



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE SPECIAL MEETING OF JULY 15, 2009

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, July 15, 2009 in the County Council Chambers, Sussex 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. I.G. Burton, III, Mr. Ben Gordy, Mr. Michael Johnson, Mr. Rodney Smith, Mr. Robert Wheatley with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director and Mr. Shane Abbott – Assistant Director.

Mr. Abbott advised the Commission that item 2 under the Consent Agenda has been removed from the Agenda.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the agenda as revised. Motion carried 5 – 0.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the consent agenda as revised. Motion carried 5 – 0.

The Consent Agenda included:

#### 1. Time Extensions

##### a. C/U #1693 – H & L Land Company

This is a request for a one-year time extension. This conditional use for a multi-unit warehouse for small contractors was approved on August 7, 2007. The Commission granted a one-year time extension on August 20, 2008. This is the second request for an extension and the last one that the Commission has the authority to grant.

##### b. C/U #1724 – North Milton Development Group II

This is a request for a one-year time extension. This conditional use for a regional sewage treatment plant was approved on July 31, 2007. The Commission granted preliminary site plan approval on January 17, 2008 and granted a one-year time extension on July 16, 2008. This is the second request for an extension and the last one that the Commission has the authority to grant.

## Minutes

July 15, 2009

Page 2

c. C/U #1733 – Edward A. and Janet L. O'Brien

This is a request for a one-year time extension. This conditional use for a multi-purpose sports facility was approved on June 17, 2008. This is the first request for an extension. If an extension is granted, it shall be retroactive to the anniversary date of approval and the extension will be valid until June 17, 2010.

d. C/U #1747 – Artesian Water Co., Inc.

This is a request for a one-year time extension. This conditional use for a regional water treatment plant was approved on July 17, 2007. The Commission granted a one-year time extension on September 17, 2008. This is the second request for an extension and the last one that the Commission has the authority to grant.

e. Subdivision #2005 – 52 – Underhill Properties, LLC

This is a request for a one-year time extension. The Commission granted preliminary approval for 139 lots on July 27, 2006 and granted one-year time extensions on August 15, 2007 and July 16, 2008. This is the third request for an extension. Also, the applicant has submitted a new application (Subdivision #2008 – 9) for additional lots that has not yet been scheduled.

f. Subdivision #2006 – 20 – Stella J. Mitchell, Trustee

This is a request for a one-year time extension. The Commission granted preliminary approval for 35 lots on July 26, 2007 and granted a one-year time extension on August 20, 2008. This is the second request for an extension.

g. Subdivision #2006 – 30 – Goslee Manor, LLC

This is a request for a one-year time extension. The Commission granted preliminary approval for 29 lots on October 17, 2007 and granted a one-year time extension on August 20, 2008. This is the second request for an extension.

h. Subdivision #2006 – 62 – Joseph Black

This is a request for a one-year time extension. The Commission granted preliminary approval for 37 lots on April 16, 2008. This is the first request for an extension. If an extension is granted, it shall be retroactive to the anniversary date of preliminary approval and preliminary approval will be valid until April 16, 2010. This is also on the Agenda for final approval if an extension is granted.

i. Subdivision #2006 – 69 – Clearlake Properties, LLC

This is a request for a one-year time extension. The Commission granted preliminary approval for 134 lots on July 16, 2008. This is the first request for an extension.

Minutes

July 15, 2009

Page 3

j. Subdivision #2006 – 73 – Anthony Sposato

This is a request for a one-year time extension. The Commission granted preliminary approval for 400 lots on August 20, 2008. This is the first request for an extension.

2. Subdivision #2005 – 96 – Arion Development  
Final – Liddellton

This item was removed from the agenda on July 15, 2009.

3. Subdivision #2006 – 18 – Briggs 4, LLC  
Final – Piney Creek

This is the final record plan for a 7-lot standard subdivision. The Commission granted preliminary approval for 7 lots on August 15, 2007 and granted a one-year time extension on August 20, 2008. The final record plan meets the requirements of the subdivision and zoning codes and the conditions of preliminary approval. All agency approvals have been received.

4. Subdivision #2006 – 19 – Paul and Barbara Steele  
Final

This is the final record plan for a 2-lot standard subdivision. The Commission granted preliminary approval for 2 lots on July 12, 2007 and granted a one-year time extension on August 20, 2008. The final record plan meets the requirements of the subdivision and zoning codes and the conditions of preliminary approval. All agency approvals have been received.

5. Subdivision #2006 – 36 – Donald K. Miller  
Final – Farber Subdivision

This is the final record plan for a 4-lot standard subdivision. The Commission granted preliminary approval for 4 lots on November 21, 2007 and granted a one-year time extension on November 12, 2008. The final record plan meets the requirements of the subdivision and zoning codes and the conditions of the preliminary approval. All agency approvals have been received.

6. Subdivision #2006 – 61 – MLK Partners  
Final – Millstone

This is the final record plan for a 36-lot standard subdivision. The Commission granted preliminary approval for 36 lots on May 14, 2008 and granted a one-year time extension on June 17, 2009. The final record plan meets the requirements of the subdivision and zoning codes and the conditions of the preliminary approval. All agency approvals have been received.

Minutes

July 15, 2009

Page 4

7. Subdivision #2006 – 62 – Joseph Black

Final – Bay Laurel

This is the final record plan for a 36-lot standard subdivision. The Commission granted preliminary approval for 36 lots on April 16, 2008 and granted a one-year time extension on July 15, 2009. The final record plan meets the requirements of the subdivision and zoning codes and the conditions of preliminary approval. All agency approvals have been received.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the items on the Consent Agenda. Motion carried 5 – 0.

OLD BUSINESS

**C/Z #1648** - - application of **WILLIAM AND ELIZABETH JIRON** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, land lying east of U.S. Route 13, 2,585 feet north of Route 16, to be located on 1.208 acres, more or less.

The Chairman referred back to this application, which has been deferred since June 25, 2009.

Mr. Burton stated that he would move that the Commission recommend a denial of C/Z #1648 for William and Elizabeth Jiron for a change in zone from AR-1 to CR-1 based upon the record made at the public hearing and for the following reasons:

1. The orderly growth of the County does not justify creating the requested CR-1 zoned property and the permitted uses available under that zoning classification in the area where the property is located.
2. While a proposed use was discussed as a concept during the public hearing, if the rezoning was approved, anything permitted in the CR-1 zoning would be permitted.
3. The Applicant has not expressed a clear need for the change in zone to CR-1 in this location, or why B-1 or a Conditional Use would not be more appropriate for the site. In this case, the Applicant appears to have a clearly defined business plan for a consulting business. The orderly growth of the County would be better protected under a Conditional Use that would limit the uses on this property to the applicant's proposed use or similar professional or office-type uses and not everything permitted in the CR-1 district.
4. The parcel in question is not adequately sized for CR-1 zoning and the possible uses allowed in that district.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to forward this application to the County Council with the recommendation that the application be denied for the reasons stated. Motion carried 5 – 0.

**C/Z #1650** - - application of **CANNON ROAD INVESTMENTS, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to an AR-1 RPC Agricultural Residential District-Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying west of Route 5 (Indian Mission Road) and on both sides of Road 307 (Cannon Road), to be located on 134.565 acres, more or less.

The Chairman referred back to this application, which has been deferred since June 25, 2009.

Mr. Johnson stated that he would like to defer action on C/Z #1650 for Cannon Road Investments, LLC for the following reasons:

1. This C/Z application involves property that was the subject of previous subdivision applications before the Planning and Zoning Commission, including hearings held in 2004 and 2006. Considerable time will be required of the Planning and Zoning Commission and staff to review those files as they pertain to this application.
2. This C/Z application represents phases 1 through 3 of Pelican Point. This is only part of the overall Pelican Point. Phases 4 through 7 were the subject of a prior Planning and Zoning Commission cluster subdivision public hearing held in 2006. A review of those files are also warranted to evaluate what impact if any, this application will have on the remainder of the project, as well as the community at large.
3. Furthermore, Mr. Johnson moves that this matter be deferred until the August 27, 2009 Planning and Zoning Commission meeting and be placed under Old Business. While Mr. Johnson is mindful of the Planning and Zoning Commission's practice to make recommendations to the County Council within a timely fashion, this extension is necessitated by the reasons stated before. In addition, the request to place this matter on the August 27, 2009 agenda is being made so that Mr. Johnson will be out of state for the next 2 Planning and Zoning Commission's meetings. Whereas this project is located in Mr. Johnson's district, and Mr. Johnson was involved in the previous application for Phases 4 through 7 of Pelican Point, Mr. Johnson respectfully request that this C/Z application be deferred until August 27, 2009 so that Mr. Johnson is able to participate in any further matters as they pertain to this application.

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to defer action until August 27, 2009 for the reasons stated. Motion carried 5 – 0.

**Subdivision #2007 – 37** - - application of **CEDAR CREEK PROPERTIES, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 88.44 acres into 192 lots, (Cluster Development and Environmentally Sensitive Development District Overlay Zone), located south of Route 9, both sides of Road 285, and ¼ mile west of Route One.

The Chairman referred back to this application, which has been deferred since June 25, 2009.

Mr. Johnson stated that he would move that the Commission grant preliminary approval for Subdivision #2007 – 37 for Cedar Creek Properties, LLC based upon the record and for the following reasons:

1. The Applicant is seeking approval of a subdivision within the Environmentally Sensitive Developing District Overlay Zone and the AR-1 zone. The Applicant is seeking lots with a minimum area of 7,500 square feet.
2. A subdivision on this site will not have an adverse impact on the neighboring properties or community.
3. The subdivision will not adversely impact schools, public buildings, area roadways or public transportation.
4. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
5. No parties appeared in opposition to the application.
6. The design addresses the requirements of Section 99-9C of the Code.
7. The subdivision will have no more than 185 lots on 88.44 acres and 39.38 acres of open space is provided.
8. The subdivision will be served by central water and will be part of a Sussex County Sewer District.
9. This preliminary approval is subject to the following:
  - A. There shall be no more than 185 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. 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.

- H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- I. No wetlands shall be included within any lots.
- J. A system of street lighting shall be established.
- K. As proposed by the Applicant, sidewalks shall be located on both sides of all streets in the subdivision.
- L. The subdivision shall be served by a central sewer system as defined by Sussex County Ordinance, designed in accordance with Sussex County Engineering Department and DNREC specifications.
- M. The developer shall construct all of the recreational amenities prior to the issuance of the 50th residential building permit.
- N. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
- 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. Burton and carried unanimously to approve this application as a preliminary, for the reasons and with the conditions stated. Motion carried 5 – 0.

**Subdivision #2007 – 38** - - application of **RALPH PICARD** to consider the Subdivision of land in a GR General Residential District in Little Creek Hundred, Sussex County, by dividing 76.62 acres into 166 lots, located south of Road 515, approximately 2,150 feet east of Road 501.

The Chairman referred back to this application, which has been deferred since June 25, 2009.

Mr. Smith stated that the applicant followed the requirements of Section 99-9C of the Subdivision Code; that the neighbors had concerns about the quality of life in the area; and that the site has been zoned for residential uses for thirty plus years.

Mr. Wheatley stated that the site is not a good location for a subdivision; that this is a matter of what is right and legal; that the ordinances do not prohibit the development of this land; that a manufactured home park could be put on the land; and that the underlying zoning permits developments of this type.

Mr. Johnson stated that the Commission's hands are tied by the ordinances; and that the GR zoning could result in a much more undesirable developments.

Mr. Gordy stated that he would move that the Commission grant preliminary approval of Subdivision #2007 – 38 for Ralph Picard, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose and 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 GR, General Residential Zoning, which permits up to 4 units per acre. In this case, the applicant is seeking 149 lots on 76.62 acres resulting in a density of 1.94 units per acre.
3. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The project will be served by a community wastewater system in accordance with all State and County requirements.
6. The project will be served by central water.
7. This approval is subject to the following conditions:
  - A. There shall be no more than 149 lots within the subdivision.
  - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
  - 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. 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.
  - H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan. As stated by the Applicant, the Site Plan shall contain a note stating that no lots shall be clear-cut.
  - I. No wetlands shall be included within any lots.
  - J. A system of street lighting shall be established.
  - K. As proposed by the Applicant, sidewalks shall be located on one side of all streets in the subdivision.



- L. There shall be walking paths throughout the subdivision as shown on the Preliminary Site Plan.
- M. The subdivision shall be served by a central sewer system as defined by Sussex County Ordinance, designed in accordance with Sussex County Engineering Department and DNREC specifications.
- N. As proposed by the Applicant, there shall be a 50-foot buffer from Meadow Branch.
- O. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
- P. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

#### OTHER BUSINESS

##### 1. Truitt Properties

###### Landscape Buffer Waiver Reconsideration – Route One

Mr. Abbott advised the Commission that Ronald T. Moore of J.A. Moore and Sons has requested that the Commission reconsider their denial of the landscape buffer requirements at the May 20, 2009 special meeting; that this is request to waive the requirements of the 20-foot landscape buffer along Route One; that the applicant is requesting to either change or delete the required plantings due to safety issues; that Mr. Moore or a representative of his will attend the meeting to provide further information; and that the Commissioners were provided a copy of Mr. Moore's letter.

Jessica Nichols, P.E. with Meridian Architects and Engineers and Dennis Schrader, Esquire, were present on behalf of this request and stated in their presentation and in response to questions raised by the Commission that their client would like to plant the proposed shrubs that were shown on the preliminary and final site plans; that the crab trees would not be planted since they grow to a height of 20 to 25 feet with a diameter of 20 feet; that there is an overhead power line easement above the buffer area; that there are also sight line concerns with DelDOT; that the amount of trees required would overcrowd the site; that DelDOT has a law that no plantings or hedges are permitted within 10 feet of pavement; that they have had contact with a landscape architect and were advised that the deciduous trees would create overcrowding; that planting the trees will create safety issues; that they would like to reduce the height of the plantings in the buffer; and that their client has advised the tenants that they need to comply with all zoning regulations regarding displays.

## Minutes

July 15, 2009

Page 10

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to grant the reconsideration and permit the applicant to have a landscape plan prepared by a Landscape Architect in compliance with all of DelDOT's and the power company's regulations paying particular attention to safety features to be submitted for the Commission's review and to have all existing features not in compliance with the zoning code removed from the buffer area including the lighting fixture and inflatable objects. Motion carried 5 – 0.

### 2. Service Energy, LLC

C/U #1160 Revised Site Plan – Route 36

Mr. Abbott advised the Commission that this item was deferred at the May 20, 2009 and June 17, 2009 special meetings; that this is a request to add seven, eleven-foot by ninety-foot underground bulk gas storage tanks; that the conditional use was approved on August 16, 1996; that there are currently five above ground storage tanks on the site; that the only condition of approval was that the site plan shall be subject to the review and approval of the Planning and Zoning Commission; that the approved Ordinance or application did not specify a specific number of tanks permitted; that the Commission was provided a copy of the minutes from the Commission's July 11, 1996 meeting; and that the staff is questioning if the Commission will allow an amendment to the site plan or require a new public hearing.

Mr. Johnson stated that he feels a new hearing should be required since the applicant advised at the July 11, 1996 hearing that 5 tanks are proposed and that this proposal is a substantial expansion that there was opposition to this application at the public hearing; and that 13 years has passed since the hearing.

Motion by Mr. Burton, seconded by Mr. Gordy and carried 4 votes to 1, with Mr. Johnson opposed, to approve the revised site plan since the original Conditional Use was for propane storage tanks without reference to the number of storage tanks involved and that there will not be a change in use, just a change in the site plan. Motion carried 4 – 1.

### 3. Herker Warehouse/Office

C/U #1719 Site Plan – Road 54

Mr. Abbott advised the Commission that this is a site plan for a one-story, 9,964 square foot warehouse for storage and a 1,284 square foot office; that a gravel storage yard is also proposed; that this conditional use was approved on March 27, 2007 and the Commission granted one-year time extensions on November 12, 2008 and March 18, 2009; that a 30-foot forested buffer is located along the southerly and westerly boundary lines as required by the approved ordinance; that 4 parking spaces are provided outside the 40-foot front yard setback; that on-site septic and well are proposed; that the setbacks meet the requirements of the zoning code; that the 14 conditions of approval are referenced on the site plan and the site plan complies with the conditions; and that all agency approvals have been received.

Minutes

July 15, 2009

Page 11

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

4. Charles and Mary Leager

Lot and 50' Easement – Road 613

Mr. Abbott advised the Commission that this is a request to create a +0.75-acre lot with access from a 50-foot easement; that the applicant proposes to create the 50-foot easement over a paved driveway, which is known as Hewish Parkway; that the proposed lot has an existing dwelling located on it and the residual land has an existing dwelling located on it; and that the request may be approved as submitted or an application for a major subdivision can be required.

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

5. R.J. and Amanda Bennett

Lot and 50' Right of Way – Route 16

Mr. Abbott advised the Commission that this is a request to create a +1.0-acre lot with access from a 50-foot right of way; that the owner proposes to create the 50-foot right of way over an existing stone road; and that the request may be approved as submitted or an application for a major subdivision can be required.

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

6. Anna R. Ward

Lot and 50' Easement – Road 525

Mr. Abbott advised the Commission that this is a request to create a 1.275-acre lot with access from a 50-foot easement; that the owner proposes to create the 50-foot easement over an existing dirt lane; that the residual land will contain 1.275-acres also; that DelDOT has issued a Letter of No Objection; and that the request may be approved as submitted or an application for a major subdivision can be required.

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept. Motion carried 5 – 0.

7. Bay City Manufactured Home Community

Corrective Survey – Route 23

Mr. Abbott advised the Commission that this is the final corrective survey for a manufactured home park; that the Commission granted conceptual approval on November 12, 2008 with the stipulation that all lot corners be monumented and

Minutes

July 15, 2009

Page 12

numbered by a permanent marker; and that at the June 17, 2009 special meeting, Mr. Lank provided the Commission correspondence received in reference to this matter.

Mr. Lank provided the Commission with copies of a letter, dated July 14, 2009 from Steve and Pat Weyl objecting to the approval of the Bay City re-survey. Attached to the latter was a previously submitted letter, dated June 12, 2009, from the Weyl's. Both letters are a part of the record.

Mr. Lank summarized the most recent history of the re-survey of the park and referenced the administrative moratorium of March 6, 2008; the Commission meeting of October 16, 2008 to review the re-survey submitted August 14, 2008; the Commission meeting of November 12, 2008 when the Commission granted conceptual approval of the August 14, 2008 re-survey with conditions; that on March 11, 2009 Mr. Lank wrote to Coast Survey, Inc. and the Developers in reference to monumentation and changes and alterations to a revised survey received February 23, 2009; that on March 30, 2009 the office received revised plots of the changes; that on April 8, 2009 the revised re-survey was removed from the agenda for the April 22, 2009 meeting to allow the tenants time to review the revised re-survey; that on May 16, 2009 Mr. Lank met with some of the tenants to discuss the process; that on June 17, 2009 the Commission was provided with a large packet of correspondence, minutes and photographs for review and that the Commission deferred action for further consideration; that a recent e-mail from DNREC references filling and grading of lots and that DNREC was going to be sending a letter to the developers in reference to DNREC jurisdiction and authority; that on October 17, 2007 the Commission denied a request to expand the depth of lots 1 – 4 due to inadequate information, conflicts with existing plots, and the need for a wetland delineation; and that the surveyors have attempted to bring the majority of the improvements on the lots into compliance with the 5-foot setback requirement.

Mr. Wheatley asked Pat Weyl to come forward to express her concerns.

Mrs. Weyl referenced and summarized her letters of July 14, 2009 and June 12, 2009 and opposed the approval of the re-survey and specifically referenced the taking of square footage from some of the lots.

Danny Morris of Coast Survey, Inc. advised the Commission that they plotted the park as best they could due to the lack of information on the original surveys; that they utilized existing fences, walls, improvements and driveways to determine what lands the tenants were using and tried to make all improvements conform to the setbacks.

Mrs. Weyl advised the Commission that a variance application is pending for Lot #3.

Dan Wien, an adjoining land owner next to Lot #4, spoke in opposition to the re-survey and referenced that the developers have placed doublewide manufactured homes on 5,000 square foot lots and filled the lots in excess of 3 feet; that his lot was higher and is now lower than lot #4; that he has to run a sump pump when it rains; that the run-off from lots 1 – 4 is directed toward the street; that a 50-foot buffer should be established from his

Minutes

July 15, 2009

Page 13

land; the Riggi land and the Anderson lands; that the survey bearings are incorrect between his land and Lot #4; and requested denial of the re-survey.

Paul Olivia, one of the developers, suggested that the Commission go out and review the park.

Mr. Johnson stated that he agrees with the people that testified; that the re-survey needs to be put to rest so that the County, the park owners, and the tenants can proceed.

Mr. Johnson stated that he would move that the Commission approve the delineation of lot lines for Bay City Mobile Home Park dated March 30, 2009 for the following reasons:

1. Although there have been various surveys over the years, they were not detailed enough to allow the County, the Park of Tenants to show compliance with County Ordinances for improvements.
2. This delineation shows the location of all of the lot lines in the park, and will allow the Park and its Tenants to move forward with improvements in compliance with County Ordinances or with Board of Adjustment approval.
3. With the new delineation and aerial photographs, the County can determine what currently exists in the park.
4. Any existing structures as of the Commission's approval of the delineation shall be grandfathered, except Lots 1 through 4 in the Old Section, which shall be returned to a depth of 80 feet with monuments as previously addressed by the Commission.
5. Upon receipt of the Commission's approval of the delineation the County Administrator will consider conditions for approvals of replacements or improvements of structures.
6. The Final Version of the plan showing the revised lot lines for Lots 1 through 4 of the Old Section shall be subject to approval by the staff upon receipt.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the re-survey as submitted for the reasons stated. Motion carried 5 – 0.

Meeting adjourned at 5:14 p.m.