



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE SPECIAL MEETING OF AUGUST 16, 2006

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, August 16, 2006 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: 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.

Mr. Abbott advised the Commission that item number 1 under Other Business should be CZ #1546 and not 1568.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the agenda as amended.

### OLD BUSINESS

**Subdivision #2005 – 21** - - application of **ALBERT J. BIERMAN** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 59.46 acres into 41 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located at the northwest corner of the intersection of Road 74 and Road 446.

Mr. Abbott advised the Commission that this application has been deferred since February 23, 2006; and that DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 21 for Albert J. Bierman, with a variance from the maximum allowed cul-de-sac length of 1,000 feet, based upon the record and for the following reasons:

1. The subdivision meets the purpose of the Subdivision Ordinance and protects the orderly growth of the County. It is also consistent with strip subdivisions along the boundary of the property.
2. The subdivision density is less than the density permitted by the existing AR-1 zoning, and the average lot size is 1.2 acres.
3. The subdivision is integrated into the existing terrain and surroundings. Also, the large sized lots will allow lot owners to preserve trees outside of the house and septic areas.
4. The subdivision will be a restricted residential development and will not adversely affect nearby uses of property values.

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5. The 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. This recommendation is subject to the following conditions:
  - 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, any buffers, 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.
  - A traffic circle is necessary given the particular shape of the property. Also, given the limited number of proposed lots, the traffic circle will not negatively affect the subdivision, traffic, or emergency vehicle access. The location of the traffic circle shall be shown on the Final Site Plan.
  - The Restrictive Covenants shall include the Agricultural Use Protection Notice.
  - A forested buffer shall be included around the perimeter of the subdivision where the adjacent property is used for agricultural purposes.
  - 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 Planning and Zoning Commission.

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

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

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Mr. Abbott advised the Commission that this application was deferred on July 13, 2006 for further consideration.

Mr. Smith stated that he would move that the Commission defer action on Subdivision #2005 – 49 for Gulfstream Land, L.L.C. at this time since the applicant stated during the public hearing, that they anticipate that central sewer service will be provided through the Estuary project. The Estuary will be considered by the Commission at the August 24, 2006 meeting. Since the Estuary has a material affect on Gulfstream's application, I feel that we should not take any action on this application until after we have made a decision on the Estuary application.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to defer action for the reasons stated. Motion carried 5 – 0.

**Subdivision #2005 – 50** - - application of **KGH PROPERTIES DEVELOPMENT, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 80.55 acres into 112 lots, (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Road 290, 770 feet north of Road 292.

Mr. Abbott advised the Commission that this application was deferred on July 13, 2006 for further consideration.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action since this application is to be served sewer by another subdivision application that has not been heard by the Commission. 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 deferred on July 27, 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 #2005 – 53 for Polly and Mark Yoder, Jr., based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Ordinance and protects the orderly growth of the County.

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2. The proposed subdivision density does not exceed the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
5. DNREC has indicated that the site is suitable for septic.
6. The proposed Restrictive Covenants address the maintenance of streets, open space, and storm water management areas.
7. This recommendation is subject to the following conditions:

- The number of lots shall not exceed 29, including lots A, B, C and D fronting on Johnson Road.
- Recreational Area with a minimum area of 1.5 acres shall be established in the project. This will be in addition to the Open Space and Storm Water Pond Area shown on the Preliminary Site Plan.
- 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, agricultural buffers, 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.
- The Restrictive Covenants shall include the Agricultural Use Protection Notice.

- There shall be streetlights within the Subdivision and at the entrance onto Johnson Road. The location of the lights shall be shown on the Final Site Plan.
- There shall be a 30 foot landscaped buffer retained or installed along the perimeter of the subdivision as shown on the Preliminary Site Plan.
- The Final Site Plan and Restrictive Covenants shall state that Lots A, B, C and D shall not be responsible for road maintenance within the subdivision.

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- A school bus shelter with parking for at least 4 vehicles shall be added to the entrance area.
- Street naming and addressing shall be subject to 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 Planning and Zoning Commission.

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.

**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 deferred on July 27, 2006 for further consideration.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 54 for Baywood, L.L.C., based upon the record and for the following reasons:

1. The development is designed in accordance with the Cluster Development Ordinance. The proposed clustered design is superior to a standard subdivision. For instance, clustering has been used to preserve wooded areas and the natural buffer next to the wetlands, and there are greenways and small parks throughout the site. There are also sidewalks and walking, jogging and bike trails promoting interconnectivity within the project and the rest of the development. And, the

items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.

2. The applicant has proposed 246 lots within the project, which is a permissible density within an Ar-1 subdivision on the land.
3. The project will not adversely affect neighboring or adjacent properties. The project is consistent with development in the area and is an extension of the adjacent Baywoods Development and is next to Stonewater Creek Phase 5.
4. The subdivision will be part of the larger Baywoods Project that includes amenities such as walking and jogging paths, picnic areas, playgrounds, tennis courts and the golf course. A pool and pool house will also be included with this Phase of Baywoods.

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5. The lots will be served by central water and sewer.
6. The site's design has a minimal impact on wetlands and no wetlands are included within any lots.
7. The proposed subdivision meets the purposes and standards of the subdivision ordinance.
8. This recommendation is subject to the following conditions:
  - There shall be no more than 246 lots within the Subdivision.
  - The Applicant shall cause to be formed a homeowners' association or this shall be included as part of the larger homeowners' association to be responsible for the perpetual maintenance of streets, roads, buffers, storm water management facilities, open space, 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.
  - Street lighting shall be provided and the location of the streetlights shall be shown on the final site plan.
  - Sidewalks shall be installed on both sides of all streets within the subdivision. There shall also be walking, jogging and bike paths throughout the subdivision as shown on the Preliminary Site Plan.
  - A bus shelter with parking for at least 4 vehicles shall be provided on the Final Site Plan.
  - No wetlands shall be included within any lot lines. The trees surrounding the wetland areas shall be preserved.

- Within two years of issuance of the first building permit, the developer shall construct a community swimming pool and pool house.
- Because several of the lots in this subdivision extend into areas contained within Phase 11, which was an approved RPC, the Site Plan for Phase 11 shall be amended to show the existence of these lots.
- Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.

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- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve this application as a preliminary for the reasons and with the conditions stated. 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 deferred on July 27, 2006 for further consideration.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #22005 – 59 for Landlock, L.L.C., based upon the record made at the public hearing and for the following reasons:

1. The project is located in a Development District according to the County's 1997 Land Use Plan, and is located with the Environmentally Sensitive Development Area according to the 2002 Update.
2. The applicant has proposed 141 lots within the project, which is less than the allowable density for a MR subdivision on this land. This is also a reduction from the number of lots originally proposed by the applicant.
3. The project is consistent with neighboring and adjacent properties and will not have an adverse impact on the neighboring properties or community. It is basically infill. Other similar projects on neighboring or adjacent parcels include Banks Harbor Retreat, Denton Manor, White Creek Manor, Rogers Haven and Banks Acres.

4. The project is located within the Millville Expansion of the Bethany Beach Sanitary Sewer District and the Sussex County Engineering Department states that there is adequate capacity for the project as proposed.
5. Central water will be provided to the project.
6. The subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County. In addition, the site's design has a minimal impact on wetlands and no wetlands are included within any lots. The applicant has also favorably addressed the items described in Section 99-9C of the Subdivision Code.
7. This recommendation is subject to the following conditions:

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- There shall be no more than 141 lots within the Subdivision.
- The Applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
- The storm water management systems shall meet or exceed the requirements of the State and County.
- The use of a central community sewer system and storm water management system shall maximize ground water recharge and erosion and sediment control measures and shall comply with all State and County requirements.
- All entrances shall comply with all of DelDOT's requirements.
- A system of street lighting shall be provided by the Applicant, and the location of the streetlights shall be shown on the final site plan.
- Sidewalks shall be installed on both sides of all streets within the Subdivision.
- No wetlands shall be included within any lot lines.
- Within 1 year of the issuance of the first building permit, the Developer shall construct a community swimming pool and community center.
- The development shall be served as part of the Millville Expansion of the Bethany Beach Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.



- Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- A school bus stop shall be established at the entrance to the site with parking for at least 6 vehicles.
- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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Motion by Mr. Smith, 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.

#### OTHER BUSINESS

The Seasons HR-1/RPC  
CZ #1546 – Final Record Plan – Route 273

Mr. Abbott advised the Commission that this is the final record plan for a 118-unit residential planned community; that the Commission granted preliminary approval on July 14, 2005; that the final record plan is the same as the preliminary plan; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the record plan as a final. Motion carried 5 – 0.

Americana Bayside MR/RPC  
Preliminary Site Plan – Phase 15 – Route 54

Mr. Abbott advised the Commission that this is a preliminary site plan for 35 units; that there are 2, 6-unit buildings, 3, 5-unit buildings and 4 duplex buildings proposed; that the preliminary site plan is the same as the approved master plan; and that if preliminary approval is granted, final approval shall be subject to the review and approval of the Commission upon receipt of all agency approvals.

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

Brandywine Senior Care MR/RPC  
Preliminary Site Plan – Routes 20 and 54

Mr. Abbott advised the Commission that this is a preliminary site plan for a 102 unit, 112 bed assisted living facility located on 15.35 acres; that this site is a part of the Americana Bayside MR/RPC located on the north side of Route 54 and west of Route 20; that a 4-story building is proposed; that 53 parking spaces are required and that 60 are provided; that 12 spaces are located within the front yard setback; that 7 spaces need to be revised to a minimum of 9-feet by 18-feet instead of 17-feet; that the setbacks meet the requirements of the zoning code; that the project will be served by central sewer and

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water; and that if preliminary approval is granted, final approval shall be subject to the review and approval of the Commission upon receipt of all agency approvals.

Mr. Kautz questioned if the project will be developed prior to the completion of the realignment of Route 20.

Michael Kobin of George, Miles and Buhr advised the Commission that this site plan is part of the approved Americana Bayside project; that DelDOT required improvements to the intersection of Routes 54 and 20; and that the realignment of Route 20 is almost completed.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the site plan as a preliminary with the stipulations that final approval shall be subject to the review and approval of the Commission and that the 7 parking spaces be revised to meet the 9-foot by 18-foot minimum requirement. Motion carried 5 – 0.

Hardy Self-Storage  
Preliminary Commercial Site Plan – U.S. Route 113

Mr. Abbott advised the Commission that this is a preliminary site plan for a self-storage facility located on 2.33 acres; that the site is zoned C-1; that 5 buildings are proposed; that the buildings contain 7,800, 3,750, 3,600, 3,450 and 3,300 square feet; that the setbacks meet the requirements of the zoning code; that 3 parking spaces are provided; that the Town of Selbyville will provide central sewer and water to the site; that there are not any wetlands located on the site and the site is not located in a flood zone; and that if preliminary approval is granted, final approval could be subject to the staff receiving all required agency approvals.

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

Fenwick Shoals  
Preliminary Commercial Site Plan – Route 54

Mr. Abbott advised the Commission that this is a preliminary site plan for a 1-story, 7,946 square foot retail building located on 1.64 acres; that the site is zoned B-1; that the setbacks meet the requirements of the zoning code; that 40 parking spaces are required and 58 are provided; that there are 25 spaces located within the front yard setback; that Sussex County will provide central sewer and that Artesian Water Company will provide central water; that the building is located in an AE flood zone; that the improvements

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proposed do not impact the wetlands that are on the site; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

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

Community Bank of Delaware  
Revised Preliminary Commercial Site Plan – Route One and Road 268

Mr. Wheatley advised the Commission that he would not be participating in the review of this project.

Mr. Abbott advised the Commission that this is a revised preliminary site plan for a 2-story, 7,124 square foot bank located on 1.0 acres; that the site is zoned C-1; that DelDOT has issued a letter of no objection for the entrance location; that the Commission granted preliminary approval on May 31, 2006 for a 1-story, 2,595 square foot bank; that the setbacks meet the requirements of the zoning code; that 25 parking spaces are required and that 30 spaces are proposed; that all of the parking is located within the front yard setbacks due to the shape of the lot; that on the Route One side of the site, there are 5 parallel spaces and the interior driveway is 16-feet in width; that the drive is one way only; that the required 20-foot landscaped buffer separates the interior driveway and Route One; that Sussex County will provide central sewer to the site and Tidewater Utilities will provide central water; that there are not any wetlands on the site and the site is not located in a flood zone; that ingress/egress to the site is off of Road 268; that there is a right out only located on Route One; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried 4 votes to none, with Mr. Wheatley not participating, to approve the revised site plan as a preliminary with the

stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0 – 1.

Boardwalk Builders  
Commercial Site Plan – Martin Street

Mr. Abbott advised the Commission that this item was deferred at the July 6, 2006 meeting; that this is a site plan for the conversion of an existing 2-story, 5,282 square foot building into office and warehouse space; that the setbacks meet the requirements of the zoning code; that the structure was built prior to the zoning ordinance being amended; that the site is zoned C-1; that 10 parking spaces are provided; that 4 spaces are located within the front yard setback; that Sussex County will provide central sewer to the site

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and that The City of Rehoboth Beach will provide central water; and that all agency approvals have been received.

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

Subdivision #2005 – 34 - - Pot – Nets Lakeside, L.L.C.  
Reconsideration of Condition of Approval #7

Mr. Abbott advised the Commission that this item was deferred at the July 6, 2006 meeting; that condition of approval number 7 requires the developer to provide multi-modal paved pathways on at least one side of all streets and the connector road to Bay Farm Road; that the developer is requesting that this condition be amended to only provide a path from the connector road to Bay Farm Road; and that this is requested since this application is a continuation of an existing approved park that does not have the multi-modal paths.

Mr. Johnson stated that this application is a cluster subdivision and is different from the existing park; and that he feels that the multi-modal paths are needed to provide for the safety of the pedestrians in the project; and that he does not want to amend the condition of approval.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to deny the reconsideration. Motion carried 5 – 0.

Plantation Park Marina Subdivision  
Discussion – Road 363

Mr. Abbott advised the Commission that this item was deferred at the July 6, 2006 meeting; that Jeff Clark of Land Tech has requested that the Commission review three

proposals for a subdivision; that the first request is to determine whether the minimum lot width has to be 150 feet for proposed lots located adjacent to a lagoon; the second request is whether the lots need to have a minimum 50-foot setback from State tidal wetlands; and that the third request is whether the developer has to obtain the required 51% approval from lot owners to create 7 new lots; and that this request is based on a subdivision plat that was recorded in 1988 showing the area in question as reserved for future development.

Mr. Robertson advised the Commission that the lots would have to meet the 150-foot lot width requirement since the Commission does not have the authority to revise this requirement or that the applicant may apply for a variance from the Board of Adjustment; that the buffer requirement may be considered during a public hearing since the

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Commission may waive this requirement if the Commission feels this is unnecessary; and that the applicant will be required to obtain the required 51% owner's approval since the proposed lots will create an increase in density to an already approved and recorded subdivision plat.

Mr. Robertson advised the Commission that it is not necessary to take any action on this request.

Vincent Overlook MR/RPC  
Landscape Features – Route 88

Mr. Abbott advised the Commission that this item was deferred at the July 6, 2006 meeting; that this is a request to permit ornamental feature in this development that exceed the height requirements of the zoning code; that the developers are proposing a fence along the front property line that would be 6-feet – 6-inches in height; that the zoning code permits the fence to be 3-feet – 6-inches in height if located within the front yard setback; that the architect feels that the Commission may waive this requirement under the design ingenuity clause of the residential planned community section of the zoning code; and that this request is similar to the one that the Commission granted for Americana Bayside.

Randy Creaser, Architect with Equity Homes advised the Commission that his firm designed the fence; that the proposed height of the fence will be 6-feet – 6-inches; that the fence will have subdivision identifying signs located on it; and that the entry feature is in compliance with the zoning code.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the fence and subdivision signs as submitted. Motion carried 5 – 0.

Michael Herholdt

Parcel and a 50' Easement – McCauley Street

Mr. Abbott advised the Commission that this item was deferred at the July 6, 2006 meeting; that this is a request to create a 50-foot easement to serve as access to a 12.07 acre tract; that the owner proposes to create the easement over an existing driveway; that the shed will be relocated; and questioned if this is approved, is the dwelling required to have a 30-foot setback from the easement.

Mr. Robertson advised the Commission that he has had a discussion with Mr. Berl – Assistant County Attorney, and has determined that an easement is not a dedicated street and therefore the setbacks do not matter as long as the structure is not located in the easement.

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Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve this request. Motion carried 5 – 0.

Maurice Mosley  
3 Parcels and a 50' Easement – Road 298

Mr. Abbott advised the Commission that this is a request to extend an existing 50-foot easement to serve as access for 3 parcels; that the proposed parcels would be 8.60, 11.65 and 11.17 acres; that this is the first subdivision of this property; and that if this request is approved, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

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

John M. and Mary Lou Jackson  
3 Parcels and a 50' Right of Way – Road 635

Mr. Abbott advised the Commission that this is a request to create a 1.29-acre and 1.21-acre parcel with access from a proposed 50-foot right of way; that the original parcel has been subdivided the maximum number of by right lots that can be approved; and that this request should be denied as submitted.

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

J. & B. Wells Farms  
Lot Line Relocation and Relocation of a 50' Easement – Broadkill River

Mr. Abbott advised the Commission that this is a request to relocate an access road to an 80.79-acre parcel; that the parcel is currently accessed by a dirt lane; and that the owners want to create a 50-foot right of way on the western side of the site to serve as access to the parcel.

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

Carsyljan Acres

Revised Lots and Street – Road 261

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Mr. Abbott advised the Commission that this is a request to revise 2 lots to make them larger and to delete a cul-de-sac at the end of Red Mill Avenue; that by deleting the cul-de-sac, lots A-3 and A-4 will become larger; that the cul-de-sac street has never been built; and that the Office of the State Fire Marshal has issued a letter advising that the cul-de-sac is not required since it was not a requirement in 1977 when the subdivision was approved and recorded.

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

Paula Hennessy and Peter R. Dirks, Jr.

2 Lots and a 50' Right of Way – Road 288

Mr. Abbott advised the Commission that this is a request to subdivide a 32,735 square foot lot and a 32,806 square foot lot out of an 8.25 acre parcel with access from a 50-foot right of way; that the owner proposes to create the 50-foot right of way over an existing driveway; that the residual land will contain 6.75 acres and also be accessed from the right of way; and that if this approved, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

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

JW & TG, L.L.C.

Parcel and 50' Easement – Road 524

Mr. Abbott advised the Commission that this is a request to create a 35,035 square foot lot with access from a 50-foot easement; that the proposed lot has 188.98 feet of road frontage however DeIDOT will only permit access from a 50-foot easement located on

the residual lands; that the residual land has 153.15 feet of road frontage; and that it appears that the residual lands will be the subject of a major subdivision application in the future.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to defer action until the Commission can review the proposed subdivision plan for the residual lands. Motion carried 5 – 0.

Bobby J. and Diann Miller  
2 Lots – Mallard Point

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Mr. Abbott advised the Commission that this is a request to create 2 lots with access from an existing 50-foot private road (Mallard Point) out of a 3.63 acre parcel; that the lots will contain 1.11 acres and 1.16 acres; that the remaining 1.29 acres will be an extension to the adjoining parcel; that a request for 3 lots on this site was denied by the Commission on February 1, 2006; that if this approved, it would make 3 lots having access from the right of way; and that if this approved, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

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

Robert T. Stephens  
2 Parcels and a 50' Easement – Route 54

Mr. Abbott advised the Commission that this is a request to create 2 parcels with access from a 50-foot easement; that the owner proposes to create the lots for his daughters; and that the request can be approved as submitted or require an application for a major subdivision.

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

Mark Scheper  
2 Parcels and a 50' Easement – Owens Road (Road 611)

Mr. Abbott advised the Commission that this is a request to subdivide a 5.0 acre parcel into a 3.0 acre and a 2.0 acre parcels with access from a 50-foot easement; and that the request can be approved as submitted or require an application for a major subdivision.



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

Susan VanVorst  
Lot and 50' Easement – Route 9

Mr. Abbott advised the Commission that this is a request to create a 1.0-acre lot with access from a 50-foot easement; that the owner proposes to create the easement over an existing paved driveway; and that the request can be approved as submitted or require an application for a major subdivision.

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

Walter and Betty Hall  
Lot and a 50' Right of Way – Road 312A

Mr. Abbott advised the Commission that this is a request to create a 1.0-acre lot with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing driveway; and that the request can be approved as submitted or require an application for a major subdivision.

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

Smith and Fleming  
Lot and 50' Right of Way – Road 233

Mr. Abbott advised the Commission that this is a request to create a lot and extend an existing 50-foot right of way out to Road 233; that the road was previously built by the developer but never approved as a part of the subdivision.

Doug Annand, Surveyor, was present on behalf of the current owners and advised the Commission that the road has existed for years; that the current owners want to create a lot off of the existing roads; that a portion of the area will be an extension to an adjoining lot owner and then the proposed lot will be created,

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the request as a concept with the stipulation that final approval shall be subject to the review and approval of the Commission. Motion carried 5 – 0.

Moor Disposal  
CU #1530 – Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the conditional use was approved on August 10, 2004; that the Commission granted a one-year time extension on November 9, 2005 and granted preliminary site plan approval on May 17, 2006; and that this is the second request for a time extension and the last one that the Commission has the authority to grant.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to grant a one-year time extension. Motion carried 5 – 0.

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Subdivision #2004 – 38 - - River Basin Engineering  
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; and that the Commission granted preliminary approval on August 11, 2005.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to grant a one-year time extension. Motion carried 5 – 0.

Subdivision #2004 – 39 - - Seneca Harbor Joint Venture  
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; and that the Commission granted preliminary approval on September 8, 2005.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to grant a one-year time extension. Motion carried 5 – 0.

Subdivision #2004 – 41 - - William B. Warrington  
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; and that the Commission granted preliminary approval on August 11, 2005.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant a one-year time extension. Motion carried 5 – 0.

ADDITIONAL BUSINESS

There was a consensus of the Commission to have a Special Meeting on Wednesday, September 20, 2006 at 3:00 p.m.

Meeting adjourned at 5:10 p.m.