



## *Planning & Zoning*

### Agendas & Minutes

#### MINUTES OF THE SPECIAL MEETING OF SEPTEMBER 20, 2006

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, September 20, 2006 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: I.G. Burton, III, Benjamin Gordy, Michael Johnson, Rodney Smith, and Robert Wheatley with James Griffin – County Attorney, Lawrence Lank – Director, Richard Kautz – Land Use Planner and Shane Abbott – Assistant Director.

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

#### OTHER BUSINESS

Ashley Manor HR/RPC  
CZ #1357 Final Record Plan – Road 382 (Route 20)

Mr. Abbott advised the Commission that this is the final record plan for a 95-unit residential planned community; that the final record plan is the same as the master plan that was approved by the Commission on August 12, 1999; that the final record plan complies with the subdivision and zoning codes and the conditions of approval; and that all agency approvals have been received.

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

Coastal Club MR/RPC  
CZ #1554 Final Record Plan – Road 285

Mr. Abbott advised the Commission that this is the final record plan for Phase 1; that this phase contains 153 units; that there are 83 single-family lots and 70 townhouse units in this phase; that the townhouse units are contained in 14, 5-unit buildings; that this phase is the same as the master plan that was approved by the Commission on November 30, 2005; that the record plan complies with the subdivision and zoning codes and the conditions of approval; and that all agency approvals have been received.

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

Tidewater Operations Center  
Preliminary Commercial Site Plan – Route 5

Mr. Lank advised the Commission that this is a preliminary commercial site plan for a 1-story, 5,000 square foot office buildings located on 2.92 acres; that the site is zoned B-1 Neighborhood Business; that there are also 3, 1,440 square foot storage trailers proposed; that if the storage trailers are manufactured home type structures, it will be necessary for a special use exception from the Board of Adjustment; that 67 parking spaces are provided; that 37 spaces are for company vehicles and will be located within a fenced in area; that the setbacks meet the requirements of the zoning code; that on-site septic and well are proposed; that the site is not located in a flood zone and there are not any wetlands located on the site; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

The Commission discussed the storm water management area being within the front yard setback.

Ashton Garey of Greenstone Engineering advised the Commission that the storm water management area was located at this location due to the location of an outfall.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the site plan as a preliminary with the stipulations that final approval shall be subject to the staff receiving all agency approvals and the Board of Adjustment granting a special use exception for the storage if necessary. Motion carried 5 – 0.

Robert Davidson  
CU #1213 Revised Site Plan – Route 9

Mr. Abbott advised the Commission that this conditional use for a contractor's storage yard and office was approved on December 9, 1997 with 5 conditions; that the owner would like to erect a 2,376 square foot building and demolish an existing 709.3 square foot building; that the stipulations of approval do not prohibit any additional buildings; that the proposed building will be utilized by another contractor; and questioned if the Commission will approve the site plan as revised or require an amended conditional use application.

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

Pelican Point (formerly Stonewater Creek Phase 1 and part of 8)  
Revised Preliminary Subdivision – Route 5

Mr. Abbott advised the Commission that this is a request to revise an existing subdivision into 2 separate subdivisions; and that the Commission has been provided a copy of a

letter requesting this change with the reasons stated and a revised preliminary plan depicting the revisions.

Dennis Schrader, Attorney, and Randy Mitchell, Developer, were present on behalf of this request and advised the Commission that each subdivision will have their own amenity package and wastewater treatment disposal facility; that there will not be an increase in the density that has already been approved; that the separation is being done for marketability reasons; that the project has two builders; that the revisions will make each subdivision more manageable; that each development will have a pool, pool house and tennis courts; and that they are not requesting any changes to the conditions of approval that were placed on the preliminary approval.

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

Subdivision #2005 – 36 - - Betty D. Black  
Revised Preliminary Subdivision – Road 319

Mr. Abbott advised the Commission that this standard 11-lot subdivision application received preliminary approval on May 11, 2006; that at that time, the applicants submitted that the streets would be built to State specifications and dedicated to public use; and that now the owner would like to build the streets to Sussex County specifications and have them remain private.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to allow the streets to be built to Sussex County specifications. Motion carried 5 – 0.

Thomas Cook  
Lot on an Existing 50' Easement – Route 5

Mr. Abbott advised the Commission that this is a request to extend an existing 50-foot right of way and create a 0.75-acre lot out of a 2.71-acre parcel; that if approved, this would be the fourth lot having access from the right of way; and that this request should be denied as submitted and the applicant should be required to go through the major subdivision process and build the street as required by the subdivision code.

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

Daniel Diehl  
2 Parcels and a 50' Right of Way – Road 541.

Mr. Abbott advised the Commission that this is a request to create a 50-foot right of way to serve as access for 2 parcels; that the deeds for each parcel and the right of way have been recorded but a plot approving the right of way and parcels was never approved by the Commission.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the parcels and right of way as submitted. Motion carried 5 – 0.

JW & TG, LLC  
Parcel and 50' Right of Way – Road 524

Mr. Abbott advised the Commission that this request was deferred on August 16, 2006; that this is a request to create a 35,035 square foot lot with access from an adjacent 50-foot easement; that the proposed lot contains 188.98 feet of road frontage however DelDOT will only permit access from an adjoining 50-foot easement; that the existing entrance on the proposed parcel is required to be removed by DelDOT; that the 50-foot easement will be located on the adjoining residual land that contains 153.15 feet of road frontage; and that this was deferred to determine whether this is where the easement should be located.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the parcel and 50-foot easement as a concept. Motion carried 5 – 0.

John S. and Tammy Burton  
2 Lots on an Existing 50' Right of Way – Road 285

Mr. Abbott advised the Commission that this is a request to subdivide a 1.57-acre parcel into 2 lots with access from an existing 50-foot right of way; that the proposed lots will be 0.77-acres and 0.80-acres; that if this request is approved, there will be 3 lots having access from the right of way; and that if the request is approved, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the 2 lots and right of way as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Ross Rogers  
Lot and 50' Easement – Road 54

Mr. Abbott advised the Commission that this is a request to create a 0.75-acre lot with access from a 50-foot easement; that the owner proposes to create the easement over an

existing driveway; and that this request can be approved as submitted or that an application for a major subdivision can be required.

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

Delmar Homes  
Parcel and a 50' Easement – Road 224

Mr. Abbott advised the Commission that this is a request to subdivide a 7.0-acre parcel into 2, 3.50-acre parcels with access from an existing 50-foot easement; that if this request is approved, there would be 3 parcels having access from the easement; and that if the request is approved, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Burton, seconded by Mr. Gordy 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 5 – 0.

Subdivision #2005 – 59 - - Landlock, LLC  
Amended Conditions of Approval – Road 351

Mr. Abbott advised the Commission that this application for 141 lots received preliminary approval for 141 lots on August 16, 2006 with 13 conditions; and that the developer is requesting that the condition “ within 1 year of the issuance of the first building permit, the developer shall construct a community swimming pool and community center”; and that they are requesting that this condition be removed since a pool and community center were not show on the preliminary plan nor was it brought up during the public hearings.

Gene Bayard, Attorney, was present and advised the Commission that an amenity package was not a part of the presentation during the public hearing; and that if the amenities were required, the developer would lose some lots.

Motion by Mr. Smith, seconded by Mr. Burton and carried 4 votes to none, with Mr. Gordy absent, to defer action to allow the staff time to review the record of the public hearing. Motion carried 4 – 0 – 1.

Shore Movement  
CU #1595 Amended Conditions of Approval – Route 9

Mr. Abbott advised the Commission that this is a request to amend the condition of approval #6 by deleting the requirement for a solid fence along the boundary with the Portmann property as a screen; and that the Commission has been provided a copy of a letter explaining why the owners want this condition removed.

Mr. Johnson raised a question about another condition of approval being that the site is limited to one doctor and that the request is signed by two doctors.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action to allow the staff time to review the record of the public hearing. Motion carried 5 – 0.

Lewin M. Deery  
Front Yard Determination – Piney Point Road Extended

Mr. Abbott advised the Commission that this is a request to have Whites Creek considered as the front yard for setback purposes; that the site is zoned GR General Residential and the minimum front yard setback in this district is 30 feet; that Piney Point Road Extended terminates at the eastern boundary line of the property; and that the Commission may require a greater setback than the minimum 10-foot rear yard setback.

Mr. Lank advised the Commission that the structure has already been built and that the owner proposes to add on to the dwelling.

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

Short's Marine  
CU #1551 – Time Extension

Mr. Abbott advised the Commission that this is a request for a 1-year time extension; that the application was approved on September 21, 2004; that the Commission granted a time extension on September 8, 2005; and that this is the second and last extension that the Commission has the authority to grant.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant a final 1-year time extension. Motion carried 5 – 0.

Paula Nadig  
CU #1552 – Time Extension

Mr. Abbott advised the Commission that this is a request for a 1-year time extension; that the application was approved on September 21, 2004; that the Commission granted a 1-year time extension on October 20, 2005; that the Commission granted preliminary site plan approval on January 6, 2005 and the staff granted final site plan approval on November 17, 2005; and that this is the second and last extension that the Commission has the authority to grant.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant a final 1-year time extension. Motion carried 5 – 0.

Subdivision #2004 – 43 - - Tamari Properties  
Time Extension

Mr. Abbott advised the Commission that this is a request for a 1-year time extension; that this application for 455 lots received preliminary approval on January 20, 2005; that if an extension is granted, it should be retroactive the anniversary of the approval date and shall expire on January 20, 2007; and that if the extension is granted, this application is on the September 28, 2006 agenda for final approval.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve a 1-year time extension retroactive to the anniversary date of approval. Motion carried 5 – 0.

Subdivision #2004 – 54 - - LBI Construction  
Time Extension

Mr. Abbott advised the Commission that this is a request for a 1-year time extension; that the application received preliminary approval on October 27, 2005 for 115 lots; and that this is the first request for an extension.

Motion by Mr. Johnson, seconded by Mr. Burton and carried 4 votes to none, with Mr. Gordy absent, to approve a 1-year time extension. Motion carried 5 – 0 – 1.

Ellis Point AR-1/RPC  
Height Requirement

Mr. Abbott advised the Commission that this is a request to amend the height requirement from 42 feet to 46 feet and that the Commission has been provided a copy of a letter explaining this request.

Jim Fuqua, Attorney and Josh Mastrangelo of Centex Homes were present and advised the Commission that that the height requirement for single-family dwellings in an AR-1 district is 42 feet; that the height is measured either from grade or the required base flood

elevation if a property is located in a flood zone; that the grade for this project is above the base flood elevation requirements by approximately 4 feet.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to measure the height of the dwelling 42 feet from grade of base flood elevation, whichever is higher. Motion carried 5 – 0.

Americana Bayside MR/RPC  
Phase 13 Final Record Plan – Route 54

Mr. Abbott advised the Commission that this is the final record plan for 84 multi-family units; that the Commission granted preliminary approval on May 17, 2006; that the final record plan is the same as the preliminary plan and the approved master plan; and that all agency approvals have been received.

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

Americana Bayside MR/RPC  
Phase 16 Preliminary Record Plan – Route 54

Mr. Abbott advised the Commission that this a preliminary record plan for 7 single-family detached lots located on 2.07 acres; that the preliminary plan is the same as the approved master plan; and that final record plan approval shall be subject to the review and approval of the Commission upon receipt of all agency approvals.

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

Americana Bayside MR/RPC  
Phase 1B Revised Final Record Plan – Route 54

Mr. Abbott advised the Commission that this is a revised site plan for an additional 12,522 square feet of commercial area; that the area will be for a 2-story restaurant; that with the restaurant, the total square footage of the commercial area is now at 90,008 square feet; that the development is permitted 170,000 square feet of commercial area; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to approved the revised record plan as a final. Motion carried 5 – 0.



Church of God and Saints of Christ  
Preliminary and Final Site Plan – Route 20

Mr. Abbott advised the Commission that this is a site plan for a 9,088 square foot church located on 5.94 acres; that the site is zoned AR-1; that 167 seats are proposed for the church; that 42 parking spaces are required and 63 are provided; the setbacks meet the requirements of the zoning code; that on-site septic and well are proposed; and that all agency approvals have been received.

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

ADDITIONAL BUSINESS

There was a consensus of the Commission to hold the special meeting for October on Wednesday, October 18, 2006 at 3:00 p.m.

Meeting adjourned at 4:30 p.m.