



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF AUGUST 10, 2006

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 10, 2006 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Vice Chairman Gordy presiding. The following members of the Commission were present: I. G. Burton, III, Benjamin Gordy, Rodney Smith and Robert Wheatley, who came in late, with Vincent Robertson – Assistant County Attorney, Lawrence Lank – Director, Shane Abbott – Assistant Director and Richard Kautz, Land Use Planner.

Motion by Mr. Smith, seconded by Mr. Burton and carried with three votes to approve the agenda as circulated.

Motion by Mr. Smith, seconded by Mr. Burton and carried unanimously to approve the Minutes of July 27, 2006 as amended.

Mr. Robertson advised the Commission that three members provide for a Quorum and that three affirmative votes will be required on any agenda items decided.

OLD BUSINESS

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 discussed this application, which has been deferred since July 27, 2006.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1664 for Mark J. and Staci N. Mills to operate a warehousing and limited office space based on the record made at the public hearing and for the following reasons:

- 1) The use is of a public or semi-public character and is desirable for the general convenience and welfare of the area. It will provide a location for small business and contractor offices that are needed in Sussex County. With its centralized location, it will also alleviate traffic on Route 113 and Route 26.

- 2) The project, with the conditions and stipulations placed upon it will not have an adverse impact on the neighboring properties or community.
- 3) The site is in a developing area adjacent to the Town of Dagsboro and the new Indian River High School. It is also in the State's Level 2 area, which encourages mixed uses such as this. With the conditions placed upon it, the site will also be screened from view from Route 20.
- 4) This recommendation for approval is subject to the following conditions:
 - a. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all agency approvals.

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- b. There shall be no more than ten 60' by 50' office/warehouse buildings located in the project, in addition to the existing structure.
- c. To comply with the Applicant's statement that the project will be screened from Route 20, all buildings shall be setback to a point south of the existing tax ditch with the exception of the entrance sign. There shall not be any structures, equipment or vehicles erected, placed or stored between Route 20 and the tax ditch.
- d. The location of the tax ditch setback line shall be shown on the Final Site Plan.
- e. The driveway to the proposed buildings shall be constructed and paved in accordance with Sussex County Street Design standards.
- f. There shall be a 6-foot high security fence erected around the office/warehouse area south of the tax ditch.
- g. A central leasing and management office shall be maintained on site.
- h. As stated by the Applicant, no Sunday hours of operation shall be permitted.
- i. Any lighting shall be installed only on the buildings and shall be screened so that the lights do not shine on neighboring properties or towards Route 20.
- j. There shall be one sign at the entrance to the property not larger than 32 square feet in size designating the offices. Each building shall be allowed to have one sign not to exceed 12 square feet in size.
- k. There shall be no retail sales, no food preparation, no manufacturing and no public automotive or small engine repairs performed on site.
- l. There shall be no outside storage permitted at any of the proposed buildings, including the building that currently exists on the property.
- m. This project shall comply with all DelDOT entrance requirements.
- n. On the Final Site Plan, the location of all parking and fire lanes shall be specifically shown, along with all overhead doors providing access to the buildings.
- o. In addition, the location of the dumpsters shall be shown on the Final Site Plan. All dumpsters shall be screened from view.

Motion by Mr. Smith, seconded by Mr. Burton 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 and stipulations stated. Motion carried 4 – 0.

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PUBLIC HEARINGS

Mr. Gordy turned the meeting over to Mr. Wheatley, Chairman.

C/U #1665 – application of **L.T. ASSOC., LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a professional/medical office complex to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 20.433 acres, more or less, lying east of Warrington Road (Road 275), 200 feet southeast of Route 24.

The Commission found that the Applicant had presented an Exhibit Booklet prior to the meeting and that the Exhibit Booklet contained: a revised preliminary site plan; a list of the project team; a project overview with a photo review of existing conditions; a copy of the application form with attached letter from the Office of State Planning Coordination, PLUS comments and responses; a development report; references to compliance with zoning; an architectural and parking concept; a typical building layout; copies of the Sussex County Future Land Use Map, a copy of the State Policies and Spending Map, a zoning map of the area showing other business and commercial uses, an aerial map; a Preliminary Site Plan and site data, a Survey, a Tax Map, a Flood Zone Map, a Water Recharge Map, a U.S.G.S. Quad Map, and a Soils Map; a letter from the State Division of Fish and Wildlife Natural Heritage and Endangered Species Office; a memo on stormwater design and site plan, sanitary sewer service and site plan; a letter from the County in reference to the Sewer District and the project; a letter voicing no objections to the application from Beebe Medical Center; a rendering of preliminary roadway improvements; a site plan with road section locations and streetscapes; a site plan showing pedestrian circulation; a letter from Delaware Electric Cooperative, Inc.; an Open Space Management Plan; references to landscape and site design standards; and references to architectural design standards.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is located within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District and the North Coastal Planning Area; that wastewater capacity is available, at this time, for up to 81,700 square

feet of professional/medical office area; that evaluations and possible upgrades to a downstream pump station and forcemain are required prior to approval of more than 81,700 square feet of professional/medical office area; that the developer, at his expense, shall complete evaluations and necessary upgrades; that the developer will be required to participate in system upgrades to alleviate deficient lines on Route One before approval of more than 81,700 square feet; that the North Coastal Planning Study will identify necessary upgrades; that the North Coastal Planning Study will conclude in September 2006; that the current system connection charge rate is \$3,911.00; that there is no service to this parcel at this time; that the developer will be required to extend sewer service to

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the entrance of the project from Pump Station 262; that conformity to Amendment No. 3 to the Capacity Evaluation and Planning Study for the West Rehoboth Area and the North Coastal Area Planning Study will be required; that the proposed project adjoins, but is not within the West Rehoboth Expansion Area; that sewer service is not available to the parcel at this time; that the project is within a planning area for sewer service; that connection to the sewer system is mandatory; that the project can be annexed into the sewer district when the developer completes certain administrative procedures, construction of an extension of mainline sewers and necessary system upgrades; that the project is within an amendment of the area Planning Study and Capacity Evaluation for sewer service and exceeds assumptions for sewer service; that the proposed development will require a developer installed collection system in accordance with Sussex County standard requirements and procedures; that the County Engineer must approve the connection point; that the Engineering Department requires that a Sewer Conceptual Plan be submitted for review and approval prior to requesting annexation; and that one-time system connection charges will apply.

The Commission found that William Lingo of L.T. Associates, LLC were present with Eugene Bayard, attorney, and Tom Ford of Land Design, Inc. and that they stated in their presentations and in response to questions raised by the Commission that 30 years ago there were 17 doctors practicing at the Beebe Hospital in Lewes; that currently there are 188 doctors practicing at the Beebe Medical Center in Lewes and the Beebe Medical Campus on the adjoining parcel; that this project is proposed to provide medical office space as an extension to the Beebe Medical Campus; that they propose to develop the site with 11 condominium offices complexes; that stormwater management is proposed to be handled on a 3 acre parcel across Warrington Road; that they propose to interconnect the driveway/street system with the Beebe Medical Campus; that DelDOT is in agreement with the proposed location of the entrance; that the response received from the Office of State Planning Coordination states: that this project is within a Level 2 area according to the Strategies for State Policies and Spending and the Environmentally Sensitive Developing Area according to the Sussex County Comprehensive Plan; that the Office of State Planning Coordination also stated that they supported many of the plan concepts such as road connection to Beebe Medical Campus and the fact that the buildings will be fronting the interior drives/street with parking to the rear; that the Applicants stated in

their PLUS response that they will comply with many of the recommendations and suggestions offered by the State reviewers through the PLUS response; and that the State had no additional comments at the time of their final response; that they propose to create a park-like setting within the median of the boulevard street; that crosswalks will be provided; that landscape buffers will be created and maintained; that an 85-foot building setback is proposed from the rear of each lot; that 30-foot building setbacks are proposed along the interior driveway frontage; that 19% of the site is left in open space; that they have calculated that approximately 41% of the site will be impervious surfaces; that stormwater management will be subject to the review and approval of the Sussex

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Conservation District; that an Environmental Assessment was performed; that no wetlands were found on the site; that a traffic impact study was prepared and that they will comply with all of DelDOT determinations; that the Beebe Medical Center supports the application; that the Route 24 area is changing from a residential area to Conditional Uses and rezonings; that approximately 17 parcels are being utilized for business, commercial or conditional uses; that it is anticipated that the trend will continue; that a similar trend has occurred along Savannah Road near Lewes; that this project should have a positive impact, not a negative impact, on the area; that within the next ten years additional doctors will be attempting to convert existing dwellings along Route 24 into office spaces; that real estate inquiries are received regularly for office space in the area; that they will be installing a multi-use path along Warrington Road; that a bus stop facility will be provided; that bike racks will also be provided on site; that the project will be phased to allow for construction of the necessary infrastructure prior to construction of buildings in excess of 81,700 square feet; that lots 1 through 10 will each support a 10,000 square foot building; that lot 11 will support a 40,000 square foot building; that the site is adjacent to the Rehoboth Beach Wellhead #8; that the proposed stormwater management approach for this project will help recharge the wellhead better than the agricultural activities that now exists on the site.

The Commission found that Mr. Ford submitted a drawing of a typical lease lot layout and an aerial map depicting the location of existing business and commercial uses along Route 24 for the record.

The Commission found that Robert B. Hood was present in support of the application, but expressing some concerns about the project. Mr. Hood submitted a memorandum explaining the background of the properties in the area and commented that while he has no objections to the overall plan, there are troubling details that could become sources of future problems; that the present plan is so general that it is hard to visualize what it will be like when developed; that it would help to know how many buildings would be built and their locations; that some provisions should be made to increase the community's confidence that quality construction with high architectural values will be completed; that the "Architectural Design Standards" section of the Applicant's documents does not give any details, except that data will be added later; that unauthorized dumping has occurred

along Warrington Road and his driveway; that opening up the boundary to road/parking lot access may create additional dumping problems; that a fence would make sense along his property line similar to the fence around the Rehoboth pump station; that he is concerned about runoff, flooding, stormwater management facilities, etc. near his property and along Warrington Road; that he is concerned about the types of materials that may run off from parking lots on the project onto his property; that a raised berm along his property line would also be a benefit to protection of his property; and expressing concerns about the location of sanitary sewer lines along his property line and Warrington Road.

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

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 in case Mr. Johnson wants to review the record so that he may participate in the vote on this application. Motion carried 4 – 0.

C/U #1666 – application of **WILKINSON PROPERTIES, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District and a GR General Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 28.18 acres, more or less, lying at the northwest corner of Route 9 and Hudson Road (Road 258).

The Commission found that the Applicant had presented an Exhibit Booklet prior to the meeting and that the Exhibit Booklet contained: a project team listing; an executive summary; references to the boundary survey; an overview of current site conditions; a proposed residential cluster development concept report; references to the PLUS comments and procedure; references to Chapter 99-9C considerations for development of the site; references to their compliance with zoning requirements; references to compliance with recommendations from the Comprehensive Plan Update; a vicinity map; a copy of a Certificate of Zoning Approval verification; a copy of the area portion of the State Strategies for Policies and Spending Map; a copy of the area portion of the Future Land Use Map from the Comprehensive Plan Update; a map of existing land uses in the area; a copy of the survey to the property; a copy of the tax map of the area; an aerial map of the area; a copy of the USGS Quad Map of the area; a copy of the soil survey map of the area; a copy of a preliminary soils reconnaissance for on-site wastewater treatment and disposal on the site as prepared by Atlantic Resource Management, Inc; a copy of the PLUS application form; a copy of the original site plan submitted to PLUS for review containing 105 multi-family units; a copy of a letter from the Office of State Planning Coordination dated November 16, 2005; a copy of a letter to the Office of State Planning Coordination dated December 19, 2005 from McCrone, Inc. in response to the PLUS

comments; a copy of a conceptual 60-lot subdivision layout for the site; a copy of a revised site plan proposing 81 multi-family units; a layout comparison table comparing the original PLUS layout, the 60-lot subdivision, a 27-lot subdivision, and 81 multi-family units; a copy of a letter from Atlantic Resource Management, Inc. in reference to a wetlands evaluation; a flood plain map of the area; a letter from Artesian Resources in reference to water service; a letter from Artesian Resources in reference to wastewater services; an aerial map depicting projects in the area; a groundwater recharge map; an open space management plan; a copy of a U.S. Fish and Wildlife Service report on Native Plants for Wildlife Habitat and Conservation Landscaping; a copy of a report from

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Stacey Esham, a Licensed Forester, in reference to preservation of trees; a small color rendering of the site plan for 96 multi-family units; a color rendering of the site depicting a GR subdivision; a copy of a map of the area referencing photographs of residential, business and commercial uses in the area with related photographs; and a color rendering of the proposed site plan for 96 multi-family units.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the site is not located within a County operated or maintained sanitary sewer or water district; that the project proposes to develop using a private central community wastewater system; that the Department recommends that the wastewater system be operated under a long-term contract with a capable wastewater utility; that the Department recommends that the developer have a wastewater utility provider prior to approving the project; that the project is located outside of the Inland Bays Planning Area where the County expects to provide sewer service; that the County requires design and construction of the collection and transmission system to meet County sewer standards and specifications; that a review of the treatment and disposal system by the County will be required; and that if the County ever provides sewer service, it will be required that the treatment system be abandoned and a direct connection be made to the County system at the developers and/or homeowners association expense.

The Commission found that Steve Wilkinson of Wilkinson Properties, LLC was present with Eugene Bayard, Attorney, Kevin Burdette and Keith Rudy of McCrone, Inc. and Joseph Conaway, Realtor, and that they stated in their presentations and in response to questions raised by the Commission that the site may be labeled as being in a Level 4 area according to the Strategies for State Policies and Spending document, but is actually an area that is developing with residential, business and commercial activities; that the site was just recently utilized for a work and storage yard for contractors working on the high-tension power lines in the area; that 71% of the site is planned for open space; that they propose to retain a large area of trees around the site by creation of an 80-foot separation from the rear of the buildings to the property lines; that the site is zoned both AR-1 and GR; that central water and central wastewater facilities are proposed to be built and maintained by Artesian Resources; that all units are proposed to be setback behind

the existing hedgerow off of Route 9; that the hedgerow is approximately 200-feet from Route 9; that multi-purpose fields, 0.9 mile of trails, a pool and community building, and a tot-lot are proposed as recreational amenities; that the trees will be selectively cleared for buildings, roads and parking areas; that there are no wetlands on the site; that the site is not within a flood plain; that there have been no historic sites registered on the site; that stormwater management shall be subject to the Sussex Conservation District; that the use should increase property values in the area; that it is proposed that the housing types be affordable townhouses with approximately 2,000 to 2,500 square feet per unit; that streets/driveways are proposed to be 24-feet wide; that the State comments that the site is

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within a Level 4 rural area is questionable due to the number of commercial/business uses existing along Route 9 and the number of residential homes and subdivisions in the area, i.e. Hunters Mill, Lazy Lake, and Beaver Creek; that the units are proposed to be offered for sale at between \$225,000 to \$250,000; that commercial and business uses exist on both sides of Route 9; that large new homes are being built in Beaver Creek Subdivision; that Lazy Lake Subdivision is improved with mobile homes, manufactured homes, sectional and modular homes, and site built dwellings; that the closest residence is a manufactured home on Hudson Road; that the Mills Chase multi-family project exists to the east of the site at the intersection of Route 9 and Road 265; that the Mills Chase project has 38 units with 31 already sold; that this proposal is an infill project; that the application will add housing stock and will fit in with the area; that a minimal impact is anticipated on the neighborhood; that the closest townhouse building will be at least 200-feet from Route 9 behind the line of the hedgerow; that a wastewater treatment and disposal feasibility has not yet been received from DNREC; and that their Engineers have determined that the preferred location of the entrance to the site is along Route 9 and not Hudson Road due to the narrowness of the frontage along Hudson Road and the closeness to Route 9/Hudson Road intersection.

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

The Commission found that Nancy LaFontaine, Donna Owens, Paul Walton, and Perry Templin, residents living in Lazy Lake and along Hudson Road were present and spoke in opposition to this application and expressed concerns that the open space calculation includes the sewer treatment facility; concerns about run-off and drainage, easements, the impact on wildlife, the impact on schools, the poor response time for police responses; that development does not always increase property values; that \$250,000 for homes may not be affordable; that the Route 9 and Hudson Road intersection is unsafe and hazardous; that all public services need improvement; that as many trees as possible should be preserved; questioning who will maintain the trails, open spaces, and common areas; that every development that has been created along Route 9 has created impacts on traffic during construction; questioning the impact on water wells by drawdown from the central water system; increased traffic; questioning if the stormwater management ponds

near Route 9 should be fenced; concerns about trespassing; and questioning if the soils have been tested.

The Commission found, by a show of hands, that 12 parties were present in opposition.

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 in case Mr. Johnson wants to review the record so that he may participate in the vote on this application. Motion carried 4 – 0.

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C/Z #1600 – application of **BAYVILLE SHORES ASSOCIATES, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a HR-1 High Density Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying northeast of Route 54 and west of Bayville Shores Drive, to be located on 3.53 acres, more or less.

The Commission found that the Applicants had presented an Exhibit Booklet prior to the meeting and that the Exhibit Booklet contained: a project team listing; a presentation outline; a context map; an existing zoning map; a color rendering of the site plan; two elevation view renderings of the proposed buildings; typical details of filter strips and biofiltration swales; letters from Environmental Consulting Services, Inc. to the Army Corps. of Engineers in reference to wetlands with attached maps and photographs; a flood zone map of the area; correspondence between the County Engineering Department and Davis, Bowen & Friedel, Inc. in reference to sanitary sewer service with attached Tables and maps; a copy of a recorded road agreement for Bayville Shores Drive; a copy of the Applicant's response to the PLUS comments; a summary on compliance with the Comprehensive Plan Update; and proposed Findings of Fact.

The Commission found that the Applicants had submitted an addendum to the Exhibit Booklet that included a copy of proposed Declaration of Restrictions.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that the project is located within the Fenwick Island Sanitary Sewer District; that wastewater capacity is available for up to 4.0 EDUs per acre; that the current system connection charge rate is \$4,273.00 per EDU; that the connection point for the proposed project is to the 12-inch line in Bayville Shores Drive; that conformity to the South Coastal Area Planning Study will be required; and that a concept plan will be required to be submitted to the Division.

The Commission found that Coleman Bunting, Principal, was present with John Sergovic and Shannon Carmean, Attorneys, and Mike Wigley and Gerald Friedel of Davis, Bowen & Friedel, Inc. and that they stated in their presentations and in response to questions

raised by the Commission that the project, titled "Bayville Shores at Route 54" is a continuation of the multi-family development that has occurred on Bayville Shores Drive off of Route 54; that a joint boulevard agreement has been established between the Applicants and the developers of Bayville Shores and Bayview Acres; that it seemed more appropriate to apply for rezoning to HR than for a Conditional Use since the adjacent developments are zoned HR; that the site is located within the Fenwick Island Sanitary Sewer District; that the site is located within an Artesian Water franchise area; that the site is located within the Roxana Volunteer Fire Company service area; that the proposed multi-family units are similar to the units in Bayville Shores; that access to the site will be from Bayville Shores Drive, not Route 54; that approximately 1.07 acres of

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wetlands exists on the 3.5 acre parcel; that they propose to develop the site with 3 buildings containing a total of 17 units; that there will not be any buildings or parking areas within 40-feet of Route 54; that the project does not warrant creation of recreational amenities; that they propose to create a trail system to connect to the sidewalks and trail system at Bayville Shores; that the Bayville Shores project is almost completed; that the Applicants are the developers of Bayville Shores; that wetlands were delineated by Environmental Consulting Services, Inc.; that stormwater management will be subject to the review and approval of the Sussex Conservation District; that Best Management Practices will be utilized; that they modified the site plan due to some comments and suggestions provided by the PLUS comments and the Office of the State Fire Marshal; that the County Engineering Department approved the concept plan in June 2005; that the Roxana Volunteer Fire Company is located approximately 0.2 mile from the site; that streets will be built to County standards; that they will comply with all DelDOT determinations; that the entrance at Route 54 and Bayville Shores Drive was originally built to serve all of the project along Bayville Shores Drive; that the project is located within the Environmentally Sensitive Developing Area according to the Comprehensive Plan Update; that the purpose of the Environmentally Sensitive Developing Area is to recognize that the Inland Bays are a major resource of the County and must be protected from insensitive development of the surrounding area; that the provisions of the Environmentally Sensitive Developing Area encourage residential planned developments to provide open space and protect habitat; that the guidelines for density with a public wastewater system provide for ten dwelling units per acre for townhouses, including townhouse condominiums; that a rezoning of this land from AR-1 to HR-1 is appropriate and compatible with the goals and directions of the Environmentally Sensitive Developing Area; that the proposed zoning is consistent with neighboring land use patterns west of Fenwick Island in the area of Route 54 and Bayville Shores Drive; that the majority of lands in the area have been progressively rezoned from their original AR-1 status to HR-1; that although an HR-1 zoning classification permits a much greater density than proposed, Bayville Shores recognizes the natural limitations of the land as a result of the perceived wetlands and acknowledges the need to preserve those areas as open space; that due to a recent U.S. Supreme Court decision it is unlikely that the lands contain 404 wetlands; that their Wetlands Consultant has opined that the lands are

isolated wet fields and do not fall within the purview of the Clean Water Act; that the Applicants will protect the wet fields by restriction; that the buildable portion of the proposed project is thereby reduced by approximately 33.33 percent; that in an effort to ensure the Commission and County Council of the Applicants desire to develop only the requested number of units despite the request for an HR-1 zoning classification, and to preserve the natural habitat, the Applicants have prepared a Declaration of Restrictions on behalf of the legal owners of the lands, Philip G. Thompson and Imogene M. Thompson, and in favor of Bayville Shores Condominium Council, the Delaware Department of Transportation and Bayville Landing Homeowners Association, Inc.; that the Declaration of Restrictions provides that the “Grantor further agrees to restrict and

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limit the use of the property...to a maximum of 17-residential structures with related parking and driveways”; and that moreover, the Grantor agrees that the lands...may not be improved by any use authorized by the HR-1 High Density Residential Zone of Sussex County, except for townhouses authorized by Section 115-45, subject to the special regulations of Sussex County Code Article XXV; that this is a small parcel and is limited by the natural habitat making it difficult to provide onsite active recreational amenities due to the economic burden on too few users to sustain proper maintenance and replacement, the residents of the project will be able to enjoy passive recreational amenities provided by natural habitat comprising approximately 1/3 of the site; that sidewalks will be included and residents will have access to the walkways along Bayville Shores Drive; that the rezoning is appropriate legislative action; that the property is served by Bayville Shores Drive which services other townhouse communities having the HR-1 zoning classification; that there will be minimal impact on traffic as a result of the project, as these lands were considered by DelDOT when it approved the Route 54 and Bayville Shores Drive intersection; that the rezoning will meet the market demand in the Fenwick Island and surrounding areas for higher density communities; and that they may build a small retaining wall along the wetlands to protect the wetland from disturbance.

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

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

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1600 for Bayville Shores Associates, L.L.C. for a change of zone from AR-1 to HR-1 based on the record and for the following reasons:

- 1) The project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District as established by the Comprehensive Plan Update.
- 2) The proposed change of zone will have no significant impact upon traffic.
- 3) There are other residential developments with HR densities and characteristics in the vicinity of the project along Route 54 and Bayville Shores Drive.

- 4) The project will not have an adverse impact on the neighboring properties or community.
- 5) The Applicant has voluntarily submitted a Declaration of Restrictions that will restrict the use of the property to townhouse use only, with a maximum number of 17 units. This is less than the density permitted under the proposed zoning and it is less than the number of units referenced in the 2002 Comprehensive Plan Update. This voluntary restriction also limits the property to a density that is consistent with neighboring properties.
- 6) This project will be served by central water and sewer. Any development will be subject to the approval of the County Engineering Department.

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Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4 – 0.

Subdivision #2005-60 – application of **MANDRIN HOMES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 27.34 acres into 56 lots, (Environmentally Sensitive Development District Overlay Zone), located west of Road 381, 3,860 feet north of Route 54, and south of Dirickson Creek.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on February 15, 2006 and that the report will be made a part of the record for this application; and that the applicants submitted an Exhibit Booklet that will be made a part of the record.

The Commission found that Troy Oliver of Mandrin Homes, Tim Willard, Attorney, and Tom Ford of Land Design, Inc. were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the proposed name of the project is Waters Run; submitted a letter from William Neely in support of this application; that the site is located at the end of Road 381 before the Derickson Creek Bridge; that the site contains approximately 27 acres; that the area is predominately residential with mixed densities; that Magnolia Shores, Mill Creek Acres, Americana Bayside, Swann Cove and Keenwick Sound are a few of the developments in the immediate area; that the development has been designed utilizing the Environmentally Sensitive Developing District Overlay Zone Ordinance; that 56 lots are proposed; that the proposed density is 2.05 lots per acre; that 49% of the site will remain as open space; that the site contains 2.1 acres of wetlands; that there is over a 100-foot buffer from Derrickson Creek proposed; that there will not be any disturbance to the wetlands; that there will be open and passive amenities provided; that a pool and tennis court are proposed; that the developers will preserve as many trees as possible; that walking pedestrian paths and sidewalks are proposed; that the developer is trying to become annexed into a County sewer district; that central sewer is available in the area;

that the developer has a conceptual plan approval from the County Engineering Department; that the project protects the Inland Bays; that the developer has met with the Office of State Planning Coordination through the PLUS process and was advised that the site is located in a Level 4 area; that the State advised that they were pleased with the revised plan since on-site septic systems have been deleted and a riparian buffer has been provided; that the home site on the site will remain; that the developer has met with DelDOT concerning the entrance location; that no lots are located in a flood plain or wetlands; that no townhouses are proposed; that the average lot size is 8,100 square feet; that the rear of all of the lots abuts open space; that there is 1,800 linear feet along

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Derrickson Creek; that there are outfall areas along the creek; that the streets will be private and built to Sussex County specifications; that utilities will be provided by Delaware Electric Cooperative, Verizon and Comcast; that there are not any historical features on the site; that no demolition is proposed on the site; that a development report was submitted when the application was filed; that there will be sidewalks on at least one side of all streets within the project; that mulched walking trails will also be provided; that a crabbing pier is proposed; that the recreational amenities will include a swimming pool, bathhouse, tennis court with a ½ court basketball court and a kiddy park; that kayaking and canoeing will be permitted; that no motorized watercraft will be permitted; that the restrictive covenants have been submitted; that the development will not create any negative impacts to the Indian River School District; that fire protection will be provided by the Roxana Fire Department; that a school bus shelter will be provided on the outside of the development and the Indian River School District has endorsed the location; that the location of the pool is to create scenic views for all of the lots; that parking will be provided around the pool area; that street lighting will be provided; that the developer will build the homes in the project; that there are no lots that abut Derrickson Creek; that no endangered or threatened species were found to habitat on the site; that the developers will include a notice in the restrictive covenants that there are hunting practices taking place in the area; and that a public pier is not proposed.

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. Smith, seconded by Mr. Gordy, and carried unanimously to defer action for further review. Motion carried 4 – 0.

Subdivision #2005-61 – application of **DELMARVA WOODLANDS ALLIANCE3, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 101.28 acres into 43 lots, located northeast of Road 315, 2,400 feet southeast of Route 317.

Mr. Gordy advised the Commission that he would not be participating in this public hearing.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on February 15, 2006 and that the report will be made a part of the record for this application; that the applicants submitted an Exhibit Booklet that will be made a part of the record; and read a letter received from Lois Adkins in support of this application.

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The Commission found that Doug Warner and Matthew Peterson of Element Design were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the project is located east of Georgetown; that the site is sparsely wooded; that forested lands and single-family dwellings surround the site; that the property is zoned AR-1; that 43 lots are proposed; that the average lot size is 2 acres with a minimum lot size of 0.79 acres; that the proposed lots will have individual on-site septic systems and wells; that the setbacks will meet the County's minimum requirements; that the proposed density is 0.42 lots per acre; that 32% of the site is open space; that agricultural buffers have been provided; that one of the streets has a sweeping curve to act as a traffic calming device; that a 50-foot buffer surrounds the entire site; that the streets will be private; that 2 wet ponds are proposed for storm water management; that preliminary soil work indicates that the septic systems will be LPP or Sand Mound systems; that they have not received a septic feasibility statement from DNREC yet; that they are not sure if the project will be marketed as land/home packages or the price range; and that at this time, no consideration has been given for a school bus shelter.

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

The Commission found that Thomas and Susan Lynch, residents across the street, were present in opposition to this application and stated that Road 315 is a narrow road that is improved with tar and chip; that the project will create negative impacts to the road; questioned what is permitted in the AR-1 zoning district, questioned if poultry, horses or pigs will be permitted on the lots; questioned what side of the road the utilities will be located on; that the area is a rural setting; that septic systems could impact existing wells; that there would be a loss of wildlife in the area; and that the project is not wanted in the area.

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

Motion by Mr. Smith, seconded by Mr. Burton, and carried 3 votes to none, with Mr. Gordy not participating, to defer action pending receipt of a septic feasibility statement from DNREC. Motion carried 3 – 0 – 1.

Subdivision #2005-62 – application of **DREAM BULDERS CONSTRUCTION, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 93.58 acres into 79 lots, located north of Road 224, 80 feet west of U.S. Route 113.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on February 15, 2006 and that the report will be made a part of the record for this application; that DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems; that DelDOT has

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issued a letter of no objection for the entrance location; and that the applicant's attorney has submitted revised restrictive covenants.

The Commission found that James Lee of Dream Builders Construction, Inc., Eric Howard, Attorney, and John Murray of Kercher Engineering were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the site is zoned AR-1; that the proposal is a low density project; that the site is located on the north side of Road 224 just west of U.S. Route 113; that the proposed entrance is approximately 1,000 feet from U.S. Route 113; that individual on-site septic systems and wells are proposed; that the site is not conducive to agricultural uses due to the sandy soils on the site; that the site is surrounded by wetlands on three sides; that the soils are well drained; that a standard subdivision is proposed; that the site contains 93 acres and 79 single family lots are proposed; that all of the lots are a minimum of $\frac{3}{4}$ acre; that the streets will be private and have drainage swales; that the proposed storm water management areas are to the rear of the site; that the site is an exceptional area for ground water recharge; that 25% of the site will remain as open space; that there are several AR-1 subdivisions in the area; that DelDOT has approved the entrance location; that Road 224 is a tar and chip road; that DelDOT will require improvements to Road 224; that the maximum number of lots permitted is 131; that the lot sizes are in character with other lots in the area; that a cluster subdivision would not be in character with the area; that the developer will preserve as many trees as possible; that the State is not opposed to this application; that DelDOT is not in support of a public bus stop; that there is a drop off into the forested wetlands; that there will be no disturbance to the wetlands; that the developer is a residential home builder and has been in business for 12 years; that the site is located across from lands owned by the State; that the developer is looking for lots to build homes on; that some of the lots could be sold to other builders to build homes on; that customers are looking for affordable housing; that the large developers are purchasing all of the bigger developments; that the price range of the homes and lots will be from \$240,000.00 to \$300,000.00; that streetlights will be provided; that sidewalks are not proposed due to the size of the lots; that the homes will be stick built homes; that no recreational amenities are proposed due to the size of the lots; that a school bus shelter can be provided at the entrance; that a homeowners'

association will be established; that none of the lots will contain any wetlands; and that they have responded to the PLUS comments and submitted a copy of their response.

The Commission found that Richard Carlisle was present in support of this application and advised the Commission that he and his brother have farmed the site since 1977; that the sandy soils are not suitable for farming the site; and that this type of development is preferable to strip lot development.

The Commission found that Bill McBain, an adjoining property owner, was present in opposition to this application and stated that he purchased his property in 1993; that

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hunting activities occur in the area; that there is wildlife management areas in this area; that there are numerous traffic accidents at the Route 113 and Road 224 intersection; that Route 113 will become a limited access road in the future; that his home contains 2,800 square feet and the proposed dwellings will not increase property values; that the streams located in the area are the headwaters to Hudson's Pond; that the project will cause the loss of wildlife habitat; and that the existing parcels in the area are large parcels of land.

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

Motion by Mr. Burton, seconded by Mr. Gordy, and carried unanimously to defer action for further review. Motion carried 4 – 0.

Subdivision #2005-63 – application of **DREAM BULDERS CONSTRUCTION, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 307.71 acres into 251 lots, located south of Route 40, 580 feet west of Road 591.

Mr. Abbott advised the Commission that this application was reviewed by the Technical Advisory Committee on February 15, 2006 and that the report will be made a part of the record for this application; that DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems; and read letters received from the Town of Bridgeville and T.S. Smith and Sons, Inc.

The Commission found that James Lee of Dream Builders Construction, Inc., Eric Howard, Attorney, and John Murray of Kercher Engineering, Inc. were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the proposed density is 0.82 lots per acre; that 55% of the site will remain as open space; that individual on-site wells and septic are proposed; that the entrance design has been submitted to DelDOT; that none of the lots contain any wetlands; that DelDOT will require improvements along Route 40; that the Woodbridge School District is in support of this application; that a 30-foot forested buffer is provided along the western boundary line; that wet ponds are proposed for storm water

management facilities; that a stub street has been provided to the parcel to the west of this site; that active/passive recreation amenities are provided; that if the project were a cluster development, over 400 lots would be permitted; that there will not be any disturbance to the wetland areas; that the streets will be private and have swales; that a school bus shelter can be provided; that there is a need for affordable homes in the Bridgeville area; that there are no local housing developments in the area; that the price range of the land/home packages will be from \$250,000.00 to \$300,000.00; that school teachers need affordable housing in the area; that there is a demand for homes in the 1,500 to 1,800 square foot range; that land prices are rising in the area; that the developer is a custom home builder and has been building homes for 12 years; that he may sell

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some of the lots to other contractors are let them build homes; that it is hard to find buildable lots in the area; that the developer does not have any inventory left for land/home packages; that farmers in the area are not opposed to the application; that the adjoining property is in an Agricultural Preservation program; that streetlights will be provided; that sidewalks are not proposed due to the size of the lots and the developer wants to maintain a rural setting; that the required 30-foot forested buffers have been provided; that walking trails are provided throughout the project; that a homeowners' association will be established; that the site is currently tilled land; that the homeowners' association could put in athletic fields; that easements will be provided along property lines to serve as access to the walking trails; that there is an active firing range in the area; that the developer will include a hunting notice in the restrictive covenants; that the street layout is not a safety concern; that there is no access to the wetland areas; that access will be provided to the storm water management areas; and that the wetlands could be marked by orange construction fences.

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. Gordy, seconded by Mr. Smith, and carried unanimously to defer action for further review. Motion carried 4 – 0.

Meeting adjourned at 11:04 p.m.