



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE REGULAR MEETING OF SEPTEMBER 14, 2006

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 14, 2006 in the County Council Chambers, County Administrative Office Building, 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. Benjamin Gordy, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. I. G. Burton III with Mr. Richard Berl – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as circulated.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of August 24, 2006 as amended.

### OLD BUSINESS

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

The Commission discussed this application which has been deferred since August 10, 2006.

Mr. Johnson stated that although he was not present during the public hearing he did listen to the tape recording, reviewed the file, and reviewed the site.

Mr. Johnson stated that he would move that the Commission recommend denial of C/U #1666 for Wilkinson Properties, LLC based upon the record made at the public hearing and for the following reasons:

- 1) The property that is the subject of this application is not suitable for the type of multi-family development that has been proposed under the Conditional Use.
- 2) The proposed project is not essential or desirable for the general convenience and welfare of the area where it is located or the County in general.
- 3) The proposed 96 unit multi-family project is out of character with the surrounding community. The surrounding properties in the immediate vicinity of the project consist primarily of single family homes including mobile homes, modular and manufactured homes, and custom built homes.
- 4) The location of the property and the entrance/exit on Route 9 could be a serious traffic hazard given its close proximity to the intersection of Route 9 and Hudson Road (Road 258). The intersection is already problematic at times. Traffic

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- problems will grow significantly as other approved projects, which are in various stages of development come to fruition. Traffic on Route 9 is problematic at times and this project would only compound the problems at the adjacent intersection and in the immediate area. Although the nearby area is undergoing development, it is still rural in nature and not conducive to the development of townhouses.
- 5) While the Conditional Use is proposing recreational amenities and pedestrian activities within the project, it does not adequately address the traffic and safety issues of ingress/egress on Route 9 and of even greater concern, the traffic and safety issues at the nearby intersection of Routes 9 and Road 258.

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 denied for the reasons stated. Motion carried 5 – 0.

**C/U #1677** – application of **TIDEWATER UTILITIES, INC.** to consider the Conditional Use of land in an AR-1/RPC Agricultural Residential District-Residential Planned Community for a regional water distribution facility to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 0.18 acre, more or less, lying west of Road 346B, approximately 4,400 feet north of Route 346.

The Commission discussed this application which has been deferred since August 24, 2006.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1677, Tidewater Utilities, for a Regional Water Distribution Facility, based upon the record and for the following reasons:

- 1) This project benefits the health, safety, and welfare of the residents of the area.
- 2) The Regional Water Distribution Facility will provide for water supply to current and future area residents.
- 3) Fire protection capabilities will be further enhanced to the area.

- 4) The project will not have an adverse impact on neighboring properties or community.
- 5) Water utility operations like those in this project are subject to substantial regulations by the Public Service Commission, DNREC, Public Health, State Fire Marshal and others.
- 6) This recommendation for approval is subject to the following:
  1. This Conditional Use shall be for five (5) years. As stated by the applicant, the use is temporary. The Regional Water Distribution Facility shall occupy the same ground location and approximate area as the originally approved water storage facility of Ellis Point. This Regional Water

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Distribution Facility shall be designed to be dismantled once a permanent, off site Regional Water Distribution Facility is constructed along Whites Neck Road. Once dismantled the disturbed area shall be reforested with native species.

2. A landscaped buffer shall be established and maintained to shield the Regional Water Distribution Facility from neighbors' views. The landscape plan to be shown on the final site plan.
3. The maximum capacity of the two tanks shall not exceed 30,000 gallons, each tank.
4. The maximum height of the two tanks shall be 12 feet, each tank.
5. The lighting at the Regional Water Distribution Facility shall be limited to normal security lights, which shall be shielded from nearby neighbors and roads.
6. The two tanks shall be painted neutral green and lettering shall be limited to identification of the water company "Tidewater Utilities, Inc." only.
7. The Regional Water Distribution Facility shall be surrounded by a security fence at least 8-feet in height.
8. Structural design and operation of the Regional Water Distribution Facility shall comply at a minimum with industry standards such as The American Water Works Association.
9. The site plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.

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 5 – 0.

**C/U #1694** – application of **TIDEWATER UTILITIES, INC.** to consider the Conditional Use of land in a GR/RPC General Residential District-Residential Planned Community for an elevated water storage tank/public utility to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing

18,234 square feet, more or less, lying south of Angola Road (Road 277), approximately 710 feet west of Angola Beach Road (Road 278).

The Commission discussed this application which has been deferred since August 24, 2006.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1694 for Tidewater Utilities, Inc, for an elevated water storage tank to be located within the Angola Beach and Estates Development, based upon the record and for the following reasons:

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- 1) This project benefits the health, safety, and welfare of the residents of the area.
- 2) The elevated water storage tower will provide for water supply to current and future area residents.
- 3) Fire protection capabilities will be further enhanced to the area.
- 4) The project will not have an adverse impact on neighboring properties or community.
- 5) Water utility operations like those in this project are subject to substantial regulations by the Public Service Commission, DNREC, Public Health, State Fire Marshal, FAA, among others.
- 6) This recommendation for approval is subject to the following:
  1. The maximum capacity of the tower shall not exceed 400,000 gallons.
  2. The maximum height of the tower shall be 160-feet.
  3. The lighting at the tower shall be limited to normal security lights which shall be shielded from nearby neighbors and roadways and safety lights required by the Federal Aviation Administration on the tower.
  4. The tower shall be painted white or a sky neutral color and lettering shall be limited to identification of the water company only.
  5. The water facility shall be surrounded by a security fence at least eight (8) feet in height.
  6. Structural design and operation of the water facility shall comply at a minimum with industry standards such as those put forth by The American Water Works Association.
  7. The applicant has offered to allow placement of antenna on the tower by government and public safety agencies at no charge and will reserve 50% of antenna space for such use.
  8. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all applicable agency approvals.

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

**C/U #1696** – application of **TIDEWATER UTILITIES** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a regional wastewater treatment facility to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 5.11 acres, more or less, lying northeast of Camp Arrowhead Road (Road 279) within the Bay Front Subdivision, and being southeast of Marsh Island Avenue, 525 feet west of Rachel Avenue.

The Commission discussed this application which has been deferred since August 24, 2006.

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Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1696, the application of Tidewater Utilities, Inc. for a regional wastewater treatment facility to be located within the Bay Front Subdivision, based upon the record and for the following reasons:

- 1) Tidewater Utilities has contracted with the Bay Front Community to collect, treat and dispose of sanitary sewage from the Bay Front Community. The areas exists and hydro-geological studies and engineering designs have been performed and indicate that the plant and rapid infiltration basins are capable of expansion in excess of 250,000 gallons per day.
- 2) There is no County or other available public sanitary wastewater disposal facility providing for the adequate collection, treatment and disposal of sanitary waste to service the area.
- 3) Tidewater Utilities has been issued a Certificate of Public Convenience and Necessity to serve the area.
- 4) The application is appropriate at the subject sites because it is in an area of residential development where central sewer is not otherwise available.
- 5) The granting of this application is the expansion of a pre-existing approved use, will provide a waste treatment facility that will adequately and safely serve multiple communities, and will not harm the environment.
- 6) The expansion requested will promote the health and safety of the residents of the communities served as well as nearby residents.
- 7) The waste treatment facility is located in an environmentally sensitive area and will provide services more efficiently and safely than other alternatives.
- 8) This recommendation of approval is subject to the following conditions:
  1. All improvements for collection, treatment and disposal of sanitary waste shall be constructed and maintained in accordance with the requirements of DNREC, the Sussex County Engineering Department, and any other governmental agency with jurisdiction over the use of the site, or any modification there to.

2. The expansion of the site for sanitary wastewater treatment and the use of rapid infiltration beds are subject to all other applicable laws, ordinances, rules and regulations.
3. The facilities and infrastructure shall be designed to comply with County specifications.
4. The facilities and infrastructure will be designed and built to County specifications so that if in the future the County provides public sewer, the project will be capable of immediate connection.
5. The final site plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.

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Motion by Mr. Johnson, seconded by Mr. Burton 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 #2005-58** – application of **WINDMILL ESTATES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 160.91 acres into 214 lots, (Cluster Development), located south of Road 64, 2,160.50 feet west of Road 451A.

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

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2005-58 for Windmill Estates, L.L.C. based upon the record made at the public hearing and for the following reasons:

- 1) The development is designed in accordance with the Cluster Development Ordinance. The proposed Cluster design is superior to a standard subdivision with 106 acres of open space. Also, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed. A standard subdivision could conceivably result in 321 lots with little or no open space. The Applicant has only proposed 214 lots while preserving a significant amount of open space. For these reasons, the Development is superior to a standard subdivision.
- 2) The project will not have an adverse impact on the neighboring properties or community.
- 3) There will not be any adverse impact upon traffic in the area of this Development.
- 4) The lots will be served by central sewer and water.
- 5) The site's design has a minimal impact on wetlands and no wetlands are included within any lots, and there will be buffers from the wetland areas.
- 6) The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.

- 7) Amenities will be provided, including ball fields, picnic areas and walking trails.
- 8) This approval is subject to the following conditions:
  1. There shall be no more than 214 lots within the Subdivision.
  2. The Applicant shall form a homeowners' association to be responsible for the maintenance of open spaces, streets, roads, buffers, stormwater management facilities, and other common areas.
  3. The stormwater management system shall meet or exceed the requirements of the State and County. Best Management Practices shall be used in the maintenance of the system.
  4. All entrances and road improvements shall comply with all of DelDOT's requirements.

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5. Walking paths shall be installed as shown on the preliminary site plan, and there shall be sidewalks on at least one side of all streets within the Subdivision.
6. The Applicant shall maintain as many existing trees as possible. The undisturbed-forested areas shall be shown on the Final Site Plan.
7. No wetlands shall be included within any lot lines.
8. The Restrictive Covenants governing the project must be amended to include the Agricultural Use Protection Notice. The Covenants must also include a Notice that hunting activities occur on neighboring and adjacent properties.
9. There shall be no vehicular access to Brittingham Road.
10. There shall not be any lots on the northern side of Whitesville Road, and the Final Site Plan and Restrictive Covenants shall include a prohibition against any further subdivision of the property.
11. Street naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
12. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

**Subdivision #2005-61** – application of **DELMARVA WOODLANDS ALLIANCE 3, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 101.28 acres into 43 lots, located northeast of Road 315, 2,400 feet southeast of Route 317.

Mr. Johnson stated that although he was not present during the public hearing he did listen to the tape recording, reviewed the file, and reviewed the site.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005-61 for Delmarva Woodlands Alliance 3, L.L.C. 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 43 lots on 101.28 acres of land is significantly less than the allowed density.
- 3) The proposed subdivision will be a restricted residential development consistent with the area and will not adversely affect nearby uses or property values.

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- 4) The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways.
- 5) DNREC has indicated that the site is suitable for septic.
- 6) This approval is subject to the following conditions:
  1. Only 43 single-family lots shall be permitted.
  2. The Applicant shall cause to be formed a homeowners' association to be responsible for the maintenance of buffers, streets, streetlights, stormwater management facilities, and other common areas.
  3. The stormwater management system shall meet or exceed the requirements of the State and County.
  4. All entrances shall comply with all of DelDOT's requirements.
  5. As shown on the preliminary site plan, a minimum 50-foot buffer will be provided along the perimeter of the subdivision.
  6. A system of street lighting shall be provided by the Applicant and the location of the streetlights shall be shown on the final site plan.
  7. A paved multi-modal pathway shall be provided on at least one side of all streets and shall interconnect with the entrance on Road 315 to facilitate safe, convenient off road access for pedestrian travel.
  8. A school bus shelter with parking for at least 4 vehicles shall be provided at the entrance to the development.
  9. Addressing and road naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
  10. 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, with Mr. Gordy not voting.

**Subdivision #2005-64** – application of **PALISADES LAND, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 737.00 acres into 1,052 lots, (Environmentally Sensitive Development District Overlay Zone), located south of Road 363, both sides of Road 364, both sides of Road 364A, east of Road 381, and north of Dirickson Creek.

The Commission discussed this application which has been deferred since August 24, 2006.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

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#### PUBLIC HEARINGS

Mr. Wheatley announced that the Applicants have requested that C/Z #1595, C/Z #1596, C/Z #1597 and Subdivision #2005-57 be considered during one public hearing presentation since the Applicants were going to present the applications with a power point presentation that covered all four applications.

Mr. Lank introduced the following:

**C/Z #1595** – application of **BLACKWATER CREEK, INC.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a B-1 Neighborhood Business District for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, land lying at the northeast corner of the intersection of Route 54 and Road 504, to be located on 3.2 acres, more or less.

**C/Z #1596** – application of **BLACKWATER CREEK, INC.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to an AR-1/RPC Agricultural Residential District – Residential Planned Community for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, land lying north of Route 54 and east of Road 504, to be located on 232.86 acres, more or less.

**C/Z #1597** – application of **BLACKWATER CREEK, INC.** to amend the Comprehensive Zoning Map from a GR General Residential District to a GR/RPC General Residential District – Residential Planned Community for a certain parcel of land lying and being in Little Creek Hundred, Sussex County, land lying west of Road 504 and south of Route 54, to be located on 273.54 acres, more or less.

**Subdivision #2005-57** – application of **BLACKWATER CREEK, INC.** to consider the Subdivision (Cluster Development) of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 200 acres into 400 lots, located south of Route 54, east of Road 504, and north of Road 512.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division, that C/Z #1595, C/Z #1596 and C/Z #1597 are all located within the Western Sussex Planning Area (Laurel-Delmar Area); that the Engineering Department is currently conducting a planning study, for sewer needs, in the western Sussex area; that the study is scheduled to be completed by the end of August 2007; that this project proposes to develop using a private central community wastewater system; that the Department recommends that the wastewater system be operated under a long-term contract with a capable wastewater utility; that the Department recommends that they have a wastewater utility provider prior to approving the project; that the County requires design and construction of the collection and transmission system to

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meet County sewer standards and specifications; that a review and approval of the treatment and disposal system by the Department is required and plan review fees may apply; that disposal fields should not be counted as open space; that wastewater disposal fields should be clearly identified on recorded plots; that if the County ever provides sewer service, it is required that the treatment system be abandoned and a direct connection made to the County system at the developers and/or owners expense, and that a concept plan is required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site of C/Z #1595 are mapped as Fallsington sandy loam, Matawan loamy sand and Woodstown sandy loam; that the Fallsington soils have severe limitations for the intended use; that the Matawan soils have slight to severe limitations; that the Woodstown soils have slight to moderate limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Fallsington soils are considered of Statewide Importance, Prime Farmland and Hydric; that the Matawan and Woodstown soils are considered Prime Farmland and Hydric in depressions; 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, based on comments received from the Sussex Conservation District, that the soils on the site of C/Z #1596 are mapped as Evesboro loamy sand, Fallsington sandy loam, Keyport fine sandy loam, Klej loamy sand, Matawan loamy sand, Pocomoke sandy loam, and Woodstown sandy loam; that the Evesboro soils have slight limitations for the intended use; that the Klej and Woodstown soils have slight to moderate limitations; that the Keyport and Matawan soils have slight to severe limitations; that the Fallsington and Pocomoke soils have severe limitations; that the

Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro, Fallsington, Keyport, Klej and Pocomoke soils are considered of Statewide Importance; that the Fallsington, Matawan, Pocomoke and Woodstown soils are considered Prime Farmland; that the Fallsington and Pocomoke soils are considered Hydric; that the Keyport, Klej, Matawan, and Woodstown soils are considered Hydric in depressions; that the Evesboro soils are considered Hydric in small depressions; that no storm flood hazard areas are affected; that the Tussocky Branch Tax Ditch may be affected; that it may not be necessary for any off-site drainage improvements; and that it may be necessary for some on-site drainage improvements since the site contains several types of poorly drained soils.

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The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site of C/Z #1597 are mapped as Borrow Pits, Evesboro loamy sand, Fallsington sandy loam, Johnston loam or silt loam, Kalmia sandy loam, Kenansville loamy sand, Keyport fine sandy loam, Klej loamy sand, and Woodstown sandy loam; that the Evesboro, Kalmia and Kenansville soils have slight limitations for the intended use; that the Klej and Woodstown soils have slight to moderate limitations; that the Fallsington and Johnston soils have severe limitations; that the Keyport soils have slight to severe limitations; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that the Evesboro, Fallsington, Keyport and Klej soils are considered of Statewide Importance; that the Fallsington, Kalmia, Kenansville and Woodstown soils are considered Prime Farmland; that the Fallsington and Johnston soils are considered Hydric; that the Keyport, Klej and Woodstown soils are considered Hydric in depressions; that the Evesboro soils are considered Hydric in small depressions; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any off-site drainage improvements; and that it may be necessary for some on-site drainage improvements since the site contains several types of poorly drained soils.

The Commission found that the Applicants had presented five (5) Exhibit Booklets prior to the meeting; that one Exhibit Booklet specifically referenced C/Z #1595 and C/Z #1596 (Northfarm); that one Exhibit Booklet specifically referenced Subdivision #2005-57 (Southfarm); that one Exhibit Booklet specifically referenced C/Z #1597 (Westfarm); that two Exhibit Booklets specifically reference Addendums to all four applications; and that the Exhibit Booklets contain: references to the Consulting Team; design summaries; references to the locations in a regional and local scheme; overviews of existing site conditions; preliminary site plans; a golf course plan; references to compliance with zoning requirements; design considerations; and supporting documents and exhibits

including: regional and local vicinity maps; deeds; legal descriptions; FEMA mapping; Tax Ditch mapping; Tax Maps; boundary/topographic and wetlands surveys; Federal jurisdictional determination reports; rare, threatened and endangered species investigation reports; copies of the application forms and cover letters; renderings of the projects and golf preliminary site plans; open space management plans; ability to serve letters from Tidewater Utilities, Inc.; willing and able to serve letters from Chesapeake Utilities; zoning certificates; phasing plans; draft restrictive covenants and condominium declaration documents; proposed findings of fact and suggested conditions; references to compliance with clustering requirements; public agency comments (PLUS and TAC); eight exhibits relating to the Clean Water Facility; four exhibits relating to Traffic Impact; an open space habitat enhancement plan; a school impact analysis; Technical Advisory Committee comments; PLUS comments and developers responses; exhibits on the Tidewater Utilities water plant; and an economic impact study.

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The Commission found that the applications were represented by Preston Schell, Principal, who was present with Dennis Schrader, Attorney, Jeff Clark of Land Tech Land Planning, Robert Rodgers of Orth-Rodgers and Associates, Chris Derbyshire of George, Miles & Burl, Gerald Esposito of Tidewater Utilities, Inc., Dane A. Brandenberger, Ed.D. and Jim McCauley, Environmental Consultant. Robert Horsey, Principal, Nick Wexler, Doug Motley, Derek Kennedy of Orth-Rodgers and Associates, Nick DiPasquale of Duffield Associates were also present on behalf of the Applicants.

Mr. Schrader submitted two copies of the power point presentation for the record.

The Commission found, based on comments made by the representatives of the Applicant that the combined projects are proposed to contain 1,179 units on approximately 600 acres on both sides of Route 54 and both sides of Road 504; that the overall density equals 1.7 units per acre; that they apologize for the size of the Exhibit Booklets, but they are necessary to make the record; that the area is rapidly developing; that Salisbury, Maryland is only 5 miles away; that Wicomico County is growing in this direction; that the Wicomico County Metro-Core Plan indicates expansion of commercial projects along U.S. Route 13; that Delmar is expanding in both Delaware and Maryland; that there appears to be rapid commercial growth taking place in Delaware and Maryland; that the site is subject to the Comprehensive Plan Update and is in a Low Density Area; that the site located in the GR District has been calculated at 10,000 square feet and the sites located in the AR-1 District has been calculated at 20,000 square feet; that the site is located in a Level 4 Area according to the State Strategies; that Level 4 Areas in the State Strategies reference areas of Agri-Business, spray sites for irrigation, and crossroads communities; that a large number of residential strip lots were previously created along Route 54, Road 504 and Road 512; that the site is a good location for access in several directions to points of trade in Delmar and Salisbury; that this project could generate a

total of \$262,834,068.00 in total revenue from construction cost, transfer taxes, building permit fees, real estate taxes, H.O.A. dues, impact fees, retail sales, and recordation fees; that the site is only a short distance from beach resorts, four colleges, hospitals, banks, fast food establishments, golf courses, museums, shopping, etc.; that in reference to the Southfarm: 44 lots exists around the site along Route 54, Road 504 and Road 512; 15 acres of active borrow pit exists and will be reclaimed into a lake; 6 acres of woodlands exists; that presently the farm is being used for a turf fields; that 3 small areas of non-tidal wetlands exists (2.3 acres); that no rare endangered species were found on the site; that a small graveyard was found on the site and will be protected; that there are 3 points of access proposed to serve the community on this site; that 400 single-family homes are proposed under the Cluster Option; that the cluster subdivision is superior to a standard subdivision since it will create a large amount of open space, allow for smaller 7,500 square foot lots, and allows for reclamation of the existing borrow pit; that the north slopes of the borrow pit will be reshaped and vegetated and planted; that they have

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created riparian buffers along the borrow pit and creek; that 19.5 acres of buffers surround the Southfarm; that only 0.7 acres of disturbance will occur within the woodlands; that landscape easements with at least 30-feet of width surround the project; that no lots have direct frontage along public roads; that no lots will contain any wetlands; that the existing graveyard is located within the area of the Clubhouse to allow for maintenance and visitation; that central water will be provided by Tidewater Utilities, Inc.; that central sewer will be provided by Tidewater Environmental; that walking, biking and jogging trails will be created throughout the project; that streets will be constructed to County standards and will remain private; that all three communities will benefit by all recreational amenities; that the Traffic Impact Study included all four applications; that they propose to create a detailed open space management plan; that a professional maintenance firm will be hired to maintain the open space; that in reference to the Northfarm: 376 homes are proposed within single-family detached dwellings, townhouses, and multi-family dwelling structures; that the woodlands will be preserved; that no rare or endangered species were found; that 0.2 acres of the site are waters of the Federal Government; that this site includes the golf course; that 208 single-family dwellings, 88 units within Big Houses, and 80 townhouses are proposed; that the golf course and ponds are part of the 48% of open space on this site; that the clean water sewer treatment plant is located on the northwest corner of this site with a large water treatment lagoon or pond surrounded by a high earthen berm; that 3.5 acres of this site are proposed for Neighborhood Business uses within 4 buildings; that the site will have a community center, pool, club house, pro shop, and cart storage building; that they are proposing a buffer of native species trees along Route 504; that no construction is proposed within the wooded area; that this site will be served by the central sewer and central water; that there are no historic features on this site; that in reference to the B-1 Neighborhood Business site on the corner of Route 54 and Road 504: it contains 3.2 acres; DelDOT is favorable to the location; that the intended uses will be restricted and

will not permit the sale of fuels and off-premise sales of alcohol; that in reference to the Westfarm: the site is zoned GR General Residential and contains 273 acres; that 63 townhouses, 160 units within Big Houses, and 180 multi-family units are proposed; that the property is split by the creek and a Delmarva Power powerline and easement; that a large portion of the site is now operated as a turf farm; that the site contains 29 acres of non-tidal wetlands and 2 acres of waters of the Federal Government; that community amenities will include a pool and clubhouse; that a community water plant will be located on this site to serve all four projects; that 100 acres will be restored into a natural state; that this site will contain approximately 79% of open space; that in reference to the PLUS process: they originally submitted an application in May of 2005 for ,1762 units and after receiving comments from PLUS, additional comments from DelDOT and DNREC they reduced the project to 1,179 units; that all of DelDOT and DNREC recommendations will be addressed and followed; that they will provide interconnection to adjacent properties where feasible; that there appears to be a real estate market in western Sussex for a project of this type; that western Sussex has been neglected; that it makes marketing

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sense to build a large development in western Sussex, than eastern Sussex, since less environmental impacts will be created; that people work and live in this area; that they anticipate that the home packages will range from \$150,000 to \$350,000; that they anticipate that it will take 8 to 15 years to develop the site; that the residential unit types will be mixed throughout construction of the project; that the golf course will begin immediately with the first phases; that they hope to be able to build 150 homes per year; that all three projects contain a clubhouse and a pool; that adjacent homeowners may join the recreational association; that the golf course is proposed to be a public course; that DelDOT required them to do a traffic impact study on a large area from U. S. Route 13 to Susan Beach intersection; that they factoring into their calculations the Delmar Commons commercial project and Sleepy Hollow and Heron Pond Subdivisions; that they studied A.M. peak hours, P.M. peak hours and Saturday peak hours; that DelDOT reviewed and commented on the original traffic impact study and is now reviewing an amended version since the size of the project has been reduced; that 37% less traffic is anticipated due to the reduction in the number of units and activities proposed on the projects; that they will comply with all of DelDOT recommendations; that the clean water sewer treatment facility is designed to serve in excess of 2,000 EDUs; that the facility will only serve the Blackwater Creek projects; that odor is not typically an issue in a clean water facility; that a similar plant is operational at the Glen Riddle project near Berlin, Maryland; that all equipment is inside of buildings; that 75 acres of spray irrigation fields are planned on the Westfarm; that Tidewater Utilities, Inc. will own and operate the water and sewer facilities; that the Public Service Commission has already approved their Certificate of Public Convenience and Necessity; that 2 test well sites exists on the site; that they plan on utilizing the Choptank Aquifer for water supply and anticipate that they will utilize 4 wells at buildout; that only one major well exists within 1,500 feet of the site; that the water tower is anticipated to be no more than 160 feet in height to meet fire protection needs; that an Open Space Management Plan and Habitat Enhancement Plan are

proposed to include strategies, species listings, details, yearly inspections, invasive/exotic species controls, pest management plans, and protections methods; that stormwater management will include best management practices; that the borrow pits will be reclaimed for wildlife habitat; that a school impact analysis was performed and it is possible that enrollment may actually decrease year by year since recent enrollment has been established to be relatively flat; that it is possible that the school system could gain 31 students per year; that this project would suit full time residents; that the Mayor and Council of Delmar expressed some concerns about the impacts on the schools and recreation; that the Delmar Fire Chief advised them that there was no need for a satellite fire station in this area; that the Applicants met with the residents of the area; that this master planned community project is superior to three standard subdivisions, is consistent with the Comprehensive Plan, is consistent with Level 4 of the State Strategies, preserves open space and creates recreational opportunities; that buffer strips vary in width from 30 feet to 180 feet and will be landscaped; that sidewalks will be provided on both sides of the street in the Southfarm; that DelDOT may require bus stops; that pools and decking

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around the pools will be sized according to the number of units in is each of the project sections; that construction scheduling depends on the type of contractors; that noisy types of construction can be restricted to 7:30 a.m. to 5:00 p.m.; that the Southfarm has 3 access points, the Northfarm has 2 access points, and the Westfarm has 1 access point; there will not be a connector through the spray irrigation site; that the restrictive covenants can be revised to include references to hunting activities; that the B-1 areas are intended to provide convenience shopping and may include a general store, restaurants, dry cleaning, flowers, hairdressers, etc.; that the restrictive covenants will include references that there shall not be any fuel sales and no off-premise alcohol sales; and that the clubhouses and pools will be completed when 50% of the sales of each project are committed; that the water sprayed on the turf fields will be cleaner than the water existing in the ditch today; that the spray irrigation is for disposal, not treatment; and that they do not object to working with the Delmar Fire Company for a satellite fire station site if deemed necessary.

The Commission found that John Hudson was present in opposition to this application and expressed concerns about the impact on the school system; that the new Delmar school is too small already; that there is no need for multi-family in this area; that a Bald Eagle nest on the Delaware side of the line; that the projects will impact wildlife; that he is concerned about odors from the spray irrigation; that there is a need for a satellite fire station; and that he is not sure that Delmar is ready for this type of development.

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action on **C/Z #1595** for further consideration due to the amount of information received through the Exhibit Booklets and presentations. Motion carried 5 – 0.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to defer action on **C/Z #1596** for further consideration due to the amount of information received through the Exhibit Booklets and presentations. Motion carried 5 – 0.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to defer action on **C/Z #1597** for further consideration due to the amount of information received through the Exhibit Booklets and presentations. Motion carried 5 – 0.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to defer action on **Subdivision #2005-57** for further consideration due to the amount of information received through the Exhibit Booklets and presentations. Motion carried 5 – 0.

Meeting adjourned at 9:20 p.m.