



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF AUGUST 9, 2007

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 9, 2007 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: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. I.G. Burton, III, Mr. Michael Johnson, and Mr. Rodney Smith, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director and Mr. Richard Kautz – Land Use Planner.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of July 18, 2007 and July 26, 2007 as circulated. Motion carried 5 – 0.

OLD BUSINESS

C/Z #1613 – application of **BAYSHORE PLAZA II, LLC** 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 Indian River Hundred, Sussex County, land lying east of Route 24, approximately 1,800 feet south of Long Neck Road (Route 23), to be located on 34,386 square feet, more or less.

The Commission discussed this application which has been deferred since June 28, 2007.

Mr. Lank summarized a letter from Bryan Hall, Principal Planner with the Office of State Planning Coordination, which waived the requirement for a Preliminary Land Use Service (PLUS) review of this project since their Office feels that the proposed project is in keeping with the adjacent proposed and existing land use activities.

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1613 for Bayshore Plaza II, LLC to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential to C-1 General Commercial based upon the record made at the public hearing and for the following reasons:

1. The project is located within the Environmentally Sensitive Developing Area according to the 2002 Comprehensive Plan Update. The proposal is a minor expansion of Bay Shore Plaza II, a neighborhood shopping center or village scale shopping center, which is a preferred design under the 2002 Update.

2. The change of zoning will not have an adverse impact on the neighboring properties or community. The change of zoning will benefit residential developments in this area of Long Neck Road, Bay Farm Road and Route 24.

Minutes
August 9, 2007
Page 2

3. C-1 zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for retail shopping and personal and miscellaneous service activities, and that such uses should be located along arterial roadways where a general mixture of commercial and service activities now exists. In this case, the project along Route 24 falls within the stated purpose of the C-1 District.
4. The project is located within the Long Neck Sanitary Sewer District and the Sussex County Engineering Department states that there is adequate capacity for the project as proposed.
5. The location of a neighborhood shopping center on this parcel should have the effect of limiting trips on Route 24 by residents in the area who may otherwise have to travel farther on for their shopping needs.
6. The project is located in an area where other properties are zoned C-1 and B-1 with varying types of commercial activities on them.
7. The Applicant has stated that it will create a deed restriction to provide a 7-foot high solid fence along the Bayshore and Sherwood Forest Subdivision and the adjoining residential property.
8. The Applicant stated their intention to obtain an easement from the adjoining Warren property necessary to provide a multi-modal path from the Bayshore Plaza II to the entrance to the Sherwood Forest Subdivision. This multi-modal path will promote safe and accessible pedestrian travel.

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 stated. Motion carried 5 – 0.

PUBLIC HEARINGS

Mr. Robertson explained how the meeting and public hearings would be conducted.

C/U #1720 – application of **WAYNE AND JANET SANSONE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for archery repair and sales to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 1.0018 acres, more or less, lying southwest of Route 13A, 925 feet northwest of Road 468.

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

The Commission found that a letter was received from Linda M. Hastings in support of the application which referenced that the Applicants have built a nice facility for this purpose and where the building is placed on the backside of the property, it should not interfere with any other neighboring properties or create any threatening traffic situation.

Minutes

August 9, 2007

Page 3

The Commission found that Wayne and Janet Sansone were present and stated in their presentation and in response to questions raised by the Commission that they built the building in the rear of their property to serve hunters in the area; that the closest facility of this type for archery repair and sales area near the beaches or in Snow Hill, Maryland; that they propose to repair archery equipment and provide supplies for archery hunting; that they would like to be open from 8:00 a.m. to 7:00 p.m. Monday through Saturday; that the majority of their business is anticipated to be during afternoons to evenings; that the typical delivery vehicle would be a step van, i.e. UPS trucks; that they would like to have a lighted sign; there would be no noise associated with the business; that they may have approximately 12 customers per day; that there will be no employees, other than themselves; that security lighting already exists; and that they do not intend to establish an archery range at this time, but may in the future.

Mr. Lank advised the Applicants that an archery range would require an approval from the County Board of Adjustment.

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

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1720 for Wayne and Janet Sansone for archery repair and sales based upon the record and for the following reasons:

1. There is a need for this type of use in Sussex County. The use will benefit residents of Sussex County that hunt or are archery enthusiasts.
2. This use will not have an adverse impact on neighboring and adjacent properties. It will not generate a significant increase in traffic.
3. This approval is subject to the following conditions:
 - A. The use shall be limited to the repair and sales of archery equipment and related items.
 - B. There shall not be an archery range on the site without the approval of the Sussex County Board of Adjustment.
 - C. The hours of operation shall be limited to 7:00 a.m. through 7:00 p.m. Monday through Saturday.
 - D. There shall be no more than one unlighted sign on the site.

- E. There shall not be a dumpster on the site.
- F. There shall not be any employees other than the applicants.
- G. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Minutes
August 9, 2007
Page 4

Motion by Mr. Smith, seconded by Mr. Johnson and carried with 4 votes 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 4 – 0. Mr. Gordy was absent.

C/U #1695 – application of **DONALD AND KIMBERLY JEFFERSON** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for agricultural machinery and truck repairs to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 4.79 acres, more or less, lying at the northeast end of a private road 950 feet northeast of Reynolds Road (Road 233), approximately 3,000 feet southeast of Road 235A.

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

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located within the North Coastal Planning Area; that an on-site septic system is proposed to serve the property; that the proposed project is not in an area where the County expects to provide sewer service in the immediate future; and that a concept plan is not required.

The Commission found that Donald Jefferson was present and stated in his presentation and in response to questions raised by the Commission that he proposes to do repair work on agricultural equipment and trucks; that the building will be screened by woodlands; that a 60’ by 80’ steel building is proposed with 3-bays; that the building will be tall enough and large enough to do repairs on agricultural combines; that parking will be provided to the rear and side of the proposed building; that he will be working on farm equipment, farm related tractor trailers, heavy equipment, tractors, combines, and a small number of automotive vehicles and pickups for local farmers; that there will be no outside storage of used parts; that a need exists for farm machinery repairs; that business hours will be from 8:00 a.m. to 5:00 p.m. Monday through Saturday, except for emergencies; that no work will be performed outside; that the area is agricultural; that the

access to the property goes along family properties; and that he currently operates the business at a leased site.

The Commission found that Gail Dickerson was present in support of the application and stated that the lot came from a family farm; that the site is surrounded by family properties; and that farmers in the area support the application.

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

Minutes
August 9, 2007
Page 5

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

Mr. Burton stated that he would move that the Commission recommend approval of C/U #1695 for Donald and Kimberly Jefferson for agricultural machinery and truck repairs based upon the record and for the following reasons:

1. The use will benefit agricultural operations within this area of Sussex County.
2. There is a need for this use in this area of Sussex County.
3. The use will not adversely impact any neighboring or adjacent properties. It will also not generate a significant increase in traffic.
4. This recommendation is subject to the following conditions:
 - A. Work shall only be performed on farm equipment, tractor-trailers and similar equipment, with only an occasional auto or pickup repair.
 - B. There shall be one 60' by 80' building on this site for this use.
 - C. There shall be no outside work on the equipment being serviced or repaired.
 - D. The hours of operation shall be limited to 8:00 a.m. to 5:00 p.m. from Monday through Saturday, with emergency hours as needed.
 - E. There shall not be any junked, salvaged or inoperable parts, equipment, or tractor-trailers on the site. All junk and scrap materials shall be removed regularly.
 - F. There shall not be any signage on the site.
 - G. There shall be no more than 2 employees associated with the business.
 - H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson and carried with 4 votes 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 4 – 0. Mr. Gordy was absent.

C/U #1697 – application of **DANSK, LLC** to consider the Conditional Use of land in a C-1 General Commercial District for a waterpark and miniature golf course to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County,

containing 1.352 acres, more or less, lying north of Route 54, west of Virginia Avenue, approximately 350 feet west of Route One.

The Commission found that the Applicants provided an exhibit booklet which included proposed findings of fact, proposed conditions, a Bethany – Fenwick Island Chamber of Commerce letter in support of the application, aerial photographs, a USGS Quad Overlay, a 2005 survey, a preliminary site plan, a DelDOT Support Facilities Report, a DelDOT Letter of No Objection to the entrance location, a letter of no objection from the Town of Fenwick Island, a letter from the U.S. Army Corps. of Engineers, a letter from

Minutes

August 9, 2007

Page 6

JCM Environmental Consultants, Inc. in reference to wetlands, photographs of the site and property lines, and a series of aerial maps of the area.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located in the Fenwick Island Sanitary Sewer District; that one 6 – inch lateral is provided for each of the two parcels; that a 6 – inch lateral may not be adequate for the proposed use; that the Engineering Department would like to reserve the right to future comments once the Department has received detailed plans for the project and determine the capacity required to serve the project; and that a concept plan will be required.

Mr. Lank advised the Commission that letters in opposition to the application had been received from Margaret Steele, Brian Lesniewski, David Hall, Betsy Mitchell, Scott Fornwalt, Melanie McKnight, and V.M. Hall, and that V.M. Hall had provided a packet of 24 photographs with explanation of each photograph. Mr. Lank forwarded the letters and packet to the Commission for their review during the public hearing.

The Commission found that Tor Anderson was present with Dennis Schrader, Attorney, and Ken Christenbury of Axiom Engineering and stated in their presentations and in response to questions raised by the Commission that the property is zoned C-1 General Commercial; that the proposed use is considered an amusement and requires Conditional Use approval; that many similar uses exists in the area for amusements and are older uses; that the site is currently improved by a water park with 18 paved parking spaces and grassy overflow parking; that they propose to modernize and improve the site; that a total of 39 parking spaces will be provided; that according to the State Strategies the site is in an Investment Level 1; that according to the Comprehensive Plan Update the site is located in the Environmentally Sensitive Developing Area; that the site is adjacent to public streets; that an on-site well will serve the project; that the site is served by County sewer; that the site does not contain any wetlands; that the area has developed with mixed commercial uses; that the proposed water park will be taller with more modern slides; that a miniature golf course is also proposed along the front and westerly side; that the neighboring property to the west and north are residential; that the pool areas will be fenced; that a landscape plan will be submitted with the site plan; that the water for the

water park is recycled; that less than 1,000 gallons are backwashed into the sewer system; that the water park is primarily used during the daytime; that the miniature golf course will be primarily used during the evening hours; that it is JCM Environmental's opinion that the drainage swale and the small shallow depression observed on the site appeared to result from uncontrolled surface water runoff from adjacent properties and that the clayey sands observed in the area of the depression do not meet the hydric soil criteria, and therefore the swale and small shallow depression would not be federally regulated; that according to the comments received from the U. S. Army Corps. of Engineers it has been determined that the parcel does not contain navigable waters of the United States or

Minutes

August 9, 2007

Page 7

waters of the United States, and that the development of the property will not require the authorization of the Corps. of Engineers; that the site will be improved by relocation of the parking area from Route 54 to the rear of the site; that both DelDOT and the Town of Fenwick Island support the improvements; that they may improve the parking lot with GeoBlock pavers rather than paving since the GeoBlocks are less impervious and reduce runoff; that the water park was erected in 1977 or 1978; that the Applicants purchased the project in 1987; that the water park is open from Memorial Day through Labor Day; that the water park is open 7-days per week from Mid-June to Labor Day; that water park activities peak between Noon and 4:00 p.m.; that the water park closed during inclement weather; that the golf course will be open from April/May to September/October and full-time during the summer months; that 85% of the volume for the golf course will be during July and August; that the golf course will be open from 10:00 a.m. to Midnight; that the golf course activities peak after dinner; that 10-years ago the water park did receive some complaints about music noises and that since reducing the volume there have been no complaints; that the Applicants own Viking Golf at the intersection of Route One and Route 54, the adjacent go-cart track and stores along both; that parking for those projects are adjacent to the stores and go-cart track and adjacent to Route One; that adequate parking is proposed and that they will post signage to designated parking areas; that they are planning on renovation and modernization of the water park due to the age of the project and the need to upgrade; that the water park has been in existence for over 20 years; that the area is served by food services, retail and recreational uses; that this area of Fenwick Island serves the area; that most of Fenwick Island is residential; that relocation of the parking area should improve traffic; that a concept plan will be submitted to the County Engineering Department for review; that no additional bathrooms are proposed; that 21 parking spaces will be provided for the water park and 18 parking spaces will be provided for the miniature golf course; that the water park is periodically inspected by Public Health; that the nearest medical facilities are in Ocean City; that ambulance services are provided by the Bethany Beach Fire Company; that there have been no security problems; that no alcohol is permitted on the site; that the water park tower will not exceed 42-feet in height; that the platform will be 33-feet above grade with railings; that privacy fencing will be erected for screening; and that they have no objections to the Fenwick Island suggestion that a stop sign be erected at the parking lot entrance to ensure vehicle and pedestrian safety.

The Commission found that Patricia Riggin, Joseph Reed, Betsy Mitchell, V.M. Hall, Freddie Mitchell, and Virginia Cunningham were present and spoke in opposition to the application and expressed concerns about water runoff, the lack of need for another miniature golf course, parking problems in the area, that the proposed parking is not adequate, noise, late night hours, the lack of stripping on the streets, the height of the miniature golf displays, night lighting, safety concerns, expansion of the water park facilities without public notice or permits, fencing heights, debris and trash, inadequate

Minutes
August 9, 2007
Page 8

toilet facilities, dumpster locations, wetlands, parking on properties owned by others, the capacity of the pools on the water park, and congestion.

The Commission found that Betsy Mitchell provided 12 photographs showing the parking lots in the area, an aerial view of the water slide, and photographs of wetland vegetation on the site, and drawings of the existing use of the water park property and an overview of other business uses in the area and related parking.

The Commission found that Mr. Christenbury and Mr. Anderson responded to questions raised by the Commission that the existing parking areas contain 18 paved parking spaces and 15 gravel spaces with space for 7 vehicles in the grass area; that the grass area is not utilized; and that they did not realize that they could not erect fencing for the beach area.

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

Motion by Mr. Smith, seconded by Mr. Johnson and carried with 4 votes to defer action for further consideration. Motion carried 4 – 0. Mr. Gordy was absent.

Subdivision #2006-25 – application of **NES 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 8.51 acres into 8 lots, (Cluster Development), located west of Road 289 (Jolyns Way), 870 feet southeast of Route 24.

The Commission found that the Applicants had submitted an Exhibit Booklet which contained a site map, an aerial map, renderings, a surrounding communities map, site data, a declaration of restrictions and easements, architectural guidelines, a rendered site plan, a topographic map, a preliminary site plan, a grading and drainage plan, photographs of the site, supporting information, responses to 99-9C of the Subdivision Code, a copy of the DNREC Preliminary Subdivision Feasibility Study, a copy of the Site Access Design document from Orth-Rodgers Associates, Inc., a Wetlands Delineation Report from Envirotech Environmental Consulting, Inc., and a copy of the Preliminary Wastewater Treatment and Disposal Review from Atlantic Resource Management, Inc.

Mr. Lank advised the Commission that Technical Advisory Committee comments were received until December 20, 2006; that DeIDOT comments were received on January 22, 2007; that the Applicants submitted their Exhibit Booklet and revised restrictive covenants on July 31, 2007; and that the septic feasibility statement from DNREC indicates that the site is suitable for individual on-site septic systems.

Minutes
August 9, 2007
Page 9

The Commission found that Doug Warner and Matthew Peterson of Element were present on behalf of the applicants and stated in their presentations and in response to questions raised by the Commission that the site is feasible for septic; that they are proposing to develop 8 lots on 8.51 acres; that individual septic systems and wells are proposed; that the design is based on the Cluster provisions of the Subdivision Code; that several residential lots exists adjacent to and in close proximity to the site; that they have designed the project with swales and may convert the design to curb and gutter; that the smallest lot is 0.51 acre; that they have proposed 30-foot wide wooded buffers around the entire perimeter; that the only recreational space is passive space; that 3 lots are suitable for "Cap and Fill" septic systems and 5 lots are suitable for LPP systems; that on-site constructed homes and modulars are proposed, no mobile homes; that the site is in close proximity to other residential projects; that the cluster project is superior in design to a standard subdivision since they have maintained woodlands in the buffers around the perimeter of the site and in passive open space areas; that the only woodlands lost will be for street rights-of-way, dwelling and driveway locations, and septic and well locations; that they have minimized the amount of trees lost; and that they may be able to design the site as a standard subdivision with 7 or 8 lots.

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

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

Mr. Johnson stated that he would move that the Commission deny preliminary approval of Subdivision #2006-25 for NES Properties, LLC based upon the limited record presented and for the following reasons:

1. According to Ordinance No. 1709, otherwise known as the "Cluster Ordinance", the Planning and Zoning Commission shall determine in its reasonable judgment that the following requirements among others are met before approving any cluster development:
 - a. The preliminary plan of the cluster development provides for a total environment and design, which are superior, to that which would be allowed under the regulations for the standard option.

- b. All of the items of Ordinance No. 1152 (99-9C) have been favorably addressed.
- 2. I do not believe that the proposed cluster development is superior to a standard subdivision, except that it may permit the developer to create more lots than a standard subdivision design might provide.
- 3. The proposed open space appears to consist of residual lands and the stormwater management pond, all of which appear to be limited, passive use and/or part of the infrastructure, and of little value to the residents in the form of open space.

Minutes
August 9, 2007
Page 10

- 4. The property currently is heavily wooded. With the proposed smaller lots containing individual wells and septic, nearly all the existing trees would have to be removed except for the required surrounding 30-foot buffers.
- 5. This proposed cluster development does not provide for a total environment and design, which are superior to that of a standard subdivision.

Motion by Mr. Johnson, seconded by Mr. Burton and carried with 4 votes to deny this application as submitted. Motion carried 4 – 0. Mr. Gordy was absent.

Subdivision #2006-26 – application of **GRAVEL HILL PROPERTIES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 204.47 acres into 276 lots, (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located east of Route 30, 200 feet north of Road 251.

The Commission found that the Applicants had provided an Exhibit Booklet which contained site data, site information, references to water service, sanitary sewer service, and stormwater management, and appendices referencing utility commitment letters, a preliminary site plan, an existing and submitted projects in the area map, a Town of Milton future land use/potential expansion plan, a copy of the State Strategies map showing the site and surrounding area, a Traffic Analysis prepared by Traffic Planning and Design, Inc., Responses to 99-9C of the Subdivision Code, references to compliance with the Cluster Design Considerations, references to the removal of the site from the DNREC State Resource Maps, Technical Advisory Committee and Preliminary Land Use Service comments and responses, a copy of the Division of Water Quality approval of the Preliminary Feasibility Study for sanitary sewage, a Phase I Site Assessment with photographs and maps, a Summary of Endangered Species and Natural Heritage Assessment prepared by Atlantic Resource Management, Inc. with letters from the U.S. Department of the Interior Fish and Wildlife Service and DNREC Division of Fish and Wildlife Natural Heritage & Endangered Species Section, a Cultural Resource Assessment prepared by Edward Otter, Ph.D. and Archaeologist, a jurisdictional wetlands reference, and a letter from Fuqua and Yori, P.A. in reference to the Declaration of Restrictions.

Mr. Lank advised the Commission that Technical Advisory Committee (TAC) comments were received until December 20, 2006; that Mr. Robertson's comments were received on January 18, 2007; that DelDOT comments were received on January 22, 2007 and August 8, 2007; that the restrictive covenants were received on July 2, 2007; that the Applicants responded to the TAC comments on July 18, 2007; that the Applicants submitted the Exhibit Booklets on August 6, 2007; that an E-mail was received from Dan Parsons, County Historic Preservation Planner in regards to two cemeteries location on or near the site on August 2, 2007; that the septic feasibility statement from DNREC

Minutes

August 9, 2007

Page 11

indicates that the site is suitable for a community wastewater treatment system; and that the site plan and Exhibit Booklet references a 15' front yard setback and that the Cluster Ordinance minimum front yard setback is 25'.

The Commission found that James Fuqua, Attorney, was present with Gary Cuppels of Engineering Consultants International, LLC (ECI) and stated in their presentations and in response to questions raised by the Commission that the site is southwest of the Town of Milton; that the property is mostly cleared farmland with an existing borrow pit on the site; that the borrow pit predates any zoning ordinances; that the borrow pit was started prior to 1954; that the site was removed from the State Agriculture Preservation Program; that no wetlands will be disturbed; that a cluster development is proposed with a density of 1.35 dwellings per acre; that central water and central sewer will be provided by Artesian Resources; that the central sewer will comply with all DNREC and Sussex County specifications; that the State DNREC issued a Statement of Feasibility for On-Site Wastewater Treatment and Disposal; that the recently approved Conditional Use No. 1724 for a regional wastewater treatment and disposal system may provide sewer service to this site, thereby eliminating on-site wastewater treatment and disposal; that a homeowners association will be formed to maintain all infrastructure on the site; that a traffic impact study was preformed and that the Applicants will comply with all of DelDOT determinations; that DelDOT has no objections to the entrance location; that the streets in the project will be private streets built to meet or exceed County standards; that homes in the project will contain a minimum of 2,400 to 2,800 square feet of living space; that the homes will be in the price range of the mid \$300,000.00; that the project will be phased to construct 50 to 70 homes per year; that the site is located in a Level 4 Investment Area according to the State Strategies and is adjacent to a Level 3 Investment Area and 1,800 feet from a Level 2 Investment Area around the Town of Milton; that the boundary of the Future Expansion Map of the Town of Milton abuts the site; that according to the County Comprehensive Plan Update the site is located in a Low Density Area and adjacent to a Developing Area; that the proposal meets the purpose of the AR-1 zoning and meets the Low Density criteria of the Update; that the project will comply with the Cluster Ordinance; that the maximum density of the project could have been 306 units; that the design provides for all single family homes and lots, buffers along all agricultural lands, with all lots facing interior streets and backing up to open space; that

there will not be any wetlands on any lots; that the borrow pit will become a passive natural feature of the development; that the borrow pit will be phased out as the development is created; that the area along Ingrams Branch will remain undisturbed; that the Cultural Resource Study indicates that there may be two cemeteries on or near the site, and that the location of the two cemeteries has not yet been confirmed; that the proposed subdivision layout indicates that approximately 4 or the 19 acres of woodlands on the site will be removed; that the Applicants intend to provide landscaping and street trees throughout the project; that the borrow pit has a high wall on the westerly edges and will be mitigated to create a smooth transition toward the pit and to create a lake; that at

Minutes

August 9, 2007

Page 12

least two access points will be created for access to the lake; that no motorized boats will be permitted in the lake, only canoes, kayaks, paddleboats or similar watercraft; that a swimming area will be roped off; that the homeowners association will be responsible to control access to the lake; that a walking trail will be provided along the lake and will be fenced and landscaped; that the easterly side of the lake will remain undisturbed; that a portion of the site was utilized for a spray irrigation field for cannery waste and has since been closed down; that a school bus shelter will be provided; that recreational uses will include walking trails, tot lots, a community center with a swimming pool, tennis courts, a fishing pier, and sidewalks on both sides of all streets; that street lighting will be provided; that several subdivisions have been approved in close proximity; that the commercial borrow pit activities will terminate at the issuance of the first residential building permit, except for on-site use of the materials; that if on-site wastewater treatment and disposal is not needed, the area will remain as open space and will not be developed; that the project will be developed in compliance with the requirements of the Zoning Code and the Subdivision Code; that the lake will become a natural feature of the project; that the maximum depth of the lake will not exceed 15-feet; that landscaping and berming around the lake should eliminate the nuisance geese; that a stub street for interconnect can be provided to the south; the street trees will be planted between the sidewalks and the streets; and that the commercial borrow pit operator, the present owner and the Applicant are cooperating to control the borrow pit activities.

The Commission found that Mr. Fuqua submitted some proposed findings and proposed conditions for consideration.

The Commission found that Mike Hastings, the current owner of the property, was present in support and added that he can call the commercial borrow pit operator and stop all pit activities at anytime.

The Commission found that Jim Schenck, Martin Manship, Page Schenck, and Shannon Wilcox were present and stated that there are concerns about the loss of the true forest on the site next to the Schenck property; that preserving the true forest will improve the project; that the State has recently tiled the drainage across a portion of the site to improve drainage along Route 30; that the true forest should be retained since several

hawks and other wildlife frequent the forest; that farmland and wildlife could be lost by development of this project; that one of the cemeteries is in the Wilcox backyard; that the traffic from the project may impact area traffic; that the need for another project is questionable due to the current real estate market; questioned the impact on private wells; and that an archaeological survey should be performed.

The Commission found that Mr. Schenck submitted a sketch of the true forest as it relates to the adjacent properties.

Minutes
August 9, 2007
Page 13

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

Motion by Mr. Johnson, seconded by Mr. Burton and carried with 4 votes to defer action for further consideration. Motion carried 4 – 0. Mr. Gordy was absent.

Meeting adjourned at 10:35 p.m.