



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE REGULAR MEETING OF NOVEMBER 20, 2008

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, November 20, 2008 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Michael Johnson, Mr. Rodney Smith, Mr. I.G. Burton III with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Mr. C. Shane Abbott – Assistant Director and Mr. Richard Kautz – Land Use Planner.

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

PUBLIC HEARINGS

Mr. Robertson explained how the public hearings would be conducted.

Subdivision #2007-16 – application of **DANIEL JONES** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Georgetown Hundred, Sussex County, by dividing 21.93 acres into 17 lots, located south of Road 252, 221 feet east of Road 319.

Mr. Lank advised the Commission that the applicants submitted an Exhibit Booklet and a revised preliminary plan on November 7, 2008 and that both will be made a part of the record for this application.

Mr. Abbott advised the Commission that the Technical Advisory Committee review of August 22, 2007 will be made a part of the record and that Mr. Robertson has reviewed the restrictive covenants and found them to be acceptable.

Mark Davidson of Design Consultants Group and Dan and Patricia Jones were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that 17 single-family lots are proposed on 21.93 acres; that the site is zoned AR-1 and the project has been designed to meet the requirements of the standard lot option subdivision; that the lots range in size from 0.75-acre to 1.93-acres with an average lot size of 0.9-acre; that the site is located in a low-density area based on the Comprehensive Land Use Plan and is located in a Level 4 area based upon the State's Map; that the project is located south of

Huff Road, 260 feet east of Sandhill Road between Georgetown and Milton; that the project adjoins the Sandhill Church and several 1.0-acre lots in the area; that wooded and farmland is located west of the project and Whispering Meadows Subdivision is to the east of the project; that the items referenced in Section 99-9C of the Subdivision Code have been addressed in the Exhibit Booklet; that a 100-foot buffer from the wetlands is proposed; that there is an existing dwelling located on the proposed lot 1 that the applicants will retain and reside in; that a wetlands delineation has been performed by Ken Redinger and has been submitted to the Corps of Engineers for a jurisdictional determination; that there are 0.93-acres of wetlands on the site; that the site is located in a Flood Zone X; that there are 4.19-acres or 19% of open space provided; that a 30-foot landscaped buffer is proposed for the east and south sides of the project; that minimal tree removal is expected and will be deed restricted; that the storm water management system will be constructed and maintained using Best Management Practices; that all of the lots are wooded; that individual on-site septic and well are proposed; that DNREC has issued a septic feasibility statement indicating that the site is suitable for on-site septic systems; that the systems will be gravity fed systems; that groundwater recharge will be promoted; that sidewalks are proposed for one side of all streets; that a 25MPH sign will be posted; that streetlights are proposed; that a bus stop will be provided at the entrance of the project; that the project will increase property values in the area; that the project will be an economic benefit to the local school district; that none of the lots have direct access to Huff Road; that one entrance is proposed; that there are other developments in the area such as Reddenwood Phase 1 and 2, Carriage Springs, Lakes at Carriage Springs and Whispering Meadows; that the proposed conservation ponds will decrease the amount of run-off in the area; that the proposed entrance is approximately 30 to 35 feet from the Church's lands and there is a buffer provided; that an interconnection road has been provided to the east side of the site; that the developers have not contacted the adjoining development about central sewer or water; that there are approximately 500 plus lots proposed for this area; that a buffer is not required from wetlands; that the wetlands buffer will be monumented; that the septic systems on lots 9 and 10 will be to the front of the lots; and that septic approvals will be obtained prior to lots being sold.

The Commission found that no parties appeared 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 #2007 – 16 for Daniel Jones, based upon the record and for the following reasons:

1. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision density is less than the density permitted by the existing AR-1 zoning. It results in a density of less than 1 lot per acre.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
4. The subdivision is consistent with other developments in the area.

5. The proposed 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.
7. This approval is subject to the following conditions:
 - A. There shall be no more than 17 lots within the subdivision.
 - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
 - C. The storm water 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 Department.
 - F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
 - G. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.
 - H. A 30-foot forested Agricultural Buffer shall be shown along boundaries bordering on any land used primarily for any agricultural purpose. 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.
 - I. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
 - J. No wetlands shall be included within any lots.
 - K. A system of street lighting shall be established.
 - L. Sidewalks shall be located on one side of all streets in the subdivision.
 - M. As proposed by the Applicant on the Preliminary Site Plan, there shall be a 100 foot buffer from all wetland areas. The design of the buffer shall be included in the landscape plan submitted as part of the Final Site Plan.

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

Subdivision #2007-18 – application of **JIM WELU** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 6.16 acres into 6 lots, located west of Road 233, 2,700 feet southeast of Road 234B.

This application was withdrawn on November 7, 2008.

Subdivision #2007-20 – application of **GOLDEN ACRES LIMITED PARTNERSHIP** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek

Hundred, Sussex County, by dividing 85.77 acres into 86 lots, located east of Road 449, 835 feet south of Route 24.

Mr. Lank advised the Commission that the applicants submitted an Exhibit Booklet on November 7, 2008 that will be made a part of the record for this application.

Mr. Abbott advised the Commission that the Technical Advisory Committee review of August 22, 2007 will be made a part of the record; that Mr. Robertson has reviewed the restrictive covenants and found them acceptable; that the applicant's engineer submitted a revised preliminary plan on February 19, 2008 that is a part of the record; and that the applicant's attorney has submitted proposed findings and conditions of approval into the record.

John Paradee, Attorney, Frank Kea, Planner, and Zach Crouch, P.E., with Davis, Bowen and Friedel, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the subdivision design meets the requirements of all regulations; that the development is consistent with the Land Use Plan; that the site is zoned AR-1 with a density of 1 lot/acre; that the density is similar to other developments in the area; that the comments from the PLUS meeting and Technical Advisory Committee review are a part of the exhibit booklet and the applicant's response is included in the booklet; that the items referenced in Section 99-9C of the subdivision code are addressed in the Exhibit Booklet; that the project was designed with central open space that moves towards the front of the project; that a 50-foot buffer is proposed around the perimeter of the project and from the wetlands; that there are 25.90-acres of open space that includes passive and active recreation areas and the storm water management system; that a gazebo is proposed; that there are 2 entrances into the development; that the minimum lot size is 20,000 square feet with an average lot size of 24,000 square feet; that minimal tree removal is anticipated; that 50-foot buffers are provided from agricultural lands; that additional plantings will occur in the buffers where trees do not currently exist; that the storm water management design will include 3 ponds that are to act as a focal point of the community; that Tidewater Utilities will provide central sewer and water to the project and that they have issued a willing and able to serve letter; that a pump station is proposed along Trap Pond Road; that the streets will be private and built to County specifications; that sidewalks are proposed along both sides of all streets within the project; that the site is surrounded by strip lots and subdivisions; that the subdivision lots are a minimum of 20,000 square feet which is comparable to the residential lots in the area; that there are no lots within 50-feet of the wetlands; that a multi-use field is proposed as a part of the open space; that grade changes will be minimized; that a septic treatment facility will not be on the site; that the site will utilize green technology will be feasible; that the storm water management design will meet the requirements of the State and County; that the project will increase property values in the area; that the site is no longer feasible for agriculture; that the applicant has met with the Laurel School District; that the applicants will comply with all of DelDOT's regulations; that water and sewer will be pumped to and from the site; that a treatment facility is not proposed for this site; that Tidewater has a CPCN for the area and residents are not required to hook into the system; that the project will have no impacts to adjoining owners since all piping will be located in the right of way; that no lane closures for an extended period of time are anticipated; that DelDOT did not require a traffic impact study but will require off site improvements; that the applicants have responded to the PLUS comments; that the buffer design

will utilize the right tree for the right place concept; that a small wetland crossing is the only impact to the wetlands; that the applicants considered a standard subdivision design; that the design is sensitive to the environment and area; that the project is a standard subdivision request with central sewer and water; that a pump station is proposed for the northwest side of the site; that the pump station will be designed to meet Ordinance 38 standards; that DelDOT has not yet approved the entrances; that the dwellings will range in size from 1,600 to 2,600 square feet and are required to be stick built; that the proposed wetland crossing is approximately 1 foot in depth; and submitted proposed findings and conditions of approval.

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

The Commission found that Mike Shuhart, Allan Shulder, Glen Flemming, Bob Curtain, Paul Webb, Brandon Flemming, Rich Butelle, Grant Shirey, Herbert Wright, Douglas Taylor, Bob Short, Carol Short, Fred Johnson and Henry Megan were present in opposition and advised the Commission that that they reside across from the pump station; that the maps are old and out of date with how the area is currently; that traffic is a problem in the area especially on Thursday through Sunday due to Trap Pond's location; that the area is used for agriculture and tourist; that trees will be lost; that the number of lots proposed will ruin the area; that there will be negative impacts to Route 24 and adjoining roads; where is the sewer coming from and being pumped to; that the pump station will generate noise in the area; expressed concerns about the types of homes proposed; concerns with buffers; that the project is out of character with the area; questioned the need for additional lots in the area; that more of a buffer is needed from the State Park; questioned impacts to tax ditches in the area; the new projects will invite crime to the area; that trespassing will occur; and questioned the location of the sewer and water facility.

Mr. Crouch responded that the Commission has recommended approval of a wastewater and water treatment facility near Trussum Pond; that the County Council has not acted on the request yet; that the location is approximately 2 ½ miles from this site; that the pump station will have a control panel and generator above grade with everything else below grade; that the pump station could be relocated; that it will be screened and landscaped; that central water with fire hydrants will be provided; that both entrances will serve as construction entrances; that landscaped buffers will be provided and that the developer has met with State officials about Trap Pond State Park.

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

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to defer action for further consideration and to allow Mr. Gordy time to review the public record if he chooses to do so. Motion carried 4 – 0.

Subdivision #2007-21 – application of **LAURENCE S. CORDREY REV. TRUST** 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 77.40 acres into 7 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 297, 835 feet east of Route 30.

Mr. Lank advised the Commission that on November 5, 2008 the applicants submitted an Exhibit Booklet and a Revised Preliminary Plan that will be made a part of the record.

Mr. Abbott advised the Commission that the Technical Advisory Committee Review of August 22, 2007 will be made a part of the record and that Mr. Robertson has reviewed the restrictive covenants and found them acceptable; and that on November 5, 2008 the applicants also submitted a Wetlands Investigation Report, A Phase 1 Environmental Site Assessment and a Preliminary Soil Feasibility Study into the record.

Doug Warner, P.E., with Element was present on behalf of this application and stated in his presentation and in response to questions raised by the Commission that the site is zoned AR-1 and GR; that 7 large estate lots are proposed on 77 acres; that on-site septic and well are proposed; that the streets will be private and built to County specifications; that the site has 100-feet of frontage along Mount Joy Road; that there are 2 small pockets of wetlands on the site; that a tax ditch and power line easement exist on the site; that a crusher run road is proposed; that there are 4 flag lots proposed ranging in size from 8 to 15 acres; that a 100-foot buffer from the wetlands is proposed except for an area that has a 30-foot buffer from the wetlands; that a 30-foot buffer around the perimeter is proposed; that the street design is storm water management driven; that a standard subdivision could yield 47 lots but the owners prefer larger lots; and that a buffer from wetlands is not required.

Mr. Lank advised the Commission that a variance will be needed for the lot widths for the proposed flag lots.

The Commission found that Eric Clark an adjoining owner was present in support of this application and advised the Commission that he prefers 7 lots compared to 47 lots; that the design is a conservative plan; and that he supports positive growth.

The Commission found that no parties appeared 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 #2007 – 22 for the Laurence S. Cordrey Revocable Trust, 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 and GR which permits low-density single-family residential development. The proposed subdivision density of 7 lots on 77.4-acres of land is significantly less than the allowable density.
3. The proposed subdivision with large lots 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 7 lots within the subdivision.
 - B. The storm water management system shall meet or exceed the requirements of the State and County.
 - C. All entrances shall comply with all of DelDOT's requirements.
 - D. A homeowners' association shall be established to maintain the road, buffers, open space and storm water management areas.
 - E. The street must be constructed in accordance with Sussex County street design requirements.
 - F. Street frontage of all lots shall comply with the Subdivision and Zoning Ordinance unless a variance is granted by the Sussex County Board of Adjustment.
 - G. Road naming and addressing shall be approved by the County Mapping and Addressing Department.
 - H. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
 - I. The 30-foot Agricultural Buffer shown on the Preliminary Site Plan shall be included on the Final Site Plan with a landscape plan showing the landscape of this area.
 - J. No lots shall contain any wetlands, and as proposed by the Applicant, there shall be a 100-foot buffer from the wetland areas with the exception of the small area shown on the Preliminary Site Plan which has a 30-foot buffer.
 - K. 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. Burton and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 4 – 0.

Subdivision #2007-22 – application of **KGH PROPERTIES DEVELOPMENT, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred and Lewes and Rehoboth Hundred, Sussex County, by dividing 74.85 acres into 66 lots, (Cluster Development), located east of the intersection of Road 290 and Road 292 and south of Carriage Greens Phase I.

Mr. Lank advised the Commission that on November 10, 2008 the applicants submitted an Exhibit Booklet and a revised Preliminary Site Plan that will be made a part of the record.

Mr. Abbott advised the Commission that the Technical Advisory Committee review of August 22, 2007 will be made a part of the record; and that Mr. Robertson has reviewed the restrictive covenants and found them acceptable.

James Fuqua, Attorney, Gary Cuppels, P.E. with ECI were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that an Exhibit Booklet and a revised preliminary site plan were submitted; that the project is for 66 single-family cluster lots on 74.5-acres; that the site is zoned AR-1; that the project is located on the west side of Road 290 southeast of Harbeson; that the project is known as Carriage Greens

Phase 2; that Phase 1 received preliminary approval in 2005 for 105 lots on 80.0-acres; that the density is less than 1 lot per acre; that access to this section will be from an interconnection road in Phase 1; that both phases will share the recreational amenities; that riding trails are proposed in this Phase also; that the project has an equestrian theme; that a school bus stop is already proposed and required for Phase 1; that the streets will be private and built to Sussex County specifications with sidewalks and streetlights; that Tidewater Utilities will provide central sewer and Artesian Water Company will provide central water; that a treatment plant will not be located on the site; that infrastructure is provided by Delmarva Power, Verizon and Comcast; that the site is located in the Cape Henlopen School District; that fire protection is provided by Milton Fire Department; that the lots are subject to a homeowners' association; that environmental studies have been conducted and are found in Appendices G, H, I and K; that the site is located in a Low-Density Area based on the Land Use Plan; that the permitted density is 1.5 lots/acre; that the proposed density is half of what is permitted; that there are 59 acres of open space provided; that the items listed in Section 99-9C of the Subdivision Code have been addressed and are referenced in the Exhibit Booklet; that there will be no impact to the Delmarva power line easement; that buffers are provided from the wetlands; that the subject site is a landlocked parcel and that is why the project is an extension to an existing project; that the wetlands on the site will not be negatively impacted; that the wetlands delineation has been submitted to the Corps of Engineers for a jurisdictional determination; that all lots are greater than 7,500 square feet in size; that the average lot size is 8,090 square feet; that the largest lot is 11,172 square feet; that the price of the lots and homes will range from \$250,000 to \$300,000; that significant open space is provided; that walking paths are also provided; that significant buffers are provided; that the applicants have responded to the PLUS comments and they are found in Exhibit "B" of the Exhibit Book that all of the lots abut open space; that there are no environmental impacts on the site; that the site has been cleaned up and will continue to be; that the developer is applying for a Letter of Map Amendment from FEMA for Lot 19; and submitted proposed findings and conditions of approval.

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

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

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

Ordinance Amendment – AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, SECTION 115-25 TO PROVIDE CRITERIA FOR DETERMINING WHETHER A PRELIMINARY CLUSTER SUBDIVISION PLAN PROVIDES FOR A TOTAL ENVIRONMENT AND DESIGN WHICH ARE SUPERIOR TO THAT WHICH WOULD BE ALLOWED UNDER THE REGULATIONS FOR THE STANDARD SUBDIVISION OPTION.

Mr. Lank summarized the Ordinance Amendment relating to Superior Design of Cluster Subdivisions.

The Commission discussed the Ordinance Amendment.

The Commission found that Carol W. Bason, present on behalf of the Center for the Inland Bays, presented the Commission with a marked up copy of the Ordinance Amendment and submitted a written statement on behalf of the Center, and read that the Center expresses its support of the Ordinance Amendment; that they feel that the ordinance generally meets the clustering option and site design process criteria set forth in the Comprehensive Plan Update Community Design Element; that the ordinance helps to accomplish the goals and tactics set forth in the County signed Comprehensive Conservation Management Plan (CCMP) including the goal to prevent additional habitat loss and nutrient over-enrichment in the Inland Bays by developing sound land-use plans, passing supportive regulations and zoning ordinances, and to encourage land use practices that are environmentally sound; that the ordinance strengthens the current cluster development option in the County Code, Chapter 115-25, by encouraging a development site plan that first identifies and aggregates open space to maximize environmental benefits, while equalizing the requested housing density to the standard plan by compacting housing lots into an economically-beneficial infrastructure configuration; that the Center is concerned that there are inconsistencies that are apparent within and between different regulations (this ordinance, the zoning ordinance, and the Inland Bays Pollution Control Strategy) regarding wetland and other buffer (or setback) widths; that the Center feels that these inconsistencies must be resolved before the Center can endorse this section of the ordinance; that the Center also recommends several changes to the ordinance that relate to the use of green technology and native, non-invasive vegetation in the superior design solutions; that Homeowners' Associations should be added to the entities that must agree to maintain the dedicated open space; that the language regarding critical areas should be clarified; that they have provided a mark-up copy of the ordinance showing their recommendations; that the Center would like to express its appreciation for the County's prompt action on the Comprehensive Plan ordinances, particularly as related to Open Space Definition and Superior Design practices; and that the Center appreciates the opportunity that they have had to work together with the County on identifying and articulating the Comprehensive Plan land use requirements that will further protect the Inland Bays watershed.

The Commission found, based on the marked-up ordinance provided by Ms. Bason, that the Center suggest the following amendments: 1) (3)(a) on Page 2 should be amended by adding after areas[.] ,including groundwater recharge areas. 2) 2.B. on Page 2 should be amended by striking [and] after drainage on line 2 and adding, and protective buffer areas after areas at the end of the sentence. 3) 3.B. on Page 2 should be amended by striking [development or] after little on line 3. 4) 3.C.2 through 3 on Page 3 should be amended by replacing 2. [Existing farmland.] with Existing wetlands, waterways, wildlife corridors, or other ecologically sensitive land.; by re-numbering 3 to 4; and inserting 3. Existing farmland, open meadows and/or woodlands. 4) 3.D. on Page 3 should be amended by deleting [or] on line 1 and adding, or a Homeowners Association after agency on line 2; 5) 3.E. on Page 3 should be amended by adding Trail construction material shall be pervious in nature. at the end of the paragraph.; 6) 4. on Page 3 should be amended by striking [25] and inserting 30 on line 1; by adding native, non-invasive before vegetation on line 8; and by striking [Council] and inserting Commission on line 9; 7) 5. on Page 3 should be amended by striking [should] and inserting shall on line 5; by striking [resemble] and inserting function as on line 5; and by adding, and be built using green technology methods for maximum environmental benefit. at the end of the paragraph.

The Commission found that Gary Cuppels, President of Environmental Consultants International, was present and stated that his firm is supportive of the introduction of the amendments and stated that he had submitted comments as a part of his comments on the Open Space amendments; that his comments referenced that 3.A. should be amended to not only include section 115-4, but also the definition contained in 99-5; that he notes that the 40% open space requirement does not specifically address wetlands and soil types; that he feels that this parameter needs to be addressed within the proposed ordinance; that one of the constraints that may limit the 40% continuous open space may be existing soil types as they exist on the property or wetland areas that are not specifically addressed in paragraph B where the definition of "contiguous" only considers land separated by water bodies or streets; that it is entirely possible that wetlands may divide parcels of open space and soil types may come into play, which would form a natural boundary line between open space areas; that in reference to 3.E. on Page 3 it is recognized that in some planning circles popular thinking considers pedestrian trail networks to be beneficial to a community, he has found that in working within areas outside of the County, specifically areas that included properties adjacent to the Appalachian Trail, the Horseshoe Trail, and numerous rail to trail projects, residents along these trail networks have objected to the presence of the trails as they feel that the trail network is an infringement on their privacy; that when one considers the development of a Cluster Development in perhaps a wooded scenario, the clearing of trails would result in the destruction of more woodlot than is necessary if the trail network was not in place; that he feels that the development of a pedestrian trail network should be an option to be considered by the Developer and potentially by staff at the Planning Commission level; that he would suggest that consideration be given to modifying this requirement accordingly; that with regard to 4. he feels that clarification of this setback should be made as to specifically address the allowable location of stormwater management facilities, either within or exterior to the buffers; that there is a difference between a setback and a buffer; that buffers are extractions; that buffers do not provide superior design; that his firm does place permanent markers at wetland lines; that a Yield Plan is a fair process; and that 40% contiguous open space is too aggressive.

At the conclusion of the public hearings, the Commission discussed the Ordinance Amendment.

Mr. Burton stated that he would move that the Commission recommend approval of the Ordinance Amendment to amend Chapter 115, Section 115-25 based upon the record and subject to the following recommendations:

- 1) That the Sussex County Council consider the information provided to the Commission during its public hearing.
- 2) That the word "setback" in 115-25F(3)(a)(4) on Page 3 of the proposed Ordinance Amendment be changed to the word "buffer".
- 3) That on line 9 of 115-25F(3)(a)(4) on Page 3 the word "Council" should be changed to the word "Commission".
- 4) In 115-25F(3)(a)(2) regarding "Yield Plans" should state that the Yield Plan must be designed based on the same sewer infrastructure as the proposed Cluster Subdivision so that lot sizes are comparable. To accomplish this (2)(A) should state "The Yield Plan shall be completed to scale based upon the same sewer infrastructure as the proposed Cluster Subdivision and shall show potential lots, streets and stormwater management facilities."

- 5) In 115-25F(3)(a)(3)(B) on Page 2, the final sentence should be replaced with
“Accordingly, at least 40% of all required open space shall be located on one centralized location within the project.”

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

ADDITIONAL BUSINESS

Mr. Lank provided the Commission with a copy of a letter in reference to Subdivision #2007-26, the application of D.M. Properties of Bethel, Inc., titled Phillips Hill Farm, which is scheduled for a public hearing on December 18, 2008 and requesting that the Commission allow them to be rescheduled for an alternate public hearing date in 2009.

Mr. Lank advised the Commission that this request shall be placed on the agenda for December 11, 2008 so that the Commission can consider this request to be rescheduled.

Meeting adjourned at 10:38 p.m.