



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 9, 2010

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 9, 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 Vice Chairman Smith presiding. The following members of the Commission were present: 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. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Agenda as amended, by removal of C/U #1848 from Other Business. Motion carried 4 - 0.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Minutes of August 26, 2010 as amended. Motion carried 4 - 0.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to review the items on the Consent Agenda separately at the end of the Other Business items. Motion carried 4 – 0.

OLD BUSINESS

Subdivision #2008-23 – application of **VAN GABE TERLEMEZIAN** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Georgetown Hundred, Sussex County, by dividing 17.40 acres into 5 lots, located west of Road 249, 0.54 mile north of Road 253.

The Commission discussed this application which has been deferred since April 8, 2010.

Mr. Abbott advised the Commission that the five lot subdivision was deferred pending receipt of a septic feasibility statement from DNREC, and that the DNREC has issued a statement indicating that the site is suitable for individual on-site wastewater treatment disposal systems.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2008 – 23 for Van Gabe Terlemezian, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.

2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 5 lots on 17.4 acres of land is significantly less than the allowable density.
3. The Applicant has favorably addressed the items at Section 99-9C of the Subdivision Code.
4. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
6. The proposed subdivision will not adversely affect traffic on area roadways.
7. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 5 lots within the subdivision.
 - B. The storm water management system shall meet or exceed the requirements of the State and County.
 - C. All entrances shall comply with all of DelDOT's requirements.
 - D. Interior Street Design shall meet or exceed Sussex County Standards.
 - E. The Final Site Plan shall contain the approval of the Sussex Conservation District for the location and design of the storm water management and erosion and sedimentation control system.
 - F. The applicant or a homeowners' association shall provide for the perpetual maintenance, repair and replacement of streets, roads, buffers and storm water management facilities.
 - G. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
 - H. Buffers of at least 20 feet in width shall be provided around the perimeter of the site as required by applicable State and County requirements. The buffers shall be shown on the Final Site Plan.
 - I. The applicant shall confer with and cooperate with the local school district transportation manager to establish whether a school bus stop is warranted.
 - J. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
 - K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 4 – 0.

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.

Mr. Burton stated that he would move that the Commission recommend approval of C/U #1850 for Inland Bays, LLC based upon the record made at the public hearing and for the following reasons:

- 1) This project previously received approval approximately six (6) years ago, but that approval lapsed. It is appropriate to recommend approval again, but with additional conditions and stipulations.
- 2) The property is zoned MR Medium Density Residential in an area that has developed with similar residential projects. These include the Salt Pond RPC and the Courts and Lakes at Old Mill. There are also other MR and GR zones with some Conditional Uses for Multi-Family dwellings. The project is also surrounded on two (2) sides by the Bethany Lakes development.
- 3) The project is appropriate for the site because central water and sewer are available. In this case, there will be central sewer provided by the Sussex County Cedar Neck Sewer District. Water will be provided by Sussex Shores Water Company.
- 4) The project is located in a Development District according to the Updated Sussex County Land Use Plan.
- 5) The project will be served by amenities that are on-site. These amenities include a swimming pool, tennis court and clubhouse.
- 6) With the stipulations placed upon this approval, there will be no adverse impact on traffic or neighboring or adjacent properties.
- 7) This recommendation for approval is subject to the following conditions:
 - A. The maximum number of residential units shall not exceed 48 units.
 - B. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant as required by DelDOT.
 - C. Recreational facilities and amenities, including a swimming pool and clubhouse, shall be constructed and open to use by residents within two (2) years of issuance of the first building permit for the project.
 - D. The Applicant stated that "amenities and recreation features are located for convenient access" and that "central amenities areas are isolated from adjacent developments". To accomplish these stated goals, the recreation area shall be relocated to a centralized interior location within the development.
 - E. The development shall be served as part of the Sussex County Cedar Neck Sewer District in accordance with Sussex County Engineering Department Standards.
 - F. The project shall be served by a public central water system providing adequate drinking water and fire protection.
 - G. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures.
 - H. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of the stormwater management and erosion and sedimentation control system.
 - I. As required in the original approval, the existing Poplar trees along the westerly boundary shall be retained. In addition, a split rail or similar type of fence shall be installed along the western and northern boundaries of the property.

- J. The interior street design shall be in accordance with or exceed Sussex County street design requirements.
- K. 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.
- L. Landscape and lawn maintenance shall be the responsibility of the Condominium Association. Best Management Practices shall be utilized to minimize any environmental impact.
- M. The Final Site Plan shall contain a landscape plan of the project and shall also show all undisturbed forested areas.
- N. A Hunting Notice similar to the Agricultural Use Protection Notice shall be included on the Final Site Plan, Condominium Declaration Plan, and within the Condominium Governing Documents stating that hunting activities may occur on neighboring lands.
- O. No buildings shall encroach onto any wetlands.
- P. A vegetated buffer of at least 20 feet shall be established along the eastern boundary of the property.
- Q. As agreed by the Applicant in its PLUS response, the Applicant shall cooperate with DNREC to perform a survey of the property to record any State rare or federally listed plants, animals or natural features.
- R. If this Conditional Use is approved by County Council, the Final Site Plan for this project must be approved within three (3) years, or this Conditional Use shall become null and void.
- S. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission. Subject to the conditions of this recommendation and the conditions that County Council may impose if this application is approved, the Final Site Plan shall be substantially similar to the Preliminary Site Plan.

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

PUBLIC HEARINGS

C/U #1854 – application of **TAPA HOMES, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for model home and offices to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 36,028 square feet, more or less, lying west of U.S. Route 113, 400 feet south of Wilson Hill Road (Road 527).

The Commission found that on August 20, 2009 DelDOT provided comments that referenced that a traffic impact study was not recommended; that the site is subject to the Corridor Capacity Preservation Program; that long-term, on-alignment limited access is the preferred alternative in the Georgetown area where this property is location; that right-in / right-out access is appropriate at this location; that short-term, under supportive policy and practice within the Corridor Capacity Preservation Program, and because the site is currently in a Level 3 area according to the State Strategies document, the entrance should be limited to 200 vehicle trips per day; and

that the proposed use would generate less than 200 trips per day, and corridor access would be acceptable.

The Commission found that on August 17, 2010 the Sussex Conservation District provided comments that reference that the site contains one soil type; that the Application will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that it may not be necessary for any off-site drainage improvements; that it is not likely that on-site drainage improvements will be required; and that the tax ditch along the south side of the property should not be affected by this project.

The Commission found that on September 8, 2010 the County Engineering Department Utility Planning Division provided comments that reference that the site is not located within a proposed or current County operated and maintained sanitary sewer and/or water district; that an individual on-site septic system is proposed; that the project is near the Town of Georgetown and within the Town's future growth and annexation area; that the Applicant should contact the Town for information regarding central sewer; and that a concept plan is not required.

The Commission found that Brett Reilly of TAPA Homes, LLC was present and stated in his presentation and in response to questions raised by the Commission that they are proposing a model home and offices; that a septic maintenance easement exist on the property that serves the septic system on the adjoining parcel to the north of the site; that they would like to erect a lighted sign not exceeding 32 square feet per side; that a radio station with two office buildings and several antenna towers exists to the south; that a tire shop and other business uses exists across U.S. Route 113; that he anticipates that staff should not exceed 3 or 4 employees; that business hours are proposed to be from 9:00 a.m. to 5:00 p.m. Monday through Friday and 10:00 a.m. to 4:00 p.m. on Saturdays; that on-site septic is proposed and that they already have a septic feasibility from DNREC; that the model home and office will be attached; that the office portion of the building will appear, from outside, to be a garage; that the model will be a modular home on a solid foundation; that they intend to install solar panels and a possible wind turbine for benefit of their all electric home display; and that they have met with the Town of Georgetown and were advised that it may be some time (years) before sewer or water is available from the Town to serve the site.

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

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

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1854 for TAPA Homes, LLC for a model home and offices based upon the record made at the public hearing and for the following reasons:

- 1) The proposed use is located along U.S. Route 113, a major north – south roadway in Sussex County. The site is also on the outskirts of the Town of Georgetown. This is an appropriate location for a model home and offices.

- 2) The use is consistent with other uses on neighboring and adjacent properties. These other uses include radio stations with office buildings and towers and more intensive uses towards Georgetown and along U.S. Route 113. There are also commercial uses on the other side of U.S. Route 113.
- 3) The use will not adversely affect traffic or neighboring properties.
- 4) This recommendation for approval is subject to the following conditions:
 - A. The use shall be limited to a model home and attached office space.
 - B. All entrances shall be subject to DelDOT approval.
 - C. There shall only be one lighted sign, not to exceed 32 square feet in size per side.
 - D. The hours of operation shall be limited to 9:00 a.m. through 5:00 p.m. Monday through Friday, and 10:00 a.m. through 4:00 p.m. on Saturdays. As stated by the Applicant, there will be no Sunday hours.
 - E. Parking shall be governed by the parking requirements set forth in the Zoning Code.
 - F. If this Conditional Use is approved by County Council, the approval will become null and void unless construction or use is substantially underway within three (3) years of the date of approval.
 - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, 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 4 – 0.

C/U #1855 – application of **DOUBLE R HOLDINGS, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for general offices and medical/professional offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 3.40 acres, more or less, lying southwest of Plantation Road (Road 275) 2,100 feet northwest of Route 24.

The Commission found that on August 30, 2010 the Applicants provided an Exhibit Booklet for the Commissions' review and that the Exhibit Booklet contains: site data; a color rendering of the site plan; site information; a utility listing; references to water service, sewer service, and stormwater management; and an appendices which includes utility commitment letters; a summary of soils investigation for stormwater management infiltration; a traffic impact study; and a listing of recent decisions on Conditional Use application along Plantation Road, taken from the Minutes of the Commission and the County Council, referencing C/U #1573 for Robert Burton, Double R Holdings, L.L.C., and C/U #1820 for Rheumatology Consultants of DE, P.A., and C/U #1848 for Todd Bariglio.

The Commission found that on August 30, 2010 the Applicants also provided an Environmental Assessment and Public Facility Evaluation and Sketch Plan Report which references stormwater, water supply, sanitary sewer, traffic analysis, endangered/threatened species, wetlands, open space, infrastructure, benefits, historic and cultural resources, land use, and impacts.

The Commission found that DelDOT provided comments, dated October 21, 2009, in the form of a Commercial Entrance Permit Approval Letter.

The Commission found that The Office of State Planning Coordination provided comments, dated September 29, 2009, and that the comments reference that the project was previously reviewed through the LUPA process, now referred to as PLUS; that the parcel is located within Levels 2 and 3 according to the State Strategies; and that this project is not required to be seen through the PLUS process.

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

The Commission found that on September 8, 2010 the County Engineering Department Utility Planning Division provided comments that reference that this site is located in a proposed or current County operated and maintained sanitary sewer and/or water district; that the site is located in the Goslee Creek Planning Area; that Ordinance 38 construction will be required; that the current system connection charge rate is \$4,411.00 per EDU; that service has not be extended to the area at this time; that the site is capable of being annexed into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that conformity to the North Coastal Area Planning Study will be required; that wastewater capacity is available if the project meets the following: the site adjoins the West Rehoboth Expansion Area and connection to the sewer system is mandatory; that the parcel is not in the sewer district at this time; that the parcel could be annexed into the Expansion Area following the completion of certain administrative procedures; that the proposed project could receive sewer service following an extension of sewer lines to the parcel and completion of certain downstream upgrades by the developer or others; that the extent of off-site sewer upgrades that will be required to serve the project and a connection point will need to be determined; that the proposed development will require a developer installed collection system in accordance with County standard requirements and procedures; that the County Engineer must approve the connection point; and that the Engineering Department requires that a Sewer Concept Plan be submitted for review and approval prior to requesting annexation into the West Rehoboth Expansion Area.

Mr. Lank provided the Commission with copies of Ordinance No. 1732 for Conditional Use #1573 for Robert Burton, Double R Holdings, L.L.C., the previous application for the same use for this site, and advised the Commission that the Applicants had not started substantial construction of the project and that the Conditional Use was considered to be void.

The Commission found that Robert Burton of Double R Holdings, LLC was present with James Fuqua, Attorney with Fuqua, Yori & Willard, and Gary Cuppels, Professional Engineer with ECI and that they stated in their presentations and in response to questions raised by the Commission that this application is for professional/medical offices; that three buildings are proposed; that the site contains 3.4 acres; that this application is similar to the application submitted in 2004; that the original Applicants were Mr. Burton and Mr. Ross Harris, the former President and owner of ECI; that Mr. Harris was handling all of the permit processes, but passed away in the process;

that in January 2008 Mr. Burton appeared before the Commission and obtained conceptual approval of the site plan; that in August 2009 the Planning and Zoning Department advised Mr. Burton that the Conditional Use was now null and void since substantial construction had not taken place; that Mr. Burton then reapplied for a Conditional Use, this application; that the site is flat; that one entrance/exit is proposed; that DelDOT has approved the entrance design with a multi-modal path; that water is proposed to be provided by Tidewater Utilities; that central sewer will be provided by Sussex County, when available; that a septic system is proposed during the interim; that the septic system design has been approved by DNREC; that adequate space is available on the site for parking; that no parking is proposed along the front of the site; that parking is proposed between the first two buildings and around the third building; that two shallow landscape ponds are proposed between Plantation Road and the buildings; that landscaping buffers are proposed along the rear and both sides of the property; that dumpsters will be screened; that Best Management Practices will be utilized; that parking lot lighting will be downward illuminated; that a lighted sign is proposed; that business hours are proposed to be from 7:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. through 5:00 p.m. on Saturdays; that the site is located in the Environmentally Sensitive Developing Area according to the Comprehensive Plan Update; that the site is located in Level 2 and 3 according to the State Strategies; that PLUS review is not required; that several residential developments are in the area; that the major changes in the area have been residential single family and multi-family projects; that two other professional and medical office uses have been approved in the area; that the use is of a public or semi-public character; that the use is appropriate at this location due to the close proximity to the Beebe Medical Health Campus on Route 24; that the use is appropriate for such a use in a growth area; that the proposed plans are similar to the plans approved in 2008; that each building is proposed to contain approximately 8,100 square feet; that the buildings are proposed to maintain a residential appearance; that a traffic study was done by Orth Rodgers and that it is calculated through the year 2015; that the traffic study was coordinated with the Woods Cove project across Plantation Road; that the entrance plans have been amended by DelDOT four times; and that there is no intent to utilize a temporary mobile MRI trailer on the site.

The Commission found that Mr. Fuqua submitted suggested proposed Findings of Fact and Conditions of Approval.

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

The Commission found that Linden Jackson was present in opposition to this application and stated that he is opposed to this application due to traffic conditions on Plantation Road; that he has seen the area change from farms to housing; that a church is also proposed in close proximity to this site creating more traffic; that Plantation Road is no longer a local road; that the State has designated Plantation Road as a Route One Alternative; that he has seen traffic back-ups at Plantation Road and Route 24, Shady Road and Plantation Road, and that it is difficult to get out of McKenzie Way, a private street, onto Plantation Road due to traffic; that he questions the need for office space due to the recent approvals for the two professional/medical offices along Plantation Road; that he also questions the need for office space since the Beebe Medical Health Campus is still offering offices space in their facility; that the current traffic impact study being used is a 2003 study and should be updated; and that there should not be any office hours on Saturdays.

The Commission found that Alisha Miller of the Metropolitan Community Church of Rehoboth Beach, Inc. was present as a representative of the church, not in opposition, but questioning the process and when water and sewer may be available to serve the project and the church; that the church is hoping to build on their site; and that water and sewer availability are big factors in the development of their site for the church.

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

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

C/U #1856 – application of **TIDEWATER UTILITIES, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a public utility (water) to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 2.5925 acres, more or less, lying 0.5 mile north of Route 24 (Laurel Road) approximately 0.7 mile west of Road 449A (Jestice Farm Road) and 0.6 mile east of Road 463 (Hitch Pond Road) and within the proposed Chickberry Fields Subdivision.

Mr. Lank advised the Commission that this application was withdrawn on August 20, 2010.

C/U #1858 – application of **OMAR ROAD, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a helicopter landing site (private) to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 8.45 acres, more or less, lying north of Omar Road (Route 54) 1,800 feet east of Road 354 (Dukes Road) and 0.5 mile west of Road 382 (Armory Road).

The Commission found that on August 30, 2010 the Applicants provided an Exhibit Booklet for the Commissions' review and that the Exhibit Booklet contains: a vicinity map; tax maps; a description of the proposed use; an introduction of the Applicant's business and current locations; a copy of Ordinance No. 1894 for Conditional Use #1679 for Herker Property Maintenance Co.; a copy of the Application form; a copy of the deed to the property; DelDOT comments dated September 30, 2009; a copy of the survey/site plan; photographs of the site; photographs of a helicopter and helicopter landing cart; a copy of the public notice; and suggested proposed Findings of Fact and suggested proposed Conditions of Approval.

The Commission found that on August 17, 2010 the Sussex Conservation District provided comments which reference that there is one soil type of this site; that the Applicants 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 off-site or on-site drainage improvements.

The Commission found that on September 8, 2010 the County Engineering Department Utility Planning Division provided comments which reference that this site is located in a proposed or current County operated and maintained sanitary sewer and/or water district; that the site is located in the Dagsboro/Frankford Planning Area; that wastewater capacity is available for the

project; that sewer service has not been extended to the area at this time; that an on-site septic system is proposed; that the project is not capable of being annexed into a sewer district at this time; that conformity to the Dagsboro/Frankford Planning Study will be required; that the parcel is in a planning area for sewer service; that when sewer service is provided to the area, connection is mandatory; that the schedule for sewer service is unknown at this time; and that a concept plan is not required.

The Commission found that Dennis Schrader, Attorney with Wilson, Halbrook & Bayard, P.A. was present on behalf of this application with Jeff Clark of Land Tech Land Planning and Roger Boyce, a Certified Flight Instructor, Pilot, and Fire Protection Consultant, and that they stated in their presentations and in response to questions raised by the Commission that they are proposing a private helicopter landing site as accessory to the existing Conditional Use for offices and warehousing; that the helicopter will be used by the owner of the property; that according to the Comprehensive Land Use Plan Update the site is located in a Low Density Area; that on-site septic and well already exist; that the area is rural in nature; that the site is well maintained and is a satellite facility for Herker Maintenance Company; that Herker Maintenance Company maintains chain-store facilities, i.e. WAWA; that the owner needs to travel back and forth to site locations for the maintenance company; that the current helicopter owned by the Applicant is a "light utility helicopter" with seating for the pilot and two passengers; that the helicopter is used during visual flights only; that the engine is a four cylinder piston engine and sounds similar to a lawn mower; that adequate space is available on the site for landing and taking off; that the building was approved for maintenance and storage of vehicles and that a portion of the building has been approved by the Fire Marshal for conversion to a hangar; that no fuel will be stored on the site; that no lighting is required for the pad site; that the owner is licensed for both aircraft and this helicopter; that a concrete pad has been built on the site for the purpose of landing the helicopter; that landing carts are used to move the helicopter to and from the concrete pad and hangar; that the owner has flown in and out of the site to evaluate the site for the helipad; that the pad is located on the previously approved Conditional Use site; that there are no requirements for approvals from the FAA; that they are not aware of any negative impacts on poultry farms by the noise from the helicopter; that they would have no objection to a restriction that a helicopter not contain more than four (4) seats, including the pilot; and that the owner has spoken to neighbors and is not aware of any objectors.

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.

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

Subdivision #2009-11 – application of **BRANCH WOODS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 30.99 acres into 46 lots, (Cluster Development), located at the southeast corner of the intersection of Route 5 (Union Street) and Road 234B (Draper Road).

Mr. Abbott advised the Commission that the Technical Advisory Committee Review of January 19, 2010 is a part of the record for this application; that on August 19, 2010, the applicants submitted an Exhibit Booklet and a revised preliminary plan; that on August 30, 2010, the applicant's attorney submitted proposed findings of fact and conditions of approval; and that this site was previously approved for a standard 26-lot subdivision that received final approval on December 12, 2007 and was recorded on December 31, 2007.

Dennis Schrader, Attorney, and Jessica Nichols, P.E., were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the site is located on the southeast side of Union Street Extended near Milton; that the site contains 30.99 acres; that the site is zoned AR-1; that a 26-lot standard subdivision was previously approved for this site in 2007; that the site is currently agricultural and forested lands; that by utilizing a cluster option, 20 additional lots are permitted and proposed; that by using the cluster option, additional forested areas will be preserved; that according to the Comprehensive Land Use Plan, the site is located in a low density area; that according to the State's Map for Strategies and Spending, the site is located in a Level 4 investment area; that Artesian will provide central water and sewer to the site; that there are 0.70 acres of wetlands on the site; that there are other built and approved subdivisions in the immediate area; that with the standard subdivision, there is no open space provided or any buffers from the wetlands; that central sewer and water are available; that the proposed density is 1.48 lots per acre; that 1.5 lots per acre is permitted in the low density area; that the forested lands will be preserved; that the applicants feel that this design is more superior than the standard subdivision design; that sidewalks and streetlights will be provided on both sides of all streets; that 11.00 acres of forest lands will remain undisturbed; that a minimum 50-foot buffer is provided from the wetlands boundary; that there should not be any problems obtaining agency approvals for the redesigned project; that the cluster option creates more open space; that proposed findings of fact and conditions of approval and restrictive covenants have been submitted; that the restrictive covenants will include a notice that there is an existing asphalt plant in the area; that Artesian has provided a willing and able to serve letter; that the existing power lines run along the western boundary of the site; that a tot lot is proposed; that the parcel to the east of this site is landlocked; that the proposed storm water management ponds will not be wet ponds; that the Sussex Conservation District wants developers to utilize green technologies when designing storm water management facilities; and that there is adequate room for a central mailbox area.

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

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

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

OTHER BUSINESS

CU #1848 – Ocean Park (Todd Bariglio)
Amended Condition

This item was removed from the Agenda on September 9, 2010 at the request of the applicant's attorney.

Carmen and Betty Lou Deldeo
2 Lots and 50' Right of Way – Road 345

Mr. Abbott advised the Commission that this is a request to subdivide a 9.22-acre parcel into 2 lots and to extend an existing 50-foot right of way to serve as access to the 2 lots; that the proposed lots will contain 2.75-acres and 5.22-acres; that the right of way will contain 1.25-acres; that the request may be approved as submitted or an application for a major subdivision can be required; and that if the request is approved as submitted, it should be stipulated that any further subdivision of the site will require an application for a major subdivision.

Motion by Mr. Ross, seconded by Mr. Johnson 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.

David Calvert
3 Lots and 50' Right of Way – Road 597

Mr. Abbott advised the Commission that this is a request to subdivide a 3.22-acre parcel into 4 lots with access from a 50-foot right of way; that the proposed lots will be a minimum of 0.75-acres; that the owner proposes to create the 50-foot right of way over an existing driveway; that it has been the Commission's practice to only permit a total of 3 lots without having to go through a major subdivision; that the Commission could approve a maximum of 3 total lots; and that if the Commission does approve 3 lots, 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 a maximum of 3 lots as a concept with the stipulation that any further subdivision of the site will require an application for a major subdivision. The 3 lots will consist of 2 lots and residual land. Motion carried 4 – 0.

Margaret A. Harris
3 Lots and 50' Easement – Route 20

Mr. Abbott advised the Commission that this is a request to subdivide a 3.93-acre parcel into 3 lots with access from a 50-foot easement; that Lots 2 and 3 will each contain 1.0-acre and the residual lands will contain 1.93 acres; that the owner proposes to extend an existing 50-foot easement to serve as access to the lots; that the request can be approved as submitted or an application for a major subdivision can be required; and that if the request is approved as submitted, it should be stipulated that any further subdivision of the site 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 as a concept with the stipulation that any further subdivision of the site will require an application for a major subdivision. Motion carried 4 – 0.

CONSENT AGENDA

Buchanan Developers, Inc.
Time Extension

Mr. Johnson advised the Commission that he removed this item from the Consent Agenda since the applicant's attorney was requesting a 2 year time extension and that he did not feel that the Commission should grant a 2 year extension.

Mr. Abbott advised the Commission that when this application was approved under the previous ordinance, the Commission only had the authority to grant a maximum of 2, one-year time extensions; and that if a time extension is granted, it should be retroactive to the anniversary date of approval and if an extension is granted, approval will be valid until March 17, 2011.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant a one-year time extension retroactive to the anniversary date of approval. Motion carried 4 – 0.

Subdivision #2005 – 71 – Delaware Land Associates
Time Extension

Mr. Johnson advised the Commission that he has concerns about this being the fourth request for an extension and questioned if the Commission could even grant an extension since there is pending litigation.

Mr. Abbott advised the Commission that all agency approvals have been received; that some of the approvals need to be updated such as DelDOT; and that the only information provided was by the applicant's attorney.

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

Subdivision #2006 – 35 – 2416 Joppa Road, LLC
Time Extension

The Commission reviewed a request for a second one-year time extension.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant a one-year time extension. Preliminary approval is now valid until September 17, 2011. Motion carried 4 – 0.

Subdivision #2006 – 68 – Dove Estates
Time Extension

The Commission reviewed a request for a second one-year time extension.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant a one-year time extension. Preliminary approval is now valid until September 17, 2011. Motion carried 4 – 0.

Meeting adjourned at 8:45 p.m.