



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE REGULAR MEETING OF JULY 13, 2006

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 13, 2006 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: I. G. Burton, III, Benjamin Gordy, Michael Johnson, Rodney Smith and Robert Wheatley, 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 revised by removal of Subdivision #2005-6 from Old Business.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of June 22, 2006 as circulated and the Minutes of July 6, 2006 as amended.

### OLD BUSINESS

**Subdivision #2005-6** – S. K. Pepper Creek, L.L.C.  
The Landings at Pepper Creek

Mr. Lank advised the Commission that this application was removed from the agenda on July 12, 2006 since the Department had not received approval from the County Engineering Department.

### PUBLIC HEARINGS

**C/U #1663** – application of **TOE TAPPER, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for professional office space to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.4422 acres, more or less, lying northwest of Route 24, 520 feet southwest of Road 297.

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 Route 24 shall not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that soils on the site are mapped as Evesboro loamy sand which has slight limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

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The Commission found, based on comments received from the County Engineering Department, that the site is not located in a County operated and maintained sanitary sewer and/or water district; that the North Coastal Area Planning Study allocates 4.0 EDUs per acre for AR-1 zoned land which is equivalent to 9.86 EDUs for this site; that approving projects at greater than design assumptions has a negative impact on sewer system capacity; that the Department recommends against exceeding 4.0 EDUs per acre or approving an office of more than 9,760 square feet on the 2.44 acre project area; that capacity will be available for up to 9.76 EDUs; that the County does not have a schedule to provide sewer service at this time; that the project is in the Environmentally Sensitive Developing Area near the Oak Orchard Sanitary Sewer District and that the County is considering service the entire project within the Inland Bays Planning Area for sewer service; that the study shall be completed by September of 2006; that the study will develop options for sewer service and make a recommendation; that the project proposes to develop using an individual on-site septic system; that the Department does not object to the project using an on-site septic, so long as the proposed office does not exceed 9,760 square feet; and that a sewer concept plan must be submitted to the Department for review and approval.

The Commission found that Dr. Roman Orsini was present with Heidi Balliet, Attorney, and Earl Jackson and Robert Boyd of Regional Builders, Inc. and that they stated in their presentations and in response to questions raised by the Commission that the Applicants propose to develop the site with professional offices; that the current intent is medical offices with no retail sales; that they have applied for professional offices so that they are not limited to medical offices in the future; that no retail use is proposed; that minimal impact on Route 24 is anticipated; that the site is adjacent to the recently approved Royal Farm Store site; that DelDOT has advised them that they may require a shared entrance with the Royal Farm Store and that the entrance will be required to be located across from a project entrance across Route 24; that the site is located in an Environmentally Sensitive Developing Area according to the Comprehensive Plan Update; that the use is consistent with the Comprehensive Plan Update and to the uses and zonings in the area; that there should be no negative impact on property values; that they propose to utilize a septic system until public sewer is available; that Artesian Water will provide central water to the site; that the project proposes approximately 22,000 square feet of building space; that the second floor is planned for orthopedic rehabilitation and storage; that the

Applicants have no objections to a restriction to the size of the offices; that stormwater management has been preliminarily shown in the front along Route 24 so that if a pond is required it can be landscaped and a fountain installed; that a dumpster location will be to the rear of the site; and that signage will be the standard size and shall not be lighted; that septic feasibility has not yet been received.

Mr. Kautz suggested to the Applicants representatives that they review the "Better Models for Development in Delaware" manual in designing their project.

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

The Commission found that Ms. Balliet offered proposed findings/conditions which included that the Applicant is requesting a Conditional Use permit in an AR-1 zoned district in order to develop a 2.44 acre parcel of land in order to build professional offices; that the 2002 Sussex County Comprehensive Plan places this property in the Environmentally Sensitive Developing Area; that there has been a long term trend in the immediate area towards other than strictly agricultural and residential uses, such as the adjacent uses by Royal Farms and Twenty Four and Five Business Center; that the land use and development trends in the area allow this land to be an appropriate site for professional offices, since the use will satisfy a community need for medical and business services; that the location of this project does not add to traffic problems, since it will generate traffic compatible with adjacent uses; that the proposed location has access from Route 24 and a proposed shared entrance with Royal Farms, the adjacent property owner, and is also in a section of roadway with good visibility and is not at a crossroads; that this access will not detract from other businesses or homeowners along Route 24; that the proposed location and use will not constitute a safety hazard for nearby businesses or residences nor to traffic on Route 24; that the proposed location and use will not have an adverse affect on surrounding property values, since a number of businesses currently exist and new businesses have been approved by the County, one such business being the Royal Farms immediately adjacent to the proposed site; that the granting of the Conditional Use is in accordance with the 2002 Sussex County Comprehensive Plan and promotes health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and the adoption of the Conditional Use Ordinance is for the general convenience and welfare of the inhabitants of Sussex County; that the Applicant will limit hours of operation to 8:00 a.m. and 8:00 p.m. six days per week; and that the Applicant shall be permitted to install a sign with a thirty-two (32) square foot area on each of the two faces.

The Commission found that Dr. Orsini stated in response to questions from the Commission that approximately 5,000 square feet of the second floor will be utilized for orthopedic rehabilitation and approximately 2,000 square feet will be utilized for storage; and that space would be available for 4 to 5 offices.

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

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

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**C/U #1692** – application of **MILLVILLE VOL. FIRE CO., INC.** to consider the Conditional Use of land in a MR Medium Density Residential District for a fire department substation to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 6.636 acres, more or less, lying north of Road 54 (Omar Road), approximately 610 feet west of Route 26.

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

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as two types of Evesboro loamy sand which have slight limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from the County Engineering Department, that the project is not located in a County operated or maintained sanitary sewer and/or water district; that conformity to the South Coastal Area Planning Study will be required; that the proposed Conditional Use is within the boundaries of the Vines Creek Planning Area; that the County currently has no schedule to provide service to this parcel; that the EDU allocation is based on the current zoning; and that a concept plan is not required.

The Commission found that Graig Temple of the Millville Volunteer Fire Company was present on behalf of the Applicants and stated in his presentation and in response to questions raised by the Commission that the fire company has been located in Millville since 1936; that there is a need for a fire substation to serve the area; that they have a need for future expansion; that they propose to use the site for storage of fire apparatus; that they do not propose any public activities at this facility; that a large number of their membership live in the general area; that the substation will be a benefit to the area; that they will meet all State Fire Marshal criteria for the substation; that the site has electric;

that all truck maintenance is performed off-site; that general cleaning and repair to the equipment will be performed at the existing fire station in Millville; that they may temporarily utilize a porta-toilet on the site; that they have no intent to install a siren at this location, unless it is required by an agency; and that their long range planning committee hopes to expand the facility in the future.

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The Commission found that Michelle Brennan and John Marsett were present in opposition to this application and expressed concerns that the site is adjacent to a church and that the use may impact the church and the adjacent cemetery; that the site is near a major intersection; that the building is already be utilized to store fire apparatus; that the building has no bathroom and no septic; that the intersection is unsafe; that the use is supported, but not the location; that a location along Route 17 would be more appropriate due to the planned growth in that area; that the site has no traffic warning signals; and that they oppose the use of a siren at this location.

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

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1692 for the Millville Volunteer Fire Company based on the record and for the following reasons:

- 1) It promotes the orderly growth of the County.
- 2) The use will be of a public nature providing essential services to the area and the community.
- 3) The site that has been purchased by the Applicants seems to be in a good location to provide them with quick response to the area that the Millville Fire Company serves.

Motion by Mr. Smith, 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.

**C/Z #1599** – application of **JOSEPH B. HICKS AND BARBARA GRISWOLD** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying southeast of Route 54, 330 feet east of Road 389 and north of Road 389, to be located on 1.2828 acres, more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that the Level of Service “C” of Route 54 may change to a

Level of Service “D” if the site is fully developed; and that the Level of Service “A” of Road 389 will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department, that the site is not located in a County operated or maintained sanitary sewer and/or water district; that conformity to the South Coastal Area Planning Study will be required; that the proposed rezoning is located within the boundaries of the West Fenwick Planning Area; that the South Coastal Area Planning Study allocates 4.0 EDUs for AR-1 zoned land which is equivalent to 5.12 EDUs on this site; that approving

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projects at greater than design assumptions has a negative impact on sewer system capacity; that the Department recommends against exceeding 4.0 EDUs per acre or approving an office of more than 5,120 square feet on this 1.28 acre parcel; that capacity has been allocated for up to 5.12 EDUs; that the County does not have a schedule to provide sewer service at this time; that the proposed zoning change proposes to develop using an individual on-site septic system; that the Engineering Department does not object to the project using an on-site septic, so long as the proposed office and retail does not exceed the allocated 5.12 EDUs; that a sewer concept plan must be submitted to the Department for review and approval; and that when the County provides sewer service, it is required that the on-site septic system be abandoned and a direct connection made to the County system at the developers and/or property owners expense.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Evesboro loamy sand which has slight limitations for development; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro soils are considered of Statewide Importance; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found, based on comments received from the Office of State Planning Coordination, that the Applicants were sent a response on a PLUS review on December 19, 2005; that the comments included comments on the State Strategies, Street Design and Transportation, Natural and Cultural Resources, and comments from the Office of State Planning Coordination, the Division of Historic and Cultural Affairs, the Department of Transportation, the Department of Natural Resources and Environmental Control as it relates to soils, impervious cover, ERES waters, TMDLs, Water Resource Protection Areas, Water Supply, Sediment and Erosion Control/Stormwater Management, and Drainage, the State Fire Marshal’s Office as it relates to Fire Protection Water Requirements, Fire Protection Features, Accessibility, Gas Piping and System Information, and Required Notes, the Department of Agriculture, the Public Service Commission, and Sussex County.

The Commission found that Joseph Hicks and Barbara Griswold were present and that Mr. Hicks stated in his presentation and in response to questions raised by the Commission that he is a mental health counselor; that there are presently three (3) counselors using the facility; that he has no plans to change the site; that the business has been in operation for approximately one year; that they originally were going to apply for C-1 General Commercial and chose to apply for B-1 Neighborhood Business instead; that the neighboring property is utilized for a dog grooming facility; that retail and offices uses are in close proximity; that they intend to continue to utilize the dwelling for office space; that the mobile home to the rear of the site was on the site when they purchased

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the site; that the mobile home is a rental; and that he and the other counselors are licensed by the State as "Mental Health Counselors".

The Commission found that the Applicant submitted seven (7) photographs of area businesses and signage in the area.

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 recommend approval of C/Z #1599 for Joseph B. Hicks and Barbara Griswold to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential to B-1 Neighborhood Business based upon the record made at the public hearing and for the following reasons:

- 1) The project is located within the Environmentally Sensitive Developing Area according to the 2002 Comprehensive Plan Update.
- 2) This change in zone will not have an adverse impact on the neighboring properties or community.
- 3) The project is in an area that contains other B-1 and C-1 zoned properties and Conditional Uses. Other uses in the area include a shopping center, storage areas, pet grooming, and office spaces.
- 4) The Applicant has stated that it will meet or exceed all DeIDOT requirements.
- 5) B-1 zoning is appropriate, since the County Zoning Ordinance states that the purpose of such zoning is to provide for retail shopping and personal service activities, and that such uses should serve low density or medium density residential neighborhoods. This proposed change in zone is consistent with the stated purpose of the B-1 zone, and the location along Route 54 is appropriate for such zoning.

Motion by Mr. Smith, 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.

**Subdivision #2005-49** – application of **GULFSTREAM LAND, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 47.26 acres into 90 lots, (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north and south of Road 363, 1,320 feet east of Road 84.

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Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this Subdivision application on November 23, 2005 and that the Minutes of the Technical Advisory Committee meeting are a part of the record for this application.

The Commission found that the Applicants had submitted a revised site plan and an Exhibit Booklet prior to the meeting and that the Booklet contained an executive summary, references to existing conditions, a boundary survey, an overview of existing site conditions, the proposed residential cluster development concept, a development of The Woodlands concept, copy of the Preliminary Land Use Service (PLUS), subdivision considerations per Chapter 99-9C, references to compliance with zoning requirements in the AR-1 District, references to compliance with projects within the Environmentally Sensitive Developing District Overlay Zone, and 28 Figures.

The Commission found that Robert Harris of Gulfstream Land, L.L.C. was present with Robert Robinson, Attorney, and Brian Pinkerton and Kevin Burdette of McCrone, Inc. and that they stated in their presentations and in response to questions raised by the Commission that they are proposing to develop the 47 acre parcel with 90 lots, which is less than 2 units per acre; that central water will be provided by Tidewater Utilities, Inc.; that they hope to have central public sewer from the County; that the Estuary project, an adjoining project, will provide access to allow sewer connection; that the Estuary project was previously approved for 380 lots and is now intended to be expanded and is subject to another public hearing; that 38% of the site will remain in open space; that all wetlands are being protected; that no wetlands are included in any lots; that most of the lots backup to open space; that a pool is proposed; that open space, passive open space, and multi-modal paths are proposed; that they will be interconnected to the Estuary project; that the proposed lots are larger than the minimum of 7,500 square feet allowed in a Cluster Development; that the original site plan was filed over 1 year ago and has since been revised to include the multi-modal paths, DelDOT requirements, street lighting, and two areas of open space (one of the areas can be reserved for a bus shelter); that they plan on selling lot/home packages; and that the site is an in-fill to other projects in the area.

The Commission found that Mr. Pinkerton submitted a packet which included a color rendering of the proposed layout, a rendering of a by-right conceptual layout, a



comparison rendering of both layouts, an aerial marked to show projects that are close to this project, two photographs of community pools and clubhouses recently built by the Applicants, and three photographs of the portions of the site.

The Commission found that the Applicant's representatives continued by stating that the minimum lot size is 8,276 square feet and that the average lot size is 11,325 square feet; that 38% of the site is being preserved and includes the woodlands, wetlands, stormwater management facilities, open space and pool area; that 59% of the existing forest is being preserved; that an existing tax ditch crosses the property; that the project has been

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designed to conform to Chapter 99-9C; that 30-foot wide buffers are proposed along agricultural lands; that planted berms or fencing will be provided in some areas; that the site is not located within a 100-year flood area; that the existing vegetation along the tax ditch will be left undisturbed; that 71% of the lots abut open space; that wooded lots will have selective clearing; that they plan on limiting disturbance of the site at a minimum; that stormwater management areas, drainage areas and water courses will be maintained with Best Management Practices; that the entrances and multi-modal paths are subject to DelDOT determinations; that property values in the area should increase; that there should be minimal impact on traffic; that the by-right concept shows 59 lots with no amenities and 20,000 square foot lots; that the Corps. of Engineers have not confirmed or verified the wetlands determination; that the Corps. of Engineers are not presently issuing verifications due to a recent Federal Court action; that landscape buffers will be provided along Double Bridges Road; that a 16.5 foot wide maintenance easement exists along the tax ditch; that the multi-modal paths are proposed along the interior streets and Double Bridges Road; that they have not proposed any parking near the pool or clubhouse; and that they do not anticipate any traffic issues with lots on both sides of Double Bridges Road.

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

**Subdivision #2005-50** – application of **KGH PROPERTIES 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 80.55 acres into 112 lots, (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Road 290, 770 feet north of Road 292.

Mr. Lank advised the Commission that the Technical Advisory Committee reviewed this Subdivision application on November 23, 2005 and that the Minutes of the Technical Advisory Committee meeting are a part of the record for this application.

The Commission found that the Applicants had submitted a revised site plan and an Exhibit Booklet prior to the meeting and that the Booklet contained references to site data and contacts, site information, water service, sanitary sewer service, stormwater management system, and appendices that included references to a traffic study, a Preliminary Land Use Service (PLUS) comments and responses, compliance with Chapter 99-9C, utility commitment letters, preliminary site plans, a declaration of

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covenants, conditions and restrictions, a preliminary wetland investigation report, an assessment of cultural resources, a Phase I Environmental Assessment Report, and a summary of endangered species and natural heritage assessments.

The Commission found that Betty and Sal Gallo were present with James Fuqua, Attorney, Gary Cuppels of ECI, and Bruce Kroger of Artesian Management and that they stated in their presentations and in response to questions raised by the Commission that they propose to develop the 80.55 acres with 105 clustered lots; that the minimum lot size is 7,500 square feet, an average lot size of 8,500 square feet and some lots containing in excess of 10,000 square feet; that the density equals 1.35 units per acre; that 50 acres of open space are retained which is approximately 60% of the site; that currently the site contains some woodlands and some agricultural lands with poultry houses and a equestrian facility; that the poultry houses will be removed; that the equestrian facility will remain and be expanded with riding trails; that a traffic impact study was prepared and that the project should have a minimal impact on area roads; that there are no historical sites on the site; that there are no environmental concerns relating to the use proposed, but there are some concerns about the nitrate levels around the poultry houses; that there were no impacts on endangered species; that the site is not in a natural heritage area; that a small area of wetlands was found near the small pond on the site; that the wetlands will not be disturbed; that no lots will contain any wetlands; that Artesian Water proposes to supply central water; that central sewer is proposed from a Regional Wastewater Facility proposed by Artesian Management; that all utility companies have provided ability to serve letters; that a homeowners association will be established to maintain the project once completed; that the site plans have been revised per PLUS and Technical Advisory Committee comments; that the project has been reduced from 112 to 105 lots; that recreational facilities will include a clubhouse, pool, tennis and basketball courts, playground, trails and an equestrian facility; that other amenities include street lighting, sidewalks on both sides of the streets, trails, private streets, and a school bus shelter with the location subject to the School District; that they feel that this cluster project is superior to a standard subdivision; that access to the project is via a 50-foot access; that the community will be gated; that the riding trails are designed throughout the project; that the homeowners association will contract for maintenance

and care of the stable facility; that all lots abut open space; that access is being provided to an adjoining landlocked property; that a 150-foot wide Delmarva Power line crosses the site; that the clubhouse and pool facility are centralized; that a minimum of 30-foot wide buffers surround the site; that the application complies with Chapter 99-9C; that a low density residential community should be considered a permitted use in an agricultural/residential area, even though the PLUS comments oppose the application since the site is in a Level 4 area; that they have reviewed the maps of subdivisions approved and pending applications for subdivisions with different agencies and determined that this site is in a developing area; that Artesian Management has a sewer facility in the general area at the Beaver Creek Subdivision; that DNREC granted

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additional capacity in the Beaver Creek Subdivision; that the need and demand for lots in Sussex County is determined by the real estate market; and that the gated access will have a turn-around for people that do not have access to the site.

The Commission found that the Applicants provided a copy of an Exhibit Board showing the site and projects within three miles of the site that have been approved and/or projects that are pending.

The Commission found that Mr. Fuqua provided proposed conditions which included that there shall be no more than 105 lots within the Subdivision; that 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; that the stormwater management system shall meet or exceed the requirements of the State and County and that Best Management Practices shall be used in the maintenance of the system; that all entrances shall comply with all of DelDOT's requirements; that street lighting shall be provided and that the location of the street lights shall be shown on the final site plan; that sidewalks shall be installed on both sides of all streets within the Subdivision; that no wetlands shall be included within any lot lines; that 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; that the restrictive covenants governing the project must include the Agricultural Use Protection Notice and the Wetlands Notice; that road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department; that a school bus shelter with parking for at least 4 vehicles shall be established on the site; that the final site plan shall be subject to the review and approval of the Planning and Zoning Commission; and that the development shall be served by central water and wastewater utility systems operated by an approved public utility company.

Mr. Lank expressed a concern about projects be considered without an approved sewer provider.

Mr. Kautz advised the Applicants that an Open Space Management Plan has not been included with the application.

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

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

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

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**Subdivision #2005-51** – application of **VINCENT ODDO** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 8.70 acres into 3 lots, located west of Road 436, 0.4 mile north of Road 24.

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

The Commission found that Shirley Oddo was present with Robert Lucas and that they stated in their presentations and in response to questions raised by the Commission that they propose to create three (3) lots for estate planning; that they have not received a septic feasibility; that 3.5 acres of the site are wooded; and that they have no immediate plans to develop the site.

Mr. Lank advised Ms. Oddo that if approved the street must be improved to County specification with a minimum of 20-foot width of crusher-run.

Mr. Robertson advised Ms. Oddo that she needs to submit for this review a summary of restrictive covenants.

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

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

**Subdivision #2006-17** – application of **SAW MILL ASSOCIATES, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 73.297 acres into 41 lots, located south of Road 635, 1,508.50 feet northwest of Road 621.

Mr. Lank advised the Commission that this Subdivision application was reviewed by the Technical Advisory Committee on May 14, 2003 and that the Minutes of the Technical Advisory Committee meeting are a part of the record for this application.

The Commission found that Allen Warfel, Harvey Marvel, and Randy Marvel were present with Robert Nash of Charles D. Murphy Associates, Inc. and that Mr. Warfel and Mr. Nash stated in their presentations and in response to questions raised by the Commission that they propose to develop the 67 acres with 41 lots; that the lots vary in size from 0.75 acre to 5.77 acres; that the site is an open field; that they also need a variance from the required length of the cul-de-sac street; that homes are proposed to be

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built with 1,200 to 1,400 square feet minimum of living space; that the lots are designed to serve a need for similar lots to the existing lots in this area; that the design was dictated by the good soils; that agriculture buffers have been provided where necessary; that wetlands will not be included within any lot lines; that street lights will be provided; that there are proposing 60-foot setbacks, rather than sidewalks; that an easement can be provided for a possible bus shelter; that they have received a septic feasibility; that parcel "A" is an out-parcel proposed to be conveyed to a family member and will not be included in this project; and that parcel "A" will be restricted so that it can not be further subdivided.

The Commission found that Mr. Warfel provided Mr. Lank with a copy of the septic feasibility from DNREC.

Mr. Lank advised the Applicants that since the advertisement did not include a reference to a variance for the length of the cul-de-sac they will be required to revise the site plan to create a turn around along the entry road or to go back to public hearing for the variance.

Mr. Kautz advised the Applicants that they need to provide access to the stormwater management area.

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 further consideration. Motion carried 5 – 0.

#### ADDITIONAL BUSINESS

Mr. Lank advised the Commission that the staff has received a large number of site plans that need review.

There was a consensus of the Commission that a Special Meeting be scheduled for August 16, 2006 at 3:00 p.m. in County Council Chambers.

Meeting adjourned at 9:20 p.m.