

MINUTES OF THE REGULAR MEETING OF JANUARY 11, 2018

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, January 11, 2018 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Vice-Chairman Stevenson presiding. Chairman Ross was absent. The following members of the Commission were present: Mr. Doug Hudson, Mr. Keller Hopkins, Ms. Kimberly Hoey-Stevenson, Mr. Robert Wheatley, with Mr. Vince Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mrs. Jennifer Walls - Planning Manager and Mr. Jamie Whitehouse, Planner III.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the Agenda as revised. Motion carried 4-0

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to approve the Minutes for December 14, 2017 as submitted. Motion carried 4-0

OLD BUSINESS

2017-13 Lovett's Reserve - Jacklyn M. Lovett and Shannon Lovett

This is a cluster subdivision. The cluster subdivision proposes to subdivide 14.27 acres into thirty-one (31) single family lots with private roads and open space. The property is located on the west side of Camp Arrowhead Rd. (Rd. 279) at Waterview Rd. (Rd. 279A). Zoning: AR-1 (Agricultural Residential District). Tax Map I.D. 234-12.00-18.01

The Planning Commission discussed the application which had been deferred since December 21, 2017.

Mr. Hopkins moved that the Commission recommend approval for Subdivision # 2017-13 for Lovett's Reserve – Jacklyn M. Lovett and Shannon Lovett based upon the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval of a subdivision within the Environmentally Sensitive Developing Area and the AR-1 Zoning District. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet. The average lot size is 10,003 square feet.
2. The proposed subdivision will have no more than 31 lots on 14.27 acres. This results in a density that is within the maximum density permitted in the AR-1 zone.
3. This subdivision will not have an adverse impact on the neighboring properties or area roadways.
4. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has addressed the requirements of Section 99-9C of the Code.
5. The subdivision contains approximately 4.55 acres of open space, which is equal to nearly 32% of the site.
6. The project will be served by central water and sewer.
7. The development complies with the Sussex County Comprehensive Plan as a low density, single family dwelling subdivision.

8. A waiver from the buffer requirements along Camp Arrowhead Road is appropriate under Section 99-5 of the Subdivision Code. This will allow the buffer to consist of a combination of landscaping fencing and open space, but only in the buffer area directly along the road frontage. All other buffer areas shall comply with the vegetation requirements of Section 99-5.
9. This preliminary approval is subject to the following;
 - A. There shall be no more than 31 lots within the subdivision.
 - B. The developer shall establish a homeowners association responsible for the maintenance of streets, roads, buffers, stormwater management facilities and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sediments control facilities.
 - D. A forested or landscaped buffer of at least 20 feet in depth shall be installed along the entire perimeter of the project, with the exception of the buffer area along Camp Arrowhead Road, which may be a combination of vegetation, fencing and open space. The Final Site Plan shall contain a landscape plan for all of these areas.
 - E. As proffered by the Applicant, sidewalks shall be installed within the subdivision as shown on the Preliminary Site Plan.
 - F. The subdivision shall be served by a central sewer system.
 - G. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
 - H. Street design shall meet or exceed Sussex County standards.
 - I. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - J. Deliveries of dirt, fill or other similar materials shall only be made to or from the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.
 - K. There shall be vehicle interconnectivity available between this subdivision and the property to the north to allow emergency vehicles access that shall meet or exceed County Road standards, with the exception of pavement and which be covered with topsoil or similar material not to exceed two inches in depth in the event it is developed. This can be limited to emergency use only. This interconnectivity shall be shown on the Final Site Plan.
 - L. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
 - M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Mr. Wheatley and carried unanimously to the Preliminary Subdivision (2017-13) Lovett's Reserve-Jacklyn M. Lovett and Shannon Lovett based on the above reasons and conditions. Motion carried 4-0.

C/Z #1839 Dale Lomas/Seashore Highway Associates, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a

certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 4.0 acres, more or less. The property is located on the north side of Lewes Georgetown Highway (Route 9), approximately 590 ft. east of Josephs Rd. 911 Address: Not Available, Lewes. Tax Map I.D. 334-4.00-37.04

Mr. Robertson recused himself.

The Planning Commission discussed the application which had been deferred since December 21, 2017.

Mr. Wheatley moved that the Commission recommend denial of Change in Zone #1839 for Dale Lomas/Seashore Highway Associates, LLC for the change in zone from AR-1 to CR-1 based upon the record made during the public hearing and for the following reasons:

1. The site is located along Route 9. It is surrounded by residential and older commercial uses. This does not make it an appropriate location for CR-1 zoning. That CR-1 zoning is a very broad zoning classification and allows all manner of things. This is a concern. The other commercial zoned properties were zoned over 20 years ago and the character of the area is different now than when the other properties were rezoned.
2. Many nearby properties, including the adjacent property to the west and properties across Route 9, are zoned Agricultural Residential and the purposes of the AR zoning district regulation seek to prevent untimely scattering of more-dense urban uses, which should be confined to areas planned for efficient extension of public services. The proposed rezoning is contrary to the general zoning in this area.
3. According to the County's Comprehensive Land Use Plan, the site is identified as being within the Low Density Areas. CR-1 Zoning can be considered within this land use classification; however, business development should be largely confined to businesses that address the needs of single family residences and agriculture. This rezoning may not meet the needs of the single family residences and agriculture.
4. According to the Zoning Code, CR-1 Zoning is appropriate "to provide sufficient space in appropriate location for a wide variety of commercial and miscellaneous service activities generally serving a wide area and located particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists..." This application does not satisfy this purpose of CR-1 Zoning as the area is primarily residential. Additionally, sewer is not available to this property.
5. The CR-1 District is the most intense commercial zoning district in the County. It is not appropriate in this location as there are 44 single family residences and 60 manufactured homes within 1000 ft. of the property.
6. The rezoning is inconsistent with the developing character of the area and will adversely affect the neighboring properties and roadways.
7. The proposed project does not meet the purpose of the Zoning Ordinance since the proposed rezoning will not promote the orderly growth, convenience, order, prosperity and welfare of Sussex County and its residents.
8. There was opposition to the proposed rezoning and the arguments raised by the opposition were compelling.

Motion by Mr. Wheatley, seconded by Mr. Hudson and carried unanimously to forward this

application to the Sussex County Council with a recommendation that the application be denied for the reasons stated. Motion carried 4-0.

C/Z #1840 Preston and Brenda Brasure

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Baltimore Hundred, Sussex County containing 2.72 acres, more or less. The property is located on the west side of Roxana Rd., approximately 709 ft. south of Atlantic Ave. 911 Address: 32026 and 32014 Roxana Rd., Ocean View. Tax Map I.D. 134-11.00-200.00 and 134-11.00-200.01

The Planning Commission discussed the application which had been deferred since December 21, 2017.

Mr. Hudson moved that the Commission recommend approval of Change in Zone # 1840 for Preston and Brenda Brasure, for a change in zone from AR-1 to CR-1 based upon the record made during the public hearing and for the following reasons:

1. This property is adjacent to property that is currently zoned commercial. It is also near an intersection that is completely zoned commercially. There are intensive commercial uses at the intersection, including a large supermarket, 84 Lumber, Bob's Marine, and other similar types of commercial uses.
2. The property is no longer appropriate for residential use. The applicant testified that the existing commercial uses are not compatible with the continued residential use of the property.
3. There was evidence in the record that the entire area is trending towards commercial zoning, with multiple commercial rezonings approved over the past several years.
4. According to the Sussex County Comprehensive Plan, the site is in the Highway Commercial Area and the Environmentally Sensitive Development Area. CR-1 zoning is appropriate in these areas.
5. The rezoning will not adversely affect neighboring properties or roadways.
6. Any development of the property will require site plan review by the Planning and Zoning Commission, as well as entrance approval from the Department of Transportation.
7. The rezoning complies with the purpose of the CR-1 District as set forth in the Sussex County Zoning Code.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 4-0

C/Z #1841 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a B-1 (Neighborhood Business District) for a certain parcel of land lying and being in Baltimore Hundred, Sussex County containing 5.29 acres, more or less. The property is located at the southeast corner of Bayard Rd. and Double Bridges Rd. 911 Address: Not Available, Millville. Tax Map I.D. 134-19.00-22.00 (portion of)

The Planning Commission discussed the application which had been deferred since December 21, 2017.

Mr. Hudson moved that the Commission recommend approval of Change in Zone # 1841 for Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut, for a change in zone from AR-1 to B-1 based upon the record made during the public hearing and for the following reasons:

1. The property is located at the intersection of Bayard Road and Double Bridges Road. The property is also in an area with a substantial amount of existing and approved residential lots and dwellings. This is an appropriate location for B-1 zoning, which is intended to provide for neighborhood business and small scale commercial and retail activities.
2. The location will lessen congestion on area roads and streets by providing small neighborhood businesses serving residents and visitors in the nearby area without having to travel to Route 26, or other beach areas.
3. The property will be served by central water and sewer.
4. According to the Sussex County Comprehensive Plan, the site is in the Environmentally Sensitive Development Area. B-1 zoning is appropriate in this area.
5. The rezoning will not adversely affect neighboring properties or roadways.
6. Any development of the property will require site plan review by the Planning and Zoning Commission, as well as entrance approval from the Department of Transportation.
7. This recommendation for approval of B-1 Neighborhood Business and the limited uses permitted in that District should not be viewed as a precedent for additional, more intensive commercial rezonings in the area. This zoning B-1, at this location at this intersection, is appropriate to serve the residents and visitors of the area.
8. No parties appeared in opposition to the rezoning application.
9. The rezoning complies with the purpose of the B-1 District as set forth in the Sussex County Zoning Code.

Motion by Mr. Hudson, seconded by Mr. Wheatley and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 4-0

C/Z #1842 Carmelita L. Pavlosky and Karl Meek

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a B-1 (Neighborhood Business District) for a certain parcel of land lying and being in Baltimore Hundred, Sussex County containing 2.4968 acres, more or less. The property is located on the north side of Zion Church Rd., approximately 1,115 ft. northwest of Bayard Rd. 911 Address: 36169 Zion Church Rd., Frankford. Tax Map I.D. 533-11.00-82.03

The Planning Commission discussed the application which had been deferred since December 21, 2017.

Mr. Wheatley moved that the Commission recommend approval of CZ# 142 for Carmelita Pavlosky and Karl, for a change in zone from AR-1 and B-1 based upon the record made during the public hearing and for the following reasons:

1. The property has historically been used for commercial purposes, including two conditional uses. Prior uses include a lawn care service and BBQ stand. With this historical use of the property, this is an appropriate location for B-1 zoning, which is intended to provide for neighborhood businesses and small scale commercial and retail activities.
2. This use will allow the property owners to redevelop and clean up the property with appropriate small-scale uses that are permitted under the B-1 zone.
3. The property will be served by Sussex County sewer.
4. According to the Sussex County Comprehensive Plan, the site is in the Environmentally Sensitive Development Area. B-1 zoning is appropriate in this area.
5. The rezoning will not adversely affect neighboring properties or roadways.
6. Any development of the property will require site plan review by the Planning and Zoning Commission, as well as entrance approval from the Department of Transportation.
7. No parties appeared in opposition to the rezoning application.
8. The rezoning complies with the purpose of B-1 District as set forth in the Sussex County Zoning Code.

Motion by Mr. Wheatley, seconded by Mr. Hudson and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 4-0

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

2017-14 Sharron Dahl

This is a standard subdivision. The standard subdivision proposes to subdivide 6.483 acres into four (4) single family lots. The property is located on the north side of White Deer Road (Rd. 508) and approximately 460 ft. east of Mount Herman Circle (Rd. 507). Zoning: AR-1 (Agricultural Residential District). 911 Address: 4743 White Deer Rd., Delmar. Tax Map I.D. 532-11.00-6.00

Ms. Cornwell advised the Commission that submitted into the record were a subdivision plan comments from the Sussex Conservation District, Delaware Electric Co-op, Mapping and Addressing Department, Division of Public Health Department Sussex County Engineering Department Utility Planning Division and DNREC Air Quality Division.

The Commission found that Sharron Dahl was present on behalf of the application; that Ms. Dahl stated that she wants to divide the property for her family.

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

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

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to defer action to receive the septic feasibility report. Motion carried 4-0.

2017-15 Kindleton

This is a cluster subdivision. The cluster subdivision proposes to subdivide 49.37 acres into ninety (90) single family lots. The property is located on the east side of Robinsonville Road (Rd. 277) and on the north side of Cedar Grove Road (Rd. 283). Zoning: AR-1 (Agricultural Residential District). 911 Address: Not Available Tax Map I.D. 334-11.00-81.00.

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, comments from the Sussex Conservation District, DeIDOT letter for Scoping information, Department of Agriculture, Sussex County Engineering Department Utility Planning and Public Works Division.

The Commission found that James Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab, P.A., and Zac Crouch, with Davis, Bowen, and Friedel and Greg Tobias, were present of behalf of the application; that Mr. Fuqua stated that this is an application for a cluster subdivision; that the parcel of land contains 49.37 acres; that the subdivision will consist of 90 single family lots and recreational amenities; that the adjacent uses are Agricultural and Residential; that there are other subdivisions to the north and south; that the parcel is in the Level 3 State Strategies area and a small portion is in Level 2; that the Land Use classification per the Comprehensive Plan is located in the Environmentally Sensitive Development Area; that single family lots can be 7,500 square feet if central water and sewer are utilized; that the maximum density allowed is 2.178 lots per acre and the total permitted is 107 lots; that the gross density proposed is 1.8 lots per acre; that the parcel was previously approved for a 92 single family lot subdivision in December 2008; that the application number was 2007-8 and was approved under the name Shepard Walk subdivision; that since then it has expired as substantial construction did not occur; that it is the same parcel but a different developer; that the site plan is not identical but it is similar to the previous site plan; that the previous subdivision was approved for 92 single family lots and they are proposing 90 lots; that the previous site plan had a road crossing over wetlands; that the new site plan has no wetland encroachments; that Tidewater Utilities will provide the subdivision with water and sewer; that 10.26 acres of forested non-tidal wetlands are located on the site and are unregulated wetlands; that are not proposing to disturb the wetlands; that the property is in a Flood Zone X; that there are no known endangered species on the site and no cultural or historical resources on site; that a traffic signal agreement will be entered into with DeIDOT; that the developer will contribute to the area wide study fee required by DeIDOT; that the streets will comply with Sussex County standards; that there will be sidewalks on both side of the streets; that there will be street lights, curbs and gutters; that sediment and stormwater management facilities will be designed and constructed in accordance with DNREC regulations and will use Best Management Practices in the design and construction for stormwater management; that the average lot size is 10,764 square feet; that site will be developed in two phases; that there will be a centrally located recreational center with a community swimming pool, a community pool house and a playground area with parking; that the perimeter of the property will have a forested buffer of 20 feet except where it is adjacent to agricultural use will be a 30 foot buffer; that the total open space is 20.32 acres or 41% of the site; that the site is within the fire protection area for the Lewes Fire Department and is in the Cape Henlopen School District; that a homeowners

association will be created; that Mr. Crouch stated there will be no entrance off of Cedar Grove Road based on discussion with DelDOT; that they will provide a shoulder on Cedar Grove Road for a bike path and pedestrian path; that the entrance will have protected left turns into the subdivision; that Mr. Fuqua stated that there are concerns with interconnectivity; that they will look into the possibility for one entrance off of Cedar Grove Road and this could require protected left for both subdivisions; that they prefer no access off of Cedar Grove Road; that they could put in an emergency access; and that they are saving as many trees as possible.

The Commission found that no one spoke in support of the application.

The Commission found Charlie Tanacci, Bill Baydalga and Wafi Gainey spoke in opposition to the application; that Mr. Tanncci stated he is the President of the Home Owner Association for the Retreat at Love Creek; that they are not opposed to the development but to improve the development to blend in better with the existing community; that a traffic light should be mandatory; that they should increase the setbacks along Cedar Grove Road; that the houses would be very close to the road and look bad; that they should relocate the stormwater management along Cedar Grove Road; that there were questions about where the sewer treatment plant facility is located; that the pumping station doesn't go to anything Tidewater facilities; that there is no proposed discussion about the buffer between Cedar Grove Road and the back of the homes; that there is a density issue at this property; that the new development would give a cluttered, congested appearance and inconsistent with this environment; that Mr. Fuqua spoke that the central sewer is provided by Tidewater; that there is a 20 foot landscape buffer from the Right-of-Way dedication on Cedar Grove Road and will meet County regulations; that Mr. Baydalga stated that he has concerns with density, with the entrance off of Robinsonville Road; that he has concerns with traffic because of other developments are coming in the area and existing developments; and that Ms. Gainey stated that she has concerns with traffic, road design, and the amount of traffic has increased over the past 12 years.

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

Motion by Mr. Hopkins, seconded by Mr. Wheatley, and carried unanimously to defer action for further consideration. Motion carried 4-0.

C/U #2110 Gaw Venture Group, LLC c/o John Gaw

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a house construction and sales business to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.709 acres, more or less. The property is located on the northwest side of John J. Williams Hwy. (Rt. 24), approximately 1,824 ft. west of Mulberry Knoll Rd. 911 Address: 20028 John J. Williams Hwy., Lewes. Tax Map I.D. 334-12.00-24.00

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, site plan, comments from the Sussex Conservation District and the results from the DelDOT Service Level Evaluation.

The Commission found Rick Berl, Attorney with Berl and Feinberg, LLP, Chuck Adams, with

Adams and Kemp, and John Gaw were present on behalf of the application; that Mr. Berl stated the applicants have a small custom building business; that the brothers run the business; that they describe their business as an infill as they go to almost built out subdivisions and build on vacant lots; that most of the lots they build on are unique in shape and size; that they do a handful of construction projects a year; that this site is intended to be an office; that it will not be used as a retail space or a showroom or have walk-in business; that it will be for them to meet with their sub-contractors, material suppliers and perhaps a client; that the previous conditional use for the property was for window treatments and lighting, which was more of a retail use with work done offsite; that there will not be as much traffic with the proposed conditional use as there was with the prior use; that the site will not be a staging area; that there will be no employees; that they use subcontractors to do the work; that there will not be employees showing up to the site; that there will not be equipment on the site; that the site is approximately $\frac{3}{4}$ ac. in size; that things have changed since the original Conditional Use was granted in 2005/2006; that there are a lot more businesses on Route 24 along with other Conditional Use and other uses on the road; that in the vicinity there are Cape Henlopen schools on both sides of Rt. 24; that the site is surrounded by farm land; that there are other residential developments in the area; that there are several Conditional Uses in the area along with small businesses; that it was originally a house that was converted into the window blinds use that is no longer in use; that Mr. Adams stated the applicant would use the building and site as is and there is parking in front yard setback; that they are asking for a waiver for the front yard parking in the setback; that they do not plan on doing any improvements; that DelDOT has given their initial consent; that they would like to put up a new sign that would comply code; that there are no plans to enlarge the building or site; that Mr. Berl stated that a TIS was not required; that they expect there will be a maximum of two to three cars per day and days in which there are no cars; that this use will not generate a great deal of traffic; that it is currently served by an old cesspool and the County is running sewer in the area; that they will connect to County sewer once it is completed; that there are no proposed hours of operation due to possible late nights or weekends needed; that there is a 1% chance to have late hours or weekend to meet with a subcontractor or client; that there are mature trees in the rear yard and they are asking for a waiver to continue to park in the front yard setback as was previously approved; that there are no tax ditches on the property; that known need for stormwater management; that sewer will be coming in within the next year or two; that the was a previous use; that is consistent with the other uses in the area; that there is adequate off street parking; that there is no adverse impact on neighboring properties; that Mr. Gaw stated that they would like one lighted sign; that they would be fine will reserving area for parking if the road is widened; that when sewer comes that opens up the area in which the cesspool is located that can be used for parking; that the rear of the property has some elevation issues; that is no proposed residence on the site; that they would be fine with hours of operation from 7:00 am to 7:00 pm, Monday through Saturday; that there will be no storage of materials on the site; that every once in a while a sample may be dropped off; and that the previous Conditional Use Ordinance No. 1860 and was adopted in July 2006.

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

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

Motion by Mr. Hopkins, seconded by Mr. Wheatley, and carried unanimously to defer action for

further consideration. Motion carried 4-0.

C/U #2111 Michael Moutzalias

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a RV/park model/trailer repair and refurbishment business with outdoor storage and sales to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.0 acre, more or less, of a 32.16-acre parcel of land.

The property is located on the south side of Whites Neck Rd., approximately 754 ft. east of Holts Landing Rd. 911 Address: 30190 Whites Neck Rd., Dagsboro. Tax Map I.D. 134-8.00-5.00 (portion of)

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, a site plan, comments from the Sussex Conservation District, results from the DelDOT Service Level Evaluation and one (1) letter of opposition that stated concerns with the use of the property, concerns about decrease in property value, and possible environmental concerns.

The Commission that found Maxwell Morris, a Surveyor and Michael Moutzalias were present on behalf of the application; that Mr. Morris stated that the applicant buys, sells, used RV's and park model trailers; that he stores them on the 1 acre of a 32 acre parcel; that the conditional use area is setback 200 feet to 300 feet off the road and it is screened by the existing home and out buildings; that back of the parcel is screened by fencing and woods; that it is not a traditional sales lot; that it is designed to store the RV's and trailers while they are being repaired for resale; that he sells these items via internet; that there is not a lot of traffic associated with the business; that all sales are handled via a phone call and he meets them on site; that there is no sales people; that there are no lights on the property; that he is only open during day time hours; that it is not a noisy business as the majority of the work is done to the interior of the units; that there is no additional traffic on the road; that it is a convenient location because there is a campground in the area; that he done a lot of work with the campground; that there is an existing paved driveway; that this will not alter the character of the neighborhood; that they are asking for a little sign along the road and it will not be lit; that Mr. Moutzalias stated that he used to have several employees but he does have any employees now; that he lives on the site; that most of the repair work is inside of the unit and might change tires; that he does not do outside work on the items; that he delivers the items to the people purchasing the vehicle; that there maybe five cars a week besides himself; that there will only daylight hours; that there are a maximum of 22 units stored on the site; that the DMV license is at another location; that sometimes a subcontractor comes in and does work; that the RV's only come there if they have value, if there is no value they do not come there; that he has had some RV's as little as a day and some up to one year and they all go away; that there are several sheds on the site which typically comes with the RV's or park models; that the site plan shows what they could have on the site; that everything on the site is existing; that most of the RV's and park models are non-motorized; that he hauls 50% to the location and the new location; that in a season he will make two trips a week, in the off season he will make two to three trips a week up to four trips; that the hours of operation are 7:00 am to 7:00 pm; that he would like one employee; that no storage of materials on the property; that he would like to be able to store up to 21 RVs on the site; that he would like a 3'x5' unlit sign; that there is a fence from the horse pasture and trees along the back and on one side; that the hours of operation are 7:00 am till 7:00 pm, Sunday through Saturday that there could be one employee;

and that there is no storage of equipment or chemicals on the site.

The Commission found Daniella LeCates spoke in support of this application; that Ms. Lecates stated she lives caddy corner to the property; that he does inside repair work to the RV's; that there is no noise and no chemicals being used; that it is not an eyesore; that is nothing dirty on the site; and that she has no issues.

The Commission found Ted Banks, Kami Banks and Guy Rickards spoke in opposition to this application; that Mr. Banks stated that the land owner is his Uncle; that he can see it from his back yard; that the site is not screened; that the land is in a Preservation Trust; that he has documents stating that the property is to only be used as farm land and as a horse business; that Ms. Banks stated the business has been operating for a few years; that the applicant is not the land owner; that the site is an eyesore; that it does not fit into the area; that the closest campground community is two miles away; that Mr. Banks stated that there are other locations to use for the business; Mr. Rickards stated he lives adjacent to the site and is the closest neighbor; that there are two farms in the area; that Michael is a good guy but he does not like the business; that he thought he was going to set up business in Frankford; that at times there have been over 20 RV's on the site and the number has been reduced now; that now there are a lot of sheds on the site; that there is agricultural and residential uses in the area; that there is an RV storage business on Route 26; that there is no buffer other than a horse fence which he does not consider screening; that this is detrimental to property value; that this impacts quality of life; and that he hears generators running and other noises.

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

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to defer action for further consideration. Motion carried 4-0.

C/U #2112 Mitchell Limited Partnership

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a medical office and ancillary medical uses to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 3.30 acres, more or less. The property is located on the southeast corner of Kings Hwy. and Gills Neck Rd. 911 Address: Not Available. Tax Map I.D. 335-8.00-37.01 and 335-8.00-37.00 (portion of)

Ms. Cornwell advised the Commission that submitted into record were a staff analysis, exhibit booklet, site plan, comments from Sussex County Engineering Department Utility Planning Division, Sussex Conservation District and results from the DelDOT Service Level Evaluation.

The Commission found David Hutt, Attorney with Morris James, LLP, Ring Lardner, Engineer with Davis, Bowen and Friedel, Bob McLeish, with Lighthouse Construction and Michael Fiori, Jeffrey Lord were present on behalf of the application; that Mr. Hutt stated the application is for a conditional use for 39,000 square feet medical office building; that the site will be for an orthopedic provider; that the site is 3.3 acre parcel; that the surrounding uses in the area include commercial uses and a church; that across the highway there is a strip commercial center and lands that are within the City of Lewes; that a new assisted living facility was recently approved

in the City of Lewes; that also across the street is Cape Henlopen High School; that there are other office uses down the street and the Crooked Hammock if further down the street; that the property is zoned AR-1 (Agricultural Residential District); that there are B-1 (Neighborhood Business District), C-1 (General Commercial District) zonings in the area along with other conditional uses; that Mr. Lardner stated the parcel is in the State Strategy Level 1; that property is located in the Environmentally Sensitive Developing Area land use classification; that a letter was submitted to comply with 115-194.3 code; that the property does not contain any wetlands; that the site is not located in the floodplain; that the proposed project is for a two story building; that the building will be setback 80 feet from both roads; that the intersection was recently upgraded; that they will meet with the Byway group if approved; that the site needs a TIS; however, it has a minor impact with the traffic as it is less than 200 trips per day and they can pay into an area wide study; that the proposed project requires 89 parking spaces and this plan proposes 156 parking spaces; that the plan currently shows parking in the front yard setback and they can revise the site plan to remove the parking from the front yard setback if approved; that the Byways requirements may have impact and DelDOT may require some additional right-of-way dedications; that the corner front yard setback could go down to 15 feet; that they will provide interconnectivity in at least one location; that the parcel will be served by central sewer; that water will be served by Tidewater; that the parcel is located in excellent ground water recharge area and will comply with Chapter 89 of the Sussex County Code; that the developer will provide stormwater management for the site; that they will use best management practices for stormwater management; that Mr. Fiori stated they are trying to provide a continuity of care within the building; that they will be able to take a patient from medical exam to diagnosis radiology to physical therapy all in one building; that the excess parking is for other members attending the appointments; that they have oversized the parking spaces; that this will make it easier to recruit doctors and other tenants; that they have done this model in other locations; that this is good in other communities and people like having an all in one building; that are two other sites in Delaware; that Mr. Hutt stated there will be screening of the dumpsters and signage for the site; that they would like a 50 square foot wall sign which is for naming the building; that there will be two 32 square feet ground signs, one on each road; that this use will help with traffic as it will reduce visits; that they are proposing a condition that the building will match the commercial setback along Kings Highway; that Mr. Lardner stated the entrance will have to meet DelDOT standards; that they expect a left turn into the site and they will work with DelDOT for further entrance development when the rest of the site may be developed; that this portion of the access road to be built with this project; that there is no known development plans for the larger parcel and it is currently used as farmland; that there is not a master plan for the larger parcel; and that there was discussion about the location of the of the road off of Gills Neck Road and concerns how the larger site to the rear could develop and possibility of interconnection.

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

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

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to defer action for further consideration. Motion carried 4-0.

OTHER BUSINESS

Americana Bayside (RPC)

Revised Master Plan

Mrs. Walls advised the Commission that this a revised Master Plan for Americana Bayside to accommodate five additional single-family lots on the site of the former amenities building. The proposal would bring the total number of lots within Americana Bayside from 1,333 to 1,338 and would be below the 1,700 dwelling units permitted. The parcel is zoned MR-RPC and the Tax Parcel is 533-19.00-39.00.

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to approve the revised master plan. Motion carried 4-0.

Americana Bayside – Lot 90 (RPC)

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a preliminary site plan for Americana Bayside – Lot 90 (Parcel 39) for five single-family lots on the site of the former amenities building. The proposal would bring the total number of lots within Americana Bayside from 1,333 to 1,338 and would be below the 1,700 dwelling units permitted. The Preliminary Site Plan complies with the Zoning and Subdivision Codes. The parcel is zoned MR-RPC and the Tax Parcel is 533-19.00-39.00. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to approve the preliminary site plan with final site plan approval subject to Planning and Zoning Commission upon receipt of all agency approvals. Motion carried 4-0.

Community Bank of Delaware

Revised Site Plan

Mrs. Walls advised the Commission that this is a Revised Site Plan for Community Bank of Delaware, for a 3-story 10,694 SF addition to the existing office building, with associated car parking and landscaping. The Revised Site Plan complies with the Zoning Code. The Zoning District is C-1 (General Commercial District). The Tax Parcel is 334-6.00-64.01. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the revised site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4-0.

God's People for Purpose Ministries (S-17-51)

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a Preliminary Site Plan for a 4,700 SF church with site improvements to be located off Oak Orchard Rd. The church will seat 198 people and the improvements include 71 parking spaces and one loading space. There are two additional buildings proposed for future development as assembly halls. There is also a single-family dwelling on the property which will remain. The Preliminary Site Plan complies with the Zoning Code. The parcel is zoned GR and the Tax Parcel is 234-29.00-269.00. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4-0.

Bayshore Plaza, Parcel A (S-17-50)

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a Preliminary Site Plan for Bayshore Plaza, Parcel A for the construction of a 3-story, 71-room hotel building and associated parking with the future build-out of a 4,000 SF retail pad site with associated parking, to be accessed from John J. Williams Highway (Rt. 24). The parcel is in the C-1 (General Commercial District) zoning district and the Tax Parcel is 234-23.00-269.19. The Preliminary Site Plan complies with the Zoning Code. Staff is awaiting agency approvals.

The Commission found that Alan Dector with Pennoni Associates; that Mr. Dector stated that the parking was shown as was in 2009 and already a dedicated Right-of-Way.

Motion by Mr. Hopkins, seconded by Mr. Wheatley, and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals with a waiver parking for in the front yard setback. Motion carried 3-1.

Lands of Joseph Zduriencik (S-17-54) and (CU 2076)

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a Preliminary Site Plan for an events venue on a 62.157-acre parcel of land. The property is zoned GR (General Residential District). The site is accessed from Johnson Rd. The Preliminary Site Plan is submitted pursuant to the approval of Conditional Use 2076. The Planning Commission held a public hearing on May 11, 2017 and recommended on June 8, 2017. Tax Parcels are 533-18.00-20.01 through 533-18.00-20.10. The Preliminary Site Plan complies with the Zoning Code. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion carried 4-0.

Peninsula Lakes (RPC)

Request to Amend Condition of Approval

Mrs. Walls advised the Commission that this is a request to amend a condition of approval for the schedule of construction of amenities for Peninsula Lakes RPC. A revision to the schedule was previously approved by Planning Commission on April 20, 2017. This request is due to the length of time needed to obtain agency approvals for the amenities compared to the sale of homes within the community. The developer is in the process of bonding the pool and pool house amenities and seeking building permits. Construction of the pool and pool house is expected to be completed by Memorial Day 2018. The developer is requesting to amend the condition to allow the pool, pool house, and pool deck amenities to be completed by the issuance of the 200th Building Permit and Certificate of Occupancy, instead of issuance of the 138th building permit as previously approved; completion of the Clubhouse by the issuance of the 300th Building Permit and Certificate of Occupancy, instead of issuance of the 256th building

permit; and the remaining amenities (tennis courts, bocce ball pit, pickle ball courts, horseshoe pits, dog park, etc.) to be completed by the issuance of the 400th certificate of occupancy instead of by issuance of the 330th building permit. Staff notes that if the Commission approves any changes that the numbers be tied to the issuance of a Building Permit only.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the request to extend the number of permits before the amenities are required but to condition upon the issue of the building permits and not the certificate of occupancy. Motion carried 4-0.

Lands of Calloway

Minor Subdivision off 50 ft. easement

Mrs. Walls advised the Commission that this is a minor subdivision of 14.00 acres into three lots located off a proposed 50 ft. easement over an existing driveway off Shingle Point Rd. Lot 1 will have 3.85 acres at the rear of the property, where there is an existing dwelling. Lot 2 will be 6.68 acres, and Lot 3 will be 3.52 acres. The parcel is zoned AR-1. The Tax Parcel is 235-25.00-34.02. Staff are awaiting agency approvals.

Motion by Mr. Wheatley, seconded by Mr. Hopkins, and carried unanimously to approve the minor subdivision off a 50 ft. easement with final site plan subject to staff upon receipt of all agency approvals. Motion carried 4-0.

Lands of Truitt and Hudson

Minor Subdivision off 50 ft. easement

Mrs. Walls advised the Commission that this is a minor subdivision of 5.570 acres into three lots located off a proposed 50 ft. easement over an existing driveway off Pusey's Rd. Lot 1 will be 3.068 acres, Lot 2 will be 1.246 acres, and Lot 3 will be 1.256 acres. The parcel is currently farmed and is zoned AR-1. The Tax Parcel is 133-18.00-18.06. Staff is awaiting agency approvals.

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to approve the minor subdivision off a 50 ft. easement with final site plan subject to staff upon receipt of all agency approvals. Motion carried 4-0.

Lands of Whaley

Minor Subdivision with 50 ft. easement

Mrs. Walls advised the Commission that this is a minor subdivision for the creation of one new lot (Lot 1) measuring 1.735 acres leaving a residual parcel of 133.7 acres off an existing 50' easement (Dew Berry Dr.). There is an existing single-story dwelling on Lot 1. The property is zoned AR-1. The Tax Parcel is 232-18.00-17.00. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the minor subdivision with 50 ft. easement with final site plan subject to staff upon receipt of all agency approvals. Motion carried 4-0.

Meeting adjourned at 9:47 p.m.

