

## MINUTES OF THE REGULAR MEETING OF MAY 8, 2014

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 8, 2014, 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. I.G. Burton III, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

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

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the Minutes of April 24, 2014 as amended. Motion carried 4 – 0.

### OLD BUSINESS

#### **Subdivision #2013-5 – Gulfstream Glen Cove, LLC**

Application of **GULFSTREAM GLEN COVE, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 8.84 acres into 17 lots, (Environmentally Sensitive Developing District Overlay Zone) and a waiver from the forested buffer requirements, located 500 feet west of the intersection of Road 352 (Windmill Drive and Road 353 (Burbage Road) (Tax Map I.D. #1-34-12.00-374.01).

The Chairman referred back to this application, which has been deferred since October 10, 2013.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2013 – 5 for Gulfstream Glen Cove, LLC, based upon the record and for the following reasons:

1. As requested by the Planning and Zoning Commission, the applicant has obtained a Court Order revising the tax ditch easements affecting this property.
2. The applicant has also revised the site plan so that the vegetated buffer required by Sussex County Code is not within any of the lots. The buffer is also outside of the revised tax ditch maintenance easement area,
3. The Sussex County Code permits lots to be 7,500 square feet in an Environmentally Sensitive Developing Area subdivision when central water and sewer are available. In this case, there will be central water and central sewer is available from Sussex County.
4. The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items as listed in Section 99-9C of the Code have been favorably addressed.
5. The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values. It is basically an infill development surrounded by other residential subdivisions.

6. The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
7. No lots contain any wetlands.
8. This approval is subject however to the following conditions:
  - A. There shall be no more than 16 lots within the subdivision.
  - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities, erosion and sedimentation control facilities and other common areas.
  - C. The storm water management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
  - D. All entrances shall comply with all of DelDOT's requirements.
  - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
  - F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
  - G. A 20 foot vegetated Agricultural Buffer shall be provided as shown on the revised Preliminary Site Plan. The Final Site Plan shall contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.
  - H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
  - I. No wetlands shall be included within any lots.
  - J. Sidewalks shall be provided as shown on the revised Preliminary Site Plan.
  - K. The subdivision shall be served by Sussex County sewer.
  - L. Pursuant to the approved Plot of Windmill Subdivision Phase I recorded at Plot Book 31 Page 269, Lots 2 and 3 at that subdivision shall have access from Winfield Lane.
  - M. The "top of bank" of the tax ditch must be surveyed and shown on the Final Site Plan so that the maintenance easement and vegetated buffer will be accurately depicted.
  - N. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting these conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
  - O. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Burton and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 4 – 0.

### **Subdivision #2013-14 – Dozer, LLC**

Application of **DOZER, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 10.04 acres into 18 lots, (Environmentally Sensitive Developing District Overlay Zone) located north of Double Bridges

Road (Road 363) approximately 1,400 feet east of Parker House Road (Road 362) (Tax Map I.D. #1-34-19.00-19.00 part of).

The Chairman referred back to this application, which has been deferred since April 10, 2014.

Mr. Smith stated that he would move that the Commission deny Subdivision #2013 – 14 for Dozer, LLC based on the record made during the public hearing and for the following reasons:

1. The applicant is seeking a subdivision within the AR-1 Agricultural Residential District. It is also within the Environmentally Sensitive Developing District Overlay Zone.
2. The applicant has designed the subdivision with 7,500 square foot lots.
3. The Preliminary Site Plan states that although central sewer will be provided, the lots will be served by on-site wells. This was reiterated in the record and in the Applicant's Exhibit Booklet.
4. According to Section 115-194.3 of the Sussex County Code, lots must be served by central water to be reduced to a minimum of 7,500 square feet in size.
5. When asked, the applicant could not provide any definite information about central water within the subdivision.
6. Because the Code does not permit this subdivision as applied for and plotted on the Preliminary Site Plan, it must be denied.

Motion by Mr. Smith, seconded by Mr. Burton and carried unanimously to deny this application for the reasons stated. Motion carried 4 – 0.

#### **Subdivision #2012-4 – Main Street Homes at Sussex, LLC**

Application of **MAIN STREET HOMES AT SUSSEX, LLC** to consider the Subdivision of land in a MR Medium Density Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 19.71 acres into 32 lots, located at the end of Fairway Drive within Old Landing Development, approximately 1,950 feet west of Road 274 (Old Landing Road) (Tax Map I.D. #3-34-18.00-83.14)).

Mr. Abbott advised the Commission that this is the final record plan for a 32 lot standard subdivision application; that the Commission granted preliminary approval for 32 lots on January 9, 2013 with 9 conditions of approval; that the final record plan complies with the subdivision and zoning codes and the conditions of approval; and that all agency approvals have been received.

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

#### **Subdivision #2013-1 – Boardwalk Development, LLC**

Application of **BOARDWALK DEVELOPMENT, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing

17.52 acres into 35 lots, (Cluster Development), located north of Road 277 (Angola Road) approximately 2,200 feet west of Road 278 (Tax Map I.D. #2-34-12.00- 13.01).

Mr. Abbott advised the Commission that this is the final record plan for a 35 lot cluster subdivision application; that the Commission granted preliminary approval for 35 lots on June 13, 2013; that the final record plan complies with the subdivision and zoning codes and the conditions of approval; and that all agency approvals have been received.

Motion by Mr. Smith to defer action. The motion died for a lack of a second.

Motion by Mr. Ross, seconded by Mr. Burton and carried unanimously to approve this application as a final. Motion carried 4 – 0.

## PUBLIC HEARINGS

### **Conditional Use #1987 – Brian and Kelly DeLeon**

Application of **BRIAN AND KELLY DELEON** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a cross fit training gym to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 8.50 acres, more or less, land lying southwest of Route 30 (Gravel Hill Road) 1,605 feet southeast of Route 47 (Springfield Road) (Tax Map I.D. # 2-34-8.00-51.00).

The Commission found that the Applicants submitted surveys and site plans with their request for Conditional Use.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report on January 29, 2014 which reference that a traffic impact study was not recommended and that the current Level of Service “B” of Route 30 will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on May 1, 2014 which reference that the site is not located in a proposed or current County operated and maintained sanitary sewer and/or water district; that the site is located in the North Coastal Planning Area; that an on-site septic system is proposed to be utilized; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on May 5, 2014 which reference that there are two soil types; that the Applicants will need to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that the project should not necessitate any off-site drainage improvements; that it is not likely that the project should require any on-site drainage improvements; and that no tax ditches are affected.

The Commission found that Brian DeLeon was present and stated in his presentation and in response to questions raised by the Commission that he originally started out as a home occupation instructing one client at a time and that the business has grown; that he is open for his clients seven (7) days per week with hours Monday through Thursday from 5:30 a.m. to 7:00 p.m. Fridays from 8:00 a.m. to 6:00 p.m., Saturdays from 8:30 a.m. to 9:30 a.m. and Sundays from 10:00 a.m. to 11:00 a.m.; that he has three (3) other trainers that assist him and are paid in membership hours to use the facility; that he would like to be able to erect a lighted sign; that he has motion lights on the building for security; that he resides in the dwelling on the premise; that an on-site septic system exists for the dwelling and a porta-toilet is available for the clients; that he does sell t-shirts and sports drinks at the facility; that he hopes to average 60 to 65 clients per day with a maximum of 5 to 15 clients per hour; that the facility is located within the pole barn; that he would have no objection to reducing the size of the requested area of the Conditional Use; that the only outdoors activity is an occasional running or jogging out to the entrance and back to the facility; that his father and mother-in-law are neighbors; and that he has spoken to James Wilson at Wilson's Store and heard no objections.

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

### **Change of Zone #1748 – CMF Bayside, LLC**

Application of **CMF BAYSIDE, LLC** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Density Residential – Residential Planned Community to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 27.896 acres, more or less, land lying southwest of Sand Cove Road (Road 394) 1,800 feet southeast of Route 54 (Lighthouse Road) and northeast of Williamsville Road (Road 395) 2,000 feet southeast of Route 54 (Lighthouse Road) (Tax Map #5-33-19.00-287.00).

The Commission found that the Applicants submitted surveys and site plans with their application on January 29, 2014, and that the Applicants submitted Exhibit Booklets for consideration on April 25, 2014. The Exhibit Booklets contain a cover letter, the application form, site plans and aerial photographs depicting the site plan; a letter addressed to the Commission on the Environmental Assessment and Public Facilities Evaluation; a copy of the PLUS (Preliminary Land Use Service) application, dated July 19, 2013; a copy of the PLUS comments, dated September 25, 2013; a copy of the Responses to the PLUS comments, dated January 15, 2014; references to the surrounding area and zoning, by copies of a series of maps from the Comprehensive Land Use Plan and Zoning Map, and aerial photographs; a copy of the deed to the property; a summation of a Pre-Design Meeting with the Sussex Conservation

District; a letter of No Objection to Recordation; a willing and able to serve letter from Artesian Resources; and an approved concept plan approval from the County Engineering Department.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on May 2, 2014 which reference that the site is located in the Bayview Estates Sanitary Sewer District; that wastewater capacity is available; that Ordinance 38 construction will be required; that the current System Connection Charge Rate is \$6,489.00; that the proposed project will connect to an existing manhole at Williamsville Road, in accordance with the approved sanitary sewer concept plan; that conformity to the South Coastal Planning Study, 2005 Update, will be required; that connection to the sewer system is mandatory; that the proposed project is within planning study and system design assumptions for sewer service and there will be adequate capacity for the project as proposed; that the Engineering Department has no objection to the proposed development as long as sewer service is in accordance with the sanitary sewer concept plan that was approved on November 13, 2013; that the County requires design and construction of the collection and transmission system to meet County Engineering Department standards and procedures; that the County Engineer must approve the connection point; that all costs associated with extending sewer service will be the sole responsibility of the developer; that proper disconnection of the existing dwelling on the parcel is required prior to commencement of site work, issuance of a building permit or prior to demolishing the dwelling; that a proper disconnection requires a disconnection permit issued to a Sussex County licensed plumber and inspection by County personnel; and that a concept plan is required.

The Commission found that TAC (Technical Advisory Committee) agencies providing comments include DelDOT, DNREC Wastewater and Hazardous Substances/SIRS, DNREC Tank Management Section, Department of Agriculture Forest Service, the Office of the State Fire Marshal, DNREC Wetlands and Subaqueous Lands Section and Wetlands/Soil Assessment Branch, the Natural Resources Conservation Service, the County Engineering Public Works Division, and the Sussex Conservation District.

The Commission found that Vincent Robertson, Assistant County Attorney, reviewed the record for the application and commented that this is an application for a MR-RPC; that it will be incorporated into the existing Americana Bayside Development; that, as such, it is presumed that it will be governed by the existing and recorded Bayside governing documents or an amendment to them; that maintenance of the streets and roadways must be provided in the recorded governing documents for this expansion of the Bayside development; that maintenance of the common areas, the storm water management areas, surface drainage facilities, erosion and sedimentation control facilities and buffer areas must be provided in the recorded governing documents for this expansion of the Bayside development; and because there appears to be wetlands on this site, the governing documents must contain the wetlands notice required by 99-6(H) of the County Subdivision Code.

The Commission found that James Fuqua, Esquire of Fuqua, Yori & Willard, P.A., Stephen Marsh, Professional Engineer from GMB George Miles and Buhr, and Ed Launay, Soil Scientist from Environmental Resources, Inc. were present on behalf of this application and stated in their

presentations and in response to questions raised by the Commission that they are proposing an expansion to the existing Americana Bayside Residential Planned Community; that the original application (C/Z #1393) was approved in 2001 for 1,700 residential units with a mix of single family detached dwellings, townhouses, multi-family dwelling structures, commercial areas, open space, and a public golf course; that in 2011 the project was expanded (C/Z #1701) to add an additional 55 units; that to date approximately 700 residential units have been constructed; that this site is across from Phase 6 of the project and adjacent to Sea Country Estates, a recorded subdivision; that they are proposing to develop 93 units (30 single family lots to the west and east sides, 30 duplex units, and 33 townhouse units”; that access is proposed from both Sand Cove Road and Williamsville Road; that a wetlands delineation has been completed and that they found 0.2 acres of regulated Federal wetlands on the property; that the wetlands are not intended to be disturbed; that central water will be provided by Artesian Resources; that public sewer will be provided by Sussex County; that DelDOT has approved the entrance locations; that the project is in accordance with the Comprehensive Land Use Plan (Plan); that the project is located in an Environmentally Sensitive Developing Area, a growth area; that the Plan references that housing in an Environmentally Sensitive Developing Area could be single family detached dwellings, multi-family dwelling structures, and townhouses; that the MR Medium Density Residential zoning requested is an appropriate zoning since it is consistent with the trend of development in the area; that residents of the project will be members of Americana Bayside and will be able to use all of the open space facilities available within Americana Bayside; that the project is proposed to have a loop road with single family dwellings on the outside edges and multi-family units and townhouses internally; that the project is proposed to be similar to the recently approved phase “Sea Grass Bend” within the existing Americana Bayside; that the site is approximately 0.25 mile from the existing pool and tennis facilities within Americana Bayside; that a 20-foot wooded buffer is proposed along the Sea Country Estates subdivision; that their suggested Findings of Fact and Conditions of Approval are similar to the conditions of the previous expansion; that the application is an appropriate extension to the Americana Bayside project and is encouraged by both the Plan and the Zoning Ordinance; that DelDOT required them to do a smaller traffic study since a Traffic Impact Study had previously been performed for the Americana Bayside applications; that pedestrians and cyclists could access any portion of the entire Americana Bayside project from this site through existing streets; that they have met with the Sussex Conservation District about stormwater management issues and erosion and sedimentation control; that the site drains from natural ditches into a tax ditch; that homes and roads will be designed to not be impacted by storm events; that the homes will not have basements; that most of the requirements from DelDOT have already been completed; that most of the amenities facilities within the Americana Bayside have already been completed; that MR zoning at 4 units per acre is an appropriate density for the general area; that the project will comply with flood regulations; that no additional amenities are proposed in this phase, except for sidewalks; that the ditch between this site and the Sea Country Estates subdivision is a private ditch that exists on both sides of the ditch; that the ditch drains into a tax ditch that drains into Maryland; that maintenance of that tax ditch may improve drainage; and that the ditches are considered regulated waters according to Federal regulations.

Mr. Fuqua submitted suggested proposed Findings of Fact and suggested proposed Conditions of Approval for consideration.

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 would move that the Commission recommend approval of C/Z #1748 for CMF Bayside, LLC for a change of zone from AR-1 Agricultural Residential to MR-RPC Medium Density Residential – Residential Planned Community based upon the record made at the public hearings and for the following reasons:

- 1) The site is generally surrounded on three (3) sides by residential development and it is an appropriate extension of the existing Bayside development.
- 2) The proposed development will have sewer service provided by Sussex County and water provided by Tidewater Utilities.
- 3) The proposed rezoning to an MR-RPC is in compliance with the goals and objectives of the Sussex County Comprehensive Land Use Plan. It is also in the Environmentally Sensitive Developing Area, and MR zoning is appropriate in this Area.
- 4) The proposed development is in conformity with the surrounding developing and zoning, and will not adversely impact neighboring properties, traffic, or the environment.
- 5) No parties appeared in opposition to the application.
- 6) This recommendation is subject to the following conditions:
  - a. The maximum number of residential dwelling units shall be 93, consisting of 33 townhouses, 30 duplexes, and 30 single family homes.
  - b. The development shall be served as part of a Sussex County Sanitary Sewer District.
  - c. The Developer shall comply with all requirements and specifications of the County Engineering Department.
  - d. The RPC shall be served by central water.
  - e. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner consistent with Best Management Practices.
  - f. The Final Site Plan for each phase of the development shall contain the approval of the Sussex Conservation District upon it.
  - g. The project will be incorporated as part of the existing Americana Bayside MR-RPC (C/Z #1393) and shall be subject to, and benefited by, the conditions imposed upon that development, except as modified herein.
  - h. All entrance, roadway, intersection, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's standard determinations.
  - i. The interior street design and parking areas shall meet or exceed Sussex County street design specifications and requirements.
  - j. The Applicant shall form a Condominium Association to be responsible for the maintenance of streets, roadways, buffers, stormwater management areas and community areas.
  - k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.



- l. The Final Site Plan shall include a landscape plan for all the buffer areas, showing all the landscaping and vegetation to be included in those areas.
- m. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Ross, 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.

### **Change of Zone #1749 – Bruce and Cathy King**

Application of **BRUCE AND CATHY KING** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,024 square feet, more or less, land lying southwest of Nassau Road (Road 266B) 200 feet northwest of Railroad and 70 feet northwest of New Road (Road 266) (Tax Map I.D. #3-34-5.00-73.00).

The Commission found that the Applicants submitted a survey/site plan with their application.

The Commission found that DelDOT provided comments in the form of a letter and Support Facilities Report on January 29, 2014 which reference that a traffic impact study was not recommended and that the current Level of Service “A” of Nassau Road may change to a Level of Service “B”; that they presently cannot predict the site’s trip generation with enough accuracy to make a traffic impact study useful; and that they recommend that the rezoning application be considered without a traffic impact study and that the need for a traffic impact study be evaluated when a subdivision or land development plan is proposed.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on May 2, 2014 which reference that the site is located in the West Rehoboth Expansion Area; that the sewer design assumption is 1.0 EDU for an AR-1 zoned lot of less than 1.0 acre; that the parcel has been provided with a sanitary sewer lateral along the parcel’s frontage on Nassau Road; that conformity to the North Coastal Area Planning Study will be required; that the proposed CR-1 zoning is not located on residential lands previously identified for commercial use by the Planning and Zoning Department; that the Engineering Department has concerns that the rezoning will result in a potential increase of wastewater flow from the parcel in the future; that a capacity evaluation, at the developers expense, may be required to determine what upgrades would be required to serve a future use; that required upgrades would be completed by the developer, at the developer’s expense; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on May 5, 2014 which reference that there is soil type on the site is Evesboro loamy sand; that the Applicants will need to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas

are affected; that it is not likely that off-site drainage improvements will be necessary; that it is possible that on-site drainage improvements will be necessary; and that no tax ditches are affected.

The Commission found that Cathy King was present with Cathy Ford, Realtor, and Chris Carpenter, a cross-fit trainer, and that they stated in the presentation and in response to questions raised by the Commission that they are proposing to establish a cross-fit gym on the site; that there is a standard setback from the railroad on the rear; that there are several commercial properties in close proximity to this site, and referenced Best machinery, a mill property, a survey office, warehousing, a repair shop/garage, and others; that the existing structures on the site will be removed through a controlled burn; and that the trend in this area between Route One and Nassau Road is for commercial development.

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. Burton stated that he would move that the Commission recommend approval of C/Z #1749 For Bruce and Cathy King for a change in zone from AR-1 Agricultural Residential to CR-1 Commercial Residential based upon the record made during the public hearing and for the following reasons:

- 1) The project is located in the Environmentally Sensitive Developing area. CR-1 is appropriate zoning in this area.
- 2) CR-1 zoning is appropriate at this location. There are other commercial zoning and uses in the immediate area of this parcel. It is also surrounded by Nassau Road, Coastal Highway, and a railroad.
- 3) The rezoning will not adversely affect neighboring properties, roadways, or community facilities.
- 4) The rezoning is consistent with the purposes of the CR-1 Zone in the County Code.
- 5) No parties appeared in opposition to this application.
- 6) Any redevelopment of this property will require site plan approval by the Planning and Zoning Commission along with other agency approvals.

Motion by Mr. Burton, 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.

### **Change of zone #1750 – BLN, LLC**

Application of **BLN, LLC** to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 14,400 square feet, more or less, land lying southeast of Route 9 (Lewes Georgetown Highway) 0.6 mile west of Road 321 (Park Avenue) (Tax Map I.D. #1-35-15.00-83.00).

The Commission found that the Applicants submitted a survey/site plan with their application.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report on January 29, 2014 which reference that a traffic impact study was not recommended and that the current Level of Service “E” of Route 9 (Lewes Georgetown Highway) will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on May 2, 2014 which reference that the site is not located in a proposed or current County operated and maintained sanitary sewer and/or water district; that the site is located in the North Coastal Planning Area; that an individual on-site septic system is proposed to be utilized; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on May 5, 2014 which reference that the soil type on the site is Hammonton loamy sand; that the Applicants will need to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that the project should not necessitate any off-site drainage improvements; that it is possible that the project could require on-site drainage improvements; and that no tax ditches are affected.

The Commission found that Leon Ware of BLN, LLC was present with Barrett Edwards, Esquire of Hudson, Jones, Jaywork & Fisher, LLC and that they stated in their presentation and in response to questions raised by the Commission that the site has been used for several businesses; that the site is adjacent to the Sports at the Beach facility and is three (3) doors down from a copy machine repair facility; that historically the site has been used for a gas station, general convenience store, realty offices, and a radio, TV, and electronics repair shop; that rezoning of the property is more logical than repeated applications for Conditional Use; that there will not be any increase in traffic due to the size of the building and limited size of the parcel; that the underground tanks were removed prior to 1998; that they purchased the site in 1998; and that they do not have a current contract for the sale of the property.

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

**Subdivision #2014-1 – Charles H. Guy, IV**

Application of **CHARLES H. GUY, IV** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 41.59 acres into 83 lots, (Cluster Development) located south of Road 279A (Waterview Road), 530 feet east of Road 279 (Camp Arrowhead Road)) (Tax Map I.D. #2-34-12.00 – part of 22.00). Mr. Abbott advised the Commission that the Technical Advisory Committee Report of March 23, 2014 is a part of the record for this application; and that the Applicant submitted an Exhibit Booklet on April 28, 2014 containing an Introduction, Maps and Plans, TAC Comments, PLUS review and Declaration of Covenants that is made a part of the record.

The Commission found that Charles Guy, IV, Chad Meredith, Attorney, and Kevin Smith with Kercher Engineering were present and stated in their presentation and in response to questions raised by the Commission that this is an application in Agricultural lands, that the applicant has chosen the Cluster option; that the preliminary plan meets all of the requirements of the subdivision code; that Tab A of the Exhibit Booklet contains a letter to the Director, a Project Summary, and consideration of the items referenced in Section 99-9C of the Subdivision Code; that Tab D of the Exhibit Booklet contains the PLUS review comments and the applicant's response to those comments; that the site is located in the Angola area; that there are other similar developments in the immediate area such as Marsh Island and Marsh Development; that 83 single family lots are proposed; that 31% of the site is Open Space; that there are wetlands on the site that will not be disturbed; that the proposed density is 1.9 lots per acre which is permitted by the Code; that the minimum lot size is 9,000 square feet with an average lot size of 10,000 to 11,000 square feet; that all lots are a minimum width of 60 feet with a minimum depth of 100 feet; That the project will be served by County sewer; that the applicant will request to be annexed into a County sewer district; that Tidewater Utilities will provide central water; that the site is not impacted a ground water recharge area and there are no wellheads on the site; that a portion of the site is in an AE El. 6 flood zone; that the streets will be private and constructed to County specifications; that sidewalks will be provided on one side of all streets and not both sides as shown on the preliminary plan; that the applicants have meet with DelDOT; that the site has been owned by the applicant's family for over 200 years; that the current engineering firm is the second firm that has worked on the project design; that the applicant has developed other projects in the County; that an interconnection road is proposed to the adjoin parcel that is being developed; that the draft covenants call for 2,200 square foot homes; that it is possible that a bus stop could be provided if required; that streetlights will be provided; that the project will be constructed in two phases; that the clubhouse would be constructed during the second phase; that the streets will be curb and gutter; that there are no wetlands on any lots; and that the amenity area will include a pool and clubhouse.

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

The Commission found that Jeff Sunstrum and John Bebrock expressed concerns about DelDOT advertising new Subdivision Manuel Guidelines; that the application is ambiguous; that there are no certainties; that the residents are owed details; that the site is in an environmentally sensitive area; that Love Creek and Cherry Creek could be negatively impacted; and that there are drainage and run off concerns.

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

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

Meeting adjourned at 8:35 p.m.