



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE SPECIAL MEETING OF OCTOBER 17, 2007

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, October 17, 2007 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: Mr. Robert Wheatley, Mr. Benjamin Gordy, Mr. Michael Johnson and Mr. Rodney Smith, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Mr. Shane Abbott – Assistant Director, and Mr. Richard Kautz – Land Use Planner.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Agenda as amended. Motion carried 4 – 0.

OLD BUSINESS

C/U #1752 – application of **MICHAEL ORNDORFF** to consider the Conditional Use of land in a GR General Residential District for multi-family dwelling structures (16 units) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 4.1 acres, more or less, lying northeast of Road 358 (Sandy Cove Road) and northwest of Road 357 (Cedar Neck Road).

The Commission discussed this application which has been deferred since September 13, 2007.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1752 for Michael Orndorff for multi-family dwellings in a GR District based upon the record made at the public hearing and for the following reasons:

1. The property is in an area where other residential development has occurred, including single family, multi-family, mobile home and camping developments. The project is consistent with those developments, and will essentially be an in-fill development in this area of Cedar Neck.
2. The project currently contains approximately 27,000 square feet of woodlands. The design with 16 townhomes preserves a great deal of woodlands and open space.
3. The perimeter of the site will be buffered with existing trees and additional trees, where necessary.
4. The project is in a Development District according to the Sussex County Comprehensive Plan Update.

5. With the stipulations placed upon this approval, there will be no adverse impact on neighboring or adjacent properties.
6. This recommendation for approval is subject to the following conditions:
 1. The maximum number of residential units shall not exceed 16 units, subject to the approval of the County Engineering Department.
 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
 3. The amenities, including gazebos and tot-lot shall be constructed and open to use by residents within 2-years of issuance of the first building permit for the project.
 4. The project will be served by a County Sewer District. It must be constructed in accordance with the requirements of the Sussex County Engineering Department, including any off-site upgrades necessary to provide service to the project.
 5. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures.
 7. The project shall use individual trash cans or carts to serve the townhomes disposal needs as opposed to centralized dumpsters.
 8. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be installed along at least one side of all streets, and streetlights shall be installed.
 9. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design, as well as buffers along the perimeter of the project.
 10. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.
 11. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
 12. The Final Site Plan for the project shall be subject to approval of the Planning and Zoning Commission.

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 stated. Motion carried 4 – 0.

C/U #1701 – application of **BRIDGET M. NICHOLSON** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for new and used furniture sales, thrift shop and office to be located on a certain parcel of land lying and being in

Baltimore Hundred, Sussex County, containing 23,899 square feet, more or less, lying at the southwest corner of Road 370 and Road 384 at Bayard.

The Commission discussed this application which has been deferred since September 27, 2007.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1701 for Bridget M. Nicholson for new and used furniture sales, thrift shop and office space based upon the record and for the following reasons:

1. The site is the subject of a previously approved Conditional Use for a cabinet shop. Also, there are other commercial and conditional uses in the immediate area.
2. With the conditions placed upon it, the application will not have an adverse impact on neighboring or adjacent properties.
3. This approval is subject to the following conditions:
 1. The use shall be limited to used furniture sales and a thrift shop and office.
 2. The hours of operation shall be Tuesday through Saturday, with hours of operation of 9:00 a.m. to 5:00 p.m. for weekdays and 10:00 a.m. to 2:00 p.m. on Saturdays.
 3. There shall be no more than two employees associated with the use.
 4. The two (2) existing non-lighted signs shall be permitted. No further signage shall be allowed.
 5. The existing concrete slab shall only be used to display grills and outdoor furniture. No other display shall be permitted and no other outdoor displays or storage of items shall be permitted except for on the existing concrete slab.
 6. Areas designated for parking shall be shown on the Final Site Plan and shall be clearly marked on the site plan.
 7. There shall be no dispatching of moving vans from the site.
 8. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 0.

C/U #1702 – application of **SHILOH HOUSE OF HOPE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a residential school and counseling facility to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 6.01 acres, more or less, lying north of McDowell Road (Road 567), 850 feet east of Hastings Mill Road (Road 568) and one-half mile west of Atlanta Road (Road 30).

The Commission discussed this application which has been deferred since September 27, 2007.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to defer action to give the Commission more time for further consideration. Motion carried 4 – 0.

Subdivision #2005-60 – application of **MANDRIN HOMES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 27.34 acres into 56 lots, (Environmentally Sensitive Development District Overlay Zone), located west of Road 381, 3,860 feet north of Route 54, and south of Dirickson Creek.

Mr. Abbott advised the Commission that this 56-lot application was deferred on August 11, 2006 pending verification that the site be annexed into a Sussex County Sanitary Sewer District; that on July 24, 2007 the Sussex County Council approved an expansion of the Fenwick Island Sanitary Sewer District to include this site; and that this application was also deferred on September 19, 2007 for further consideration.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2005-60 for Mandrin Homes based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it promotes orderly growth of the County.
2. The Sussex County Comprehensive Plan Update designates the area as being within the Environmentally Sensitive Developing Area, which is a Development District that is desirable for appropriate development.
3. The proposed subdivision density is in accordance with the density permitted by the existing AR-1 zoning and in the Environmentally Sensitive Development District.
4. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
6. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
7. This recommendation is subject to the following conditions:
 1. There shall be no more than 56 lots within the subdivision.
 2. The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, stormwater management facilities, and other common areas.
 3. The stormwater management system shall meet or exceed the requirements of the State and County.
 4. All entrances shall comply with all of DelDOT's requirements.
 5. Interior street design shall comply with or exceed Sussex County standards, with sidewalks on both sides of each street.
 6. No wetlands shall be included within any lot lines.
 7. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department

- specifications and regulations. Additionally, the development shall be served by central water.
8. The Applicant shall maintain as undisturbed as many existing trees as possible. These undisturbed forested areas and contiguous canopy trees shall be shown on the Final Site Plan.
 9. A system of street lighting shall be provided throughout the project.
 10. All amenities and recreational facilities, as shown in Tab #8 of the Exhibit Booklet, shall be constructed and open to use by the residents within 2-years of the issuance of the first building permit.
 11. The amenities of the community bath house and swimming pool shall be relocated away from Old Bill Bridge Road and to a more central area within the community boundary.
 12. The location for the bus stop shall be on the west side of Old Mill Bridge Road and further coordinated with the local school district's transportation manager. That final location to be shown on the Final Site Plan.
 13. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
 14. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management facilities and erosion and sedimentation control facilities.
 15. The Agricultural Use Protection Notice and a hunting activities nearby notice shall be included in the community restrictions and covenants.
 16. The community may be served by a crabbing and fishing pier, if permitted by appropriate regulatory agencies and shall be located on the east side of Old Mill Bridge Road. There shall be no individual, co-shared, or community piers, boat ramps, or docking facilities of either a temporary or permanent nature on the community boundary that is west of Old Mill Bridge Road.
 17. The Environmental Review Coordinator from DNREC's Natural Heritage and Endangered Species Section shall be allowed an opportunity to visit the site to update the May 2005 project review. This updated review report shall be submitted to the staff and members of the Planning and Zoning Commission prior to approval of the Final Site Plan. Additionally, the Developer, as stated by the Applicant, will address issues involving the Assawoman Delmarva Squirrel population in accordance with provisions of Section 7 of the Endangered Species Act, as part of obtaining a Corps. of Engineers permit.
 18. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant preliminary approval of Subdivision #2005-60 for Mandrin Homes for the reasons and with the conditions stated. Motion carried 4 – 0.

Subdivision #2006 – 22 - - application of **BETHANY WOODS, L.L.C.** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred,

Sussex County, by dividing 12.20 acres into 19 lots (Environmentally Sensitive Development District Overlay Zone), located south of Road 360, approximately ½ mile west of Route One.

Mr. Abbott advised the Commission that this application has been deferred since July 26, 2007; and that the applicant's attorney has submitted an extinguishment agreement between the applicant and the Henry family in reference to an easement across this project.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 22 for Bethany Woods, L.L.C. based upon the record made at the public hearing and for the following reasons:

1. The project is located within the Environmentally Sensitive Development Area according to the 2002 Land Use Plan Update.
2. The applicant has proposed 19 lots within the project, which is less than the allowable density for a MR subdivision on this land. Under the current MR zoning, up to 4 units per acre is permitted.
3. The project is consistent with neighboring and adjacent properties and will not have an adverse impact on the neighboring properties or community. In the Fred Hudson Road and Cedar Neck Road area, there are already similar projects on neighboring or adjacent parcels.
4. The project is located within a County operated sanitary sewer district. It will be served by central water.
5. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
6. The applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Ordinance.
7. This recommendation is subject to the following conditions:
 - A. There shall be no more than 19 lots within the Subdivision.
 - B. The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
 - C. The storm water management system shall meet or exceed the requirements of the State and County.

- D. All entrances shall comply with all of DelDOT's requirements.
- E. Interior street design shall comply with or exceed Sussex County standards, with sidewalks on one side of each street.
- F. A system of street lighting shall be provided by the applicant and shown on the final site plan.
- G. No wetlands shall be included within any lot lines.
- H. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
- I. The project shall be served by central water.
- J. No wetlands shall be included in individual lots. The wetlands notice shall be included within the restrictive covenants. The owner of Lot 19 shall enjoy both the benefit and be financially responsible for the perpetual maintenance of the wetlands area east of Lot 19.
- K. The applicant shall coordinate with the local school district's transportation manager to establish a school bus stop, if necessary.
- L. The bridge shall comply with the necessary radii for turning into the project and any specifications of the State Fire Marshal as to construction materials and load bearing capacity.
- M. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.
- N. The applicant is encouraged to cooperate with DNREC and DelDOT in locating a bike or multi-modal pathway within the property, ideally along McCoy Way.
- O. 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. As stated in the record, a certified arborist will be hired to review all construction.
- P. The environmental review coordinator from DNREC Natural Heritage and Endangered Species Section shall be allowed an opportunity to visit the site to update the May 23, 2005 project review. This updated review report shall be submitted to the staff and members of the Planning and Zoning Commission prior to final site plan approval.

- Q. The final site plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

Subdivision #2006 – 28 - - application of **SUSSEX VENTURES, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 61.17 acres into 44 lots, located east of Road 550, ½ mile south of Route 20.

Mr. Abbott advised the Commission that this application has been deferred since August 23, 2007; that DNREC issued a septic feasibility statement on May 23, 2007 indicating that the site is suitable for individual on-site septic systems; and that DelDOT issued a Letter of No Objection on January 11, 2007.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 28 for Sussex Ventures, Inc. based on the record and for the following reasons:

1. The subdivision meets the requirements of the Subdivision Ordinance and promoted the orderly growth of the County.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values. The size and density of the project with $\frac{3}{4}$ acre lots is also consistent with the character of the area.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
5. The Applicant has stated that the wetlands will be protected with a 100-foot buffer, and will be included within a conservation area owned by the HOA in association with the Nanticoke Conservancy.
6. The Applicant has stated that as many trees as possible will be maintained.
7. No wetlands will be included within any lots.
8. This preliminary approval is subject to the following conditions:

- A. Only 44 single-family lots shall be permitted.
- B. Restrictive Covenants shall be recorded governing the development with 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. As stated by the Applicant, the conservation area including the wetlands shall be managed by the Nanticoke Conservancy or a similar organization.
- C. The storm water management system shall meet or exceed the requirements of the State and County. No additional drainage or runoff from the project shall flow onto adjacent properties or roadways. The applicant shall also consult with the Sussex Conservation District regarding improvements to off site drainage to ensure that the development of this project does not worsen the problem, but instead improves it. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all on site and off site storm water managements areas and erosion and sedimentation control facilities.
- D. All entrances shall comply with all of DelDOT's requirements.
- E. State and/or Federal wetlands appear to be located within the proposed project. The wetlands disclosure notice required by County Code must be in the Restrictive Covenants. As stated by the Applicant, there shall be a 100-foot buffer established for all wetland areas.
- F. The Applicant has agreed that the wooded areas will be maintained as much as possible.
- G. No wetlands on the site shall be impacted, and no wetlands shall be included within any lots.
- H. A 30-foot forested or vegetated buffer shall be established along the perimeter of the property next to the properties along the north and south boundary of the project. These buffers, along with the wetlands buffers, shall be shown on a landscape plan prepared by a licensed Delaware landscape architect and included with the Final Site Plan.
- I. The Applicant shall verify on the Final Site Plan whether any Tax Ditches exist on the site and the extent of any easements associated with such a Tax Ditch.

- J. A location for a school bus stop shall be established in cooperation with the local school district. The bus stop shall be shown on the Final Site Plan.
- K. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- 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 approve this application as a preliminary, for the reasons and with the conditions stated. Motion carried 4 – 0.

Subdivision #2006 – 30 - - application of **GOSLEE MANOR, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 13.54 acres into 29 lots, (Environmentally Sensitive Development District Overlay Zone), located at the southwest corner of the intersection of Road 385A and Road 277.

Mr. Abbott advised the Commission that this application was deferred on September 13, 2007.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 30 for Goslee Manor, L.L.C., based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects orderly growth of the County.
2. The Sussex County Revised Comprehensive Plan designated the area as being within the Environmentally Sensitive Developing Area, a Development District that is desirable for appropriate development.
3. The proposed subdivision density is in accordance with the density permitted by the existing AR-1 zoning and in the Environmentally Sensitive Development District.
4. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
5. The proposed subdivision will not adversely impact schools, public buildings and community facilities.

6. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
7. 37.5% of the site, or 5 acres, will remain as open space.
8. Central Sewer and Water will be provided.
9. This preliminary approval is subject to the following conditions:
 - A. 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.
 - B. The Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
 - C. The Development shall be served by Central Water and Sewer.
 - D. The storm water management system shall meet or exceed the requirements of the State and County.
 - E. As stated by the Applicant, 30-foot forested or vegetated buffers shall be installed along Jimtown Road and Robinsonville Road. In addition, a 30-foot forested or vegetated buffer shall be installed along the Walls property.
 - F. All entrances and roadway improvements shall be constructed or funded in accordance with all of DelDOT's requirements.
 - G. A system of street lighting shall be provided throughout the project and shall be shown on the Final Site Plan.
 - H. Sidewalks shall be installed on both sides of all streets and shown on the Final Site Plan.
 - I. Street design shall meet or exceed Sussex County standards.
 - J. All amenities and recreational facilities, including a playground, tot lot, park areas and picnic areas shall be constructed and open to use by the residents of the development within 2 years of the issuance of the first building permit.
 - K. The Final Site Plan shall include a landscape plan showing all remaining trees and buffers along Robinsonville and Jimtown Roads and all required buffers from neighboring lands.

- L. The Agricultural Use Protection Notice shall be included in the Restrictions and in every deed to lots throughout the development.
- M. A hunting notice similar to the Agricultural Use Notice shall be included within the Restrictive Covenants advising owners that hunting activities occur on neighboring and adjacent lands.
- N. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.
- O. 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.
- P. 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.
- Q. An area 50-feet in width, running south of Goslee Manor Drive between the property lines of Lot 2 and Lot 3 shall be dedicated as open space. This open space area shall be reserved for a conversion as a stub street connector if and when the need for such a street connector may arise. The Restrictive Covenants of the community shall include a clause notifying all property owners of this possible conversion.
- R. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

Subdivision #2006 – 31 - - application of **SOUTH SHORE BUILDERS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 33.71 acres into 24 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Road 38, 250 feet north of Road 232.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to defer action to allow Mr. Burton to be able to participate. Motion carried 4 – 0.

Subdivision #2004 – 50 - - application of **PGS PROPERTIES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred,

Sussex County, by dividing 67.39 acres into 74 lots (Cluster Development), located north of Road 433, 0.5 mile east of Road 412.

Mr. Abbott advised the Commission that this is the final record plan for a 72-lot cluster subdivision application; that the Commission granted preliminary approval for 74 lots on October 13, 2005 and granted a one-year time extension on January 18, 2007; that the final record plan complies with the subdivision code and the conditions of approval; and that all agency approvals have been received.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to approve this application as a final. Motion carried 4 – 0.

Subdivision #2005 – 14 - - application of **THE COMMUNITIES OF BEAVER CREEK, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 77.07 acres into 154 lots (Cluster Development), located east of Route 5, 1,700 feet north of Route 9.

Mr. Abbott advised the Commission that this is the final record plan for a 154-lot cluster subdivision application; that the Commission granted preliminary approval for 154 lots on March 1, 2006; that a time extension is needed; that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and will be valid until March 1, 2008; that the final record plan complies with the subdivision code and the conditions of approval; and that all agency approvals have been received.

Mr. Johnson questioned why so much time has elapsed for the applicants to request a time extension.

Richard Clendaniel of The Communities of Beaver Creek, L.L.C. advised the Commission that a time extension was an oversight by the engineering firm.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval. Motion carried 4 – 0. Preliminary approval is valid until March 1, 2008.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve this application as a final. Motion carried 4 – 0.

Subdivision #2005 – 16 - - application of **JOSEPH L. WARNELL** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 199.06 acres into 187 lots (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located south of the intersection of Road 207 and Road 214, and north of Road 38, 3,385 feet north of Road 224.

Mr. Abbott advised the Commission that this is the final record plan for a 175-lot cluster subdivision application; that the Commission granted preliminary approval for 187 lots

on March 1, 2006 and granted a one-year time extension on March 15, 2007; that the final record plan has been reduced by 12 lots; that the final record plan complies with the subdivision code and the conditions of approval; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve this application as a final. Motion carried 4 – 0.

Subdivision #2005 – 46 - - application of **BILL LINK AND ELMO SINGER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 16.25 acres into 15 lots, located northwest of Burton Street, 0.46 mile north of Road 535.

Mr. Abbott advised the Commission that this is the final record plan for a 15-lot subdivision application; that the Commission granted preliminary approval for 15 lots on July 27, 2006; that a time extension is also needed; that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval and will be valid until July 27, 2008; that the final record plan complies with the subdivision code; that all agency approvals have been received; and that one of the conditions of the preliminary approval was that there shall be no wetlands on the individual lots; and that the applicant's engineers are requesting that this condition be deleted; that Lot 12 shows 2 small pockets of wetlands on it; and that the Lot will be deed restricted.

The Commission discussed deleting the condition that no wetlands be included within any lot lines; the Commission discussed this during the public hearing; and that it has been a practice of the Commission to not permit any wetlands on individual lots.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval. Motion carried 4 – 0. Preliminary approval is valid until July 27, 2008.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to deny the final record plan as submitted since the final record plan shows wetlands on Lot 12. Motion carried 4 – 0.

Subdivision #2005 – 77 - - application of **CHESAPEAKE CONSTRUCTION** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Seaford Hundred, Sussex County, by dividing 13.01 acres into 13 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Road 535 and as an extension to Foxtail Drive in Clearbrooke Acres.

Mr. Abbott advised the Commission that this is the final record plan for a 13-lot subdivision application; that the Commission granted preliminary approval for 13 lots on December 14, 2006; that the final record plan complies with the subdivision code and the conditions of approval; and that all agency approvals have been received.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the record plan as a final. Motion carried 4 – 0.

Subdivision #2006 – 3 - - application of **SOUTHSORE BUILDERS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 18.89 acres into 18 lots, located west of Route 5 across from Roads 257 and 259.

Mr. Abbott advised the Commission that this is the final record plan for a 16-lot subdivision application; that the Commission granted preliminary approval for 16 lots on April 26, 2007; that the final record plan complies with the subdivision code and the conditions of approval; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve the record plan as a final. Motion carried 4 – 0.

OTHER BUSINESS

Seasons at Bethany
CU #1488 – Substantial Construction

This item was removed from the agenda on October 17, 2007.

Subdivision #2005 – 46 – Bill Link and Elmo Singer
Amended Dwelling Types

Mr. Abbott advised the Commission that this is a request to amend the types of dwelling units that will be permitted in this subdivision; that during the public hearing, the applicants stated that all dwellings constructed within this subdivision would be stick built with a minimum floor area of 1,200 to 1,500 square feet; that these requirements were also stated in the draft restrictive covenants; that the applicants are now requesting permission to allow for double-wide manufactured homes on permanent foundations; that all of the lots are a minimum of 0.75-acres; and that at the public hearing on June 8, 2006, no parties spoke in support of or in opposition to this application.

Mr. Wheatley stated that he feels that this is a significant change to the original plan and that some residents may be opposed to manufactured housing being permitted on the lots.

Mr. Abbott advised the Commission that there was another subdivision application that requested this same type of change and that the developers were required to go through the public hearing process again.

Motion by Mr. Gordy, seconded by Mr. Johnson and carried unanimously to deny this request and require the developers to go through the subdivision process again if the developer wants to allow manufactured housing. Motion carried 4 – 0.

Subdivision #2004 – 22 – Terrance Babbie
Revised Plan

Mr. Abbott advised the Commission that this is a revised record plan for a 49-lot single-family cluster subdivision; that the previously approved plan was for 49 lots; that this revised plan has eliminated a dry storm water management pond and a pump station; that a community center has been added and is centrally located; that walking paths has also been added; and that the developer feels that this is a better plan than what was originally approved.

Terrance Babbie advised the Commission that a bus stop will be added; that a swimming pool and clubhouse have been added; and that infiltration ponds have been deleted.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the revised plan as submitted as a preliminary. Motion carried 4 – 0.

Bay City Mobile Home Park
Lot Enlargements

Mr. Abbott advised the Commission that this is a request to revise Lots 1 through 4 within Bay City from 65' by 70' in 1973 and 66' by 80' in 1992 and 1994; that the proposed revision is to increase the lot depth; that an on-site inspection on April 27, 2007 showed what appears to be vegetated wetlands on the area to be added to these lots; and that the Commission deferred action on April 19, 2007 for a legal interpretation.

Mr. Robertson advised the Commission that the lots are pre-existing lots and were not subject to a conditional use application.

Mr. Johnson advised the Commission that he visited the site; and that the information provided is inadequate to determine how much of the lots are uplands and that it has been the practice of the Commission to not permit wetlands on individual lots.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to deny this request due to the fact that inadequate information has been provided to the staff, that there is a conflict with the existing plots, and a wetlands delineation has not been completed. Motion carried 4 – 0.

Subdivision #2005 – 53 – Polly and Mark Yoder, Jr.
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval on August 16, 2006; that this is the first request for an extension; and that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval. Motion carried 4 – 0. Preliminary approval is now valid until August 16, 2008.

Subdivision #2005 – 54 – Baywood, L.L.C.
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval on August 16, 2006; that this is the first request for an extension; and that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval. Motion carried 4 – 0. Preliminary approval is now valid until August 16, 2008.

Subdivision #2005 – 58 – Windmill Estates, L.L.C.
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval on September 14, 2006; that this is the first request for an extension; and that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval. Motion carried 4 – 0. Preliminary approval is now valid until September 14, 2008.

Subdivision #2005 – 64 – Palisades Land, L.L.C.
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval on September 28, 2006; that this is the first request for an extension; and that if an extension is granted, it should be retroactive to the anniversary date of the preliminary approval.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to grant a one-year time extension retroactive to the anniversary date of the preliminary approval. Motion carried 4 – 0. Preliminary approval is now valid until September 28, 2008.

Subdivision #2005 – 67 – Summer Hill Developments
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval on October 18, 2006; and that this is the first request for an extension.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to grant a one-year time extension. Motion carried 4 – 0. Preliminary approval is now valid until October 18, 2008.

Subdivision #2005 – 76 – James H. and Dorothy M. Bailey
Time Extension

Mr. Abbott advised the Commission that this is a request for a one-year time extension; that the Commission granted preliminary approval on October 26, 2006; and that this is the first request for an extension.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to grant a one-year time extension. Motion carried 4 – 0. Preliminary approval is now valid until October 26, 2008.

Jerry Shockley
2 Parcels and 50' Right of Way – Road 375

Mr. Abbott advised the Commission that this is a request to subdivide 17.60-acres into 2 parcels and create a 50-foot right of way; that the proposed Lot 1 will contain 32,670 square feet and the residual land will contain 16.863-acres and will have access from a proposed 50-foot right of way; that the owner proposes to create the right of way across an existing 14-foot stone drive; and that this request may be approved as submitted or 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 a concept. Motion carried 4 – 0.

Thomas and Tammie Deputy
2 Parcels and 50' Right of Way – Road 450

Mr. Abbott advised the Commission that this is a request to subdivide a 6.012-acre parcel into 2 lots and create a 50-foot right of way over an existing paved driveway; that one lot will contain 2.477-acres and have access from the proposed 50-foot right of way; that the remaining land will contain 3.535-acres; that 2.229-acres of the residual parcel is located in Sussex County and 1.306-acres is located in Kent County; that the proposed right of way is located in Kent County; that if the Commission is favorable to this request, it should be stipulated that the owners provide verification that Kent County has no objections, that a letter of no objection should be required from DelDOT; and the Board of Adjustment granting variances that have been applied for.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve this request as a concept with the stipulations that the owner provide verification that Kent County and DelDOT have no objections, and that variances be granted by the Board of Adjustment. Motion carried 4 – 0.

Hoyt Jestice

2 Parcels and 50' Right of Way – Road 494

Mr. Abbott advised the Commission that this is a request to create a parcel with access from an existing 50-foot right of way; that the owner is subdividing a 1.00-acre parcel out of a 5.03-acre tract; that the remaining 4.03-acre parcel will have 100-feet of road frontage along Road 494 and will have access from an existing 50-foot right of way; and that the request may be approved as submitted or an application for a major subdivision can be required.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve this request as a concept. Motion carried 4 – 0.

Jordan Reynolds

7 Lots and 50' Right of Way – Route 30

Mr. Abbott advised the Commission that this is a request to subdivide 2 separate parcels into 7 lots and create a 50-foot right of way to serve as access to the lots; that Parcel 2-35-20.00-1.00 will be divided into 3 lots; that these lots will contain 1.37, 1.50 and 1.36 acres; that Parcel 2-35-20.00-1.01 will be divided into 4 lots; that these lots will contain 2.87, 1.32, 1.45 and 1.33 acres; that with 7 lots proposed, a public hearing should be required; that the request may be approved as submitted or an application for a major subdivision can be required.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to deny the request as submitted and require an application for a major subdivision. Motion carried 4 – 0.

Linda Lofton

Parcel and 60' Right of Way – Road 82

Mr. Abbott advised the Commission that this is a request to create a parcel with access from an existing 60-foot right of way; that one parcel will have access from Road 338 and has 200 feet of road frontage; that the remaining acreage will be accessed from an existing 60-foot right of way off of Road 82; and that the request may be approved as submitted or an application for a major subdivision can be required.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve this request as a concept. Motion carried 4 – 0.

Travis Ventures, L.L.C.

3 Lots on an Existing 50' Right of Way

Mr. Abbott advised the Commission that this is a request to create 3 lots on an existing 50-foot right of way and to enlarge an existing lot; and that the proposed lots will contain 9.66, 5.86, 5.86 and 6.60 acres.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to approve this request as a concept. Motion carried 4 – 0.

Rules of Procedure
Possible Amendments

The Commission discussed the Rules of Procedure of the Planning and Zoning Commission and amendments made by Mr. Robertson; and Mr. Robertson will provide the Commission with and staff with revised documents.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to adopt the amended Rules of Procedure of the Planning and Zoning Commission effective January 1, 2008. Motion carried 4 – 0.

Mr. Robertson will notify Attorneys of the Rules of Procedure and the staff will make copies available to applicants, surveyors and engineers.

ADDITIONAL BUSINESS

There was a consensus of the Commission to hold a special meeting on November 14, 2007 at 3:00 p.m. for Old and Other Business items.

Meeting adjourned at 4:55 p.m.