

MINUTES OF THE REGULAR MEETING OF AUGUST 25, 2016

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, August 25, 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. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Minutes of August 11, 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.

The Commission discussed this application which has been deferred since April 28, 2016.

Mr. Burton stated that he has given this application a lot of thought, and has some concerns about both the density of it, and the fact that the applicant is seeking MR zoning as part of a RPC; that the application is asking for a density of more than three (3) units an acre, which exceeds pretty much everything in this area, and I do not support it. At the same time, since this is a RPC, I suppose we could knock the density down to something closer to two (2) units an acre that would be consistent with the existing AR-1 zoning of this property and most of the other properties in the area. But, the problem with just knocking the density off of this application is that it would still be zoned MR. I am really concerned about creating new MR zoning along this area of Mulberry Knoll Road where none currently exists, and there is a lot of undeveloped property. Also, if we reduce the density from 3.71 units per acre to something closer to 2 units an acre, we'd basically be acting on a site plan that we have not seen. So, after considering all of these I believe that the appropriate density is around 2 units an acre and the property should not be rezoned to MR.

Mr. Burton stated that he would move that the Commission recommend denial of Change of Zone No. 1800 for Sussex Real Estate Partners, LLC (Belle Terre), for a change in zone from AR-1 to a MR-RPC based upon the record made during the public hearing and for the following reasons:

- 1) The proposed rezoning to MR is not compatible with the area.
- 2) The applicants are seeking a net density of 3.71 units per acre and a gross density of 3.04 units per acre. The densities of nearby developments in this area of Route 24, Mulberry Knoll Road and Cedar Grove Road range from around 1 unit per acre to 2.16 units per acre at the recently approved Saddleridge Development. The proposed density of Belle Terre significantly exceeds the densities of other properties nearby and is not consistent with them.
- 3) In 2014, the Saddleridge MR-RPC development was approved for 81 homes on 37.5 acres of land, for a density of 2.16. This was a reduction in density from the 118 units sought by the applicant. And, Saddleridge was located in an area with direct frontage on Route 24, unlike the Belle Terre project which only has access via a 50 foot wide easement onto Mulberry Knoll Road.
- 4) Although this application includes a limitation on density as a component of the RPC, the underlying MR zoning would remain even if the RPC lapses or is voided for any reason. As a result, the County must look at the MR zoning, and its maximum permissible density of 4 units an acre, when considering this application.
- 5) If this 123.75 acre parcel is rezoned to MR, it would be the first large parcel rezoned to MR with access to Mulberry Knoll Road and could establish an unwanted precedent for other future MR zoning applications on other nearby undeveloped properties in the area.
- 6) Although the proposed zoning is in the Environmentally Sensitive Developing Area according to the current Comprehensive Plan, the Plan also suggest that “most of the Environmentally Sensitive Developing Area should continue to allow 2 homes per acre”. The rezoning to MR, with a proposed net density of 3.04 units per acre, is not consistent with the Plan’s directive for density.
- 7) In the Environmentally Sensitive Developing Area, our Comprehensive Plan identifies that the current AR-1 zoning is an appropriate zoning classification for this property. There is no suggestion or directive that MR zoning is a more appropriate zoning for this property.
- 8) Mulberry Knoll Road is not a major roadway. It is just designated as a local road according to the Mobility Element of Comprehensive Plan. As a result, an upzoning to MR is not appropriate and the property should remain zoned as AR-1.
- 9) For all of these reasons, it is recommended that this application for a change of the underlying zoning from AR-1 to MR should be denied.

Motion by Mr. Burton, seconded by Mr. Ross, and carried with 3 votes to forward Change of Zone No. 1800 for Sussex Real Estate Partners, LLC to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 3 – 0. Mr. Johnson and Mr. Hudson did not participate in the discussion or the vote since they were not present for the public hearing.

2016-12 – Redden Wood – Phase II – Dustin Berlinger

This is a Major Subdivision for the creation of a standard subdivision. The plan proposes to subdivide 53.39 acres +/- into 41 single family lots with open space. The property is located southwest of the Redden Wood Subdivision, south of Neptune Road, approximately 265 feet southwest of White Oak Drive. Tax Map I.D. 135-7.00-12.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since August 11, 2016.

Mr. Johnson stated that he would move that the Commission grant preliminary approval of Subdivision 2016-12 for Reddenwood II, based upon the record and for the following reasons:

- 1) The subdivision is an expansion of the existing Reddenwood subdivision, and it will be consistent with the design of that development.
- 2) The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
- 3) The proposed subdivision density of 0.78 lots per acre is much less than the density permitted by the existing AR-1 zoning.
- 4) The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
- 5) The subdivision is consistent with other developments in the area.
- 6) The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
- 7) DNREC has indicated that the site is suitable for individual on-site septic systems.
- 8) Because this is an expansion of an existing subdivision, a waiver from the buffer requirements along 5 lots next to the adjacent subdivision as shown on the proposed Preliminary Site Plan is appropriate.
- 9) This approval is subject to the following conditions:
 - A. There shall be no more than 41 lots within the subdivision.
 - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of streets, roads, buffers, stormwater management facilities, erosion and sedimentation control facilities and other areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
 - D. All entrances shall comply with all of DelDOT's requirements.
 - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
 - F. 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.
 - G. A 20 foot vegetated buffer shall be shown along the boundaries of the subdivision, with the exception of 5 lots bordering Reddenwood. The Final Site Plan shall contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.

- H. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
- I. No wetlands will be included within any lots. As represented by the developer, a 25 foot buffer shall be provided from Federal Non-Tidal Wetlands.
- J. A system of street lighting shall be established.
- K. As represented by the Applicant, construction vehicles associated with the subdivision site work and infrastructure improvements shall access the site by way of a temporary construction entrance from Huff Road provided the temporary construction entrance is approved by DelDOT.
- L. As represented by the Applicant, the subdivision shall include a recreational common area with a tot lot and benches for use by residents of both this subdivision and the residents of the original Reddenwood subdivision.
- M. This preliminary approval is contingent upon the Applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
- N. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to grant preliminary approval of Subdivision 2016-12 for Reddenwood II based upon the reasons and conditions stated. Motion carried 5 – 0.

C/U #2053 – Red Dog Plumbing and Heating, c/o Ken Wood
An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an HVAC business located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.10 acres, more or less. The property is located at the northwest of Roxana Road (Route 17) across from Smith Avenue and 400 feet northeast of Smithfield Acres Road (Road 52B). 911 Address: 37058 Roxana Road, Selbyville. Tax Map I.D. 533-10.00-14.00.

The Commission discussed this application which has been deferred since August 11, 2016.

Mr. Hudson stated that he would move that the Commission recommend approval of Conditional Use No. 2053 for Red Dog Plumbing and Heating, c/o Ken Wood for a HVAC business based upon the record made during the public hearing and for the following reasons:

- 1) The site is located along Roxana Road, along with the applicant's residence. This use, with no retail sales or other significant activity on the site, is appropriate for this location.
- 2) No work is to be done at the site, and all employees start the workday from their own homes. As a result, the use will not have a negative impact on the neighboring properties or roadways.
- 3) This site allows the reasonable expansion of the applicant's home based business in an appropriate location that will serve the residents of Sussex County.
- 4) Small businesses such as these are appropriate in the Town Center Area according to the Sussex County Land Use Plan.
- 5) This recommendation is subject to the following conditions:

- A. The use shall be limited to an HVAC business located on the same parcel as the applicant's home.
- B. There shall be no retail sales from the property.
- C. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- D. All dumpsters on the site are to be screened from the view of neighboring properties and roadways.
- E. There shall not be any outside storage of any HVAC equipment or materials associated with the use.
- F. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
- G. Signage shall not exceed 32 square feet on each side and shall not be lighted.
- H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to forward Conditional Use No. 2053 for Red Dog Plumbing and Heating, c/o Ken Wood 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.

C/U #2054 – UtiliSite, Inc.

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an office, equipment storage, and parking for a construction company located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.0 acres, more or less. The property is located at the east of Robinsonville Road (Road 277), 800 feet north of Harts Road (Road 277A). 911 Address: 20721 Robinsonville Road, Lewes. Tax Map I.D. 234-6.00-99.01.

The Commission discussed this application which has been deferred since August 11, 2016.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use No. 2054 for UtiliSite, Inc. for an office, equipment storage and parking for a construction company based upon the record made during the public hearing and for the following reasons:

- 1) This is an existing business that has evolved on property where the owner lives. It has grown from what was close to a home occupation to the point where it now requires a Conditional Use approval.
- 2) The use is situated on a 2.0 acre parcel of land. It is situated among other larger parcels of land owned by other members of the applicant's family. The use is compatible with the surroundings and will not have a negative impact on the neighboring properties or roadways.
- 3) No significant work other than administration is done at the site, and most of the employees start the workday from their own homes. The existing building will only be used to store equipment and vehicles.
- 4) The site is located on Robinsonville Road, but it is very close to Route 24. This is an appropriate location for this low-impact small business.

- 5) No parties appeared in opposition to the application.
- 6) Small businesses such as these are appropriate in the Environmentally Sensitive Developing Area according to the Sussex County Land Use Plan.
- 7) This recommendation is subject to the following conditions:
 - A. The use shall be limited to an office, equipment storage and parking for a construction company.
 - B. There shall be no retail sales from the property.
 - C. As stated by the applicant, the existing tree line shall be extended to screen the service and equipment yard area from view of neighboring properties and roadways.
 - D. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
 - E. Any dumpsters on the site are to be screened from the view of neighboring properties or roadways.
 - F. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
 - G. Signage shall not exceed 32 square feet on each side and may be lighted.
 - H. 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 Burton, and carried unanimously to forward Conditional Use No. 2054 for UtiliSite, Inc. for an office, equipment storage and parking for a construction company 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.

PUBLIC HEARINGS

C/U #2055 – Jeffrey Allen Chorman and Molly Murphy Chorman

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a private airport with landing field with tie-down and parking area to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 5.7 acres, more or less. The property is located on the southerly right-of-way of Mills Road (Road 205) 0.95 mile southeast of Cedar Neck Road (Road 206). (911 Address: Not Available). Tax Map I.D. 330-8.00-46.00 (Part of).

Mr. Lank advised the Commission that this application was originally submitted in October 2015 and could not be processed since the site is located on lands that are within an Agricultural Preservation District; that Title 3 of the Delaware Code Section 909(a)(5), which references Agricultural Lands Preservation Act Restrictions, was amended on May 11, 2016, to allow for restricted landing areas; and that the Commission has received a copy of a packet on this application, along with a copy of a staff analysis of the application.

The Commission found that DelDOT provided comments on August 26, 2015 referencing that a traffic impact study is not recommended, and that the current Level of Service “A” of Mills Road will not change as a result of this application.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on August 22, 2016 referencing that the property is not in a current County operated or maintained sanitary sewer or water district; that the property is located in the North Coastal Planning Area; that the proposed use is not in an area where the County has a schedule at this time to provide sewer service; and that a concept plan is not required.

The Commission found that Jeff Chorman was present with Robert Gibbs, Esquire of Morris James Wilson Halbrook & Bayard, LLP and that Mr. Gibbs, presented a PowerPoint display, and stated in his presentation and in response to questions raised by the Commission that this application is for a private landing strip for personal use; that the area being leased for the landing strip, tie-down and parking areas contains approximately 5.7 acres; that the FAA has approved the location for the landing strip; that the applicant lives on the adjacent property; that the landing strip is not intended to be associated with the family owned chemical and fertilizer air spraying business; that the applicant has spoken to his neighbors and received no negative responses; that they have provided a copy of the lease agreement, a legal description, and the deeds to the property for the record; and that they are providing copies of suggested proposed Findings of Fact for consideration.

The Commission found that Mr. Gibbs handed out copies of said Findings.

The Commission found that Mr. Gibbs also handed out copies of two letters from Alan E. Mills, and Dennis Mills and Donald Mills voicing no objection to the intended landing strip.

The Commission found that Bill Hopkins, an area resident, was present in support of the application and stated that he lives within 500 feet of the property and has no objection to the proposed landing strip.

The Commission found that there were no parties present voicing any opposition.

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

Mr. Burton stated that he would move that the Commission recommend approval of Conditional Use No. 2055 for Jeffrey Allen Chorman and Molly Murphy Chorman for a private airport with landing field with tie-downs and parking area based on the record made during the public hearing and for the following reasons:

- 1) The use is for a private airport on land that is subject to a long-term land lease.
- 2) The airport will be for private use. The applicants live adjacent to the site and intend to use it for their personal use.
- 3) The applicant stated that the FAA has approved the airfield.
- 4) The use is authorized in an Agricultural Preservation District, where this is located.
- 5) The use will not adversely affect neighboring properties or roadways.
- 6) No parties appeared in opposition to this application, and several people were present in support of it.
- 7) This recommendation is subject to the following conditions:
 - A. The use shall be limited to a private airport as permitted in an Agricultural Preservation District under Title 3 Section 909 of the Delaware Code.

- B. No chemicals associated with aerial spray operations shall be stored on the site.
- C. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to forward Conditional Use No. 2055 for Jeffrey Allen Chorman and Molly Murphy Chorman 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.

C/U #2056 – Raynol E. Garcia

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for an office, storage of vehicles and equipment and repair equipment to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 1.06 acres, more or less. The property is located at the east of Marshall Street (Road 225) 2,800 feet north of Johnson Road (Road 207). 911 Address: 7411 Marshall Street, Lincoln. Tax Map I.D. 330-15.00-20.01.

Mr. Lank advised the Commission that this application was submitted on June 23, 2016; and that the Commission has received a copy of a survey and site plan in the packet, along with a copy of a staff analysis of the application.

The Commission found that DelDOT provided comments on June 8, 2016 referencing that a traffic impact study was not recommended.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on August 22, 2016 referencing that the property is not in a current County operated or maintained sanitary sewer or water district; that the property is located in the North Coastal Planning Area; that the proposed use is not in an area where the County has a schedule at this time to provide sewer service; and that a concept plan is not required.

The Commission found that Daniel Perez was present on behalf of Raynol Garcia and stated in his presentation and in response to questions raised by the Commission that they are requesting an office, storage of vehicles and equipment and repair of equipment for their foundation business; that they will not be mixing concrete or crushing any materials on the site; that there will be minimal storage of materials, rebar and some concrete blocks on skids; that they will not be storing any chemicals on the property; that they have spoken to the neighbors; that employees come to the site, park their vehicles, and then leave in work trucks from the site; that the site was previously used as an auto repair business; that they have obtained a permit for fencing and installed the fence; that business activity hours are from 6:00 a.m. to 6:00 p.m. Monday through Saturday; that they are willing to add additional landscaping; that there are no retail sales performed on the site; that a 32 square foot sign, unlighted, is proposed; that the dumpster behind the storage building will be screened; and that they do not intend to have more than 15 vehicles on the site at any one time.

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

The Commission found that Josh Nash, a neighbor, was present with concerns, not opposition, and stated that he has concerns about lighting from the property projecting into his property, and concerns about noise, primarily back up beepers on vehicles and equipment.

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

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

C/Z #1806 – WYWJ Ventures, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 3.034 acres, more or less. The property is located at the west of Sussex Highway (U.S. Route 13) 950 feet south of Adams Road (Road 600). 911 Address: 14392 Sussex Highway, Bridgeville. Tax Map I.D. 530-14.00-21.00.

Mr. Lank advised the Commission that this application was submitted on June 17, 2016; and that the Commission has received a copy of a survey and a packet of information in their packet, along with a copy of a staff analysis of the application.

The Commission found that DelDOT provided comments on February 19, 2016 referencing that the Department recommends that this rezoning application be considered without a traffic impact study and that the need for a traffic impact study be evaluated when a subdivision or land development plan is proposed, and that this segment of Sussex Highway has a Level of Service “C”.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on August 22, 2016 referencing that the property is not in a current County operated or maintained sanitary sewer or water district; that the property is located in the Western Sussex Planning Area #1; that the proposed use is not in an area where the County has a schedule at this time to provide sewer service; and that a concept plan is not required.

The Commission found that Wai-Hung Lui, Manager of WYWJ Ventures, LLC was present and stated in his presentation and in response to questions raised by the Commission that the property is adjacent to or near other Commercially zoned properties along U.S. Route 13; that they intend to lease or sell the property to a developer for commercial or business activities; and that the site is immediately adjacent to a commercially zoned property to the south.

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

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

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

C/Z #1807 – WYWJ Ventures, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 8.0475 acres, more or less. The property is located at the west of Sussex Highway (U.S. Route 13) 2,110 feet north of Cannon Road (Route 18). 911 Address: None Available. Tax Map I.D. 131-19.00-4.00.

Mr. Lank advised the Commission that this application was submitted on June 17, 2016; and that the Commission has received a copy of a survey and a packet of information in their packet, along with a copy of a staff analysis of the application.

The Commission found that DelDOT provided comments on February 19, 2016 referencing that the Department recommends that this rezoning application be considered without a traffic impact study and that the need for a traffic impact study be evaluated when a subdivision or land development plan is proposed, and that this segment of Sussex Highway has a Level of Service “C”.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on August 22, 2016 referencing that the property is not in a current County operated or maintained sanitary sewer or water district; that the property is located in the Western Sussex Planning Area/Bridgeville Growth and Annexation Area; that the proposed use is not in an area where the County has a schedule at this time to provide sewer service; that the applicants can contact the Town of Bridgeville for information about future central sewer service; and that a concept plan is not required.

The Commission found that Wai-Hung Lui, Manager of WYWJ Ventures, LLC was present and stated in his presentation and in response to questions raised by the Commission that the property is adjacent to or near other Commercially and Industrial zoned properties along U.S. Route 13; that they intend to lease or sell the property to a developer for commercial or business activities; that the site is mostly wooded at this time; and that the site is not appropriate for residential use since it is located along U.S. Route 13, adjacent to an industrial zoned parcel, and adjacent to an auto salvage business.

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

The Commission found that Ray and Joyce Jones, residents that live across Sussex Highway from the site, and Jeff Lui, the immediate neighbor to the north of the site, were present in opposition to the application and expressed concerns about traffic; that the intended use is unknown; that the number of uses that are permitted in CR-1 Commercial Residential zoning is a concern; that a Conditional Use would be preferred since they would know what was intended; and that they would prefer to maintain the rural residential character of the area.

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

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

C/Z #1808 – William T. Peden III

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.9192 acres, more or less. The property is located at the south of Lewes Georgetown Highway (Route 9) 800 feet east of Harbeson Road (Route 5). 911 Address: 26526 Lewes Georgetown Highway, Harbeson. Tax Map I.D. 235-30.00-63.00 and 63.01.

Mr. Lank advised the Commission that this application was submitted on June 20 2016; that the Commission has received a copy of a survey in their packet, along with a copy of a staff analysis of the application; and that this property has been the subject of two Conditional Use, C/U #1361 (2000) and C/U 1746 (2008) for an office, showroom, and artisans/artist space.

The Commission found that DelDOT provided comments on November 25, 2015 referencing that the Department recommends that this rezoning application be considered without a traffic impact study and that the need for a traffic impact study be evaluated when a subdivision or land development plan is proposed.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided comments on August 22, 2016 referencing that the property is not in a current County operated or maintained sanitary sewer or water district; that the property is located in the North Coastal Planning Area; that the proposed use is not in an area where the County has a schedule at this time to provide sewer service; and that a concept plan is not required.

The Commission found that William Peden was present on behalf of his application and stated in his presentation and in response to questions raised by the Commission that he has owned the property for approximately 16 years and that the property has been utilized for an office for his construction business, a showroom, and artisans/artist space after receiving Conditional Use approval for those uses; that he intends to continue those uses and to add a small retail hunting supply business to the rear with a possible archery range; that he understands that a Special Use Exception is required for the archery range; that his property is located across from and in close proximity to several commercial and business uses, and referenced offices, retail sales (Tupperware and antiques), a trucking business, an auto repair, a deli, storage facilities, and other uses; that he is asking to bring the front parcel into compliance with the appropriate zoning and to bring the entire property into one zoning classification, CR-1 Commercial Residential.

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.

Mr. Johnson stated that he would move that the Commission recommend approval of Change of Zone No. 1808 for William Peden III for a change in zone from AR-1 to CR-1 based upon the record made during the public hearing and for the following reasons:

- 1) The property has frontage along Route 9 in the area of other commercial and business zonings and uses, including retail, convenience store with gas pumps, a warehouse, contracting, and truck repair. It is also across from properties that are zoned CR-1. This is an appropriate location for CR-1 zoning.
- 2) The application will not have an adverse impact upon traffic, area roadways, or the neighborhood.
- 3) The property is located in a Developing Area according to the Sussex County Comprehensive Plan. CR-1 zoning is an appropriate zoning classification in a Developing Area according to the Plan.
- 4) The property is currently used for business purposes, and this rezoning will make the zoning consistent with the historical use of the property. It has been the subject of two previously approved Conditional Uses.
- 5) The applicant is considering additional uses for portions of the property that are not utilized or are under-utilized. The change of zone to CR-1 will permit the applicant to more fully utilize the entire property commercially without having to apply for additional Conditional Uses.
- 6) No parties appeared in opposition to the application.
- 7) CR-1 zoning is appropriate, since the County Zoning Code states that the purpose of such zoning is to provide for retail shopping, personal and miscellaneous service activities, and that such uses should be located along arterial roadways where a general mixture of commercial and service activity now exists. This application satisfies all of these factors.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to forward Change of Zone No. 1808 for William Peden III to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 5 – 0.

OTHER BUSINESS

Tidewater Landing – Subdivision 2013-2

Final Subdivision Plan

Ms. Cornwell advised the Commission that this application is for approval of the Final Subdivision for the Tidewater Landing Subdivision. This subdivision contains 213 single family lots situated on 162.95 acres with central water and sewer, private roads and amenities. A Revised Preliminary Plan was approved by the Planning Commission on April 9, 2015. The final plan complies with the 20 foot landscape buffer. The property is located off of Robinsonville Road and is zoned AR-1 with cluster zoning. The tax parcel is 234-6.00-90.00. Staff is in receipt of all agency approvals.

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

Subdivision 2016-7 – Wanda Weber
Final Subdivision Plan

Ms. Cornwell advised the Commission that this is the final subdivision plan for the creation of one new lot with a residual lot off of a private road. The Planning Commission approved the Preliminary Subdivision on June 9, 2016. As part of the preliminary approval the Planning Commission approved the waiver of the 20 ft. landscape buffer and the waiver from the street design standards. The property is zoned AR-1. The tax parcel is 134-15.00-126.00. The plan complies with the Code and staff is in receipt of all agency approvals.

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

Coastal Club – Land Bay 3
Final Site Plan

Ms. Cornwell advised the Commission that this is a Final Site Plan for the creation of 110 single family lots and private roads within the Coastal Club development. At their meeting of February 11, 2016 the Planning Commission approved the Preliminary Site Plan. The property is zoned MR-RPC. The tax parcel number is a portion of 334-11.00-5.00. The plan complies with the conditions of approval. The amenities for the development were approved in a separate site plan. The Planning Office 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.

Coastal Club – Land Bay 7
Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a Preliminary Site Plan for Coastal Club Land Bay 7 for creation of 74 single family lots, private roads and open space within the Coastal Club development. The property is zoned MR-RPC. The tax parcel number is a portion of 334-11.00-5.00. The plan complies with the conditions of approval. The amenities for the development were approved in a separate site plan. The Planning Office is awaiting agency approvals.

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

The Metal Shop
Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a Preliminary Site Plan for The Metal Shop for the construction of an 18,400 SF building to be located at the southwest corner of Sussex Hwy. and Allens Mill Rd. The property is zoned LI-1 and the location of the stormwater management area is zoned AR-1. The tax parcel is 532-13.00-51.00. The plan proposes parking within the

front yard setback which requires approval by the Planning Commission. The use and site plan complies with the Zoning Code. The Planning Office is awaiting agency approvals.

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

Americana Bayside – Shores at Sunridge
Request of Amend a Condition of Approval

Ms. Cornwell advised the Commission that this is a request to amend a condition of approval for Americana Bayside Shoals at Sunridge (fka Knox Property). The request is to amend Condition 1 that states that “the maximum number of dwelling units shall be 93 consisting of 33 townhouses, 30 duplexes and 30 single family homes”. The number was proffered by the applicant as the original plan indicated the site could hold up to 102 units. The Planning Commission approved the preliminary site plan showing 48 duplexes and 45 single family residences on September 11, 2014. The applicant is now requesting a total of 97 units comprised of 58 duplex units and 39 single family dwellings.

There was discussion regarding the application.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the amendment to Condition A, and to allow for a total of 97 units with 39 single family dwellings and 58 duplex units. Motion carried 5-0.

ADDITIONAL BUSINESS

Discussion regarding Comprehensive Plan

There was discussion regarding the draft flyer regarding the first round of public meetings and the notice that was sent in the tax bills. Ms. Cornwell advised the Commission that the first round of public comments will be sent out on Friday and they are available for review by the public. The complete website will be up in the next few weeks.

Opportunity for public comment regarding Comprehensive Plan

There were no parties present to comment.

Mr. Johnson reminded the Commission that tonight is his last meeting as a member of the Commission and thanked the other Commission members for their support and good fellowship since he started his term in 2005.

All of the Commission members and staff present thanked Mr. Johnson for his work ethics, commitment, thoughtfulness, and dedication of his time in being a Commissioner. All agreed that he would be missed during the public hearings and other meetings.

Meeting Adjourned at 8:03 p.m.