

MINUTES OF THE REGULAR MEETING OF May 26, 2016

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, May 26, 2016 in the County Council Chambers, Sussex 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. I.G. Burton, Mr. Michael Johnson, Mr. Marty Ross, and Mr. Doug Hudson, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Ms. Janelle Cornwell – Planning and Zoning Manager, and Mr. Daniel Brandewie – Planner.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of May 12, 2016 as circulated. Motion carried 5 – 0.

OLD BUSINESS

C/Z #1759 – Osprey Point D, LLC

Application of Osprey Point D, LLC to amend the Comprehensive Zoning Map of Sussex County 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, containing 126.8795 acres, more or less, land lying west of Old Landing Road (Road 274) 1.2 mile south of Warrington Road (Road 275) (911 Address: 20836 Old Landing Road, Rehoboth Beach, DE) (Tax Map I.D. 334-18.00-83.00).

The Commission discussed this application which has been deferred since January 8, 2015.

Mr. Johnson stated that he would like more time to prepare a motion on this application.

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

C/U #2047 – Delmarva Petroleum Service

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for equipment storage and repair for a contracting business located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 4.972 acres, more or less. The property is located northeast of Clendaniel Pond Road (Road 38) approximately 700 feet north of Fleatown Road (Road 224). (911 Address: 9483 Clendaniel Pond Road, Lincoln). Tax Map I.D. 230-13.00-148.00.

The Commission discussed this application which has been deferred since May 12, 2016.

Mr. Ross stated that he would move that the Commission recommend approval of C/U #2047 for Delmarva Petroleum Service to operate equipment storage and repair for a contracting business based on the record made during the public hearing and for the following reasons:

- 1) The site is on a parcel with a residence and the applicant's son will continue to reside on the property.
- 2) The property is zoned AR-1 Agricultural Residential. The use will be very similar to equipment storage and maintenance associated with farming operations and agricultural equipment.
- 3) The use will not adversely affect neighboring properties or roadways. The nearest dwelling is also more than 150 feet away.
- 4) There will be no significant traffic generated by the use, since there are not any sales, displays or customers on the property.
- 5) The proposed use provides a service to residents and businesses in Sussex County without any significant negative impacts.
- 6) The use is consistent with the prior use of this property for business purposes.
- 7) No parties appeared in opposition to the application.
- 8) This recommendation is subject to the following conditions:
 - A. The use shall be limited to equipment storage and repairs associated with the applicants' petroleum service business.
 - B. As stated by the applicant, no sales or displays shall occur on the site.
 - C. As stated by the applicant, no petroleum storage shall occur on the site, other than what is required for day-to-day operations of the applicant's vehicles and equipment.
 - D. All security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - E. All parking and equipment storage locations shall be clearly shown on the Final Site Plan, which shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Burton, 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. Johnson did not participate in the voting since he was not present for the public hearing.

C/U #2048 – Delaware Shore Equity, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a warehouse and office to receive and store HVAC equipment located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.457 acres, more or less. The property is located east of John J. Williams Highway (Route 24), 1,150 feet southwest of Jolyns Way (Road 289). (911 Address: None Available). Tax Map I.D. 234-11.00-502.00.

The Commission discussed this application which has been deferred since May 12, 2016.

Mr. Burton asked Mr. Robertson to read Mr. Burton's motion.

Mr. Robertson read that Mr. Burton moves that the Commission grant C/U #2048 for Delaware Shore Equity, LLC for a warehouse and office to receive and store HVAC equipment based upon the record made during the public hearing and for the following reasons:

- 1) The site is located on Route 24, which is a significant roadway in the area. This use, with no retail sales or other significant activity on the site, is appropriate for this location along Route 24.
- 2) The use is situated on a 1.457 acre parcel of land. It is situated among other larger parcels of land. The use is compatible with the surroundings and will not have a negative impact on neighboring properties or roadways.
- 3) No work is done at the site, and all employees start the workday from their own homes. The existing building will only be used to store equipment and vehicles.
- 4) The applicant has stated that he previously operated his business from his home. As the business successfully grew, another more appropriate location was needed. This site allows the reasonable expansion of the applicant's previous business in an appropriate location that will serve the residents of Sussex County.
- 5) No parties appeared in opposition to the application.
- 6) Small businesses such as this are appropriate in the Environmentally Sensitive Area according to the Sussex County Land Use Plan.
- 7) This recommendation is subject to the following conditions:
 - A. The use shall be limited to a warehouse and office to receive and store HVAC equipment.
 - B. There shall be no retail sales from the property.
 - C. No vehicle repair shall be performed on site.
 - D. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
 - E. Any dumpsters on the site are to be screened from view of neighboring properties and roadways.
 - F. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
 - G. The hours of operation shall be Monday through Friday from 7:00 a.m. until 6:00 p.m.; Saturday and Sunday closed.
 - H. Signage shall not exceed six (6) square feet on each side and shall not be lighted.
 - I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, 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. Johnson did not participate in the vote since he was not present during the public hearing.

2016-5 – Estates at Enchanted Woods – Eastern Shore Brothers, LLC

This is a major subdivision plan. The plan proposes to subdivide 15.56 acres +/- into 14 single family lots. The property is located on the south side of Huff Road approximately 0.78 mile west of Gravel Hill Road. The property is zoned AR-1 (Agricultural Residential District). Tax Map I.D. 235-24.00-234.00 – 249.00 & 235-24.00-39.01.

Waiver request for elimination of the 20' Landscape Buffer.

The Commission discussed this application which has been deferred since May 12, 2016.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision 2016-5 for Eastern Shore Brothers, LLC based upon the record made during the public hearing and for the following reasons:

- 1) This subdivision is identical to Subdivision 2004-51, which received Final approval and was recorded in May of 2006. Because the prior approvals expired, a new application is necessary.
- 2) The Development is designed as a standard subdivision, with lots that all exceed $\frac{3}{4}$ of an acre in size.
- 3) The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
- 4) The applicant has proposed 14 lots within the project, which is less than the allowable density for an AR-1 Agricultural Residential subdivision on this land.
- 5) The applicant has represented that it has approvals from DNREC and the Sussex Conservation District.
- 6) There is an existing house and lot within the subdivision. The house pre-dated the subdivision approval and a lot was created around it as part of the overall plan.
- 7) The project will not have an adverse impact on the neighboring properties.
- 8) DNREC has approved the site for individual septic systems.
- 9) A waiver from the buffer requirements is appropriate in this case. The prior plan was not required to have buffers along the boundary, and the approved stormwater management plan has stormwater and drainage features along the perimeter of the project, which would be incompatible with the installation of buffers. But, if the stormwater or drainage design is modified, the developer should return these areas to a vegetated buffer.
- 10) This approval is subject to the following conditions:
 - A. There shall be no more than 14 lots within the subdivision.
 - B. The applicant shall form a homeowners' association to be responsible for the maintenance of the roads, stormwater management facilities, and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. Best Management Practices shall be used in its construction and operation.
 - 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 Department.
 - F. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - G. The Final Site Plan shall include a landscaping plan showing landscaping at the entrance to the project.
 - H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to grant preliminary approval of Subdivision 2016-5 for Eastern Shore Brothers, LLC based on the reasons and conditions stated. Motion carried 5 – 0.

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE XXI (“SIGNS”).

The Commission discussed the proposed Ordinance amendments proposed on the sign regulations.

Mr. Robertson summarized the past few months of activities relating to signs, referencing the Moratorium, the Working Group that worked on some of the sign regulations, the public hearing of May 12, 2016; that the opposition to the proposed drafted ordinance presented an Alternative Ordinance; and that based on review of the drafted ordinance and the Alternative Ordinance with staff and conversations with members of the Commission he has drafted a Planning and Zoning Commission version of the ordinance and summarized the changes suggested in the Planning and Zoning Commission version.

Mr. Robertson added that if the Commission make a recommendation on the approval of the Ordinance, the Ordinance should be attached to the Minutes of this public meeting for the record.

Mr. Ross stated that the Commission recognized after the public hearing that some of the original proposed draft of the ordinance and some of the suggested Alternative Ordinance were valid and should be considered.

Mr. Ross stated that he would move that the Commission recommend adoption of **“An Ordinance To Amend the Code of Sussex County, Chapter 115 (“Zoning”), Article XXI (“SIGNS”),** (which is referenced in this Motion as the “Sign Ordinance”) with certain suggested modifications, aka Commission Version. This recommendation is based on the record made during the Public Hearing and for the following reasons:

1. It is evident that the current sign ordinance needs to be updated. A thorough review of the sign ordinance was requested by the Sussex County Board of Adjustment based upon several measures set forth in a letter to County Council.

2. At the direction of County Council, a Working Group was organized to receive input about issues to be addressed in the Sign Ordinance. That group made a comprehensive review of the current sign requirements in the Zoning Code and made recommendations for various revisions.

3. There is a need to address certain factors within the Code concerning signs. As agreed by the Working Group, greater distances between off-premises signs is an appropriate revision. Also, it is appropriate to regulate the size of these signs between 2 lane and 4 lane roads, as suggested in the Working Group and the Board of Adjustments letter to County Council.

4. It is also appropriate to clarify the use and operation of Electronic Message Displays, including light output.

5. During the Public Hearing, an alternate Ordinance was put forth that agreed with some, but not all, of the recommended changes that were in the ordinance introduced by County Council. This Alternate Ordinance also incorporated many, but not all, of the suggestions of the Working Group.

6. It is appropriate to modify the sign ordinance to protect the health, safety, welfare, and even the overall appearance of Sussex County, while protecting the interests of businesses and economic development of the County.

7. There is currently a moratorium in place that prohibits the acceptance of any applications for off-premises signs. It is important to act on this matter with appropriate revisions so that the moratorium can be lifted.

8. In order to provide County Council with as much guidance as possible, this Motion offers a Commission version of a modified sign ordinance, which combines portions of the Introduced Ordinance, the Alternate Ordinance and takes into account information digested as a result of the Public Hearing on May 12, 2016.

9. This recommendation for adoption of the Commission modified version of the introduced Ordinance includes the following recommendations, which are incorporated into the Commission's modified version of the sign ordinance:

A. Per the recommendation of legal staff, the following corrections or additions to the ordinance should be made:

- (1) A "Purpose" statement should be added.
- (2) A "Substitution" clause should be added.
- (3) A "Severability" clause should be added.
- (4) A correction to Section 115-159.5.B(1) should be made to correct the reference to a rear yard setback.
- (5) Correcting two (g)'s in Section 115-161.1.C.(1).

B. In the introduced Ordinance, there is a modification of the definition of "sign face" and "multi-faced signs". Instead, it should be clarified that off-premises signs shall not have more than one sign face per structure. It is appropriate for more than one face to exist on on-premises signs, which is what currently exists in many pylon signs for businesses and shopping centers.

C. Agricultural Preservation Districts should be deleted from the definition of public lands for purposes of separation distances from off-premises signs.

D. The introduced ordinance deleted the definition of "Electronic Message Display", including the definitions of "Dissolve", "Fade", "Frame", "Frame Effect", "Scroll", "Transition" and "Travel", which are terms that remain elsewhere in the ordinance. These definitions should be added back into the sign ordinance.

E. The alternate version of the ordinance deleted the definition of "animated signs". It is not appropriate to have animation on either off-premises or on-premises signs. So, there should be a blanket prohibition on "animated signs".

F. The introduced Ordinance prohibited "V signs". This was not a concern of the Working Group, and there was no real concern stated in the record for "V signs" regulations. This prohibition of "V signs" should be deleted.

G. The introduced Ordinance prohibited more than one sign per parcel. This was not a stated concern of the Working Group, and there also was no real concern stated about this during the hearing. And, there may be circumstances where more than one sign is appropriate on a parcel that fronts on two roads. This prohibition should be eliminated.

H. The introduced Ordinance prohibited Electronic Message Displays as part of an on-premises sign without a Special Use Exception. This is not a reasonable prohibition, and businesses should be allowed to have Electronic Message Displays, with appropriate regulations, to advertise their business as part of an on-premises sign.

I. It is appropriate to maintain the 150 square foot maximum size for wall signs. Currently the ordinance allows 150 square feet or 15% of the overall size of the entire wall. A flat numerical limit will be more uniform to interpret and enforce.

J. The introduced Ordinance required a 1,000 foot separation distance between any 2 off-premises signs. The current Ordinance only requires 300 feet of separation distance, and everyone seems to agree that greater separation is necessary. 500 feet of separation is an appropriate separation distance for all roads.

K. The alternate Ordinance, following the discussion of the Working Group, suggested that it may be appropriate to distinguish between 2 lane roads and larger, busier 4 lane roads. This is an appropriate modification and was a suggestion made by the Board of Adjustments in their letter to County Council that should be made a part of the introduced Ordinance. The introduced Ordinance should be modified to only permit 300 square foot off-premises signs on 2 lane roads and 600 square foot off premises signs on roads greater than 2 lanes.

L. There is currently no definition of “ground level” for purposes of measuring a sign’s height. The alternate Ordinance proposes a definition of this term that should be added into the ordinance.

M. It should be clear that off-premises signs shall only have 1 sign face per side. This would eliminate stacked signs and side-by-side signs on a single billboard structure.

N. The Ordinance should be modified to state that no variances should be permitted from the sign regulations, except in limited situations involving the reconstruction or replacement of non-conforming off-premises signs, when two or more non-conforming signs are to be replaced with one Electronic Message Display which results in an overall nonconformity reduction.

O. While the County is addressing signs, the requirements governing the timing of political signs should be clarified.

P. Based on the information contained in the record, “foot candles” should be used as the measurement of brightness as set forth in the alternate Ordinance presented during the Public Hearing.

Q. The introduced Ordinance contains a requirement of a Special Use Exception for on-premises Electronic Message Displays. There is no basis for these, and it would over-burden the Board of Adjustment with unnecessary applications for these signs.

R. Electronic Message Displays should be prohibited in the AR-1, GR, MR, UR and HR Districts, unless specifically approved as part of a conditional use where appropriate. If a location is deemed appropriate for a business as part of conditional use, it may also be appropriate for an Electronic Message Display as part of the conditional use.

S. The alternate Ordinance created two separate standards of operation for Electronic Message Displays. In it, on-premises Electronic Message Displays are allowed greater movement changing displays than off-premises signs. Both should be the same, with messages that can only change every 10 seconds.

T. The requirement of off-premises Electronic Message Displays going static after sunset should be deleted. With appropriate regulations and enforcement, the signs should be allowed to operate normally at night.

U. The provisions governing nonconforming signs should be modified to reflect the requirements of the introduced Ordinance, and state that only variance for setbacks and separation distances shall be permitted, and only if the applicant shows that the overall nonconformity is reduced. Also, no non-conforming sign can be converted to an electronic message center unless it replaces two non-conforming signs. This will promote a reduction in the number of nonconforming signs.

V. The modified Ordinance incorporating these changes should be adopted by County Council.

Motion by Mr. Ross, seconded by Mr. Burton, and carried with four (4) votes to forward the Planning and Zoning Commission version of the Ordinance to the Sussex County Council with the recommendation that the Planning and Zoning Commission version of the Ordinance be adopted. Motion carried 4 – 0. Mr. Johnson did not participate in the vote since he was not present during the public hearing.

Public Hearings

C/U #2049 – Blue Claw, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a boat storage facility located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.5052 acres, more or less. The property is located southeast of Downs Landing Road (Road 313A) 235 feet southwest of River Road (Road 312). (911 Address: 30842 Downs Landing Road, Millsboro). Tax Map I.D. 234-34.00-298.01 and 292.00.

Mr. Lank advised the Commission that the application was filed on March 14, 2016 with a survey/site plan of the area. The survey depicts the existing improvements on the property, but does not show any specific detail in the proposed layout of the parking areas for boat storage.

The Commission found that DelDOT provided comments on July 30, 2015 in the form of a Support Facilities Report referencing that a traffic impact study is not recommended and that the current Level of Service “A” of Downs Landing Road will not change as a result of this application.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on May 25, 2016 in the form of a memorandum referencing that the project is not located in a County operated or maintained sanitary sewer and/or water district; that there is no sewer service to this parcel at this time; that the County does not have a schedule to extend sewer service at this time; that conformity to the North Coastal Area Planning Study and amendments will be required; that the parcels being considered are located within a planning area for future sewer service; that when the County does provide sewer service, connection to the system is mandatory; and that a concept plan is not required at this time.

Mr. Lank advised that Commission that the Department has received 17 letters or emails in support of the application and 16 letters or emails in opposition to the application.

The Commission found that John Vancleve, the property owner, was present and stated in his presentation and in response to questions raised by the Commission that he is proposing a boat storage facility; that he owns the dwelling on the front lot and it is a rental; that access to the boat storage facility goes through the front lot; that there is no electric to the proposed storage facility; that it appears that prior to his purchase of the lot, the neighbors used the lot for disposal of broken down trailers, lawn mowers, ATVs, boats, vehicles and scrap/debris; that neighbors had used the lot for riding dirt ATVs and had built jumps; that during his cleanup of the lot he found remains of an underground irrigation system, fencing, and dozens of tomato cages; that currently the dwelling is rented and the garage is used to store his personal tools and gardening equipment, and his antique vehicle; that the small barn on the lot has been re-sided, re-roofed and secured; that the lot has been cleared, cleaned up, and is mowed regularly; that currently he stores his boat, his vehicle haul trailer for his antique vehicle, his small utility trailer; and some boats and boat trailers that belong to neighbors in Gull Point; that it should be noted that Gull Point is a marina condominium community that does not allow for the storage of trailers and/or boats; that his request is intended to allow for a parking lot for himself, his family, and friends in Gull Point; that there is no water, electricity, or sewer on the lot, therefore maintenance will not be performed on the boats; that the lot will only be used for the storage of boats, not campers or motor homes; that overnight occupancy of the boats will not be allowed; that no shrink wrapping will be performed on the site; that during the boating season most of the boats will be in their marinas and only boat trailers will be stored on the lot; that once the boating season ends the boats will be covered by their owners and then stored; that access is proposed to be limited to the existing driveway from dawn to dusk daily; that a six (6) foot high chain link fencing with barbed wire across the lot and locked gate will secure the lot to prevent invasion to and from adjoining properties by anyone not permitted to use the lot; that night vision, motion sensors, recording cameras on the garage roof will overlook the lot; that the full time renters of the dwelling will help with security; that trespassers will not be tolerated and will be prosecuted; that his neighbors have been very supportive of his efforts to clean up the site and have commented positively on the changes and improvements; that he is willing to work with the HOA of Gull Point to make any reasonable changes suggested; that the closest boat storage and repair facility is on Route 24; and that it has been suggested that he relocated the driveway to the storage lot on the opposite side of the dwelling, rather than between the dwelling and the garage.

Mr. Lank advised Mr. Vancleve that he will be required to obtain DeIDOT's approval if the use is approved and that if the entrance is proposed to be relocated to the opposition side of the dwelling it may require closure of the existing entrance and construction of a new entrance that will serve the storage yard and the dwelling.

The Commission found that Mr. Vancleve submitted four (4) additional letters in support of the application and an aerial photograph with a sketch of the property, and an aerial photograph of the area.

The Commission found that Larry Ross and Robert Interline were present in support of the application and expressed concerns about the negative letter from the HOA of Gull Point, and adding that this site is a convenient location for residents of the area that own boats to store their boats.

The Commission found that Alfred Haynes, Gerald Shock, and Teresa Townsend were present in opposition to the application and expressed concerns about the history of the lot; that boats were stored on the lot, but not as an official boat storage facility; that traffic congestion on such a narrow road is a concern; that a boat storage facility is not an appropriate use in a residential area; that children live in the area causing a safety concern; that some of the residents in Gull Point are hoping that the use will be approved so that they can park their boats on the lot since they cannot park them in Gull Point; that trespass is a concern; that vandalism is a concern; that boat storage areas have a history of vandalism and thefts since batteries, electronics, and small equipment seem to disappear; that the applicant does not intend to live on the premise or have someone live or be on the premise for security purposes; that some of the area residents have a fear of a precedent being established if this project is approved causing additional applications along this road; that another storage site exists within one mile of the property; that there are three storage areas within 1.2 miles of the property; that environmental concerns could exist relating to leaking oils, fluids, etc.; that the application does not appear to be consistent with the Comprehensive Plan; and that too many Conditional Uses are being granted.

The Commission found that Mr. Haynes submitted a letter in opposition from Lorraine Johnson, and some pictures of the area and site.

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

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

2016-2 - Estates at Cedar Grove – BDRP, LLC

This is a Major Subdivision for the creation of a cluster subdivision. The plan proposes to subdivide 70.83 acres +/- into 100 single family dwellings with private roads and open space. The property is located on the northwest side of Beaver Dam Road approximately 477 feet south of Kendale Road. Tax Map I.D. 234-2.00-2.00. Zoning AR-1 (Agricultural Residential District).

Mr. Vince Robertson stated that he had a conflict with the application and if the Commission had any questions to ask one of the other county attorneys and he left the chambers for the duration of the public hearing.

Ms. Cornwell advised the Commission that major subdivision application went through the State's PLUS process on March 23, 2016 and a copy of the PLUS comments and the applicants response to the PLUS Comments; that the applicant submitted an exhibit book; that the application also went through the County's TAC process and the Planning Office received comments from Sussex County Engineering Department – Utility Planning Division, Department of Public Works, Office of the State Fire Marshal, Department of Agriculture, DNREC – Division of Fish and Wildlife, Division of Public Health regarding water service to be provided by Tidewater and Sussex County 911 Addressing and Mapping Department approving the subdivision name and road names; that this is a cluster subdivision and will provide sidewalks on at least one side of the roads and it complies with the buffer and open space requirements.

The Commission found that Dennis Schrader of Morris James Wilson Halbrook & Bayard along with Mark Davidson of Pennoni and Associates and Megan Conner and Tom Buescher of BDRP, LLC were present on behalf of the application; that the property is almost 70 ac. of which 23.92 ac. will be used as lots, 7.6 ac will be used for road and 38.56 ac. will be open space which is about 55%; that the current use is as agriculture and vacant; that there will be 100 units with a density of 1.42 with sewer and water to be provided by Tidewater; that 31.699 ac. is wooded and the other 30+/- ac. is farmland; that there is approximately 4 ac. of wetlands located on the site that will remain undisturbed within the woodland area; that the plan complies with Chapters 99-9C and 115-25E&F of the County Code; that 25 ac. of woodland will remain; that the type of house proposed is single family detached; that the plan provides a 30 ft. buffer along with a 20 ft. landscaped buffer; the site is adjacent to the Ridings of Rehoboth subdivision which has a 1.0 density; that there will be a 50 ft. buffer for the transition between the densities of the sites; that there will be one access point; that all lots are at least 300 ft. from the wetlands; that they have a letter from Tidewater stating that Tidewater is willing and can provide water and sewer to the site; that the site is located within two floodplains (Zones A and X); that Zone A is located along the wetlands; that the woods in the buffer will remain; that all lots are adjacent to open space; that the site will comply with the emergency stormwater management regulations; that the site will have buffer strips and infiltration to address stormwater management; that a shared use path will be provided along the main road; that a portion of the road will be expanded to 11 ft. drive aisles with 5 ft. shoulders; that a traffic impact study was not required by DelDOT and that a fee in lieu will be done along with a look at several intersections; that there will be a pool with clubhouse as amenities with connection to the development through the sidewalks; that other amenities will be planned as part of the design; that the plan meets the superior design; that a yield plan was submitted; that the wetlands can be marked; that there may be a maximum of four (4) phases for the development; that Tidewater has the capacity to provide sewer through the Ridings at Rehoboth without being a detriment to the Ridings at Rehoboth; that they are not aware of a hunting notice being posted and that the size of the clubhouse will be between 2,000 SF and 2,500 SF.

The Commission found that Sal Zisa, Stanley Stoklosa, David Lurty, Robert Vaccaro, and Greg Bennet were not in support of or in opposition to the application; that they had questions regarding sewer capacity by Tidewater and how it would impact the Ridings of Rehoboth development, traffic, flooding and infrastructure concerns.

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

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

2016 – 7 – Wanda Weber

This is a Major Subdivision plan. The plan proposes to subdivide 3.0129 acres +/- into 2 lots with a private road. The property is located at the southwest corner of Shadow Grove Road and Roxana Road (Route 17). Tax Parcel: 134-15.00-126.00. Zoning: AR-1(Agricultural Residential District).

Waiver request for elimination of landscape buffer and from the street design standard.

Ms. Cornwell advised the Commission that this was a major subdivision for the creation of one new lot and includes the waiver for the elimination of landscape buffer and from the street design standard.

The Commission found that Wanda Weber was present on behalf of the application; that a site evaluation had been completed for the site and submitted it into the record and that she has a letter from 51% of the owners within the subdivision stating they had no objection to the subdivision of the property.

The Commission found that Leah Park was present in support of the application and that the subdivision was being done for family.

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

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

Other Business

Midway Hotel on Brian Dr. Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a preliminary site plan for the construction of a 4 story hotel with 85 rooms and a 130 space parking lot. The site consists of 1.61 acres that presently contains mini-storage facilities which will be removed. The hotel would consist of approximately 53,000 sq. ft. The property has access to Bryan Drive serving Midway Estates and a private access road associated with nearby shopping malls. The site is served with central water and sewer. The property is zoned C-1 General Commercial and also is located within the Combined Highway Corridor Overlay Zone (CHCOZ) and the ES-1 (Environmentally Sensitive Development District Overlay Zone). The tax parcel is 334-6.00-144.01. Staff is awaiting approvals from the appropriate agencies.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion Carried 5-0.

Eurshall Miller Collision Center on Sussex Hwy. Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a preliminary site plan for construction of a two commercial buildings for automotive repair services with an additional 31 space parking lot and impoundment area. The combined square footage of the buildings would consist of 14,264 sq. ft. and be situated on 14.01 acre site. An existing commercial building with small parking lot would remain on the site. The property is zoned LI-2, Light Industrial District, and is subject to the Combined Highway Corridor Overlay Zone (CHCOZ). The tax parcel is 532-13.00-80.04. Staff is awaiting agency approvals and a landscape plan.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion Carried 5-0.

**Ocean Seven on Coastal Hwy. (CU 1764)
Preliminary Site Plan**

Mr. Brandewie advised the Commission that this is a preliminary site plan for the construction of seven (7) townhouse style/multi-family units to be situated on a 0.61 acre site. Each unit will contain approximately 2,800 sq. ft. with three (3) total parking spaces per unit being provided to meet on-site parking needs. The site will be serviced with central sewer and water service. This site is located on Coastal Hwy. (Rt. 1), south of the Bethany Beach town limits. The property is zoned MR. The use as multifamily is a Conditional Use. The Planning Commission recommended approval of the Conditional Use at their meeting on February 26, 2009. The County Council approved CU 1764 with conditions on March 17, 2009. The tax parcel is 134-17.07-190.00. Staff is awaiting approvals from the appropriate agencies. This plan shall expire unless it is substantially underway by July, 1, 2016.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion Carried 5-0.

**Pelican Point – Amenities (2013-6 & 2013-7)
Preliminary Site Plan**

Mr. Brandewie advised the Commission that this is a preliminary site plan for the construction of a pool, clubhouse, outdoor lounge, play area, multi-use courts and a 23 space parking lot on a 3.585 acre lot (Open Space E). The recreation amenities are being shifted from Open Space G to E, with the latter site being more centrally located within the Pelican Point subdivision. This recreational area is located at the intersections of Hatteras Dr., Pelican Point Blvd. W., and Tarpon Dr. The property is zoned AR-1. The tax parcel is 234-16.00-21.05. The Planning Office is awaiting approvals from the reviewing agencies.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the preliminary site plan with final site plan approval subject to staff upon receipt of all agency approvals. Motion Carried 5-0.

**Lands of Virginia Young on Rehoboth Blvd.
Minor Subdivision off 50 ft. easement**

Ms. Cornwell advised the Commission that this is a minor subdivision to allow for the creation of a 2.130 ac. lot and a 50 ft. easement. The residual will be 22.377 ac. The easement will need to utilize the existing driveway. The adjacent parcel uses the existing driveway as access. There should be a maintenance agreement for the road. Any further subdivision shall require a major subdivision. The property is zoned AR-1. The tax parcel is 330-11.00-46.00. Staff is awaiting approval from DelDOT.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the minor subdivision with the inclusion of a maintenance agreement and further subdivisions shall require a major subdivision and final subdivision approval is subject to staff upon receipt of DeIDOT approval. Motion Carried 5-0.

**Delaware Animal Products, LLC
Interpretation of Similarity in Use**

Ms. Cornwell advised the Commission that this is a request to determine if a proposed use could be considered a similar use within the LI-2 (Light Industrial District) zoning district. The proposed use of reprocesses wood into mulch and fine mulch for animal bedding could be considered a similar use to the permitted use of wood products manufacture, including basket, boxes, crates, barrels and veneer.

There was discussion regarding the application and there was consensus by the Planning Commission that proposed use of reprocesses wood into mulch and fine mulch for animal bedding could be considered a similar use to the permitted use of wood products manufacture, including basket, boxes, crates, barrels and veneer within the LI-2 (Light Industrial District) Zoning District.

**Beachfire Brewery on Central Ave. (CU 2042)
Review of parking layout with Preliminary Site Plan as requested by County Council**

Ms. Cornwell advised the Commission that this is for the review of the parking layout with the preliminary site plan. As part of the public hearing before the County Council for the Conditional Use there was discussion regarding the parking layout. The County Council referred the plan to the Planning Commission to consider the parking layout. The preliminary site plan shows 6 parking spaces including one (1) handicap parking space. Four (4) of the parking spaces are located in front of the building. The other two (2) parking spaces are located along the side of the building. The parking calculation for a bar is one (1) parking space for every 50 SF of patron area and one (1) parking space for every two (2) employees on the largest shift. The applicant provided a floor plan indicating that the patron area will be 236 SF. The patron area calculation requires five (5) parking spaces. The number of employees on the largest shift is proposed to be two (2) which requires one (1) parking space. The total number of required parking spaces is 6 spaces and the plan provides six (6) parking spaces. The site plan complies with the other items in the Zoning Code. The property is located at the southeast corner of Central Ave and Johnston St. The property is zoned C-1. The tax parcel is 334-13.20-24.00. Staff is awaiting approval of the Conditional Use by County Council and agency approvals.

The application was discussed and the Planning Commission had concern that they should not be reviewing the application without approval of the Conditional Use by the County Council and took no action regarding the request.

Meeting adjourned at 8:58 p.m.