

MINUTES OF THE REGULAR MEETING OF July 28, 2016

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, July 28, 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.

Mr. Lank advised the Commission that C/U #2050 for Two Farms, Inc. and Other Business item “Coastal Club” have been removed from the Agenda and will be re-advertised and/or rescheduled for a later date.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to approve the Agenda as amended per comments by Mr. Lank. Motion carried 5 – 0.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of July 14, 2016 as circulated. Motion carried 5 – 0.

OLD BUSINESS

C/U #2051 – Dale Thaxton

An Ordinance to grant a Conditional Use of land in a GR (General Residential District) for a computer repair business located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.236 acre, more or less. The property is located east of Camp Arrowhead Road (Road 279) southwest of Cypress Drive 125 feet northwest of Maple Lane and being Lot 50, Angola Neck Park Subdivision. (911 Address: 22874 Cypress Drive, Lewes). Tax Map I.D. 234-12.14-54.00.

The Commission discussed this application which has been deferred since June 9, 2016.

Mr. Johnson asked that this application be considered at the conclusion of Other Business since the Commission was going to discuss Home Occupations.

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

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied since the Commission has determined that this use is an appropriate home occupation. 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).

The Commission discussed this application which has been deferred since May 26, 2016.

Mr. Johnson stated that he would move that the Commission grant preliminary approval for Subdivision 2016-2 for THE ESTATES OF CEDAR GROVE – BDRP, LLC based upon the record made during the Public Hearing and for the following reasons:

1. The Applicant is seeking approval of a clustered subdivision within the AR-1 zone. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet.
2. The proposed subdivision will have no more than 100 lots on 70.83 acres. This results in a density of approximately 1.42 lots per acre, which is much less than the maximum density permitted in the AR-1 zone.
3. A subdivision on this site will not have an adverse impact on the neighboring properties or area roadways.
4. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has addressed the requirements of Section 99-9C of the Code.
5. I am satisfied that this project is a superior design under the cluster subdivision ordinance. It provides for the preservation of 25.42 acres of undisturbed forested areas, with a total of 38.56 acres, or 55% of the property, remaining as open space.
6. The project will provide active and passive recreational uses including a multi-modal path, walking areas, a swimming pool, and a clubhouse.
7. The project will be served by central water and sewer.
8. The development complies with the Sussex County Comprehensive Plan as a low density, single family dwelling subdivision.
9. This preliminary approval is subject to the following:
 - A. There shall be no more than 100 lots within the subdivision.
 - B. The Applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - D. All entrances and roadway improvements shall comply with all of DelDOT's requirements.
 - E. The Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be clearly shown on the Final Site Plan.
 - F. A forested or landscaped buffer of at least 20 feet in depth shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscaped plan for these areas.
 - G. No wetlands shall be included within any lots.

- H. A system of sidewalks shall be installed on the site as shown on the Preliminary Site Plan.
- I. The subdivision shall be served by a central sewer system.
- J. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
- K. Street design shall meet or exceed Sussex County standards.
- L. A school bus stop shall be provided. The developer shall coordinate and cooperate with the local school district's transportation coordinator to establish the school bus stop area. The location of the bus stop area shall be shown on the Final Site Plan.
- M. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- N. Deliveries of dirt, fill or other similar materials shall only be made to or from the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.
- O. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
- P. 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. Ross, and carried unanimously to approve the Preliminary Subdivision Plan with the reasons and conditions stated... Motion carried 5 – 0.

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.

The Commission discussed this application which has been deferred since July 14, 2016.

Mr. Burton stated that before we get to this motion, he would like to talk about this project and referenced the following:

In 2007, the Planning and Zoning Commission was presented with a request for a change in zone for this property to CR-1 (Commercial Residential) that would pave the way for a 520,000 square foot destination shopping center on 60 acres right at the intersection of Kings Highway and Gill's Neck Road. It was a shopping center as large as or larger than anything on Route One. As such a large potential destination, it created, even attracted, too much traffic onto Kings Highway and into Lewes. I voted against that application, and the applicants withdrew it.

Then, another CR-1 (Commercial Residential) zoning request was sought for 45.7 acres of land, with the possibility of around 320,000 square feet of commercial space. I voted against that application, too.

At the last meeting, we were asked to consider a rezoning to B-1 (Neighborhood Business) for a proposed 75,000 square foot shopping center on a much smaller part of the same

land. This was roughly an 82% reduction from the original proposal. Unlike the prior proposals which were intended to be destinations for people from all over Sussex County and beyond, this smaller project allows people who live in the vicinity of Gills Neck Road to get what they need locally without travelling across other Lewes roads or going onto Route One. It serves a need and is good planning. It also complies with our County Comprehensive Plan, which directs neighborhood shopping like this to areas where low and medium density residential development exists, exactly like the development that has occurred on Gill's Neck Road. It also says that development like this should be located in proximity to an incorporated municipality, which it is. I realize that not everyone may like the guidance that our Plan currently gives us, but that is what it says. As an aside, if you disagree with this type of planning, now is the time to get involved, as we are working on our new Plan to be adopted in 2018.

As we all know, the State controls the roads. In most cases, road improvements follow development approvals, which is always not the best way to go. Here, the developer has entered into an agreement with DelDOT for road improvements based on a much larger shopping center. I believe that we all benefit from these roadway improvements paid through private investment. And, unlike just about every other development we see, most of the road improvements will be completed prior to any development of this property.

There has rightfully been a lot of concern about the water supply for the City of Lewes. I am concerned about the protection of the City's water supply, too. But, the eventual development of this property will be regulated by Sussex County's Wellhead Protection Ordinance. It governs what can or can't be built in close proximity to the wells, and it also regulates the impervious areas and recharge requirements in the rest of the area. But, it does not prevent development of the land. In fact, it is similar to the City of Lewes requirements for Water Resource Protection Areas which also allow land development if impervious cover and recharge requirements are met. In the end, this project will probably be scrutinized like no other when the applicants seeks to have a site plan reviewed for the development of it. They will be forced to comply with the legal requirements put in place to protect the Lewes wells.

I know that there is some opposition to this request, but I believe it is a reasonable request, that it will serve the needs of a lot of people in this area with convenient shopping, and that it follows the directions of our own Comprehensive Plan. So, I am prepared to make a motion recommending approval of the rezoning to B-1 (Neighborhood Business).

Mr. Ross agreed and referenced the need for transit services.

Mr. Burton stated that he would move that the Commission recommend approval of Change in Zone No. 1802 for J.G. Townsend, Jr. & Co. for a change in zone from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business) based upon the information contained in the record on this application and for the following reasons:

- 1) This application is for a change in zone from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business). According to the Zoning Code, the B-1 (Neighborhood Business) zone is appropriate "to provide retail shopping and personal service uses" and "to serve the needs of a relatively small area, primarily nearby rural, low density or medium density residential neighborhoods".
- 2) The purpose of the B-1 (Neighborhood Business District) is satisfied by this application. Right now, there are approximately 1,500 residential units located or approved along Gills Neck Road. All of these units have developed with low and medium density

designs. And residents in all of these units currently must travel to Route One or cross Kings Highway and Clay Road to the Village of Five Points for their retail shopping needs and personal service uses, such as a grocery store. Neighborhood Business uses here will be convenient to those existing and future residents and will eliminate the traffic and congestion caused by having to travel to Route One or Savannah Road. B-1 (Neighborhood Business) zoning is appropriate for this site.

- 3) The B-1 (Neighborhood Business) zoning district is the most limited commercial or business zoning category in Sussex County. Here, B-1 (Neighborhood Business) zoning will limit the size and type of uses that occur on this site, ensuring that any future development of it will be on a scale that is compatible with the surrounding area.
- 4) There was a great deal of concern about the location of the City of Lewes' wells across Kings Highway from this site, and whether the existence of these wells should prevent the rezoning of this property. The protection of these wells is important to everyone, and it is governed by the Sussex County Source Water Protection Ordinance that was adopted in 2008. Those protections apply at the Site Plan stage, and any development of this site must comply with the requirements of the Source Water Protection Ordinance, whether the site is zoned AR-1 (Agricultural Residential) or B-1 (Neighborhood Business). But, the existence of these wells is not a reason to deny this particular application.
- 5) The Sussex County Comprehensive Plan supports this rezoning. The property is located in the Environmentally Sensitive Developing Area according to the Plan. In this Area, our Plan says that "retail and office uses are appropriate", and that "careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home". This rezoning falls squarely within this guidance established by our Comprehensive Plan.
- 6) The Comprehensive Plan also directs that appropriate growth such as this B-1 (Neighborhood Business) rezoning should be directed towards a Growth Area, which includes the Environmentally Sensitive Developing Area where this property is located, based on several guidelines, including:
 - a. The proximity to an incorporated municipality;
 - b. The existence of public sewer and water;
 - c. The location on or near a major road;
 - d. The character and intensity of surrounding development; and
 - e. How the area ranks according to the "Delaware Strategies for State Policies and Spending".

Here, our Plan's guidelines are all satisfied, since the project is close to the City of Lewes; there is public sewer and water available; the property is located along an "Arterial" roadway according to the Mobility Element of the Plan; the surrounding residential development supports the need for neighborhood business uses; the rezoning is consistent with other business and commercial trends in the area; and the location is in Level 1 according to the State Strategies. Our Comprehensive Plan supports this rezoning.

- 7) DelDOT has approved the Traffic Impact Study (TIS) for this project, and both DelDOT and the applicant have entered into an agreement for extensive roadway improvements in this area that support the rezoning. Both the TIS and the Agreement are based on a development of a much larger project than what can be built on this 11 acres of B-1 (Neighborhood Business) zoning. These roadway improvements, at the developer's

expense, will be a benefit to all travelers in the area. One example is the improvements of the Cape Henlopen High School/Gill's Neck Road/Kings Highway intersection, which is currently underway.

- 8) The rezoning to B-1 (Neighborhood Business) is consistent with neighboring and adjacent uses. Besides the need for reasonable neighborhood businesses to serve the existing residential uses, B-1 (Neighborhood Business) zoning and the limited uses it allows are consistent with the small-scale commercial zoning across the road from the site, a small shopping center just down the road, the high school, and other businesses, retail establishments, restaurants, and offices that are nearby.
- 9) B-1 (Neighborhood Business) zoning is appropriate for this site. But, if approved by the County Council, that is not the end of the County's involvement if it is developed. The Planning and Zoning Commission and its staff must still review any site plan for development of the project, including whether it complies with the County's Source Water Protection Ordinance, how it relates to the Lewes Scenic Byways Program recently endorsed by County Council, especially at this location as a gateway to Lewes, and how it is interconnected with adjacent developments and roadways.
- 10) For all of these reasons, it is my recommendation that this rezoning from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business) should be approved.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to forward Change of Zone No. 1802 for J.G. Townsend, Jr. & Co. to the Sussex County Council with the recommendation that this application be approved for the reasons stated. Motion carried 5 – 0.

By Roll-Call: Mr. Burton – yea; Mr. Hudson – yea; Mr. Ross – yea; Mr. Johnson – yea; and Mr. Wheatley – yea.

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

2016-8 – Burton Acres II – MDI Investments Group, LLC

This is a Major Subdivision for the creation of a standard subdivision. The plan proposes to subdivide 23.91 acres +/- into 19 single family lots with private roads and open space. The property is located north of Iron Branch Road on both sides of Mountain Laurel Drive. Tax I.D. 233-5.00-24.00 & 24.13. Zoning: MR (Medium Density Residential District).

Ms. Cornwell advised the Commission that this was a major subdivision and is an expansion of the existing Burton Acres subdivision; that the applicant submitted a document including over 51% of the signature of the current property owners within the Burton Acres subdivision approving of the proposed new subdivision; that the subdivision went through the TAC (Technical Advisory Committee) process; that comments were received from Public Works, the Division of Utility Planning, DNREC – Tank Management Section, DeIDOT, DNREC – Division of Air Quality, Division of Public Health, Delaware Electric Cooperative, Department of Agriculture, Fire Marshal, Sussex County 911 Addressing and Mapping and the USDA regarding soils; that the applicant submitted an exhibit book and a plan of the proposed

subdivision; that the site is located within the Conservation Zone and shall comply with those requirements; and that the exhibit book contains the soil feasibility study.

The Commission found that Craig Aleman, Esquire of Tunnell & Raysor, was present along with John Murray of Kercher Engineering and Doug Compher and that they stated in their presentation that Burton Acres is a failed development; that the previous developer went bankrupt; that the new owner is planning on paving the roads, build a pier and community dock per DNREC; that the new lots will be governed by the existing covenants; that they have 51% of the owners signatures supporting the new development; that they will provide the 50 ft. wetlands buffer; that the site is located within the Conservation Zone; that they have submitted to DelDOT for the entrance; that they will pave the entrance and Mount Laurel Rd.; that there will now be a total of 47 lots in the development; that the paving section will be verified with Public Works; that the soil feasibility was provided in the exhibit book, and that there are nine (9) existing houses in the development.

The Commission found that George-Ann Winbrow, was present and in support of the application and was excited about the roads being paved.

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

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

C/U #2050 – Two Farms, Inc. c/o Jack Whisted

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a convenience store with gas dispensers located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 2.8573 acres, more or less. The property is located at the southeast corner of Lewes Georgetown Highway (Route 9) and Gravel Hill Road (Route 30). 911 Address: 24616 Lewes Georgetown Highway, Georgetown. Tax Map I.D. 135-11.00-78.00.

As stated earlier, this application has been removed from the agenda and will be re-advertised for a future date.

Prior to introduction of the public hearings, Mr. Lank asked James Fuqua, Jr., Esquire, if he was going to consolidate the public hearings for C/Z #1803 and C/Z #1804 since the Exhibit Booklets contain both application.

Mr. Fuqua responded that he shall be presenting each application separately, and that he will be asking that all testimony from C/Z #1803 be incorporated into the testimony for C/Z #1804.

C/Z #1803 – CMF Bayside, LLC

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) (as an additional to Change of Zone No. 1393 for Americana Bayside) for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 12.313 acres, more or less. The property is located at the southeast corner of Lighthouse Road (Route 54) and West Sand Cove Road (Road 394). 911 Address: None Available. Tax Map I.D. 533-19.00-50.00 (Part of) and 51.00.

This application were filed on April 7, 2016. The applicants filed an Exhibit Booklet referencing both applications. The Exhibit Booklet contains letters relating to the changes in zoning; Environmental Assessments and Public Facilities Evaluations; preliminary site plans; site plan renderings; a proximity map; PLUS comments and responses; a survey and deed; a series of maps and data; a stormwater conceptual plan; traffic and site circulation; letters from utility providers; and wetlands information.

Mr. Lank advised the Commission that a letter, dated July 27, 2016, have been received from DelDOT on this application voicing no objection to recordation.

Mr. Lank advised the Commission that the Sussex Conservation District provided comments in the form of a memorandum on July 25, 2016 referencing that there are four (4) soil types on the CMF Bayside, LLC portion of the property; that the applicants will be required to follow recommended erosion and sediment control practices during construction and maintain vegetation after construction; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that on-site drainage improvements will be required; and that there is a potential that the ditch/branch located on the south side of the property could be affected.

Mr. Lank advised the Commission that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on July 26, 2016 referencing that the properties are located in the Sussex County Unified Sanitary Sewer District (Fenwick Island Area); that wastewater capacity is available; that Ordinance 38 will be required; that the current System Connection Charge Rate is \$5,775.00 per Equivalent Dwelling Unit (EDU); that sanitary sewer has not been extended to the property at this time; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the project is within the boundary of a sewer district, but sanitary sewer service has not been extended to the property at this time; that the County has undertaken an extension of gravity sewer service that will serve the property; that the County anticipates that sewer service could become available as early as the fall of 2017; that

sewer capacity has been allocated on the basis of 4.0 EDU per acre; and that a concept plan is required.

The Commission found that James A. Fuqua, Jr., Esquire of Fuqua, Yori and Willard, P.A. was present with Chris Garland of CMF Bayside, LLC, and Steve Marsch, Professional Engineer with George, Miles & Buhr, LLC, and that they stated in their presentations and in response to questions raised by the Commission that the Freeman family has been developing projects in Sussex County for 50 years and were the developers of Sea Colony East, Sea Colony West, Americana Bayside, and several other projects; that the original Americana Bayside project was originally approved in 2001 on 878 acres for 1,700 units and 170,000 square foot of retail/office space, a golf course, the Freeman stage, and many other recreational and open space amenities; that additional lands and units have been added to the project since 2001; that approximately 860 units have been constructed to date; that they are proposing to rezone 12.2 acres as an addition to the Americana Bayside project with a maximum of 48 units and 18,000 square foot of office space; that Artesian Water will be providing central water for drinking and fire protection; that the County will be providing central sewer; that the sewer concept plan is approvable upon receipt of the rezoning; that the site is located in the Indian River School District, and in the Roxana Volunteer Fire Department service area; that, to date, the developers have made \$4,500,000.00 of major road improvements to the area; that a shared entrance is proposed to serve both the CMF Bayside, LLC and Doug Melson properties with access to Route 54; that the units will also have access to Sand Cove Road; that DelDOT did not require a Traffic Impact Study, and has written a Letter of No Objection; that there are no State or Federal wetlands on the site, except for those plants in the Tax Ditch; that stormwater management facilities will meet Codes; that they are proposing to build a two-story building containing 18,000 square feet for office spaces for corporate office for the Freeman Management Offices, Office space for the Freeman Foundation, and some possible leasable space; that the 18,000 square foot office space shall be a part of the original calculation in the originally approved 170,000 square foot of retail/office space; that the 48 units shall be a part of the original calculation in the originally approved 1,700 units; that the application meets the purpose of the Comprehensive Plan and is located in the Environmentally Sensitive Developing Area; that the application is in accordance with the Plan; that the project has been very successful; that the additional units are a natural extension to the Americana Bayside project; that the site is immediately adjacent to the Americana Bayside project; that a 30 foot wide tax ditch maintenance easement has been reduced and approved by the Tax Ditch managers; that the area has a mix of residential, agricultural, and business uses; that the uses are supported by the Plan; that they are proposing duplex units and realize that this is not a site plan review and that the project will be subject to a site plan approval.

The Commission found that Mr. Fuqua submitted suggested proposed Findings of Fact and suggested Conditions of Approval for consideration.

The Commission found that Anita Adkins, Robert Blackburn, and Ellen Magee were present and acknowledged that the developers do a great job, but expressed concerns about vehicle lights intrusion; the entrance on Route 54; that vehicles back up to Mrs. Adkins home from the lighted intersection of Route 54 and Route 20; that if the project is approved there should be landscaping

to screen the homes across Route 54 from the vehicle lights; and that more buffering should be provided.

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

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

C/Z #1804 – Doug Melson

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 Baltimore Hundred, Sussex County, containing 3.05 acres, more or less. The property is located at the south of Lighthouse Road (Route 54), 700 feet east of West Sand Cove Road (Road 394). 911 Address: None Available. Tax Map I.D. 533-19.00-50.00 (Part of).

This application were filed on April 7, 2016. The applicants filed an Exhibit Booklet referencing both applications. The Exhibit Booklet contains letters relating to the changes in zoning; Environmental Assessments and Public Facilities Evaluations; preliminary site plans; site plan renderings; a proximity map; PLUS comments and responses; a survey and deed; a series of map and data; a stormwater conceptual plan; traffic and site circulation; letters from utility providers; and wetlands information.

Mr. Lank advised the Commission that a letter, dated July 27, 2016, have been received from DelDOT on this application voicing no objection to recordation.

Mr. Lank added that the Sussex Conservation District provided comments in the form of a memorandum on July 26, 2016 referencing that there are four (4) soil types on Doug Melson portion of the property; that the applicants will be required to follow recommended erosion and sediment control practices during construction and maintain vegetation after construction; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be required; that on-site drainage improvements may be required depending on the building location; and that it is not likely to affect ditches depending on structure locations.

Mr. Lank advised the Commission that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on July 26, 2016 referencing that the properties are located in the Sussex County Unified Sanitary Sewer District (Fenwick Island area); that wastewater capacity is available; that Ordinance 38 will be required; that the current System Connection Charge Rate is \$5,775.00 per Equivalent Dwelling Unit (EDU); that sanitary sewer has not been extended to the property at this time; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that the project is within the boundary of a sewer district, but sanitary sewer service has not been extended to the property at this time; that the County has undertaken an extension of gravity sewer service that will serve the property; that the County anticipates that sewer service could become available as early as the fall of 2017; that sewer capacity has been allocated on the basis of 4.0 EDU per acre; and that a concept plan is required.

The Commission found that Doug Melson was present with James A. Fuqua, Jr., Esquire of Fuqua, Yori and Willard, P.A., and Steve Marsch, Professional Engineer of George Miles & Buhr, LLC, and that they stated in their presentation and in response to questions raised by the Commission that they would like the record of their comments made during the public hearing on C/Z #1803 to be incorporated into the record of this application; that this site contains 3.3 acres and is proposed for a possible funeral chapel; that they are requesting rezoning to B-1 (Neighborhood Business) which permits the use; that the Melson Funeral Services business has been in existence since 1934 and is a needed service due to the demographics of the area; that Delaware has grown faster than most states; that one in four residents in Sussex County are over the age of 65 years; that the application meets the purpose of the B-1 (Neighborhood Business) district; that the project will be developed along with development of the CMF Bayside, LLC portion of the property and will share entrance to Route 54 and share stormwater management facilities; and that the trends in the area have changed.

The Commission found that Mr. Fuqua submitted suggested proposed Findings of Fact for consideration.

The Commission found that Ellen Magee and Anita Adkins were present and expressed concerns about entrances on Route 54; vehicle lights impacting residential properties across Route 54; and the need for landscaping.

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

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

OTHER BUSINESS

C/U #2051 – Dale Thaxton

An Ordinance to grant a Conditional Use of land in a GR (General Residential District) for a computer repair business located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 0.236 acre, more or less. The property is located east of Camp Arrowhead Road (Road 279) southwest of Cypress Drive 125 feet northwest of Maple Lane and being Lot 50, Angola Neck Park Subdivision. (911 Address: 22874 Cypress Drive, Lewes). Tax Map I.D. 234-12.14-54.00.

Discussion of Home Occupation

Mr. Ross stated that home occupations should be considered on a case by case basis, and that home occupations should not permit any employees.

Mr. Wheatley stated that he would prefer that home occupations not be located in a restricted subdivision.

Mr. Johnson stated that projects grow, staff may be needed and may be hired, and it should include a reference to sales or no sales.

Mr. Burton stated that he has concerns about a home occupation in a restricted subdivision.

There was a motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously that the proposed use should be considered a home occupation. Motion carried 5 - 0

Millsboro Self Storage Final Site Plan

Mr. Brandewie advised the Commission that this is submitted for Final Site Plan approval by the Planning Commission for the construction of 20 mini-storage units to contain approximately 45,000 sq. ft. on a 6.04 acre site. The property is zoned C-1, and is located off of Rte. 113 and the intersections of Handy and Dickersons Roads. The property consists of tax parcels 233-5.00-101.00, 102.00, 102.01, 102.02, 103.02, and 109.00. The Planning Commission approved the Preliminary Site Plan at their meeting on June 11, 2016. Staff notes that this Final Plan has since been revised with an increase in the number of storage units (from 8 to 20 units) although the total amount of building coverage shrinks by approximately 15% with this change. The site will also contain a small office building. A landscaped plan has been submitted for the 20 ft. buffer requirement. Staff is in receipt of all agency approvals.

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

Lands of Moore on Morris Mill Road Minor Subdivision with 50 foot easement

Ms. Cornwell advised the Commission that this is a minor subdivision with the creation of a 50 ft. easement. The minor subdivision will create one parcel of land with a residual parcel. The property is zoned AR-1 (Agricultural Residential District). The new lot will contain 2.5 ac. +/- and the residual parcel will contain 12.57 ac+/- . The access to the new lot will be through parcel 234-20.00-23.00. This parcel is also owned by the Mr. and Mrs. Moore. The easement will go over the existing driveway off of Morris Mill Rd. and will not impact the well or septic on the site. The parcel will need to have 100 ft. of frontage along the proposed easement. Staff is awaiting approval from DelDOT.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the minor subdivision with the parcel having 100 ft. of frontage along the easement and that any further subdivision shall require a major subdivision. Final approval shall be subject to staff upon receipt of approval from DelDOT. Motion carried 5-0.

Lands of Sposato (CU 1446)

Request to Amend a Condition of Approval

Ms. Cornwell advised the Commission that this is a request to amend Condition #4 of CU 1446. The Conditional Use is for a landscape business with equipment storage. The Planning Commission recommended approval of the Conditional Use on March 14, 2002. The County Council approved the use on April 9, 2002. Condition #4 states that “there shall be no grinding of mulch on site”. The applicant is requesting that they be allowed to grind yard waste into recyclable compost twice yearly.

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

Coastal Club

Amendment to Condition of Approval

This item was deleted from the Agenda on July 20, 2016 at the request of the developer and will be rescheduled for a later date.

ADDITIONAL BUSINESS

Discussion regarding Comprehensive Plan

Staff asked the Commission if the Commission would like a summary of the interviews from last week; that the Commission asked for a summary of the interviews; that the comp plan website, Facebook and Twitter accounts would be live next week and the website address can be found at sussexplan.com; that the library suggested that a flyer be provided and they will post it there; that public comment forms can be found at the back of the room; that staff is looking to schedule the first round of public hearings at the end of September and first week of October with an open house format; that the meetings will occur in each Councilmanic District, most likely in Fire Halls and Town Halls; that there was discussion regarding the format of the proposed Conservation Focus Group; and that discussion items regarding the Conservation Focus Group will be sent out for consideration.

Opportunity for Public Comment

Mr. Kevin Burdette spoke and read a statement that was provided to staff regarding suggestions for the comp plan.

Consideration of Annual Report to Governors Advisory Committee

Mr. Robertson presented the annual report to the State regarding the items that occurred over the last year regarding the comp plan, the number of applications that were reviewed, update on sewer projects and economic development projects.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the annual report to the Governor’s Advisory Committee. Motion carried 5-0.

Meeting Adjourned at 9:00 p.m.