



Planning & Zoning

Agendas & Minutes

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 28, 2006

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 28, 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. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Mr. C. Shane Abbott – Assistant Director, and Mr. Richard Kautz – Land Use Planner.

Mr. Wheatley advised the audience that Representatives on behalf of Subdivision #2005-66 – Key Properties Group, LLC have requested that their application be withdrawn.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request to withdraw the application of Subdivision #2005-66. Motion carried 5 – 0.

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 September 14, 2006 and September 20, 2006 as circulated.

OLD BUSINESS

Subdivision #2004-43 – application of **TAMARI PROPERTIES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 332.71 acres into 455 lots, (Cluster Development), located west of Route 5 and Road 303A, and north of Road 302.

Mr. Abbott advised the Commission that this is a final record plan for a 455 lot cluster subdivision; that the Commission granted preliminary approval on January 20, 2005 and granted a time extension on September 20, 2006; that the final record plan is similar to the preliminary plan, complies with the Subdivision Ordinance and the conditions of

approval; that the name has been revised to “Independence” from “Indigo Run”; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant final approval of this subdivision. Motion carried 5 – 0.

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.

Minutes

September 28, 2006

Page 2

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

Mr. Robertson advised the Commission that there is a difference between cluster subdivisions in the Environmentally Sensitive Developing Area and the AR-1 Agricultural Residential District in the Low Density Area.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2005-64 for “The Estuary”, based on the record and for the following reasons:

- 1) The proposed subdivision is in compliance with the Sussex County Subdivision Ordinance and favorably addresses the items set forth in Section 99-9C of the Ordinance and represents orderly planned residential growth in the County.
- 2) The land is zoned AR-1 which permits low-density single-family residential development at a density of approximately two (2) lots per acre. The proposed subdivision density of 1052 lots is approximately 1.43 lots per acre, less than the maximum permitted density.
- 3) The proposed subdivision has been designed in an environmentally responsible manner providing appropriate setbacks and buffers, preserving wetlands and large sections of woodlands and will be served by a central water system operated by Tidewater Utilities, Inc. and will be served by a Sussex County sewer system.
- 4) The proposed subdivision is located in the Environmentally Sensitive Developing Area, which is designated as a growth area under the Sussex County Comprehensive Plan where development is anticipated and directed.
- 5) The proposed subdivision is clustered as permitted in the Environmentally Sensitive Developing Area. As a result, 56% of the project, or 416 acres, is open space including the conservation of forested and natural areas.
- 6) The proposed subdivision will not adversely impact schools or public and community facilities.

- 7) The development will provide extensive active and passive recreational uses, including swimming pools, basketball and tennis courts, exercise facilities and other type uses.
- 8) The development, subject to the conditions imposed, will not adversely affect uses, values or the environment of the area.
- 9) The project will not adversely affect area waterways as a result of the buffering that has been provided for all wetlands and waterways. In addition, surface and stormwater will be contained and treated on site through the project's extensive stormwater management plan resulting in improvements to the quality of stormwater.
- 10) This preliminary approval is subject to the following conditions:

- A. The maximum number of lots shall not exceed 1052 lots, which was the number of lots applied for. In the reduction of lots from the 1060 shown

Minutes

September 28, 2006

Page 3

on the Applicant's most recent plan, lots 365 through 370 and Old Marsh Bend East shall be eliminated.

- B. The Applicant shall cause to be formed a homeowners association to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, recreational areas, and other common areas.
- C. The stormwater management system shall meet or exceed the requirements of the State and County, and Best Management Practices shall be utilized.
- D. Street lighting shall be provided, and the location of the streetlights shall be shown on the final site plan.
- E. No wetlands shall be included within any lot lines.
- F. The restrictive covenants governing the project and the Final Site Plan must include the Agricultural Use Protection Notice and the Wetlands Notice. They shall also include a notice that hunting activities occur in neighboring and adjacent properties. They must also prohibit the use of any off-road, ATV-type vehicles on the property, other than by the Homeowners Association or its designee for maintenance.
- G. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- H. A school bus shelter with parking for at least 6 vehicles shall be established at each entrance to the project, or at such other location approved by the School District.
- I. The development shall be served by a central water system operated by a public utility company.
- J. The development shall be served as part of a Sussex County Sanitary Sewer District.
- K. The Applicant shall comply will all roadway intersection and entrance improvements required by DelDOT. Any road realignments shall be in conformity with DelDOT regulations.

- L. No more than 200 residential building permits shall be issued in any year, and the phasing of the project shall be in accordance with the Construction Phasing in Tab 4 of the Applicant's Exhibit Booklet.
- M. Sidewalks and multi-use trails shall be shown on the Final Site Plan.
- N. The central recreation complex shall be constructed and open for use by the residents of the development within two (2) years of the issuance of the first residential building permit.
- O. No docks or launching facilities for motorized watercraft shall be maintained on the site.
- P. The Applicant shall provide agricultural buffers and wetland buffers in accordance with applicable requirements.
- Q. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Minutes
September 28, 2006
Page 4

- R. There shall be no lots, or stormwater management facilities or other structures within 50-feet of the cemetery existing on the property. In addition, the Developer shall comply with any requirements established by the Delaware State Historic Preservation Office concerning the cemetery.
- S. There shall not be any commercial activities within the site, including the proposed snack bar or grill. A note confirming this shall be included within the Final Site Plan.
- T. The proposed RV and boat storage area shall be relocated to a more centralized location within the project.
- U. Any wells, water towers or water tanks shall be located at least 300-feet from adjacent boundary lines. Any proposed water tower or water tank shall be painted in a sky-neutral color, with no advertising or identifying logo or script, graphic features or characteristics.
- V. The Final Site Plan shall show the location of any proposed or future maintenance and/or storage buildings serving the community. These buildings shall be internally located within the subdivision.
- W. The Applicant shall maintain any rights of access that third parties may legally have across the property.
- X. The Developer shall preserve as many existing trees as possible within the site, and shall designate existing forested areas on the Final Site Plan. Also, as stated by the Applicant, the restrictive covenants shall include a tree preservation covenant.

Motion by Mr. Smith, seconded by Mr. Gordy and carried with 4 votes to approve this application as a preliminary, for the reasons and with the conditions stated. Motion carried 4 – 1, with Mr. Johnson opposing the motion.

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.

The Commission discussed this application, which has been deferred since September 14, 2006.

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

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

Minutes

September 28, 2006

Page 5

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.

The Commission discussed this application, which has been deferred since September 14, 2006.

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

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.

The Commission discussed this application, which has been deferred since September 14, 2006.

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

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 discussed this application, which has been deferred since September 14, 2006.

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

PUBLIC HEARINGS

Mr. Robertson described how the public hearings would be presented and heard.

C/Z #1601 – application of **REGINA STRUBLE** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, land lying north of Route 9, 145 feet east of Route 5 at Harbeson, to be located on 1.09 acres, more or less.

Minutes
September 28, 2006
Page 6

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 Route 9 will not change as a result of this application.

The Commission found, based on comments received from the Office of State Planning Coordination, that Chapter 92 of Title 29 of the Delaware Code gives their office the authority to waive the pre-application review requirement for projects in special circumstances; that because the proposed rezoning is for a 1.09 acre parcel adjacent to and across from other C-1 zoned properties and because development of the property will not meet PLUS criteria, the Office of State Planning Coordination will waive the pre-application requirement; that the change of zone needs to accompany a comprehensive plan amendment for this parcel; and that the comprehensive plan amendment will not need to go through PLUS, so long as this is the only amendment being considered.

The Commission found that Regina Struble was present and stated in her presentation and in response to questions raised by the Commission that her parents purchased the property in 1989; that the parcel is sandwiched between other commercial properties; that the property is near the corner of Route 9 and Route 5; that a Delmarva Power substation is 75-feet away to the east; that the property is across from the Harbeson Post Office and a convenience store and adjacent to contractors office; that her parents have passed away and that she is attempting to sell the property for the Heirs.

Mr. Robertson stated that the size of the site limits the use of the site.

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

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

There was a consensus of the Commission that the value of property is not a stated purpose for consideration of a rezoning and that a land use decision is needed.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be denied based on the lack of purpose for the rezoning. Motion carried 4 – 0. Mr. Smith was absent.

C/Z #1602 - application of **TRIPLE D DOUBLE J, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a GR-RPC General Residential District – Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying east of Road 365, northeast of Road 367A and across from Road 367B, to be located on 71.77 acres, more or less.

Minutes

September 28, 2006

Page 7

The Commission found, based on comments received from Russell Archut, Assistant County Engineer, that the property is located in the Beaver Dam Planning Area and will be served through improvements being constructed along Substation Road for the Beaver Dam area by the developers of Millville By The Sea, Barrington Park and Fairway Village; that the County does not plan to extend sanitary sewer service to the site; that it will be the developers responsibility to extend service to the new infrastructure from the site; that capacity has been allocated for the property based on 4 units per acre; that State wetlands must be deducted from the gross acreage prior to the total number of units being calculated; that the property must be annexed into the North Millville Expansion of the Bethany Beach Sanitary Sewer District before service can be provided; that in order for annexation to occur, intervening parcels must also be annexed; and that the property is not currently contiguous to the existing boundaries.

The Commission found, based on comments received from the County Engineering Department Planning and Permits Division; that the system design assumption for this parcel is 4 EDUs per acre; that the site is not located within a County operated or maintained sanitary sewer district; that the property is located within the Beaver Dam Planning Area; that wastewater capacity is available for the project; that Ordinance No. 38 construction will be required; that conformity to the South Coastal Area Planning Study, Update 2004, will be required; that there are currently two intervening parcels between the site and the boundary of the North Millville Expansion of the Bethany Beach Sanitary Sewer District; that this situation must be addressed prior to the annexation process; 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 are mapped as Borrow pits, Evesboro loamy sand, Osier loamy sand, and Pocomoke sandy loam; that the Evesboro soils have slight limitations for development; that the Osier and Pocomoke soils have severe limitations; that the developer will be required to follow recommended erosion and sediment control practices

during construction and to maintain vegetation after completion of construction; that the Evesboro, Osier and Pocomoke soils are considered of Statewide Importance; that the Pocomoke soils are also considered Prime Farmland soils; that the Evesboro soils are considered Hydric in small depressions; that the Osier and Pocomoke soils are considered Hydric; that no storm flood areas are affected; that the Beaver Dam 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 because of the Hydric soils located on the site.

The Commission found that the Applicants provided an Exhibit Booklet prior to the meeting and that the Booklet contained an Introduction, an Executive Summary; references to the project location, soils, Responses to the PLUS comments, references to Section 99-9 C of the Subdivision Ordinance, an Environmental Assessment Report, a

Minutes

September 28, 2006

Page 8

Public Facility Report, a Wetlands Delineation Report, a PLUS map of the area around the site, and a Sussex County Online Map of the area.

The Commission found that Eugene Bayard, Attorney, was present with Jessica Nichols of Meridian Architects and Engineers, Theresa Croll, property owner, and Darin Lockwood, developer, and that they stated in their presentations and in response to questions raised by the Commission that the site is located in a growth area; that the site is located within a Level 4 Area according to the State Strategies map; that developing the site will create a reclamation of an existing borrow pit; that the area has mixed zoning of AR-1 Agricultural Residential and GR General Residential; that the Bear Trap project in Ocean View has been developed at 5 dwelling units per acre; that the Millville By The Sea project is proposed to be developed as a Master Planned Community at 8 dwelling units per acre; that the proposed density of this project is 3.69 dwelling units per acre; that the site contains 71.77 acres of which 50 acres are wooded; that the site is not used for agricultural purposes; that the wetlands have been delineated; that there are no tidal wetlands on the site; that a jurisdictional wetlands determination has been applied for to the Corps. of Engineers; that there were no endangered species found on the site; that 265 units are being applied for and contain 111 single family dwelling lots and 154 duplex units; that the duplex units will be similar to the units in the Bear Trap project; that 28 acres of open space are proposed; that a 1.7 acre recreational area is proposed; that the existing dwelling is proposed to be converted into a clubhouse; that 20 acres of woodlands will remain; that sidewalks on both sides of the streets and streetlights will be provided; that a bus shelter with parking will be provided; that a 30-foot wide buffer will be provided around that site; that a 20-foot wide buffer will be provided along the frontage; that no lots will include any wetlands; that Beaver Dam Tax Ditch is not located on this property; that Artesian Water will provide central water and has submitted a willing to serve letter; that they plan on hooking up to the County sewer when available; that DelDOT will require improvements to the entrance, dedication of rights-of-way and multi-modal paths; that the Develop has spoken to several properties owners between the

site and the Sewer District and that they have agreed to also apply for annexation into the Sewer District; that they have responded to Chapter 99-9C of the Subdivision Ordinance in writing on Page 15 and Page 16 of the Exhibit Booklet; that the project is consistent with the area developing around it; that the project is less dense than the projects around it and referenced Bear Trap and Millville By The Sea; that design ingenuity will improve the borrow pit into a lake by reclamation; that Indian River School District has adequate capacity; that site-built homes and duplexes will be constructed on the site; that the homes will be priced from \$400,000 up; that no affordable housing is proposed; that a parking area will be provided near the proposed swimming pool; that the cul-de-sac will be less than 1,000 feet in length; that GR zoning was applied for since it is consistent with the GR zoning east of the site; that the duplexes will be sold as condominiums; that they are not sure of the depth of the borrow pit; and that they have designed the site to provide for the duplex areas in non-wooded areas.

Minutes
September 28, 2006
Page 9

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

The Commission found that Judy Hickman was present in opposition to the application and expressed concerns that the higher density portion of the site is proposed next to her property; that there is no need for additional homes in the area; that she owns farmland adjacent to the site; and that the farmland is actively being farmed.

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

Motion by Mr. Gordy, seconded by Mr. Johnson and carried with 4 votes to defer action for further consideration. Mr. Smith was absent.

Subdivision #2004 – 55 - - application of **J. MICHAEL WARING – MJR INVESTORS, L.L.C.** to reconsider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 76.85 acres into 100 lots, (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located northwesterly of Road 297 (Mount Joy Road), 1,360 feet southeast of Road 308 (Cordrey Road).

Mr. Abbott advised the Commission that on October 27, 2005 the Commission denied an application for 110 lots for this site; that on January 4, 2006 the applicants requested a rehearing to present additional information and that the Commission approved this request; that the applicants have submitted an Exhibit Booklet that will be made a part of the record; and that a revised site plan for 99 lots has been submitted and that the plan will be made a part of the record.

The Commission found that James Fuqua; Attorney, Gary Cuppels; P.L.S. with ECI Corporation, and Michael Waring; Developer were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission

that this preliminary plan has been reduced to 99 single family lots; that originally a 110-lot application was denied and that the Commission granted a request for a rehearing; that this preliminary plan has been revised to address the reasons of denial for the 110-lot plan; that an Exhibit Booklet was submitted into the record; that 99 lots are proposed on 76.85 acres; that 150 lots would be permitted utilizing the cluster option and that 113 lots would be permitted utilizing the standard subdivision option; that the proposed 99 lots is less than the permitted density; that 7,500 square foot lots are permitted; that the average lot size is 8,095 square feet; that 95% of the lots abut open space; that the streets will be private and built to Sussex County specifications; that sidewalks and streetlights will be provided; that a walking trail system connects the trail to the sidewalks; that the recreational amenities will include a clubhouse, swimming pool and tennis courts; that gazebos will be placed along the walking trails; that Tidewater Utilities will provide and

Minutes
September 28, 2006
Page 10

operate a central sewer and water system; that DNREC has issued a septic feasibility statement; that the site is located in the Indian River School District and will not have any negative impacts on the district; that fire protection is provided by the Indian River Volunteer Fire Company; that a traffic impact study was performed by the applicants and that traffic will not be a problem; that a wetland delineation has been performed and approved by the Army Corps of Engineers; that the site is not located in a flood zone; that 35.80 acres of woodlands will be preserved; that landscaped buffers will be provided; that there are five storm water management ponds proposed containing 10.60 acres; that the previous plan proposed over 20 acres for storm water management ponds; that the developer has a Memorandum of Understanding with the Indiantown Farms Subdivision for access to a storm water outlet; that the residents of Indiantown Farms support this application; that Appendix J of the Exhibit Booklet addresses the issues of the previously approved plan versus this plan; that Appendix K of the Exhibit Booklet addresses the seventeen items referenced in Subsection 99-9C of the Subdivision Code; that the development fits in with the character of the area; that the design meets the requirements of the cluster ordinance; that all of the lots front on the subdivision streets and that there is no direct access to Road 297; that there are not any wetlands on the site; that the proposed density is 1.3 lots per acre; that 66% of the site will remain in open space; that there is adequate room at the entrance of the site for a bus shelter; that the storm water management ponds will appear as amenities; that the location of the proposed treatment plant has not been determined yet; and submitted proposed conditions of approval and findings of fact into the record.

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

The Commission found that Mary and Sterling Street were present in opposition and raised questions about their well being affected; and that they were not given the same option as the residents of Indiantown Farms Subdivision.

Mr. Fuqua advised the Commission that the developers will also include the Streets in the Memorandum of Understanding with the Indiantown Farms residents.

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

Motion by Mr. Johnson, seconded by Mr. Gordy and carried with 4 votes to defer action for further consideration. Mr. Smith was absent.

Subdivision #2005 – 65 - - application of **REYNOLDS ROAD, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 47.55 acres into 95 lots (Cluster Development), located west of Reynolds Road (Road 233), 2,278 feet north of Draper Road (Road 235).

Minutes
September 28, 2006
Page 11

Mr. Abbott advised the Commission that the Technical Advisory Committee Report of March 15, 2006 will be made a part of the record for this application; that on September 25, 2006 the applicants submitted an Exhibit Booklet and revised preliminary plan that will be made a part of the record; that a letter has been received from Tidewater Utilities indicating that they are willing and able to serve the project with central sewer and water; and that an e-mail has been received from DelDOT indicating that they have approved the entrance location and will be issuing a Letter of No Objection in the near future.

The Commission found that Dennis Schrader; Attorney, Mark Davidson; Principle Owner of Design Consultants Group, Kerry and Keith Monigle; Developers, and Brian Hoyt of Tidewater Utilities were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that Tidewater Utilities will provide and operate a central water and wastewater treatment plant for the development; that a wetlands delineation has been performed and submitted for a jurisdictional determination; that the project has been designed over the last few years; that the development meets and exceeds all regulations; that the project has been reduced to 85 lots; that the natural forest will remain 100% undisturbed; that the project contains 56% open space; that the recreational amenities will include tot lots, a clubhouse and swimming pool and walking paths; that the site is approximately 1 mile from Route One and one-half mile from shopping in the area; that the proposed density is less than 2 lots per acre; that the project meets the requirements of the cluster ordinance; that the proposed density is 1.79 lots per acre; that 7,500 square foot lots are permitted; that the project is for single-family detached dwellings; that the project is similar to other developing projects in the area; that a 30-foot landscaped buffer is proposed along the perimeter of the project; that the proposed buffer will contain landscaped berms; that there is one entrance to the site; that access to all of the lots will be from the internal subdivision streets; that DelDOT did not require a traffic impact study and the project will not have a negative impact on the traffic in the area; that there are not any wetlands on the proposed lots; that a 100-foot buffer from the wetlands is proposed; that there are

1.69 acres of wetlands located on the site; that the wastewater treatment plant will be built to County Ordinance No. 38 specifications; that the developers will comply with all rules and regulations; that the project has been reviewed by the Office of State Planning Coordination through the PLUS process and those recommendations have been incorporated into the design of this project; that there are no known historical features on the site; that the open space area will be maintained by a management group; that all of the lots abut open space; that this project is superior to a standard subdivision in that a standard subdivision would cause negative impacts to the forested areas and wetlands; that the wastewater treatment facility has been relocated to the interior of the project away from adjoining property lines; that the storm water management design will use swales and rain gardens; that the developers will utilize Best Management Practices; that the engineers have prepared a nutrient budget analysis; that the Exhibit Booklet address

Minutes
September 28, 2006
Page 12

the items referenced in Subsection 99-9C of the Subdivision Code; that stub streets have been provided to adjacent parcels; that there is an area for a school bus stop; that a septic feasibility statement has been issued by DNREC and DelDOT has approved the entrance location; that the developers will retain all mature trees located on the site; that monies will be given to the Milton Fire Department as part of first time sales; that since there are only 85 lots proposed, the project will be built all at once; that there will be an open space management plan; that actual wet ponds will not be required; that the dwellings will be stick built on site; that there will be an architectural review committee; that the prices of the dwellings will range from \$250,000.00 to \$375,000.00; and submitted proposed conditions of approval and findings of fact into the record.

The Commission found that James Welu; an adjoining property owner was present in support of this application and advised the Commission that he is pleased to see that the wastewater treatment plant has been relocated to the interior of the project; and that as a neighbor, the proposed development is a good plan.

The Commission found that no parties appeared in opposition to this project.

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

Motion by Mr. Burton, seconded by Mr. Johnson and carried with 4 votes to defer action for further consideration. Mr. Smith was absent.

Subdivision #2005 – 66 - - application of **KEY PROPERTIES GROUP, L.L.C.** to consider the Subdivision of land in an Ar-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 393.80 acres into 786 lots (Cluster Development), located east of Cedar Neck Road (Road 206), west of Sharps Road (Road 200) approximately ½ mile east of Route One.

This application was withdrawn at the beginning of the meeting.

Subdivision #2005 – 67 - - application of **SUMMER HILL DEVELOPMENTS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 20.56 acres into 33 lots (Environmentally Sensitive Developing District Overlay Zone), located southwest of Williamsville Road (Road 395), 4,100 feet southeast of Route 54.

Mr. Abbott advised the Commission that the Technical Advisory Committee Report of March 15, 2006 will be made a part of the record for this application; that a letter in support was received from Frank and Mary Karpinski that will be made a part of the record; and that the applicants submitted a copy of the site plan, a copy of the wetlands map, a copy of a landscaping plan, a copy of the site plan, a copy of the proximity map,

Minutes

September 28, 2006

Page 13

and a letter from Tidewater Utilities indicating that they are willing and able to serve the project that will all be a part of the record.

The Commission found that James Fuqua; Attorney, James Willey; Engineer with George, Miles and Buhr, L.L.C. and Steve Smith; Developer were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that 33 lots are proposed; that the site adjoins Bayview Estates to the west, the Delaware/Maryland State Line to the south and Americana Bayside to the east; that one-half of the site is farmed and the other half is wooded; that the project was designed meeting the requirements of the Environmentally Sensitive Developing District Overlay Zone ordinance; that 44 lots are permitted; that the proposed density is 1.6 lots per acre; that the minimum lot size is 8,025 square feet; that the maximum lot size is 14,112 square feet; that the average lot size is 9,730 square feet; that the project is similar to Bayview Estates; that Sussex County will provide central sewer to the site; that Tidewater Utilities will provide central water to the site; that the project will need to be annexed into a County sewer district; that the storm water management design will utilize Best Management Practices; that there are 4.73 acres of non-tidal wetlands that will remain undisturbed; that there is a 65-foot buffer from the wetlands proposed; that the existing trees on the site will remain; that the amenity area will include a clubhouse, swimming pool and tennis and basketball court; that the streets will be private and built to County specifications; that there will be sidewalks on both sides of all streets; that streetlights will be provided; that walking trails tie into the sidewalks; and submitted proposed conditions of approval and findings of fact and a letter addressing the comments from the Technical Advisory Committee meeting into the record.

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

The Commission found that Carol Camelio was present in opposition to this application and read and submitted a letter into the record and advised the Commission that she prefers standard $\frac{3}{4}$ acre lots.

The Commission found that Carl Thomas and Don Downy were present in opposition to this application and raised concerns about the types and values of homes proposed; and expressed concerns about the sewer and water proposals.

Steve Smith responded that the project is under contract to Gulfstream Development and that he is not sure of the types of homes proposed.

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

Motion by Mr. Johnson, seconded by Mr. Burton and carried with 4 votes to defer action to allow Mr. Smith to review the public record. Mr. Smith was absent.

Minutes
September 28, 2006
Page 14

Meeting adjourned at 9:30 p.m.