



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF JULY 27, 2006

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 27, 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, Shane Abbott – Assistant Director and Richard Kautz, Land Use Planner.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the agenda as amended by adding additional business for an update on the status of hiring a consultant for preparation of the Comprehensive Plan Update.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of July 13, 2006 as amended.

OLD BUSINESS

Subdivision #2003-33 – application of **JOHN A. MAST** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 30.65 acres into 13 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 78, 375 feet northwest of Road 80.

Mr. Abbott advised the Commission that this application has been deferred since February 12, 2004; that DNREC has indicated that the site is suitable for individual on-site septic systems; and that DNREC has sent a letter advising that there is not an expiration date for septic feasibility statements.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2003 – 33 for John Mast, based upon the record and for the following reasons:

1. The subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.

2. The subdivision density is less than the maximum density permitted by the existing AR-1 zoning. And, most of the lots are at least 2 acres in size.
3. The subdivision is integrated into the existing terrain and surroundings.
4. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values. There are also other lots in the area that are similar or smaller than what has been proposed.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.

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6. DNREC has indicated that the site is suitable for individual on-site septic systems.
7. A homeowners' association will be created to maintain streets, open space, storm water management areas and street lighting.
8. This preliminary approval is subject to the following conditions:
 - There shall be no more than 13 lots within the subdivision.
 - The Applicant shall prepare and record Restrictive Covenants governing the development and cause to be formed a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities and other common areas.
 - The storm water management system shall meet or exceed the requirements of the State and County, including specifically the direction of the County Engineering Department. In addition, the Development shall not cause increased water runoff onto neighboring or adjacent properties.
 - All entrances shall comply with all of DelDOT's requirements. Also, an area for a school bus stop shall be established.
 - The Restrictive Covenants shall include the Agricultural Use Protection Notice.
 - Because the proposed cul-de-sac exceeds 1,000 feet in length, traffic circles shall be installed no more than 1,000 feet apart on the roadway.
 - Street naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.
 - There shall be no wetlands within any lots.

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

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

Mr. Abbott advised the Commission that this application has been deferred since June 8, 2006; that DNREC has indicated that the site is suitable for individual on-site septic systems; that the engineer has submitted a revised plan that depicts the location of the wetlands, relocates the storm water management areas; and that the name has been changed to Whitetail Crossing.

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Mr. Gordy stated that he would move that the Commission grant preliminary approval to Bill Link and Elmo Singer for Subdivision #2005 – 46 based upon the record and for the following reasons:

1. The application is for a 15 lot standard subdivision. All lots exceed $\frac{3}{4}$ of an acre in size.
2. DNREC has indicated that the site is suitable for individual on-site septic systems.
3. The subdivision will be a restricted residential development that will not adversely affect nearby uses or property values. It is surrounded by other lots that are similar to what has been proposed.
4. The subdivision is consistent with the Sussex County Comprehensive Land Use Plan and the Subdivision Code, particularly Section 99-9C of the Code.
5. This preliminary approval is subject to the following conditions:
 - There shall be no more than 15 lots within the subdivision.
 - The Applicant shall prepare and record Restrictive Covenants governing the development and form a homeowners' association to be responsible for the perpetual maintenance of streets, roads, storm water management facilities, erosion and sedimentation control facilities and other common areas.
 - The storm water management system shall meet or exceed the requirements of the State and County.
 - All entrances shall comply with all of DelDOT's requirements.
 - There shall be no wetlands within any lot lines.
 - Street naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - A Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

Subdivision #2005-6 – application of **S. K. PEPPER CREEK, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 65.39 acres into 125 lots, (Environmentally Sensitive Development District Overlay Zone), located south of Road 336 (Piney Neck Road), 1,170 feet east of Road 335A and north of Pepper Creek.

Mr. Abbott advised the Commission that this is the final record plan for a 125-lot single-family development; that the Commission granted preliminary approval for 125 lots on

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October 27, 2005; that the final record plan is the same as the preliminary plan; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approve this application as a final. 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. Abbott advised the Commission that this application has been deferred since July 13, 2006; and that DNREC has indicated that the site is suitable for individual on-site septic systems.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 17 for Saw Mill Associates, Inc. based upon the record and for the following reasons:

1. The subdivision meets the purpose of the Subdivision Code because it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The density is less than the maximum density permitted by the existing AR-1 zoning.
3. The subdivision is integrated into the existing terrain and surroundings.
4. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values. There are also lots in the area that are similar or smaller than what has been proposed.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
6. DNREC has indicated that the site is suitable for individual on-site septic systems.

7. A homeowners' association will be created to maintain streets, open space, storm water management areas and street lighting.
8. This recommendation is subject to the following conditions:
 - There shall be no more than 41 lots within the subdivision.
 - The Applicant shall prepare and record Restrictive Covenants governing the development and cause to be formed a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.

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- The storm water management system shall meet or exceed the requirements of the State and County, including specifically the direction of the County Engineering Department. An access easement shall be shown on the Final Site Plan providing access to the storm water management area.
- All entrances shall comply with all of DelDOT's requirements. Also, an area for a school bus stop shall be established at each subdivision entrance with parking for a 4 vehicles.
- The Restrictive Covenants shall include the Agricultural Use Protection Notice.
- A system of street lighting shall be established and the location of the lights shall be shown on the Final Site Plan. Streetlights shall also be located at the entrances to the development.
- Because one of the proposed cul-de-sacs exceeds 1,000 feet in length, traffic circles shall be installed no more than 1,000 feet apart on the roadway.
- There shall be an easement created between the two subdivision roads to allow a pedestrian connection between the 2 sections.
- Street naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- There shall be no wetlands within any lots.
- The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.
- Parcel A shown on the Preliminary Site Plan shall not have any access to the Development and shall not be considered part of the development or homeowners' association.

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

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 discussed this application, which has been deferred since July 13, 2006.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1663 for Toe Tapper, L.L.C. based on the record and for the following reasons:

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- 1) The use as medical and professional offices will serve the community. It is also consistent with other business and commercial uses in the vicinity of the property.
- 2) The centralized location of this use on Route 24 should relieve some traffic on Route One and other area roadways.
- 3) The use is of a public character that will benefit the health, safety and welfare of residents of Sussex County.
- 4) The use will not have a significant adverse impact on traffic.
- 5) This recommendation is subject to the following conditions:
 1. The site plan shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all agency approvals.
 2. Lighting for parking on the property in general will be “down” lights mounted on poles or lighting pointing away from adjacent properties.
 3. The office hours will be from 8:00 a.m. until 8:00 p.m. Monday through Saturday. The offices will be closed on Sundays. There may be emergency office hours anytime.
 4. Required parking will be provided and handicapped parking will be marked.
 5. The building, stormwater management facilities, well and septic shall all be located in such a way that, in the event that Route 24 is widened, the impact on the subject property will be minimal.
 6. There shall be one sign on the property not larger than 4-feet high and 8-feet long designating the offices.
 7. Sussex County Engineering has stated that the project is within the County’s North Coastal Planning Area, and that only 9.86 EDUs are allocated to this site. Under that limitation, any building on the site shall not exceed 9,760 square feet in size.

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

PUBLIC HEARINGS

C/U #1664 – application of **MARK J. AND STACI N. MILLS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for warehousing and limited office space to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 16.8152 acres, more or less, lying southwest of Route 20, 3,365 feet southeast of Route 26.

The Commission found that the Applicant had presented an Exhibit Booklet prior to the meeting and that the Exhibit Booklet contained a copy of an Existing Land Use map from the Town of Dagsboro, a State Investment Strategies map from the Town of Dagsboro,

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copies of a portion of the State Strategies for Policies and Spending referencing Investment Level 2, an Aerial View map from the Town of Dagsboro, a copy of the County Tax Map of the area, twelve photographs of the site and area, a copy of the Support Facilities Report from DelDOT, a Site Evaluation Report from Atlantic Resource Management, Inc., a copy of the site plan, a copy of an Elevation view of the front of a proposed building, and proposed conditions.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service “D” of Route 382 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 Evesboro loamy sand, Klej loam sand and Woodstown sandy loam; that the Evesboro soils have slight limitations; that the Klej and Woodstown soils have slight to moderate limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro and Klej soils are considered of Statewide Importance; that the Woodstown soils are considered Prime Farmland; that there are no storm flood hazard areas or tax ditches affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that Mark J. Mills was present with Tim Willard, Attorney, and Ken Christenbury of Axiom Engineering, LLC and that they stated in their presentations and in response to questions raised by the Commission that it is the Applicant’s vision to create a facility for service contractors for warehousing and small offices; that the site is adjacent to the new Indian River High School; that the site borders the Town of Dagsboro limits; that the site is not in a planned growth area for the Town of Dagsboro; that the site is in a Investment Level 2 according to the State Strategies; that the site is unseen from Route 20; that the area around the site is zoned MR Medium Density Residential, but undeveloped; that the Applicant plans on retaining the majority of the forest; that DelDOT did not recommend a traffic impact study; that water will be provided by well;

that a central septic system is proposed to serve the project; that the driveway is approximately 1,700 feet long; that the Applicant proposes to build ten 3,000 square foot warehouse buildings; that there is no intent to subdivide the parcel; that dumpsters will be located to the rear of each building; that the Applicant intends to create a 20-foot wide clear area around each building; that a parking area exist at the existing building that can be utilized for a turn around; that the driveway is presently gravel; that the Applicant proposes to start construction of the buildings closest to Route 20 and then pave the driveway as construction proceeds toward the rear; that they realize that the driveway and parking are subject to approval by the Commission; that a stormwater management pond is probable and subject to the Sussex Conservation District; that small unlighted signs will be permitted to identify each tenants office/warehouse; that one entrance sign is

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proposed; that no Sunday hours are intended; that no retail sales, no food preparation, no manufacturing, no public automotive or small engine repairs, no outside storage, and no residential use will be permitted on the site; that each warehouse building will be designed so that it can be utilized by one or two tenants; that one overhead door will be on each side of the buildings; that one access door will be on the rear of each building; that office hours will be normal contractor hours; that truck deliveries should be minimal; and that the existing building was constructed approximately two years ago.

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 #2005-52 – application of **UNDERHILL PROPERTIES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 104.79 acres into 139 lots, (Cluster Development), located east of Road 279, 515 feet southeast of Road 289.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on December 21, 2005 and that the report will be made a part of the record for this application; that the applicants submitted restrictive covenants on July 21, 2006; that a revised plan was submitted on July 24, 2006 reflecting revisions recommended by the Technical Advisory Committee and an Exhibit Booklet containing a Project Overview, the application, Development Report and Subdivision Considerations, Land Use Surrounding Zoning and Site Map, Soils Map and Soils Disposal Area, Storm Water Conceptual Plan, Traffic and Site Circulation, Amenities, Utility Providers, Covenants and Conditions, and Subdivision Extension.

The Commission found that Dennis Schrader; Attorney, Mike Daniels of Underhill Properties, LLC, and Tom Ford of Land Design, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site contains 104.79 acres; that the site is currently a golf course; that the site is zoned AR-1; that a cluster subdivision is proposed; that the proposed density is 1.33 lots per acre which is less than the permitted density allowed; that 66.99 acres of open space is provided; that the site is in a Level 3 according to the State's Strategies Map; that the site is located in an environmentally sensitive developing area; that fire protection will be provided by the Lewes Fire Department and Rehoboth Beach Fire Company; that police protection is provided by the Delaware State Police Troop 7; that restrictive covenants have been submitted into the record; that the applicants are

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acquiring additional lands that will be the subject of another application in the future; that there are mixed uses in the immediate area including developments, commercial uses and farming; that the project will retain good land features from the existing golf course including ponds to be utilized for storm water management and cart paths; that some of the greens will be retained and maintained as no mow or limited mow areas to allow for them to become meadows; that a swimming pool and clubhouse are proposed; that there will be a crabbing pier in Love Creek for the resident's uses; that the old dwelling located on the site will be razed; that the existing golf clubhouse and parking areas will be removed; that DelDOT did not require a traffic impact study; that DelDOT will require certain road improvements as a part of the entrance approval; that 64 percent of the site will be open space; that a wetland jurisdictional determination is currently under review with the Army Corps of Engineers; that there are no known rare or endangered species located on the site; that a school bus shelter will be provided; that Tidewater Utilities will provide and maintain central sewer and water to the site; that a Phase 1 Environmental Assessment Report has been conducted; that they expect DNREC to issue a septic feasibility statement in the near future; that the applicants have met with the Office of State Planning Coordination through the PLUS process and the plan has been revised to incorporate their recommendations; that no lots are located within any wetlands and there is a minimum 50-foot buffer from the wetlands; that the streets will be private and built to Sussex County specifications; that Delaware Electric Cooperate will provide electric to the site; that Verizon will provide telephone service to the project; that MediaCom will provide cable television; that sidewalks and multi-modal paths will be provided; that gazebos will be provided; that kiddy parks will be provided; that this project is superior to a standard subdivision since over half of the site is open space; that the project meets the intent of the cluster ordinance; that there will be no access for motorized boats into Love Creek; that interconnectivity is provided to an adjoining parcel that the applicants have purchased; that the entrance will have sidewalks on both sides of the streets then on one side only throughout the development; that there will be walk able paths provided in the forested areas; that there has not been any negative comments from any agencies; that all of the proposed lots back up to open space; that 4 of the existing ponds on the site will

be incorporated into this project; and that all items referenced in Subsection 99-9C have been addressed and are located in Tab 3 of the Exhibit Booklet.

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

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 52 for Underhill Properties, LLC based upon the record and for the following reasons:

1. The subdivision meets the purpose of the Subdivision Code because it protects the orderly growth of the County. It also meets the requirements of the Subdivision

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Code, and the items listed in Section 99-9C of the Code have been favorably addressed.

2. The density is significantly less than the maximum density permitted by the existing AR-1 zoning, in that 139 lots are proposed on 104.79 acres.
3. The subdivision is integrated into the existing terrain and surroundings.
4. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
5. The proposed subdivision will not adversely impact schools, public buildings, and community facilities or area roadways and public transportation.
6. Community wastewater and public water service by Tidewater Utilities is proposed.
7. A homeowners' association will be created to maintain streets, open space, storm water management areas, street lighting, sidewalks and other community amenities.
8. This recommendation is subject to the following conditions:
 - There shall be no more than 139 lots within the subdivision.
 - The Applicant shall prepare and record Restrictive Covenants governing the development and cause to be formed a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities, common areas, and community facilities.
 - The storm water management system shall meet or exceed the requirements of the State and County.
 - The entrance shall comply with all of DelDOT's requirements. Also, an area for a school bus stop shall be established at the subdivision entrance with parking for 4 vehicles.
 - Amenities are to include jogging, walking and bicycle paths, a community bathhouse and pool facility, a basketball half-court, and kiddy parks.

- The Restrictive Covenants shall include the Agricultural Use Protection Notice.
- A system of street lighting shall be established and the location of the streetlights shall be shown on the final record plan. Streetlights shall also be located at the entrance to the development. Sidewalks shall be provided on at least one side of each street.
- Street naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- There shall be no wetlands within any lots.
- The remaining cart paths shall be interconnected with the sidewalks in the community.

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- The referenced subdivision extension (Guy Property) shall not be considered part of the development or homeowners' association although it may be a matter of future consideration under a separate matter.
- The final site plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

Subdivision #2005-53 – application of **POLLY AND MARK YODER, JR.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 35.60 acres into 29 lots, located north of Road 207, 2,050 feet east of Road 206.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on December 21, 2005 and that the report will be made a part of the record for this application and that DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.

The Commission found that Mark Yoder and Byron Jefferson, P.E. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site contains 35 acres; that 29 lots are proposed which includes 4 strip lots along Road 207; that this project adjoins another subdivision; that an interconnection is provided to the Blueberry Hill subdivision; that agricultural buffers are provided; that on-site septic and wells are proposed; that there are not any wetlands located on the site; that the open space area contains storm water management area; buffers and the power line right of way; that lots A,B, C, and D are located along Road 207 and have been approved by DelDOT; that the site is currently agriculture; that there

are other developments in the area; that the project is compatible with the area; that the minimum square footage of dwellings will be 1,600 square feet; that manufactured and modular homes are prohibited; that lots 9 and 10 are almost one acre each; that the septic systems will be standard gravity systems; that the individual site evaluations have been approved for lots A, B, C, and D; and that the applicant has met with representatives from the City of Milford and they are not ready to annex this site at this time.

The Commission found that no parties appeared in support of or in opposition to this application.

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

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

Subdivision #2005-54 – application of **BAYWOOD, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 123.20 acres into 246 lots, (Cluster Development), located south of Road 301, 2,188 feet west of Route 24.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on December 21, 2005 and that the report will be made a part of the record for this application; that the applicants submitted a revised plan on June 30, 2006 that addresses the recommendations made by the Technical Advisory Committee; and that an Exhibit Booklet containing an Executive Summary, Existing Conditions, and Proposed Residential Cluster Development Concept.

The Commission found that Gene Bayard; Attorney, Rob Tunnell, and Kevin Burdette and Holly Hearn with McCrone, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this project is known as Phase 12 of the existing Baywood project; that this is a classic in-fill application; that the site is surrounded by other developments in the area; that this site adjoins Baywood, Stonewater Creek, and Routes 24 and 5; that the site was commercially timbered at one time; that a Phase 1 Environmental Assessment study has been conducted and that no endangered species were found to exist; that the site contains 123 acres; that 246 lots are proposed; that the density is 2 lots per acre which is a permitted density; that the average lot size is 10,019 square feet; that access to the site will be from an existing phase of Baywood; that there is also a golf course in the immediate area; that there are not any wetlands located on any of the lots; that there are buffers proposed; that the site is in a good ground water recharge area; that the site contains wooded areas, buffers, greenways and small park pockets; that Long Neck Water Company will provide central

water and central sewer will be provided; that the site is located in an environmentally sensitive developing area; that single-family dwellings are proposed; that the streets will be private and built to Sussex County specifications; that there will be sidewalks on both sides of all streets; that walking, jogging and bicycle paths will be provided throughout the project; that the applicants went through the PLUS process with the State; that the items referenced in Subsection 99-9C of the subdivision code have been addressed in the Exhibit Booklet submitted; that the trees surrounding the wetland areas will be preserved; that there will be no negative impacts to the wetlands; that the site is located in a X flood zone; that no known historical features have been found on the site; that 37 percent of the site will remain as open space; that minimal clearing is proposed; that a buffer surrounds the entire site; that a traffic impact study was prepared by Davis, Bowen & Friedel; that multi-modal paths are not found in Phases 1 through 11 of the Baywood development and

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are not proposed for this site; that the project will not cause any negative impacts to the surrounding properties; that the site is not currently farmed; that there will not be any negative impacts to the Indian River School District; that a bus shelter will be provided; that a bridge crossing over Route 24 is proposed for the previous phases of Baywood; that the applicant has a landscaper employed; that the project complies with the subdivision and zoning codes and the Land Use Plan; that this project is superior to a standard subdivision in that it provides for more open space and amenities; that there is adequate sewer capacity available; that the applicant will maintain as many trees as possible; that DelDOT will require necessary road improvements; that there is a secondary entrance located off of Holly Lake Road; that the State does not comment on projects located in a Level 4; and that if this application is approved, the applicant will file an application with the Board of Adjustment for a variance for front yard setbacks.

The Commission found that no parties appeared in support of or in opposition to this application.

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.

Subdivision #2005-55 - application of **WILLIAM STREET** to consider the Subdivision of land in an AR-1 Agricultural Residential District and GR General Residential District in Indian River Hundred, Sussex County, by dividing 4.30 acres into 5 lots, located north of Road 306A, 762 feet west of Road 299.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on December 21, 2005 and that the report will be made a part of the record for this application.

The Commission found that William Street and Charlie Sewell were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that Mr. Street wants to create 5 lots for family members; that water run-off runs off into the existing swale along Samantha Drive; that they have not received a septic feasibility statement from DNREC at this time; that the applicant has been a contractor for over 30 years; that deed restrictions have been submitted; and that lot 1 could become a storm water management area if required.

The Commission found that no parties appeared in support of this application.

The Commission found that Paula Wiggins, Diane Shepherd, Jeff Morris, and David Shepherd were present in opposition to this application and advised the Commission that

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the site is currently wooded; that the proposed lots are smaller than what exists in the area; that there are drainage and run-off concerns with the site; that there is currently a trailer and a cottage on the site; that all of the trees would be removed; questioned the types of homes that will be put on the lots; that the water table is high in the area; and questioned whether or not the applicants have permission to utilize Samantha Drive; and submitted photographs of the area into the record.

Mr. Street and Mr. Sewell responded that Mr. Street has permission to utilize Samantha Drive from the lady who put in the road.

At the conclusion of the public hearings, the Commission discussed this application. The Commission also discussed whether the lots would have legal access from Samantha Drive.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action pending verification that the applicant has the right to utilize Samantha Drive and a septic feasibility statement from DNREC. Motion carried 5 – 0.

Subdivision #2005-58 – application of **WINDMILL ESTATES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 160.91 acres into 214 lots, (Cluster Development), located south of Road 64, 2,160.50 feet west of Road 451A.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on January 25, 2006 and that the report will be made a part of the record for this application and that the applicants submitted a revised plan incorporating the recommendations of the Technical Advisory Committee and an Exhibit Booklet.

The Commission found that Gene Bayard; Attorney, Darin Lockwood; Developer, and Jessica Nichols; P.E. with Meridian Architects and Engineers were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site contains 161 acres; that 214 lots are proposed and that 321 lots are permitted; that the proposed density is 1.33 lots per acre which is less than the permitted density in the AR-1 zoning; that a buffers surrounds the perimeter of the site; that the minimum lot size is 7,500 square feet; that there are 5 acres of wetlands, wooded lands and crop lands; that the lots and right of ways total 56 acres; that 106 acres of open space will be provided; that the open space will contain wetlands, storm water management areas, passive open spaces, buffers, ball fields, sidewalks, picnic areas, and walking trails; that the developer meet with the State through the PLUS process and their response is referenced in the Exhibit Booklet; that the amount of open space that was originally proposed has been increased significantly; that a 50-foot buffer from all

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wetlands is proposed; that there will not be any further subdivision of the property; that the developer has provided for stub streets for interconnectivity as requested by DelDOT; that walking and bicycle paths are proposed; that the site is not located in a flood zone; that all of the lots are a minimum of 50 feet from the boundary of the site; that a school bus shelter will be provided at the entrance of the project; that the project will not cause any negative impacts to the local school district; that the items referenced in Subsection 99-9C of the Subdivision Code have been addressed and are referenced in the Exhibit Booklet; that Artesian Water Company will provide a maintain central sewer and water to the site; that street lights and sidewalks are proposed for both sides of all streets; that the project will not cause any negative impacts to adjoining and surrounding property values; that this project is superior to a standard subdivision in that more open space and buffers are provided; that there are not any wetlands on any of the lots; that the open space will be maintained by a homeowners' association; that a septic feasibility statement has not yet been received from DNREC; that there is adequate room for vehicle parking at the proposed school bus shelter; that there is no vehicular access to Brittingham Road; and that DelDOT will probably require road improvements.

The Commission found that no parties appeared in support of this application.

The Commission found that Jim Melvin and Dean Smith, adjoining property owners, were present in opposition to this application and expressed concerns about the proposed dwelling types and buffers; and that adjoining property owners hunt in the area.

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

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

Subdivision #2005-59 – application of **LANDLOCK, L.L.C.** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 40.72 acres into 149 lots, (Environmentally Sensitive Developing District Overlay Zone), located southeast of Road 351, 1,800 feet northeast of Road 349.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on January 25, 2006 and that the report will be made a part of the record for this application; and that the applicants submitted a revised plan incorporating the recommendations of the Technical Advisory Committee and an Exhibit Booklet; that the revised plan has been reduced to 141 lots; and that 5 letters were received in opposition to this application that will be made apart of the record for this application.

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The Commission found that Gene Bayard; Attorney, Darin Lockwood; Developer, and Jessica Nichols, P.E. with Meridian Architects and Engineers were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this site is located in a Level 2 developing area; that the site is zoned MR and is located in an environmentally sensitive developing area; that the proposed density is 3.5 lots per acre which is less than the permitted density in a MR zoning district; that the minimum lot size is 7,500 square feet; that central water will be provided by Tidewater Utilities; that Sussex County will provide central sewer; that the project is located adjacent to Banks Harbor Retreat and Whites Creek Manor and is in-fill; that this is the last vacant parcel in this area; that the site is currently partially farmed with soy beans; that there are also trees and an old dwelling located on the site; that there are no know historical features on the site; that there is a bomb shelter located on the site; that the developer met with the State through the PLUS process in June of 2005; that the PLUS comments have been addressed in the Booklet Exhibit; that the plan has been reduced to 141 lots to lessen impacts on the environment; that 2 lots along the water have been deleted; that recreational amenities are provided; that the site currently has a boat dock; that there are not any wetlands on the lots; that an interconnection has not been provided to Banks Harbor since the project is already developed; that there are buffers from the wetlands; that the County will provide central sewer to the site in 2008; that Tidewater Utilities will provide central water; that the site is located in a flood zone; that a Phase 1 Environmental Assessment report has been performed and is referenced in the Exhibit Booklet; that sidewalks and street lights will be provided on both sides of all streets; that a bus shelter with parking will be provided; that there will not be any negative impacts to Whites Creek; that the items referenced in Subsection 99-9C of the Subdivision Code have been addressed and are referenced in the Exhibit Booklet; that the streets will be private and built to County specifications; that the proposed density is similar to existing developments in the area; that the project will not cause any negative impacts to the Indian River School District; that DelDOT will require road

improvements; that the environmental assessment report provides for tree mitigation; that this project is designed to 2006 standards; that storm water run-off will be handled on-site; that parking will be provided at the amenity area; that the 2 existing docks will remain and a boat ramp is not proposed.

The Commission found that no parties appeared in support of this project.

The Commission found that Sidney Hart, Jim Shaffer, Cliff Eskridge, William Anderson, George Moran, Herb Beutler, Donald Mabry, Roberta Walter, and Chris Malik were present in opposition to this application and stated that they have concerns about storm water run-off; increased traffic in the area; that they do not want stub streets into their development; questioned if an environmental and traffic impact study have been conducted; that there would be a loss of wildlife habitat; that street lights will negatively impact adjoining properties; that the project needs a buffer; questioned if there will be a

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phasing plan; that the lots are smaller than other lots in the area; questioned the types of dwellings proposed; that there are flooding problems in the spring and winter months; that the infrastructure needs to be in place before the project is approved; that Clubhouse Road is a narrow 2 lane road; that the proposed density is too much; and that if the project is approved, the number of lots needs to be reduced.

The applicants responded that the streetlights will be low projecting lights with low wattage; and that DelDOT did not require a traffic impact study.

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

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

ADDITIONAL BUSINESS

Mr. Lank advised the Commission that Request for Proposals (RFPs) were advertised for Consultants interested in preparing the Comprehensive Plan Update; that a review committee was established to review any proposals received; that the review committee included Mr. Wheatley, Mr. Lank, Mr. Kautz, Mr. Robertson, Hal Godwin, Administrative Assistant, and Russell Archut, Assistant County Engineer; that the review committee received six (6) proposals; that the review committee reviewed and discussed the six (6) proposals and decided to interview four (4) of the Consultants; that each of the four (4) Consultants were interviewed; that the review committee then ranked the proposals; that Mr. Godwin prepared a memorandum to County Council to show the Council the ranking on July 18, 2006; that one of the Councilmen wanted to review the proposals; and that the Council has not yet taken any action.

Meeting adjourned at 10:38