



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 25, 2008

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 25, 2008 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, Mr. I.G. Burton III with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of September 11, 2008 as amended and to defer action on the Minutes of September 17, 2008 for further review. Motion carried 5 – 0.

OLD BUSINESS

Subdivision #2007-4 – application of **LACROSSE HOMES OF DELAWARE** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 90.11 acres into 82 lots, located at the southwest corner of the intersection of Road 620 and Road 617.

The Commission discussed this Subdivision, which has been deferred since September 11, 2008.

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

Subdivision #2007-5 – application of **DAVID EDWARDS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 11.28 acres into 28 lots, (Environmentally Sensitive Developing District Overlay Zone) (Cluster Density Trade) located southeast of Road 277, 1,150 feet southwest of Road 275.

The Commission discussed this Subdivision, which has been deferred since September 11, 2008.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2007-5 for David Edwards 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 orderly growth of the County. The proposed subdivision is also within the County's Environmentally Sensitive Developing Area, and it is in an area that has developed with other similar single-family communities.
2. As a cluster subdivision in the Environmentally Sensitive Developing Area, the project is permitted to have minimum lot sizes of 7,500 square feet. The subdivision has a proposed density of 2.41 units per acre. This includes 6 bonus lots under the County's Bonus Density Trade Ordinance, which must be approved by a 4/5 vote of County Council.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
6. Central sewer and central water will be provided.
7. This preliminary approval is subject to the following conditions:
 - a. If approved by County Council with a 4/5 vote, the maximum number of dwelling units shall not exceed 28, and the developer shall comply with all of the terms of Ordinance No. 1842.
 - b. The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, buffers, storm water management facilities, and other common areas.
 - c. The development shall be served by central water and central sewer.
 - d. The storm water management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
 - e. As stated by the Applicant, a 30-foot forested or landscaped buffer shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscape plan for these areas.
 - f. All entrances and roadway improvements shall be constructed in accordance with all of DelDOTs requirements.
 - g. A system of street lighting shall be provided throughout the project.
 - h. Sidewalks shall be installed as shown on the Preliminary Site Plan.
 - i. Street design shall meet or exceed Sussex County Standards.
 - j. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.
 - k. The location for a school bus stop shall be coordinated with the local school district's transportation manager. The location of the bus stop shall be shown on the Final Site Plan.
 - l. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant preliminary approval of Subdivision #2007-5 for David Edwards for the reasons and with the conditions stated. Motion carried 5 – 0.

Subdivision #2007-7 – application of **TUONG T. QUAN** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 20.25 acres into 18 lots, located north of Road 78, 800 feet west of Road 490A.

The Commission discussed this Subdivision, which has been deferred since September 11, 2008. Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2007-7 for Tuong T. Quan based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning. All lots will be at least $\frac{3}{4}$ acre in size.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The subdivision is consistent with other developments in the area.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
6. DNREC has indicated that the site is suitable for individual on-site septic systems.
7. This approval is subject to the following conditions:
 - a. There shall be no more than 18 lots within the subdivision.
 - b. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
 - c. The storm water management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
 - d. All entrances shall comply with all of DelDOTs requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
 - e. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - f. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
 - g. A 30-foot forested Agricultural Buffer shall be shown along boundaries bordering on any land used primarily for any agricultural purpose. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
 - h. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
 - i. A system of street lighting shall be established.

- j. As described by the Applicant, pathways shall be located across the front of the lots in easement form.
- k. A hunting notice similar to the Agricultural Use Protection Notice shall be included on the Final Site Plan and in the Restrictive Covenants.
- l. 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. Smith and carried unanimously to grant preliminary approval of Subdivision #2007-5 for Tuong T. Quan for the reasons and with the conditions stated. Motion carried 5 – 0.

C/U #1742 – application of **PINE ACRES, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an expansion of existing manufactured home park/campground by adding 24 campsites to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 4.0 acres, more or less, lying south of Dogwood Lane (the access road into Leisure Point Resort), 2,900 feet north of Long Neck Road.

The Commission discussed this Subdivision, which has been deferred since August 14, 2008.

Mr. Burton stated that he would move that the Commission recommend approval of C/U #1742 for Pine Acres, Inc. for an expansion to an existing manufactured home park and campground based on the record and for the following reasons:

1. This application is for the expansion of an existing manufactured home park/campground that has been in operation for many years.
2. All of the campsites will be at least 400-feet from any dwelling owned by others.
3. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
4. There is a need for this type of campground in Sussex County, given the closure of several others in Eastern Sussex. And, the Applicant has stated that there is a waiting list for the sites within the existing park.
5. This recommendation for approval is subject to the following conditions and stipulations:
 - a. There shall only be 24 campsites on the property. There shall not be any permanent cabins on the property.
 - b. The campsites shall be served by County Sewer as a part of the Long Neck Sanitary Sewer District. The Applicant shall comply with all County Engineering Department requirements for connection to the system.
 - c. A landscaped buffer, as shown on the Preliminary Site Plan, shall be established. The Final Site Plan shall include a landscape plan for these areas. There shall also be fencing around the perimeter of the site.
 - d. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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 stated. Motion carried 5 – 0.

PUBLIC HEARINGS

C/Z #1666 – application of **BEAVER PROPERTIES, LLC** 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 Cedar Creek Hundred, Sussex County, land lying east of Old State Road (Road 213) one-quarter mile north of Milton-Ellendale Highway (Route 16) and north of the Town of Ellendale, to be located on 101.6 acres, more or less.

The Commission found that prior to the meeting the Applicant had provided the Commission with an Exhibit Booklet which contained copies of letters, the application form, site plans, information sheets and maps, proposed Findings of Fact and proposed Conditions, copies of the PLUS comments and responses, copies of TAC comments and responses, a Development Report for the MPHU program with copies of the MPHU application and acceptance letter, land use surrounding zoning and site location maps, site plan renderings, site data, legal descriptions, a copy of deeds, surveys, a storm water conceptual plan and approach, traffic and site circulation data, references to utility providers, and proposed covenants and conditions. The Exhibit Booklet is a part of the record for this application.

The Commission found that on September 15, 2008 the Department received one (1) copy of a Traffic Impact Study for the project prepared by Davis, Bowen & Friedel, Inc. The Traffic Impact Study report is also a part of the record for this application.

Mr. Lank advised the Commission that the TAC, Technical Advisory Committee, documents are also a part of the record for this application. The requested deadline for receipt of comments was August 29, 2008.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located in the Ellendale Sanitary Sewer District; that wastewater capacity is available for the project; that Ordinance No. 38 construction will be required; that the current system connection charge rate is \$6,848.00 per EDU; that a connection point has been provided along the parcel's frontage on Old Stage Road; that a small portion of the project must be annexed into the sewer district; that conformity to the Ellendale Technical Memorandum and the Preliminary Study for Ellendale's Treatment and Disposal Options will be required; that the majority of the project is within the boundary of the Ellendale Sanitary Sewer District and connection to the sewer system is mandatory; that the project is within the planning study and design assumptions for sewer service; that the County requires design and construction of the collection and transmission system to meet County Engineering Department's requirements and procedures; that the County Engineer must approve the connection point; that a sewer concept plan must be submitted for review and approval prior to any sewer construction; that conformity to the Ellendale Technical Memorandum, the Preliminary Study for Ellendale's Treatment and disposal Options and an approved concept plan will be required; that the preliminary site plan states that the northern parcel boundary has been realigned in a revised record plat; that the plan shows that a piece of land from an adjoining parcel has been added to the project; that the added land is not currently within the boundary of the Ellendale Sanitary Sewer District and must be annexed; that annexation of the additional land must be completed

prior to submittal of construction drawing for review; and that one time system connection charges will apply.

The Commission found that Dale Wheatley, one of the developers, was present with Dennis Schrader, Attorney, and James Willey, Jr. of GMB (George, Miles & Buhr, LLC) and that they stated in their presentations and in response to questions raised by the Commission that if the project is approved they will probably apply for annexation into the Town of Ellendale; that they are applying for a Residential Planned Community to allow for development under the MPHU program for moderately priced housing units; that the site is located in a growth area according to the Sussex County Comprehensive Plan Update and the Town of Ellendale Comprehensive Plan proposal; that the site is located within an Investment Level 3 according to the State Strategies; that central sewer will be provided by Sussex County; that central water is proposed to be provided by Artesian Water Company; that no State wetlands exists on the site; that 405 units are proposed, which includes 399 units within the unincorporated area, 4 units within the Town of Ellendale, and 2 units that are split by the Town/County boundaries; that the 405 units include 233 single-family lots and 172 townhouses; that the MPHU allows for a 20% density bonus if approved; that 60 MPHU units are planned; that phasing is required and proposed; that the grid concept pattern of the project duplicates the layout of the Town of Ellendale; that there are no proposed cul-de-sacs; that the layout is a typical small Delaware town street network; that they are proposing a 5.6 acre Village Center Park with a community building; that they are proposing sidewalks on one side of the streets; that single-family homes will be built next to existing single-family parcels; that they are planning landscaped buffers along the railroad and the north property line; that the main entrance off of Old State Road will be improved with three (3) water feature ponds; that the phasing plan will include at least three (3) phases; that the first phase will be adjoining the Town line; that the PLUS comments were generally favorable; that the latest comments from PLUS asked for additional details on the buffering along the railroad; that the TAC comments were generally favorable; that the northern property line was altered to square off the property line by agreement with Glatfelter Pulpwood Company, the adjoining landowners; that the excellent recharge area on the site is a small tip of the southerly property and is a portion of proposed open space; that they may have to relocate the tax ditch that crosses the property and acknowledge that they need approval by court order to do so; that the Traffic Impact Study is being reviewed by DelDOT; that the proposed single-family units will be, at a minimum, 2-bedroom units; that the townhouses will be typical townhouse designed units; that the 60 MPHU units will vary in price from \$150,000 to \$222,000 per unit; that they have calculated that the property could be developed as 402 units with GR zoning; that there are approximately 14 acres of landscaping buffer area and a total of 20 acres of open space; that there are other green spaces in the project; that they may design trails into the buffer areas; that they have not proposed any major amenities based on concerns of creating gathering places; that DelDOT will require widening of Old State Road and a contribution of improving a railroad crossing; that DelDOT has provided a letter of "No Objection"; that on June 3, 2008 the Town of Ellendale approved an inspection agreement to allow the County to do inspections within the Town; that Best Management Practices will be utilized in development of the project; that EnviroTech is studying the relocation of the tax ditch; that the site will be served by the Sussex County Sanitary Sewer District which has wastewater capacity; that a small pump station may be required; that central water will be provided by Artesian Water Company; that they have set aside a 3.0 acre parcel for Artesian Water Company; that Artesian Water Company has applied

for a CPCN; that the project will be a benefit to the Town of Ellendale by generating revenue for the Town; that the Town is working with the County Engineering Department to do inspections on sewer, water, streets, etc.; that covenants are proposed and include maintenance provisions and will meet the MPHU requirements; that the 60 MPHU units have been distributed throughout the project; that the buffer along the railroad is intended to be a 50-foot wide buffer with berms and environmentally landscaped; that the type of plants has not yet been determined; that realignment of the tax ditch will require Corps. of Engineer approval; that tax ditch maintenance easements are required and will be located on the project side, not next to adjoining landowners; that landscaping is proposed to be installed in the area between the adjoining landowners and the relocated tax ditch; that the southerly entrance access road will be wider to allow for access to the future commercial/industrial area next to the railroad; that a school bus stop location will be provided; that they have proposed sidewalks on one side of the streets in the single-family areas with interconnectivity to the Village Center Park; that they propose to have sidewalks on both sides of the streets within the townhouse area; that they would prefer to not have to provide sidewalks on both sides of the streets within the single-family area to allow for reduction of impervious cover and to reduce cost for the project; that as previously stated a clubhouse/community center building will be established in the Village Center Park area; that no other major amenities are proposed; that economically they do not know when to start the project and it is hard to state how many units may be built in a given year; that if the economy improves they may build 100 units per year; that all open space amenities and the clubhouse will be built after construction of 125 units; that a water tower may be necessary for Artesian to provide central water with fire flow capabilities; that the water tower could be as tall as 125 feet; and that they did not file for annexation into the Town of Ellendale at this time since the Town does not have the personnel or all necessary and proper ordinances to inspect or review projects of this size.

Mr. Robertson advised the Commission that an agreement is being circulated within the Town and County staff for inspection, etc...

The Commission found that Delores Price, Mayor of the Town of Ellendale, was present in support of the project and stated that the project should be a benefit to the Town of Ellendale; that the Town presently does not have the personnel to review and inspect such a project; that they have reviewed the project and plans; that the rest of the Town Council also supports the project; and that they look forward to the project being in the Town of Ellendale with homes for working class citizens.

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

C/U #1745 – application of **GARY'S CREATIVE TOUCH** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a landscaping and garden center to be

located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.702 acres, more or less, lying at the southwest corner of Route 26 and Road 342 (Sandy Landing Road).

Mr. Lank provided the Commission with copies of a survey of the property and a sketch of the proposed site.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service "A" of Sandy Landing Road and the Level of Service "D" of Vines Creek Road will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located in the Vines Creek Planning Area; that wastewater capacity is not available at this time; that the proposed use will use an on-site septic system; that the site is not capable of being annexed into a County operated Sanitary Sewer District at this time; that when the County provides sewer service, connection to the system will be mandatory; that the County does not have a firm schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that Willard Gray was present and stated in his presentation and in response to questions raised by the Commission that they are proposing a family run garden center; that they presently have a small 13' by 60' greenhouse; that they plan on selling produce, i.e. corn, tomatoes, squash, etc.; that they have an area set aside for 4 colors of mulch and topsoil; that they have shown a equipment shed on the site plan sketch for future use; that they would be open Monday through Saturday with hours from 8:00 a.m. to ½ hour before dark or 7:30 p.m., whichever comes first; that he has no objections to a limitation of the hours being from 8:00 a.m. to 8:00 p.m.; that they have had a coin box set up on Sundays for honor system purchases; that he was originally told that he could sell whatever he grew; that they do not propose to add any additional security lighting; that he presently has a small sign with 2 spot lights and a lighted 4' by 8' portable sign; that the portable sign is not normally lighted; that they have no employees other than his wife and son; that he picks up the mulch and top soil and that they are not delivered; that he does not have any sanitary facilities for customers; that he will meet all setback requirements; and that he typically displays produce on a farm wagon.

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. Smith stated that he would move that the Commission recommend approval of C/U #1745 for Gray's Creative Touch based upon the record and for the following reasons:

1. Part of this application is for greenhouses, which are a permitted use in the AR-1 District. The project will also promote the sale of locally grown plants and produce.
2. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the community or traffic.
3. This recommendation is subject to the following conditions:

- a. The use shall be permitted for 6 days per week, from 8:00 a.m. to 8:00 p.m. and shall be closed on Sundays.
- b. Two (2) lighted signs, not to exceed 32 square feet in size on each side, may be permitted. Only one sign shall be permitted on each road frontage.
- c. There shall be no employees other than family members.
- d. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Final Site Plan shall show the location of greenhouses, storage bins, sheds, parking and signs.
- e. All displays, bins, wagons, etc. shall be located at least 25-feet from all roadways.
- f. Any future lighting on the site shall be down screened so as not to shine on neighboring properties or roadways.

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

C/U #1746 – application of **JCBB, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District to amend Conditional Use No. 1321 (Ordinance No. 1361) to allow an office, showroom, and an artisans/artists space to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 36,000 square feet, more or less, lying south of Route 9, 730 feet east of Main Street (Route 5), Harbeson.

Mr. Lank provided the Commission with copies of the Site Plan for this application.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the Level of Service “E” of Seashore Highway will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located in the North Coastal Planning Area; that the use will use an on-site septic system; and that the proposed use is not in an area where the County expects to provide sewer service at this time.

The Commission found that William Peden was present and stated that they propose to use part of the existing building for an artist display area; that they will continue to use the site for a contractors office; that he would like to display some of the outdoor furniture that they make on the site for sale outside; that the storage building/garage already exists on the site; that business hours are normally Monday through Friday from 9:00 a.m. to 5:00 p.m. and may be extended to 6:00 p.m. with some Saturday hours; that he may need to alter his existing 4’ by 8’ sign to exhibit the artist showroom area; that all construction equipment is stored behind the storage building/garage; and that some material storage is stored behind the existing fence.

Mr. Lank advised the Commission that the previous Conditional Use for the site, C/U #1321 was approved on February 1, 2000 with stipulations, which included that: 1) One on-premises sign, not exceeding 32 square feet per side or facing, may be permitted. 2) Security lighting may be provided at the parking area near the garage. 3) The parking areas shall be designed on the site plan. 4) Employee parking shall be designated on the site plan. 5) All outside storage shall be

within a fenced area to the rear of the building. 6) The site plan shall be subject to review and approval by the Planning and Zoning Commission.

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

Subdivision #2007-9 – application of **THOMPSON SCHELL, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 196.20 acres into 256 lots, (Cluster Development) located south of Route 16, 2,500 feet east of Route One.

Mr. Lank advised the Commission that the Technical Advisory Committee Report of July 18, 2007 will be made a part of the record and that the applicants submitted Exhibit Books on September 12, 2008 that are also part of the record.

Jim Fuqua, Attorney, Matt Peterson and David Kuklish with Element, and Lincoln Davis were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that 256 single-family lots are proposed; that the project is known as Woodland Preserve; that the site contains 195.6 acres; that the site is located on the south side of Route 16 approximately 2,500 feet east of Route One; that the site is also adjacent to the Rookery Golf Course; that central water will be provided by Tidewater Utilities and that they have a CPCN for the area; that regional wastewater will be provided by Artesian through the Elizabethtown project that was approved in January 2008; that the wetlands have been delineated and there are three areas of wetlands; that the wetland areas will be undisturbed areas; that a 50-foot buffer from all wetlands is proposed and that the buffer will be designated and permanently monumented; that the project will not have any impacts on the Delmarva Fox Squirrel since only .20 acres of habitat is being cleared; that 9.0 acres will be afforested; that a Phase 1 Environmental Study and Assessment has been performed and it was determined that no further study is required; that a Traffic Impact Study was conducted and is in the Exhibit Book; that improvements will be required for Route 16; that multi-modal paths will be required; that improvements are not warranted for the Route One and 16 intersection; that the developers will comply with all of DelDOT's requirements; that the site is located in the Cape Henlopen School District; that fire protection is provided by the Milton Fire Department; that shopping is available within 2 miles of the site; that a homeowners' association will be established for maintenance of infrastructure; that 2 recreation areas will be provided; that a village green is proposed on 1.50 acres with a community building, swimming pool, 2 all purpose sport courts, a playground and parking; that a passive recreation area with parking and a playground and picnic area will be provided on the southern portion of the site; that freshwater fishing is available nearby at Prime Hook Wildlife Refuge; that the site is located in a low-density area; that the permitted density is 1.5 lots/acre and that the proposed density is 1.21 lots/acres; that the lots border open space; that 121 acres or 62% is open space; that access to the site is from Route 16; that there is an existing

pond on the site; that the developers will create additional forest areas; that street trees and street lights are proposed; that sidewalks will be installed on at least one side of all streets; that additional walking paths will also be provided; that the existing stand of trees and wetlands will not be disturbed; that the buffers range in width from 70-feet to 200-feet; that the smallest lot is 7,700 square feet, that the largest lot is 13,000 square and that the average lot size is 9,000 square feet; that the Exhibit Book contains submitted proposed findings of fact and conditions of approval; that the Exhibit Book also includes the applicant's response to the PLUS comments and addresses the items in Section 99-9C of the Subdivision Code; that there is an Open Space Management Plan and Cluster Design criteria referenced in the Exhibit Book; that the multi-modal path will be installed along the entire frontage of Route 16; that a standard subdivision design was not considered; that there will be a minimum 50-foot buffer around the entire perimeter of the project; that a pier may be installed across the wetlands which would be subject to DNREC's approval; that the recreational amenities will be constructed when the 50th certificate of occupancy has been issued; that the project will not be age restricted; that the proposed dwellings will be energy efficient dwellings; that since the site is located in a Level 4 area, the project is not eligible for Super Green consideration; that the developer is not opposed to installing silt fencing at the proposed buffer line; and that the project is no longer in an Agricultural Preservation District.

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

Doug Lodge was present in opposition to this application and stated that the site is located in a Level 4 Investment Area; that the State does not plan for development in this area; that the site adjoins an agricultural preservation district; that the site is located near a Wildlife Preserve; and that the Route One and 16 intersection is dangerous.

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 5 – 0.

Subdivision #2007-10 – application of **RITA LYNN, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 64.199 acres into 53 lots, located southeast corner of the intersection of Road 224 and Road 38.

Mr. Lank advised the Commission that the Technical Advisory Committee Report of July 18, 2007 will be made a part of the record; and that the applicants submitted an Exhibit Booklet and a revised plan addressing the Technical Advisory Committee comments that is also a part of the record.

Mr. Abbott advised the Commission that the applicants also submitted a letter addressing the items referenced in Section 99-9C; a soil feasibility study and septic feasibility statement and a letter expressing concerns about the forested buffers from Byron Jefferson, an adjoining owner.

Tim Metzner and Ring Lardner, P.E., with Davis, Bowen & Friedel, Inc. and Joe Wells, developer, 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 near other existing subdivisions; that the application was reviewed by PLUS; that there is a proposed 100-foot buffer from the stream and another 100-foot buffer from the wetland areas; that no negative impacts to the woodlands are anticipated; that 53 single-family lots are proposed; that the site contains 64.20 acres; that the project is consistent with the surrounding uses in the area; that the site is located in a Low Density Area; that the proposed density of 0.82 lots/ acre meets the requirements of the Zoning Ordinance; that there are 2 commercial uses located north of the site; that a 30-foot forested buffer has been provided adjacent to agricultural uses; that the buffer will be extended along the lands owned by Byron Jefferson; that a 25-foot buffer is proposed along Fleatown Road; that there are 0.40 acres of wetlands and that the wetlands will remain undisturbed; that 2 storm water management ponds are proposed and the applicant will utilize Best Management Practices; that there is one entrance to the project; that the streets will be private and built to County specifications; that individual on-site septic and wells are proposed; that electric will be provided by Delaware Electric Cooperative; that fire protection is provided by the Ellendale Fire Department; that DNREC has issued a septic feasibility statement; that the site is near an excellent groundwater recharge area and the project meets the requirements of less than 35% impervious coverage; that there are 15.9 acres, or 24% of open space provided; that the minimum lot size is 32,670 square feet; that the average lot size is 0.80 acre; that the items referenced in Section 99-9C are addressed in the Exhibit Book; that the project meets the design requirements of the subdivision and zoning codes and is in character with the area; that no recreational amenities are proposed due to the size of the lots; that sidewalks are not proposed but street lights are; that the storm water management areas will be infiltration ponds and the outfall is the wetlands; that the septic systems will probably be gravity fed systems; that a bus stop has not considered but there is room for one if needed; that additional buffers will be provided along the lands owned by Jefferson; that the dwellings will be stick-built or modular homes and will range in price from \$225,000.00 to \$250,000.00; that a multi-modal path will be installed along the buffer along Fleatown Road; that the storm water management area has been moved out of the wooded area as recommended during the PLUS process; that the location of the storm water management system is located at the lowest point on the site; that 2 storm water management ponds are proposed; that the ponds will be landscaped; that stub streets have not been provided due to the rural setting of the area and the adjoining parcels are tilled; that the proposed buffers will be a mix of evergreen and white pine trees; and that lots 11 and 12 can also be buffered from the adjoining property.

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

Karen Garrison, an adjoining property owner, was present in opposition to this application and raised questions about her property being buffered; that this was a previous application that was denied; that there is an old farmhouse on the site; that the intersection of Route 38 and Road 224 has many accidents; that the wetlands will be negatively impacted; that there are hunting activities in the area and on adjacent properties; questioned the types of homes that will be permitted; and raised concerns about a homeowners' association being responsible for maintenance of infrastructure.

Mr. Lardner responded that the State has permission to inspect the site for archaeological remains; that the old farm house has been removed from the site; and that at this time, the applicants have not met with DelDOT but DelDOT will probably require improvements to the local roads.

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 5 – 0.

ADDITIONAL BUSINESS

Mr. Lank asked the Commission if they would consider meeting earlier than 3:00 p.m. for the Special Meeting of October 16, 2008 since there is a scheduling conflict for the use of the Council Chambers, and that the League of Women Voters has reserved the Council Chambers for 6:00 p.m.

There was a consensus of the Commission to open the Special Meeting for Thursday October 16, 2008 at 1:30 p.m.

Meeting adjourned at 9:25 p.m.