



Planning & Zoning

Agendas & Minutes

MINUTES OF THE SPECIAL MEETING OF NOVEMBER 20, 2006

A special meeting of the Sussex County Planning and Zoning Commission was held Monday afternoon, November 20, 2006 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, Mr. Rodney Smith, and Mr. I. G. Burton III 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 circulated.

OLD BUSINESS

Subdivision #2005-39 – application of **B & W VENTURES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 29.11 acres into 20 lots, located south of Road 215 (Slaughter Neck Road), 1,600 feet west of Route One.

The Commission discussed this application, which has been deferred since May 25, 2006.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 39, for B & W Ventures, L.L.C., based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The proposed subdivision density conforms with the density permitted by the existing AR-1 zoning. The lots will range in size from $\frac{3}{4}$ of an acre to nearly 3 acres.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.

4. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
5. DNREC has indicated that the site is suitable for individual on site septic systems.
6. The Applicant has agreed to comply with all recommendations of the Technical Advisory Committee.

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7. This approval is subject to the following conditions:
 - Only 16 single-family lots shall be permitted.
 - The Applicant shall prepare and record formal Restrictive Covenants governing the development and form a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
 - The storm water management system shall meet or exceed the requirements of the State and County.
 - All entrances shall comply with all of DelDOT's requirements.
 - As the Applicant has agreed, the homes shall have a minimum square footage of 1,800 square feet and shall be stick built on-site and shall not have manufactured homes.
 - Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 5 – 0.

Subdivision #2005-49 – application of **GULFSTREAM LAND, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 47.26 acres into 90 lots, (Cluster Development), and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north and south of Road 363, 1,320 feet east of Road 84.

The Commission discussed this application, which has been deferred since August 16, 2006.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 49, for Gulfstream Land, L.L.C., based upon the record and for the following reasons:

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1. The Development is designed in accordance with the Environmentally Sensitive Development District Overlay Zone. There is approximately 38% of the project as open space, and the design preserves the natural environment by retaining approximately 85% of the existing forested areas. Also, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
2. The applicant has proposed 90 lots within the project, which is less than the maximum density under the AR-1 zoning of this land.
3. The project will not have an adverse impact on the neighboring properties or community.
4. The lots will be served by central water. Sewer service will be provided by Sussex County.
5. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
6. This approval is subject to the following conditions:
 - There shall be no more than 90 lots within the Subdivision.
 - The Developer shall form a homeowners' association to be responsible for the maintenance of streets, roads, any buffers, storm water management facilities, and other common areas.
 - The storm water management system shall meet or exceed the requirements of the State and County. The Applicant and its successors shall operate the system using Best Management Practices to provide ground water recharge.
 - All entrances shall comply with all of DeIDOT's requirements.

- Street lighting shall be provided, and the location of the streetlights shall be shown on the Final Site Plan.
- As stated by the Applicant, Multi-modal paths shall be installed throughout the project, with their location shown on the Final Site Plan.
- As stated during the Applicant's presentation, the Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.

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- Amenities shall be constructed on the site, including a pool and community clubhouse. The pool and community clubhouse shall be relocated to a more central location within the project. Sufficient parking shall be added for the pool and clubhouse as well as parent pickup and drop off for school buses. The new location of this area shall be shown on the Final Site Plan.
- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.
- The interior street design shall be in accordance with or exceed Sussex County street design requirements.
- No wetlands shall be included within any individual lots. Wetlands shall be maintained as non-disturbance areas, except as permitted by a wetlands permit.
- Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- The Restrictions shall contain a note that Tax Ditches with corresponding maintenance exist on site.
- A school bus stop area shall be located within the project. The Developer shall coordinate and cooperate with the local school district's transportation manager to establish the school bus stop area, The location of the bus stop with the approval of the local school district, shall be shown on the Final Site Plan.

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 5 – 0.

Subdivision #2005-71 – application of **DELAWARE LAND ASSOCIATES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro

Hundred, Sussex County, by dividing 89.12 acres into 49 lots, (Cluster Development) and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located east of Road 318, 4,940 feet southeast of Road 86.

The Commission discussed this application, which has been deferred since October 12, 2006.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 71, for Delaware Land Associates, L.L.C., based upon the record and for the following reasons:

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1. The development is designed in accordance with both the Subdivision Ordinance and the Clustered Development Ordinances. The proposed Cluster Design is superior to a standard subdivision with lots that are least ½ acre in size and 39% open space. The clustered design is also compatible with the environmentally sensitive character of the property. The applicant has proposed only 49 lots while preserving a significant amount of open space.
2. The items in Section 99-9C of the Subdivision Code have been favorably addressed.
3. The project will not have an adverse impact on the traffic, neighboring properties or community.
4. Although there are wetlands on the site, there are no wetlands within any lots. And the developer will provide 50-foot buffers from the edge of Millsboro Pond where tree removal will be prohibited.
5. A variance from the maximum allowed cul-de-sac length of 1,000 feet is appropriate in this case given the configuration of the property. And, the applicant has proposed a traffic-calming design to mitigate against the length of the roadway.
6. This approval is subject to the following conditions:
 - The maximum number of lots shall not exceed 49.
 - The applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, environmental conservation easements, storm water management facilities, recreational areas, and other common areas.

- The storm water management system shall meet or exceed the requirements of the State and County and Best Management Practices shall be utilized when appropriate.
- Street lighting shall be provided, and the location of the streetlights shall be shown on the Final Site Plan.
- No wetlands shall be included within any lot lines.
- The Restrictive Covenants governing the project must include the Agricultural Use Protection Notice and the Wetlands Notice.

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- Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- A school bus stop area shall be established on the site as approved by the School District Transportation Coordinator. The location of the bus stop, with the approval of the local school district, shall be shown on the Final Site Plan.
- The development shall be served by individual septic systems for sewage disposal.
- The applicant shall comply with all roadway intersection and entrance improvements required by DelDOT, if any. Any road realignment shall be in conformity with DelDOT regulations.
- Multi-use trails shall be shown on the Final Site Plan.
- Recreational facilities shall be open for use by residents of the development within two (2) years of the issuance of the first residential building permit.
- Only one community observation dock may be considered where shown on the preliminary plan and must meet all DNREC permitting requirements. No motorized boat launching or docking facilities will be provided. Boating activities will be limited to kayaks, canoes and other non-motorized watercraft.
- The applicant shall establish 50-foot environmental conservation easements and open space as identified on the preliminary site plan. There shall be no removal of trees within 50-feet of the pond except for deadwood.
- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

- Paved multi-modal pathways to be provided on at least one side of all roads and will connect at the entrance on County Road 318.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 5 – 0.

Subdivision #2005-73 – application of **LANDLOCK, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Georgetown Hundred, Sussex County, by dividing 132.96 acres into 213 lots, (Cluster Development), located north of Route 9, 950 feet southeast of Route 30.

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The Commission discussed this application, which has been deferred since October 12, 2006.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 73 for Landlock, L.L.C., based upon the record and for the following reasons:

1. The Development is designed in accordance with the Cluster Development Ordinance. The proposed Cluster design is superior to a standard subdivision with about 52% of the site as open space, with 40% of the site considered passive open space. Also, the items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed. The Applicant has proposed 213 lots while preserving a significant amount of open space. For these reasons, the Development is superior to a standard subdivision.
2. The project will not have an adverse impact on the neighboring properties or community.
3. The Development will not cause any adverse impact upon traffic in the area by this Development.
4. The lots will be served by central sewer and water.
5. The site's design has a minimal impact on wetlands and no wetlands are included within any lots.
6. The project is in an area that has already developed with various uses, including single-family homes, commercial uses, a DelDOT facility, and a manufactured home park.

7. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.

8. Amenities will be provided, including a clubhouse and pool.

9. This approval is subject to the following conditions:

- There shall be no more than 213 lots within the Subdivision.
- 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.

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- The storm water management system shall meet or exceed the requirements of the State and County. Best Management Practices shall be used in the maintenance of the system.
- All entrances shall comply with all of DelDOT's requirements.
- Street lighting shall be provided, and the location of the streetlights shall be shown on the final site plan.
- Sidewalks shall be installed on both sides of all streets within the Subdivision, and shall connect with the amenities and multi-modal pathway along Route 9.
- No wetlands shall be included within any lot lines.
- Amenities, including a clubhouse and swimming pool shall be constructed and open to use by residents of the development within 2 years of the issuance of the first residential building permit.
- There shall be a 60-foot forested buffer from all of the adjacent property boundaries and the tax ditch that exists on the property.
- The Final Site Plan and Restrictive Covenants shall contain a notice about the existence of a tax ditch within the project and shall describe the location on dimensions of the tax ditch maintenance easement.
- Bus stop areas shall be located as necessary throughout the project. The Developer shall coordinate and cooperate with the local school district's transportation manager to establish the school bus stop areas. The location of these bus stops, with the approval of the local district, shall be shown on the Final Site Plan.

- Street naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Gordy, and carried unanimously to approve this application as a preliminary for the reasons, and with the conditions stated. Motion carried 5 – 0.

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Subdivision #2005-68 – application of **SANDY LANDING, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 40.38 acres into 77 lots, (Environmentally Sensitive Developing District Overlay Zone), located west of Road 341, across from Road 342.

The Commission discussed this application, which has been deferred since October 26, 2006.

Mr. Smith stated that he has considered the opposition's comments and all of the input has been considered and that he would move that the Commission grant preliminary approval of Subdivision #2005 – 68 for Sandy Landing, L.L.C., based upon the record and for the following reasons:

1. The subdivision is in compliance with the Sussex County Subdivision Ordinance. The project is also located within the Environmentally Sensitive Development Area and the applicant has provided supportive information in accordance with the Overlay Zoning Ordinance. The items listed in Section 99-9C of the Subdivision Ordinance have also been favorably addressed.
2. The applicant has proposed 77 lots within the project, which is less than the allowable density for an AR-1 subdivision on this land.
3. The project is consistent with neighboring and adjacent properties and will not have an adverse impact on the neighboring properties or community. The project is in the vicinity of other existing developments with similar characteristics, including Dogwood Acres, Seawinds and The Bluffs.
4. The development will be served by central water and sewer systems built in accordance with the requirements of DNREC and other Federal, State and County agencies.

5. The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed in that:

- (a) The subdivision will be integrated into the existing terrain and surrounding landscape with the maintenance of significant areas of open space, trees and buffer areas.
- (b) There will be no negative impact on wetlands, as no lots will contain any wetlands and substantial buffers are provided.
- (c) Significant existing natural features will be largely preserved through the use of conservations areas, buffers, and open space.

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- (d) The design allows the preservation of a significant amount of open space and will create scenic views of natural features on the site.
- (e) Tree, vegetation and soil removal will be minimal and enhanced through additional landscape features.
- (f) The design of the development avoids potentially objectionable features.
- (g) The subdivision will be served by central water and central sewer.
- (h) Through the establishment of a storm water management plan, erosion and sedimentation and pollution of surface and ground water will be minimized on the site. In addition, any potential impact on the adjacent waterways will be positive in that runoff from the present agricultural uses of the site will be eliminated.
- (i) The area property values will not be adversely affected by the development of the project.
- (j) The project will have a positive effect on the schools by generating economic benefits in the form of property taxes for the school district where the project is located.
- (k) There will not be an adverse effect on area roadways and all required upgrades to the area roadways will be provided at the developer's expense in accordance with DelDOT's requirements.
- (l) The project will be compatible with other area land uses, including existing residential developments located in the area such as Dogwood Acres, Seawinds and The Bluffs.
- (m) The project will not adversely affect area waterways as a result of the buffering that has been provided for all wetlands and waterways. In addition, surface and storm water will be contained and treated on site through the project's storm water management plan resulting in improvement to the quality of storm water.

6. This recommendation is subject to the following conditions:

- There shall be no more than 77 lots within the Subdivision.
- 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.
- The storm water management system shall meet or exceed the requirements of the State and County. The Applicant and its successors shall operate the system using Best Management Practices to provide groundwater recharge.

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- The size of a central sewer system and storm water management system shall maximize groundwater recharge and erosion and sediment control measures and shall comply with all State and County requirements.
- All entrances shall comply with all of DelDOT's requirements. However, the Developer is encouraged to work with DelDOT to achieve what everyone agrees would be a more sensible entrance location along County Road 341.
- Street lighting shall be provided, and the location of the streetlights shall be shown on the final site plan.
- Sidewalks shall be installed on both sides of all streets within the Subdivision and shall be shown on the final site plan.
- The Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the final site plan.
- No wetlands shall be included within any lot lines.
- The Restrictive Covenants governing the project shall include the Agricultural Use Protection Notice and the Wetlands Notice.
- Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- A school bus stop area with parking for at least 4 vehicles shall be located within the project. The Developer shall coordinate and cooperate with the local school district's transportation manager to establish the school bus stop area. The location of the bus stop area, with the approval of the local school district, shall be shown on the Final Site Plan.

- No individual docks shall be constructed or maintained on the site. A community dock and launching facility operated by the Home Owners' Association shall be permitted, subject to receipt of all necessary Federal or State approvals.
- The applicant shall provide agricultural buffers and wetland buffers in accordance with applicable regulations.
- As represented by the Applicant, the 4.53 acre parcel of land designated as "Residual Lands" on the Preliminary Site Plan shall remain as undeveloped open space. It is also suggested that the Applicant explore donating this land for

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conservation purposes to avoid the burden of maintaining it that will fall upon the Homeowners' Association.

- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.
- The Applicant shall relocate the lots on the east side of County Road 341 so that they do not back up to poultry operations and so that they are directly across the road from the rest of the residential lots within the subdivision.

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 5 – 0.

Subdivision #2005-74 – application of **DELMARVA WOODLANDS ALLIANCE 4, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District and a GR General Residential District in Indian River Hundred, Sussex County, by dividing 172.12 acres into 296 lots, (Cluster Development), located south of Road 48, east and west of Road 305, and south of Road 302.

The Commission discussed this application, which has been deferred since October 26, 2006.

Mr. Johnson stated that he was not present during the public hearing and that he would like to review the record and the applicant's response to the PLUS comments.

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

Subdivision #2005-75 – application of **TOP DRAWER, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 108.63 acres into 72 lots, located south of Road 78, across from Road 487.

The Commission discussed this application, which has been deferred since October 26, 2006.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2005 – 75, for Top Drawer, L.L.C., based upon the record and for the following reasons:

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1. The subdivision meets the purpose of the Subdivision Ordinance and protects the orderly growth of the County.
2. The subdivision density is less than the density permitted by the existing AR-1 zoning, and the lots will all be bigger than $\frac{3}{4}$ acres.
3. The subdivision is integrated into the existing terrain and surroundings. There is also about 40% of the site remaining as open space.
4. The subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
5. The subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
6. DNREC has indicated that the site is suitable for individual on-site septic systems. Water will be from individual wells.
7. This recommendation is subject to the following conditions:
 - The Applicant shall prepare and record Restrictive Covenants governing the development and form a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
 - The storm water management system shall meet or exceed the requirements of the State and County.
 - All entrances shall comply with all of DelDOT's requirements.

- The Restrictive Covenants shall include the Agricultural Use Protection Notice.
- A Forested Buffer shall be included around the perimeter of the subdivision where the adjacent property is used for agricultural purposes.
- Street naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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- As stated by the Applicant, the Restrictive Covenants shall include tree preservation requirements.
- As stated by the Applicant, there shall be amenities including a tot lot, bike paths and a mulched trail system.

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 5 – 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.

The Commission discussed this application, which has been deferred since October 26, 2006.

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

C/U #1668 – application of **KARL M. KLINK III AND MELANIE KLINK** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a country store and storage of overhead doors and parts to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 21,560 square feet, more or less, lying southwest of Route 20 (a.k.a. Road 382 and Armory Road), 150 feet northwest of Road 354.

The Commission discussed this application, which has been deferred since October 26, 2006.

Mr. Smith stated that he would move that the Commission recommend denial of C/U #1668 for Karl M. Klink III and Melanie Klink for a country store and storage of overhead doors and parts based on the record made at the public hearing and for the following reasons:

1. Mr. Smith does not believe that the application is consistent with the character of the surrounding property.
2. The purpose of this application is to allow a Conditional Use to operate a country store and storage of overhead doors and parts facility on an otherwise agricultural-residential zoned property. While there are some businesses in this area, the applicants agreed that the majority of the area is used for either agricultural or

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- residential uses. And the other businesses that do exist are for the sale of produce. This more intensive use would be out of character with the adjacent and surrounding properties.
3. Although the Applicants stated that the intended uses are limited, Mr. Smith believes that there are other locations that are currently zoned for business or commercial use that are available and better-suited for the intended use.
 4. The application does not promote the health, safety, convenience and general welfare of the neighborhood or community.
 5. The proposed use as an overhead door storage facility with an attached country store is not consistent with the purposes of the AR-1 District as set forth in the County Zoning Code.

Motion by Mr. Smith to forward this application to the Sussex County Council with the recommendation that the application be denied.

There was no second to the motion. The motion died for the lack of a second.

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

The Chairman asked that the application be placed on the agenda for December 7, 2006.

C/U #1716 – application of **ANDREW LUBIN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office park with medical, professional, and retail buildings to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 25.3896 acres, more or less, lying southeast of Route 24, 1,300 feet southwest of Route One.

The Commission discussed this application, which has been deferred since October 26, 2006.

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

The Chairman asked that the application be placed on the agenda for December 7, 2006.

OTHER BUSINESS

Subdivision #2004 – 8 – Spring Breeze Associates
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the

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County Council granted preliminary approval on November 8, 2005; and that this is the first request for an extension.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to grant a one-year time extension retroactive to the anniversary date of approval. Motion carried 5 – 0. Preliminary approval is now valid until November 8, 2007.

CU #1536 – Mr. Natural Bottled Water
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the conditional use was approved on May 18, 2004; that the applicant has advised that they were not aware that site plan approval was required; that the existing building on the site has been used for storage of bottled water; that a new septic system and well have been installed on the site; and that the applicants are trying to relocate a building to the site to be used as an office.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to grant a one-year time extension retroactive to the anniversary date of approval. Motion carried 5 – 0. Approval is now valid until May 18, 2007.

CU #1612 – Canal Place, L.L.C.
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the conditional use was approved on November 8, 2005; that the Commission granted preliminary site plan approval on July 6, 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 retroactive to the anniversary date of approval. Motion carried 5 – 0. Approval is now valid until November 8, 2007.

CU #1619 – Helena R. Dove
Time Extension

Mr. Abbott advised the Commission that this is a request for a time extension; that the conditional use was approved on November 1, 2005; and that this is the first request for an extension.

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Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to grant a one-year time extension retroactive to the anniversary approval date. Motion carried 5 – 0. Approval is now valid until November 1, 2007.

Ethel N. Wheatley
2 Parcels and 50' Right of Way – Sailors Path

Mr. Abbott advised the Commission that this is a request to subdivide a 4.16 acre parcel into a 2.35 acre and a 1.81 acre parcel and to extend an existing 50-foot right of way to serve as access to the 2 lots; that DelDOT has approved the access to the lots from the right of way; and that if the request is approved, it should be stipulated that any further subdivision of the property will require an application for a major subdivision.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to approve the request as submitted with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Carlos and Debra Russell
5 Lots and 2, 50' Right of Ways – Road 592

Mr. Abbott advised the Commission that this is a request to create 5 lots and 2, 50-foot right of ways; that the proposed lots 1, 1A and 2 will have access from a 50-foot right of way; that the owner proposes to create the right of way over an existing 20-foot road; that these lots would be subdivided out of one parcel; that lots 3 and 4 will have access from a 50-foot right of way; that the owner proposes to create the right of way over an existing driveway; that all of the lots are greater than 10 acres except for lot 1A; and that the request can be approved as submitted or require an application for a major subdivision.

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

Sam and Christine Sockriter
Parcel and 50' Right of Way – Road 42

Mr. Abbott advised the Commission that this is a request to create a 1.89 acre parcel out of a 5.00 acre parcel with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing driveway; and that the request can be approved as submitted or require an application for a major subdivision.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the request as submitted. Motion carried 5 – 0.

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Denise Burns
2 Parcels and 50' Right of Way – Road 291

Mr. Abbott advised the Commission that this is a request to subdivide a 5.21 acre parcel into a 2.30 acre and a 2.06 acre lot with access from a 50-foot right of way; that there is only 50-feet of road frontage existing; that the request can be approved as submitted or require an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the request as submitted. Motion carried 5 – 0.

Phyllis Gillinger
2 Lots and 50' Right of Way – Road 331

Mr. Abbott advised the Commission that this is a request to subdivide a 2.00 acre parcel into a 0.75 acre and a 0.85 acre parcel with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing stone driveway; that the pump house should be required to be relocated out of the right of way; and that the request can be approved as submitted or require an application for a major subdivision.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the request as submitted with the stipulation that the pump house shall be relocated out of the right of way and that the manufactured home shall be removed. Motion carried 5 – 0.

Jonathan Offen
Lot and 50' Right of Way – Road 431

Mr. Abbott advised the Commission that this is a request to create a 0.83 acre lot out of a 7.11 acre tract; that the residual land will have access from a 50-foot right of way; that the right of way will be created over an existing dirt lane; and that the request can be approved as submitted or require an application for a major subdivision.

It was the consensus of the Commission that the dimensions of the proposed lot need to be shown with verification that the right of way is 50-feet.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to defer action pending receipt of a revised survey. Motion carried 5 – 0.

Daniel Bashelor
2 Parcels and 50' Right of Way – Road 579

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Mr. Abbott advised the Commission that this is a request to create 2 parcels with access from a 50-foot right of way; that the parcels will be 12.54 and 12.77 acres; that the right of way will be created over an existing dirt lane; and that the request can be approved as submitted or require an application for a major subdivision.

Daniel Bashelor advised the Commission that the intent is to create 1 more lot for his son; and that the 12.54 and 12.77 acre parcels already exist.

Mr. Abbott advised the Commission that the drawing does not show the proposed lot and that the tax maps have the property as one parcel and not 2 as stated by the applicant.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to defer action so that a revised drawing can be submitted. Motion carried 5 – 0.

Delmar Mini Storage
Street Requirements

Mr. Abbott advised the Commission that this project requires a service road to serve as access to this parcel and other parcels in the immediate area; that the engineer of the project is questioning what type of specification the service road has to be constructed to; that DelDOT is requiring the service road however they do not have any specifications for a service road; that Chapter 99 requires a 20-foot paved road; and that Chapter 115 requires a 24-foot paved road.

Motion by Mr. Gordy, seconded by Mr. Smith, and carried unanimously to require that the service road be built to Chapter 115 specifications. Motion carried 5 – 0.

Brandywine Senior Care MR/RPC
Final Site Plan – Route 20

Mr. Abbott advised the Commission that this is the final record plan for a 102 unit, and 112 bed assisted living facility; that the Commission granted preliminary site plan approval on August 16, 2006; that the final record plan is the same as the preliminary plan; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the record plan as a final. Motion carried 5 – 0.

B/Z Builders Office
CU #1618 Site Plan – Road 381A

Mr. Abbott advised the Commission that this is a site plan for a contractor's office and

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lumber storage facility; that the conditional use was approved on September 13, 2005 with 11 conditions of approval; that the conditions of approval are referenced on the site plan; that the proposed office building contains 4,000 square feet and the lumber storage building contains 6,000 square feet; that the setbacks meet the requirements of the zoning code; that on-site septic and well are proposed; that 20 parking spaces are required and provided; that 11 spaces are located within the front yard setback and are subject to site plan review; and that all agency approvals have been received.

Mr. Johnson questioned why the parking is located within the front yard setback and advised that the Commission has been reluctant to approve parking in the front yard; stated that there seems to be adequate room to relocate the 11 parking spaces; and that the sign located in the right of way needs to be relocated.

Kevin Smith of Kercher Engineering advised the Commission that the sign located in the right of way is a DelDOT maintained signed.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to table this site plan until a revised site plan has been submitted with the 11 parking spaces being removed from the front yard setback. Motion carried 5 – 0.

Crossroad Community Church
Preliminary Site Plan – Road 579

Mr. Abbott advised the Commission that this is a preliminary site plan for a 1-story, 21,489 square foot church located on 42.19 acres; that the site is zoned AR-1; that the site plan contains a future 35,000 square foot fellowship hall, a future maintenance building, a future picnic shelter and 2 future softball fields; that the setbacks meet the requirements

of the zoning code; that on-site septic and well are proposed; that 462 parking spaces are proposed; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

The Commission discussed the parking area to the east of the site and it was the consensus of the Commission that this parking area be revised so that an interior driveway does not serve as a collector street for safety reasons.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the site plan as a preliminary with the stipulation that the parking area on the east side of the site be revised to eliminate the collector street. Final approval shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all agency approvals. Motion carried 5 – 0.

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Melvin L. Joseph, Trustee
CU #1656 Site Plan – U.S. Route 113

Mr. Abbott advised the Commission that this is a site plan for a grinding facility of vegetated material and mulch storage; that the conditional use was approved on June 13, 2006 with 8 conditions; that the conditions of approval are referenced on the site plan; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Bethany Court
CU #1639 Site Plan – Route One

Mr. Abbott advised the Commission that this is a site plan for 6 detached multi-family dwelling structures; that the conditional use was approved on July 25, 2006 with 14 conditions; that the conditions of approval are referenced on the site plan; that the setbacks meet the requirements of the zoning code; that 2 groups of buildings are proposed, one with 4 units and the other with 2 units; that there is a 40-foot separation between the 2 groups of buildings; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Cape Henlopen High School
Preliminary Site Plan – Road 268

Mr. Abbott advised the Commission that this is a preliminary site plan for a new high school located on 66.36 acres; that the site is zoned AR-1; that the setbacks meet the requirements of the zoning code; that 890 parking spaces are required and that 916 spaces are proposed; that sewer and water will be provided by the City of Lewes; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Mr. Kautz advised the Commission that the project will be reviewed by PLUS on November 21, 2006.

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Motion by Mr. Burton, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Vines Creek Marina
Conceptual Multi-Family Site Plan – Road 341B

Mr. Abbott advised the Commission that this item was deferred on October 18, 2006; that this is a site plan for 30 townhouse units located on 17.77 acres; that the site is zoned M, Marine; that the setbacks meet the requirements of the zoning code; that 90 parking spaces are required and provided including an attached garage for each unit; that the existing septic and well will be utilized; that the developers are requesting permission to construct 10 to 12 units at this time utilizing the existing septic system; that the remaining units would be built when a central sewer system is available; and that the engineering department has indicated that they do not feel that a community system is a central sewer system since it is located in a conservation zone.

Mr. Robertson advised the Commission that a central system would be required if the units were on individual lots; and that the existing community system should be permitted to serve the proposed units as long as it can handle the number of units proposed since the land is not being subdivided.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a concept with the stipulation that the 12 units be approved as a final at the staff upon receipt of all agency approvals. Motion carried 5 – 0.

Tidewater Utilities, Inc.

CU #1677 Site Plan – Road 346B

Mr. Abbott advised the Commission that this is a site plan for 2, 30,000 gallon ground water storage tanks; that the conditional use was approved on September 19, 2006 with 6 conditions; that the conditions of approval are referenced on the site plan; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

Motion by Mr. Smith, seconded by Mr. Gordy, and carried unanimously to approve the site plan as a preliminary with the stipulation that final approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

The Vineyards Revised Preliminary Site Plan – Route 9

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The Vineyards Phase 1 Site Plan – Route 9

Mr. Abbott advised the Commission that this is a revised preliminary site plan for a mixed use project; that the Commission granted conceptual site plan approval for the same plan on October 18, 2006; that the applicants have submitted a Shared Parking Analysis; and that the parking requirements referenced in the analysis is different than the requirements referenced in the zoning code.

It was the consensus of the Commission that the applicants and their attorney meet with the staff and Mr. Robertson to review the Shared Parking Analysis.

ADDITIONAL BUSINESS

Next Special Meeting

Mr. Lank asked the Commission when they would like to hold the December Special Meeting.

There was a consensus of the Commission that the next Special Meeting of the Commission would be scheduled for Thursday December 14, 2006 at 3:00 p.m. in County Council Chambers to consider an Agenda of Old Business and Other Business.

Meeting adjourned at 5:05 p.m.