



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE SPECIAL MEETING OF AUGUST 20, 2008

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, August 20, 2008 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:10 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. Michael Johnson, and Mr. Rodney Smith, with Mr. Michael Smith – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Richard Kautz – Land Use Planner.

Mr. Lank advised the Commission that Other Business Item #3, Peninsula Lakes MR/RPC, has been removed from the Agenda since agency approvals and/or permits have not been received.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as amended. Motion carried 4 – 0.

Mr. Johnson expressed some concerns relating to Time Extension #a, Subdivision #2004-38 and asked that the Item be removed from the Consent Agenda for further discussion as Other Business.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Consent Agenda as amended by removal of Time Extension #a and to place Time Extension #a as an item of Other Business. Motion carried 4 – 0.

The Consent Agenda included:

1. **Subdivision #2005-39** – application of **B & W Ventures, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 29.11 acres into 20 lots, located south of Road 215 (Slaughter Neck Road), 1,600 feet west of Route One.

This is the Final Record Plan for a 16-lot standard subdivision. The Commission granted preliminary approval for 16 lots on November 20, 2006 and granted a one-year time extension on December 12, 2007. The Final Record Plan complies with the Subdivision and Zoning Codes and the conditions of preliminary approval. A landscaping plan has been submitted for the forested buffer. All agency approvals have been received.

2. **Subdivision #2006-22** – application of **BETHANY WOODS, LLC** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 12.20 acres into 19 lots, (Environmentally Sensitive

Developing District Overlay Zone), located south of Road 360, approximately ½ mile west of Route One.

This is the Final Record Plan for a 19-lot environmentally Sensitive Developing District Overlay Zone subdivision. The Commission granted preliminary approval for 19 lots on October 17, 2007. The Final Site Plan complies with the Subdivision and Zoning Codes and the conditions of the preliminary approval. All agency approvals have been received.

3. **Subdivision #2006-57** – application of **JOHN M. AND MARY LOU JACKSON** to consider the Subdivision of land in a GR General Residential District in Cedar Creek Hundred, Sussex County, by dividing 14.95 acres into 3 lots, located north of Road 635, 1,100 feet northwest of Road 621.

This is the Final Record Plan for a 2-lot standard subdivision. The Commission granted preliminary approval for 2 lots on February 28, 2008. The Final Record Plan complies with the Subdivision and Zoning Codes and the conditions of the preliminary approval. All agency approvals have been received.

4. Time Extensions:

- a. **Subdivision #2004-38** – Seneca Harbor Joint Venture
This item was removed from the Consent Agenda for discussion as Other Business.
- b. **Subdivision #2005-54** – Baywood, LLC
This is a request for a one-year time extension. The Commission granted preliminary approval on August 16, 2006 and granted a one-year time extension on October 17, 2007. This is the second request for an extension. If an extension is granted, it shall be retroactive to the anniversary date of the preliminary approval and preliminary approval shall be valid until August 16, 2009. The developer's letter indicates that they are in the process of agreement execution and improvement design with DelDOT in regards to the traffic impact study.
- c. **Subdivision #2004-55** – J. Michael Warring
This is a request for a one-year time extension. The Commission granted preliminary approval on October 18, 2006 and granted a one-year time extension on November 14, 2007. This is the second request for an extension. If an extension is granted, preliminary approval will be valid until October 18, 2009.
- d. **Subdivision #2005-58** – Windmill Estates, LLC
This is a request for a one-year time extension. The Commission granted preliminary approval on September 14, 2006 and granted a one-year time extension on October 17, 2007. This is the second request for an extension. If an extension is granted, preliminary approval will be valid until September 14, 2009. The Engineer's letter states that they are awaiting approval from the Engineering Department.
- e. **Subdivision #2005-59** – Landlock, LLC

- This is a request for a one-year time extension. The Commission granted preliminary approval on August 24, 2006 and granted a one-year time extension on July 18, 2007. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and preliminary approval will be valid until August 16, 2009. The Engineer's letter stated that there were unseen delays in agency comments.
- f. **Subdivision #2005 – 62** – Dream Builders Construction, Inc.
This is a request for a one-year time extension. The Commission granted preliminary approval on August 24, 2006 and granted a one-year time extension on February 28, 2008. This is the second request for a time extension. If an extension is granted, preliminary approval will be valid until August 24, 2009. The Engineer's letter states that they are awaiting approval from DelDOT.
- g. **Subdivision #2005 – 64** – Palisades Land, LLC
This is a request for a one-year time extension. The Commission granted preliminary approval on September 28, 2006 and granted a one-year time extension on October 17, 2007. This is the second request for a time extension. If an extension is granted, preliminary approval will be valid until September 28, 2009.
- h. **Subdivision #2006-14** – Gray Properties, LLC
This is a request for a one-year time extension. The Commission granted preliminary approval on June 20, 2007. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of preliminary approval. If an extension is granted, preliminary approval will be valid until June 20, 2009.
Approvals have been received from Sussex Conservation District and the Office of the State Fire Marshal and submittals have been submitted to County Engineering and DelDOT.
- i. **Subdivision #2006-17** – Sawmill Associates, Inc.
This is a request for a one-year time extension. The Commission granted preliminary approval on July 27, 2006 and granted a one-year time extension on July 18, 2007. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and if an extension is granted, preliminary approval will be valid until July 27, 2009. The Engineer's letter advises that they are awaiting approvals for the Sussex Conservation District and DelDOT.
- j. **Subdivision #2006-18** – Briggs 4, LLC
This is a request for a one-year time extension. The Commission granted preliminary approval on August 15, 2007. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval. If an extension is granted, preliminary approval will be valid until August 15, 2009.
- k. **Subdivision #2006-19** – Paul and Barbara Steele

This is a request for a one-year time extension. The Commission granted preliminary approval on July 12, 2007. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval. If an extension is granted, preliminary approval will be valid until July 12, 2009.

l. **Subdivision #2006-20** – Stella J. Mitchell, Trustee

This is a request for a one-year time extension. The Commission granted preliminary approval on July 26, 2007. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of the preliminary approval. If an extension is granted, preliminary approval will be valid until July 26, 2009. The Engineer's letter advises that they are awaiting approvals from County Engineering and the Sussex Conservation District.

m. **Subdivision #2006-30** – Goslee Manor, LLC

This is a request for a one-year time extension. The Commission granted preliminary approval on October 17, 2007. This is the first request for a time extension. If an extension is granted, preliminary approval will be valid until October 17, 2009.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approval the amended items on the Consent Agenda. Motion carried 4 – 0.

OLD BUSINESS

C/U #1739 – application of **ERIC SUGRUE, BIG TRIPS, LLC** to consider the Conditional Use of land in a GR General Residential District for multi-family dwelling structures (6 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.66 acres, more or less, lying northeast of Road 270A (Munchy Branch Road), 3,000 feet northeast of Route One.

The Commission discussed this application which has been deferred since July 10, 2008.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1739 for Eric Sugrue, Big Trips, LLC for a multi-family dwelling structure of two (2) units based on the record made at the public hearing and for the following reasons:

1. The number of multi-family units should be limited to two (2), based upon the location and configuration of the property, and the character of the surrounding neighboring and adjacent properties. Also, the number of units is consistent with the number of units permitted by County Council for a similar project very close to this one on the same road.
2. The proposed Conditional Use with only two (2) multi-family units will have no significant impact upon traffic.
3. The site is located in the Environmentally Sensitive Developing District Overlay Zone which references multi-family dwellings as an approved housing type.
4. The project will only two (2) units will not have an adverse impact on neighboring properties or community. The project is generally in the vicinity of other subdivisions, manufactured home parks, retail and office uses, and a construction site.
5. This recommendation for approval is subject to the following conditions and stipulations:

1. Only two (2) units shall be constructed upon the property.
2. The project shall be subject to the approval of the Sussex County Engineering Department. The Applicant shall be required to design, fund and construct any upgrades to the County sewer system that are necessary to serve the dwelling units.
3. Construction, site work, grading and deliveries of construction materials, landscaping materials, and fill on, off or to the property shall only occur between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday.
4. All entrances and right-of-ways required by DelDOT shall be obtained by the Applicant in accordance with DelDOT's determinations.
5. Six (6') foot fencing shall be installed around the rear and side perimeter of the property with natural landscaping. The fence and landscaping shall be shown on the Final Site Plan.
6. Lighting from the parking area shall be screened away from the neighboring properties. In addition, the lighting shall be low-intensity to prevent glare.
7. The Final Site Plan shall contain the approval of the Sussex Conservation District for the location and design of all of the Stormwater Management Facilities.
8. The 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 forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions and stipulations stated. Motion carried 4 – 0.

C/Z #1651 – application of **CALDERA PROPERTIES – INDIAN RIVER V, LLC** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying southeast of Road 346A and 3,100 feet east of Road 346, to be located on 78.228 acres, more or less.

This application was introduced for public hearing on April 24, 2008. The public hearing was continued to July 10, 2008 and action was deferred.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1651 based upon the record and for the following reasons:

1. The proposed MR-RPC meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County.
2. The proposed project is in compliance with the 2003 Sussex County Comprehensive Plan Update in that it is located in a designated growth area where future growth is directed.
3. The site is currently zoned MR and is the same site as a previously approved MR-RPC "Walters Bluff". The proposed 71 housing units are within density calculations permitted for the site and the site wetland square footage percentages.
4. The development will be served by the Sussex County sewer system and a central water service utility provider.
5. The proposed projects active and passive recreational offerings and facilities are consistent with the goals of the Comprehensive Plan.

6. The project is designed to minimize impacts on the Inland Bays by having central water and sewer and a minimum 50' setback from State wetlands. The access to the site via an upland easement over adjacent property further protects the wetlands and Inland Bays.
7. With the elimination of the access bridge the proposed 71 residential unit development is an appropriate use for this parcel of land zoned MR, located in the Environmentally Sensitive Developing District Overlay Zone, served by central water and sewer.
8. This recommendation is based on the following conditions:
 1. The maximum number of dwelling units shall not exceed seventy-one (71). These units shall be single family detached condominium homes.
 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
 3. Recreational facilities and amenities shall be constructed and open to use by the residents of the development within two (2) years of the issuance of the first building permit. These amenities shall include a swimming pool and community club house.
 4. The development shall be served as part of the Sussex County Sanitary Sewer System in accordance with the Sussex County Engineering Department specifications and regulations.
 5. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 6. Storm water management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements and will utilize Best Management Practices.
 7. Site plan review for the development shall be subject to the review and approval of the Planning and Zoning Commission.
 8. The interior street design shall include sidewalks on both sides of the street and street lights, and shall be in accordance with or exceed Sussex County street design requirements and specifications.
 9. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed landscape design.
 10. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.
 11. No individual or community boat docks, piers, boat launching facilities, or pedestrian boardwalks over State wetlands shall be permitted.
 12. Road naming and addressing shall be approved by the Sussex County Addressing Department.
 13. A fifty (50) foot buffer shall be provided from the State wetland line. Silt fencing shall be placed during construction at the 50-foot buffer setback, as stated by the Applicants representative, Richard Polk.
 14. The existing cemetery shall be preserved in accordance with applicable regulations and maintained by the Riverview Home Owners Association.
 15. Access to the site shall be as approved by all applicable regulatory agencies and shall be by way of an upland access easement over the property adjacent to the site as shown on the preliminary site plan presented at the July 10, 2008 Planning and Zoning Commission public hearing.

16. The Hunting Activities nearby notice shall be included in the deed restrictions notices.

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

C/Z #1657 – An ordinance to modify Condition No. 10 imposed on Ordinance No. 1573 for Change of Zone No. 1475, the application of Ribera-Odyssey, LLC for “The Peninsula”, a MR-RPC Medium Density Residential District – Residential Planned Community, to extend the time to construct and open for use the golf clubhouse and nature center facilities.

The Commission discussed this application which has been deferred since July 10, 2008.

Mr. Lank read Condition No. 10 as imposed by Ordinance No. 1573. Condition No. 10 states “Recreational facilities, e.g., tennis courts, swimming pool, community buildings, pathways, trails, and beaches shall be constructed and open to use by the residents within two (2) years of the issuance of the first building permit”.

Mr. Johnson stated that he would recommend that the Commission recommend a denial of the specific relief requested in Change of Zone #1657 for “The Peninsula at Long Neck”. Instead, County Council should consider approving a modified ordinance as follows based upon the record and for the following reasons:

1. While I understand the nature of today’s economy, the Developer should have taken this into account as part of the construction of “The Peninsula” development. And, the conditions imposed as part of the original approval were presented by the Applicant, not created by the Planning and Zoning Commission or County Council.
2. At the same time, the Developer has constructed extensive amenities that are already completed and in place. Also, several of the services that would be provided through the Golf Clubhouse exist in other existing facilities, including the Golf Pro Shop, restaurant, etc. Because many of the services are already provided through separate facilities, the residents would not incur an undo loss of the services due to a limited delay in the clubhouse completion.
3. Although the Applicant has proposed that the clubhouse be constructed after a certain number of memberships have been established within the golf club, this method is to cumbersome and cannot be tracked easily by the County. Instead, specific timeframes must be established for completion that can be tracked by the County, the Developer, homeowners and members of the golf club.
4. Unlike the clubhouse, the Nature Center is an amenity that serves the entire parcel. The Applicant did not give an adequate explanation why this particular amenity has not been constructed. Also, the Applicant did not give adequate reasons why it should not be constructed before the clubhouse. The Nature Center should be constructed without further delay.
5. Construction of the Nature Center should be completed within 18 months of the adoption of this Ordinance by County Council.

6. The Golf Clubhouse construction must commence within 2 years of the adoption of this Ordinance by County Council. Construction must be substantially complete within 3.5 years of the adoption of this Ordinance by County Council. A performance bond should be required guaranteeing completion of the clubhouse within this timeframe.

Motion by Mr. Johnson, seconded by Mr. Smith and carried with 3 votes to forward this application to the Sussex County Council with the recommendation that this application be denied for the reasons and with the conditions stated. Motion carried 3 – 1 with Mr. Gordy opposed to the motion.

Subdivision #2006-55 – application of **ALVANNAH R. DAVIS** to consider the Subdivision of land in a GR General Residential District in Cedar Creek Hundred, Sussex County, by dividing 13.63 acres into 8 lots, located west of Road 225, 733 feet south of Road 38.

The Commission discussed this application which has been deferred since February 29, 2008 pending receipt of a septic feasibility statement. DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic systems.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to defer action for further consideration due to Mr. Burton's absence. Motion carried 4 – 0.

Subdivision #2006-68 – application of **DOVE ESTATES, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District and a GR General Residential District in Nanticoke Hundred, Sussex County, by dividing 73.20 acres into 111 lots, located south of Road 526A and west of Road 525.

The Commission discussed this application which has been deferred since May 22, 2008. DNREC has issued a septic feasibility statement indicating that the site is suitable for a community wastewater disposal treatment system.

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

Subdivision #2006-73 – application of **ANTHONY SPOSATO** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Georgetown Hundred, Sussex County, by dividing 261.99 acres into 400 lots, (Cluster Subdivision), located south of Road 252 (Huff Road), 2,500 feet east of Road 319 (Sandhill Road).

The Commission discussed this application which has been deferred since July 10, 2008. Artesian Resources will supply wastewater treatment and water to the project.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2006-73 for Anthony Sposato based upon the record and for the following reasons:

1. The Applicant is seeking approval of a clustered subdivision within the AR-1 Zone. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet. The typical lot square footage is 10,000 square feet.

2. A subdivision on this site with the proposed conditions will not have an adverse impact on the neighboring properties or community.
3. The subdivision will not adversely impact schools, public buildings, area roadways or public transportation.
4. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
5. I am satisfied that this project is of a superior design under the Subdivision Ordinance. It is a superior design because it provides for the retention of natural and open space features. There will be approximately 147 acres (56%) of the project remaining in open space. The design will also retain approximately 123 acres of the existing forested areas.
6. The design addresses the requirements of Section 99-9C of the Code.
7. I am recommending that the proposed subdivision have no more than 324 lots on the 261.99 acres parcel for a variety of reasons. While the Applicant is seeking 400 lots, the reduction in the number of lots is warranted due to the rural, farming, extensively wooded and sparsely populated area; the cumulative impact on this and other developments previously approved and proposed on the local infrastructure and the area in general; wetlands represents over 38% of the total acres; the number of lots requested is significantly greater than the number of lots that could be developed on this parcel under a standard subdivision format; 400 lots on a 162 acres of uplands is too great, with a density of 2.5 lots per acre; and the 324 lots being recommended is more in line with the AR-1 Zoning of 2 lots per acre.
8. The subdivision will be served by central water and sewer.
9. This preliminary approval is subject to the following:
 - A. There shall be no more than 324 lots within the subdivision.
 - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
 - D. All entrances shall comply with all of DeIDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
 - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
 - F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - G. As proposed by the Applicant, a 30-foot forested agricultural buffer shall be shown along boundaries of the project. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
 - H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
 - I. No wetlands shall be included within any lots.
 - J. A system of street lighting shall be established.
 - K. Sidewalks shall be located on both sides of all streets in the subdivision.

- L. The subdivision shall be served by a central sewer as defined by Sussex County, designed in accordance with Sussex County Engineering Department and DNREC specifications.
- M. Within 2 years of the issuance of the first residential building permit, the developer shall construct all of the recreational amenities. Bonding shall be provided to guarantee the construction of all amenities.
- N. As planned by the Applicant, there shall be a 50-foot vegetated buffer from all wetland areas. The Final Site Plan shall show the details of the buffer and vegetation located there.
- O. 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. Smith and carried unanimously to grant preliminary approval of this subdivision application for the reasons and with the conditions stated. Motion carried 4 – 0.

Subdivision #2006-74 – application of **DAVID L. AND CAROLYN D. WILSON** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 35.99 acres into 30 lots, located west of U. S. Route 113, 910 feet north of Road 623.

The Commission discussed this application which has been deferred since July 24, 2008. DNREC has issued a septic feasibility statement indicating that the site is suitable for individual on-site septic disposal systems.

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

Subdivision #2006-75 – application of **TULL GROUP, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District and a GR General Residential District in Northwest Fork Hundred, Sussex County, by dividing 139.98 acres into 222 lots, located northeast of Road 590, 2,300 feet northwest of Road 583.

The Commission discussed this application which has been deferred since July 24, 2008. DNREC has issued a septic feasibility statement indicating that the site is suitable for a community wastewater treatment and disposal system.

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

OTHER BUSINESS

1. State of Delaware /Sussex Maintenance Facility
Preliminary Site Plan – Route 431

Mr. Lank advised the Commission that this is a preliminary site plan for a proposed maintenance shop, office and 2 tool sheds with associated parking located on 260.28 acres; that the site is zoned AR-1 and is owned by the State of Delaware; that the proposed buildings will be utilized by the State of Delaware Division of Facilities Management; that the site is located between the Delaware State Police Troop 4 and the Magistrate Court; that those buildings along with Sussex Correctional Institute are all located on the same parcel; that all of those buildings were built when the State was exempt from zoning jurisdiction; that a 4,050 square foot maintenance shop with a 1,478 square foot office are proposed; that there are also two (2) 308 square foot tool sheds proposed; that the setbacks meet the requirements of the Zoning Code; that 24 parking spaces are proposed; that the staff is questioning whether the site plan may be amended as submitted or if a Conditional Use application will be required; that if the site plan is approved, final approval could be subject to the staff receiving all agency approvals; that some additions to the State Police facility and the Magistrate Court buildings have been permitted; that the site is located in a Investment Level 2 area according to the State Strategies; and that the site is located in a Developing Area according to the Comprehensive Plan Update.

The Commission discussed this site plan.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to approve the site plan as a preliminary with the stipulation that Final Site Plan approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

2. H & L Land Company, LLC

C/U #1693 – Time Extension and Preliminary Site Plan – U.S. Route 13

Mr. Lank advised the Commission that this is a request for a one-year time extension and preliminary site plan approval; that this is the first request for an extension; that if an extension is granted, it shall be retroactive to the anniversary date of approval and will be valid until August 7, 2009; that the preliminary site plan is for a proposed 14,400 square foot storage building with an existing 5,054.6 square foot office building; that the setbacks for the proposed storage building meet the requirements of the Zoning Code; that the 15 conditions of approval are referenced on the site plan; that the site plan complies with the conditions of approval; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to grant a one-year time extension for C/U #1693 which will be valid until August 7, 2009, and to grant preliminary approval of the site plan with the stipulation that the Final Site Plan approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

3. Peninsula Lakes MR-RPC

Final Record Plan – Road 299

Mr. Lank advised the Commission that Peninsula Lakes MR/RPC has been removed from the Agenda since agency approvals and/or permits have not been received.

4. Baywood Duneside GR-RPC
Phase 11 – Preliminary Site Plan – Route 5

Mr. Lank advised the Commission that this is a preliminary site plan for 151 single-family lots known as Phase 11 of the Baywood Greens GR-RPC; that the area for Phase 11 contains 60.37 acres and is located on the west side of Route 24 and northeast of Route 5; that the proposed setbacks for this Phase are 10-feet from all lot lines; that the final record plan needs to show the proposed landscape plan; that central sewer will be provided by the Inland Bays Preservation Co. and that central water will be provided by the Long Neck Water Company; that preliminary approval could be granted; and that final approval shall be subject to the review and approval of the Commission since the project is a residential planned community.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant preliminary approval of Phase 11 of Baywood Greens with the stipulation that the Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. Motion carried 4 – 0.

5. Swann Cove MR-RPC
Phases 4 and 5 – Preliminary Site Plan – Route 54

Mr. Lank advised the Commission that this is a preliminary site plan for Phases 4 and 5 of the Swann Cove Residential Planned Community; that Phase 4 consists of 54 single-family lots located on 13.27 acres; that Phase 5 consists of 32 single-family lots located on 7.45 acres; that the standard MR setbacks are proposed; that the County will provide central sewer; that Artesian Water Company will provide central water; that the record plans comply with the conditions of approval; that preliminary approval could be granted; and that final approval shall be subject to the review and approval of the Commission since the project is a residential planned community.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant preliminary approval of Phases 4 and 5 of Swann Cove with the stipulation that the Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. Motion carried 4 – 0.

6. Subdivision #2005-85 – Ernest H. Hosse, III
Sidewalk Layout

Mr. Lank advised the Commission that this is a proposed sidewalk layout for Greenway Place Subdivision; that the subdivision received preliminary approval for 21 lots on February 20, 2008 with a condition requiring sidewalks on both sides of all streets within the subdivision; that in this design, sidewalks are provided on both sides of all streets except for the portion of land that is owned by John and Colleen Briggs, the frontage along the open space and a portion along the frontage of the Applicant's home; and that the Applicant is requesting that consideration be given to this design.

The Commission discussed the proposed sidewalk layout.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to grant approval of the sidewalk layout as submitted. Motion carried 4 – 0.

7. KGH Property Development, LLC
3 Lots – Road 257 (Round Pole Bridge Road)

Mr. Lank advised the Commission that this is a request to subdivide a 14.93 acre parcel into 3 lots along Road 257; that this request was deferred on May 14, 2008 pending receipt of a revised plan verifying the accuracy of the wetlands delineation and calculations for the upland areas of the proposed lots; that Ed Launay, Wetlands Scientist, has signed off on the wetlands delineation; that the proposed Lot 1 contains 0.78 acre, Lot 2 contains 2.68 acres and Lot 3 contains 11.47 acres; and that DelDOT has issued a Letter of No Objections.

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

8. William Gordy
Parcel and 50' Right of Way – U.S. Route 13

Mr. Lank advised the Commission that this is a request to create a 5.0 acre parcel with access from a 50-foot right-of-way out of a 64.0 acre parcel; that the owner proposes to create the 50-foot right-of-way over an existing farm lane; and that the Commission could approve the parcel as submitted or require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

9. John P. and Phyllis M. Wapniarek
Parcel and 50' Right of Way – Route 16

Mr. Lank advised the Commission that this is a request to create a 1.107 acre lot with access from a 50-foot right-of-way out of a 3.854 acre parcel; that the proposed 1.107 acre lot has an existing dwelling located on it; that the owner proposes to create the right-of-way over an existing driveway; that two (2) other lots are being created out of this parcel, however, the two lots have the required 150-foot lot width; and that the Commission could approve the parcel and right-of-way as submitted are require that the owners apply for a variance.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

10. Kristy A. Everhart
2 Lots and 50' Easement – Road 353 (Burbage Road)

Mr. Lank advised the Commission that this is a request to subdivide 8.6159 acres into 3 lots and to create a 50-foot right-of-way to serve as access to 2 of the lots; that Lot 2 will contain 5.3721 acres and the residual lands will contain 1.1338 acres; that both of these lots will be accessed by

the 50-foot right-of-way; that Lot 1 will contain 2.1099 acres and have an access off of Road 353; that the residual land has a dwelling located on it; that DelDOT has issued a Letter of No Objection; and that the Commission could approve the request 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 as a concept with the stipulation that prior to granting approval of the lots approval from the County Engineering Department will be required since the lots are in close proximity to the Groundwater Management Zone around the County Landfill. Motion carried 4 – 0.

11. Robert J. and Bernadette M. Kowalski
3 Parcels and 50' Easement – Road 510 (Horse Church Road)

Mr. Lank advised the Commission that this is a request to subdivide 15.968 acres into 3 parcels and to create a 50-foot easement to serve as access to the parcels; that Lot 3 will contain 5.419 acres, Lot 4 will contain 6.506 acres and Lot 5 will contain 4.043 acres; that Lot 3 has a dwelling located on it; that the owner proposes to create the 50-foot easement over an existing driveway; that the Commission can approve the request as submitted or require an application for a major subdivision; and that if approved as submitted, 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 as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 4 – 0.

12. Robert Hall
Lot and 50' Easement – Route 24

Mr. Lank 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 50-foot of existing road frontage; and that the Commission can approve the request as submitted or require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

13. David E. and Della Marie McNatt
2 Parcels and 50' Right of Way – Route 30

Mr. Lank advised the Commission that this is a request to subdivide a 16.25 acre parcel into 3 parcels and extend an existing 50-foot right-of-way; that if approved, this would make 3 parcels with access from an existing 50-foot right-of-way; that the Commission can approve the request as submitted or require an application for a major subdivision; that if approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

The Commission found that David Hutt, Attorney, was present on behalf of the McNatts' and asked the Commission to review Exhibit "B" of his letter which correctly shows the McNatts' concept to subdivide.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to approve the concept to create 3 lots with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 4 – 0.

14. Subdivision #2006-72 – Gregory and Charlotte Hastings
Request to Withdraw and Expedited Review

Mr. Lank advised the Commission that this is a request to withdraw a subdivision application that was heard on June 26, 2008; that the Commission deferred action pending receipt of a septic feasibility statement and information in reference to tax ditch easements; and that the Applicants attorney is requesting an expedited review if an amended application is filed.

Mr. Lank summarized the reference letter received from David J. Weidman, Esquire, on behalf of the Applicant.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the request to withdraw the application. Consideration of expedited review of a future application for this site shall be taken under advisement if a new application is filed. Motion carried 4 – 0.

15. Jurisdictional Determinations
Wetlands Discussion

Mr. Lank advised the Commission that this item has been deferred at the last 2 Special Meetings of the Commission and referenced an E-mail that is attached to the report from Ric Kautz.

The Commission discussed jurisdictional determinations for wetlands.

No action was taken.

16. Time Extension
Subdivision #2004-38 – Seneca Harbor Joint Venture

This item was moved from the Consent Agenda as a time extension for further discussion by the Commission.

The Commission found that James Fuqua, Attorney, was present on behalf of the developer and stated that the project is in an area where other projects have been approved with individual central sewer and/or water systems; that the Norwood project recently received its' third time extension; that a Public Utility company will be providing service the this project and some of the other projects in the area that have preliminary approvals; that the Office of the State Fire Marshal will not grant final approval until the County Engineering Department grants approval; and that the County Engineering Department has not been issuing approvals.

The Commission found that Doug Warner of Element advised the Commission that the site is proposed to be served by Tidewater Utilities.

The Commission discussed the request.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension for this application retroactively from August 11, 2008 with the approval being considered valid until August 11, 2009. This time extension will be considered the 3rd and final time extension. Motion carried 4 – 0.

ADDITIONAL BUSINESS

Mr. Lank provided the Commission with copies of Exhibit Booklets and information packets for the public hearings scheduled for August 28, 2008, e.g. C/U #1810, Subdivision #2007-2, Subdivision #2007-3 and Subdivision #2006-35 (Rehearing).

Mr. Lank provided the Commission with a memorandum from David B. Baker, County Administrator in reference to information about a possible Historic Preservation Ordinance.

Mr. Lank asked the Commission when they would prefer to hold the Special Meeting in September for the review and consideration of Old Business, Site Plans, and other business. There was a consensus of the Commission that the Special Meeting for September be held in County Council Chambers on September 17, 2008 at 3:00 p.m.

Meeting adjourned at 5:00 p.m.