



## *Planning & Zoning*

Agendas & Minutes

### MINUTES OF THE REGULAR MEETING OF JUNE 28, 2007

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, June 28, 2007 in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

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

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

Motion by Mr. Gordy, seconded by Mr. Smith and carried unanimously to approve the Minutes of June 14, 2007 as amended. Motion carried 4 – 0.

### OLD BUSINESS

**C/U #1747** – application of **ARTESIAN WATER CO., INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for public utilities, buildings, treatment plants, disposal sites, well site, water storage tank, and water treatment plant to serve as a regional facility to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 2 tracts of land totaling 18.43 acres, more or less, lying at the southeast corner of Road 247 (Log Cabin Road) and Road 290 (Coolspring Road) and east of Road 290 (Coolspring Road) and north of the railroad and Route 9.

The Commission discussed this application which has been deferred since June 14, 2007.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #1747 for Artesian Water Co., Inc. based on the record and for the following reasons:

1. The applicant is a public utility regulated by DNREC, the Public Service Commission and other Federal, State and Local agencies.
2. The applicant proposes to use the 2 sites for public utility purposes, including wastewater treatment and disposal and for central drinking water wells and distribution, together with improvements, apparatus, pumps, storage tanks, etc.
3. Artesian Wastewater Management and Artesian Water Co., Inc. have applied for Certificates of Public Convenience and Necessity to serve the area and have or will have the tariffs approved by the Public Service Commission.
4. This application is appropriate at the subject sites because it is in an area where central sewer and water is not otherwise available.
5. The granting of this application will provide a wastewater treatment facility and water distribution system that will safely serve communities in the area and will not harm the environment.

6. The Conditional Use requested will promote the health and safety of the residents of Sussex County and with the conditions placed upon it, will not have an adverse impact on the neighboring properties or community.
7. This recommendation is subject to the following conditions:
  1. All improvements for collection, treatment and disposal of sanitary waste shall be constructed and maintained in accordance with the requirements of the Sussex County Engineering Department, if any, and the Delaware Department of Natural Resources and Environmental Control, and any other governmental agency with jurisdiction over the use of the site, or any modification thereto.
  2. All improvements for central water distribution, including wells, pumps and storage facilities, shall be constructed and maintained in accordance with the requirements of the Delaware Department of Health or any other governmental agency with jurisdiction over the use of the site.
  3. There shall be forested buffers of at least 30 feet from all property lines. The Rapid Infiltration Basins shall be located at least 100 feet from any dwellings.
  4. One lighted sign shall be permitted on each site, not to exceed 32 square feet in size.
  5. The water tower shall not exceed 150 feet in height. It shall be painted white or a neutral sky color. No signage or other lettering shall be permitted on it.
  6. As stated by the applicant during its presentation, all buildings shall be limited to 2 stories in height.
  7. With the exception of the emergency generators located on the site, all of the equipment needed in the operation of the facility shall be located indoors. The generators shall be housed in enclosures to reduce noise.
  8. Any security lighting shall be screened so that it does not shine onto neighboring properties or County Roads.
  9. As shown in the applicant's materials, there shall be a white rail fence surrounding the disposal areas.
  10. The Final Site Plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.

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

**C/U #1748** – application of **DELAWARE ELECTRIC COOPERATIVE** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an electrical substation to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 4.3 acres, more or less, lying west of Conaway Road (Road 431), approximately 500 feet north of Phillips Hill Road (Road 472).

The Commission discussed this application which has been deferred since June 14, 2007.

Mr. Gordy stated that he would move that the Commission recommend approval of C/U #1748 for Delaware Electric Cooperative based on the record and for the following reasons:

1. The Conditional Use for an electrical substation is of a public nature, and it will promote the health, safety and welfare of the residents of Sussex County.
2. It is located in a rural area where it will have a minimal impact on neighboring or adjacent properties.
3. The Co-op has stated that the substation is necessary to maintain and improve its electrical service to current and future residents of Sussex County.
4. This Conditional Use is subject to the following conditions:
  1. The perimeter of the substation shall be fenced.
  2. Two signs shall be permitted on the fencing around the property to identify the site and emergency contact information.
  3. Any security lighting shall be screened away from neighboring properties and County Roads.
  4. As stated by the applicant, landscaping shall be provided along Conaway Road to screen the facility from the road.
  5. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

**Ordinance Amendment** – AN ORDINANCE TO AMEND CHAPTER 115 SECTION 22 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF DENSITY FOR MULTI-FAMILY DWELLING STRUCTURES AND/OR TOWNHOUSES AND/OR TOWNHOMES IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE ACQUISITION AND PRESERVATION OF OPEN SPACE AND/OR ACTIVE AND/OR PASSIVE RECREATION AREAS.

The Commission discussed this Ordinance Amendment which has been deferred since June 14, 2007.

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

There was a consensus of the Commission that the Ordinance Amendment be placed on the agenda of the next Special Meeting.

**Subdivision #2006 – 10** - - application of **LACROSSE HOMES OF DELAWARE, INC.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 213.64 acres into 320 lots, (Cluster Development), located north of Road 70 (Gordy Road), 1,500 feet west of Road 72 (Wooten Road) and on both sides of Road 462 (Trussum Pond Road).

The Chairman referred back to this application, which has been deferred since May 24, 2007.

Mr. Johnson stated that he would move that the Commission deny Subdivision #2006 – 10 for Lacrosse Homes of Delaware, Inc. based upon the record and for the following reasons:

1. The proposed cluster subdivision as designed does not meet the purpose of the Subdivision or Zoning Ordinance, and Mr. Johnson does not believe that it promotes the orderly growth of the County.
2. The proposed project also does not meet the purpose of the Subdivision Ordinance because it does not ensure that residential developments are conveniently and properly located.
3. The proposed project is not in accordance with the 2002 Sussex County Land Use Plan Update because it does not represent growth in an area where public infrastructure and services are available.
4. The project is in an area that has not developed with similar projects or residential density. There are no other developments in the immediate vicinity that are similar in density to what has been proposed.
5. The proposed project is served by Gordy Road, Trussum Pond Road and Wooten Road, which are all local roads. All these roads are also used regularly by large farm equipment. The project is inconsistent with the existing traffic and agricultural use of these roads. The project would also lead to increased congestion on the adjacent and surrounding roads and the State has no plans to invest in roadway upgrades in this area.

6. Mr. Johnson is not satisfied that the proposed clustered subdivision is superior to a standard subdivision, for the following reasons:
  - A. In their presentation and in response to Mr. Johnson's questioning, the Developer could not adequately describe how this project creates an environment and design that is superior to a standard  $\frac{3}{4}$  acre lot subdivision.
  - B. Mr. Johnson does not feel that the use of open space in this project is a design improvement over a standard subdivision. While there is a 30-foot buffer around the perimeter, more than 60 lots are oriented towards the perimeter of the subdivision. Open space was not used along the outer portions of this development to create a transition between this development and the neighboring properties and uses.
  - C. More than 100 of the lots back up to one another without any open space in between them. The Commission has regularly stated that this is not a superior design.
7. Mr. Johnson does not feel that the items set forth in Section 99-9C of the Subdivision Ordinance have been favorably addressed. For example:
  - A. The Applicant did not adequately address how this subdivision is integrated into the existing terrain and surrounding landscape.
  - B. The Applicant did not adequately address whether the project will adversely affect natural areas or cause significant tree, vegetation and soil removal. If the subdivision was approved, it would require extensive grading for road improvements, grading for the large community septic system next to James Branch and more impervious areas caused by the homes, streets, amenities, driveways, etc.
  - C. The Applicant did not adequately address how the project promotes the preservation of open space. For example, with the orientation of lots towards the perimeter of the subdivision, and with so many lots backing up to one another, the appearance of openness in this neighborhood is not maintained. And there is little transition between this project and the neighboring properties.
  - D. The project will adversely affect area roadways and does not provide for the safe vehicular and pedestrian movement within the site and along adjacent roads. There will be many cars per day added to the roadways in and around the project. The roads in the area, are local roads of minimal width that are frequently used by large pieces of farm equipment.
  - E. Generally, the Applicant did not show that each of the 17 items in Section 99-9C were addressed or considered in the design of this subdivision, as required by the Cluster Ordinance. The applicant has not adequately documented how the proposed development provides for a total environment and design which are superior to that which would be allowed under the Standard lot option; does not preserve the natural

environment and historic or archeological resources; and did not adequately address how the project will not have an adverse effect on all the items included under County Code 99-9C. For examples, 1.) almost 1/3 of the home sites shown in the proposed preliminary site plan do not back up to open space. Rather over 100 small home lots and back to back with other small lots. 2.) By the calculations presented, the proposed active and passive open area constitutes only 22% of the project. 3.) The proposed cluster development is totally out of character for this rural, predominantly agricultural and nature preserve area. 4.) This project does not preserve the open space, agricultural lands, natural habitats and forest land that is typically found in the surrounding area. Instead, it is creating an isolated development that cannot be served effectively or efficiently by public services.

- F. This project certainly compromises the integrity of the 2004 Strategies for State Policies and Spending, the Livable Delaware Green Infrastructure area established under Governor Minner's Executive Order #61 and the preservation goals which are inherent in many of DNREC's programs. Of particular concern are: 1.) The project impacts all 3 layers of the Green Infrastructure map (cropland, forest and natural resources), 2.) the project's proximity to the James Branch Nature Preserve, and 3.) possible impacts to the rare species in the James Branch, Trussum Pond and Trap Pond. While various mitigating measures are proposed that may help reduce impacts from this project, not doing the project at all is the best avenue for avoiding negative impacts.

Motion by Mr. Johnson, seconded by Mr. Smith and carried 3 votes to 1, with Mr. Gordy opposed, to deny this application for the reasons stated. Motion carried 3 – 1.

#### PUBLIC HEARINGS

Mr. Robertson advised those parties present about the process that would be followed for the public hearings.

**Subdivision #2007 – 19** - - application of **AMERI-STAR HOMES** to consider the Subdivision of land in a MR Medium Density Residential District in Cedar Creek Hundred, Sussex County, by dividing 34.32 acres into 80 lots, located on the northwest side of Road 619, approximately 900 feet north of Shawnee Road (Route 36).

Mr. Lank advised the Commission that the applicants submitted an Exhibit Booklet into the record on June 14, 2007.

Mr. Abbott advised the Commission that the Technical Advisory Committee Report will be made a part of the record; that the applicants submitted proposed findings of fact and conditions of approval into the record on June 15, 2007; and read letters received from the Office of State Planning Coordination and Brett and Natalie Veneable.

Stephanie Hansen; Attorney, Greg Wright of Ameri-Star Homes, Keith Rudy of McCrone, Inc., and Shana Phillips and Amy Almsville, Environmental Scientist were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the applicants are registered developers; that they have built 17 projects in the State of Maryland; that they are certified home builders; that they build about 50 homes per year; that they are trying to become established in Delaware; that the project will be for moderately priced single family homes; that the development will be known as Shawnee Brook; that the application calls for 80 lots located on 34.32 acres; that the site is adjacent to the Hollys and the Retreat at Hazzard Hill Subdivisions; that the site is 1 mile from the City Limits of Milford and within 2 miles of shopping; that the site is located in a developing area as referenced in Tab 4 of the Exhibit Booklet; that the site is comprised of 4 separate parcels that are all zoned MR; that the site is used as residential and contains forest lands; that the purpose of the MR District is to allow for single family homes; that the site is located in a Level 3 based on the State's Map of Policies and Spending; that the MR District permits 4 lots per acre and that 137 lots are permitted by Code; that with 80 lots proposed, the density is 2.33 lots per acre; that the minimum lot size permitted is 10,000 square feet; that the largest lot proposed is 17,093 square feet and the average lot size is a little less than 11,000 square feet; that the dwellings will be stick built homes; that the applicants will be the builders; that the project will be built in 2 phases; that they would like to build 4 homes per month; that the starting price of the homes will be \$300,000.00; that the project has been reviewed by the State at 2 different PLUS meetings; that a double entrance has been eliminated from this proposal; that the front of the site is considered an excellent recharge area; that there are 12 lots located in this area; that there is open space to the front of the site; that the storm water management area is centrally located; that this plan does not propose a clubhouse or swimming pool; that this design is more environmentally friendly than the previous plan; that the open space includes pedestrian paths, parks, wetlands, passive and active open spaces and storm water management areas; that a tot lot is proposed; that the entrance will contain decorative iron fencing; that a boulevard entrance is proposed; that sidewalks will be provided on both sides of all streets; that streetlights will be provided; that DelDOT did not require a traffic impact study and that the developers will comply with all of DelDOT's requirements; that interconnectivity has been provided to the parcel to the south of this site; that the streets will be built to Sussex County specifications; that the Sussex County Mapping and Addressing Department has approved the street names; that a school bus stop and mail pick up area will be provided; that a Phase 1 Environmental Assessment has been conducted on the site; that a wetlands delineation has been performed and submitted to the Corps of Engineers for a

jurisdictional determination; that there are 1.54 acres of wetlands on the site; that there will be no negative impacts to the wetlands and no wetlands will be on any lots; that there is a 50 foot buffer provided from Bowman's Branch; that there are no tax ditches on the site; that there are 17 acres of forest land on the site; that selective clearing will be permitted and deed restricted; that each lot will have a landscape package including one new tree per lot; that street trees will be provided; that a portion of the open area will be reforested; that 2 storm water management ponds are proposed; that the ponds will be wet ponds; that the storm water management design will utilize Best Management Practices; that rain gardens will be implemented; that the City of Milford will provide water and wastewater treatment to the site; that the pump station has been relocated to the eastern side of the site; that there are no historic features on the site; that the City of Milford will provide electric; that other services will be provided by Comcast and Verizon; that the site is located in the Milford School District; that fire protection is provided by the Carlisle Fire Department; that Delaware State Police provide police protection; that some of the homes may have basements; that a homeowners' association will be established; that restrictive covenants have been submitted; that the open space areas will be the focal points of the site; that a clubhouse would be burdensome to the property owners; that there is room for a paved game court; that there is an open space management plan provided in Tab 23 of the Exhibit Booklet; that the items referenced in Section 99-9C are part of the Exhibit Book along with the applicants response to the PLUS comments; and that proposed findings of fact and conditions of approval have been submitted into the record.

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

The Commission found that Charles and Gail Garrod, Leroy Hitchens and Thomas Greenlee, area residents, were present in opposition to this application and stated in their presentations that the back area of the site is a swamp and creek; that there are large trees located on the northern boundary line; that deed restrictions will not prevent the removal of trees; that the lots should be a minimum of  $\frac{3}{4}$  of an acre; that the lots do not adjoin open space; that farm equipment travels the area roadways; that the lots are too small; that there are concerns with the location of the pump station; that there will be drainage problems in the area; that a 30-foot buffer should be required; that there are existing homes in the area selling for over \$300,000.00; that the project will cause a loss of farmland; that residents don't follow deed restrictions; that traffic is a major problem in the area; and if the City of Milford runs sewer and water to the site, are adjoining property owners required to connect to these services.

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



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

**Subdivision #2006 – 16** - - application of **DOLORES M. DESMOND** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Broadkill Hundred, Sussex County, by dividing 10.00 acres into 10 lots, and a variance from the maximum allowed cul-de-sac length of 1,000 feet, located west of Road 258, 600 feet southwest of Road 260.

Mr. Abbott advised the Commission that the Technical Advisory Committee Review of November 22, 2006 will be made a part of the record for this application; and that Mr. Robertson has reviewed and approved the proposed Restrictive Covenants for this application.

The Commission found that Dolores Desmond along with Shannon Carmean; Attorney with Sergovic and Ellis and Tom Bartosiewicz, P.E. with Meridian Architects and Engineers were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that this is an application to subdivide 10 acres into 7 lots and not 10 lots as advertised; that the applicant is also requesting a variance from the maximum allowed cul-de-sac length of 1,000 feet; that the site fronts Hudson Road; that the site is zoned AR-1 Agricultural Residential; that the proposed density is 0.68 lots per acre; that there is an existing farmstead that is located on Lot 1 and that it will remain there; that the length of the cul-de-sac is 1,040 feet; that the proposed use conforms to all requirements; that there are no wetlands on the site; that the site is currently farmland; that there are no natural or historical features on the site; that no objectionable features are proposed; that screening will be provided; that on site septic and well are proposed; that the site is located in a Low Density Area based on the Comprehensive Land Use Plan Update; that the project complies with the Land Use Plan; that stick built single family homes are proposed; that all of the lots will meet the minimum requirement of  $\frac{3}{4}$  of an acre; that 6 new homes are proposed; that the restrictive covenants have been submitted; that the proposed use is compatible to the area; that no adverse impacts are anticipated; that the project will increase area property values; that the project will comply with all ordinances; that the necessary 30-foot forested buffer will be provided along the north, south and west sides; that the buffer will not be across any individual lots; that modular and manufactured homes are prohibited; and submitted a septic feasibility statement from DNREC indicating that the site is suitable for individual on-site septic systems.

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

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

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision #2006 – 16 for Dolores M. Desmond, based upon the record and for the following reasons:

1. With the conditions placed upon it, the subdivision meets the purpose and requirements of the Subdivision Code and protects the orderly growth of the County. And, the items listed in Section 99-9C of the Code have been favorably addressed.
2. The density is less than the maximum density permitted by the existing AR-1 zoning. The application is for a standard subdivision and all lots shall be a minimum of  $\frac{3}{4}$  acre in size.
3. The subdivision is integrated into the existing terrain and surroundings.
4. The subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
5. The subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
6. DNREC has provided a septic feasibility statement for individual on-site septic systems.
7. A homeowners' association will be created to maintain streets, open space, storm water management areas and street lighting.
8. A variance from the maximum allowed cul-de-sac length of 1,000 feet should be granted as the applicant is seeking an additional 40 feet to provide for minimum lot frontage and to provide a turn around.
9. This recommendation is subject to the following conditions:
  - A. There shall be no more than 7 lots within the subdivision.
  - B. The Applicant shall prepare and record restrictive covenants governing the development and cause to be formed a homeowners' association to be responsible for the perpetual maintenance of streets, roads, any buffers, storm water management facilities and other common areas.
  - C. The storm water management system shall meet or exceed the requirements of the State and County.
  - D. A 30-foot forested buffer shall be provided on the north, south and west borders of the subdivision. The forested buffer is not to be contained within any lot lines or storm water management areas, and shall be shown on the final site plan.
  - E. The existing dwelling shown on the preliminary site plan shall have its entrance redirected to the proposed development road instead of its current entrance on County Road 258.
  - F. All entrances shall comply with all of DelDOT's requirements.
  - G. A system of street lighting shall be provided by the Applicant, and the location of the streetlights shall be shown on the final site plan.

- H. The Restrictive Covenants shall include the Agricultural Use Protection Notice.
- I. Street naming and addressing shall be subject to the review of the Sussex County Mapping and Addressing Department.
- J. 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. Smith and carried unanimously to approve this application, for the reasons and with the conditions stated, as a preliminary. Motion carried 4 – 0.

**C/Z #1613** – application of **BAYSHORE PLAZA II, LLC** to amend the Comprehensive Zoning Map from an AR-1 Agricultural Residential District to a C-1 General Commercial District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, land lying east of Route 24, approximately 1,800 feet south of Long Neck Road (Route 23), to be located on 34,386 square feet, more or less.

The Commission found that the applicants had submitted prior to the meeting a packet of exhibits, which included a project team listing, a description of the qualifications of Mark H. Davidson, a survey of the property, legal descriptions, site plans, a copy of the Support Facilities Report and cover letter from DelDOT, a color map showing zonings in the area, an aerial photograph showing the site and surrounding area, a soil classification map, a map showing the Environmentally Sensitive Developing Area, a map referencing that the site is not in a Flood Zone, a land use cover map, a ground water recharge map, a sewer district map, a State Strategies and Investment Levels map, a map referencing that the site does not contain any wetlands, and a USGS Quad topographic map.

The Commission found, based on comments received from DelDOT, that a traffic impact study was not required and that the Level of Service “E” of Route 24 at this location will not change as a result of this application.

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is located within the Long Neck Sanitary Sewer District; that wastewater capacity is available for this project; that the current System Connection Charge Rate is \$3,144.00 per EDU; that one 6-inch lateral is available; that a 6-inch lateral may not be adequate for the proposed use or if the parcel is redeveloped; that conformity to the North Coastal Planning Study will be required; and that a concept plan will be required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils are mapped as Fort Mott-Henlopen complex and Fort Mott loamy sand; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that

no hydric soils are present; that it may not be necessary for any on-site or off-site drainage improvements; and that there are no storm flood hazard areas or tax ditches affected.

The Commission found that Pret Dyer was present with Mark Davidson of DC Group and that they stated in their presentations and in response to questions raised by the Commission that they are seeking rezoning of this parcel for an extension to the adjacent Bayshore Plaza project which contains a “Giant” grocery store and a “McDonalds” fast-food restaurant; that the site is located within the Long Neck Sanitary Sewer District; that they provided and built a pump station that serves the District; that water will be provided by Tidewater Utilities, Inc.; that there are no wetlands on the site; that no endangered species or historic features will be impacted by the project; that the site is located in Level 1 and Level 2 areas according to the State Strategies map; that a multi-modal path will be provided to connect to Robin’s Hood Loop in Sherwood Forest; that they will have to acquire an easement to cross the Warren lands to provide the path; that stormwater management will tie into the existing Plaza system; that they propose to extend and install a privacy fence in the same configuration as the fencing around the Bayshore project; that they will be landscaping along the front of the property; that building setbacks will conform to the Zoning Ordinance; and that they will be requesting parking within the front yard setback to be similar to the Plaza project.

Mr. Lank advised the Commission that this application will be required to be processed through the PLUS process since it is a rezoning within the Environmentally Sensitive Developing Area.

The Commission found that Linda Dawson, an adjoining landowner, was present and expressed concerns about the location of the proposed building; that she does not want her view blocked by the building or fencing; that she likes to look out to Route 24; and that she has no objections to a parking lot being placed on the lot.

The Commission found that Mr. Davidson advised them that the building is proposed to be located at the northerly side of the property.

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

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

**C/U #1688** – application of **RICHARD BELL, III** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an office, storage building, and storage yard for a contracting business to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 5.96 acres, more or less, lying south of Route 9 (Georgetown Lewes Highway), approximately 2,000 feet west of Route 321.

The Commission found that the applicants had submitted prior to the meeting a packet of exhibits, which included a project team listing, a color rendering of the site plan; a description of the qualifications of Mark H. Davidson, a survey of the property, a deed, proposed conditions, site plans, a color map showing zonings in the area, an aerial photograph showing the site and surrounding area, a soil classification map, a map referencing that the site is not in a Flood Zone, a land use cover map, a ground water recharge map, a sewer district map, a State Strategies and Investment Levels map, a map referencing that the site does not contain any wetlands, and a USGS Quad topographic map, and a soils investigation report.

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

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is not located within a County operated or maintained sanitary sewer and/or water district; that the site is located within the North Coastal Planning Area; that the proposed project will utilize an on-site septic system; that the proposed project is in a Developing Area of Georgetown; and that a concept plan will not be required.

The Commission found, based on comments received from the Sussex Conservation District, that the soils on the site are mapped as Hammonton loamy sand, Keyport fine sandy loam and Pepperbox-Rosedale complex; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that no hydric soils are on this site; that no storm flood hazard areas or tax ditches are affected; and that it may not be necessary for any off-site drainage improvements; and that the applicant will be required to follow State stormwater and sediment guidelines for any on-site drainage improvements.

The Commission found that Tony Smith of Clean Cut Interlocking Pavers, Inc. and Mark Davidson of DC Group were present and stated in their presentations and in response to questions raised by the Commission that the site is close to other business/commercial uses and Conditional Use sites; that the site is immediately adjacent to “Sports at the Beach”; that the site is located within a Level 2 area according to the State Strategies

map; that the site is located within a Developing Area according to the Comprehensive Plan Update; that they propose to utilize the site for an office, shop, storage building and some outside storage; that the property is outside of the Runway Protection Zone according to Jim Hickin, the Sussex County Airport Manager; that airport height limitations do apply and that no buildings shall be any higher than 45-feet; that they proposed a building height of approximately 20-feet; that the proposed building will be a steel building; that the site is not located within a Flood Zone; that there are no wetlands mapped on site; that they hope to use the existing entrance location and will improve the entrance to DelDOT standards; that a multi-modal path easement is being provided; that there is an existing septic and well on the site; that they propose to install a bio-retention pond to the rear of the site for stormwater management; that landscaping will be provided; that they plan on erecting a sign on the site; that security lighting will be provided; that they hope to use the manufactured home on the site for an office; that they will have one full-time employee working at the site; that they presently have 13 employees that work from the site for materials and go to and from job sites; that gravel, stone, and sand will be stored in concrete storage bins on the site; that screening will be erected along the storage bins; that pavers left over from job site will be stored on site and the area will be screened from view; that the majority of the pavers are shipped directly to job sites; that the owners typically are in the office at 6:00 a.m.; that the employees typically arrive at the site to pick up vehicles and materials at 7:00 a.m.; that trucks typically leave the site at 7:30 a.m.; that the vehicles used by the employees are typically pickups and trailers, not dump trucks; that no major storage areas are proposed; that the maintenance building is proposed to work on equipment and the storage of tools and bagged sand; that a part-time mechanic will be doing repair work on Saturdays; that they propose to install planting beds and pavers for display on their paver products; that there will be no parking in the front yard setback; that screening can be provided to screen the view from the homes on adjacent properties; that very few customers come to the site since they have to go the customers properties to prepare bids for projects; that they receive a tandem load of sand once per week; that they will have a dumpster on the site and that the dumpster will be screened; that the existing garage will be utilized for storage; that the existing shed will be removed; and that they understand that to utilize the existing manufactured home for an office will require approval from the County Board of Adjustment.

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

The Commission found that George Dick, a resident living across Route 9 from the site, was present in opposition and expressed concerns about spot zoning, putting 6-acres into commercial use in a residential area, existing traffic congestion, increasing traffic, noise from trucks, dumpsters, and loading and unloading, and business hours; that trucking activities should be on truck routes; that truck traffic impacts other traffic; and that this use would not be compatible with the existing character of the area.

The Commission found that Mr. Smith and Mr. Davidson responded that the company uses approximately 5 truck loads of sand per week; that they have no objections to limitations on the business hours in the yard area being limited to not starting any activities until 7:00 a.m. and the office hours being limited to 6:00 a.m.; and that the height of buildings shall not exceed the allowable height of the FAA as it relates to the Sussex County Airport.

The Commission found that Mr. Davidson submitted a copy of an E-mail received from Jim Hickin, Sussex County Airport Manager.

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

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

**C/U #1689** – application of **MICHAEL AND NANCY CHORMAN** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an automotive repair shop to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 30,288 square feet, more or less, lying north of Road 325, 425 feet west of Route 48, and being Lot 30 of Rawlins Manor Subdivision.

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

The Commission found, based on comments received from the County Engineering Department Utility Planning Division, that the site is not located within a County operated or maintained sanitary sewer and/or water district; that the site is located within the North Coastal Planning Area; that the proposed project will utilize an on-site septic system; that the proposed project is in a Developing Area of Georgetown; and that a concept plan will not be required.

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

The Commission found that Michael Chorman was present and stated in his presentation and in response to questions raised by the Commission that he has requested this Conditional Use so that he can do automotive repair work at night and on weekends; that he would be working on 3 to 5 vehicles per week; that he works on one vehicle at a time; that vehicles waiting for parts will be stored in the garage; that a hair salon and masonry contractor operate within the subdivision; that he works full-time at Boulevard Ford; that his business hours would be from 5:30 p.m. to 9:00 p.m. weekdays and 8:00 a.m. to 4:30 p.m. on weekends; that the Georgetown Speedway is directly across the road from the site; that he was not violated before he applied for the Conditional Use; that he is not aware of any deed restrictions for commercial activities; that there will be no used parts stored outside; that there will be no junk cars stored on the site; and that he has no need for a sign on 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. Johnson, seconded by Mr. Gordy and carried unanimously to defer action for further consideration and review of the restrictive covenants. Motion carried 4 – 0.

Meeting adjourned at 8:55 p.m.