



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE SPECIAL MEETING OF JULY 18, 2007

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, July 18, 2007 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: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. I. G. Burton III with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as amended by removal of Old Business Item 7 and Item 22 from the agenda. Motion carried 5 – 0.

### OLD BUSINESS

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

Mr. Abbott advised the Commission that this is a preliminary and final record plan for 4 lots; that this application was deferred on June 8, 2006 pending receipt of a septic feasibility statement from DNREC and a Letter of No Objection from DelDOT; that DNREC has approved site evaluations for the 4 lots; that DelDOT has issued a Letter of No Objection for the entrance locations; and that since no improvements are required; preliminary and final approval could be considered.

Mr. Gordy stated that he would move that the Commission grant preliminary and final approval for Subdivision #2005 – 45 for HFK, L.L.C. based upon the record and for the following reasons:

1. The applicant is seeking to divide a parcel consisting of 32.15 acres into 4 lots.
2. The proposed subdivision generally meets the purpose of the Subdivision Ordinance, particularly Section 99-9C of the Ordinance, and it protects the orderly growth of the County.
3. The land is zoned AR-1 which permits low density single-family residential development.

4. The proposed subdivision is generally in character with the existing subdivision. It will be incorporated into the existing 7 lots that were previously created.
5. Septic feasibility for each of the lots has been received from DNREC.

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6. The applicant has advised that the lots will be governed by the same restrictive covenants that currently exist for lots 1 – 7.

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

**Subdivision #2005 – 82** - - application of **JAMES AND MARY BETH PARKER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 32.94 acres into 41 lots (Cluster Development), located west of Route 30, 2,400 feet north of Road 48.

Mr. Abbott advised the Commission that this is the final record plan for a 41-lot cluster subdivision; that the Commission granted preliminary approval for 41 lots on December 21, 2006; that the final record plan complies with the requirements of the subdivision and zoning ordinances and the conditions of the preliminary approval; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this application as a final. Motion carried 5 – 0.

**C/Z #1615** – application of **NORTH MILTON DEVELOPMENT GROUP II** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying north of Route 16, 1,800 feet east of Route 30, to be located on 35.70 acres, more or less.

The Commission discussed this application which has been deferred since January 25, 2007.

Mr. Burton stated, in reference to C/Z #1615, C/Z #1616, C/Z #1617, C/Z #1618, C/U #1724 and C/U #1725, that this project is the biggest project that the Planning and Zoning Commission has ever seen; that because of the size of the development he feels certain there will be ramifications on the Town of Milton and the County; and that it is his belief that this project, although big in size, has met all the County Ordinances, land uses and is also within the Governors Livable Delaware plans.

Mr. Burton stated that he would move that the Commission recommend approval of C/Z 1615 for NORTH MILTON DEVELOPMENT GROUP II to amend the Comprehensive

Zoning Map from AR-1 Agricultural Residential to C-1 General Commercial based upon the record and for the following reasons:

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1. Commercial Zoning is appropriate for this parcel of land in that it is located along Route 16, which is a significant roadway. In addition, the location of the development is convenient to other major roadways such as Route 1 and Route 30. It is also in close proximity to the existing residential and commercial areas in the Town of Milton.
2. The property is in a Developing Area according to the Sussex County Comprehensive Land Use Plan.
3. The change in zone will be in character with the developing nature of the area because it will be part of a larger project which provides a varied blend of alternative housing designs, complimentary commercial neighborhood retail uses, extensive recreational facilities and natural and open space features that will be part of a master planned community.
4. The Developer will be required to comply with all of DelDOT's requirements, including the recommendations set forth in the McCormick and Taylor Traffic Impact Study dated May 31, 2007 as accepted by the State of Delaware Department of Transportation on June 1, 2007. In addition, the Developer must comply with any additional requirements established by DelDOT and any other Federal, State and/or local agencies.
5. The integration of permitted commercial uses into the larger North Milton or Elizabethtown project will reduce the number of vehicle trips required by residents of that project, since the commercial uses, including retail, entertainment, groceries, etc. will all be within walking distance of numerous residential units.
6. The Site Plan for any proposed commercial use of this property must still be reviewed and approved by the Planning and Zoning Commission. The Commission will have an opportunity to carefully review any proposed Site Plan for conformity with the representations made by the Applicant during the hearing and to determine compliance with all applicable zoning ordinances.

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

**C/Z #1616** – application of **NORTH MILTON DEVELOPMENT GROUP II and 1630 VENTURES, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying at the southeast

corner of Route 16 and Route 30, and also south of Route 16, to be located on 56.48 acres, more or less.

The Commission discussed this application which has been deferred since January 25, 2007.

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Mr. Burton stated that he would move that the Commission recommend approval of C/Z 1616 for NORTH MILTON DEVELOPMENT GROUP II and 1630 VENTURES, LLC to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential to C-1 General Commercial based upon the record and for the following reasons:

1. Commercial Zoning is appropriate for this parcel of land in that it is located along Route 16, which is a major arterial highway. In addition, the location of the development is convenient to major roadway such as Route 1 and Route 30. It is also in close proximity to the existing residential commercial areas in the Town of Milton.
2. The property is in a Developing Area according to the Sussex County Comprehensive Land Use Plan.
3. The change in zone will be in character with the developing nature of the area because it will be part of a larger project which provides a varied blend of alternative housing designs, complimentary commercial neighborhood retail uses, extensive recreational facilities and natural and open space features to be part of a master planned community.
4. The Developer will be required to comply with all of DelDOT's requirements, including the recommendations set forth in the McCormick and Taylor Traffic Impact Study dated May 31, 2007 as accepted by the State of Delaware Department of Transportation on June 1, 2007. In addition, the Developer must comply with any additional requirements established by DelDOT and any other Federal, State and/or local agencies.
5. The integration of permitted commercial uses into the larger North Milton or Elizabethtown project will reduce the number of vehicle trips required by residents of that project, since the commercial uses, including retail, entertainment, groceries, etc. will all be within walking distance of numerous residential units.
6. The Site Plan for any proposed commercial use of this property must still be reviewed and approved by the Planning and Zoning Commission. The Commission will have an opportunity to carefully review any proposed Site Plan for conformity with the representations made by the Applicant during the hearing and to determine compliance with all applicable zoning ordinances.

Motion by Mr. Burton, seconded by Mr. Johnson 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 #1617** – application of **NORTH MILTON DEVELOPMENT GROUP I and NORTH MILTON DEVELOPMENT GROUP II** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-RPC High Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying north of Route 16, east of Route 30 and west of Road 212 (Cedar Creek Road), to be located on 435.67 acres, more or less.

The Commission discussed this application which has been deferred since January 25, 2007.

Mr. Burton stated that he would move that the Commission recommend approval of C/Z #1617 for NORTH MILTON DEVELOPMENT GROUP I and NORTH MILTON DEVELOPMENT GROUP II for a change in zone from AR-1 Agricultural Residential to HR-RPC based upon the record and for the following reasons:

1. The proposed HR-RPC project meets the purpose of the Zoning Ordinance and it protects the orderly growth of the County.
2. HR Zoning is appropriate for the site because central water and sewer will be available.
3. The RPC designation is appropriate for this parcel of land because the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
4. According to the 2002 Sussex County Comprehensive Plan Update, the property that is the subject of this application is identified for the purpose of future land use development as being in a Developing Area.
5. The Applicant has proposed to create a Homeowners Association to enforce deed restrictions and maintenance throughout the entire project. As such, this project will contain many integrated neighborhoods all under one common development scheme.
6. The proposed project will be part of the larger North Milton/Villages of Elizabethtown community that provides multiple housing designs, retention of natural and open space features, outdoor recreation, the inclusion of neighborhood retail areas as part of a Master Planned Community. This proposed project will provide a transitional residential community between the developing areas of the Town of Milton and the agricultural areas surrounding it. The project will comply with all agricultural use requirements including buffers, setbacks and other

agricultural use restrictions.

7. The Applicants have proposed a Phasing Plan for the project that will integrate the project into the area without significant negative effects.
8. The Applicants have favorably addressed all of the items set forth in Section 99-9C of the Subdivision Ordinance as part of its RPC presentation.

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9. According to the strategies for State Policies and Spending, virtually all of the property associated with this application falls within Investment Levels I and II. Because the proposed development is located nearly entirely within Level I and Level II areas which the state has already targeted for development and infrastructure investment, the Office of State Planning Coordination has endorsed the proposed project.
10. The location of the proposed project provides convenient access to major roadways, including Route 1, Route 30 and Route 16, as well as orderly and efficient access to existing residential and commercial areas in the Town of Milton.
11. All utility facilities will be designed to comply with applicable State and County requirements.
12. Because the development will be the result of a comprehensive and coordinated system of maintenance oversight and management, including maintenance obligations for all open space areas, buffers, amenities, stormwater management areas, streets, sidewalks, etc., the proposed development is superior to the development of this land in smaller, separate and unrelated subdivisions.
13. The development will provide extensive active and passive recreation areas such as swimming pools, basketball and tennis courts, fields for softball and soccer, a community center, parks, multi-use trails, sidewalks and street lighting.
14. The proposed development is designed to minimize environmental impacts. In addition to the master plan water and sewer systems, stormwater management facilities will be designed and operated in accordance with all County Ordinances and DNREC Regulations and will utilize Best Management Practices. Buffers will be provided from all wetland areas, and no wetland areas are located within any lot lines. In addition, extensive areas of existing woodlands will be preserved.
15. This recommendation is subject to the following conditions:
  1. The maximum number of dwelling units shall not exceed 1,676 of which no less than 1,210 shall be single family lots or detached townhouses.
  2. Except for community civic facilities, there shall be no commercial uses within the RPC. Within the RPC, there shall be adequate space set aside and dedicated for public use to serve the residents of this project and the residents of the County. The location of this space shall be shown on the Master Plan.
  3. The construction of the entire project shall be phased over a period of 15 years, with no more than 200 Building Permits being issued within any

given calendar year, commencing on the date of final approval of this application by Sussex County Council.

4. Site Plan review is required for the Master Plan and each phase of the proposed development, including the location of curbs, sidewalks, street lights and all buffers.

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5. No more than 250 Building Permits shall be issued for residential units within the proposed development before a definitive location and all infrastructure improvements required to support a public safety building for fire, police and medical services are made available within the proposed development. The location and size of this area shall be coordinated with these service providers and shown on the Master Plan.
6. All entrances, intersections, roadways and multi-modal improvements shall be constructed as required by DelDOT. Interior street design, including curbs, sidewalks and street lighting shall be in accordance with or exceed Sussex County street design requirements.
7. Recreational facilities for each separate phase of the development, as indicated in the Phasing Plan for the development, shall be constructed and open to use by the residents of that phase prior to the issuance of any Building Permit for any subsequent phase of the development.
8. The RPC shall be served by a wastewater treatment facility and collection system built and maintained in accordance with the requirements of DNREC and all other Federal, State and local agencies.
9. The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
10. Central gas service for the development shall be permitted subject to approval by the office of the State Fire Marshal and other agencies having jurisdiction. The location of any storage tanks shall be shown on the Master Site Plan.
11. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. Best Management Practices shall be used in the operation and maintenance of the systems.
12. State and Federal wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas, except as maybe authorized by valid Federal or State permit.
13. A set of comprehensive covenants and restrictions shall be recorded and a master homeowners or condominium association shall be formed with subsidiary homeowners or condominium associations for each sub-community within the development to provide for proper management and governance of the entire development, including perpetual obligations for the upkeep, maintenance, repair and replacement of all streets, sidewalks, buffers, stormwater management facilities, passive and active open spaces,

- recreational facilities, and other common areas.
14. Road naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Departments.

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15. Agricultural buffers shall be provided by applicable State and County requirements. The location of these buffers shall be shown on all Site Plans.
16. The Agricultural Use Notice shall be included in all Restrictive Covenants and Condominium Declarations.
17. The Applicant shall coordinate and cooperate with the local school district's transportation manager to establish school bus stop areas. The areas of these bus stops, with the approval of the local district, shall be shown on the Master Site Plan.
18. The Applicant shall cooperate and coordinate with the State and County Emergency Preparedness Offices to develop and implement an Emergency Evacuation Plan.
19. As stated by the Applicants, subject to DelDOT's approval, the Developer shall pave the shoulders on both sides of Route 30 to insure the safe passage of farming equipment.
20. All single family lots within the development shall be no less than 7,500 square feet in size and not less than 60 feet wide.
21. The location of all moderately priced housing units (MPHUs) shall be shown on each of the Site Plans, including the Master Plan and Phasing Plan. The moderately priced housing units shall be coordinated through the Sussex County Office of Community Development. There shall be a total of at least 400 MPHUs located within this RPC and C/Z 1618.
22. Subject to DelDOT's approval all construction entrances shall be from Route 30.
23. DART shall be consulted prior to submission of the Master Plan, with the location of the potential DART transportation stop shown on the Master Plan.

Motion by Mr. Burton, 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 and with the conditions stated. Motion carried 5 – 0.

**C/Z #1618** – application of **NORTH MILTON DEVELOPMENT GROUP I and 1630 VENTURES, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-RPC High Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Broadkill



Hundred, Sussex County, land lying south of Route 16, east of Route 30 and west of the town limits of the Town of Milton, to be located on 226.41 acres, more or less.

The Commission discussed this application which has been deferred since January 25, 2007.

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Mr. Burton stated that he would move that the Commission recommend approval of C/Z #1618 for NORTH MILTON DEVELOPMENT GROUP II and 1630 Ventures, L.L.C. for a change in zone from AR-1 Agricultural Residential to HR-RPC based upon the record and for the following reasons:

1. The proposed HR-RPC project meets the purpose of the Zoning Ordinance and it protects the orderly growth of the County.
2. HR Zoning is appropriate for the site because central water and sewer will be available.
3. The RPC designation is appropriate for this parcel of land because the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses.
4. According to the 2002 Sussex County Comprehensive Plan Update, the property that is the subject of this application is identified for the purposes of future land use development as being in a Developing Area.
5. The Applicant has proposed to create a Homeowners Association to enforce deed restrictions and maintenance throughout the entire project. As such, this project will contain many integrated neighborhoods all under one common development scheme.
6. The proposed project will be part of the larger North Milton/Villages of Elizabethtown community that provides multiple housing designs, retention of natural and open space features, outdoor recreation, the inclusion of neighborhood retail areas as part of a Master Planned Community. This proposed project will provide a transitional residential community between the developing areas of the Town of Milton and the agricultural areas surrounding it. The project will comply with all agricultural use requirements including buffers, setbacks and other agricultural use restrictions.
7. The Applicants have proposed a Phasing Plan for the project that will integrate the project into the area without significant negative effects.
8. The Applicants have favorably addressed all of the items set forth in Section 99-9C of the Subdivision Ordinance as part of its RPC presentation.
9. According to the strategies for State Policies and Spending, virtually all of the property associated with this application falls within Investment Levels I and II. Because the proposed development is located nearly entirely within Level I and Level II areas which the state has already targeted for development and infrastructure investment, the Office of State Planning Coordination has endorsed

- the proposed project.
10. The location of the proposed development provides convenient access to major roadways, including Route 1, Route 30 and Route 16, as well as orderly and efficient access to existing residential and commercial areas in the Town of Milton.

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11. All utility facilities will be designed to comply with applicable State and County requirements.
12. Because the development will be the result of a comprehensive and coordinated system of maintenance oversight and management, including maintenance obligations for all open space areas, buffers, amenities, stormwater management areas, streets, sidewalks, etc., the proposed development is superior to the development of this land in smaller, separate and unrelated subdivisions.
13. The development will provide extensive active and passive recreation areas such as swimming pools, basketball and tennis courts, fields for softball and soccer, a community center, parks, multi-use trails, sidewalks and street lighting.
14. The proposed development is designed to minimize environmental impacts. In addition to the master plan water and sewer systems, stormwater management facilities will be designed and operated in accordance with all County Ordinances and DNREC Regulations and will utilize Best Management Practices. Buffers will be provided from all wetland areas, and no wetland areas are located within any lot lines. In addition, extensive areas of existing woodlands will be preserved.
15. This recommendation is subject to the following conditions:
  1. The maximum number of dwelling units shall not exceed 1,004 of which no less than 550 shall be single family lots or detached townhouses.
  2. Except for community civic facilities, there shall be no commercial uses within the RPC. Within the RPC, there shall be adequate space set aside and dedicated for public use to serve the residents of this project and the residents of the County. The location of this space shall be shown on the Master Plan.
  3. The construction of the entire project shall be phased over a period of 15 years, with no more than 200 Building Permits being issued within any given calendar year, commencing on the date of final approval of this application by Sussex County Council.
  4. Site Plan review is required for the Master Plan and each phase of the proposed development, including the location of curbs, sidewalks, street lights and all buffers.
  5. No more than 250 Building Permits shall be issued for residential units within the proposed development before a definitive location and all infrastructure improvements required to support a public safety building for fire, police and medical services are made available within the

proposed development. The location and size of this area shall be coordinated with these service providers and shown on the Master Plan.

6. As proposed by the Developer, the Developer shall set aside approximately 30 acres within the proposed development adjacent to the existing school district property for the future use of the local school district.

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7. All entrances, intersections, roadway and multi-modal improvements shall be constructed as required by DelDOT. Interior street design, including curbs, sidewalks and street lighting shall be in accordance with or exceed Sussex County street design requirements.
8. Recreational facilities for each separate phase of the development, as indicated in the Phasing Plan for the development, shall be constructed and open to use by the residents of that phase prior to the issuance of any Building Permit for any subsequent phase of the development.
9. The RPC shall be served by a wastewater treatment facility and collection system built and maintained in accordance with the requirements of DNREC and all other Federal, State and local agencies.
10. The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
11. Central gas service for the development shall be permitted subject to approval by the office of the State Fire Marshal and other agencies having jurisdiction. The location of any storage tanks shall be shown on the Master Site Plan.
12. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. Best Management Practices shall be used in the operation and maintenance of the systems.
13. State and Federal wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas, except as maybe authorized by valid Federal or State permit.
14. A set of comprehensive covenants and restrictions shall be recorded and a master homeowners or condominium association shall be formed with subsidiary homeowners or condominium associations for each sub-community within the development to provide for proper management and governance of the entire development, including perpetual obligations for the upkeep, maintenance, repair and replacement of all streets, sidewalks, buffers, stormwater management facilities, passive and active open spaces, recreational facilities, and other common areas.
15. Road naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Departments.
16. Agricultural buffers shall be provided by applicable State and County requirements. The location of these buffers shall be shown on all Site

Plans.

17. The Agricultural Use Notice shall be included in all Restrictive Covenants and Condominium Declarations.

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18. The Applicant shall coordinate and cooperate with the local school district's transportation manager to establish school bus stop areas. The areas of these bus stops, with the approval of the local district, shall be shown on the Master Site Plan.
19. The Applicant shall cooperate and coordinate with the State and County Emergency Preparedness Offices to develop and implement an Emergency Evacuation Plan.
20. As stated by the Applicants, subject to DelDOT's approval, the Developer shall pave the shoulders on both sides of Route 30 to insure the safe passage of farming equipment.
21. All single family lots within the development shall be no less than 7,500 square feet in size and not less than 60 feet wide.
22. The location of all moderately priced housing units shall be shown on each of the Site Plans, including the Master Plan and Phasing Plans. The moderately priced housing units shall be coordinated through the Sussex County Office of Community Development. There shall be a total of at least 400 MPHUs located within this RPC and C/Z 1617.
23. Subject to DelDOT's approval all construction entrances shall be from Route 30.
24. DART shall be consulted prior to submission of the Master Plan, with the location of the potential DART transportation stops shown on the Master Plan.

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

**C/U #1724** – application of **NORTH MILTON DEVELOPMENT GROUP II** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a sewage treatment plant to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 74.61 acres, more or less, lying east of Route 30, 0.6 mile south of Reynolds Pond Road (Road 231).

The Commission discussed this application which has been deferred since January 25, 2007.

Mr. Burton stated that he would move that the Commission recommend approval of C/U 1724 for NORTH MILTON DEVELOPMENT GROUP II for a sewage treatment plant based upon the record and for the following reasons:

1. The proposed use of the subject property as a sewage treatment plant is generally of a public or semipublic character and is essential and desirable for the general convenience and welfare of neighboring properties and the County.

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2. The regional Sewage Treatment Plant will possess sufficient capacity to serve a substantial volume of users beyond the boundaries of the development proposed to be served by the Plant.
3. The regional Sewage Treatment Plan, with the stipulations and conditions placed upon it, will not have any adverse impact upon the County or its residents.
4. The Sewage Treatment Plant will be designed to minimize environmental impacts. Significant buffers will be provided from all wetland areas, no wetland areas on the subject property will be disturbed without a valid Federal or State permit.
5. The proposed regional Sewage Treatment Plant and its collection and disposal systems will be reviewed and approved by DNREC and shall be designed and constructed in accordance with all other applicable Federal, State and County requirements, including those mandated by DNREC and other agencies having jurisdiction over the use.
6. The proposed use is subject to the review and approval of the Public Service Commission.
7. This recommendation is subject to the following conditions:
  1. The proposed regional Sewage Treatment Plant and its collection and disposal systems shall be reviewed and approved by DNREC and shall be designed and constructed in accordance with all other applicable Federal, State and County requirements, including those mandated by DNREC and other agencies having jurisdiction over same.
  2. Because the Applicant did not apply for a water treatment plant as part of this Conditional Use, one shall not be permitted on this site unless approved under a separate Conditional Use Application.
  3. The treatment plant building shall appear to be an agricultural building.
  4. All improvements for collection, treatment and disposal of sanitary waste shall be constructed and maintained in accordance with the requirements of the Sussex County Engineering Department, if any, and the Delaware Department of Natural Resources and Environmental Control, and any other governmental agency with jurisdiction over the use of the site, or any modification thereto.
  5. There shall be forested buffers of at least 30 feet from all property lines. Any lagoons, Rapid Infiltration Basins or similar structures shall be located at least 100 feet from any dwellings.

6. One lighted sign shall be permitted on each site, not to exceed 32 square feet in size.
7. With the exception of emergency generators that may be located on the site, all of the equipment needed in the operation of the facility shall be located indoors. The generators shall be housed in enclosures to reduce noise.

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8. Any security lighting shall be screened so that it does not shine onto neighboring properties or County Roads.
9. The Final Site Plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.

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

**C/U #1725** – application of **HARRY ISAACS, JR.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for land application of sludge, treated sludge or any material containing these materials by spray irrigation to be located on a certain parcel of land lying and being in Broadkill Hundred and Cedar Creek Hundred, Sussex County, containing 1,739.779 acres, more or less, lying on both sides of Route 16, both sides of Route 30, both sides of Road 231, east of Road 212, and both sides of Route 38.

The Commission discussed this application which has been deferred since January 25, 2007.

Mr. Burton stated that he would move that the Commission recommend approval of C/U 1725 for HARRY ISAACS, JR. for land application of sludge, treated sludge or any material containing these materials by spray irrigation based upon the record and for the following reasons:

1. The proposed use of the subject property is generally of a public or semipublic character and is essential and desirable for the general convenience and welfare of neighboring properties and the County.
2. This use will create a disposal area for treated wastewater that will have sufficient capacity to serve a substantial volume of users beyond the boundaries of the development proposed to be served by the Plant and disposal area.
3. The use with the stipulations and conditions placed upon it will not have any adverse impact upon the County or its residents.
4. The wastewater disposal system will be designed to minimize environmental impacts. Significant buffers will be provided from any wetland areas and no wetland areas on the subject property will be disturbed without a valid Federal or

State Permit.

5. The proposed regional Sewage Treatment Plant and its collection and disposal systems will be reviewed and approved by DNREC and shall be designed and constructed in accordance with all other applicable Federal, State and County requirements, including those mandated by DNREC and other agencies having jurisdiction over it.

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6. The proposed use is subject to the review and approval of the Public Service Commission.
7. The property is currently used for agricultural purposes. That underlying use will not be changed as a result of this Conditional Use.
8. This recommendation is subject to the following conditions:
  1. The use shall be reviewed and approved by DNREC and shall be designed and constructed in accordance with all other applicable Federal, State and County requirements, including those mandated by DNREC and other agencies having jurisdiction over it.
  2. Any structures on the properties that are part of this application shall appear to be an agricultural building.
  3. All improvements for transmission and disposal of treated waste water shall be constructed and maintained in accordance with the requirements of the Sussex County Engineering Department, if any, and the Delaware Department of Natural Resources and Environmental Control, and any other governmental agency with jurisdiction over the use of the site, or any modification thereto.
  4. There shall be no spray irrigation within 30 feet of all property lines.
  5. The application of treated wastewater shall be from center-pivot or similar type spray irrigation rigs only.
  6. The wastewater applied to the land shall be treated to a level permitting "unlimited public access".
  7. No lagoons or storage of wastewater or sludge shall be permitted on the properties that are the subject of this Conditional Use.
  8. As stated during the Applicant's presentation, the irrigation rates shall be determined by crop utilization and uptake limits rather than by wastewater disposal needs.
  9. The Final Site Plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, 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 and with the conditions stated. Motion carried 5 – 0.

**C/U #1705** – application of **THE COMMONWEALTH GROUP** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for warehousing, mini-storage and contractor condominiums to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 74.04 acres, more or less, lying west of Park Avenue (State Truck Route 9), south of the railroad and 0.7 mile south of Route 9.

The Commission discussed this application which has been deferred since June 14, 2007.

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Mr. Lank read the response letter, date received July 17, 2007, which was received from the Office of State Planning Coordination in reference to the applicants responses to the PLUS comments.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1705 for the Commonwealth Group for a combination of up to 4 warehouses (316,850 s.f.), up to 19 contractor condominiums (170,000 s.f.) and up to 6 mini-storage buildings (54,000 s.f.) based upon the record and for the following reasons:

1. The proposed project is located in a Development District according to the County's 2002 Land Use Plan and within an Investment Level 2 area according to the 2004 State Strategies for State Policies and Spending.
2. The property is adjacent to the Sussex County airport and will allow for the expansion of businesses currently at the airport and for other future businesses.
3. The proposed project is consistent with the economic development element of the Sussex County Comprehensive Land Use Plan. The project will promote Sussex County's economic and employment base while also promoting growth of the Sussex County Airport's Industrial Park.
4. The project with the conditions and stipulations placed upon it will not have an adverse impact on the neighboring properties or community.
5. This recommendation for approval is subject to the following conditions and stipulations:
  1. Due to the size of the project and the various proposed uses, the project is to be divided into at least 4 phases subject to approval by the Planning and Zoning Commission. For example, Phase I might consist of the proposed Warehouse #1, adjoining parking areas and entrance to the Sussex County Airport. Each phase shall be subject to the review and approval of the Planning and Zoning Commission.
  2. The applicant will construct a minimum 50' landscaped buffer which could include an earth berm and with mixed plantings to include trees with a minimum height of 5-feet, except where entrances are approved through DelDOT. The landscaped buffer will be required along the frontage of Truck Route 9 to screen the project from the nearby neighbors and Truck Route 9. The



landscaped buffer is to be provided within 1 year of the first building permit and shall be shown on the final site plan.

3. The project is to be served by public water and sewer.
4. Stormwater management ponds should be designed as dry ponds to discourage nuisance waterfowl and per FAA and the County Engineer's recommendations.

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5. The issue of jurisdictional wetlands needs to be determined, especially in the southwestern corner adjacent to the airport in the vicinity of proposed Warehouse #1 and its accompanying large parking lot.
6. Any security lights shall only be installed on the buildings and shall be so screened that they do not shine on any neighboring properties or Truck Route 9. Any lighting installed on the property shall comply with FAA regulations.
7. There shall be no outside storage of building materials or other construction materials, except for the materials required for the proposed buildings. There shall be no outside storage of boats or RVs.
8. There shall be no filling or disturbance of any wetlands. A 50' minimum buffer is to be maintained from the edge of all wetlands. No structures or infrastructures are to be built within this buffer zone.
9. The Traffic Impact Study is to be completed and submitted as part of the record before final approval of the project is requested.
10. The proposed Contractor Building #4 shall be removed or relocated. Parking shall not back onto any entrance road/drive isle.
11. There shall be no more than 1 lighted sign not to exceed 32 square feet on each side.
12. The interior street design shall be in accordance with or exceed Sussex County street and parking design requirements.
13. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
14. It is suggested that for safer vehicular travel, improvements should be made to the intersection of Springfield Road and Truck Route 9 due to the potential impact on local traffic.
15. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures.

16. The applicant shall submit as part of the site plan review, a landscape plan showing the proposed buffer including the proposed tree and shrub landscape design.
17. The developer shall preserve as much of the forest as possible to minimize the impact on the area. The 17.5 acres of forest preservation proposed by the developer shall be shown on the Final Site Plan and placed in permanent conservation easement along with the wetlands.

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18. The developer shall furnish a copy of the Rare and Threatened or Endangered Species study and report conducted by JCM Environmental to the Natural Heritage and Endangered Species Program and to further cooperate with DNREC as it pertains to Rare and Threatened or Endangered Species.
19. Street names and addressing shall be approved by the Sussex County Mapping and Addressing Department.
20. No site preparation, site disturbance, site excavation shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved Final Site Plan is recorded.
21. No more than 4 warehouses totaling 316,850 square feet, 19 contractor condominiums totaling 170,000 square feet, and 6 mini-storage buildings totaling 54,000 square feet, shall be constructed on the site. Any change in type or square footage of the buildings shall be subject to the review and approval of the Planning and Zoning Commission.
22. The location of the runway protection zone established by Sussex County shall be shown on the Final Site Plan.
23. The applicant shall execute an airport nuisance and non-suit covenant in favor of Sussex County.
24. The Final Site Plan including the above stipulations shall be subject to review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried 4 votes to 1 to forward this application to the Sussex County Council with the recommendation that this application be approved for the reasons and with the conditions and stipulations stated. Motion carried 4 – 1. Mr. Smith opposed the motion.

**AN ORDINANCE TO DELETE AND/OR MODIFY THE CONDITIONS IN  
ORDINANCE NO. 1770 FOR CHANGE OF ZONE NO. 1554, THE  
APPLICATION OF MARINE FARM, L.L.C., A MR-RPC MEDIUM DENSITY  
RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY**

**LOCATED IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,  
LYING SOUTHEAST OF BEAVER DAM ROAD (ROAD 285) AND  
SOUTHWEST OF JIMTOWN ROAD (ROAD 285A)**

The Commission discussed this Ordinance which has been deferred since June 14, 2007.

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Mr. Johnson stated that he would move that the Ordinance to delete and/or modify the conditions imposed in Ordinance No. 1770 be denied. Furthermore, He recommends that the conditions imposed in Ordinance No. 1770 for Change of Zone #1554, as they relate to Jimtown Road and its residents, not be deleted and/or modified rather that they be upheld based upon the record and for the following reasons:

1. There is not a consensus of all the residents that the conditions be deleted and/or modified. To the contrary, several residents voiced their support for the conditions.
6. There appears to have been some confusion on the part of some of the residents of Jimtown Road. More specifically, concerns were raised about the impact of sewer and water expenses on the residents. As stated in the Ordinance, hookups are solely at the discretion of each individual property owner. Thus, there are no expenses to the residents of Jimtown Road until such time as they avail themselves of the water and/or sewer services.
7. The conditions imposed by Ordinance No. 1770 promotes the health, safety and welfare of the Jimtown residents (both current and future) at minimal cost to the residents.
8. Street lights, sidewalks, and road improvements are being offered at no expense to the Jimtown residents and will improve safe vehicular and pedestrian travel.
9. The availability of sewer is being provided to the residents of Jimtown Road at their sole discretion. There are no hook-up fees and any residents choosing to hook-up would pay the same rate for treatment that the residents of Marine Farm would pay as governed by the Delaware Public Service Commission.
10. Public water is also being offered to the residents of Jimtown with the costs for engineering and construction costs being borne by Marine Farm, LLC.
11. The request for the deletion and/or modifications of the conditions were requested by some of the residents and property owners of Jimtown Road and not by the zoning applicant, Marine Farm, LLC.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to forward this Ordinance Amendment to the Sussex County Council with the recommendation that the Ordinance Amendment be denied. Motion carried 5 – 0.

**ORDINANCE AMENDMENT – AN ORDINANCE TO AMEND CHAPTER 115**

**SECTION 22 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF DENSITY FOR MULTIFAMILY DWELLING STRUCTURES AND/OR TOWNHOUSES AND/OR TOWNHOMES IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR \ SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE ACQUISITION AND PRESERVATION OF OPEN SPACE AND/OR ACTIVE AND/OR PASSIVE RECREATIONAL AREAS.**

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The Commission discussed this Ordinance Amendment which has been deferred since June 14, 2007.

Mr. Gordy stated that he would move that the Commission recommend approval of the proposed Ordinance to amend Chapter 115, Section 22 of the Code of Sussex County allowing for an increase of density for multi-family dwelling structures and/or townhouses in AR-1 Districts within growth areas for several reasons:

1. The proposed Ordinance clarifies the approval of multi-family or townhouse projects within an AR-1 District. Currently, such projects could be permitted under the so-called "catch-all" part of Section 115-22 of the Code. This amendment establishes a certain criteria area for permitting multi-family or townhouse projects, including open space requirements, buffers and other design elements that do not currently exist.
2. This amendment directs multi-family or townhouse projects to growth areas under the County's Comprehensive Development Plan. These growth areas include Town Centers, Developing Areas or the Environmentally Sensitive Development District Overlay Zone.
3. By directing these types of projects to growth areas, they would be located where sufficient sewer and water infrastructure and capacity already exist.
4. The Ordinance Amendment would enable the County to collect fees, where the land use or project is appropriate, for the preservation of open space elsewhere in the County.

The Chairman asked if there was a second to this motion.

No one responded.

The Motion died for the lack of a record.

Mr. Smith stated that he likes the proposed amendment since it closes a loophole in the Code; that it requires 75-foot buffers along roadways; that it requires 40% open space; that we do not have a current definition of open space; that since the Comprehensive Plan

is being considered the timing may not be appropriate; and questioned the 4/5 majority vote.

Mr. Wheatley questioned the expeditious action.

Mr. Burton stated that there is a need for a clear definition for open space.

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Mr. Johnson stated that the Commission is not bound to approve bonus density; that he would be more supportive if no expeditious processing was permitted; and that the Environmentally Sensitive Developing Area should not be included in the Ordinance.

Mr. Gordy stated that he would move that the Commission recommend approval of the proposed Ordinance to amend Chapter 115, Section 22 of the Code of Sussex County allowing for an increase of density for multi-family dwelling structures and/or townhouses in AR-1 Districts within growth areas for several reasons:

1. The proposed Ordinance clarifies the approval of multi-family or townhouse projects within an AR-1 District. Currently, such projects could be permitted under the so-called “catch-all” part of Section 115-22 of the Code. This amendment establishes a certain criteria area for permitting multi-family or townhouse projects, including open space requirements, buffers and other design elements that do not currently exist.
2. This amendment directs multi-family or townhouse projects to growth areas under the County’s Comprehensive Development Plan. These growth areas include Town Centers, Developing Areas or the Environmentally Sensitive Development District Overlay Zone.
3. By directing these types of projects to growth areas, they would be located where sufficient sewer and water infrastructure and capacity already exist.
4. The Ordinance Amendment would enable the County to collect fees, where the land use or project is appropriate, for the preservation of open space elsewhere In the County.
5. This recommendation for approval is with the Condition that Section 1 Subsection 8 of the Ordinance Amendment be deleted.

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

#### OTHER BUSINESS

1. 84 Lumber

CU #1601 – Revised Site Plan – Route 26

Mr. Abbott advised the Commission that this is a revised site plan for a lumber storage area and retail center; that the only revision involves a second storm water management pond on the site; that the required 30-foot forested buffer is provided along the western boundary line and the pond does not encroach into the buffer; and that the Sussex Conservation District has approved the plan and the staff has a copy of the approved plan.

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

2. Warwick Park Owners Association, Inc.  
Recreational Area Site Plan – Road 312

Mr. Abbott advised the Commission that this is a site plan for an amenity area (picnic area and boat docks) located on 4.84 acres for the Warwick Park Subdivision; that the amenity site is across Road 312 from the Subdivision; that Section 115-29G of the zoning code requires this type of use to be subject to site plan review and that the setbacks will be determined by the Commission; that a 31.8-foot by 47.7-foot pavilion, parking area, a gazebo, 3 sheds and 4 boat piers are located on the site; that the pavilion is located 28.7 feet from the front property line; and that the normal setback in this zoning district is 40-feet.

Mr. Johnson stated that he has been by the site and the location of the pavilion does not present any sight problems.

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

3. Cannon Mill Court  
Preliminary Multi-Family Site Plan – U.S. Route 13 and Route 13A

Mr. Abbott advised the Commission that this site plan for a 10-unit multi-family project received conceptual approval by the Commission on June 20, 2007; that the design is the same but this plan contains the required landscaping plan; that there are 35 evergreen trees and 42 shrubs proposed with an additional 4 evergreen trees outside of the buffer proposed for additional screening; that the existing trees located in the wetland area will remain intact; and that the proposed buffer is 351 in length.

Motion by Mr. Gordy, seconded by Mr. Smith 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. Motion carried 5 – 0.

4. EZ Loans

Preliminary Commercial Site Plan – U.S. Route 113

Mr. Abbott advised the Commission that this is a preliminary site plan for the conversion of a single-family dwelling to a corporate office; that the site is zoned C-1; that the existing 2-story dwelling will be converted into an office building; that no new additions are proposed; that 15 parking spaces are required and 16 are provided; that 7 spaces or

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portions of these spaces are located within the front yard setback and are subject to site plan review; that there is existing landscaping along U.S. Route 113; that the existing on-site septic and well will be used; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Johnson 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. Motion carried 5 – 0.

5. The Peninsula MR/RPC

Revised Site Plan – Parcel J – Sailside

Mr. Abbott advised the Commission that this is a revised site plan for 96 multi-family units; that 16 buildings with 6 units each are proposed; that the original approved plan for this section contained 98 units; that 197 parking spaces are required; that 192 spaces are provided inside of the buildings plus there are 96 surface spaces for a total of 288 spaces; that the applicants feel that the revised plan creates greater open space in this area; 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 revised site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

6. The Peninsula MR/RPC

Revised Site Plan – Parcel K – Marina Bay Area 2 and 3

Mr. Abbott advised the Commission that this is a revised site plan for 295 multi-family units; that this area was originally approved on July 24, 2003; that the same number of units are proposed and that the only revision is for the layout of the buildings; that units

42 through 47 are under construction and will remain the same as the previously approved plan; and that if preliminary approval is granted, final approval shall be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the revised site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

7. Subdivision #2005 – 27 – Burcap Partners  
Buffer Requirements – Deep Branch Woods

This item was removed from the Agenda on July 17, 2007 at the engineer's request.

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8. Mill Pond Commons at Paynter's Mill  
Easement Modification – Lot 44 – John Rowland Trail

Mr. Abbott advised the Commission that this is a request to modify a side yard utility easement from 5 feet to 4 feet; that the subdivision ordinance requires a 5-foot utility easement on both sides of all interior lot lines; that a foundation has been poured on lot 44 and encroaches 1 foot into the easement; and that since the lot is located in a Residential Planned Community, the Commission may modify this requirement.

The Commission discussed this request and questioned if there is a dwelling located on lot 45.

Mr. Abbott advised the Commission that he was not sure if there is a dwelling located on lot 45 and that the staff would have to verify this.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action to allow the staff to determine if there is a dwelling located on lot 45. Motion carried 5 – 0.

9. Subdivision #2003 – 27 – Main Street Homes, L.L.C.  
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on April 14, 2005; that this is the first request for an extension; that the applicant's attorney has advised that approvals have been received from the Fire Marshal and Sussex County Engineering; that there have been problems with getting an approval from the Sussex Conservation District; and that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval.



Gene Bayard advised the Commission that the storm water management design has been submitted to the Sussex Conservation District 2 times and that it has been required to be redesigned.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to grant a time extension retroactive to the anniversary date of the preliminary approval with the stipulation that this will be the last extension granted by the Commission. Preliminary approval is valid until April 14, 2008. Motion carried 5 – 0.

10. Subdivision #2004 – 17 – Natelli Communities, Ltd.  
Time Extension

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Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on June 10, 2004 and one-year time extensions on May 26, 2005 and April 13, 2006; that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval; and that Phase 1 is on the July 26, 2007 for final record plan approval.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval with the stipulation that this will be the last extension granted by the Commission. Preliminary approval is valid until June 10, 2008. Motion carried 5 – 0.

11. Subdivision #2004 – 28 – Thomas Brown  
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on October 13, 2005; that this is the first request for an extension; that approvals have been received from DelDOT and DNREC; that the applicants have hired a new engineer to complete the project; and that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval.

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval with the stipulation that this will be the last extension granted by the Commission. Preliminary approval is valid until October 13, 2008. Motion carried 5 – 0.

12. Subdivision #2004 – 38 – River Basin Engineering  
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on August 11, 2005 and a one-year time extension on August 16, 2006; that this is the second request for an extension; and that approvals have been received from DNREC and Sussex County Mapping and Addressing.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant a one-year time extension with the stipulation that this will be the last extension granted by the Commission. Preliminary approval is valid until August 11, 2008. Motion carried 5 – 0.

13. Subdivision #2004 – 39 – Seneca Harbor Joint Venture  
Time Extension

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Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on September 8, 2005 and a one-year time extension on August 16, 2006; that this is the second request for an extension; and that the only approval received to date is from DNREC.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant a one-year time extension with the stipulation that this will be the last extension granted by the Commission. Preliminary approval is valid until September 8, 2008. Motion carried 5 – 0.

14. Subdivision #2005 – 30 – Salvatore Cangiano  
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on July 6, 2006; that this is the first request for an extension; that the only approval received to date is from DNREC; and that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval.

Motion by Mr. Burton, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval. Preliminary approval is valid until July 6, 2008. Motion carried 5 – 0.

15. Subdivision #2005 – 59 – Landlock, L.L.C.  
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on August 16, 2006; and that this is the first request for an extension.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension. Preliminary approval is valid until August 16, 2008. Motion carried 5 – 0.

16. Subdivision #2005 – 68 – Sandy Landing, L.L.C.  
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on November 20, 2006; and that this is the first request for an extension.

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Motion by Mr. Smith seconded by Mr. Burton and carried unanimously to grant a one-year time extension. Preliminary approval is valid until November 20, 2008. Motion carried 5 – 0.

17. Subdivision #2006 – 17 – Sawmill Associates, Inc.  
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the Commission granted preliminary approval on July 27, 2006; and that this is the first request for an extension.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to grant a one-year time extension. Preliminary approval is valid until July 27, 2008. Motion carried 5 – 0.

18. Dr. Jose Pando  
CU #1616 – Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the County Council approved this application on August 2, 2005; that this is the first request for an extension; that the Commission has the authority to grant a maximum of 2, one year time extensions; that the use needs to be underway within one year of the date of approval; and that the site plan has not been approved by the Commission, that no site work has begun, and that no previous requests for an extension has been made.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to deny this request since a site plan has not been approved by the Commission; and that no previous requests for an extension has been made. Motion carried 5 – 0.

19. The Villas at Harmon Bay  
CU #1651 – Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the County Council approved this application on June 6, 2006; that this is the first request for an extension; and that if an extension is granted, it should be retroactive to the anniversary date of approval.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant a one-year time extension retroactive to the anniversary date of approval. Approval is valid until June 6, 2008. Motion carried 5 – 0.

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20. Marine Farm, L.L.C.  
CU #1678 – Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the County Council approved this application on June 27, 2006; that this is the first request for an extension; and that if an extension is granted, it should be retroactive to the anniversary date of approval.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension retroactive to the anniversary date of approval. Approval is valid until June 27, 2008. Motion carried 5 – 0.

21. Derrick Matthews  
Lot on Existing 50' Right of Way – Road 524

Mr. Abbott advised the Commission that this is a request to create a 41,513 square foot lot with access from an existing 50-foot right of way; that if the request is approved, this would be the third lot having access from the right of way; and that if the request is approved, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the request as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

22. E.B. Workman  
Parcel and 60' Right of Way – Road 598

This item was removed from the Agenda on July 17, 2007.

23. Ricky R. and Linda K. Absher  
2 Parcels and 50' Right of Way – Road 462

Mr. Abbott advised the Commission that this is a request to create a 2.37-acre parcel out of a 5.00-acre parcel with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing driveway to serve as access to the 2.37-acre parcel; that the residual land contains 2.62-acres and will also have access from the right of way; that DelDOT has approved both parcels having access from the right of way; and that the request may be approved as submitted or require an application for a major subdivision.

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Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request as a concept. Motion carried 5- 0.

24. Jack Payton  
Lot and 50' Right of Way – Road 587

Mr. Abbott advised the Commission that this is a request to create a 0.75-acre parcel out of a 10.0-acre parcel; that both parcels will have access from the proposed 50-foot right of way; that this request was approved in concept by the Commission on February 1, 2006 but was never recorded; and that the request may be approved as submitted or require an application for a major subdivision.

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

25. Alvin and Sharon Davis  
Lot and 50' Right of Way – U.S. Route 13A

Mr. Abbott advised the Commission that this is a request to create a 1.00-acre lot with access from a 50-foot right of way; that the remaining land will contain 0.99-acres and has a dwelling located on it; that there is currently a 15-foot wide road (Hearns Way) along the site and the owner proposes to add an additional 35 feet to the right of way along the proposed lot 2; and that the request may be approved as submitted or require an application for a major subdivision.

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

26. Arthur G. Backus

#### 4 Lots and 30' Right of Way – Route 30

Mr. Abbott advised the Commission that this is a request to create 4 lots with access from a 30-foot right of way; that the owner has been advised that the minimum width for a right of way is 50-feet; that there appears to be room to make the right of way 50-feet in width but variances will be required from the Board of Adjustment; and that this request should be denied as submitted.

Arthur Backus was present and advised the Commission that he proposes to create the lots for his 4 children; that he could make the right of 50-feet in width; and that there is currently a Nanticoke Home on the site.

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

#### 27. Clarence J. Reed

##### Lot on Existing 50' Right of Way – Route 5

Mr. Abbott advised the Commission that this is a request to create a parcel with access from an existing 50-foot right of way; that the proposed lot and residual land will both be over 2.00-acres; that if this request is approved, it would be the third and fourth lots having access from the right of way; and that the first two lots were approved prior to the subdivision ordinance being adopted.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the request as a concept. Motion carried 5 – 0.

#### 28. Kenneth D. Freidman, Sr.

##### 3 Lots on 50' Right of Way – Road 291

Mr. Abbott advised the Commission that this is a request to create 4 lots with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing driveway; and that since 4 lots are proposed, this request should be denied as submitted.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to deny the request as submitted. Motion carried 5 – 0.

#### 29. Bayville Shores HR/PC

##### Amended Site Plan – Route 54

Mr. Abbott advised the Commission that this is an amended site plan to add one additional 8-unit boat storage building as an accessory use to the multi-family units; that the proposed building is 60-feet by 60-feet and is the same type building as the other ones recently approved by the Commission; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Gordy and carried 4 votes to 1, with Mr. Johnson opposed, to approve the amended site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 1.

30. Subdivision #2005 – 6 – The Marina at Pepper Creek  
Revised Record Plan – Piney Neck Road

Mr. Abbott advised the Commission that this is a revised conceptual plan for a 122-lot

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cluster subdivision; that the Commission granted final record plan approval on July 27, 2006 for 124 lots; that the name has been revised to The Marina at Pepper's Creek; that the number of single-family lots has been reduced from 124 to 122; that the center island width along the main boulevard has been reduced from 12 feet to 8 feet and the right of way width has been reduced from 70 feet to 66 feet along the main boulevard; that the lots have been slightly reshaped to accommodate the types of homes proposed; that the marina layout has been revised and will serve as the focal amenity area for the community; that one of the tot lots has been eliminated; that the tot lots were not a part of the preliminary approval; that the open space area has been reconfigured and still meets the open space requirement of 11.92-acres; and that if the Commission is favorable to this request, final approval shall be subject to the review and approval of the Commission upon receipt of all agency approvals.

Representatives of the applicant advised the Commission that sidewalks are still provided along all street frontages.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve the revised site plan as a concept with the stipulation that final approval shall be subject to the review and approval of the Commission upon receipt of all agency approvals. Motion carried 5 – 0.

#### ADDITIONAL BUSINESS

Mr. Lank provided the Commission with copies of a recent updated zoning map.

Mr. Johnson advised the Commission that he would be absent from the July 26, 2007 meeting.

It was the consensus of the Commission to have a special meeting on August 15, 2007 at 3:00 p.m.

Meeting adjourned at 5:42 p.m.