



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF AUGUST 26, 2010

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 26, 2010, in the County Council Chambers, County Administrative Office Building, in Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Rodney Smith, Mr. I. G. Burton, Mr. Michael Johnson, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

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

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of August 12, 2010 as amended. Motion carried 5 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of August 18, 2010 as circulated. Motion carried 5 – 0.

OLD BUSINESS

C/U #1850 – application of **INLAND BAYS, LLC** to consider the Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 11.96 acres, more or less, lying north of Route 360 (Fred Hudson Road), 1,360 feet east of Route 357 (Cedar Neck Road).

The Commission discussed this application which has been deferred since August 12, 2010.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried with 4 votes to defer action for further consideration. Motion carried 4 – 0. Mr. Wheatley did not participate in the vote since he was not present during the public hearing.

PUBLIC HEARINGS

C/U #1851 – application of **STEVE DRUMMOND** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for automotive repair to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 5.0 acres, more or less, lying east of Fire Tower Road (Road 479), 1,515 feet north of Route 9.

The Commission found that on August 16, 2010 the Applicant provided an Exhibit Booklet for this application which included a copy of the Application form; a copy of the Tax Map of the area; a copy of a portion of the survey of the property showing the improvements; DelDOT comments, dated March 11, 2009; a copy of a violation notice for operating the business; a copy of the deed to the property; and suggested proposed Findings of Fact and Conditions.

The Commission found that on March 10, 2009 DelDOT provided comments that a traffic impact study was not recommended and that the current level of service "A" of Fire Tower Road will not change as a result of this application.

The Commission found that on August 17, 2010 the Sussex Conservation District provided comments that there are 3 soil types on this property; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that on August 20, 2010 the County Engineering Department Utility Planning Division provided comments that the site is located in the Western Sussex Planning Area #4; that an individual on-site septic system is proposed to be utilized; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Steve and Kathy Drummond were present with Dennis Schrader, Attorney with Wilson, Halbrook & Bayard, P.A., and that they stated in their presentation and in response to questions raised by the Commission that the site is zoned AR-1 Agricultural Residential and is improved by their home and work shop; that the shop is used for automotive repair; that they were cited for operating the business; that the use has been in operation since 2002; that they perform custom repair work for drag racing motors and some racing chassis work; that no body work is performed on the site; that they primarily work on race cars; that they do not have a sign on the site and advertise in newspapers and magazines; that the site is located in a Low Density area according to the State Strategies and County Comprehensive Plan Update; that there are no stormwater management issues; that waste oils and fluids are stored on the site and disposed of by licensed handlers; that the lots in the area are large lots; that all of the business activities are operated in the wooded area of the lot; that all work is performed inside the existing building; that the building is air conditioned; that utility storage trailers are used to haul the racecars; that they have four employees including themselves and does not anticipate any increase at this time; that they only need signage so that deliveries can be received; that most of the deliveries are delivered by UPS type vehicles; that they own two utility storage trailers and tow the trailers with a motor home; that business hours are from 8:00 a.m. through 6:00 p.m. Monday through Friday and on Saturday from 9:00 a.m. through 1:00 p.m.; and that there are no business hours on Sundays.

The Commission found that Tom Dunn and Brian Kunkowski were present in support of the application and stated that they have no objections; that the Applicant keeps a clean and

uncluttered property; that they are friends and customers; that the business is clean and quiet; and that the use is an asset to the economy and the community.

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.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1851 for Steve Drummond for automotive repair based upon the record made at the public hearing and for the following reasons:

- 1) The property is the applicant's residence, and it will maintain a predominantly residential character and appearance.
- 2) The use is limited and will have no adverse impact upon traffic.
- 3) The use is located in the center of a large wooded lot. The use will not have an adverse effect on neighboring properties or the community.
- 4) The use is a benefit to the residents of Sussex County.
- 5) This recommendation for approval is subject to the following conditions:
 1. No engine or transmission work shall be performed outdoors.
 2. All waste oils or other petroleum products removed from engines or transmissions on site shall be removed by a licensed waste hauler.
 3. There shall not be any outside storage of junked vehicles, automobile parts, used tires or other similar materials arising out of the Applicant's business.
 4. The hours of operation shall be Monday through Friday from 8:00 a.m. to 6:00 p.m. and Saturday from 9:00 a.m. to 1:00 p.m. The business shall be closed on Sundays.
 5. Any security lights shall be downward screened so that they do not shine on neighboring properties or roadways.
 6. No vehicles for sale shall be displayed on the premises.
 7. The project shall provide no more than 3 off street parking spaces for race cars and 4 spaces for car haulers or tow trucks. The location of the parking areas shall be shown on the final site plan.
 8. The owner/applicant may service his own personal vehicles on the project site.
 9. Signage shall not exceed 6 square feet on each side and shall not be lighted.
 10. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

C/U #1852 – application of **CHARLES P. MOORE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for automotive repair, towing service, and auto sales to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 2.658 acres, more or less, lying south of Route 283, 312 feet southeast of Route 283A.

The Commission found that on August 16, 2010 the Applicant provided an Exhibit Booklet for this application which included a copy of the cover letter and Application form; a copy of the site location map for C/U #1097, a previous application for the site for auto and truck repair and towing service with an impound lot; a copy of Ordinance No. 1007 for Conditional Use #1097; a copy of the deed to the property; copies of letters to and from the Applicant or his representatives and the Department; an aerial photograph of the site; a copy of the proposed site plan; and suggested proposed Findings of Fact and Conditions.

Mr. Lank advised the Commission that DelDOT comments were not requested since the site was already be utilized for the repair and towing service by a previous Conditional Use.

The Commission found that on August 17, 2010 the Sussex Conservation District provided comments that there are 2 soil types on this property; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that on August 20, 2010 the County Engineering Department Utility Planning Division provided comments that the site is located in the Goslee Creek Planning Area; that an individual on-site septic system is proposed to be utilized; that conformity to the North Coastal Area Planning Study will be required; that when the County provides central sewer service, the on-site system must be abandoned and a direct connection to the central system is mandatory; and that a concept plan is not required.

The Commission found that a letter was received on August 26, 2010 from J. G. Townsend Jr., & Co. in support of this application.

The Commission found that Charles P. Moore was present with David Hutt, Attorney with Wilson, Halbrook & Bayard, P.A., and that they stated in their presentation and in response to questions raised by the Commission that Mr. Moore is the owner/operator of Coastal Towing; that the repair shop and impound lot have been in existence since 1996; that the business impounds vehicles for several agencies; that the business has to sell some of those vehicles for lack of payment of services; that the business needs approval of the sales lot to allow the Department to write a letter of approval to the State Department of Motor Vehicles for a dealer's license; that the site is surrounded by woodlands and fields owned by J.G. Townsend Jr., & Co.; that the site will not appear to be any different by adding the auto sales display since car already park in this area; that business hours will not change; that the number of employees will not change; that the existing signage can be altered to add reference to the auto sales, since it is required by the Department of Motor Vehicles; that no banners or streamers will be flown to advertise the additional business; that the business has 9 employees, including the Applicant and his three sons; that the business is family owned and operated; that they do a lot of towing work for police departments, DNREC, State Parks, and the River Bay Authority; that the school buses on the site are being serviced for the school year and are not there to be stored on the site; that business hours are from 8:00 a.m. to 5:00 p.m. Weekdays and 8:00 a.m. to 4:00 p.m. on Saturdays, except for emergencies; and that they anticipate displaying no more than 15 cars for sales purposes with an average of 8 or 9 cars displayed.

Mr. Hutt submitted six additional letters in support of this application. The letters were signed by Terry M. Brewster, Robert C. Green, Spangler and Theresa Klopp, Joseph A. Becker, Mark and Karen Reid, and Nancy Reese.

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. Robertson reminded the Commission that although this was advertised as a new Conditional Use, it is actually the extension of an existing approved Conditional Use with its own conditions.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1852 for Charles P. Moore to allow auto sales, based upon the record made at the public hearing and for the following reasons:

- 1) In 1995, County Council approved C/U #1097, which allowed an automotive repair and towing service.
- 2) This application is consistent with the character of the existing approved use, and will allow Mr. Moore the ability to sell or dispose of vehicles recovered as part of this towing service.
- 3) The Applicant tows vehicles for a number of municipalities, police departments, and the Cape Henlopen State Park. There is an ongoing need for these services, and these services leave Mr. Moore to deal with and sell some of the vehicles which requires a Dealer's License from the Department of Motor Vehicles.
- 4) The proposed use will have no additional impact on traffic on the neighboring properties.
- 5) The expanded use meets the purpose of the Zoning Ordinance because it promotes the orderly growth, convenience, order and welfare of Sussex County.
- 6) This recommendation for approval is subject to the following conditions:
 1. There shall be no more than 15 cars for sale on the site at any one time.
 2. There shall be an area of approximately 20 feet by 95 feet for the display of vehicles for sale. The area set aside for vehicle sales shall be shown on the Final Site Plan.
 3. The existing conditions of C/U #1097 shall remain in effect.
 4. The revised 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 forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

C/U #1865 – application of **RANDY L. HILL** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a deli and small convenience store to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 0.41 acres, more or less, lying at the intersection of Route 24 (Sharptown Road), southerly side, and Road 510 (Horse Church Road), northerly side.

The Commission found that on August 13, 2010 the Applicant provided an Exhibit Booklet for this application which included a copy of the site plan; photographs of the previous building on the site and the replacement building; a copy of the deed to the property; a copy of the building permit to finish the improvements; a copy of DelDOT comments; a letter from the Applicant to the Department; petitions in support of the application containing 48 signatures; statements relating to compliance with the Zoning Code and Comprehensive Plan Update; and suggested proposed Findings of Fact.

The Commission found that on April 29, 2010 DelDOT provided comments that a traffic impact study was not recommended and that the current level of service "A" of Route 24 and the current level of service "B" of Horsey Church Road will not change as a result of this application.

The Commission found that on August 17, 2010 the Sussex Conservation District provided comments that there are 2 soil types on this property; that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it is not likely that off-site drainage improvements will be required and that it may be possible that on-site drainage improvements will be required.

The Commission found that on August 20, 2010 the County Engineering Department Utility Planning Division provided comments that the site is located in the Western Sussex Planning Area #4; that an individual on-site septic system is proposed to be utilized; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that ten (10) letters in support were received by the Department prior to the meeting. The letters were signed by Drew D. Ward, Gary W. and Debby R. Flood, Kenneth H. and Kathleen A. Hastings, Barbara Webb, Jeanne Griffin, Mark Tull, Angela A. Hill, Bob Hill, Michael Wilson, and Kevin Hastings.

The Commission found that Randy Hill was present with Shannon Carmean, Attorney with Sergovic & Carmean, P.A., and Barry Spicer and that they stated in their presentations and in response to questions raised by the Commission that Mr. Spicer will operate the business, if approved; that the property is improved by two buildings; that they are proposing to convert the one-story building to re-establish the historic South Fork Deli; that the original deli was built in 1942 and was operated until 2005, when it was destroyed by fire; that the building was not reopened and therefore lost its non-conforming status; that the building is being renovated and used for personal storage; that they hope to reopen the deli to provide convenience goods and food services to area residents and the community; that the community is primarily residential and farming operations; that the use would comply with the purpose of a Conditional Use in an AR-1 Agricultural Residential District; that the Comprehensive Plan Update refers to this area as Low Density; that the use will be consistent with the Comprehensive Plan Update and the Zoning Code; that there should be no adverse impact on the community; that business hours are proposed on Sunday through Thursday from 6:00 a.m. until 7:00 p.m. and on Friday and Saturday from 6:00 a.m. to 9:00 p.m.; that DelDOT did not recommend a traffic impact study;

that granting approval will allow for re-use of the property for its original intent; that the number of employees should not exceed five daily with two working in the a.m., three working during the lunch hour, and two working in the p.m.; that there will be no gasoline or kerosene sales; that adequate parking can be provided on site; and that a minimum of one handicap parking space will be provided.

The Commission found that Jimmy Watts, Doug Henry, and Drew Ward were present in support of the application and referenced that the use has been missed by the area residents since it was destroyed by fire; that the use will be a convenience to the area residents; that the building improvements that have been performed eliminate an eyesore; that the use will provide for an economic benefit by creating jobs and saving for the residents of the area.

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

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

Mr. Ross stated that he would move that the Commission recommend approval of C/U #1865 for Randy L. Hill for a deli and small convenience store based upon the record made during the public hearing and for the following reasons:

- 1) The site and the building previously on it were used as a deli and small convenience store since the 1940s until it was destroyed by fire in 2005. This use will be consistent with the historical use of the site.
- 2) Since this is the approval of a legal pre-existing, but non-conforming use, there will be no adverse impact on traffic or the neighborhood through the continuation of the use.
- 3) The use serves the general convenience and welfare of residents of this area in Sussex County.
- 4) No parties appeared in opposition to the application, and the project is supported by many area residents.
- 5) This recommendation is subject to the following conditions:
 1. The use shall be limited to the existing one story building.
 2. The use shall be limited to a deli and small convenience store.
 3. Parking shall meet or exceed the parking requirements contained in the Zoning Code.
 4. The hours of operation shall be limited to the hours between 6:00 a.m. and 7:00 p.m. Sunday through Thursday, and 6:00 a.m. and 9:00 p.m. Friday and Saturday.
 5. One double-sided, lighted sign, not to exceed 32 square feet per side, shall be permitted.
 6. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 7. The sale or storage for sale of gas, diesel or kerosene are prohibited.
 8. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Ross, 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 5 – 0.

Subdivision #2009-8 – application of **BLUE CLAW II, LLC** to consider the Subdivision of land in a MR Medium Density Residential District in Indian River Hundred, Sussex County, by dividing 6.21 acres into 14 lots, (Environmentally Sensitive Development District Overlay Zone), located at the northwest corner of the intersection of Road 313A (Downs Landing Road and Blue Claw Road) and Road 310A (Warwick Road).

Mr. Lank reminded the Commission that this application was withdrawn on August 5, 2010.

Subdivision #2009-10 – application of **H. P. LAYTON PARTNERSHIP** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 52.97 acres into 49 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Round Pole Bridge Road (Road 257), 1,050 feet north of Cave Neck Road (Road 88).

The Commission found that on August 17, 2010 the Applicant provided an Exhibit Booklet for this application which included a site data information sheet; a listing of contact representatives; a report on site information; references to water service, sanitary sewer service, and stormwater management; an appendices of documents referencing compliance with Section 99-9C of the Subdivision Code, Technical Advisory Committee comments, utility commitment letters, wetlands information, DelDOT comments, a summary of endangered species and natural heritage assessments, addressing comments, and a preliminary site plan.

Mr. Abbott advised the Commission that the Technical Advisory Committee Report of December 29, 2009 is a part of the record for this application; that DelDOT issued a Letter of No Objection for the entrance location only on August 24, 2009; and that letters have been received from the Nature Conservancy, State of Delaware Historical and Cultural Affairs and Sussex County Engineering Department that are a part of the record.

James Fuqua, Attorney, Sam Burke, developer, Gary Cuppels, PLS, and Ed Lunay, wetland consultant, were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that an Exhibit Booklet was submitted as a part of the record; that revised pages of the booklet are being submitted along with photographs of the site; that a traffic study was performed and was just received on August 26, 2010 and that since it was not submitted to the Commission at least 10 days prior to the hearing the document would not be part of the record; that the traffic report was generated by the applicant after DelDOT did not perform a traffic study; that the traffic study indicates that the project will have a minimal impact on traffic; that the application is for 49 lots located on 52.97 acres; that the site is located on the west side of Road 257 (Round Pole Bridge Road) approximately 1,700 feet north of Cave Neck Road (Road 88) and being east of the Town of Milton; that the site is near the Cave Colony and White Pines subdivisions; that the entire site is currently wooded; that some timbering of the site has occurred in the past; that the applicants propose to maintain as much of the wooded lands as possible; that there are approximately 8.92 acres of State and Federal 404 wetlands on the site; that the wetlands are located near the northern boundary of the site along the Broadkill River, along the eastern boundary of the site and along the northern end on the southern portion of the site; that a wetlands delineation has been performed and submitted to the Army Corps of Engineers for a jurisdictional determination; that the project was not subject to the PLUS process

since the project is less than 50 lots; that the Nature Conservancy wants the project reviewed by PLUS; that the PLUS comments will want larger buffers from wetlands; that there is no requirement for buffers from federal wetlands; that only a 50-foot buffer is required from State wetlands; that DNREC would ask for buffers between 100 and 300 feet; that the plan has been designed to the existing ordinances; that buffers are site driven; that there is a minimum 50-foot buffer from all State wetlands and that the developer has voluntarily provided a minimum 50-foot buffer from the federal wetlands; that there are no wetlands located on any of the individual lots; that the proposed subdivision name refers to the historical use of the site; that the site was formerly a brickyard in the late 19th and early 20th century; that pits were dug for clay that was used for manufacturing bricks; that the bricks were shipped on the Broadkill River, by train and by road; that there are ruins located on the existing site that were a part of the former use; that the property has been in the applicant's family since 1932; that the main ruins appear to be offices; that the use ceased around 1928; that the Lofland Brick Company filed for bankruptcy in 1931; that the ruins will be preserved as open space; that with prior notice, the developers will permit the State and County Historic Planner to inspect the site for any historical significance; that central sewer will be provided by Tidewater Utilities with a collection main and a pump station that will be pumped to the Town of Milton's system; that on-site wells are proposed; that the streets will be private and built to County specifications; that one entrance to the site is proposed; that the entrance will be off of Road 257; that DelDOT has issued a Letter of No Objection for the entrance location; that the Roger's family owns lands to the west of the site; that access to their property is through the subdivision site; that the developer will continue to provide access to the Roger's site; that the site is located in the Cape Henlopen School District and the Milton Fire Department fire protection district; that services will be provided by Delaware Electric Cooperative, Verizon and Mediacom; that a homeowners' association will be established for the maintenance of streets, common areas and open areas; that assessment charges will be required; that according to the State's Strategies Maps for Spending, the site is located in Levels 2,3 and 4; that the subdivision plan is a low-density project and permitted under the AR-1 zoning; that the proposed density for this project is 0.9 lots/acre; that deducting wetlands, the net density is 1.1 lots/acre; that according to the 2008 Land Use Plan, the site is located in the Milton Town Center District which is a growth area; that significant growth has occurred around the municipalities; that the growth district permits a wide range of housing types; that the site contains 52.97 acres and is made up of six tax parcels; that the Commission previously approved a 4 lot subdivision on March 19, 2008; that there are numerous large clay pits located throughout the site; that in reviewing aerial photographs from 1937 through 1997, there were many buildings on the site; that the aerial photographs from 2002 do not depict the buildings; that the site is 100% wooded at this time; that the site will comply with Ordinance No. 38 requirements; that the applicants are requesting a waiver from the cul-de-sac length; that the proposed cul-de-sac length is 2,350 feet in length; that the cul-de-sac is broken down into 2, 600-foot sections, a 580-foot section and a 570-foot section; that at each section there is a turn around provided for emergency vehicles and possible future inter-connection roads; that the main entrance will be a boulevard entrance with 16-foot travel lanes; that access to the Roger's property will be improved; that sidewalks are proposed on one side of all streets; that the applicant's anticipate a minimum of 8 streetlights being provided; that the developers will work with the local school district to determine a location for a school bus stop; that 70% of the site will remain wooded; that 22.5 acres or 43% of the site is open space; that adequate buffers will be provided; that the applicants funded an area wide traffic study that was to be done by DelDOT however DelDOT did not do the study, and

the applicants had a private firm do an area wide traffic study; that the existing levels of service A and B for the intersections of Roads 257 and 88 and Roads 257 and 258 will not change as a result of this application according to the study; that amenities of the project will include wooded lots, common open space, a tot lot and possibly a crab and fishing pier on the Broadkill River; that an environmental assessment study has been completed and that there were no endangered species found on the site; that Appendix A of the Exhibit Booklet addresses the considerations of Section 99-9C of the Subdivision Ordinance; that there are no requirements for the storm water management quantity, but quality will have to be addressed; that the storm water management design will utilize bio-swales and green technologies; that the run-off drains to the tidal water bodies therefore requiring quality concerns; that the design of the project has taken environmental concerns into account; that the project was designed in an environmentally sensitive manner; that there are no requirements that the project has to be reviewed by PLUS however the applicants will voluntarily submit to PLUS and would not have any objections if the Commission were to require PLUS review; that the existing railroad right of way will remain as open space; that all rails have been removed; that there is no requirement for storm water management ponds; that no duplexes are proposed, only single-family detached single-family dwellings are proposed; that up-scale housing is proposed; that the boundaries of the ruins will be fenced in with wrought-iron fencing; that the existing clay pits will be unified by grading; that lands owned by the Nature Conservancy adjoin this site; that the developers would be willing to talk to the Nature Conservancy about possibly purchasing this site; that the traffic study was completed by an outside firm; that gathering areas with benches could be added in the common open space areas; that the applicants have the responsibility to not discharge polluted waters; that they are not permitted to discharge anymore water than what is permitted now; that the agricultural and hunting notices will be provided in the restrictive covenants; that the severe slopes on the site will be brought to grade with the rest of the site; that 20,000 square foot lots are proposed; that any lots within 1,000 feet of the conservation zone will be a minimum of one acres if central water is not provided; that at this time, no soils work has been performed; and submitted a copy of the State's Strategy Map for Spending and proposed findings of fact and conditions of approval into the record.

Mr. Robertson advised the Commission that the Commission has the authority to require the application to go through the PLUS process if it chooses to do so.

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

Pete Reed, John Dean, Michael Smith, Johnny Hopkins, Roger Jones, Lynn Rogers, Michael Tyler, Dawn Hopkins, and Skip Betts were present in opposition to this application and expressed concerns about the size and depth of the pits on the site; that the site is mostly clay; that there were old homes on the site; that children will trespass; that there are concerns about the location of the proposed tot lot; that water on the site will not drain; that tree preservation should be included in the restrictive covenants; that the Queen Ann railroad right of way that runs through the site is privately owned; that there is access across this site to another parcel owned by someone else; that the proposed lot sizes are out of character with the area; that the area is rural in character; that substantial site work will be required; questioned if existing homes in the area will be required to hook to a central sewer system; that the soils on the site are not suitable for development; that the existing residents of the area do not want unhappy neighbors; that the

length of the cul-de-sac is too long and there would be concerns for emergency vehicles in severe weather conditions; that the length of the cul-de-sac is not safe; that an archaeological study of the site should be performed; that the homes on the site could not have basements due to the clay on the site; that they are not against growth but want responsible growth; that the project should be reviewed through the PLUS process; that the wetlands on the site and in the area need to be preserved; that an adjoining owner has a permanent easement over the site that cannot be moved; that access is needed since the adjoining site is a working agricultural use and farm equipment and machinery need to use the easement; that new residents complain about agricultural uses; that they are concerned about the type of housing proposed; that there are drainage problems in the whole area, not just on this site; that traffic will be negatively impacted on the surrounding roads; and that a traffic impact study should have been required.

Mr. Tyler also submitted written comments from Richard Anthony and the Citizens Coalition into the record.

Mr. Robertson advised the Commission that the applicants indicated that the site will be served by a central sewer supplier; and that an agreement will need to be executed prior to final approval.

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

Mr. Johnson advised the Commission that he has concerns about the environmental impacts to the site and lack of State comments that are usually received from the PLUS process.

Mr. Smith advised the Commission that the applicants have indicated that they will participate in the PLUS process and have agreed to let various agencies inspect the site.

Mr. Ross advised the Commission that he has concerns about the filling of the pits and possible foundation issues.

Mr. Wheatley advised the Commission that this is a challenging site to develop; that the application should be reviewed by PLUS; that once the PLUS process has been completed; and that the public hearing should be reconvened and be limited to PLUS comments only.

Mr. Burton stated that given that this is one of the most unique subdivision applications that he can recall, given the location, topography, concerns by the Nature Conservancy, its history, and for other reasons that have come up during the hearing, for this reason, plus the fact the applicant offered to send the application to PLUS, that he moves that the Commission table this hearing on Subdivision #2009 – 10 for H.P. Layton Partnership to go through the PLUS process. Once that process, including all responses is complete, the application shall be placed back on an agenda for a regular meeting of the Planning and Zoning Commission to continue the public hearing for the limited purpose of addressing the PLUS information.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to table this application to allow it to go through the PLUS process for the reasons stated. Motion carried 5 – 0.

Mr. Lank advised the Commission that once the PLUS process is complete; the application will be re-advertised and notices mailed out.

ADDITIONAL BUSINESS

Mr. Lank advised the Commission that based on the number of items submitted for review it will not be necessary that the Commission holds a Special Meeting in September, and that the items received will be added to the regular meeting agendas.

Meeting adjourned at 9:35 p.m.