



# PLANNING & ZONING

## AGENDAS & MINUTES

### MINUTES OF THE REGULAR MEETING OF JANUARY 27, 2011

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, January 27, 2011, in the County Council Chambers, County Administrative Office Building in 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. Rodney Smith, Mr. Michael Johnson, Mr. I. G. Burton, III, and Mr. Martin Ross with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the deletion of the Executive Session from the agenda. Motion carried 5 - 0.

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

### OLD BUSINESS

C/Z #1697 – application of **LAND TECH RECEIVER SERVICES, LLC** for an Ordinance to modify Condition No. 10 imposed on Ordinance No. 1573 for Change of Zone No. 1475, the application of Ribera-Odyssey, LLC, as amended by Ordinance No. 2018 for Change of Zone No. 1697, the application of Peninsula At Long Neck, LLC for “The Peninsula”, a MR-RPC Medium Density Residential District – Residential Planned Community, to extend the time to construct and open for use the golf clubhouse and nature center facilities.

The Commission discussed this application, which has been deferred since November 18, 2010.

Mr. Johnson stated that he would move that the Commission recommend approval of the application of Land Tech Receiver Services, LLC for an Amendment of Condition #10 imposed on Ordinance #1573 for Change of Zone #1475, as previously amended by Ordinance #2018 for Change of Zone #1697, based upon the record made at the public hearing and for the following reasons, but modified from the proposal set forth by the Applicants:

- 1) A Clubhouse must be built, as promised by the original developers. That promise was relied upon by the County and by those purchasing lots within The Peninsula Development.

- 2) A Receiver has been appointed by the Court of Chancery to maintain and operate the entire Peninsula Development, including the Clubhouse. Land Tech, the Receiver, has made positive steps in continuing with the development of the Project.
- 3) The Development and Club currently have a lot of substantial amenities. Many of these amenities would be included in a clubhouse, including a grill, pro shop, health and fitness center, locker rooms, swimming pools and other facilities.
- 4) Based on the governing documents of The Peninsula and the Peninsula Country Club, neither the developer nor Land Tech are members of the Club. Only members pay dues based upon the budget determined by the Club each year.
- 5) Construction of the Clubhouse would place an undue burden on not only the developer or receiver, but also on the individual members, which are homeowners in the development. They would be required to carry the costs of the Clubhouse and its operation and maintenance. Similarly, the increased dues associated with the Clubhouse would adversely affect the marketability of future sales within the development, which are necessary to maintain its viability. All purchasers of residential units within The Peninsula are required to be Club members.
- 6) The County has received many letters in support of the Applicant's request to delay construction of the Clubhouse. In contrast, only one property owner has objected to the proposal.
- 7) The Applicant has stated that the required number of members necessary to construct, operate and maintain the Clubhouse will be achieved in 3 to 4 years.
- 8) I do not believe that the Applicant's proposal for determining the timeframe to construct the Clubhouse based upon membership is appropriate. The proposal places too much control over the timing in the hands of the Developer, the Applicant or the Club owner at the time. Instead, the County should set a specific date that is known to everyone for completion of the Clubhouse.
- 9) I also do not believe that the Escrow Agreement proposed by the Applicant is the best means to guarantee completion of the Clubhouse. The County's Ordinances require bonds or letters of credit as guarantees for completion. In this case, that means of guarantee should be used as well.
- 10) It is my recommendation that Condition #10 to C/Z #1475 as amended by C/Z #1697 should be as follows:
  - A. Recreational facilities, e.g. tennis courts, swimming pool, community buildings, pathways, trails and beaches shall be constructed and open to use by the residents within two (2) years of the issuance of the first building permit.
  - B. The Nature Center shall be constructed and open to use by May 30, 2011.
  - C. Construction of the Clubhouse shall commence no later than one (1) year from the date Sussex County Council approves Change in Zone #1697, with construction to be complete 12 months thereafter. A bond, cash bond, or letter of credit shall be provided to Sussex County in the amount of 125% of the cost of completion of the Clubhouse within sixty (60) days of the date that Sussex County Council approves Change in Zone #1697.
  - D. The site plan for the Clubhouse shall be subject to the review and approval by the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried with 3 votes 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 3 – 2. For the purpose of the record the votes were taken by roll call with Mr. Burton, yea, Mr. Johnson, yea, Mr. Smith, nay, Mr. Ross, yea, and Mr. Wheatley, nay.

C/U #1874 – application of **ED HILEMAN DRYWALL, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a storage facility to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.1621 acres, more or less, lying northwest of Route 17 (Roxana Road) 800 feet north of Road 388 (Bixler Road) and 0.4 mile south of Road 52C (Phillips Road).

The Commission discussed this application, which has been deferred since December 9, 2010.

Mr. Smith stated that he would move that the Commission recommend approval of C/U #1874 for Ed Hileman Drywall, Inc. for a storage facility based upon the record made at the public hearing and for the following reasons:

- 1) Although advertised as a storage facility, the use proposed by the Applicant is for his drywall business.
- 2) With the conditions and limitations placed upon it, the Conditional Use will not have an adverse impact on neighboring properties or nearby roadways.
- 3) The use will be contained within an existing building on site, which was recently constructed for the Applicant's personal use. The building is similar in size to agricultural type buildings that exist throughout the County.
- 4) No parties appeared in opposition to the application.
- 5) The proposed use is consistent with the Sussex County Land Use Plan and is in an area identified by the Town of Selbyville for potential annexation.
- 6) This recommendation is however subject to the following conditions:
  - a. As stated by the Applicant, the use shall be limited to the Applicant's drywall business under this Conditional Use. The Applicant may still store his personal vehicles and belongings in the building since that is permitted under the AR-1 zoning of the property.
  - b. The hours of operation shall be limited to Monday through Friday from 7:00 a.m. to 5:30 p.m.
  - c. An unlighted sign, not to exceed 32 square feet per side, shall be permitted.
  - d. As stated by the Applicant, the dumpster area shall be enclosed so that the dumpster and any other trash receptacles are screened from view of neighboring properties or roadways.
  - e. The temporary sanitary septic facility shall be located to the rear of the existing structure and shall be screened from view of neighboring properties and roadways.
  - f. The parking spaces required by Sussex County Code shall be shown on the Final Site Plan and clearly marked on the site itself.

- g. Areas for outside storage of materials shall be shown on the Final Site Plan.
- h. There shall only be two (2) small trailers and one (1) tractor-trailer body on the site at any one time.
- i. There shall be no unregistered vehicles or trailers, or vehicles or trailers with expired license plates, stored on the premises.
- j. The Final Site Plan shall reference the approval by the Sussex Conservation District.
- k. The Final Site Plan shall be subject to review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Ross, and carried with four (4) votes 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, Mr. Burton did not participate in the discussion or the vote since he was not in attendance during the public hearing.

Subdivision #2005-24 – application of **CASCADE PROPERTIES, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 258.64 acres into 494 lots (Cluster Development), located north of Road 16, south of Road 231 (Reynolds Pond Road) and 2,400 feet east of Road 226 (Holly Tree Road).

Mr. Burton stated that he would move that the Commission grant final approval of Subdivision #2005 – 24 for Cascade Properties, LLC with the following conditions:

- 1. A Notice to Proceed with construction will not be issued for this project until 1 – the regional wastewater facility has been approved by DNREC to service this project and is substantially under construction; and 2 – the design of the corresponding transmission system to connect this project to said wastewater facility has been approved by the County Engineer; and
- 2. A Notice to Proceed with construction will not be issued for any phase of this project containing either a bridge or a lot served by a bridge or bridges, until the design plan(s) and construction specifications for said bridge or bridges have been submitted and approved by the County Engineer.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve this application as a final with the conditions stated. Motion carried 5 – 0.

## PUBLIC HEARINGS

Subdivision #2010-6 – application of **CANNON ROAD INVESTMENTS, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 130.427 acres into 233 lots (Cluster Development), located southwest of Route 5, southeast of Road 303, south of Road 303A, and east and west of Road 307.

The Commission found that on January 14, 2011 the applicants submitted an Exhibit Booklet, which contains copies of an Executive Summary, a Project Overview including Project Location within Urbanizing Area, Boundary Survey, Overview of Current Site Conditions, Site Analysis, DelDOT Improvements, Preliminary Land Use Service, Compliance with Applicable

Regulations including a State of Compliance with Sussex County Zoning and Cluster Ordinance, a Statement of Compliance with Chapter 99, Sussex County Subdivision of Land, a Statement of Compliance with Sussex County, Delaware Comprehensive Plan Update, June 2008, Appendixes and Resumes.

Mr. Abbott advised the Commission that file contains the Technical Advisory Committee Report of December 10, 2010, the applicant's response to PLUS comments received December 28, 2010 and a letter from an area resident indicating that they would not be able to attend the hearing.

The Commission found that Dennis Schrader, Attorney, Frank Kea, Jason Palkewicz and Holly Hearne of Solutions, IPEM, D.J. Hughes, Traffic Engineer with Davis, Bowen and Friedel, Inc. and Mark Handler and Randy Mitchell, applicants were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the subject site is a part of the previously approved Stonewater Creek and Pelicans Point Subdivisions; that this application will be known as Pelican Point Subdivision Phases 1 through 3; that the subject site was previously reviewed as a residential planned community application that was withdrawn during the public hearing process; that the applicants reviewed the comments made by the opposition for the residential planned community project and redesigned this plan to incorporate the opposition's comments; that no townhouse or multi-family units are proposed for this project, only single-family lots; that the site is currently approved for a standard AR-1 subdivision; that an Exhibit Booklet has been submitted into the record; that the project complies with the Subdivision and Zoning Codes and the Comprehensive Land Use Plan; that the site is located on the west side of Route 5 and contains 130.42 acres more or less; that 233 single-family lots are proposed; that the site is located in a low density, Level 4 area; that the subdivision streets will be private and built to Sussex County specifications; that an existing State Road will be vacated; that the site is within an urbanized area consisting of a 4-mile radius; that within this 4-mile radius, there are 17,000 to 35,000 residents depending on the time of the year; that the Community Design Element of the Comprehensive Plan was considered in the design of this project; that the design of the project consists of three major park areas and a fourth if the storm water management areas are included; that the perimeter of the site is buffered from all roads; that existing forested areas will be maintained as much as possible; that a 100-foot setback is proposed from all wetlands; that a homeowners' association will be formed; that there will be one set of amenities for this project and the remaining phases; that tot lots, small picnic areas, a bus stop and a centralized mail facility are proposed; that there is an interconnection to Phases 4 through 7; that DelDOT did not require a traffic impact study to be performed; that a portion of Townsend Road will be vacated; that the density of the approved subdivision for this site is 1.62 lots per acre with 17% open space; that the proposed density for this application 1.79 lots per acre with 37% open space; that the project will include streetlights and sidewalks on both sides of all streets; that this plan increases open space; that this application complies with the cluster ordinance; that single-family dwellings are proposed on smaller lots; that the size of the dwellings will be similar to those that are built in the Stonewater Creek Subdivision; that the project will not have any negative impacts on surrounding property values; that there are no wetlands on the individual lots; that the items referenced in Section 99-9C of the Subdivision Code have been adequately addressed in the Exhibit Booklet; that the site is not in a flood plain, that there are no historic features on the site; that 12.50 acres of woodlands will be preserved; that the storm water management ponds will be landscaped; that minimal tree removal

is proposed; that grading will be limited; that the project will not permit any objectionable features; that central water and sewer will be provided by Artesian Water Company; that the applicants will comply with all storm water management regulations; that multi-modal paths will be provided; that the design of the project allows for safe pedestrian and vehicular traffic; that the project preserves farmland; that no negative affects on property values are anticipated; that the homes will be the same as what exist in the area; that there is adequate fire protection, schools and shopping in the area; that the applicants met with the State through the PLUS process and responded to the comments; that the applicants will comply with all requirements and codes; that Phases 1 through 3 will begin before Phases 4 through 7; that the number of homes built will be market driven; that there is one entrance off of Route 5; and that proposed findings of fact and conditions of approval are included in the Exhibit Booklet.

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

The Commission found that George Hudson, Norma Lee Burton Derrickson, Tiffany Derrickson, Gerald Brock and George Lobenhofer, area, residents, were present in opposition to this application and advised the Commission that the proposed size of the dwellings on the smaller lots will not be in character with the area; that property values will decrease; that there will be negative impacts to the existing infrastructure; that there are drainage problems in the area; that existing homeowners need to be protected; that there is an agricultural preservation district in the immediate area; that Stevenson Road needs to be reopened due to increases in traffic; that the entrance should be off of Cannon Road; that wetlands have been created in the area; that they have safety concerns for children in the area; that the proposed lot sizes are out of character with the area; that there will be a loss of forested lands; and submitted written comments into the record.

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

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

In reference to C/Z #1699 and C/U #1868, the applications of Olde Towne Point, LLC, Shannon Carmean, Attorney, was present on behalf of the Applicants for and confirmed that they were requesting consolidation of the two applications into one public hearing, and acknowledged that the Applicants understand that the applications will be voted on separately.

C/Z #1699 – application of **OLDE TOWNE POINT, LLC** for an Ordinance to Modify Condition No. 21 imposed on Ordinance No. 1377 for Change of Zone No. 1400, the application of Olde Towne Point, LLC, for “The Village at Five Points”, a MR-RPC Medium Density Residential District – Residential Planned Community, so that the limitation with regard to community use is only on 2.52 acres, thereby enabling Olde Towne Point, LLC to use the remaining portion of property, 1.52 acres, for a proposed pharmacy or related use.

C/U #1868 – application of **OLDE TOWNE POINT, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a pharmacy and community service facility to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex

County, containing 4.04 acres, more or less, lying at the northwest corner of Savannah Road (Business Route 9) and North Village Main Boulevard, the entrance into the Village of Five Points.

The Commission found that on January 14, 2011 the Applicants provided an Exhibit Booklet which contains copies of the applications forms, a copy of Ordinance No. 1377, a preliminary site plan and site plan rendering, an evolution of the site plan as it has been amended since its original proposal, a survey of the property, site data, a series of maps and aerials, a copy of the contract of sale for the pharmacy site, a copy of a proposed Restrictive Covenant, Easement, Maintenance and Cost-Sharing Agreement, a copy of a letter from Davis, Bowen & Friedel, Inc. to DelDOT in reference to a traffic impact study, a copy of a letter from DelDOT, a copy of a proposed Conditional Gift Agreement, a copy of a letter from Linn Taylor, President of the North Village Condominium Association offering its support to the application, a letter from Davis, Bowen & Friedel, Inc. relating to the proposed pharmacy and library, a copy of an EDU Allocation Calculation, a report on compliance with the Sussex County Comprehensive Land Use Plan Update and the Zoning Code, and suggested proposed Findings of Fact.

The Commission found that on January 25, 2011 the County Engineering Department provided comments in the form of a Memorandum and referenced that the site is located in the West Rehoboth Expansion Area; that wastewater capacity is available for the project if limited upgrades are completed; that the system design and capacity have considered the Villages of Five Points as a whole project; that the site did not exist separately and the area was anticipated to be used solely for community service purposes; that the Villages of Five Points is projected to be at or exceed capacity assumptions as the project approaches build out of the planned and approved proposal; that there are downstream lines that are deficient at build out conditions; that the current proposal for pharmacy, library and community facilities is approximately ½ of the EDU of the prior proposal to build retail and office buildings; that the Engineering Department feels that reduced proposal is feasible if Olde Towne Point, LLC undertakes a downstream upgrade to alleviate a system deficiency; that it is unknown at this time if Ordinance 38 construction will be required; that the current System Connection Charge Rate is \$4,336.00 per EDU; that the location and size of laterals or connection points will have to be determined by the County Engineer; that conformity to the North Coastal Area Planning Study will be required; and that a concept plan will be required.

For the benefit of the record, Mr. Lank read Condition #21 of Ordinance No. 1377, the approving Ordinance for the original project, which states “Applicant will limit through deed restrictions the type of future use of 4.5 acres to community service (i.e. fire, police, EMS services, library, and museum. Note: Developer will maintain architectural and signage control of any facility).

The Commission found that the Planning Department had received 13 letters in support of the application prior to the meeting. The letters were authored by Solomon Peltz, John J. Gilbert as President of the Villages of Five Points Property Owners Association, John J. Gilbert, Rita P. Gilbert, Rich Dudek, Michael Cavanaugh, Michael and Mary Ellen South, Donald and Mary Verrico, Gene Terezak as President of Town Center East Condominium Association, Don and Helen Flood, Linn M. Taylor and William J. Sanda, Paul Kratchman, and Richard L. Bryan.

The Commission found that the Planning Department had received 4 letters in opposition to the application prior to the meeting. The letters were authored by Anthony E. Pasek, Donna M. Pasek, Michael Hobbs, and Maureen Hobbs.

The Commission found that Christian Hudson of Olde Towne Point, LLC was present on behalf of the application with Shannon Carmean, Attorney, and John Sergovic, Attorney, of Sergovic and Carmean, P.A., Ken Christenbury, Professional Engineer, of Axiom Engineering, D. J. Hughes, Professional Engineer, of Davis, Bowen & Friedel, Inc. and Bill Lucks, Realtor, and that they stated in their presentations and in response to questions raised by the Commission that they are proposing to divide the parcel into two parcels with 2.52 acres being set aside for a community service use, hopefully a library, and 1.52 acres to be conveyed for a pharmacy; that the site is zoned AR-1 Agricultural Residential and is not a part of the Residential Planned Community; that the site was an out-parcel from the original site when the Residential Planned Community was applied for; that the Sussex County Council imposed Condition No. 21 onto the site for a community service type of use and that this Condition was proposed by the original developer of the Village of Five Points; that efforts were made to establish a community service type of use and it was found that it was not economically viable at that time; that they entered into a contract to convey the property for a pharmacy use, an application was filed, public hearings were held, the residents desired a public service use, and the Applicant then withdrew its application for the pharmacy; that the Applicants have held at least six community meetings to discuss and present plans for the site; that the plans depicted a pharmacy in one location with access from North Village Main Boulevard, a pharmacy in another location with access from North Village Main Boulevard, a pharmacy and library with access from North Village Main Boulevard and access directly connected to West First Street at two locations, a pharmacy and library with access from a redesigned turning circle in North Village Main Boulevard and directly connected to West First Street at one location and parallel parking along West First Street, and the latest version depicting a pharmacy and library with access from an entrance on North Village Main Boulevard and no direct vehicular connection to West First Street, but retaining pedestrian connections to West First Street and parallel parking along West First Street; that they have continually attempted to get a community service use and have offered a gift to the Lewes Public Library; that the Village at Five Points project has been under construction for approximately 10 years; that the groups that they contacted originally included the Post Office, the University of Delaware for a museum, the Lewes Volunteer Fire Department, and others; that they remain committed to provide some community service use on the property by private or public partnership; that they are currently working with the Lewes Public Library and have offered the property to the Library; that a library use has been supported by the residents of the Village of Five Points; that they were surprised last year during the public hearings by the opposition; that in their meetings with the residents they have proposed vegetated berms, screening from the pharmacy facility; that their site plans and plans have evolved based on the comments received from the residents; that if their proposal to donate the property to the Library is not accepted by the Library, they will donate the property to the Village of Five Points Property Owners Association; that if a library is to be built on the property it will substantially increase to value of the land; that in response to the Memorandum from County Engineering, Mr. Christenbury has already determined that there is adequate capacity for the pharmacy and the library on this site; that the Library is interested in a 30,000 square foot building; that the CVS Pharmacy and Food Loin are opposed to a traffic circle concept at the entrance; that it will be



necessary to establish some traffic control devices for the crossover between the pharmacy and the Food Lion; that the pharmacy portion of the site meets the requirements of the Code for parking; that the Library portion of the site exceeds the requirements of the Code for parking; that during the previous public hearings opposition voiced concerns about the vacancies of the commercial center on site; that currently vacancy rate is at 50%; that the existing spaces equal approximately 2,000 square feet each; that today's market suggest spaces of 800 to 1,000 square foot each; that the commercial center recently lost a video store, a florist shop, and a postal center; that Food Lion has to approve the tenants in the center due to the master lease; that they are currently working with others uses; that residential buyers are interested in obtaining a variety of goods and services in the center, and residential unit values relate to convenience; that the application complies with the 2008 Sussex County Comprehensive Plan Update; that the Plan identifies the property in a Highway Commercial Area; that the Plan references that a Highway Commercial Area includes concentrations of retail and service uses that are mainly located along highways, and that as opposed to small, traditional downtown areas that are often historic and pedestrian friendly, the Area includes highway commercial corridors, shopping centers and other larger commercial vicinities geared towards vehicular traffic; that rather than seeking rezoning, the Applicants are seeking a Conditional Use; that the Conditional Use section of the Code allows for applications for residential, business, commercial or industrial uses when the purposes of the Chapter are more fully met by issuing a Conditional Use permit; that the use is appropriate as the adjoining properties are zoned either MR Medium Density Residential with a RPC overlay, B-1 Neighborhood Business or C-1 General Commercial; that the application is basically an in-fill property use; that the community service use approval merely implements the envisioned use established by Condition No. 21 of Ordinance No. 1377; that the proposed pharmacy use is appropriate and compatible with the goals of the Code as it is consistent with the character and uses of the surrounding areas; that the property is served by Route 9, and that DelDOT relied upon a 1999 Traffic Impact Study performed for the Village of Five Points, which contemplated traffic associated with the proposed pharmacy; that DelDOT determined that a Traffic Impact Study was not required for the subject rezoning application; that the Conditional Use and modification of Condition No. 21 of Ordinance No. 1377 is appropriate legislative action as it complies with the Plan and is consistent with the Zoning Code; that the Applicants have committed to the Property Owners Association and developer of the Shopping Center that if the Library does not accept the gift of the property or does not build within 10 years the land will be transferred to the Property Owners Association for community use; that DelDOT will revisit the project for anything in addition to the pharmacy; that calculations have been made and the site is capable of 16 EDU per the County Code; that parking lighting will be shielded; that parking areas overlap from section to section within the Village; that there are other parallel parking areas within the project; that the CVS Pharmacy will be contributing \$20,000 per year to assist in the maintenance of the roads within the project; that there are no parking spaces within the front yard setback along Savannah Road; that the Applicant has no objection to a condition that "No outside storage will be permitted"; and that the proposed library use is the preferred use by the residents and would be compatible with the Village of Five Points.

The Commission found that Ms. Carmean submitted a letter in support of the application from Virginia A. Zrake, Attorney, on behalf of the Village of Five Points Ventures, LLC, the shopping center owner. The letter references that the owner believes that a CVS pharmacy is a compatible use in the development and will benefit business in the development by increasing the traffic

entering the development; that the library located within the development will benefit all, both within and outside the development; that the Applicants, by offering to donate a portion of the site to the Library, increases the likelihood that the library will actually select the site within the development from the several locations it is considering for relocation; and that the Owner supports C/Z #1699 and C/U #1868.

The Commission found that John J. Gilbert, President of the Village of Five Points Property Owners Association, Kevin McBride, Jennifer Short, and Don Flood, all residents within the Village of Five Points, were present in support of the application and stated that they were pleased with the Applicants information sessions with the residents about the site plan layouts, the CVS pharmacy and the library; that they support of intended uses and the agreements presented; that the residents support the intended library use; that the uses will benefit the community; and that traffic has not been a problem in the entrance area to the shopping center.

The Commission found that Don Lineback and Joel Vanini, residents within the Village of Five Points, were present in opposition to the application and stated that they are in opposition to the pharmacy; that there are 10 pharmacies between the pharmacy next to Beebe Medical Center in Lewes and the CVS pharmacy at the entrance to Rehoboth Beach; that there are several vacancies in the Neighborhood Business section and the Town Center portion of the Villages of Five Points; that Walgreens and CVS will impact the privately owned Cape Henlopen Pharmacy; that the Walgreens and CVS may stay open for 24 hours and create a pricing war; that pharmacist and management employees will come in from other parts of the Country and jobs for local residents will be minimum wage jobs; that there is no need for another pharmacy in this area; that it is reported that everyone wants the library, but there is no letter of commitment from the Lewes Public Library; questioning if the Property Owners Association can get grants to make improvements to the site if the acquire it; reporting that there are drainage problems in the project; reporting that there are traffic problems in the area already and that the problems will increase; questioning the need for another pharmacy; expressing concerns about traffic flow and delivery trucks impacting the flow of traffic at the crossover between the shopping center and the proposed pharmacy; and stating that the pharmacy will have no real benefit to the community.

The Commission found that John Matakoto, a resident of Lewes, was present, not sure if he was present in support or if he was in opposition, expressed some concern about the Lewes Public Library moving out of the City of Lewes; that meetings in the City about the library have determined that the residents in the City prefer that the library remain within the City; noting that there is no letter on file from the Lewes Public Library; reporting that the Library is now setting up a search committee to establish a location for a new library; that the State of Delaware has guidelines for the establishment of a library and references site locations guidelines, that grant funding comes with conditions and stipulations; and that the Commission should have taken notice that no one from the Library is present in support of the proposed gift or the application.

The Commission found that Victor Letonoff, a member of the City of Lewes Planning Commission, stated that he was only present in observation, but did note that there has been a lot of discussion about a library, and that he has been reported that the Library wants to stay in the City of Lewes.

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The Commission found by a show of hands that there were 12 parties present in support of the application and four parties present in opposition to the application.

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

In reference to C/Z #1699:

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

In reference to C/U #868:

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

Meeting adjourned at 10:00 p.m.