

## MINUTES OF THE REGULAR MEETING OF July 14, 2016

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, July 14, 2016 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Michael Johnson, Mr. I.G. Burton, III, Mr. Martin Ross, and Mr. Doug Hudson with Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Ms. Janelle Cornwell – Planning and Zoning Manager, and Mr. Daniel Brandewie – Planner II.

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

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of June 23, 2016 as circulated. Motion carried 5 – 0.

## OLD BUSINESS

### **C/Z #1800 – Sussex Real Estate Partners, LLC (Belle Terre)**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a MR-RPC (Medium Density Residential District – Residential Planned Community) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 123.75 acres, more or less.** The property is located southwest of Dorman Farm Lane, 1,000 feet southwest of Mulberry Knoll Road (Road 284) and being approximately 1,800 feet southeast of Cedar Grove Road (Road 283) and approximately 1,200 feet northwest of John J. Williams Highway (Route 24). (911 Address: None Available) Tax Map I.D. 334-12.00-17.00, 18.00, 19.00 and 20.00.

This application has been deferred since April 28, 2016.

Mr. Lank advised the Commission that the purpose of this item being on the Agenda is for the announcement of the Traffic Impact Study (TIS) results from DelDOT. The Commission was provided with copies of the Report.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration and to leave the record open for 20 days for written comments on the Report on the Traffic Impact Study. Motion carried 5 – 0.

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

This is a Major Subdivision for the creation of a cluster subdivision. The plan proposes to subdivide 70.23 acres +/- into 100 single family dwellings with private roads and open space. The property is located on the northwest side of Beaver Dam Road approximately 477 feet south of Kendale Road. Tax Parcel: 234-2.00-2.00. Zoning: AR-1 (Agricultural Residential District).



This application has been deferred since May 26, 2016.

Mr. Lank advised the Commission that the purpose of this item being on the Agenda is the announcement of receipt of a Homeowners Association letter from The Riding's Subdivision and the applicant's response to the Homeowners Association letter. The Commission was provided with copies of both letters.

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

## OTHER BUSINESS

### **Americana Bayside – Village C Phase 1C** Revised Final Site Plan

Ms. Cornwell advised the Commission that this is a revised Final Site Plan for Americana Bayside Village C Phase 1C. The revision is to convert the duplex lots to single family lots and the reduction of .52 ac of open space. The overall number of units is 76. This is a reduction of two (2) lots from the previously approved plan. The Planning Commission approved the final plan on December 16, 2015. The Staff is in receipt of all agency approvals.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the revised Final Site Plan. Motion carried 5-0.

### **Royal Farms No. 226 on Coastal Highway** Final Site Plan

Mr. Brandewie advised the Commission that this is an application for Final Site Plan approval for the construction of a new 4,900 sq. ft. convenience store with 6 gas stations, off premise sign, and canopy on a 1.4976 acre site. The property is zoned C-1 (General Commercial District). The site is located on the southwest corner of Rt. 1 and Rt. 24. It consists of Tax Map Parcel 334-12.00-165 thru 168 and 170. The Planning Commission granted approval of a Preliminary Site Plan on March 26, 2015. The Board of Adjustment granted variances to setback requirements to accommodate the relocation of the existing billboard. The Staff is in receipt of all agency approvals.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Final Site Plan. Motion carried 5-0.

### **Rehoboth Pointe** Final Site Plan

Mr. Brandewie advised the Commission that this is a final site plan for the redevelopment of two parcels with the construction of a 4,148 sq. ft. warehouse with site and driveway improvements. Two outdated residential/commercial structures are being removed to accommodate this new



building. The Planning Commission approved the Preliminary Site Plan at their meeting on February, 25, 2016. The property is located at the entrance way to Rehoboth Beach at the intersection of Rte. 1 and 1A (Rehoboth Ave. Extended). The properties are zoned C-1 and consist of Tax Parcels 334-13.19-84.00 and 85.00 for a combined acreage of 0.4 acres. The property was granted a variance by the Board of Adjustment to reduce the 20' overlay landscaped buffer area to 10 ft. The Staff is in receipt of all agency approvals, a landscape plan and building elevation drawings.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Final Site Plan. Motion carried 5-0.

### **Lullaby House on Route 9**

#### **Preliminary Site Plan**

Mr. Brandewie advised the Commission that this is an application for a preliminary plan for the construction of a 4,500 sq. ft. day care center with a small accessory parking lot and fenced in play area to be situated on a 3.3291 acre site. The property also contains a single family dwelling and garage that are to remain on the property. The property is located on Lot 18 of Beaver Properties, Tax Map 235-30.00-99.17. The property is zoned AR-1. The Board of Adjustment approved a Special Use Exception for the Day Care Center on February 15, 2016. Staff notes that a small portion of the propose parking lot is located within a 40 ft. front yard setback. The Planning Commission must act to authorize parking within required front yard setbacks per Section 115-166 C. The Staff is in receipt of all agency approvals.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the Preliminary Site Plan with Final Site Plan approval subject to that staff upon receipt of all agency approvals. Motion carried 5-0.

### **Lands of West and Jones on Johnson Road**

#### **Minor Subdivision with 50 foot easement**

Ms. Cornwell advised the Commission that this is a minor subdivision to allow for the creation of three parcels including a residual parcel and a 50 ft. easement. The proposed easement will go over an existing driveway. The property is located on the south side of Johnson Rd. and southeast of Shiloh Church Rd. The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 232-19.00-10.01. The Staff is awaiting approval from DelDOT.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the conceptual plan with final plan approval subject to the staff upon receipt of approval from DelDOT. Motion carried 5-0.



## PUBLIC HEARING

Mr. Robertson advised those present on the procedures for conducting public hearings.

### **C/Z #1802 – J.G. Townsend Jr. & Co.**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a B-1 (Neighborhood Business District) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 11.66 acres, more or less.** The property is located at the southeasterly corner of Gills Neck Road (Road 267) and Kings Highway (Road 268). (911 Address: None Available) Tax Map I.D. 335-12.00-Part of Parcel 3.00.

Mr. Lank reminded the Commission that they had previously received the applicant's Exhibit Booklet, copies of letters and emails received, and the staff analysis of the application in their packet; and that copies of letters and emails received in support of and in opposition to the application since the packet had been sent out are copied at their seats. The total number of letters/emails included eight in support, 18 in opposition, of which 6 included 119 signatures in agreement, and one in support of a City of Lewes Alternative (a Conditional Use application).

Mr. Lank advised the Commission that the staff has received comments from the Sussex Conservation District and County Engineering Department Utility Planning Division, and that DelDOT comments are a part of the applicant's Exhibit Booklet.

The Commission found that Nick Hammonds was present on behalf of J.G. Townsend, Jr. & Co. with Gene Bayard, Esquire of Morris James Wilson Halbrook and Bayard, LLP, and Ring Lardner, Professional Engineer of Davis, Bowen and Friedel, Inc.; that during the process of their presentation they used a Power Point demonstration on the monitors; that they stated in their presentations and in response to questions raised by the Commission that over 30 years ago the applicants started a master plan for their properties along Gills Neck Road; that they have been developing portions of the property with subdivisions, starting with larger lots down to smaller lots as the developments progressed toward Kings Highway; that the corner of Kings Highway and Gills Neck Road has always been in their anticipated plan to become a business/commercial site to serve the communities in the area; that the first project along Gills Neck Road was Wolfe Runne, and then they continued with Wolfe Pointe, Cadbury, Breakwater, Hawkseye, Senators, Governors, and Showfield development projects; that the Senators project just recently sold out; that the Governors and Showfield projects are under construction; that the combination of the projects contain approximately 1,500 dwelling units that are within walking distance to this site; that the Junction/Breakwater Trail includes easements and construction that has been dedicated by the applicants; that the applicants have cost shared road improvements on 4.6 acres, and made intersection improvements and right-of-way dedications along Gills Neck Road and Kings Highway; that they referenced in their presentation that there have been several zoning changes along Kings Highway near the site and referenced the Crooked Hammock Restaurant, Morton Electric, Gallo properties, Palmer properties, the Lingo office site in the City of Lewes near the Cape Henlopen High School, and other rezoning in the County and the City of Lewes; that in 2007 they had proposed a 500,000 square foot retail center on 60 acres and



withdrew the application; that in 2009 they had proposed a 387,000 square foot retail center on 47 acres and the rezoning was denied; that in 2015 they had proposed a 215,000 square foot retail center on 36.47 acres and withdrew it before it was introduced; and now they are applying for rezoning to B-1 Neighborhood Business for a 75,000 square foot retail center on 11.66 acres; that they are intending to create a neighborhood shopping center with a grocery containing 20,000 to 30,000 square feet, and hopefully a bank, pharmacy, and other stores and shops to provide needs and services; that they are not intending a gas filling station or dry cleaner; that the architectural will be similar to down town Lewes; that by comparison the center will be similar in size to the shopping center in front of the Village at Five Points; that B-1 Neighborhood Business zoning limits the size of the project by regulation; that they have provided a sketch plan of the center and acknowledge that it is only a conceptual plan; that they had submitted an application to the State for a Preliminary Land Use Service (PLUS) review prior to their application in 2015 and were not required to resubmit this application since the site and size of the project has been reduced in size; that their responses to the PLUS comments for the 2015 concept responses are printed in red, and their revised 2016 concept responses are printed in blue; that the findings of the Board of Public Works for the City of Lewes in their letters of June 21, 2013 (Tab 4a in the Exhibit Booklet) and November 19, 2015 (Tab 4b in the Exhibit Booklet) do not agree with the findings in the June 22, 2016 Water Resources and Environmental Impact Assessment for the project as prepared by Atlantic Hydrologic, Inc. (Tab 5 in the Exhibit Booklet); that Tab 5 provides references with an introduction, site topography and hydrology, geology and groundwater characteristics, a description of the Lewes supply wells, the County Ordinance for Source Water Protection, land use in the wellhead area, regulated properties in the wellhead area, PLUS issues for the site, a discussion of stormwater management, and conclusions and recommendations; that they referenced DelDOT definitions of a Traffic Impact Study (TIS) and a Traffic Operational Analysis (TOA); that they made reference to a 2006 TIS DelDOT correspondence, a 2009 TIS DelDOT correspondence, and a 2016 TOA DelDOT correspondence, and added that DelDOT will make the final decision on what traffic and road improvements will be required; that there are no negative impacts on wetlands; that there are no historical or cultural site within the area of the application; that this application is a part of a progression of development activities of the Gills Neck Road area; that they suggested that the Commission review the Hydrological Reports from the Board of Public Works for the City of Lewes and compare them to the Hydrological Reports prepared for this application and it will be found that they disagree; that the Cape Henlopen High School site contains 18 acres of impervious surfaces (buildings, parking areas, game courts, etc.) that is closer to the Lewes well head site than this application site; that when the original village center application was filed the Board of Public Works did not ask for a hydrological study; that the applicants intend to comply with all County regulations in Ordinance 89, the Source Water Protection Ordinance; that the developers have downsized the project from 500,000 square feet to 75,000 square feet along with reductions in the number of residential units in the area which means that the required DelDOT improvements exceed the necessary improvements; that the developers have agreed to participate in those required improvements required by DelDOT; that changes of use on existing B-1 Neighborhood Business and C-1 General Commercial site only requires a site plan approval, not a public hearing; that the site is in an Investment Level One according to the Strategies for State Policies and Spending; and that they agree with the staff analysis of Ms. Cornwell, Planning and Zoning Manager, which references that the rezoning is consistent with the land use in the Comprehensive Plan, the surrounding area and uses.



The Commission found that Ted Becker, Mayor of the City of Lewes, Paul Silberstorn, Traffic Consultant, and Darrin Gordon, General Manager of the Board of Public Works for the City of Lewes, were present and submitted: a Resolution of the Mayor and Council of the City of Lewes; a copy of the draft for the City of Lewes Area Traffic Study as prepared by Environmental Resources Management; a letter from the Board of Public Works for the City of Lewes; a copy of a November 19, 2015 letter from Advanced Land and Water, Inc. to the Board of Public Works for the City of Lewes; and a spiral bound report, dated July 16, 2016, from Advanced Land and Water, Inc., and provided a short Power Point presentation while they spoke referencing arterial roads, existing traffic conditions, future land use, future traffic conditions and impacts, traffic mitigation, and traffic management tools; that the City is concerned about increased densities and traffic impacts caused by development of this parcel and vacant farmland that is for sale on the southeast corner of the intersection of Kings Highway and Gills Neck Road, traffic on New Road, Pilot Town Road, and Savannah Road; that the Lewes Byway Master Plan should be complied with; that excessive development will impact said Plan; that the site is a Primary Recharge Area; that water is essential; that the Public Works must provide safe drinking water into the future; that the DNREC mapped well head protection area includes the entire site; that hydrological reports have been prepared for both the applicants and the City; that best management practices must be utilized and monitored to protect the area; that the City would prefer to consider an application for a Conditional Use so that conditions can be imposed on the project; that monitoring is a necessity; that they would support the relocation of the site back away from Kings Highway so that a green zone could be created next to the well head site; that they are not anti-development if the project is done right; and that the City opposes the rezoning, but would support a Conditional Use application.

The Commission found that John Sergovic, Esquire of Sergovic Carmean Weidman McCartney & Owens, P.A. was present on behalf of the Lewes Partnership for Managing Growth, LLC, with John Mateyko of Lewes, and Michael Lenhart, Professional Engineering Consultant, and that they stated in their comments that the purpose of the Partnership is to promote orderly growth; that this project was never disclosed in the marketing of the residential developments along Gills Neck Road; that the location will impact pedestrians and cyclist; that the project should be moved back adjacent to the Governors project leaving space between the site and Kings Highway and the well head site across Kings Highway; that traffic lighting proposed at Clay Road may impact the area; questioning the intent of the residual lands adjacent to the site; that there is nothing in the record that restricts a gas station, boat storage, etc., therefore, this application should be rejected and a Conditional Use applied for; that the developers should support the Conditional Use process; that they disagree with Ms. Cornwell's analysis; that arterial roads mapped do not include Kings Highway; that if a Conditional Use were to be applied for the retail space should be limited to 20,000 square feet and as far away from the well heads as possible; that this concept would match the Governors project, a Conditional Use for multi-family; that this smaller sized retail would serve the immediate area of Gills Neck Road; that if the project is moved back it will be further away from the well heads, away from ambulance and emergency traffic, and away from the Cape Henlopen High School, but closer to the homes along Gills Neck Road; that the use would be more walkable, safer, and convenient for the residents of the area; that homeowners have purchased homes based upon existing zoning and conditions in the area; that any rezoning or new growth, to be orderly, must preserve their



access, personal safety and home values; that this is especially important for the residents of Cadbury, who may not have an option to relocate; that they are concerned about the impact on the well heads; that a shopping center parking lot directly on top of the well head protection area would increase the risk to drinking water contamination, a public health risk that should not result from a discretionary rezoning; that those of us that live in Lewes experience bumper to bumper traffic on more and more roads; that the Byway and Consultant studies demonstrate that the carrying capacity of roads inside Lewes has been reached; that hazard preparedness, and risk reduction, is a critical consideration for this site, since this site is subject to future flood risks from both Canary Creek and Black Hook Creek and since Kings Highway is designated the primary evacuation/recovery route for the Lewes area; that for flooding mitigation it is not prudent to pave over the area immediately adjacent to the roadway preventing natural infiltration; that the area should remain open to permit contaminated floodwater to infiltrate and reduce the quantity of paved surface contaminations which floodwaters can wash directly on top of the well heads; that the application relies on old Traffic Impact Studies; that some major failures already exist; that there is no evidence that this project will not impact traffic; that the purpose of a B-1 Neighborhood Business has not been met; that the site is automobile oriented; that relocating the site further back from Kings Highway may be appropriate; and that they concur with the City of Lewes Traffic Engineer on his comments. Mr. Mateyko submitted written comments.

The Commission found that Todd Sammons, Subdivision Engineer for DelDOT, was present and stated that his Department reviews subdivision and entrance plans; that DelDOT has studied and monitored this area; that the Traffic Impact Study results are adequate; that the developer is reviewing the area and performing a Traffic Operational Analysis; that a Corridor Management Plan is being considered; and that the 2008 Agreement between DelDOT and LT Associates is being maintained, even though the project has been reduced in size by approximately 85 percent.

The Commission found that Mr. Bayard responded to some of the concerns expressed by the City of Lewes by stating that the City has not offered to purchase the land to protect the well heads; and that when the high school was rebuilt it was grandfathered since it was a replacement buildings and did not have to abide by the well head protection regulations.

The Commission found that Mark Eisner, Geologist for the Board of Public Works for the City of Lewes, stated that relocating the well heads would be costly and could impact the depth, the aquifer, pipe lines, soils, treatment, maintenance of the existing facilities, and that saltwater intrusion is a concern.

The Commission found that Mr. Gordon added that impervious surfaces impact well heads.

Mr. Robertson advised the Commission that Chapter 89, the County Source Water Protection Ordinance, provides for a safe zone of 100 feet from well heads.

The Commission found that Mr. Gordon responded that the State DNREC has stated that the Chapter 89 is weak in its requirements.



The Commission found that Mr. Lardner stated that the applicants are prepared to conform to Best Management Practices and the Source Water Regulations.

Mr. Robertson reminded the Commission that the Sussex Conservation District will oversee Stormwater Management and Erosion and Sediment Control requirements.

The Commission found that Ernie Lopez was present on behalf of approximately 30 individuals in support of this application and stated that this site is an appropriate location for a B-1 Neighborhood Business use; that the application came about through the applicants contacts with area residents; that the purpose of the B-1 Neighborhood Business zoning will be complied with; and that the application is actually a compromise reducing the size of the project and applying for a more restrictive business/commercial zoning category, B-1 Neighborhood Business.

The Commission found that Bobby Horsey, a site work contractor from Laurel, spoke in support and stated that he has known the applicants for years; that his family business has been involved in almost all of the applicants projects in the area; and that it is his opinion that the applicants have gone above and beyond on all of their projects, exceeding that which should be required.

The Commission found that Dennis Crawford was present and spoke in opposition to the application stating that he represents a consortium of eight (8) neighborhoods with contain approximately 1,400 homes in the area; that there has been no disclosure of a master plan that includes any commercial or retail development; that the residents that he represents do not want or need shopping or other commercial business in this area; that they have no issues traveling to Lewes or Route One to satisfy their shopping needs; that the site is currently zoned AR-1 Agricultural Residential and that the County is quite specific as to the purpose of such a zoning category, referencing a full range of agricultural activities and to protect agricultural lands, as one of the County's most valuable natural resources, the intention to protect the watersheds, water resources, forest areas, and scenic values, and to seek to prevent untimely scattering of more dense urban uses; that their concerns in rezoning to B-1 Neighborhood Business are increases in traffic, their welfare and safety – the ability of fire, police and ambulance vehicles getting to them in an emergency, water quality and quantity – three of the neighborhoods receive their water from the Board of Public Works for the City of Lewes; crime and drug activity; and that his research has indicated that a 75,000 square foot retail center needs 6,000 residents in the area to support it. Mr. Crawford submitted his written comments.

Abby Feierstein, Lee Howard, Fran Mahon, Jane Lord, Fran Storey, Dan Durham, Tim Campbell, Peter Strub, Ric Moore, Joseph Kelly, Bill Barnardi, and Mrs. Mateyko also spoke in opposition to the application and expressed concerns that the Henlopen Gardens project is impacted by drivers short cutting through the community from Savannah Road to Kings Highway; that shopping is adequate in the area; that residents are concerns about interconnection of roadways causing drivers to travel through the other residential projects in the area; that creating a business zone across from the Cape Henlopen High School and across from a continuing care community is clearly at odds with the County's responsibility to promote the health, safety, and well-being of citizens in the area; that the ever increasing traffic at this intersection poses a threat to the safety of our youngest and oldest drivers and pedestrians, but immediate, unimpeded access for emergency vehicles is essential for both the high school and



the continuing care community; that Gills Neck Road is very narrow with no shoulders making it difficult for emergency vehicles to respond; that the continuing care community relies heavily on emergency responders; that shopping centers are a magnet for criminal activities (carjacking, breaking into vehicles, and shoplifting, to name a few); that the Delaware State Police will have delayed response times due to traffic; that security studies should be completed and security procedures established; that saltwater intrusion is a concern; that a new traffic study is needed; that the City of Lewes had a traffic study prepared in 2015 for the area; that there is a fear that a precedent will be established for more business/commercial applications in this area if this application is approved; that there are multiple intersection issues in this area; that pedestrian and cyclist safety is a concern; that the County should promote sustainability by managing growth; that the purpose of zoning is to regulate and control growth; that this use is not appropriate; that agricultural preservation is needed; that open space preservation is needed; that sea level rise is a concern; that the impervious surfaces created with a project of this size will impact the well heads, stormwater management and water quality; that locating this retail center within the Lewes protected well field represents a grave risk of contamination of the well field by organics, including carcinogenic and probable carcinogenic substances; that pollutants from vehicles are a special threat with releases into the air and onto the ground; that DNREC has stated that the well field is highly susceptible to petroleum hydrocarbon intrusion; that there is no fool proof system for capturing pollutants; that no stormwater management system can eliminate flooding from extreme storms and hurricanes; that releases of contaminants would not in all events end up in stormwater treatment systems; that Lewes' drinking water would be afforded more protection if the parcel remains in agriculture; that the area has been farmed for more than 50 years and there is no inherent right to convert its use at public expense; questioning why should the public interest be compromised because developers wish to place a shopping center within a City wellhead protection area next to a school; and that the memorandum of understanding between DelDOT and the County specifically calls for a traffic impact study with respect to this application. Ms. Lord and Mr. Kelly submitted their written comments.

The Commission found that Gail Van Gilder of the Lewes Scenic and Historic Byway Committee provided a letter and packet of Power Point exhibits referencing the Kings Highway – Gills Neck Road Master Plan; the Kings Highway – Gills Neck Road Landscape Master Plan; the DelDOT Manual for Sensitive Solutions for Delaware Byways; the PLUS review comments relating to the Village Center rezoning application; and the Transportation Management Report of the Corridor Management Plan and referenced that the Byway's goal is to conserve, enhance and promote the Byway Corridor; that the Byway Corridor Management Plan references existing and future carrying capacity for the corridor, intends to improve public transit, the enhancement and use of context sensitive solutions, to establish gateways and way findings by guiding land use change along Kings Highway and Gills Neck Road; that the Committee urges the County to follow the PLUS reviews Byway recommendations from DelDOT and the Management Plans and Master Plans; that the Committee ask that a Byway representative or consultant be involved in the Site Plan review process from the outset as a condition of approval; that the Lewes Byway Plan recommends that the County link land use and transportation; that the Committee urges the County to work with DelDOT to improve the transportation system in a context sensitive manner as quickly as possible given the enormous increase in traffic; that Byways generate tourism and improve the quality of life; that the developers have an ideal opportunity to design a model project that could enhance the Byway and its surrounding residential sites; that the developers



have already improved the Byway by restoring the outside of the historic Townsend barn that sits on the property; that combining the shopping center with an adaptive reuse of the historic barn could make it a community amenity rather than a commercial strip; that DelDOT will enhance this site with a context sensitive road improvement project as funds become available as shown in their Master Plan; and that the Committee urges the County and the applicants to use the Byway designation, the Byway Corridor Management Plan recommendations and the PLUS review recommendations to create a project that will be a value to all.

At the conclusion of testimony, Mr. Ross noted that the site will not remain a cornfield; that water supply is important; and questioned why the developers are being asked to preserve their land to protect the well fields without compensation.

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

Mr. Robertson noted that Mr. Kelly's comments referenced Court actions, more specifically the Barley Mill rezoning, a case between New Castle County Council and citizens, and relating to a Traffic Impact Study or Traffic Operational Analysis.

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

## ADDITIONAL BUSINESS

### **Discussion regarding Comprehensive Plan** Opportunity for Public Comments

It was noted that there were no parties interested in speaking on the Comprehensive Plan.

No action was taken.

### **Reorganization**

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

Mr. Lank open nominations for Chairman.

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

Motion by Mr. Johnson, seconded by Mr. Burton, 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. Hudson – yea, Mr. Wheatley – yea.

Mr. Lank open nominations for Vice-Chairman.

Motion by Mr. Johnsons, seconded by Mr. Hudson, to nominate Mr. Ross as Vice-Chairman.

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

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

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

Mr. Burton – yea, Mr. Johnson – yea, Mr. Wheatley – yea, Mr. Hudson – yea, Mr. Ross – yea.

Mr. Lank turned the meeting over to Mr. Wheatley, the re-elected Chairman with congratulations.

Mr. Wheatley appointed Mr. Lank as Secretary for the Commission, and authorized Mr. Lank, Ms. Cornwell, Mr. Brandewie, and Mr. Jeff Shockley to sign record plots for recordation on behalf of the Commission.

Meeting adjourned at 10:15 p.m.