



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF NOVEMBER 5, 2009

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 5, 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. I. G. Burton, 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 5 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of October 14, 2009 as amended. Motion carried 5 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of October 22, 2009 as amended. Motion carried 5 - 0.

OLD BUSINESS

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 discussed this application which has been deferred since October 22, 2009.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1800 for Cheryl Normandeau for office and retail use based upon the record made at the public hearing and for the following reasons:

- 1) The project is of a public or semi-public character and will be beneficial to the surrounding neighborhood.
- 2) The Sussex County Comprehensive Plan Update designates the subject property as within the Environmentally Sensitive Developing Area and states retail and office uses are appropriate in this area.
- 3) Central water is available to the project.

- 4) The proposed project will have access from Mulberry Knoll Road, and there will be no access via Route 24. All entrances, intersections, roadway improvements, etc. will be reviewed and approved by DelDOT and will be completed by the Applicant as required by DelDOT.
- 5) The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the community.
- 6) This recommendation for approval is subject to the following conditions and stipulations:
 - a. The maximum building square footage shall not exceed 9,200 square feet. The proposed building shall be 1-story as proffered by the Applicant.
 - b. The uses shall be limited to office or retail uses. As proposed by the Applicant, the following uses shall not occur on the premises: (1) filling stations, (2) used car lots or other lots for automobile sales or storage; (3) automobile repair; (4) liquor store; (5) tobacco store; (6) nightclub; (7) restaurants; (8) dry cleaning and laundry establishments; (9) tattoo parlor; (10) undertaking businesses or establishments or funeral homes; and (11) dog kennels.
 - c. All dumpsters and loading areas shall be screened with a 6-foot high privacy fence and landscaping. The Final Site Plan shall indicate the location of the dumpster and the type of fencing that surrounds it.
 - d. A 6-foot high privacy fence shall be placed along the boundary of Parcels 111.00 and 112.01. The Final Site Plan shall indicate the type of fencing in this area.
 - e. All entrances, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT and within the time periods required.
 - f. The project shall be served by an individual on-site wastewater disposal system as approved by DNREC until the site can be served by a Sussex County sewer district.
 - g. Potable drinking water shall be provided by Tidewater Utilities, Inc.
 - h. Stormwater management and erosion and sediment shall be constructed in accordance with all applicable State and County requirements and shall be operated using Best Management Practices to provide positive groundwater recharge.
 - i. The site may have two (2) non-illuminated signs, one on Route 24 and one on Mulberry Knoll Road, which shall not exceed 32 square feet on any side or facing, identifying the uses permitted on the same premises. The sign along Route 24 shall include directions for entering the premises from Mulberry Knoll Road.
 - j. Parking lot and security lighting will be provided and will have downward illumination and shielded so that no illumination will encroach over any property line.
 - k. A landscaping plan shall be provided as a part of the Final Site Plan.
 - l. Any commercial ventilation fans, vents, and heating and air-conditioning units will be placed on the roofs of the building.
 - m. No outside speakers, bells or ringers will be permitted for any use.
 - n. No outside storage of pallets, crates or building materials will be permitted.
 - o. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that the application be

approved for the reasons and with the conditions and stipulations stated. Motion carried 4 – 0.
Mr. Burton did not vote since he was not in attendance during the public hearing.

PUBLIC HEARINGS

C/U #1801 – application of **CHASE T. BROCKSTEDT** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for office buildings to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.337 acres, more or less, lying at the northeast corner of Savannah Road and Ritter Road west of Lewes.

The Commission found that on October 22, 2009 the Applicant provided the Commission with an Exhibit Booklet. The Exhibit Booklet contains an Executive Summary; a property description; a copy of the deed to the property; a boundary and location survey; a series of photographs of the property; a copy of the Application form; a proposed site plan; proposed front and side elevations of the proposed buildings; a proposed building footprint/floor plan; a map depicting other Conditional Use applications in the area; a map of existing land use in the area; a tax map of the general area; a map of the current zoning; a map of the general area depicting that it is located in the Environmentally Sensitive Developing Area; a map referencing that the site is located in the water service area of the Lewes Board of Public Works; a map referencing that the site is located in an Investment Level 2 area according to the State Strategies; a map referencing that the site is located in a County Sewer District; a DelDOT Service Level Evaluation Response; comments from the Applicant in reference to subdivision criteria (99-9C) in the Subdivision Ordinance; comments relating to an Environmental Assessment; a copy of a soils report prepared by Terra Firma Consulting, Inc.; letters from area residents; and letters of intent from potential tenants.

The Commission found, based on comments received from DelDOT, that a Traffic Impact Study was not required.

The Commission found that the Sussex Conservation District provided comments on November 3, 2009 and that the comments reference that there are 3 soil types on the site; that the Applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard area or tax ditch are affected; that it may not be necessary for any off-site drainage improvements; and that it on-site drainage improvements may be necessary.

The Commission found that the Sussex County Engineering Department – Planning and Permits Division provided comments on November 5, 2009 and that the comments reference that the site is located in the West Rehoboth Expansion Area; that the Planning Study and capacity assumption for the parcels is 4.0 EDU per acre for AR zoned land for a total of 5.36 EDU; that at the design assumption, capacity can be assumed for an office building on each parcel that does

not exceed 1,786 square feet (1 EDU per 1,000 square feet); that if proposed office buildings are larger, additional information should be provided and a capacity review completed before approval; that Ordinance 38 construction is not required; that the current System Connection Charge Rate is \$4,336.00 per EDU for the period July 1, 2009 through June 30, 2010; that Parcel 3.03 and Parcel 3.0 were each provided with a 6-inch sanitary sewer lateral during original construction; that a 6-inch lateral may not be adequate for proposed uses and lateral upgrades may be required; that Parcel 3.04 does not have a gravity connection point because the parcel was created after original sewer construction; that Parcel 3.04 also does not have a gravity line along its street frontage and how the parcel will connect to sewer is unknown at this time; that the developer is responsible for costs associated with lateral upgrades to Parcels 3.03 and 3.00 and extending sewer service to Parcel 3.04; that if the existing structure on Parcel 3.00 is to be removed, it must be properly disconnected requiring a disconnection permit, disconnection by a Sussex County licensed plumber and inspection by the County; that conformity to the West Rehoboth Expansion Area Planning Study will be required; that it more than 1.78 EDUs per parcel is required downstream sewer line and pump station upgrades may be required; and that a sanitary sewer concept plan is required.

The Commission found that an E-mail voicing objections to the application was received from Kathleen O'Hanlon expressing concerns that there is no complete information regarding the application; that adding another road onto Dove Drive would add to the confusion at the intersection; that the business would cause increase in the number of vehicles turning into Covey Creek; that the entrance/exit for this development would increase traffic; that exiting onto Savannah Road is challenging and there have been several accidents at this location; and that she does not support this application.

The Commission found that Chase Brockstedt, Attorney, was present on behalf of his application and submitted an additional Exhibit Booklet which contains a map of other business uses in the area and photographs of those business uses for the record.

The Commission found that Mr. Brockstedt, along with Charles Adams, Surveyor, stated in their presentations and in response to questions raised by the Commission that he is proposing to build two (2) professional buildings on the site for medical, legal and professional offices; that the existing brick home on the property is deteriorating; that he proposed to combine the existing three (3) lots into one (1) building parcel; that he will attempt to maintain as many trees on the site as possible; that he has been in contact with some of the area residents and the Directors of Covey Creek Homeowners Association; that the site plan has been prepared based on some of the recommendations of the Directors of the Covey Creek Homeowners Association; that there are at least 11 Conditional Use/Business sites along Savannah Road; that several of the Conditional Use sites are new buildings and some are converted dwellings into offices; that Tab S of the Exhibit Booklet describes how the use and site plan are proposed to comply with the criteria of 99-9C of the Subdivision Ordinance, and in summary: that a building will be designed to be harmonious with its coastal location and other offices along Savannah Road; that the northerly and easterly borders will be fenced and landscaped; that the site contains no wetlands; that the site is outside of the 500-year floodplain and poses no impacts to the floodplains; that the decision to apply for two (2) smaller buildings instead of one (1) larger building was to create a less dense site, save trees, promote open space and in direct response to feedback from area

residents; that there are no known historic features on the site; that the buildings and parking lot are set back from Savannah Road creating an open and natural buffer between Savannah Road and the buildings; that all necessary steps will be taken to eliminate any potential runoff onto adjacent properties; that soil sampling has been performed; that the area where the trash dumpsters will be located will be enclosed with a privacy fence; that on-site lighting will consist of turned down lighting that will direct light onto the site only; that water supply will come from well water on site; that sewer disposal will be through the County Sewer District; that the site's stormwater management system will capture all runoff from impervious surfaces by utilization of a stormwater pond feature; that the stormwater management and erosion and sediment control practices will be designed in accordance with all applicable requirements and will provide for adequate sediment and nutrient removal; that one (1) entrance will access the site from Ritter Road and is proposed at the furthest point from Savannah Road per the recommendation of DelDOT; that sidewalks will be provided; that the proposed project is consistent with what has been approved along Savannah Road in the past; that removing the existing structure and replacing it with two small architecturally pleasing office buildings that take into account the surrounding properties as well as the site's coastal location should serve to increase property values; that the site contains no farmland; that approval of this project should not negatively impact area schools, public buildings or community facilities; that the addition of medical and professional office space will create employment opportunities; that the breakdown of 75% professional use and 25% medical use was specifically designed to lessen any potential negative impact on traffic; that the nearest public transportation bus stop is approximately 50-feet west of the proposed location; that this area of Savannah Road includes many offices housing medical providers and businesses; that the proposed business/medical use is consistent with the growth and development of this area of Savannah Road; and that the proposed plan will not affect area waterways; that the soils are conducive to infiltration; that test pits will be dug to establish infiltration rates; that a sign will be proposed along Savannah Road; that his law firm will occupy part of the space in one (1) building; that several tenants have shown interest in occupying both buildings; that he hopes to build both buildings at the same time; that Ritter Road, partially known as Dove Drive, also serves Covey Creek Subdivision and several other parcels; that DelDOT suggested placing the limitation on the application for 25% medical use; and that the well site has not been established.

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

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

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

Mr. Lank advised the Commission that the Applicants have requested that one public hearing be held on C/Z #1660 and C/U #1797 for Baywood, LLC, for presentation purposes, and acknowledging that decisions will be rendered separately.

There was a consensus of the Commission to consolidate the two applications into one public hearing.

C/Z #1660 – application of **BAYWOOD, LLC** 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 Indian River Hundred, Sussex County, land lying 600 feet north of Route 23 (Long Neck Road) and 2,000 feet west of Greens Way (entrance into Baywood Community), to be located on 16.475 acres, more or less.

C/U #1797 – application of **BAYWOOD, LLC** to consider the Conditional Use of land in a B-1 Neighborhood Business 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 19.794 acres, more or less, lying north of Long Neck Road (Route 23) and west of Greens Way (entrance into Baywood Community).

The Commission found that October 26, 2009 the Applicants provided Exhibit Booklets and revised site plans to the Commission. The Exhibit Booklet contains an executive summary; a project overview of the current site conditions; reference to the PLUS review; references to compliance with zoning regulations; reference to C-1 zoning; references to the Environmentally Sensitive Developing District Overlay Zone; an area vicinity map; a site plan; a map showing the general zoning of the area; copies of the application forms; a copy of the general area from the Developed and Protected Lands map from the Comprehensive Plan Update; a Traffic Impact Study review letter from DelDOT; an entrance approval letter from DelDOT; a map of the general area showing the Investment Level 1 and 2 area from the State Strategies; a copy of the general area from the Future Land Use Plan map from the Comprehensive Plan Update; an Open Space Management Plan; a copy of the soils map of the general area; a copy of the USGS Quad map of the general area; a copy of the FEMA Flood Map of the general area; a map of the groundwater recharge area of the general area; a copy of the PLUS comments from May 24, 2005; a copy of the Applicants response to the PLUS comments, dated January 4, 2006; a willing and able to serve letter from Inland Bays Preservation Co. for collection, distribution, and treatment of sanitary sewer; suggested proposed Findings of Fact and Conditions; a July 25, 2005 letter from the Planning and Zoning Commission referencing conceptual approval of the C-1 portion of the site and parking; a Statement of Conformity with the Comprehensive Plan Update; six (6) color renderings of the proposed buildings; a series of photographs; and a resume for Jason Palkewicz, Professional Engineer with McCrone, Inc.

The Commission found that the Sussex Conservation District provided comments on November 3, 2009 and that the District referenced that the site for C/Z #1660 contains four (4) soil types; that the Applicants will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard area or tax ditch is affected; that it is not likely that off-site drainage improvements will be required and that it will be necessary for some on-site drainage improvements. The District added in their comments on C/U #1797 that there are seven (7) soil types and that the remaining comments are the same as the comments on C/Z #1660.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on November 5, 2009 and that the Division referenced that the site for C/Z #1660 is located in the Long Neck Sanitary Sewer District; that there is no sewer service

to the parcel at this time; that the existing District does not have capacity to provide sewer service to the parcel; that a letter on file with the Engineering Department, dated January 7, 2002, indicates the developer would process wastewater from the parcel through the Baywood facility; that Baywood is adjacent to the District and a privately operated system serve the Baywood development; that the parcel must be de-annexed from the District before the project could connect to the Baywood system; that a de-annexation process is similar to the procedure for being brought into a District; that it requires advertising and posting of public notices and then conducting a public hearing followed by a majority vote of the County Council approving the de-annexation; that there will be a fee of \$1,500.00 to cover the cost of advertising and administrative procedures; that prior to being the process to de-annex the Engineering Department must be provided with a design report from a qualified engineer that shows that the whole system serving Baywood has capacity for the addition of the proposed project; and that a concept plan is not required. The Division added in their comments on C/U #1797 that of the proposed parcels is located in the Herring Creek Planning Area and that the Division has no objection to the proposed development discharging to the treatment system in Baywood.

The Commission found that the Department had received an E-mail from Lewis Newman in opposition to the application for rezoning referencing that Long Neck Road is already overcrowded and that more business traffic is not what the area needs.

The Commission found that Robert Tunnell, III and Robert Tunnell, Jr. were present on behalf of Baywood, L.L.C. with Dennis Schrader, Attorney with Wilson, Halbrook & Bayard, P.A., Frank Kea, Land Use Planner and Consultant with Frank Kea Communities, Jason Palkewicz, Professional Engineer with McCrone, Inc. and D.J. Hughes, Professional Engineer with Davis, Bowen & Friedel, Inc. and that they stated in their presentations and in response to questions raised by the Commission that the site contains 3 tracts of land with 3 existing zonings, AR-1, C-1 and B-1; that they are proposing to amend the zoning for the AR-1 portion of the site to B-1 and then proposing to develop the site for multi-family use; that 143 units are proposed within the proposed Conditional Use area; that they consider the project as an infill project; that central water and sewer will be provided; that no wetlands exist on the property; that the site is located in Investment Levels 1 and 2 according to the State Strategies; that the site is located in the Environmentally Sensitive Developing Area according to the Comprehensive Plan Update; that they have reviewed the Sussex County Functional Classification Map and the area within 4 miles of the site; that 354 units are proposed within the combined parcels, 143 in the B-1 and 211 in the existing C-1; that the site is surrounded by development activities including multi-family across Long Neck Road, a church to the west, and Baywood Communities to the north and east; that the proposed density will equal 7.5 units per acre; that the review of the area within 4 miles of the site shows that Long Neck is virtually an unincorporated town; that there are approximately 15,000 homes within this 4 mile radius with approximately 7,700 full-time residents and approximately 33,000 residents during the summer season; that the area has a 2.1% commercial vacancy rate; that there are no affordable housing units in the area; that the price range will start at \$175,000 per unit; that the units will be low maintenance; that the property will be maintained by a homeowners association; that the use is in compliance with the Comprehensive Plan Update and is located in a growth area; that the multi-family units across Long Neck Road have a density of 8.5 units per acre; that the Comprehensive Plan Update suggest that development in this area should have a density of 5 to 10 units per acre and that

multi-family projects provide more open space than single family subdivisions; that the project will be developed with a main boulevard entrance with multi-family units over neighborhood style commercial office units in the C-1 District; that a community building, swimming pool, a playground, and paved pathways are proposed; that the paved pathways are proposed to be 10 to 12 feet in width and can be utilized as a secondary fire lane; that a series of exercise stations will be provided along the paved pathway; that the existing B-1 and C-1 portion of the property were rezoned in 1995 and have deed restrictions which limit the uses; that a stormwater management pond water feature is proposed; that 30 to 50 foot buffers will be provided; that two types of buildings are proposed, some with 23 units and some with 12 units; that the units will contain approximately 1,300 to 1,500 square feet each with 2 and 3 bedrooms; that the existing multi-family units in Baywood contain 1,800 square feet to 2,400 square feet; that the project will meet the 40% reductions of the TMDL standards; that endangered species have been investigated; that there are no known historic sites on the property; that the stormwater management facility will be a wet pond with bio-infiltration with quality control features; that one entrance is proposed and an interconnection to the Baywood community will be provided; that the amenities will be shared with the Baywood community; that the Traffic Impact Study was performed for the entire project; that DelDOT will be requiring improvements to area roadways; that the entrance will align with the entrance across Long Neck Road; that the Applicants have already sign a signal agreement with DelDOT; that the entrance has been approved and bonded with DelDOT; that this area is the 3rd larger metropolitan area of Sussex County; that there will be no negative impacts on the Lewes or Rehoboth areas; that no large commercial/big box stores are proposed; that the State has voiced no objections through the PLUS process; that sidewalks will be on all sides of streets; that they have no intent to develop the proposed rezoning portion with commercial uses; that the residents within Phase 3 of the Baywood project have been informed of the intent of this project; that the 354 proposed units on the parcels equal 7.7 units per acre; that the units will be apartment style condominium units; that monthly fees for maintenance will be required; that no sub-leasing or seasonal rentals will be permitted; that a homeowners/condominium owners association will be created; that parking spaces will meet or exceed that which is required by Code; that the C-1 portion of the site received conceptual approval in 2003; that the original PLUS submittal included the entire property; that a 10-foot wide multi-modal path will be built along Long Neck Road; that the pathway system is wide enough for golf carts; that the DelDOT approval included a Dart bus stop; ; that they have not provided an interconnection with the church property to the west; and that a mail box station could be provided.

The Commission found that Mr. Schrader submitted a copy of Ordinance No. 955 for C/Z #1189, the C-1 portion of the site; a copy of Ordinance No. 1052 for C/Z #1261, the B-1 portion of the site; a copy of the Declaration of Restrictions for the C-1 portion of the site; small versions of the exhibit boards presented during the public hearing, including the color rendering of the site plan, an aerial photograph with an overlay of the site plan, a site plan, four renderings of the buildings, an aerial photograph of the Long Neck area; floor plans for the proposed condominium buildings; a Current Development Lands Map showing the 4 mile radius, and the Sussex County Functional Classification Map.

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

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action on C/Z #1660 for further consideration. Motion carried 5 – 0.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action on C/U #1797 for further consideration. Motion carried 5 – 0.

Subdivision #2005-94 – application of **SEACOAST INVESTMENTS, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 81.84 acres into 163 lots, (Cluster Development), located east of U.S. Route 113, south of Road 325, and west of Road 326.

Mr. Abbott advised the Commission that this is a re-hearing; that the application was originally heard on January 11, 2007 for 199 lots; that the application was a cluster subdivision and also in the moderately priced housing unit program; that on February 20, 2007 the Commission deferred action and asked that the County Council clarify its' position on accepting the application into the moderately priced housing unit program; that on June 12, 2007 the County Council disqualified this application from the moderately priced housing unit program; that on March 18, 2009 the Commission reviewed a revised preliminary plan for 163 lots and determined that a new public hearing should be required due to the time lapse from the original hearing; that the application was reviewed by PLUS on April 22, 2009 and that the State responded on May 18, 2009; that the applicants responded to PLUS' comments on October 20, 2009; that PLUS has not issued their final comments yet; and that the applicants submitted an Exhibit Booklet and revised preliminary plan on October 26, 2009.

James Fuqua, Attorney, and Kevin McBride with Morris & Ritchie Associates, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the original booklet that was submitted for the first hearing should be considered a part of the record for this application; that a revised Exhibit Booklet has been submitted; that 163 single-family lots are proposed on 81.84 acres; that the site is south of Georgetown and fronts on U.S. Route 113, Bethesda Road and Speedway Road; that the site is the Georgetown Speedway location; that the application was originally filed in 2005 for 163 lots; that the owner was accepted into the County's moderately priced housing unit program and a revised plan for 199 lots was submitted; that 26 lots were a bonus density for the MPHU program; that this application was the first moderately priced housing unit program application; that since the site was located in a low density area, the County Council had to disqualify the application from the program; that since the Comprehensive Land Use Plan has been amended and the Town of Georgetown's plan has been amended, the site is now located in a designated growth area; that due to the economy and the current real estate market, the owner no longer wishes to participate in the MPHU program; that this application has been amended to 163 single family lots; that the site plan was reviewed by PLUS in April 2009 and that the applicants have responded to PLUS' comments but have not received final comments; that the State is not opposed to this application; that the site currently contains a racetrack with accessory grandstands, concession areas and parking; that the racetrack is a legal non-conforming use that was established in the 1950's; that the site is zoned Agricultural Residential; that low density single family residential developments are a permitted use in this zoning district; that the

proposed density is 2 lots per acre; that central water will be provided by Tidewater and that a central sewer system will be utilized; that soils work has been performed and DNREC has issued a septic feasibility statement; that infrastructure will be provided by Delaware Electric Co-operative, Media Com, and Verizon, that the site is located in the Indian River School District, that fire protection is provided by the Georgetown Fire Company; that police protection is provided by Delaware State Police Troop 4 which is approximately 1 mile from the site; that the site is centrally located in Sussex County; that there are nearby commercial uses in close proximity to the site; that the proposed development will create jobs; that DelDOT did not require that a traffic impact study be performed; that the applicant has entered into funding agreements with DelDOT for improvements to the local roads; that some of the improvements to area roadways include median islands, a round about at Zoar Road, Bethesda Road and Speedway Road; that the lot owners will be subject to a homeowners' association responsible for maintenance of improvements; that the minimum lot size is 7,500 square feet; that no wetlands are contained on the individual lots; that there are 41.95 acres of open space; that 163 single-family lots are proposed; that there are 22.80 acres of forest lands; that 18.95 acres of forest lands will remain undisturbed; that buffers are proposed around the perimeter of the site; that tennis courts, multi-purpose sports courts and ball fields are proposed; that the site contains no historical features; that the items referenced in Section 99-9C of the Subdivision Ordinance have been adequately addressed and are referenced in Tab #9 of the Exhibit Booklet; that the design of the project preserves natural features; that the applicants feel that the design of this project is superior to a standard subdivision; that this project has gone through 3 previous designs; that the entrance to the project is off of Bethesda Road; that a central on-site wastewater treatment system is proposed; that each of the designs has improved and has created more open space than what was originally proposed; that 8.7 acres of impervious areas has decreased due to the redesign of the right of ways; that representatives of the project have met with Mr. Baxter and run-off will not occur or be discharged onto his property; that the existing ditch on the site can be cleaned out to improve drainage in the area; that the design of the projects meets all ordinances and regulations; that the project will provide housing in the area; that the site is located in a designated growth area; that sidewalks will be provided on both sides of all streets in the subdivision; that the applicant has no intention of connecting to Town of Georgetown sewer; that wastewater will be treated on-site through spray irrigation and rapid infiltration basins; that the soils on the site are suitable for wastewater treatment; that oil drums, oil and fuel were found on the site through a Phase 1 Environmental Assessment Study; that there are no areas of concern with these findings; that walking trails are proposed; that a school bus stop will be provided; that the representatives are not sure of the proposed square footage of the dwellings at this time; that the lots will be marketed in the \$200,000.00 to \$250, 000.00 price range; that a community center is not proposed as the developer is trying to keep the project as affordable; that a final response from PLUS has not yet been received; that DNREC has issued a septic feasibility statement; that the proposed DelDOT round about for Zoar, Bethesda and Speedway Roads is not contingent on this project; that the round about will be built around 2013; that the restrictive covenants will include the agricultural use protection deed restriction; and submitted proposed findings of fact and conditions of preliminary approval into the record.

Mr. Robertson advised the Commission that the hearing of January 11, 2007 is still a part of this application.

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

The Commission found that James Baxter, Buzz Kruger, Joe Smith, Roland Hitchens, Mike Chorman and Cheryl Adams-Baker were present in opposition to this application and advised the Commission that 375 acres of farmland in the area is irrigated by the Town of Georgetown's wastewater treatment; that 163 lots are proposed on only 70 acres of land; that DNREC has approved sludge application for agricultural lands in the area; that 163 homes would be placed in the middle of a 35 home community; that there are drainage problems in the area; that the area is predominately agricultural and Chapter 14 protects area farmers; that adjoining properties are protected by Agricultural Preservation Districts; that the project will negatively impact traffic in the area; that the ditch on the site is privately owned and is not a tax ditch; that the ditch cannot be cleaned out without approval; that the project will cause flooding to the area and that farms will be impacted; that the boundary lines of the perimeter of the project are not correct; that the local roads cannot handle additional traffic; that the proposed round about will cause problems for farm machinery in the area; questioned the findings of DNREC is reference to the well monitoring that was done; that a central wastewater treatment system is not in a good location since it is located across from residences; that the race track was created in the 1950's and has historical features to the area; that motor oil was applied to the race track to keep dust down; that oil and gas has been dumped on the site; and that the race track should remain as is.

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

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to leave the record open for 15 days after receipt of the final PLUS comments, a Phase 1 Environmental Assessment Study and a survey verifying the actual boundaries of the property. Motion carried 5 – 0.

Meeting adjourned at 9:20 p.m.