



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF JANUARY 22, 2009

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 22, 2009 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

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

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of January 8, 2009 as circulated. Motion carried 4 – 0.

### OLD BUSINESS

**C/Z #1623** – application of **W AND J JONES FAMILY, L.P.** 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 Lewes and Rehoboth Hundred, Sussex County, land lying northeast of King's Highway (Road 268) and across from Dartmouth Drive, to be located on 1.96 acres, more or less.

The Commission discussed this application which has been deferred since December 11, 2008.

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1623 for W and J Jones Family, L.P. for a change of zone from AR-1 to CR-1 based upon the record and for the following reasons:

1. The site is appropriate for the change of zone, given its close proximity to Route One.
2. The properties on either side of this property are currently zoned C-1 General Commercial and this change to CR-1 will be consistent with other uses in the general area, including banks, offices, a bakery, retail, and other uses. It is infill zoning of approximately 1.96 acres of land that is an extension of the commercial zoning along Route One.
3. The change of zone will not adversely affect neighboring and adjacent properties or the community.

4. The applicant has proffered a minimum 50-foot buffer from the Federal Wetlands even though there are no County or State requirements. The buffers are intended to protect the environmentally sensitive Pot Hook Creek Watershed.
5. DelDOT has reviewed the Traffic Impact Study for the project and will require the applicant to participate in the funding of roadway improvements in the vicinity of this property.
6. The Office of State Planning Coordination has stated that it has no objection to the change in zone.
7. The Final Site Plan for any proposed commercial use will be subject to the review and approval of the Planning and Zoning Commission.

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

**C/Z #1624** – application of **W AND J JONES FAMILY, L.P.** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential District – Residential Planned Community for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, land lying 181.48 feet northeast of King's Highway (Road 268) and across from Dartmouth Drive, to be located on 44.49 acres, more or less.

The Commission discussed this application which has been deferred since December 11, 2008.

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1624 for W and J Jones Family, L.P. for a change in zone from AR-1 to a MR-RPC based upon the information contained in the record and for the following reasons:

1. The proposed MR-RPC project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because the proposed project is in a Development District in accordance with the 2003 and 2008 Comprehensive Land Use Plans.
2. MR zoning is appropriate for the site because medium density development is appropriate in areas where central sewer and water are available. In this case, the parcel is located within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Central water service will be provided by a publicly regulated water company.
3. The RPC designation is appropriate for this parcel of land in that the purpose of a RPC is to encourage developments such as this as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses. In this case, the design incorporates a Par 3 golf course, extensive open space, tree preservation and buffers from Federal Wetlands.
4. The project is currently bordered by MR or C-1 land. This includes the Bay Crossing MR-RPC development to the south.
5. The applicant has proposed minimum 50-foot undisturbed buffers from Federal Wetlands, even though there are no County or State requirements to do so. The buffers are intended to protect the environmentally sensitive Pot Hook Creek watershed.

6. The residential units will be clustered to the central area of the site, preserving the remainder of the site as woodlands and an 18- hole Par 3 golf course providing recreational opportunities and open space. The applicant has agreed that the golf course area will remain as permanent open space, and that agreement is incorporated into this recommendation as a condition.
7. There will be on-site recreational amenities, including tennis and multi-use courts, a pool, a community center and the golf course.
8. The applicant had reduced the original application with PLUS from 178 units to the 144 multi-family units applied for with the County, or approximately 3.25 units per acre.
9. This recommendation is subject to the following conditions:
  - a. The maximum number of dwelling units shall not exceed 144, in addition to the apartment that currently exists above the golf course pro shop.
  - b. All entrances, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements.
  - c. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 3 years of the issuance of the first residential building permit. These amenities shall include a tennis court, a multi-use court, community center and a swimming pool.
  - d. The development shall be served by County sewer as part of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
  - e. The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
  - f. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, using Best Management Practices with regard to the construction and maintenance of these features. The Final Site Plan shall contain the approval of the Sussex Conservation District for the location and design of the stormwater and erosion and sedimentation control facilities.
  - g. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. In addition, as stated by the applicant, sidewalks shall be built along both sides of the streets.
  - h. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design, along with the wetland buffers as delineated on the preliminary site plan.
  - i. As proposed by the applicant, there shall be a minimum 50-foot buffer as delineated on the preliminary site plan, from the Federal Wetland areas. Any required silt fencing shall be installed on the upland side of the buffer areas.
  - j. The applicant shall form a homeowners' or condo association to be responsible for the maintenance of the streets, roads, buffers, open space, stormwater management facilities and other common areas.
  - k. Road naming shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
  - l. A school bus stop with parking shall be provided, and shown on the Final Site Plan. The location shall be coordinated with the Cape Henlopen School District.
  - m. A system of street lighting shall be provided throughout the project.

- n. The existing entrance from Route One shall be used for access to the golf course only, as has been the case for years. But, since the golf course is an amenity to the residential property, the Final Site Plan shall include better vehicular access, pedestrian access and parking from within the residential area. There shall not be any direct vehicular interconnection between the residential roads and the golf course access road from Route One. If the golf course should cease operations, then the access via Fairways Village shall be eliminated.
- o. As the Applicant has agreed, the area for the golf course shall remain as open space, even if the golf course is no longer in operation.
- p. Site Plan review shall be subject to approval of the Planning and Zoning Commission.

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

**C/U #1755** – application of **T-TOPS, ETC.** to consider the Conditional Use of land in a B-1 Neighborhood Business District to manufacture, install and retail boat tops to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 4.612 acres, more or less, lying southwest of Route 5, 1,200 feet southeast of Route 47 (Johnson Road) and 1,550 feet northwest of Route 48 (Hollyville Road).

The Commission discussed this application which has been deferred since January 8, 2009.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1755 for T-TOPS, ETC. for a Conditional Use for the manufacture, installation and retail sales of boat tops based upon the record and for the following reasons:

1. The proposed use is within a unit in an existing Business Center that is zoned B-1. It will be compatible with other uses that are already there and will not adversely affect neighboring or adjacent properties.
2. The proposed use meets the purpose of a conditional use since it will serve the existing needs of boaters in the area.
3. This is the relocation of a previously approved boat repair operation permitted by C/U #1568.
4. This Conditional Use is limited to Unit 12 of Building C and the outside area needed for limited outside boat storage at the Route 5 Business Center, and not the entire business center.
5. This recommendation is subject to the following conditions:
  - a. All manufacturing shall occur inside of the unit.
  - b. There shall be no more than 3 boats stored on the site at any one time, including boats being worked on. No boat may be stored or kept on the property for more than 3 weeks.
  - c. The hours of operation shall be limited to 9:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 1:30 p.m. on Saturdays.
  - d. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Final Site Plan shall indicate those outside areas of the Business Center where any boats associated with this business will be located.

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

**C/Z #1625** – application of **DARREN SHAFFER C/O DGS SERVICES, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, land lying north of Route 26, 400 feet west of U.S. Route 113, to be located on 0.68 acres, more or less.

The Commission discussed this application which has been deferred since January 8, 2009.

Mr. Gordy stated that he would move that the Commission recommend approval of C/Z #1625 for Darren Shaffer and DGS Services, LLC based upon the record and for the following reasons:

1. 1.26 acres of the 1.94 acre property is already zoned C-1. By rezoning the remaining 0.68 acre to CR-1, the commercial zoning will be consistent with the property's boundaries.
2. According to the 2002 Comprehensive Land Use Plan, this property is in an area designed for mixed commercial. In the 2008 Comprehensive Land Use Plan, the property is within a Town Center Area where the proposed use is appropriate.
3. The re-zoning is consistent with other uses in the area, including those uses at the intersection of U.S. Route 113 and Route 26.
4. The entire property is within the Highway Corridor Overlay Zone.
5. This re-zoning, to create a uniform commercial zoning on this property, will not adversely affect traffic or neighboring properties.

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

#### PUBLIC HEARINGS

**C/U #1765** – application of **RICK AND JUDI FOLMSBEE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a multi-family dwelling structure (3 units) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 38,054 square feet, more or less, lying southwest of Road 226 (Orchard Road), 0.6 mile southeast of Route 16.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the existing Level of Service "C" of Route 16 will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Fallsington sandy loam and Woodstown sandy loam; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it may not be necessary for any off-site drainage improvements; that it may be

necessary for some on-site drainage improvements depending on the amount of impervious surfaces created.

The Commission found that the applicant submitted a survey showing the existing improvements on the property with their application.

The Commission found that Rick Folmsbee was present and stated in his presentation and in response to questions raised by the Commission that the dwelling already exists and contains 3 living units; that the apartments were built 17 years ago and have been occupied primarily by family members; that a friend told them that they needed a Conditional Use for multi-family use; that the dwelling contains approximately 3,300 square feet of living space; that the dwelling was originally a Nanticoke Home with additions; that the first conversion was a unit as a mother-in-law unit; that the second conversion was the garage into a unit; that there are 3 kitchens; that there is only one electrical service; that the neighborhood is primarily agricultural with some residential; that they received a modified septic system approval from DNREC for 5 bedrooms; that the detached garage building is not a residential unit; that they would have no objections to a limitation that the units remain for family use only; that one of the units was rented in the past while they were living in Milton; and that they are now living in the dwelling.

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

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

Mr. Smith stated that he may make a recommendation that the Commission defer action for further consideration to allow for Mr. Burton to review the file and record and to participate in the vote on this application.

Mr. Johnson stated that he would not have an objection to the application if the use is limited to family members.

Motion by Mr. Smith, seconded by Mr. Gordy and carried unanimously to defer action. Motion carried 4 – 0.

**C/U #1767** – application of **ADVANCED FIBERGLASS TECH.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a boat repair shop to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.2003 acres, more or less, lying south of Route 48 (Zoar Road), 300 feet east of Route 297 (Morris Mill Road).

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the existing Level of Service “B” of Zoar Road will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Fort Mott-Henlopen complex; that the applicant will be

required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicant submitted a survey showing the existing improvements on the property with the application.

The Commission found that John Reardon was present on behalf of Advanced Fiberglass Tech. and stated in his presentation and in response to questions raised by the Commission that he and his wife live in the adjacent dwelling located to the west; that he has no employees; that he purchased the site in 2004 and started the business in 2005; that he received a notice that he needed a Conditional Use to operate the business and immediately applied; that the majority of his work is warranty work for local boat dealers; that he does fiberglass and gel-coat work on boats of different sizes; that he does not do any mechanical repairs or motor work; that the majority of his work is performed indoors; that he has a small block building for storage of hazardous materials; that all waste materials are hauled to the landfill; that the emissions do not register according to DNREC; that the only noise is an occasional grinder; that he advised his neighbors of his application and heard no objections; that the area to the rear of the site is wooded; that business hours are from 9:00 a.m. to 6:00 p.m. Monday through Saturday; that he may erect a non-lighted sign not exceeding 32 square feet; that he would not object to a limitation of no more than 15 boats being stored; that he would not object to a requirement for fencing and landscaping; and that he has no intent to sell boats retail.

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

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

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1767 for Advance Fiberglass Tech. for a Conditional Use to operate a boat repair business based on the record and for the following reasons:

1. This application is for a business that is limited in nature. With the conditions placed upon it, it will not adversely affect traffic or adjacent or neighboring properties.
2. The proposed use meets the purpose of the Conditional Use Ordinance since it will serve the existing needs and convenience of boaters in the area.
3. This recommendation is subject to the following conditions:
  - a. The site plan is subject to all appropriate agency approvals.
  - b. The hours of operation will be from 9:00 a.m. to 6:00 p.m. Monday through Saturday.
  - c. There shall be no more than 15 boats on the site at any given time. A chain-link or solid fencing, not to exceed 7-feet in height, will be installed for the storage of all boats being repaired.
  - d. Aside from boats owned by the applicant, there shall not be any boats stored on the property other than those boats that are being worked on as part of the applicant's business.
  - e. No more than 2 boats at a time are to be offered for sale.

- f. Security lighting on the site shall use lights that are directed away from any neighboring properties.
- g. A non-lighted sign, no greater than 32 square feet on each side may be permitted.
- h. There shall be no more than 2 employees.
- i. The Final Site Plan shall be subject to approval by the Planning and Zoning Commission. The Final Site Plan shall designate the fenced area designated for outside boat storage. Landscaping shall be shown on the Final Site Plan.

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

**C/Z #1626** – application of **NICHOLAS AND JOANN T. VARRATO** 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 Indian River Hundred, Sussex County, land lying southwest of Layton Avenue, 102 feet north of Road 305 (Jersey Road) and 300 feet south of Route 24, to be located on 26,400 square feet, more or less.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the existing Level of Service “B” of Road 305 may change to a Level of Service “C” if the site is developed based on existing conditions with development under the proposed zoning plus committed development plus site generated traffic and projected Levels of Service with no highway improvements during peak hour.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Fort Mott-Henlopen complex; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any on-site or off-site drainage improvements.

The Commission found that the applicants submitted a survey showing the existing improvements on the property with their application.

The Commission found that Nick Varrato was present and stated in his presentation and in response to questions raised by the Commission that the building on the site was built in 1961 as a photography studio and floor covering business; that in 1962 the entire building became a photography studio; that he has stopped using the building for a studio and presently uses it for storage; that he proposes to retain ownership of the building and rent it to tenants, hopefully for office space; that several business and commercial uses exists in the area, i.e. retail, storage, auto sales, restaurant, fast-food, offices, body shop, florist, thrift ship, etc.; that the business and commercial activities are mixed with residential uses; that access to the site is from Jersey Road; that he owns Layton Avenue by conveyance from the State; that the studio faces Jersey Road and was built prior to the creation of Route 24; that he and his heirs or assigns will maintain Layton Avenue; that he is requesting similar zoning to the parcels already zoned business or commercial in the area; and that he has received no negative comments or objections from his neighbors.



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

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

Motion by Mr. Johnson, seconded by Mr. Gordy and carried unanimously to defer action and to leave the record open only for a map from staff showing property from the Indian River on the west to the easterly end of Jersey Road and Route 24. Motion carried 4 – 0.

**C/Z #1627** – application of **P.G.S. PROPERTIES, LLC** 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 Dagsboro Hundred, Sussex County, land lying southeast of Route 26, 505 feet southwest of U.S. Route 113, to be located on 10.77 acres, more or less.

Mr. Robertson advised the Commission that he would not be participating in this public hearing.

The Commission found that the applicant had submitted an Exhibit Booklet prior to the meeting and that the Booklet contains references to the Project Team, color rezoning and commercial site plans, a site data table, qualifications of the engineer, a survey, deeds, a copy of the application, a legal description, rezoning plats, an area commercial properties map, commercial site plans, a traffic impact study, aerial photographs, zoning map, references to the State Strategies and Investment Levels, land use cover, proximity to sewer districts, groundwater recharge, FEMA maps, federal wetlands, State wetlands, soils, and topography.

The Commission found, based on comments received from DelDOT, that a traffic impact study was submitted and reviewed and is a part of the record of the Exhibit Booklet provided by the applicant.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Klej loamy sand and Mullica-Berryland complex; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that the site borders a tax ditch and that the ditch may be affected depending upon the limits of construction; that it may not be necessary for any off-site drainage improvements; and that it may be necessary for some on-site drainage improvements due to the existing ditches.

The Commission found that a letter was received from the Town of Dagsboro in reference to this application and other proposed applications of the applicant in the area and that the letter references that the parcels are located contiguous to the Town and within the Town's primary and secondary annexation areas as identified by the Town's 2003 Comprehensive Plan; that the applicants had originally applied for annexation in 2004; that the Dagsboro annexation committee met and discussed the annexation; that the committee originally recommended annexation; that the Town submitted the Plans of Service to the Office of State Planning Coordination in June 2004; that the Office of State Planning Coordination denied the Plan of Services due to insufficient sewer capacity; that in March 2009 the applicant sent a letter to the

Town withdrawing the application for annexation; that since then, the Town is aware of a recent sewer study conducted by the County and feel that the Town can adequately provide all services and utilities for the project; that since these parcels are identified as logical growth areas for the Town with its Comprehensive Plan, the Town feels strongly that the parcels should be annexed into the Town; that water infrastructure supplied by the Town is available and could be extended to serve the site as well as other Town services, such as police protection; and that the Town request that the County refer the developer to the Town for discussion and possible annexation. Attached to the letter are a copy of a Growth and Annexation Map, dated April 2003, and a copy of a Future Land Use and Annexations map, dated October 2008 from the Town.

The Commission found that Preston Dyer of P.G.S. Properties, LLC was present on behalf of this application with Mark Davidson of Design Consultants Group, L.L.C. and that they stated in their presentations and in response to questions raised by the Commission that 7.63 acres of the parcel are zoned C-1 General Commercial; that they are proposing to rezone 10.77 acres to CR-1 to bring the property into conformity with commercial zoning; that they originally were proposing to develop the site with a shopping center; that the current market would not support another shopping center in the immediate area; that they are proposing to develop the parcel with four (4) parcels, containing 2.59 acres, 3.76 acres, 1.41 acres and 10.2 acres parcels; that the property is located in a Developing District according to the Comprehensive Land Use Plan and in an Investment Level 2 according to the State Strategies; that they have met with County Engineering about the sewer infrastructure and realize that they will be responsible for infrastructure improvements that may include a pump station; that they have spoken to Artesian Water and that Artesian will probably provide water distribution on the site; that there are no wetlands on the site; that the site is not located within a Flood Plain; that the area is surrounded by commercial and business activities, a produce stand, convenience store and petroleum sales, offices, shopping center, American Legion, a recently recommended rezoning to CR-1, and a recent preliminary approval for High Tide Church; that the site is appropriate for rezoning since it is an expansion of the existing commercial zoning on the same parcel; that they have no intent to develop the site with residential uses; that they did originally submit for annexation into the Town of Dagsboro in March 2003; that they were told that annexation was not appropriate until sewer was available; that they withdrew the application for annexation, purchased the property, and applied for rezoning with the County; that they are willing to make to necessary infrastructure improvements required by the County for sewer service; that there should be no detrimental impact on the area; that the site should be a viable commercial site if rezoned; that they have petitioned the Tax Ditch Company for reduction of the tax ditch right-of-way easements from 85-feet width to 25-feet; that they have worked with DelDOT on their design as it relates to the U.S. Route 113 Corridor Study; and that the church property is not a part of this application, it is a separate tax parcel.

The Commission found that Mr. Dyer submitted proposed Findings of Fact for consideration.

The Commission found that there were no parties present in support of this application.

The Commission found that Kyle Gulbranson of URS was present as consultant to the Town of Dagsboro and advised the Commission that the Town has been working with County

Engineering on the sewer study and that the Town would like to see the site annexed into the Town.

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

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

**C/Z #1628** – application of **RICHARD J. POPPLETON** to amend the Comprehensive Zoning Map from a GR General 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, land lying on the western side of Central Avenue, 350 feet northeast of Harmon Street, being Lot 24, Block 1 of the “George E. Shockley’s Land” Subdivision to be located on 5,000 square feet, more or less.

The Commission found that the applicant provided the Commission with a folder which contains eight (8) photographs of the area surrounding the site, a letter explaining his application, a portion of the tax map of the area showing the site, and five (5) letters from area landowners voicing no objections to the rezoning of this parcel.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not recommended and that the existing Level of Service “B” of Hebron Road will not change as a result of this application.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Greenwich-Urban land complex; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; and that it may be necessary for some on-site or off-site drainage improvements depending on the type of construction.

Mr. Lank advised the Commission that a previous application for this site had been submitted and public hearings were held to rezone the property from GR General Residential to C-1 General Commercial and that the Commission had recommended that the application be forward to the Sussex County Council with the recommendation that the application be approved based upon the record made at the public hearing and for the following reasons:

1. The project will not have an adverse impact on neighboring properties or community.
2. While Mr. Johnson was sensitive to the concerns expressed by neighbors in the community, the project is in an area that is surrounded by C-1 zoning. In fact, this property was originally zoned C-1, but was rezoned to GR only so that a mobile home could be placed on it.
3. This rezoning will make this parcel consistent with the others around it.

The motion carried unanimously with a vote of 5 – 0.

The Commission found that Richard Poppleton was present and stated in his presentation and in response to questions raised by the Commission that Central Avenue is a gravel street in poor condition; that the site is located within a County sewer district; that he proposes to utilize the building as a contracting business for doing renovations on the first floor and as a residential unit on the second floor; that the rezoning and use would be compatible with the neighborhood; and that he has heard no opposition to his application this time.

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

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

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1628 for Richard J. Poppleton to amend the Comprehensive Zoning Map from GR General Residential to CR-1 Commercial Residential based upon the record made at the public hearing and for the following reasons:

1. The project will not have an adverse impact on the neighboring properties or community.
2. While I am sensitive to the concerns expressed by neighbors in this community in the past, the project is in an area that is surrounded by C-1 zoning. In fact, this property was originally zoned C-1, but was rezoned to GR only so that a mobile home could be placed upon it.
3. This rezoning will make this parcel consistent with the others around it.

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

Meeting adjourned at 8:10 p.m.