

## MINUTES OF THE REGULAR MEETING OF JUNE 27, 2013

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, March 21, 2013, 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. Michael Johnson, 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. Shane Abbott – Assistant Director.

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

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to approve the Minutes of June 13, 2013 as amended. Motion carried 5 – 0.

Mr. Smith and Mr. Ross advised the Commission that they would not be available to participate in the public hearings scheduled for July 25, 2013.

There was a consensus of the Commission to re-advertise and reschedule the July 25, 2013 public hearings relating to changes in zoning and conditional use since there would only be three (3) Commissioners present on July 25, 2013 with the absence of Mr. Smith and Mr. Ross.

## OLD BUSINESS

### **Subdivision #2013 – 3 – Rocks Bethany, LLC**

Application of **ROCKS BETHANY, LLC** to consider the Subdivision of land in a MR Medium Density Residential District in Baltimore Hundred, Sussex County, by dividing 2.33 acres into 5 lots, and a waiver from the Forested Buffer requirements, located on the east side of Delaware Route One, north of Gum Road, a private road within Sussex Shores Subdivision. (Tax Map I.D. 1-34-13.00-142.00 and 143.00)

The Chairman referred back to this application, which was deferred at the June 13, 2013 meeting for further consideration.

Mr. Smith stated that the Applicants are requesting a waiver from the forested buffer requirements; that he is glad that the Applicants and neighbors are trying to reach an agreement; and that if certain conditions are stipulated, the final plan could change as a result of the parties working together.

Mr. Johnson stated that some buffers could be amended, that this application is really a subdivision located within a subdivision; that he is happy that the application is not for duplex and multi-family dwellings; that the application is for single family lots; and that there is natural landscaping on the site.

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

### **Subdivision #2013 – 6 – Cannon Road Investments**

Application of **CANNON ROAD INVESTMENTS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 142.019 acres into 254 lots (21 lot expansion to a previously approved 233 lot preliminarily approved application #2010 – 6), located on the east and west side of Cannon Road (Road 307) with the intersection on the southwesterly side of Indian Mission Road (Route 5). (Tax Map I.D. 2-34-16.00-p/o 19.00 and 3-34-17.00-358.00 – 381.00).

The Chairman referred back to this application, which was deferred at the June 13, 2013 meeting for further consideration.

Mr. Johnson stated that he would move that the Commission grant Preliminary Approval for Subdivision #2013 – 6 for Cannon Road Investments based on the record made at the public hearing and for the following reasons:

1. This is a twenty-one (21) lot expansion to the previously approved 233 lot subdivision identified as Subdivision #2010 – 6.
2. This expansion is based upon a survey error and correction that was made by the Applicant after the original approval of Subdivision #2010 – 6. The new acreage is integrated into the prior subdivision design, and the overall density of the project remains the same.
3. Like Subdivision #2010 – 6, this expansion complies with the requirements of the Sussex County Subdivision Code, and the items in Section 99-9C have been favorably addressed.
4. This expansion along one edge of the project, which is adjacent to lands owned by Sussex County, will not have an adverse impact upon neighboring properties, roadways, public facilities, or the community.
5. With the exception of the increased number of lots, all of the Conditions of Approval for Subdivision #2010 – 6 shall remain in effect and shall apply to this preliminary approval.
6. The Final Site Plan for Subdivision #2010 – 6 and this expansion identified as Subdivision #2013 – 6 shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.
7. In addition to the prior conditions of approval, the new lots created by this application shall contain the following language: “Each future deed for parcels in the proposed development should note that the development adjoins future wastewater treatment facilities and that industrial type uses on those lands should be anticipated.”

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

### **Subdivision #2013 – 7 – Cannon Road Investments**

Application of **CANNON ROAD INVESTMENTS** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 95.197 acres into 189 lots (12 lot expansion to a previously approved 177 lot preliminarily approved application #2003 – 47), located on the southwesterly side of Townsend Road (Road 303) approximately 450 feet southwest of Avalon Road (Road 303-A). (Tax Map I.D. 2-34-16.00-p/o21.00)

The Chairman referred back to this application, which was deferred at the June 13, 2013 meeting for further consideration.

Mr. Johnson stated that he would move that the Commission grant Preliminary Approval for Subdivision #2013 – 7 for Cannon Road Investments based on the record made during the public hearing, and for the following reasons:

1. This is a twelve (12) lot expansion to the previously approved 177 lot subdivision identified as Subdivision #2003 – 47.
2. This expansion is based upon a survey error and correction that was made by the Applicant after the original approval of Subdivision #2003 – 47. The new acreage is integrated into the prior subdivision design, and the overall density of the project remains the same.
3. Like Subdivision #2003 – 47, this expansion complies with the requirements of the Sussex County Subdivision Code, and the items in Section 99-9C have been favorably addressed.
4. This expansion along one edge of the project, which is adjacent to lands owned by Sussex County, will not have an adverse impact upon neighboring properties, roadways, public facilities, or the community.
5. With the exception of the increased number of lots, all of the Conditions of Approval for Subdivision #2003 – 47 shall remain in effect and shall apply you this preliminary approval.
6. The Final Site Plan for Subdivision #2003 – 47 and this expansion identified as Subdivision #2013 – 7 shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.
7. In addition to the prior conditions of approval, the new lots created by this application shall contain the following language: “Each future deed for parcels in the proposed development should note that the development adjoins future wastewater treatment facilities and that industrial type uses on those lands should be anticipated.”

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

The Commission discussed Change of Zone #1729 and Conditional Use #1963, which have been deferred since May 23, 2013, together for discussion purposes only.

**Change of Zone #1729 – Ida C. Faucett, Faucett Heirs, LLC, and Massey's Landing Park, Inc.**

Application of **IDA C. FAUCETT, FAUCETT HEIRS, LLC, AND MASSEY'S LANDING PARK, INC.** to amend the Comprehensive Zoning Map from a MR Medium Density Residential District to an AR-1 Agricultural Residential District, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 50.83 acres, more or less, lying on both sides of the eastern end of Long Neck Road (State Route 23, a.k.a. Route 22)(Tax Map I.D. 2-34-25.00-31.00, 31.02, & 31.04).

**Conditional Use #1963 – Ida C. Faucett, Faucett Heirs, LLC, and Massey's Landing Park, Inc.**

Application of **IDA C. FAUCETT, FAUCETT HEIRS, LLC, AND MASSEY'S LANDING PARK, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a campground, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 50.83 acres, more or less, lying on both sides of the eastern end of Long Neck Road (State Route 23, a.k.a. Route 22)(Tax Map I.D. 2-34-25.00-31.00, 31.02 & 31.04).

Mr. Johnson stated that the Long Neck area has been a destination location for many years; that there are several campgrounds that exists along Long Neck Road; that the use would be in keeping with the other uses in the area; that DelDOT has granted approval of the entrance location; that the use should blend in with the existing communities; and that the Commission has to decide whether this use is appropriate at this location; and that the Commission has to review and consider this application as a land use decision.

Mr. Ross stated that it is important to note that these two separate applications, while separate actions, are part of a single request for Conditional Use of a property; that the fact that these applications were combined into a single public hearing, without objections for anyone, is evidence of this; that representatives for the Applicant stated that the change of zone request, C/Z #1729, was specific to the application for Conditional Use #1963; that, in fact, Mr. Fuqua, the attorney representing the Applicant, stated that the requested change of zone was specifically to accommodate the conditional use application; that Ms. Mary Schrider-Fox, attorney representing opposition to the application, agreed with this conclusion stating in her remarks that any decision on the down zoning request must weigh heavily the appropriateness of the intended use; that it is my opinion that the public record reflects our decision on the conditional use request should ultimately determine the outcome on the down zoning request; that in reviewing the public's objection to the application the following arguments against the two requests were made: 1) General disagreement with the position with DelDOT in regard to traffic and roadway safety; 2) The RV Park intended is too intense a land use for the area and that a less intrusive use would be

more compatible; 3) The RV Park proposed was not in character with surrounding uses and therefore incompatible; 4) Environmental issues were not being adequately addressed; 5) The Conditional Use does not comply with §115-172 H (3) and §115-172 H (4); 6) That some of the proposed amenities for the Conditional Use were not specifically permitted under §115-172 H (6) and therefore should be prohibited; 7) The accumulative effects of these arguments against the applications demonstrate non-compliance with the Comprehensive Land Use Plan; that I will comment on each point starting with traffic and safety: I understand the public frustration of living on a road that is one way in and one way out. Obviously there is no alternative route to alleviate seasonal traffic issues. I also appreciate the anecdotal observations of those living in the area; that regardless, the State of Delaware Department of Transportation comments in the PLUS review of the application, dated December 3, 2012, in part states that “we find that conditions in the study area have not changed substantially since the 2005 study was done and that the development now proposed would be similar in its trip generation. Therefore, our findings and recommendations based on the TIS, contained in a letter, dated November 4, 2005, are applicable to the current development proposal as well, and a new TIS is not necessary”; that it is critical for all to understand the entrance and road safety related issues are the responsibility of the State of Delaware Department of Transportation. It is generally not known that Sussex County does not own any public roads. The Delaware Department of Transportation manages millions of trips per year on roadways throughout the State of Delaware and has the sole authority to approve or deny the entrance permit; that opposition to the proposed use cited different sections of the Comprehensive Plan to support their argument; that appropriately Ms. Mary Schrider-Fox cited §115-172 H (3), §115-172 H (4) and §115-172 H (6) to buttress her argument; that specifically, she argued the campsites were within 400 feet of an existing dwelling on property of other ownership, that some of the campsites in the remote tenting area did not meet the minimum specifications and that the amenities being proposed were not specifically listed under H (6) and therefore should not be allowed; that while I understand the oppositions concerns with H (3), H (4) and H (6), it is important to note that H (3) and H (4) are site plan issues; that I agree with Ms. Schrider-Fox that these sections of Code must be addressed at the appropriate time, if the Conditional Use is approved; that H (6) refers to ancillary uses and provides a non-exclusive list of “...small retail businesses intended primarily for occupants of the park...”, the reliance of H (6) as a basis for denial does not carry the day either; that the Applicant has stated that all of the uses within the campground are for the campground guests; that the Commission can recommend and County Council has the authority to accept or restrict what is being proposed by the Applicant as ancillary uses; that opposition to the application also argued the RV Park was a highly intense use and not appropriate in environmentally sensitive overlay AR-1 zoning district; that Mr. Fuqua argued that campgrounds and mobile home parks dot Long Neck Road and that campgrounds are specifically authorized via a conditional use application which is why this application is before us; that it is my opinion that most people driving down Long Neck Road would agree with Mr. Fuqua; that it is understandable that neighbors to the proposed application find it desirable to ensure the intended use does not negatively impact the environment any more than they already have. A number of safeguards to ensure proper procedures are used to achieve this outcome via both State and Federal permitting processes that exist; that I believe the Conditional Use application #1963 should be approved for the following reasons: 1) The site is located in the environmentally sensitive developing area, a designated growth area; 2) The site is

served by central sewer and water; 3) The Conditional Use is appropriate given the location proximity to Sussex County's tourism center, where tourism is the targeted economic driver; 4) The Conditional Use promotes tourist related economic development and is consistent with the character of zoning and development in the area; 5) DelDOT has indicated there will be no negative impact by the proposed development since the Conditional Use applied for will generate less traffic than the currently approved use of the site; 6) Approval with appropriate conditions will minimize any potential negative impact; 7) The Applicant has established a record which supports approval of the application; that in being consistent with the record established during the public hearing and having reached this conclusion regarding the Conditional Use request, it is also my opinion that the change of zoning request should be approved.

Mr. Johnson added that the accessory uses are appropriate and intended to serve the tenants and guests in the campground.

Mr. Smith stated that he would have liked to see a more recent traffic impact study; that DelDOT is satisfied with previous results; that site plan approval will be required; and that he has some concerns relating to the tent sites.

**In reference to Change of Zone #1729:**

Mr. Johnson stated that he would move that the Commission recommend approval of C/Z #1729 for Ida C. Faucett, Faucett Heirs, LLC and Massey's Landing Park, Inc. for a re-zoning from MR to AR-1 based upon the record made at the public hearing, and for the following reasons:

- 1) This is a down-zoning and it will allow the Applicants to obtain approvals to construct a RV campground on the subject property. The AR-1 zoning is necessary because a Conditional Use for a campground is not available in the MR zoning district.
- 2) The proposed use as a campground is consistent with other uses in the Long Neck Road and Massey's Landing area, and there are other campgrounds in the area that have been in existence for many years.
- 3) AR-1 zoning is appropriate for this area under the County's Comprehensive Land Use Plan and the maps contained in the Plan. The property is also surrounded by AR-1 zones and AR-1 zoning is consistent with much of the zoning in the Long Neck and Massey's Landing area.
- 4) The Sussex County Engineering Department has no objection to the re-zoning to AR-1 or the proposed use of the property under the pending Conditional Use.
- 5) The site will be served by central water and central sewer.
- 6) DelDOT has not stated any objections to the project or the traffic generated by it on local roadways, and Long Neck Road is considered by DelDOT to be a Major Collector Road, the same as Route 24.
- 7) The property was previously rezoning from AR-1 to MR-RPC in 2007 for a 120 unit residential development. This rezoning will void that approval and return the property to its prior AR-1 zoning.

- 8) The proposed use as a RV campground will be subject to the conditions and limitations established by that approval, and also site plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved for the reasons stated. Motion carried 5 – 0.

**In reference to Conditional Use #1963:**

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1963 for Ida C. Faucett, Faucett Heirs, LLC and Massey's Landing Park, LLC for a campground based upon the record made at the public hearing and for the following reasons:

- 1) While there were concerns expressed about traffic, DelDOT has not objected to the project or the traffic generated by it on area roadways. In addition, the State considered Long Neck Road to be a Major Collector Road, which is an appropriate location for this type of use.
- 2) The use as a campground is consistent with the other existing residential uses, campgrounds and manufactured housing communities that currently exist in the Long Neck Road and Massey's Landing areas. Campers and RVs are not something new in this neighborhood, so, there is a reasonable expectation that RV and campground uses could be developed in the vicinity.
- 3) The development is consistent with the purposes and goals of the Sussex County Comprehensive Plan Update since it (1) promotes economic development; (2) promotes tourism; and (3) is consistent with the character of the zoning and development in the area.
- 4) The site is an appropriate location for the proposed development since recreational and commercial uses exist in the Long Neck area.
- 5) There will be no negative impact on schools or other similar public facilities since the development will operate only seasonally.
- 6) The project is located within the Long Neck Sanitary Sewer District, and the County Engineering Department has not objected to it.
- 7) The project will be served by central water and central sewer.
- 8) This recommendation will have several conditions that will eliminate or minimize any potential negative impact upon the neighborhood.
- 9) Under the current County Comprehensive Plan, the site is located in the Environmentally Sensitive Developing Area, which is recognized as a development or growth area on the Future Land Use Map.
- 10) The Applicant has created a sufficient record in support of the Conditional Use application.
- 11) While there were concerns expressed about the definition of "dwelling" for purposes of establishing the Code – required 400 foot buffer from dwellings of other ownership, "manufactured homes" do not create the need for the buffer under the terms of the Code.

The existence of “dwellings” as that term is defined under the Code and whether a 400 foot buffer is required will be dealt with as part of the site plan review.

- 12) The use is considered as “in-fill” location, adjacent to developed Manufactured Home Parks on the west and south, and the bay and the State of Delaware boat launch on the north and east.
- 13) The proposed use is beneficial and desirable for the general convenience and welfare of Sussex County and its residents, since it will provide tourism and related services, economic growth in a designated development area, full and part-time employment opportunities, and significant economic benefits to area businesses.
- 14) This recommendation is subject to the following conditions:
  - A. The maximum number of campground/RV sites shall be three hundred twenty-two (322).
  - B. All entrance and roadway improvements and any other DelDOT requirements shall be completed as required by DelDOT. This includes the Developer’s agreement to comply with DelDOT’s request to enter into an agreement with DelDOT to fund an equitable portion of the installation of a single-lane roundabout at the intersection of Route 23 and Pot-Nets Road, and other similar improvements.
  - C. The Development shall be served by the County’s Long Neck Sanitary Sewer District. The Applicant shall comply with all Sussex County Engineering Department requirements regarding connection to, and service by, the District.
  - D. The Development shall be served water for domestic use and fire protection by the Long Neck Water Company.
  - E. Stormwater management and sediment and erosion control facilities shall be constructed in accordance with applicable State and County requirements and maintained using best management practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.
  - F. The Applicant shall cooperate and coordinate with the State and County emergency preparedness offices to develop and implement an emergency evacuation plan.
  - G. The Development shall be surrounded by a 50 foot landscaped buffer. This shall be installed as part of the 1<sup>st</sup> phase of the development’s construction.
  - H. The entire facility may open no earlier than April 1<sup>st</sup> each year and shall close no later than the first Sunday of November of each year.
  - I. The campground/RV park shall remain vacant and no campers or RVs shall be stored on the campsites during the period that the campground is closed.
  - J. There shall be no accessory buildings located on individual campsites.
  - K. Campground restrictions shall be submitted as part of the site plan review.
  - L. All units to be used for the purpose of human habitation on campsites shall be tents, travel trailers, recreational vehicles and equipment manufactured specifically for camping purposes.
  - M. The Developer shall plan the entrance design to accommodate a DART bus stop and turnabout in consultation and cooperation with DART.
  - N. One sign, not exceeding thirty-two (32) square feet per side with lighting shall be permitted. The lighting for the sign shall not shine on any neighboring properties or roadways.



- O. All lighting shall be downward screened so that it does not shine on neighboring communities or roadways.
- P. All wetlands on the site shall be clearly marked on the site to avoid disturbance. The location and type of these markers shall be shown on the Final Site Plan.
- Q. The Applicant shall determine, after consulting with the County, whether there are any “dwellings” in the vicinity of the property that require a 400 foot buffer pursuant to Section 115-172 H (3) of the Sussex County Code. As part of the Final Site Plan review, the Developer shall include a note on the Plan describing its efforts to make this determination and show the location of any dwelling that would trigger the application of the 400 foot buffer.
- R. All campsites must be 2,000 square feet in size according to the Sussex County Code. It does not appear that the campsites at the “Remote Tenting Area” shown on the Preliminary Site Plan comply with this size requirement, and this must be corrected on the Final Site Plan along with any other campsites that do not meet the appropriate dimensional requirements.
- S. There shall be a notice at the entrance to the campground stating that it is located within a Flood Prone Area and that certain evacuation and/or relocation procedures are in place and must be followed by all campground visitors in the event of a weather emergency.
- T. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be approved for the reasons and with the conditions stated. Motion carried 5 – 0.

## PUBLIC HEARINGS

### **Condition Use #1964 – Salman P. Choudhary, t/a Master Tires**

Application of **SALMAN P. CHOUDHARY, t/a MASTER TIRES**, to consider the Conditional Use of land in an AR-1 Agricultural Residential District for used car sales, to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 37,500 square feet, more or less, lying east of U.S. Route 113, 300 feet north of North Bedford Street Extended (Tax Map I.D. 1-35-14.00-65.00).

Mr. Lank advised the Commission that the application was filed on April 22, 2013 with a site plan.

Mr. Lank advised the Commission that this site was originally used as a service station prior to zoning jurisdiction; that on November 9, 1971 the Sussex County Levy Court approved Conditional Use No. 26 for Hester L. Monroe to erect an addition to the existing service station; and that the Applicant is now requesting permission to sell used cars on the site.

Mr. Lank also advised the Commission that the property owner had been previously cited several times for this activity; that the owner had attempted to apply for annexation into the Town of Georgetown, but later withdrew his annexation proposal; and that this Applicant is actually a tenant trying to bring the site into compliance.

The Commission found that DelDOT had provided comments on February 19, 2013 referencing that the Department has no contention to the referenced application and permitting use of the existing entrances without modification for the existing tire business and used car sales.

The Commission found that the County Engineering Department Utility Planning Division provided comments on June 26, 2013 referencing that the site is located in the North Coastal Planning Area; that use of an on-site septic system is proposed; 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; that the parcel adjoins the Town of Georgetown; that the parcel is in Georgetown's growth and annexation area; that the Applicant should contact the Town of Georgetown regarding central sewer service; and that a concept plan is not required.

The Commission found that a letter in support was received from Richard E. Snyder referencing the character and professionalism of the tenant.

The Commission found that Salman P. Choudhary was present and stated in his presentation and in response to questions raised by the Commission that he wants to bring the property into compliance so that he can sell used cars and to continue selling tires; that several loads of tires have been removed; that the tires are hauled to a recycling facility in Baltimore, Maryland, since there are no tire recycling facilities in the area; that he has been dealing with the Office of the State Fire Marshal; that the Fire Marshal requires that tires must be at least 25 feet from property lines; that the maximum number of vehicles displays for sale will not exceed 10 vehicles; that DelDOT has voiced no objections; that he has no need for additional signage since he has an existing sign on the roof canopy; that he does not sell gasoline and that the storage tanks have been removed; that he has been in the tire business, on this site, since 2006; that his lease, with the property owners, expires in January 2014; and that he does have an option in the lease to extend the lease, if the property is not sold.

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.

### **Change of Zone #1731 – CMF Bayside, LLC for “Americana Bayside”**

An Ordinance to Modify Condition No. 24 Imposed on Ordinance No. 2110 for Change of Zone No. 1694, the application of **CMF BAYSIDE, LLC FOR “AMERICANA BAYSIDE”**, a MR-RPC Medium Density Residential District – Residential Planned Community, to allow revised

commercial entrance location (left-turn) as may be approved by DelDOT, for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying at the southwest corner of Route 54 and Americana Parkway across from Zion Church Road (Tax Map I.D. 5-33-19.00-16.00).

The Commission found that DelDOT provided comments on April 1, 2013 which reference that the Department has reviewed a traffic operational analysis (TOA) which was received on February 6, 2013; that the TOA examines a change in configuration of the existing access to the property, from its current rights-in / rights-out configuration on Route 54 to a proposed lefts-in / rights-in / rights-out configuration; and that after reviewing the TOA, the Department finds that this change is acceptable, and the entrance can remain at its existing location. DelDOT provided a concept plan of the new entrance configuration with their comments.

The Commission found that the County Engineering Department Utility Planning Division provided comments on June 26, 2013 referencing that the site is located in the Fenwick Island Sanitary Sewer District; that wastewater capacity is available for this project; that Ordinance 38 construction is required; that the current System Connection Charge Rate is \$4,738.00 per EDU; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the proposed zoning is to amend a condition of approval to revise DelDOT entrance requirements; that the Department requests to meet with the Applicant to determine the impact and sewer requirements in regards to the revised commercial entrance proposal; that the Department anticipates that their requirements will be met; and that a concept plan is required.

The Commission found that James Fuqua, Jr., Attorney with Fuqua, Yori and Willard, P.A. had submitted a correct current and proposed Condition No. 24, noting that the only change to the condition is the addition of the words “left-in”.

The Commission found that James Fuqua, Jr. was present on behalf of the Applicants and stated in his presentation and in response to questions raised by the Commission that originally the RPC approval required that all commercial activities would be limited to the south side of Route 54 with internal access through the community; that in 2010 an amendment to Condition No. 24 allowed rights-in / rights-out on Route 54; that the Applicants are now requesting a left-in on Route 54 to serve the commercial area; that the suggested revised Condition No. 24 should read “All commercial activities shall be limited to the south side of Route 54, except for a 1.27 acre parcel designated Tax Map 5-33-19.00 Parcel 17.01, located on the north side of Route 54 on which commercial use shall be permitted subject to commercial entrance approval from DelDOT. Entrance to the commercial area located on the south side of Route 54 shall be a minimum of 300 feet from Route 54, except for a single rights-in / rights-out / left-in commercial entrance to a parcel designated as Tax Map 5-33-19.00 Parcel 16.00 which is subject to approval from DelDOT.”; that this site will be developed for commercial use; that the existing welcome center on the site is being relocated internally within the RPC project; that DelDOT has approved the proposed left-in into this site; that the entrance improvements are the responsibility of the Applicants; that the site also has access connection to Americana Parkway, the entrance into the

Americana Bayside Residential Planned Community; and that the only change in the wording of Condition No 24 is the addition of the wording “left-in”.

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

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

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

## OTHER BUSINESS

### **Hunter’s Walk MR/RPC**

Final Site Plan – Phase 2 – Kings Highway

Mr. Abbott advised the Commission that this is the final site plan for a 144-unit residential planned community; that the Commission granted a revised preliminary approval and amended two conditions of the original approval on March 14, 2013; that the revised site plan meets the requirements of the zoning code and the amended conditions of approval; and that all agency approvals have been received.

Mr. Johnson questioned why the sidewalk does not extend to the dumpster location between Building D and the proposed dumpster location; and also questioned if the sidewalk extends across the commercial parcel, which is Phase 1, out to Kings Highway.

Ben Gordy with Ocean Atlantic Associates advised the Commission that they are confident that sidewalks were proposed where required, that the sidewalks do cross the commercial parcel and extend to Kings Highway; and that the sidewalk can be extended from Building D to the proposed dumpster location.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the site plan as a final with the stipulation that the sidewalk be extended from Building D to the proposed dumpster location. Motion carried 5 – 0.

### **Carillon Square**

Revised Preliminary Site Plan

Mr. Abbott advised the Commission that this is a revised site plan for a proposed 14,673 square foot Rite Aid Pharmacy, a 4,670 square foot Wawa store, a 3,060 square foot bank and a 31,800 square foot retail building located on 7.47 acres; that the site is zoned C-1 and CR-1; that the setbacks meet the minimum requirements of the zoning code; that 274 parking spaces are required and 323 spaces are proposed; that 25 spaces are within the front yard setback and are subject to site plan review; that there are other commercial projects within the immediate area

that have parking located in the front yard setback; that Sussex County will provide central sewer and Tidewater Utilities will provide central water; that the site is not located in a flood zone and there are no wetlands being impacted; and that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals.

Mr. Johnson questioned where the left out from the site would be.

It was noted that the left out from the site will be from Route 5.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the revised site plan as a preliminary. Motion carried 5 – 0.

**Subdivision #2008 – 1 – Albert J. Bierman**

Revised Preliminary – Road 469

Mr. Abbott advised the Commission that this is a request to allow wetlands to be included on 3 lots which are all greater than 5.0 acres; that on August 27, 2009 the Commission granted preliminary approval for 8 lots; that on July 12, 2012 the applicant submitted a revised plan for 6 lots, which included approximately 70 percent of the site being wetlands; that Commission determined that a new public hearing would be necessary; that this revised plan is for 4 lots total, with 3 of the lots having wetlands located on the lots; and questioned if the Commission would consider the lots containing wetlands.

The Commission discussed their policy for including wetlands on individual lots.

The Commission took no action on this request.

**Edward and Lucy Olson**

3 Lots and 50' Right of Way – Road 286

Mr. Abbott advised the Commission that this is a request to subdivide a 4.0 acres parcel into 3 lots with access from a 50-foot right of way; that the owner is proposing to create a 50-foot right of way over an existing driveway; that Lot 1 will contain 1.44 acres and Lots 2 and 3 will contain 0.75 acres; that the request may be approved as submitted, or an application for a major subdivision can be required; and that if the request is approved as submitted, it should be stipulated that any further subdivision of the site will require an application for a major subdivision.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the request as submitted as a concept with the stipulation that any further subdivision of the site will require an application for a major subdivision. Motion carried 5 – 0.

**Joseph J. and Joann Tittermary**

2 Lots – Bayshore Drive

Mr. Abbott advised the Commission that this is a request to subdivide a 42,073 square foot lot into 2 lots off of Bayshore Drive; that Lot 2A will contain 16,899 square feet and there is an existing dwelling located on it; that Lot 2B will contain 12,730 square feet; and that if the Commission is favorable towards the request, it should be as a concept only since variances will be required from the Board of Adjustment for the minimum lot size and the minimum lot depth.

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

Meeting adjourned at 7:45 p.m.