



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF OCTOBER 22, 2009

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, October 22, 2009, in the County Council Chambers, County Administrative Office Building, in 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. Rodney Smith, Mr. Michael Johnson, and Mr. Martin Ross with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott, Assistant Director.

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

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to the Minutes of August 27, 2009 as amended. Motion carried 4 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of October 8, 2009 as circulated. Motion carried 4 - 0.

OLD BUSINESS

In reference to both **Subdivision #2008-8** and **C/U #1794** the following comments were made:

Mr. Johnson stated that he was impressed with the subdivision and the protection of the environment provided; that even with the combined subdivision and multi-family use the density was still lower than that which could be permitted; that he is concerned about the Conditional Use application since no multi-family uses exist in the general area and the use appears to be out of character; that a subdivision of the area of the conditional use would be preferred; and that he supports the subdivision and is opposed to the Conditional Use.

Mr. Wheatley agreed with Mr. Johnson.

Mr. Smith stated that he appreciated the presentation when combined, but did not get enough information on the Conditional Use to establish viable use of the property for a Conditional Use.

Mr. Ross agreed and suggested that the Applicant apply for subdivision of the area of the Conditional Use and that the application could be processed expeditiously.

Subdivision #2008-8 – application of **VESCO, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 162.95 acres into 183 lots, (Cluster Development), located east of Road 277 (Robinsonville Road), 400 feet south of Road 2287 (Kendale Road).

The Commission discussed this application which has been deferred since October 8, 2009.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2008-8 for VESCO, L.L.C. based upon the record and for the following reasons:

- 1) The Applicant is seeking approval of a clustered subdivision within the AR-1 zone. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet. The land was brought into the Environmentally Sensitive Developing Area in the 2008 Comprehensive Land Use Plan.
- 2) A subdivision on this site will not have an adverse impact on the neighboring properties or community.
- 3) The subdivision will not adversely impact schools, public buildings, area roadways or public transportation.
- 4) The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
- 5) I am satisfied that this project is a superior design under the Subdivision Ordinance. It is a superior design because it has a density of only 1.12 units per acre while maintaining approximately 102 acres of open space and 60 percent of the forested area. Also, nearly all of the lots back up to open space. There are large buffers from the wetlands and Love Creek, as well.
- 6) The design addresses the requirements of Section 99-9C of the Code.
- 7) The subdivision will be served by central water and sewer.
- 8) This preliminary approval is subject to the following:
 - a. There shall be no more than 183 lots within the subdivision.
 - b. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
 - c. The stormwater 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 DelDOT's 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 Departments.
 - f. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - g. Agricultural buffers shall be provided as required by Ordinance. 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. No wetlands shall be included within any lots. As proffered by the Applicant, the minimum distance from 404 wetlands will be 40-feet.
- j. A system of street lighting shall be established.
- k. Sidewalks shall be located fronting on all lots and on at least one side of all streets in the subdivision and connecting with amenities and the paved multi-modal pathway fronting the property as shown on the Preliminary Site Plan.
- l. The subdivision shall be served by a central sewer system as defined by Sussex County Ordinance, and designed in accordance with the Sussex County Engineering Department and DNREC specifications.
- m. All amenities and recreation areas shall be completed within the project prior to the issuance of the 50th residential Building Permit within the project. The amenities include the swimming pool, tennis courts, clubhouse/community center and tot lots. The clubhouse/community center and swimming pool should be more centrally located to be more accessible for all the residents and to reduce any possible impact on the environment.
- n. This preliminary approval is contingent upon the Applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on the Plan.
- o. The Final Site Plan for each phase of the project shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to grant Preliminary approval of Subdivision #2008-8 for VESCO, L.L.C. for the reasons and with the conditions stated. Motion carried 4 – 0.

C/U #1794 – application of **VESCO, L.L.C.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for multi-family dwelling structures (30 units) in association to a 183 lot cluster subdivision, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 162.95 acres, more or less, lying east of Road 277 (Robinsonville Road), 400 feet south of Road 287 (Kendale Road).

The Commission discussed this application which has been deferred since October 8, 2009.

Mr. Johnson stated that he would move that the Commission recommend a denial of C/U #1794 for VESCO, L.L.C. for multi-family dwelling structures based on the record and for the following reasons:

- 1) While I am generally pleased with the subdivision that was considered at the same time as this Conditional Use, I do not believe that the Conditional Use is appropriate. In making this recommendation, I am not opposed to the number of units, just the multi-family nature of them. Multi-family or townhouse style condominium units are more appropriate in more urban or developed areas, or areas that already have MR, GR, or HR zoning.
- 2) The Applicants have not, in my opinion, satisfied the County Code's requirements for such a Conditional Use, including the full protection of surrounding properties, that it is

of a public or semi-public character, or that it benefits the general convenience and welfare of County residents.

- 3) The application is not consistent with the character of the surrounding property and the underlying AR-1 zoning of this property. There are no other multi-family condominium structures similar to the Applicant's proposal in this area, and the area is not predominantly a townhouse or multi-family condominium community. Lower priced condominium units could negatively impact neighboring property valuations.
- 4) The Conditional Use is not well integrated into the rest of the subdivision, which has an overall good design.
- 5) And furthermore, I recommend that if the Applicant chooses to integrate this section into the overall subdivision, then it should be expedited.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to forward this application to the Sussex County Council with the recommendation that Conditional Use #1794 be denied for the reasons stated. Motion carried 4 – 0.

PUBLIC HEARINGS

Subdivision #2008-27 – application of **ELIZABETH A. HIMES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 21.75 acres into 2 lots, a variance from the maximum allowed cul-de-sac length of 1,000 feet and a waiver from the street design requirements, located at the southeast end of Lynk Lane, 1,004.07 feet east of U.S. Route 13A.

Mr. Abbott advised the Commission that the Technical Advisory Committee agencies provided comments on this application by February 19, 2009, and that the Commission had granted approval for the first 3 lots and the 50-foot wide right-of-way on November 20, 2003.

The Commission found that James Jewell, the Applicant's Grandson, was present on her behalf and stated that the Applicant has 5 grandchildren and wants to create this additional lot for one of the grandchildren; that family members currently live on all of the lots; and that the driveway is maintained by family members.

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. Ross stated that he would move that the Commission grant preliminary and final site plan approval of Subdivision #2008-27 for Elizabeth A. Himes, based on the record and for the following reasons:

- 1) The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
- 2) The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 2 lots on 21.75 acres of land is significantly less than the allowable density.

- 3) The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
- 4) The proposed subdivision will not adversely impacts schools, public buildings and community facilities.
- 5) The proposed subdivision will not adversely affect traffic on area roadways.

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to grant preliminary and final approval of Subdivision #2008-27 for the reasons stated. Motion carried 4 – 0.

Subdivision #2009-6 – application of **PRISCILLA E. FOSTER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 6.60 acres into 2 lots, and a waiver from the street design requirements, located east of Route 30, 1,150 feet north of Road 207.

Mr. Abbott advised the Commission that the Technical Advisory Committee agencies provided comments on this application by August 31, 2009.

The Commission found that Rick Vetter, Professional Engineer, was present on behalf of the Applicant and stated that it is a family owned property; that they are proposing to create the 50-foot wide right-of-way for access to the residual lands; that the existing improved driveway is stone and gravel; that the driveway will have to be relocated onto the property since it actually crosses over onto a neighboring property; that the relocated driveway is proposed to be stone and gravel; that DelDOT is requiring that the northerly driveway be closed; and that access to the existing dwelling and the residual lands shall be from the right-of-way only.

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. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2009-6 for Priscilla E. Foster, based upon the record and for the following reasons:

- 1) The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
- 2) The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 2 lots on 6.6 acres of land is significantly less than the allowable density.
- 3) The proposed subdivision will be consistent with the area 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 proposed subdivision will not adversely affect traffic on area roadways.
- 6) This recommendation is subject to the following conditions:
 - a. There shall be no more than 2 lots within the subdivision.
 - b. All entrances shall comply with all of DelDOT's requirements.

- c. The driveway shall be relocated so that it no longer encroaches onto the neighboring property.
- d. The Final Site Plan shall contain a note providing for the maintenance of the shared driveway.
- e. Any further subdivision shall require a public hearing.
- f. The Final Site Plan shall be subject to the review and approval of the staff upon receipt of all necessary agency approvals.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to grant preliminary approval of Subdivision #2009-6 for the reasons and with the conditions stated. Motion carried 4 – 0.

C/U #1795 – application of **STEVEN KREBS/KREATIVE GARDEN CENTER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for commercial greenhouses and a retail garden center to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.5 acres, more or less, lying northeast of Route 20 (a.k.a. Road 382), approximately 1,100 feet northwest of Road 384.

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

Mr. Lank provided the Commission with a series of photographs of the site taken by staff. Approximately ½ of the photographs were taken on August 26, 2009 and the other ½ were taken in the winter.

Mr. Lank advised the Commission that this site has been the subject of litigation before the Court of Chancery, with correspondence on file dating back to 2004 and that the Conditional Use could not be applied for until the litigation was resolved per advice of the County Attorney. The application was finally applied for on April 30, 2008.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended; that the existing Level of Service “C” of Route 20 will not change as a result of this application; and that the site shall have access from the existing entrance along Road 382 (a.k.a. Route 20) as shown on the site plan submitted to DelDOT.

The Commission found, based on comments received from the County Engineering Department, dated September 12, 2007, that the site is located in a near-term service area for central sewer; that the County has approved the boundaries of the Johnson’s Corner Sanitary Sewer District; that the site is located within that area and is expected to receive central sewer service within the next 5 years; that the schedule indicates service could become available approximately Summer 2010; and that because the site is in a near-term service area, it may be approved for installation of temporary holding tank.

The Commission found that the County Engineering Department Utility Planning Division submitted comments on October 21, 2009 and referenced that the site is located in the Johnson Corner Sanitary Sewer District; that wastewater capacity is available for the proposed Conditional Use; that Ordinance 38 construction will not be required; that the current System Connection Charge Rate is estimated to be \$3,600.00 per EDU; that an existing on-site septic

system is proposed; that sewer service is not available to the parcel at this time; that conformity to the South Coastal Area Planning Study – 2005 Update and the Preliminary Engineering Report for the Johnson's Corner Sanitary Sewer District will be required; that area residents voted and approved the District in referendum on July 21, 2007; that a central sewer system is under construction and sewer service is expected to be available to the parcel as early as the summer of 2010; that connection to the system is mandatory and connection must occur within one year of sewer service becoming available; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided comments on October 19, 2009 and referenced there are 3 soil types on this property; that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that it is possible that on-site drainage improvements will be required; and that there is a potential that tax ditching may be affected.

The Commission found that Dennis L. Smith had submitted comments in opposition to this application on September 22, 2009. The written comments were provided to the Commission and contained 7 pages, a copy of the public notices for the Commission hearing and the County Council hearing, and 4 Exhibits. The file of this application also contains an additional 11 pages of information and 15 additional Exhibits which Mr. Smith asked that they be placed in the file.

The Commission found that Steven Krebs was present and stated in his presentation and in response to questions raised by the Commission that he has been in business on the site for 7 years as a retail garden center and commercial greenhouses; that he originally leased the property; that he acquired the site last year; that he has received letters and petitions in support of the use; that he wants to continue operating the business; that the use is good for the community; that the use is good for his family; that he will hook up to the County sewer when it is available; that the business is supportive of agricultural and residential uses and referenced buffer landscaping; that the sheds on the property for sale are going to be removed; that the primary business on site is the sale of firewood, landscaping, nursery stock, mulch, stone, landscaping features, and pavers; that he also operates his landscaping business from this site; that the split rail fencing along the tax ditch has been removed; that he also cleans and maintains this tax ditch along his property; that he presently has a porta-toilet on site for employees and customers; that the business operates 7 days per week during Spring, Summer and Fall; that he normally closes the business from late December to March; that he has a dumpster on site for trash and debris; that security lighting already exists on all buildings; that he has never had a problem with the materials displayed on site; that the Board of Adjustment has granted a maximum square footage of 900 square feet for signage; that any violations are corrected immediately; that he offers no food services; that the barbeque proposal is no longer being considered; and that he realizes that he will have to reapply for any change in the use of the property.

The Commission found that Mr. Krebs submitted letters in support from The Honorable State Representative Gerald W. Hocker, Sandra L. deChurch of Blossoms, Inc. Christine Phillips of PNC Bank; Jane M. Cooper, Cheryl H. Esposito, and Dianne L. Thompson, and a petition containing 38 signatures in support.

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 #1795 for Steven Krebs/Kreative Garden Center for commercial greenhouses and a retail garden center based upon the record and for the following reasons:

- 1) The use is agricultural in nature, and is consistent with the underlying AR-1 Zoning.
- 2) The use is a benefit to the local residents and supports the local agricultural economy.
- 3) The proposed use will not have an adverse impact on the community or traffic in the area.
- 4) This recommendation is subject to the following conditions:
 - a. The use shall be limited to commercial greenhouses and a retail garden center, and other uses incidental to those uses. Such incidental uses would include the sale of landscape pavers, off-site bobcat and/or landscaping services, mulch and stone, firewood, etc. Bar-be-que, shed sales and other uses not incidental or similar to the permitted uses will require a separate public hearing.
 - b. There shall be no more than 8 employees on site.
 - c. The hours of operations shall be from 8:00 a.m. to 6:00 p.m. seven days per week.
 - d. All entrances shall comply with all of DelDOT requirements.
 - e. The property shall connect to County sewer when such sewer becomes available and the connection shall comply with all County Engineering Department requirements.
 - f. The Final Site Plan shall contain the location of all greenhouses, buildings, bins and pads for storage of mulch, gravel and stone, and areas designated for outside storage and display.
 - g. Security and task lighting shall be downward lighted and shielded so as to prevent encroachment on neighboring properties.
 - h. There shall be no signage beyond the scope and limitations already approved by the Sussex County Board of Adjustment. No banners, flags or feather flags with writing visible on them shall be permitted to advertise the business.
 - i. The dumpster shall be screened from view of County Route 382 and neighboring properties.
 - j. No display of wares, stock or goods for sale shall be permitted in the front yard setback.
 - k. 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 for C/U #1795 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 #1800 – application of **CHERYL NORMANDEAU** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for office and retail use to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.50 acres, more or less, lying southeast of Route 24, 430 feet southwest of Road 284

(Mulberry Knoll Road) and northwest of Road 284 (Mulberry Knoll Road), 515 feet south of Route 24.

The Commission found that on October 13, 2009 the Applicant provided the Commission with an Exhibit Booklet and revised Survey/Site Plan and that the Exhibit Booklet contains a color rendering of the site plan, the qualifications of Mark H. Davidson of Design Consultants Group, L.L.C., a summary on Design Consultants Group, L.L.C. and DCG Environmental Services, Inc. and their key personnel, a copy of the applications, a listing of property owners, a reduced copy of the site plan, references to the Environmentally Sensitive Developing District Overlay Zone, copies of deeds, DelDOT comments of September 5, 2008 and January 29, 2008, a site evaluation, willing and able to serve letters from Tidewater Utilities, Inc., a series of maps and aeriels, and suggested proposed Findings of Fact and Conditions for Approval.

The Commission found, based on comments received from DelDOT, that a Traffic Impact Study was not recommended; that the current Level of Service "E" of Route 24 will not change as a result of this application; that the current Level of Service "A" of Mulberry Knoll Road may change to a Level of Service "B"; that DelDOT, on September 5, 2008 issued a letter for entrance location approval only that does not authorize the commencement of entrance construction and acknowledging that the site shall have access from Mulberry Knoll Road; that direct access to Route 24 will not be permitted; and that entrance plans shall be developed in accordance with DelDOT rules and regulations prior to entrance approval.

The Commission found that the Sussex Conservation District provided comments on October 19, 2009 and referenced there are 2 soil types on this property; that the Applicant will be required to follow recommended erosion and sedimentation control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that on-site drainage improvements will be required; and that there are no tax ditches affected.

The Commission found that the County Engineering Department Utility Planning Division submitted comments on October 21, 2009 and referenced that the site is located in the Goslee Creek Planning Area; that the proposed use will use an existing on-site septic system; that conformity to the North Coastal Area Planning Study will be required; that when the County provides central sewer service, the on-site system must be abandoned and a direct connection to the central sewer is mandatory; and that a concept plan is not required.

The Commission found that a letter in opposition was received from Chester Bush and Leroy Bush expressing concerns about increased traffic, and the lack of a traffic light at an intersection with a lot of accidents due to high traffic.

The Commission found that Mark Davidson of Design Consultants Group, L.L.C. was present on behalf of the Applicant with Cheryl Normandeau, Sue McCarthy and Kimberly Grimes, and that Mr. Davidson stated in his presentation and in response to questions raised by the Commission that they are proposing a 9,200 square foot building with general medical and professional office uses with some retail; that the site is in close proximity to several commercial, business, and conditional use sites for business uses; that the site is adjacent to a school approved as a

Conditional Use; that the site is located in the Environmentally Sensitive Developing Area according to the Comprehensive Plan which references that small retail and office uses are appropriate; that the State Strategies reference that the site is located in an Investment Level 2; that the site will be served by Tidewater Utilities with central water; that they are proposing on-site septic and have feasibility for a gravity system until the central sewer is available; that they will connect to the central sewer when available; that access is to be from Mulberry Knoll Road only; that DelDOT will not permit access to Route 24; that DelDOT has voiced no objection to the entrance location proposed on Mulberry Knoll Road; that right-of-way expansions are required from both Route 24 and Mulberry Knoll Road; that the building is proposed to be 1-story; that all parking is proposed on the Mulberry Knoll Road side of the property; that 46 spaces are required and 50 have been planned; that a landscape plan will be submitted with the Final Site Plan; that the dumpster area will be fenced and landscaped; that fencing will be provided along neighboring residential lots; that the site is located in a good recharge area and infiltration basins are proposed; that they will meet the TMDL requirements in designing the site; that they can meet 100% of the TMDL requirements; that no State or Federal endangered species were found on the site; that no wetlands exist on the site; that they are outside of the 500-year flood area; that no historically registered sites exist on site; that the style of the building will reflect the style of the neighborhood; that the use meets the purpose of a Conditional Use; that they have prepared and submitted proposed Findings of Fact and Conditions of Approval, and a listing of proposed uses and proposed restrictive uses; that the Applicants will make whatever improvements are required by DelDOT; that business hours for the retail may be from 8:00 or 9:00 a.m. to 7:00 or 9:00 p.m. seven days per week; and that the office hours may be from 8:00 a.m. to 5:00 p.m. 5 or 6 days per week.

The Commission found that Mr. Davidson submitted some proposed Conditions of Approval for consideration and charts on the TMDL calculations for the watershed.

The Commission found that Ken and Sue Denbow were present in opposition to this application and expressed concerns that the area was originally called "Bushes Corner" because of the Bush families that lived in the community; that the majority of the families in the community are related; that they have never seen a strip mall enhance a neighborhood; that they are opposed to a 6-foot high solid fence along their property line; that they are opposed to a business access separating them from the family members; that they are opposed to the lighting proposed; that they are opposed to the use of a septic system for medical offices; that they are concerned about the existing number of accidents at the intersection of Route 24 and Mulberry Knoll Road and even more concerned if this project increases traffic; that Mulberry Knoll Road is a dead end road and the use will impact everyone travelling the road; that the use will disrupt everybody's lifestyle; that there is not a need for the use in this area since Peddlers Village is only 1 mile to the west and shopping centers along Route One are only 1 mile to the east; that they appreciate that the dumpster will be hidden, but oppose the noise and hours of the trash trucks that will pick up the dumpsters; that they have to wait 5 to 10 minutes to cross or turn left onto Route 24 from Mulberry Knoll Road; that a lot of cyclist use Route 24 and Mulberry Knoll Road; that the traffic and entrance to the business will impact everyone; that the use does not enhance the neighborhood; that they would prefer a residential use; and that they would prefer a berm and landscaping trees over solid fencing.

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 4 – 0.

C/Z #1659 – application of **BAYWOOD, L.L.C.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District and a GR-RPC General Residential District – Residential Planned Community to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying west of Route 24 and 700 feet south of Road 298 (Banks Road), to be located on 43.19 acres, more or less.

It was announced earlier that this application had been withdrawn on October 14, 2009.

C/U #1796 – application of **BAYWOOD, L.L.C.** to consider the Conditional Use of land in a proposed CR-1 Commercial Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 37.349 acres, more or less, lying west of Route 24 and 700 feet south of Road 298 (Banks Road).

It was announced earlier that this application had been withdrawn on October 14, 2009.

Meeting adjourned at 7:50 p.m.