chipping practice area and trails; that a homeowners' association will be established; that the purpose of AR-1 zoning allows for low-density single-family residential use; that according to the State Strategies the site is located in an Investment Level 4 area; that according to the Comprehensive Plan Update the site is in a rural low-density area where single-family residential development on septic systems are anticipated; that the site is in character with the surrounding area which has a mix of agricultural and residential uses; that the residential uses include Layton's Riviera, a manufactured home community, the existing single-family subdivisions of South Woodland and Patty Cannon Estates, and the proposed subdivision of Kew Gardens; that Subdivision #2007-40 proposes to develop 55 acres into 40 lots; that the State DNREC has granted a non-binding statement of feasibility that the soils on this site are suitable for septic systems; that this subdivision has frontage along the Nanticoke River; that the majority of the frontage along the river has been improved with rip-rap; that the majority of this site is located in a Conservation Zone according to the Zoning Ordinance; that 31 of the 40 proposed lots contain 1.0 acre minimum since they are located within the Conservation Zone; that a standard subdivision could generate 73 lots, but they are only proposing 40 lots; that 13.8 acres, or 25%, of this site will be open space; that a

river view pavilion, a kayak/canoe launch site, and a bird observation station are proposed; that a family cemetery exist on the site and will be preserved; that the family has owned the property since 1740; that both Exhibit Booklets contain references to compliance with Section 99-9C of the Subdivision Ordinance; that the soils are excellent for septic systems and great for re-charge; that a 50-foot wide minimum buffer is proposed from Patty Cannon Estates; that a minimum of 150-foot wide buffer is proposed from any agricultural lands; that a minimum 40-foot buffer and a 50-foot street right-of-way will separate the Layton farm from any proposed lots; that an Agricultural notice will be incorporated in all deeds to lots; that a minimum of 20% retention of trees will be required on each lot; that there will be no wetland impacts; that wet ponds are proposed with benches and that the wetlands will be designed and maintained with Best Management Practices; that infiltration basins will be created under the street swales for recharge; that the Flood Plain map line may be adjustable through FEMA since most of the property is higher than the anticipated elevation, and since the Flood Zone "A" indicated has an undetermined elevation requirement; that the Flood Zone line may be eligible for a Letter of Map Amendment; that the buffer from the adjoining State lands varies from 50-feet to 350-feet in width; that the Applicants chose to develop the sites with septic systems since the State DNREC referenced that the soils on the sites are feasible for septic systems; that the area has not been identified as an area proposed for future County sewer; that this general area has not been reported to have many septic system problems; that central sewer systems sometimes cause problems, whether discharging by irrigation or outfall into a river; that central sewer may be preferred, but the State DNREC has granted feasibility; that central sewer would create a greater number of lots on the sites; that the systems will be designed and built to State DNREC regulations; that representatives of the Army Corps. of Engineers have visited the site and reviewed the wetlands line; that they have not yet received the Corps. response; and that they have not planned any parking at the kayak/canoe launch area or the cemetery.

The Commission found that Mr. Fuqua submitted proposed Findings of Fact and suggested Conditions of Approval for the Commissions' consideration. The Findings of Fact include references that: the proposed subdivisions meet the purpose of the Subdivision Ordinance in that they protect the orderly growth of the County; that they meet the requirements of the Subdivision Ordinance; that the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed; that the requested density of 83 lots in Subdivision #2007-39 represents a density of 0.86 lots per acre which is less than the density permitted by the existing AR-1 zoning; that the requested density of 40 lots in Subdivision #2007-40 represents a density of 0.72 lots per acre which is also less than the density permitted by the existing AR-1 zoning; that the proposed subdivisions will be restricted residential developments and will not adversely affect nearby uses or property values; that the proposed subdivisions will not adversely impact schools, public buildings and community facilities or area roadways and public transportation; that the State DNREC has indicated that both sites are suitable for individual on-site septic systems; that the proposed subdivision designs incorporate community design standards recommended by the Comprehensive Plan, limit housing types to single family dwellings, provide appropriate buffers and avoid impact on wetland areas, resulting in a total environment and design which is superior to a standard subdivision design; and that the proposed subdivisions are in character with residential developments on nearby or adjacent properties which include South Woodland, Patty Cannon Estates, Layton's Riviera and Kew Gardens. Mr. Fuqua's documents also offered 19 suggested Conditions of Approval for each of the subdivisions.



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

The Commission found that Suzanne Layton was present in opposition and stated that she lives on the river and that the septic and drainfield take up approximately 1/3 of the front yard; that the Applicant appeared in opposition before the Board of Adjustment on a cellular communication tower application and referenced concerns for the natural environment and the historic environment of the area; that she is concerned about Delmarva Fox Squirrel that frequent the area; that there is no need for additional lots in the area; and that she is concerned about traffic at the entrance to the site due to the close proximity to River Road intersection.

The Commission found that Evelyn Parillo was present and expressed concerns about the buffer from Patty Cannon Estates and the impact on wildlife in the area. Mrs. Parillo added that she is not opposed to the project, only concerned, since development brings jobs into the area.

The Commission found that Roy Whitaker was present in opposition and expressed concerns about rain flooding of the area during wet winter years or heavy rainfalls; that his property is now registered as a Certified Tree Farm and is required to be buffered as any other agricultural property; that according to the PLUS responses the State does not support the applications; that the sites are located in a rural low-density area, not a growth area; that he also has traffic concerns; that there are several intersections in the area that need traffic signalization; that he is concerned about the loss of forest lands and the impact on the wildlife in the forested areas and wildlife trails; that the sites are located in remote locations and expressed concerns about response time by fire, police and EMS emergency services; that he is concerned about the lack of central sewer and the number of septic systems and wells; that he is concerned about the impact on agriculture in the area and the impact on ground water recharge; that the site is in the Laurel School District, which is at capacity; that he agrees with the concerns expressed by the State agencies in the PLUS response; that the farmers in the area are concerned; and that the property should remain in its natural state.

The Commission found that Mr. Conaway, Mr. Fuqua and Mr. Friedel responded to some of the concerns and in response to questions raised by the Commission that there are two applications since there are two properties, one being developed by Jesse Frederick Conaway and one by Jesse Frederick Conaway and Everett T. Conaway; that the projects are being developed with septic systems since the State DNREC has granted non-binding statements of feasibility; that the projects would have been submitted with a central sewer system if the State DNREC had so required; that a one-hundred lot subdivision would have required a central sewer per DNREC; that a bus stop area will be provided; that cross easements will be recorded to allow joint use of amenities between the two projects since recreational amenities and common areas use will be shared; that stormwater management areas will be designed and developed as if there was only one project; that all stormwater will be retained on site; and that the ponds may be shown larger than required and are subject to the approval of the Sussex Conservation District.

At the conclusion of the public hearings, the Commission discussed the applications.

There was a consensus of the Commission that there was a lot of information provided that needs to be studied and that a need exist for receipt of another response from PLUS.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to defer action on Subdivision #2007-39 and to leave the record open for receipt of the Office of State Planning Coordination response to the Applicants June 22, 2009 response for 30 days. Motion carried 3 – 0.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to defer action for further consideration on Subdivision #2007-40 and to leave the record open for receipt of the Office of State Planning Coordination response to the Applicants June 22, 2009 response for 30 days. Motion carried 3 – 0.

**Subdivision #2007-41** – application of **GERALD BOURGEOIS, JR.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Northwest Fork Hundred, Sussex County, by dividing 3.62 acres into 2 lots, located west of Road 569, 850 feet north of Road 572.

Mr. Lank advised the Commission that this Subdivision was not processed through the Technical Advisory Committee since it only contains two (2) lots with road frontage along Road 569 (Sand Hill Road) and that the developer has already met the maximum allowable number of minor lots.

The Commission found that Gerald Bourgeois, Jr. was present and stated in his presentation and in response to questions raised by the Commission that he proposes to divide the residual acreage of his property into 2 lots; that 4 lots were previously sold; that the homes will contain at least 1,400 or 1,500 square feet of living space; and that he will acquire an entrance permit approval from DelDOT.

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

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2007-41 for Gerald Bourgeois, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land in zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 2 lots on 3.62 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. This recommendation is subject to the following conditions:
  - a. There shall be no more than 2 lots within this subdivision.

- b. All entrances shall comply with all of DelDOT requirements, and the Applicant shall provide a copy of DelDOT's entrance permit.
- c. Final approval shall be subject to the staff receiving all necessary agency approvals.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant preliminary approval of this subdivision for the reasons stated. Motion carried 3 – 0.

**Subdivision #2008-21** – application of **CHESTER AND DONNA KASER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 7.51 acres into 2 lots, located west of Road 240, 3,400 feet north of Road 238.

Mr. Lank advised the Commission that this Subdivision was not processed through the Technical Advisory Committee since one (1) lot with road frontage along Road 240 is proposed to be created from the residual acreage remaining, and since the original developer had already met the maximum allowable number of minor lots.

The Commission found that Chester Kaser and Adam Kaser were present and that Chester Kaser stated in his presentation and in response to questions raised by the Commission that he owns and lives on the property; that he intends to convey the proposed lot to Adam; that they received approval from DelDOT in 2003 for the entrance; that the site was the original residual lands for the Ryan's Glen Minor Subdivision; that the developer conveyed the maximum number of lots permitted; that the septic system has been designed and approved by DNREC; and that Adam proposed to build a home on the property.

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.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2008-12 for Chester and Donna Kaser, based upon the record and for the following reasons:

- d. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
- e. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 2 lots on 7.51 acres of land is significantly less than the allowable density.
- f. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
- g. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
- h. The proposed subdivision will not adversely affect traffic on area roadways.
- i. Final approval shall be subject to the staff receiving all necessary agency approvals.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant preliminary approval of this subdivision for the reasons stated. Motion carried 3 – 0.

#### REORGANIZATION

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

Mr. Lank opened nominations for Chairman.

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

Motion by Mr. Johnson, seconded by Mr. Smith that the nominations for Chairman be closed.

Motion was adopted to nominate Mr. Wheatley as Chairman with 3 Yea.

Vote for Mr. Wheatley, as Chairman, by roll call:

Mr. Johnson - Yea  
Mr. Smith - Yea  
Mr. Wheatley - Yea

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Johnson, seconded by Mr. Wheatley to nominate Mr. Smith as Vice-Chairman.

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

Motion was adopted to nominate Mr. Smith as Vice-Chairman with 3 Yea.

Vote for Mr. Smith, as Vice-Chairman, by roll call:

Mr. Johnson  
Mr. Smith  
Mr. Wheatley

The meeting was turned over the 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 plots for recordation on behalf of the Commission.

Meeting adjourned at 9:22 p.m.