

MINUTES OF THE REGULAR MEETING OF JULY 11, 2013

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, July 11, 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, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

Motion by Mr. 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 27, 2013 as circulated. Motion carried 5 – 0.

OLD BUSINESS

Change of Zone #1725

Application of **JACK LINGO ASSET MANAGEMENT, LLC** to amend the Comprehensive Zoning Map from GR General Residential District to AR-1 Agricultural Residential District, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 74 acres, more or less, lying southeast of Ward Road (Road 283A) and southeast of Cedar Grove Road (Road 283) 2,400 feet southwest of Mulberry Knoll Road (Road 284)(Tax Map I.D. 3-34-12.00-16.00 Part of).

Announcement of Close of Record.

Conditional Use #1951

Application of **JACK LINGO ASSET MANAGEMENT, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a RV resort and campground, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 162.424 acres, more or less, lying southeast of Ward Road (Road 283A) and southeast of Cedar Grove Road (Road 283) 2,400 feet southwest of Mulberry Knoll Road (Road 284)(Tax Map I.D. 3-34-12.00-16.00 Part of).

Announcement of Close of Record.

Mr. Lank provided the Commission with a cover memorandum and copies of all of the comments received from agencies, comments in support, and comments in opposition to these applications received since the public hearing on January 24, 2013.

The Commission discussed these applications.

Mr. Wheatley stated that the Commission now has a 45 day period to digest all of the information received and to then make a recommendation on these applications.

Mr. Wheatley announced that the record is now closed on the applications for C/Z #1725 and C/U #1951.

Conditional Use #1964

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).

The Commission discussed this application which has been deferred since July 27, 2013.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use #1964 for Salmon P. Choudhary t/a Master Tires, for used car sales based on the record made during the public hearing and for the following reasons:

1. The site is the location of a gas and service station that predates zoning. It is currently used for tire sales. The proposed use as a small used car sales facility is consistent with the historical use of the property.
2. The site is near the intersection of U.S. Route 113 and North Bedford Street Extended. This type of use is appropriate for a location such as this.
3. There are other commercial uses and zoning in the vicinity, including shopping centers, a Wal-Mart, radio stations, lumber yards, etc.
4. The proposed use will not have an adverse impact on neighboring properties, roadways, or the community.
5. The use in this location is a benefit to Sussex County residents by providing a used car sales facility along a major roadway nearly adjacent to the town limits of Georgetown.
6. This recommendation is subject to the following conditions:
 - A. The use as a used car sales facility is in addition to the existing use as a tire sales store.
 - B. There shall be no more than ten (10) cars for sale at any one time from the site.
 - C. The location of the cars for sale shall be paved or stoned and shall be shown on the Final Site Plan. All cars on display shall be located on the paved or stoned area.
 - D. The tires on the site must be enclosed or fenced so that they cannot be seen from roadways or neighboring properties. The location of these storage areas shall be shown on the Final Site Plan.
 - E. Any large trash cans or dumpsters on the site shall also be enclosed so that they are screened from view of neighboring properties or roadways.
 - F. Any lighting on the used car sales area of the site shall be downward screened so that it does not shine onto neighboring properties or roadways.
 - G. The Final Site Plan shall be subject to the review and approval of 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 the application be approved for the reasons and with the conditions stated, 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”**, 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 discussed this application which has been deferred since July 27, 2013.

Mr. Smith stated that he would move that the Commission recommend approval of the Ordinance to modify Condition No. 24 imposed by Ordinance No. 2110 for C/Z #1694 for CMF Bayside, LLC to allow a revised commercial entrance location (left-turn) as may be approved by DelDOT based upon the record made at the public hearing and for the following reasons:

- 1) DelDOT controls the roadways and entrances. In this case, DelDOT has reviewed the proposal to change the configuration of this entrance from the current “rights-in/rights-out” configuration on Route 54 to the proposed “lefts-in/rights-in/rights-out” configuration. According to DelDOT’s April 1, 2013 letter, there is no objection to this change of the entrance configuration.
- 2) No parties appeared in opposition to this application.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to forward this Ordinance to modify Condition No. 24 to the Sussex County Council with the recommendation that it be approved for the reasons stated. Motion carried 5 – 0.

Subdivision #2013-3

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 requirement, 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 & 143.00).

The Chairman referred back to this application, which has been deferred since the June 13, 2013 meeting.

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2013 – 3 for Rocks Bethany, LLC, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned MR which permits low density single family residential development. The proposed subdivision density of 5 lots on 2.33 acres of land is less than the allowable density.
3. The proposed subdivision will be consistent with development trends in the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. The applicant has requested a waiver from the Buffer Requirements contained in the Sussex County Subdivision Code, and this Commission has the authority to modify those requirements under the Code. In this case, it is appropriate to modify the 20 foot buffer requirement given the size and shape of this parcel, the fact that it is already improved with 2 residential dwellings, and because it is basically an infill development. Also, in this approval, the buffer is only modified, and not eliminated, so the intent of the Code is preserved.
7. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 5 lots within the subdivision.
 - B. All entrances shall comply with all of DelDOT's requirements.
 - C. The 20 foot buffer requirement shall be modified to require a 10 foot vegetated buffer along the north and south boundaries of the project in addition to the buffer areas shown elsewhere on the Preliminary Site Plan. A landscape plan for these buffer areas shall be submitted as part of the Final Site Plan.
 - D. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan to the Commission depicting the revised buffer areas and the shifted lot boundaries.
 - E. The wetlands on the site shall be clearly marked on the Final Site Plan and on the site itself, using permanent markings. The method of marking the wetlands on the site shall be identified on the Final Site Plan.
 - F. The Final Site Plan shall be subject to the review and approval of Sussex County Planning and Zoning Commission.

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

PUBLIC HEARINGS

Conditional Use #1965

Application of **SOUTHERN DELAWARE BOTANIC GARDENS, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for botanic gardens and related visitor center, conservatory, theater, nature center and parking, to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 36.99 acres, more or less, lying south of Piney Neck Road (Road 336) 0.5 mile west of Bunting Road (Road 335)(Tax Map I.D. 2-33-6.00-116.10).

Mr. Lank reminded the Commission that they had previously received a copy of the Exhibit Booklet and survey/site plan for the project.

The Commission found that on April 24, 2013 DelDOT provided a Support Facilities Report which references that a traffic impact study is not recommended, and that the current Level of Service “A” of Piney Neck Road will not change as a result of this application.

The Commission found that on July 9, 2013 the County Engineering Department Utility Planning Division provided a Memorandum which references that the site is located in the Dagsboro Frankford Sanitary Sewer District; that wastewater capacity is available to serve the project; that Ordinance 38 construction will be required; that the location and size of laterals and/or connection points will have to be determined; that connection to the sewer system is mandatory; that the site resides within a recent expansion area and while a sanitary sewer connection point is not currently extended to the parcel, the County is currently working with a developer of a project located east of the site that will construct a regional pumping station and force-main that is scheduled to be completed in the next 12 months; that an opportunity exists for the Applicants to make use of this infrastructure although there may be some costs associated with said use; that the County Engineering Department will assist with coordinating this effort; and that a concept plan is required.

Mr. Lank advised the Commission that he has received 16 emails in support of this application.

The Commission found that Michael J. Zajic, President of the Board of Directors for Southern Delaware Botanic Gardens, Inc., was present with Mark Davidson, Project Manager, and Carlton Savage, Professional Engineer, of Pennoni Associates, Inc. and stated in their presentation and in response to questions raised by the Commission that they have received a total of 181 signatures in support of the botanic gardens proposal to date; that the land is proposed to be leased from the Sussex County Land Trust; that the site is currently tilled with some woodlands and wetlands; that the site is located within an Environmentally Sensitive Area according to the 2008 Comprehensive Land Use Plan; that the site is located within an Investment Level 2 according to the State Strategies; that the site is approximately one mile from the town limits of the Town of Dagsboro; that they have established a Memorandum of Understanding with the Sussex County Land Trust; that they are scheduled to meet with the Preliminary Land Use Service on July 24, 2013; that they have been working on this project for approximately two years; that they are

planning features for all ages; that the design calls for garden parking areas that break up the sight of other parking spaces; that the project includes, but not limited to, a visitor center, a nature center, gardens (vegetable, bog, flower, woodland, vernal pool, and sand), a conservatory, covered walkways with a living roof, trams for accessibility, ponds and meadows, a 0.5 mile canal through the gardens for tours, waterfalls and bridges, a café along Pepper Creek, floating docks for tours out into the Inland Bays estuary, classrooms, greenhouses, and many other features; that the Southern Delaware Botanic Gardens, Inc. is a non-profit corporation organized by local citizens with more than 500 supporters and members and is staffed by volunteers that will be conducting public education programs; that the mission of the corporation is to create inspirational, educational, and sustainable public gardens in southern Delaware for the benefit and enjoyment of the public; that the project is proposed to be installed in phases over a five to eight year period; that the corporation is dedicated to: nature's beauty, native plants and habitats of southern Delaware, colorful garden displays and garden information, public education and enjoyment, and ecological appreciation; that they are proposing a public garden because Delaware has no flagship public garden, an important educational and museum institution; that Phase I is planned to start simple, grow in stages with a horticulturist and volunteers, with grants from County, State, and private donors, and to build berms, deer fences, the entry drive, parking lots, and temporary structures with the help of local contractors; that they will begin planting trees, shrubs, perennials, meadow and other permanent plantings; that they hope to have Phase I completed in several years; that Phase II is planned to build buildings and garden features as underwriting comes in for each feature and includes: beginning existing forest restoration, removing invasive alien plants like Phragmites, restoring the vernal pool, restoring the shoreline with native plants, planting new forest areas, and labeling plants; that Phase III should complete the project and will serve visitors who wish to see the gardens and plants, visiting school children, garden clubs, photographers, and artists, farmers, vegetable gardeners, ornamental gardeners, and everyone through education on our habitats, and plants through plant labels, classes, tours, and research; that the public garden lands will be held by a long term lease; that the design, with minimal infrastructure and temporary buildings will be secured by grants and gifts; that the garden features shall be designed, engineered, and built by private, business, and public underwriting; that the garden operations shall be self-sustaining by income generating activities; that they are planning to create: a children's adventure garden; an outdoor amphitheater; a modern teaching vegetable garden; a Labyrinth for meditation and exercise; a bog garden, our rarest habitat, will shelter endangered native plants including Sundews, Pitcher Plants, and other plants, accessed by a board walk; a Hummingbird, Butterfly, and pollinators' garden; an arboretum of Delaware's trees; a large meadow garden for grasses, wildflowers and birds; flower gardens for all seasons; special features for wildlife: birdhouses, eagle trees, feeders, Osprey poles, turtle logs, and more; that ecological sustainability will be maintained by integrated pest management, organic fertilizers, and limited irrigation; that the design concept for the garden's buildings shall be compatible with the site, complementary, sustainable, durable, beautiful, and low profile; that Delaware is rich in natural treasures – animals, plants, habitats, all of great beauty, best enjoyed, studied, and preserved in an educational public botanic garden designed for that purpose; that the stormwater design for the site will primarily be contained on-site and a quantity waiver will be requested due to the proximity of the tidal waters of Pepper Creek to mitigate the normal impacts of the development on the natural water balance; that this

will be done by turning water that would normally become surface runoff into a resource that waters trees and recharges groundwater; that bio-retention systems, filter strips and rain gardens will improve water quality by removing nutrients; that the engineers will work with the Sussex Conservation District and DNREC to achieve the best management practices for the project; that a nutrient budget will be prepared per DNREC's Nutrient Protocol; that approximately 2,000 new trees, mostly native, will be planted and a landscape buffer around the entire boundary will be furnished; that Tidewater Utilities, Inc. will provide the necessary domestic and fire protection water needed; that agricultural irrigation wells will be used to irrigate gardens, etc.; that the project will be served by central sewer from the Dagsboro Frankford Sanitary Sewer District; that DelDOT did not recommend a traffic impact study; that by comparing this project will similar projects in other states, approximately 83,495 people are expected to visit the site annually once the project is completed; that wetlands will be further delineated through the permitting process with DNREC and the Army Corps. of Engineers; that there is no known presence of any historic or cultural resources on the site; that the plans and application is being submitted through the PLUS process for their review; that in addition to the new trees referenced earlier, they plan to add approximately 8,000 shrubs, 150,000 perennial plants, 600,000 bulbs and tubers, and 100,000 native plants; that the bio-diversity of the site may increase from approximately 150 species to 2,000 species; that the project will fix many more tons of carbon and remove 30 percent more air pollutants than it did as a farm; that the new canal and pond will also fix carbon and add oxygen; that the new bog will protect many species and propagate many highly endangered Delaware native plants; that the restored Vernal Pools will provide habitat for breeding frogs, skinks, and salamanders, all endangered; that the animal population will increase by 10,000 percent; that they anticipate approximately 394 jobs with 110 part-time jobs; that the Exhibit Booklet contains some suggested Findings of Fact and suggested Conditions of Approval for consideration; that they have met with the Town Council of Dagsboro; that they held a public meeting at the Dagsboro Fire Hall; that there will be a gift shop in the visitor center; that they will raise funds with membership drives, fund raisers, etc.; that they estimate a \$33,000,000 benefit to the County and State annually once the project is established; that they requests permission to utilize the B-1 Neighborhood Business regulations for signage; that they may use mobile home type structures temporarily for offices, classrooms, etc.; that the proposed piers are not intended for public use; that parking shall be subject to site plan review; that the Sussex County Land Trust and the Applicants are working out the lease arrangement and a business plan is being prepared; that the equipment shed is planned to house the tour boats and for assembly areas for garden displays for special feature events; that they have spoken, and will continue to speak to, all State Representatives, Town Councils, most County and State Agencies, and garden clubs, and have not heard any negativity.

Mr. Robertson advised those present that the project, if approved, needs to be substantially underway within three (3) years of receiving approval from the County Council.

Mr. Robertson added that light displays or similar activities may require additional public hearings.

The Commission found that Harry Hayman, a resident of Holly Cove near Dagsboro, was present in support and stated that their plans are nice and that the use is needed in the area.

Several parties raised their hands in support of the application.

There were no parties present in opposition to this application.

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

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration, and to leave the record open until receipt of the PLUS comments. Motion carried 5 – 0.

Conditional Use #1966

Application of **STEVEN T. JAMES, dba PRECISION PAINTBALL** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a paintball facility and other sports related activities, to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 12.9 acres, more or less, lying north of Asketum Branch Road (Road 422) 1.0 mile west of Bryan's Store Road (Road 435)(Tax Map I.D. 1-33-8.00-1.00).

The Commission found that on July 9, 2013 the County Engineering Department Utility Planning Division provided a Memorandum which references that the site is located in the Western Sussex Planning Area #5; that use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer at this time; and that a concept plan is not required.

The Commission found that Stephen and Jessica James were present on behalf of Precision Paintball and that Mr. James stated in his presentation and in response to questions raised by the Commission that Precision Paintball is a Limited Liability Corporation; that their mission is to provide a top notch paintball experience for friends, family, church groups, and company gatherings; that paintball is a safe, non-contact sport for ages 10 and up; that players may use their own equipment, or use rental equipment, all of which is regulated in terms of velocity and rate of fire; that all paintball games will be supervised with referees, without exception; that the parcel of land has been seeded with tall fescue grass, allowing the dormant portion of the property to be raised and cut for hay without disturbance; that their primary days of operation will be Saturday and Sunday, at which point they intend to serve both reserved private parties and walk-on individuals; that the playing surface is comprised of completely mobile inflatable bunkers; that this configuration allows them to remove and store the bunkers when not in use; that the field enclosure consists of netting on a cable suspension system, which allows the nets to be lowered to ground level when not in use; that due to the playing surfaces collapsible nature, the facility will allow native wildlife to maintain their way of life when not in use; that they do not intend to utilize permanent restrooms, which eliminates the need for a septic/sewer system;

that they are planning to use porta-toilets; that given the part-time nature of the use, the impact on the local roadways will be negligible; that the current playing field configuration limits the number of players to 30 persons per day; that normally there are seven (7) players per session; that since the demise of Pro Action Paintball in Roxana in 2009, Sussex County has been void of this team building sport; that they intend to offer a place to play and compete in this sport within the County, in lieu of persons traveling to Ocean City, Maryland or New Castle County; that there are no dwelling in close proximity to the site; that the playing field is located approximately 300-feet from the front property line; that they would like to erect a small sign; that there are no employees; that referees are typically volunteers; that they would also like to change their request to be open Fridays, Saturdays, Sundays, and Holidays; that they do not currently plan any expansions, but would like the option to add a second playing field; and that the field could also be used for soccer or lacrosse.

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

OTHER BUSINESS

Peninsula MR/RPC

Final Revised Marina Bay – Road 299

Mr. Abbott advised the Commission that this is the final record plan for 71 fee simple townhouse lots on 12.46 acres; that the Commission granted a revised preliminary approval for the same on March 14, 2013; that the proposed setbacks are 10 feet from the front, side and rear yards with 20 foot front and rear yard aggregates; that there is the minimum 40 foot separation between groups of buildings; that the final record plan complies with the preliminary approval and all agency approvals have been received; and that the Commission was previously provided a copy of the site plan.

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

Baywoods GR/RPC

Sales Office Site Plan – Route 24

Mr. Abbott advised the Commission that this is a preliminary site plan for a 4,900 square foot sales center, parking and outdoor gathering area located on 3.20 acres; that 28 parking spaces are in front of the proposed sales center building with an additional 105 spaces for overflow parking; that the building setbacks meet the requirements of the zoning code; that the building will be

utilized as a new home sales center; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan.

Mr. Johnson questioned what type of uses will be permitted in the gathering area.

No one was present on behalf of this request.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to defer action for further consideration and for the staff to contact representatives of this request. Motion carried 5 – 0.

The Seasons HR/RPC Interpretation – Road 273

Mr. Abbott advised the Commission that this is a site plan for townhouse units, duplexes and single family detached dwellings under a condominium regime; that the townhouse units and duplex units are within a 165 foot building envelope with a minimum building separation of 40 feet between building envelopes; that the detached single family dwellings have a minimum 20 foot building separation between dwellings; that the applicant's engineer is requesting permission to encroach into the minimum required 40 feet or 20 feet side yard setbacks a minimum of 5 feet for enclosed trash enclosures, a covered or uncovered side entrance into the dwelling or garage or uncovered or covered showers; that since there are not any individual lot lines, the setbacks are measured from the perimeter boundary lines; that dwellings on individual fee simple lots do permit some encroachments into the setbacks; that if encroachments are permitted on the sides of units, there may be instances where there is not a 40 or 20 foot separation between buildings; the some building lengths may exceed 165 feet in length; that since the project is a residential planned community, the Commission has to approve any revisions to an approved site plan; and that the Commission was previously provided a copy of the site plan.

Mr. Lank advised the Commission that typically these types of request go before the Board of Adjustment for variance applications.

Roger Gross, P.E., with Merestone Consultants advised the Commission that this is a blanket request so that each time an amendment is made the applicants won't be required to appear before the Commission; that single family lots are permitted to encroach into the setbacks for certain items; and that the Office of the State Fire Marshal would have to approve such encroachments.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to deny the request and that the developers will be required to appear before the Board of Adjustment for variances for any type of encroachments. Motion carried 5 – 0.

**Giant Food Fuel Facility #387
Commercial Site Plan – Route One**

Mr. Abbott advised the Commission that this is a preliminary site plan for a gas filling station located on 1.01 acres; that the site is zoned C-1 and presently there is a fast food restaurant located on the site; that a 9 foot by 10 foot kiosk building and a 94 foot by 45 foot canopy are proposed; that 6 gas islands are proposed; that the setbacks meet the requirements of the zoning code; that access to the site is from cross access easements from the adjoining properties; that there is no direct access to Route One from the site; that DelDOT has issued a Letter of No Objection; that the site will be served by County sewer and water will be provided by the City of Rehoboth; that there are no wetlands on the site and the property is not located in a flood zone; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

**Sports at the Beach
CU #1421 Revised Site Plan – Route 9**

Mr. Abbott advised the Commission that this is a revised site plan for a 7,200 square foot 1-story building; that the building will be used for indoor batting and training; that the use is an accessory use to the approved use; that the setbacks meet the requirements of the zoning code; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the revised site plan.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the revised site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

**Joseph J. and Joann Tittermary
2 Lots – Bayshore Drive**

Mr. Abbott advised the Commission that this item was deferred at the June 27, 2013 meeting; that this is a request to subdivide a 42,073 square foot lot into 2 located 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; that if the Commission feels that the subdivision is in character with the surrounding lots, approval should be conceptual only since variances would be required for the minimum square footage of the lots and for the minimum lot depth; that if the variances were denied, the conceptual approval would be void; and that the Commission was previously provided a sketch drawing of the request.

Mr. Burton advised the Commission that he visited the site; that he is concerned about the nature of the request; that there are too many unanswered questions; that it appears that there are variances from the Board of Adjustment that will be required; that if the property owners want to pursue this request, they should file an application for a major subdivision so that a public hearing can be held that would allow the Commission to get all of the information in front of the Commission before the Commission acts on this request.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to deny the request as submitted for the reasons stated. Motion carried 5 – 0.

Bay Forest Club

Preliminary Site Plan – Phase 3.1 – Road 347

Mr. Abbott advised the Commission that this is the preliminary site plan for Phase 3.1; that this phase consists of 67 units on 62.87 acres which are made up of 38 single family lots, 13 cottages and 16 villas; that the proposed setbacks for the single family lots are 10 feet from the front and rear yards and 5 feet from the side yards; that the setbacks for the villas and townhomes are 20 feet from all lot lines with a 40 foot aggregate front and rear yard and a 40 foot separation between the groups of buildings, that the total open space for this area is 12.05 acres; that sewer will be provided by Sussex County and water will be provided by Tidewater Utilities; that this phase is similar to the approved master plan; that since the project is a residential planned community, the Commission would also have to review the final record plan; that the preliminary plan complies with the conditions of approval and the zoning code; and that the Commission was previously provided a copy of the preliminary plan.

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

REORGANIZATION

Mr. Wheatley appointed Mr. Lank as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Lank opened nominations for Chairman.

Motion by Mr. Johnson, seconded by Mr. Burton to nominate Mr. Wheatley as Chairman.

Motion by Mr. Smith, seconded by Mr. Ross that the nominations for Chairman be closed.

Motion was adopted to nominate Mr. Wheatley as Chairman with 5 years.

Vote for Mr. Wheatley, as Chairman, by roll call:

Mr. Burton – yea

Mr. Johnson – yea
Mr. Ross – yea
Mr. Smith – yea
Mr. Wheatley – yea

Mr. Lank opened nominations for Vice-Chairman.

Motion by Mr. Johnson, seconded by Mr. Ross to nominate Mr. Smith as Vice-Chairman.

Motion by Mr. Burton, seconded by Mr. Johnson that the nominations for Vice-Chairman be closed.

Motion was adopted to nominate Mr. Smith as Vice-Chairman with 5 yeas.

Vote for Mr. Smith, as Vice-Chairman, by roll call:

Mr. Burton – yea
Mr. Ross – yea
Mr. Smith – yea
Mr. Wheatley – yea
Mr. Johnson – yea

The meeting was turned over to Mr. Wheatley, the re-elected Chairman.

Mr. Wheatley appointed Mr. Lank as Secretary for the Commission, and authorized Mr. Lank and Mr. Abbott to sign record plots for recordation on behalf of the Commission.

Meeting adjourned at 8:13 p.m.