



PLANNING & ZONING

AGENDAS & MINUTES

MINUTES OF THE SPECIAL MEETING OF DECEMBER 17, 2008

A special meeting of the Sussex County Planning and Zoning Commission was held Wednesday afternoon, December 17, 2008 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. Robert Wheatley, Mr. Ben Gordy, Mr. I.G. Burton, III, Mr. Michael Johnson and Mr. Rodney Smith along with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director and Mr. Richard Kautz – Land Use Planner.

Mr. Lank advised the Commission that Item #14 under Other Business has been removed from the Agenda.

Motion by Mr. Gordy, seconded by Mr. Smith and carried 4 votes to none, to approve the Agenda as revised. Motion carried 4 – 0.

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

The Consent Agenda included:

Subdivision #2005 – 42 - - application of **WILKINSON DEVELOPMENT, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 120.20 acres into 214 lots, (Cluster Development), located east of Road 290 (Cool Spring Road), 2,000 feet north of Route 5.

This is the final record plan for a 188-lot cluster subdivision application. The Commission granted preliminary approval for 188 lots on June 6, 2006, a revised preliminary approval on April 19, 2007 and one-year time extensions on April 19, 2007 and April 16, 2008. The Final Record Plan complies with the Subdivision and Zoning Codes and the 14 conditions of the preliminary approval and all conditions have been addressed. All agency approvals have been received.

Subdivision #2005 – 58 - - application of **WINDMILL ESTATES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 160.91 acres into 214 lots, (Cluster Development), located south of Road 64, 2,160.50 feet west of Road 415A.

This is the final record plan for a 214-lot cluster subdivision application. The Commission granted preliminary approval for 214 lots on September 14, 2006 and granted one-year time extensions on October 17, 2007 and August 20, 2008. The Final Record Plan complies with the Subdivision and Zoning Codes and the 12 conditions of the preliminary approval and all conditions have been addressed. All agency approvals have been received.

Subdivision #2005 – 76 - - application of **JAMES H. AND DOROTHY M. BAILEY** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 8.16 acres into 8 lots, located north of Road 54, 0.2 mile west of Route 26.

This is the final record plan for a 7-lot standard subdivision application. The Commission granted preliminary approval for 8 lots on October 26, 2006 and granted one-year time extensions on October 17, 2007 and November 12, 2008. The Final Record Plan complies with the Subdivision and Zoning Codes and the 7 conditions of the preliminary approval and all of the conditions have been addressed. All agency approvals have been received.

Subdivision #2005 – 90 - - application of **RIVER ROCK, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 29.31 acres into 26 lots, (Cluster Development), located southeast of Road 258, 0.5 mile northeast of Road 88.

This is the final record plan for a 26-lot cluster subdivision application. The Commission granted preliminary approval for 26 lots on February 22, 2007 and granted a one-year time extension on February 20, 2008. The Final Record Plan complies with the Subdivision and Zoning Codes and the 8 conditions of approval and the conditions of approval have been addressed. All agency approvals have been received.

Subdivision #2007 – 11 - - application of **DONLAD K. MILLER** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, Sussex County, by dividing 64.79 acres into 5 lots, located south of Road 480, 620 feet west of Road 489.

This is the final record plan for a 4-lot strip lot standard subdivision application. The Commission granted preliminary approval for 4 lots on October 9, 2008. The Final Record Plan complies with the Subdivision and Zoning Codes and the 2 conditions of approval and the conditions have approval have been addressed. All agency approvals have been received.

Time Extensions

- a. CU #1697 – Dansk, LLC

This is a request for a one-year time extension. The conditional use for an expansion to an existing water park was approved on December 18, 2007. The Commission granted preliminary site plan approval on April 16, 2008. This is the first request for an extension.

b. CU #1704 – PMP Associates, LLC

This is a request for a one-year time extension. The conditional use for health care and medical offices was approved on January 8, 2008. The Commission granted preliminary site plan approval on September 17, 2008. This is the first request for an extension.

c. CU #1705 – The Commonwealth Group

This is a request for a one-year time extension. The conditional use for an industrial park was approved on October 2, 2007. The Commission granted preliminary site plan approval on May 14, 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 will be valid until October 2, 2009.

d. CU #1722 – West Rehoboth Community Land Trust, LLC

This is a request for a one-year time extension. The conditional use for 4 multi-family dwelling units was approved on January 30, 2007. The Commission granted a one-year time extension on January 17, 2008. This is the second request for an extension and the last that the Commission has the authority to grant.

e. Subdivision #2005 – 2 - - Carriage Springs Run, LLC

This is a request for a one-year time extension. The Commission granted preliminary approval on January 4, 2006 and granted one-year time extensions on January 18, 2007 and April 16, 2008. All agency approvals have been received except for Sussex County Engineering. This is the third request for an extension. If an extension is granted, preliminary approval will be valid until January 4, 2010.

This is the last extension that the Commission will consider.

f. Subdivision #2005 – 50 - - KGH Properties Development, LLC

This is a request for a one-year time extension. The Commission granted preliminary approval November 14, 2007 and granted a one-year time extension on January 18, 2008. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of preliminary approval and preliminary approval will be valid until November 14, 2009.

The Commission noted that an extension was granted on January 18, 2008 and not 2007.

g. Subdivision #2005 – 65 - - Reynolds Road, LLC

This is a request for a one-year time extension. The Commission granted preliminary approval on October 18, 2006 and granted a one-year time extension on November 14, 2007. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of preliminary approval and preliminary approval will be valid until October 18, 2009.

h. Subdivision #2005 – 78 - - Delmarva Woodlands Alliance

This is a request for a one-year time extension. The Commission granted preliminary approval on December 14, 2006 and granted a revised preliminary approval on November 14, 2007. This is the second request for an extension. If an extension is granted, it should be retroactive to the anniversary date of preliminary approval and preliminary approval will be valid until December 14, 2009.

The Commission noted that this is the second request for an extension, not the first.

i. Subdivision #2005 – 80 - - John Schulties and Alton Mast

This is a request for a one-year time extension. The Commission granted preliminary approval on December 14, 2006 and granted a one-year time extension on December 14, 2006. This is the second request for an extension and if an extension is granted, it should be retroactive to the anniversary date of preliminary approval and preliminary approval will be valid until December 14, 2009.

j. Subdivision #2006 – 42 - - Glen Jones

This is a request for a one-year time extension. The Commission granted preliminary approval on November 29, 2007. This is the first request for an extension. If an extension is granted, it should be retroactive to the anniversary date of preliminary approval and preliminary approval will be valid until November 29, 2009.

Motion by Mr. Gordy, seconded by Mr. Smith and carried 4 votes to none, to approve the items on the Consent Agenda with amendments to Time Extensions e., f., and g. Motion carried 4 – 0.

OLD BUSINESS

Subdivision #2007 – 8 - - application of CORNERSTONE DEVELOPERS to consider the Subdivision of land in an AR-1 Agricultural Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 49.37 acres into 112 lots, (Environmentally Sensitive Developing District Overlay Zone), located north of Road 283, 263 feet east of Road 277.

The Chairman referred back to this application, which has been deferred since September 11, 2008.

Mr. Johnson stated that he would move that the Commission grant preliminary approval for Subdivision #2007 – 8 for Cornerstone Developers based upon the record and for the following reasons:

1. The Applicant is seeking approval of a clustered subdivision within the AR-1 zone. The property is within the Environmentally Sensitive Developing District Overlay Zone with lots having 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. The design addresses the requirements of Section 99-9C of the Code.
6. The subdivision will have no more than 92 lots on 49.73 acres. This results in a density that is less than the maximum density permitted in the AR-1 zone, and is a reduction from the 112 lots originally proposed. Prior to the public hearing, the Developer submitted a revised plan containing only 92 lots.
7. The subdivision will be served by central water and sewer.
8. This preliminary approval is subject to the following:
 - A. There shall be no more than 92 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 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. Sidewalks shall be located on both sides of all streets in the subdivision.

- L. There shall be 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. Within 2 years of the issuance of the first residential building permit, the developer shall construct all of the recreational amenities.
- O. It is suggested that the Applicant relocate Lot 70 so that it is adjacent to Lot 71, and then shift Lots 61 through 69 so that they are further away from the wet areas shown on the Preliminary Site Plan. This is with acknowledgement that the developer is not required to provide a buffer from the wetlands area, but will afford a greater buffer from the wetlands.
- P. 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.

OTHER BUSINESS

Grace-N-Mercy Ministries, Inc.
Preliminary Site Plan – Road 612

Mr. Lank advised the Commission that this is a preliminary site plan for a 5,000 square foot church located on a 10.00 acre parcel; that the site is zoned AR-1 and is located at the southeast corner of the intersection of Road 612 and U.S. Route 13; that access to the site is proposed to be off of Road 612; that the setbacks meet the requirements of the zoning code; that 50 parking spaces are required and provided; that on-site septic and well are proposed; and that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals.

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

Hummingbird Meadows
Modified Undisturbed Forested Lands – Road 231

Mr. Lank advised the Commission that this is a request to modify the forest clearing area for a section in the Hummingbird Meadows Subdivision; that the storm water management system has been redesigned and the new design will result in less forested lands being cleared; that in this section, the original clearing area was 1.7 acres and the revised plan calls for 1.5 acres to be cleared in this section resulting in a slight decrease; that both the Sussex Conservation District and Division of Public Works have agreed to

the proposed revision; and that a letter from the engineering firm explaining the request along with copies of the approved portion of the storm water management area and the proposed revision have been provided to the Commission.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the revised undisturbed forested area as submitted. Motion carried 5 – 0.

Indian River Retreat
CU #1775 Site Plan – Road 310A

Mr. Lank advised the Commission that this is the preliminary site plan for a 70-unit multi-family project located on 22.49 acres; that the conditional use was approved on July 29, 2008 with 22 conditions of approval; that the conditions of approval are referenced on the site plan; that 2 single-family detached dwellings, 14 duplex units and 54 townhouse units are proposed; that the duplex units and the single-family detached units are proposed to be located within 165 foot building envelopes with a 40 foot separation distance between building envelopes; that central sewer will be provided by Sussex County and central water will be provided by Tidewater Utilities; that the final site plan needs to have the approval of the Sussex Conservation District, a landscaping plan submitted for the buffer area, the location of streetlights, a sidewalk along the west side of Vista Circle, a landscape plan for the buffer area from the wetlands and a landscape plan for the area across the road that was originally proposed as the wastewater treatment plant; and that if preliminary approval is granted, final approval shall be subject to the review and approval of the Commission upon receipt of all agency approvals and the revisions mentioned.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the review and approval by the Planning and Zoning Commission upon receipt of all agency approvals and with the necessary revisions mentioned and to encourage the developer to provide silt fencing at the internal side of the wetland buffer to protect the buffer. Motion carried 5 – 0.

Paradise Lakes
Revised Buffer – Route 9

Mr. Lank advised the Commission that this is a request to amend the buffer width requirements; that when this subdivision received preliminary approval, it was approved with the condition that there shall be a 60 foot forested buffer from all of the adjacent property boundaries and the tax ditch that exists on the property; that a 60-foot buffer was shown on the preliminary plan; that the engineers are requesting that the buffer be reduced to 30-feet as required by the cluster ordinance; and that a copy of the engineer's letter was provided to the Commission.

Jessica Nichols, P.E. with Meridian Architects and Engineers was present and advised the Commission that when the Exhibit Booklet was submitted at the public hearing, a 50-foot

buffer and not 60-foot was proposed; that the lots will remain in the same location; that a 50-foot buffer is proposed; that a 30-foot buffer is proposed from the 25-foot Tax Ditch easement; and that the engineering firm will provide a revised survey showing the actual buffer proposed.

The Commission took no action and a revised plan will be submitted for review at a future meeting.

Long Neck Shores HR/RPC
Revised Setbacks – Road 299

Mr. Lank advised the Commission that this is a request to revise the front yard setbacks from 30 feet to 20 feet for lots 152 through 197, 206 through 219 and 224 through 258; that since the project is a residential planned community, the Commission has the authority to amend the setbacks in RPC's; and that the Commission received a copy of developer's request explaining their reasoning for the request.

Mark Davidson of Design Consultants Group and Pret Dyer, developer, were present and provided the Commission with a colored marked copy of a site plan and a listing of the lot changes proposed; that all of the lots will maintain the minimum lot width of 60-feet; that the setbacks are proposed to be revised to 20, 22, 24-feet, etc.; that the developer can enforce greater setbacks; and that the developer is willing to place carsonite markers at the wetlands lines near lots 183 and 184.

Mr. Lank advised the Commission that it would be less complicated for the staff if the front setback is 20 feet for the lots and that the developer can enforce greater setbacks.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the revised lot lines as shown on the revised final site plan with the exception that the front yard setback shall be 20-feet on the revised plan. Motion carried 5 – 0.

Bayshore Plaza IV – Parcel 6
Preliminary Commercial Site Plan – Route 24

Mr. Lank advised the Commission that this is a preliminary site plan for a 4,368 square foot car wash located on 0.71 acres; that the site is zoned C-1; that the setbacks meet the requirements of the zoning code; that 15 parking spaces are provided not including the waiting area; that 7 spaces are located within the front yard setback and are subject to site plan review; that other projects in the immediate area (Bayshore Plaza project) have parking within the front yard setback; that ingress/egress to the site is from a cross access easement from the adjoining parcel to the north; that there is no direct access to Route 24 from this parcel; that Sussex County will provide central sewer and Tidewater Utilities will provide central water; that approvals have been received from the Sussex Conservation District and Office of the State Fire Marshal; and that if preliminary approval is granted, final approval could be subject to the staff receiving an approval from DelDOT.

Motion by Mr. Johnson, 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 DelDOT's approval. Motion carried 5 – 0.

Salt Pond Plaza
Revised Site Plan – Roads 357 and 360

Mr. Lank advised the Commission that this is a revised site plan for 3 retail buildings; that the previously approved plan was for a 48,775 square foot Harris Teeter grocery store, a 12,350 square foot Rite Aid pharmacy and a 3,800 square foot bank; that the revised plan is for a 5,847 square foot building and a 6,497 square foot building where the pharmacy was and a 5,537 square foot building where the bank was proposed; that the setbacks meet the requirements of the zoning code; that the parking design is similar to the previous approved plan; that the revised plan results in an increase of 1,731 square feet; that a revised landscape plan has been submitted and more plantings are proposed than the original plan as a result of negotiations with the Salt Pond residents; that a letter was received from the Salt Pond's HOA advising that the easements have not been signed; 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. Johnson and carried unanimously to defer action to allow Mr. Robertson to review the legal counsel's letter. Motion carried 5 – 0.

Dawn and Uhland Johnson
3 Lots and 50' Right of Way – Road 241

Mr. Lank advised the Commission that this is a request to subdivide a 3.14-acre parcel into 3 lots with access from a 50-foot right of way; that Lot 1 will contain 1.51-acres and Lots 2 and 3 will each contain 0.75-acre; that the owner proposes to create the 50-foot right of way over an existing driveway; that an inspection of the site on 12/08/08 verified that there is a driveway existing where the owner proposes to create the right of way; that the request can be approved as submitted or be required to go through the major subdivision process, and that if the request is approved as submitted, it should be stipulated that any further subdivision will require an application for a major subdivision.

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

Felton Lewis, Jr.
2 Lots and 50' Easement – Road 264

Mr. Lank advised the Commission that this is a request to subdivide a 7.5014-acre parcel into 2 lots and create a 50-foot easement; that Lot A will contain 1.00-acre and the residual land will contain 6.5014-acres; that the aerial photograph does not show a driveway, lane, road, etc. where the proposed easement will be located; that an inspection

of the site on 12/08/08 showed a grass area only where the proposed easement is to be located; and that the request should be denied as submitted and should be required to go through the major subdivision process.

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

Kyle D. Short
Lot and 50' Easement – Road 641

Mr. Lank advised the Commission that this is a request to subdivide a 2.23-acre parcel into 2 lots and create a 50-foot easement to serve as access to one of the lots; that the residual land will contain 0.63-acres and has 123 feet of road frontage along U.S. Route 113; that Lot 1 will contain 1.15-acres and have access from a proposed 50-foot easement across lands owned by the applicant's parents; that the easement would be located over an existing driveway; that the applicant's father has submitted a letter of no objection in reference to the easement being located across his lands; and that the request can be approved as submitted or be required to go through the major subdivision process.

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

Lynn A. and Karen K. McColley
Lot and 50' Right of Way – Road 201

Mr. Lank advised the Commission that this is a request to create a 1.62-acre parcel with access from a proposed 50-foot right of way; that the owner proposes to create the 50-foot right of way over an existing dirt lane; that the aerial photograph shows the dirt lane; and that the request can be approved as submitted or be required to go through the major subdivision process.

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

Chong Y. and Kyung S. Lee
2 Parcels and 50' Easement – Road 455A

Mr. Lank advised the Commission that this is a request to subdivide an 89.42-acre parcel into 2 parcels and create a 50-foot easement to serve as access to the parcels; that Parcel 1 will contain 49.71-acres and has 4 poultry houses, a manure shed and storage building located on it; that Parcel 2 will contain 39.71-acres; that the owner proposes to create the 50-foot easement over an existing driveway; that the aerial photograph shows the driveway; and that the request can be approved as submitted or be required to go through the major subdivision process.

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

Danny Pham
2 Lots on 50' Easement – Road 494

Mr. Lank advised the Commission that this is a request to subdivide a 2.17-acre parcel into 2 lots with access from a 50-foot easement; that the owner proposes to extend an existing 50-foot easement to serve as access to the lots; that Lot 4 will contain 0.75-acre and Lot 5 will contain 1.42-acres; that Lot 3 was approved by the Commission on January 17, 2008; that the request can be approved as submitted or be required to go through the major subdivision process; and that if the request is approved as submitted, 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 as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Thetavest, Inc.
2 Parcels and 50' Right of Way – Road 274

This item was removed from the agenda on December 9, 2008.

William P. and Joanne M. Aikens
2 Lots and 50' Right of Way – Route 9

Mr. Lank advised the Commission that this is a request to subdivide a 6.70-acre parcel back into 2 parcels; that Lot 3A will contain 5.85-acres and Lot 3B will contain 0.85-acres; that the 2 lots were combined into one parcel when a prior application went through the major subdivision process, but the owners of the parcel did not agree to the application; and Lot 3B has an existing dwelling located on it.

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

Charles N. and Carolyn G. Jackson
3 Parcels and 50' Easement – Road 46

Mr. Lank advised the Commission that this is a request to subdivide a 6.39-acre parcel into 3 lots and create a 50-foot easement to serve as access to the lots; that Lot 1 will contain 1.41-acres, Lot 2 1.20-acres and the residual lands 3.78-acres; that the owner proposes to create the easement over an existing driveway/road to serve as access to the parcels; that the aerial photograph shows the road; that the request may be approved as submitted or be required to go through the major subdivision process; and that if the

request is approved as submitted, 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 as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Bruce A. and Sherrie L. Baker
3 Parcels and 50' Easement – Road 483

Mr. Lank advised the Commission that this is a request to subdivide a 14.19-acre parcel into 3 lots and create a 50-foot easement to serve as access; that Lot 1 will contain 1.00-acre, Lot 2 1.00-acre and the residual lands 12.19-acres; that the owner proposes to create the 50-foot easement over an existing road; that the aerial photograph shows the existing road; that the request can be approved as submitted or be required to go through the major subdivision process; and that if the request is approved as submitted, 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 as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Mary E. Boyce
Lot and 50' Easement – Road 482

Mr. Lank advised the Commission that this is a request to create a 1.00-acre lot with access from a 50-foot easement; that the owner proposes to create the easement over a dirt lane; that the aerial photograph shows the dirt lane; and that the request can be approved as submitted or be required to go through the major subdivision process.

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

Larry Hopkins
Lot and 50' Right of Way – Road 575

Mr. Lank advised the Commission that this is a request to create a 1.00-acre lot with access from a 50-foot right of way; that the owner proposes to create the right of way over an existing travel way; that the aerial photograph shows the travel way; and that the request can be approved as submitted or be required to go through the major subdivision process.

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

Arnold L. and Evelyn M. Smith
Lot on 50' Easement – Road 46

Mr. Lank advised the Commission that this is a request to create a 1.00-acre lot with access from an existing 50-foot easement; that the owner proposes to extend an existing 50-foot easement to serve as access to the lot; that this would be the second lot with access from the 50-foot easement; that The request can be approved as submitted or be required to go through the major subdivision process; and that if the request is approved as submitted, 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 as a concept with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

Subdivision #2005 – 53 - - Polly and Mark Yoder, Jr.
Clarification on Condition of Approval

Mr. Lank advised the Commission that this application received preliminary approval on August 16, 2006 and one-year time extensions on October 17, 2007 and August 20, 2008; that Condition of Approval #2 states, “Recreational Area with a minimum of 1.5-acres shall be established in the project. This will be in addition to the Open Space and Storm Water Pond Area shown on the Preliminary Site Plan.”; that on the preliminary site plan, there was an open space area located on the east side of the site and an open space and storm water pond area on the west side; that on the final site plan, there is a recreational common area containing 3.18 acres; that this is the same area on the east side as the preliminary plan; that the final site plan has the storm water pond area on the west side (same as the preliminary plan) containing 3.076-acres; that this area is for storm water only and not referenced open/recreational space; that the staff feels that the intent of this condition of approval is for a total of 7.756 acres of open space and recreational area; that this includes the additional 1.50-acres required by the condition; that the Commission was provided with copies of the preliminary plan and the final plan; and that the engineer feels that the final site plan meets the intention of the condition of approval.

Byron Jefferson, P.E., was present and presented a small map showing the open space areas and discussed the condition of approval.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to defer action to the January special meeting to establish reasoning for the additional 1.5 acres of open space. Motion carried 5 – 0.

ADDITIONAL BUSINESS

There was a consensus of the Commission to hold a special meeting on January 14, 2009 at 3:00 p.m.

Meeting adjourned at 4:58 p.m.