

MINUTES OF THE REGULAR MEETING OF AUGUST 27, 2015

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, August 27, 2015 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. Rodney Smith, Mr. Michael Johnson, Mr. I.G. Burton, III and Mr. Martin Ross with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Ms. Janelle Cornwell – Planning and Zoning Manager.

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

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of August 13, 2015 as circulated. Motion carried 5 – 0.

OLD BUSINESS

C/U #2017 – Eli and Victoria Zacharia

An Ordinance to grant a Conditional Use of land in a MR (Medium Density Residential District) for multi-family dwelling structures to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 22,500 square feet, more or less. The property is located northwest of John J. Williams Highway (Route 24) 365 feet southwest of Spencer Lane, the entrance into Harts Landing Subdivision (911 Address: 20336 John J. Williams Highway, Lewes) Tax Map I.D. 334-18.00-7.00.

The Commission discussed this application which has been deferred since August 13, 2015.

Mr. Johnson stated that he was not at the public hearing; that he has not yet reviewed the record; and that he would like to participate in the vote.

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

C/Z #1781 – Riverview Associates III, 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 Dagsboro Hundred, Sussex County, containing 3.00 acres, more or less. The property is located southwest of Dagsboro Road (Road 334) 900 feet northwest of Fire Tower Road (Road 334A) (911 Address: 28086 Dagsboro Road, Dagsboro) Tax Map I.D. 233-10.00-17.00.

The Commission discussed this application which has been deferred since August 13, 2015.

Mr. Johnson stated that he would not be participating in the discussion for this application since he was not present during the public hearing.

Mr. Smith stated that he would move that the Commission recommend approval of C/Z #1781 for Riverview Associates III, LLC for a Change of Zone from AR-1 Agricultural Residential to CR-1 Commercial Residential based upon the record made during the public hearing and for the following reasons:

- 1) This rezoning is for 3.0 acres of land. It is an expansion of an existing parcel that is currently zoned C-1 General Commercial. The applicant has sought the expansion to make a single usable commercially zoned parcel that is developable.
- 2) The site is situated along Dagsboro Road, near the intersection with U.S. Route 113. It is in an area where other commercial and business zonings and uses exist, including an office and retail complex. The use is consistent with these existing uses and zonings in the area.
- 3) The location is between Millsboro and Dagsboro in an area that is slowly developing. It is also within the Town Center Area under the County Comprehensive Plan, which permits commercial, retail, and office uses.
- 4) The use will not have an adverse effect upon neighboring properties. It is entirely surrounded by other land owned by the applicant.
- 5) The rezoning will not adversely affect area roadways or public facilities.
- 6) No parties appeared in opposition to the application.
- 7) Any development of the property will require further site plan approval by the Sussex County Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Ross, and carried with four (4) votes to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4 – 0. Mr. Johnson did not participate in the vote.

C/Z #1780 – Lockwood Design and Construction, Inc.

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a HR-1-RPC (High Density Residential District – Residential Planned Community) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 35.45 acres, more or less. The properties are located on the northeast side of Warrington Road (Road 275) 0.25 mile southeast of John J. Williams Highway (Route 24) (911 Address: None Available) Tax Map I.D. 334-12.00-127.02, 127.04, and 127.05.

The Commission discussed this application which has been deferred since August 13, 2015.

Mr. Johnson stated that he was not at the public hearing; that he has not yet reviewed the record; and that he would like to participate in the vote.

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

AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS.

Mr. Johnson stated that he would not be participating in the discussion since he was not present during the public hearing.

The Commission discussed the Ordinance which has been deferred since August 13, 2015.

Mr. Burton stated that a moratorium is not needed; that the ordinance may need to be amended; that the Board of Adjustment letter expressed the feelings of the Board; and that there appears to be a need to amend the ordinances.

Mr. Smith stated that a moratorium is not needed; and that he would not object to a moratorium if it could be guaranteed that the ordinance amendments could be prepared, heard, and decided upon within a specified time.

Mr. Ross stated that the Board of Adjustment letter was very thorough and thoughtful; that moratoriums only put something on hold; that he does not see the need for a moratorium; and that the Board has not received a volume of applications since the announcement of a possible moratorium.

Mr. Wheatley stated that a moratorium puts on undo pressures to get things done.

Motion by Mr. Ross, seconded by Mr. Smith, and carried with four (4) votes to forward this Ordinance to the Sussex County Council with the recommendation that the Ordinance to establish a moratorium upon the acceptance of Special Use Exception applications for off-premises signs be rejected. Motion carried 4 – 0. Mr. Johnson did not participate in the discussion or vote since he was not present during the public hearing.

PUBLIC HEARINGS

C/U #2025 – Rudy South c/o T & C Properties, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for boat sales, service and storage to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 27.84 acres, more or less.

The property is located northeast of Robinsonville Road (Road 277) approximately 1,200 feet northwest of Webb's Landing Road (Road 277B) (911 Address: None Available) Tax Map I.D. 234-6.00-96.00.

The Commission found that the Applicant provided a survey/site plan with the application when it was filed on June 8, 2015, and that an Exhibit Booklet was submitted on August 17, 2015.

The Commission found that DelDOT provided comments on April 17, 2015 and May 6, 2015 in the form of letters and a Support Facilities Report referencing that originally the Department had referenced that an Area-Wide Study Fee could be paid to DelDOT in lieu of performing a Traffic Impact Study; that the developer has provided more information to DelDOT concerning the use;

that it has been estimated that the use would generate fewer than 50 vehicle trips during any weekly peak hour and 500 vehicle trips per day, and would not require a Traffic Impact Study; and that the Level of Service “A” of Robinsonville Road will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments on August 24, 2015 in the form of a memorandum referencing that there are five (5) soil types on this property; that the applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that off-site drainage improvements may be necessary; that on-site drainage improvements are likely; and that no tax ditches are affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on August 24, 2015 referencing that the property is located in the Angola Neck Planning Area; that sewer service has not been extended to the parcel; that the property is not capable of being annexed into a County operated Sanitary Sewer District at this time; that when sewer service is provided to the area, connection is mandatory; and that a concept plan is not required.

Mr. Lank advised the Commission that an email was received from Steve Britz on August 27, 2015 opposing this application and expressing concerns about the large scale commercial project being completely out of character with the surrounding agricultural/residential area and will serve to open the area for further future commercial development; that he lives in Webbs Landing, and that Love Creek Landing, a proposed 213 residential dwelling project is immediately adjacent to the property, and the Novosel development, a 160 lot residential dwelling project which is immediately opposite the property will be impacted by this project; that the applicant proposes to install overhead lighting for the purpose of after-dark sales and security; that even though the planned lighting is supposed to be directed downwards, it is likely to have a major negative visual impact on surrounding homes, in particular lots in Webbs Landing; that the applicant is proposing a 20 foot wide vegetated buffer with a 3’ berm surrounding the property, which is inadequate to screen surrounding homes from the visual impact of a boatyard, if constructed; that since the applicant is proposing to set aside over 7 acres to preserve the agricultural character of the property, he contends that there is sufficient land to increase the width of the buffer zones; that the land will present problems for commercial development since the bowl-shaped center is approximately 5 feet or more below the periphery; that even though the applicant proposes the use of pervious paving surfaces it is probable that large amounts of fill dirt will be required to raise the center and reduce ponding; that this in turn is likely to affect drainage to the aquifer and may impact a drainage swale on adjacent land that directs stormwater runoff from land across Robinsonville Road towards Stilman Glade, a tributary of Love Creek; and that the swimming pond designation in the south corner of the property appears to be a poorly disguised retention pond and is likely to attract nuisance waterfowl.

The Commission found that Tom Rudloff was present on behalf of Rudy South, c/o T & C Properties, LLC, with James A. Fuqua, Jr., Esquire of Fuqua, Yori & Willard, P.A. and Robert Palmer, Professional Engineer of Beacon Engineering, LLC and that they stated in their

presentations and in response to questions raised by the Commission that the 27.84 acre parcel is zoned AR-1 Agricultural Residential and that they are applying for boat sales, service and storage; that the majority of the parcel is cleared lands with a small area of woodlands; that the site is surrounded by woodlands and agricultural lands; that in 2009 the Commission approved a 213 lot subdivision to the north; that the purpose of this application is to relocate and expand an existing boat sales, service and storage facility located south of Route 24 at Love Creek; that the applicant has been in the boat business since 1995; that the existing business is on leased lands; that the existing business has outgrown the location; that access to the existing location is very difficult for vehicles pulling trailered boats due to its location on Route 24; that the existing site is zoned M (Marine) which permits marine industrial uses and multi-family uses; that this site is approximately 1.0 mile from the existing site; that the State Strategies map places this site in a Level 2 and Level 3, where growth is anticipated; that the County Comprehensive Plan map places this site in the Environmentally Sensitive Developing District which is a growth area that can accommodate residential growth and retail; that the use is an appropriate use as a Conditional Use; that DelDOT has reported that they will require a dedication of right-of-way 30 feet from the centerline of Robinsonville Road, a 15 foot wide easement for a multi-modal path along Robinsonville Road, and an entrance design that complies with DelDOT requirements; that they originally intended more uses for the property when they were working through the PLUS process and DelDOT; that those uses included retail and self-storage facilities; that DelDOT responses indicate that this use will have minimal traffic impacts; that an AR-1 Agricultural Residential subdivision would generate more traffic; that they are proposing to erect an on-premises sign near the entrance; that the entrance road will be paved and will include a sidewalk and parking area; that they are currently proposing four main buildings: one for boat display/showroom/office; one for parts and supplies; one for warehousing; and one for storage; that there will not be any parts stored outside, only boat trailers and boats; that an old family cemetery exist in the wooded area and the boundaries will be established, the site will be fenced, and the cemetery will be maintained; that a single family home is proposed for an employee/security; that seven (7) area uses are planned: 1) outdoor boat sales area; 2) boat sales and service; 3) security/dwelling; 4) service boat storage area; 5) an on-premises sign area; 6) customer access boat storage monthly rental area; and 7) agricultural area; that a 20-foot wide bermed vegetated buffer is proposed on the southerly and easterly property lines to establish a method of screening; that the northerly property line is adjacent to an existing wooded parcel that is intended to remain wooded as a buffer for the adjacent subdivision proposal; that typical business hours will be from 8:00 a.m. to 8:00 p.m. during the peak boating season; that the customer access boat storage area will be accessible from 6:00 a.m. to 9:00 p.m.; that on site water and septic are proposed until central water and sewer are available; that 10 jobs will be established at the beginning; that they intend to serve full-time and seasonal residents and visitors of the area; that no other large scale commercial projects exist in the area of Robinsonville Road; that the Sussex County Council designated this area as a growth area when the Comprehensive Plan was adopted; that the area is currently rural in nature, but subdivisions have been approved, sewer is proposed, and this use will provide a service to the residents and visitors of the area; that Robinsonville Road is a rural road; that the use will not significantly impact the area roadways or the Level of Service “A” of Robinsonville Road; that approximately 50 boats will be displayed normally; that they anticipate that 250 boats will be stored; that any development of the agricultural area of the site would have to come back as a application for another conditional use; that the buildings to be used for service and repair will be similar to the

DelDOT salt buildings; that the buildings will be enclosed, not open ended; that the design of the service and repair building are very eco-friendly and allow for minimal lighting since sunlight filters through the covering on the buildings; that the site will be a support facility for those residents in the area that own boats or need boat service; and in summary: the traffic impact will be minimal; the State and County have designated the area as a growth area; and the County will be providing sewer service to the area for the anticipated growth in the future.

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

The Commission found that Bill Crist and Greg Brennan were present and spoke in support of the application and the character of the applicant and stated that the applicant was encouraged to bring his boat business to Sussex County; that the applicant pays attention to details; that most people come to Sussex County to be on or near the water, showing a need for boat service, storage and sales.

The Commission found that Warren Sandberg, a resident of Webb's Landing subdivision, was present in opposition and expressed concerns that residents anticipated that the area would grow in housing, not commercial properties; that there are no commercial activities along Robinsonville Road; questioning the height of the buildings and if boats would be stored in racks; that the use is totally out of character with the area; and that the use is not appropriate for the area.

The Commission found that Mr. Rudloff responded to questions raised by the Commission that there will not be any boat storage racks; that the buildings will not exceed a height of 20 feet; that trees will be planted in the buffer areas; and that fencing will be on the internal side the bermed landscaped buffers.

The Commission found that William Payne, a resident of Webb's Landing, spoke in opposition and expressed concerns that the use is out of character with the area; that the applicant reports a history of expanding his businesses; that DelDOT requested a connector to the property to the rear of the site; that it is rumored that the existing site on Route 24 will be converted for a motel/hotel; that there are no commercial activities in the area of Robinsonville Road; and that a precedent may be set if this use is approved.

The Commission found that Bill Baydallia, a resident of The Retreat at Love Creek, spoke in opposition and expressed concerns that residential development is growing in this area; that Love Creek Landing originally included a multi-family section and the Commission rejected that application referencing that the multi-family section was out of character with the single family residential trend of development in the area; and that a large scale boat sales business will impact the residential character of the area.

The Commission found that Steve Britz, a resident of Webb's Landing, confirmed his email comments previously summarized by Mr. Lank and acknowledged that the area is a growth area, but intended for residential uses; questioned the overhead lighting and schedule of lighting; added that the berms should be widened with more vegetation; and expressed concerns about runoff.

The Commission found that Roland Hill, an adjacent farm owner, was present, agreed with the other speakers in opposition, and added that there are six (6) developments along Robinsonville Road, with others that have been approved, but not yet developed; and expressed a concern that a precedent will be set for future commercial application if this use is approved.

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

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

C/U #2026 – Cristian Omar Hernandez Perez and Terri L. Martin
An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a home based business (auto repair, detailing, and auto resales) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.982 acres, more or less. The property is located south of Lewes-Georgetown Highway (Route 9) 0.8 mile east of Harbeson Road (Route 5) at Harbeson (911 Address: 26740 Lewes-Georgetown Highway, Harbeson) Tax Map I.D. 235-30.00-60.00.

The Commission found that the applicants provided a survey/site plan with their application which was filed on April 27, 2015.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report on April 17, 2015 referencing that a traffic impact study was not recommended; and that the current Level of Service “E” of Route 9 will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on August 24, 2015 referencing that there is one soil type on this property; that the applicants will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that no storm flood hazard areas are affected; that it is not likely that off-site drainage improvements will be necessary; that it is possible that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on August 24, 2015 referencing that the property is located in the North Coastal Planning Area; that the project is not capable of being annexed into a County operated Sanitary Sewer District at this time; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County has a schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that the Department had received eight (8) form letters containing 38 signatures in opposition to this application expressing concerns that the applicants are currently operating the business illegally; that opposition is based on personal observations of the current activities; that the property has been occupied as a residential house; that automotive activities fall outside the intent of a home occupation; that the majority of the work is being performed outside of the home in plain view; that the applicant works on vehicles throughout the property,

in the driveway and around the home; that several vehicles, sometimes numbering as many as 15, are parked throughout the property while waiting for repair or to be sold; that the business is out of character and incompatible with the surrounding community; that when the Trails of Beaver Creek was being developed and the homes were sold, those residents knew the neighboring property across Route 9 was a simple residential house; that if this Conditional Use is granted it would alter the neighborhood; that the property is not suited for automobile sales and repairs nor are there any other uses as intensive as a used car lot in the proximity of this parcel; that the property is not the appropriate size and not in the appropriate location to repair vehicles, store vehicles, and have customers gain access to the property; that currently, most visitors park their vehicles on the shoulder of Route 9; that the use would be better suited in a location where proper zoning already exists; that there is currently an automobile repair shop for sale less than ½ mile west on Route 9 that already has the appropriate zoning and is completely appropriate for this type of commercial activity; and that allowing a Conditional Use where a residential house has occupied for decades is inappropriate.

The Commission found that Terri Martin and Cristian Omar Hernandez Perez were present and stated in their presentation and in response to questions raised by the Commission that Ms. Martin owns the property and that Mr. Perez is the tenant; that there is a need for Spanish speaking operators of an auto-repair business; that there may be 4 or 5 vehicles for sale on the property; that the vehicles stopping along Route 9 are looking at the vehicles for sale; that repair work is being performed on the asphalt driveway; that they have a dumpster on site; that they intend to utilize the single car garage for repair work in the future; that business hours are from 7:00 a.m. to 5:00 p.m. Monday through Friday, with no weekend hours; that two or three family members work on the vehicles; that five family members live in the dwelling; that the site is in close proximity to a bird farm retail business, Old Wood woodworking business, the Donut Connection, an equipment rental business, and a business/industrial park; that Ms. Martin originally rented the dwelling with the intent of residential housing; and that Ms. Martin advised the Commission that the tenants are excellent tenants.

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

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

C/U #2027 – SLC Homestead, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a home business – retail gun shop and gunsmithing to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 6.61 acres, more or less of a 14.04 acre tract. The property is located east of Iron Branch Road (Road 331) 2,500 feet northeast of Main Street in Dagsboro (911 Address: 31005 Iron Branch Road, Dagsboro) Tax Map I.D. 233-11.00-17.00 (part of).

The Commission found that the applicant provided a survey/site plan with the application filed on June 16, 2015.

The Commission found that DelDOT provided comments in the form of a Support Facilities Report on May 12, 2015 referencing that a Traffic Impact Study was not recommended, and that the current Level of Service “C” of Iron Branch Road will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum on August 24, 2015 referencing that there are three soil types on this property; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas are affected; that no off-site drainage improvements will be required; that it is likely that on-site drainage improvements will be required; and that no tax ditches are affected.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on August 24, 2015 referencing that the property is located in the Dagsboro/Frankford Planning Area; that sewer service has not been extended to the area at this time; that conformity to the Dagsboro/Frankford Planning Study will be required; that when sewer service is provided to the area, connection is mandatory; that the County does not have a schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that Stuart Jones was present on behalf of his application and stated in his presentation and in response to questions raised by the Commission that he will be purchasing the property if the use is approved; that his business is currently located in Country Gardens commercial complex between Dagsboro and Millsboro; that he and his wife are living in a condominium and intend to purchase the farm and reside in the dwelling on this site; that the site has a nice home and out buildings and a working chicken house on the property; that he is intending to utilize the existing chicken house entrance for access for his customers; that the property will appear the same after the use is established, if you were to ride by; that he is proposing retail firearm sales and gunsmithing; that he has his Federal and State licenses; that the property already has a security system on the home, the garage and the out buildings; that gun safes will be utilized to store the firearms; that he is proposing business hours from 11:00 a.m. to 7:00 p.m. weekdays, and 10:00 a.m. to 4:00 p.m. Saturdays; that he may extend those hours during holidays; that no Sunday hours are proposed; that he hopes to hire an additional employee in the future; that he typically test firearms off site at approved ranges; that he does not build firearms from scratch, only from kits or by adding accessory parts, i.e. scopes; that he is purchasing the entire property, and hopes to lease the chicken house operation to a tenant operator.

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

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

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

C/Z #1782 – Robert Atallian

An Ordinance to amend the Comprehensive Zoning Map from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 4.38 acres, more or less. The property is located south of Lewes-Georgetown Highway (Route 9) 615 feet west of Arabian Acres Road (Road 282) (911 Address: 18501 Stamper Drive, Lewes) Tax Map I.D. 334-4.00-88.00.

The Commission found that the applicant provided a survey/site plan of the property with the application filed on June 15, 2015.

The Commission found that DelDOT provided comments on December 11, 2014 in the form of a letter and Support Facilities Report referencing that the rezoning application can be considered without a Traffic Impact Study and that the need for a Traffic Impact Study will be evaluated when a subdivision or land development plan is proposed.

The Commission found that the Sussex Conservation District provided comments on August 24, 2015 in the form of a memorandum referencing that there are two soil types on this property; that the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation; that no storm flood hazard areas or tax ditches are affected; that it is not likely that off-site drainage improvements will be required; and that it is possible that on-site drainage improvements will be required.

The Commission found that the County Engineering Department Utility Planning Division provided comments on August 24, 2015 in the form of a memorandum referencing that the site is located in the North Coastal Planning Area; that conformity to the North Coastal Planning Study will be required; that the proposed change of zone is not in an area where the County has a schedule to provide sewer service at this time; and that a concept plan is not required.

The Commission found that Robert Atallian and Bill Massey were present and stated in their presentation that historically this property has been used for an equestrian center, an eye glass business, and an approved antique store, which has an approved expansion for a produce market; that the application was filed to bring the property into the appropriate zoning category to establish the use as a permitted use, not requiring a conditional use; that there are several commercial and business uses across Route 9 and in close proximity to the site, referencing Bada Engineering, TR Roofing, Beaman's Old and GNU Antiques, Building Supply Depot, Grissley's, Millman's Appliances, Steele's Gun Shop, a beauty salon, Beracah Homes, a pet daycare, Hopkin's Dairy Farm, and others; that the existing antique store was established by Conditional Use in 1995; that the produce stand expansion to the site was established Conditional Use in 2013; that they realize that all agency approvals are required before any additional expansions to the site; that two rezonings have been approved recently in the area; that this site has been used historically as a commercial use; that the neighboring property was recently denied for rezoning is a residential property; that the applicant would have to apply for additional conditional use application whenever he proposed to expand the business if the property remains AR-1; that they are only asking for conforming zoning to uses that have already been established; that the private

drive easement on the property provides access to the Stamper properties to the rear; and that the two current uses of the property are the retail antiques and produce stand.

The Commission found that the Mr. Atallian provided and displayed an aerial map of the area and a Google map of the area depicting some of the business/commercial uses in the area along Route 9.

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

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

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

OTHER BUSINESS

Puras, LLC Final Site Plan

Ms. Cornwell advised the Commission that this is a Final Site Plan for the construction of two buildings. The first building located closer to Atlantic Ave. is 8,000 SF. The second building located closer to the rear property line is 8,100 SF. The site complies with the required number of loading spaces and parking spaces. The Commission approved the parking spaces within the front yard setback at their meeting on September 14, 2014 at which the Planning Commission also granted Preliminary Site Plan Approval. The plan proposes a visual screen along the rear property line and a portion on the west property lines closer to the entrance. This is a mixture of existing and proposed plants and trees. There is a proposed six (6) foot opaque fence proposed between the parking spaces on the west and the property line. There is a future interconnection proposed on the east side of the site to the adjacent property. The property is zoned CR-1. The tax map is 134-11.00-178.00. Staff is awaiting approval from the Sussex County Engineering Department and is in receipt of all other review agencies.

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

Perdue AgriRecycle (CU #1314) Revised Site Plan

Ms. Cornwell advised the Commission that this is a Preliminary Site Plan to allow for the construction of a 3,572 SF pole building. The Commission determined that the uses are accessory uses to the existing Conditional Use and approved a Revised Site Plan at their meeting of February 12, 2015. The previous Site Plan allowed for a 2,400 SF pole building and a bag-house. The proposed pole building is also in a new location. The new location is near the existing building across the railroad spur. The property is located off Enviro Way. The property is zoned AR-1. The tax map number is 132-11.00-41.00. Staff is awaiting agency approvals.

Motion by Mr. Smith, seconded by Mr. Johnson, and approved unanimously to approve the Revised Site Plan with final approval subject to the staff upon receipt of agency approvals. Motion carried 5-0.

Sandpiper Commercial
Revised Final Site Plan

Ms. Cornwell advised the Commission that this is a revised Final Site Plan. The original Final Site Plan was approved by the Commission at their meeting on July 16, 2008. The changes to the revised plan from the approved plan are for the removal of the residential uses for Building 1, the change in location of Building 2 closer to the entrance and the reduction in size of the building and the elimination of the use of office and retail to a restaurant and retail. The relocation of the building allows for a drive-thru to be installed as part of the restaurant. The new square footage of Building 2 is 2,820 SF. The square footage of Building 1 is 24,413 SF. The site complies with the required number of parking spaces and loading spaces. There are existing easements to allow the parking to be located on the adjacent property to the northeast. A variance was granted by the Board of Adjustment to reduce the landscaping required per the CHCOZ Landscaping buffer along Route 1. The property is zoned C-1. The tax map numbers are 334-12.00-105.05 and 334-12.00-106.00. Staff is awaiting approval from the Sussex County Engineering Department and is in receipt of all other review agencies.

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

Americana Bayside Village C Phase 1B
Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a Site Plan for 59 dwelling units, private roads, and open space for Village C Phase 1B of Americana Bayside. The Commission could consider this as a Final Site Plan since the Revised Preliminary Plan for Village C was reviewed and approved by the Commission at their meeting on March 26, 2015. The Preliminary Plan for Village C Phase 1 included 3 phases. The Site Plan for Phase 1B complies with the revised Village C Phase 1 plan. The plan includes 27 Single Family residences and 32 Duplexes. There are sidewalks proposed along both sides of the roads. There are no amenities proposed with Phase 1B. There are amenities proposed within Village C. The property is zoned MR and is a RPC. The tax map number is 533-19.00-301.00. Staff is in receipt of all agency approvals.

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

Delmarva Roofing & Coating, Inc. (CU #2004)
Final Site Plan

Ms. Cornwell advised the Commission that this is a Final Site Plan for the establishment of a contractor's shop and offices. The Commission recommended approval of the Conditional Use at their meeting on January 22, 2015 and County Council granted approval on March 10, 2015.

The proposed contractor's shop and office proposes to use the existing buildings located on the site. The plan indicates that 31 parking spaces will be provided on the site. The Site Plan complies with the Conditions of the Conditional Use. The property is located off of Mennonite School Rd. The property is zoned AR-1. The tax map number is 430-5.00-56.00. Staff is in receipt of all agency approvals.

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

Eastern Shore Natural Gas (CU #889)
Preliminary Site Plan for Conditional Use

Ms. Cornwell advised the Commission that this is a Preliminary Site Plan to allow for the construction of a new a compressor building and a new control building. All of the new items will occur within the original 7.99 ac. portion of the parcel. The original Conditional Use (CU 889) was granted in 1988 to allow for the establishment of a fenced in area containing a compressor building and a control building on a 7.99 ac. portion of the 28.92 ac. parcel. In 1992 the Commission allowed for an expansion of the Conditional Use to construct the equipment and buildings currently on the site. The Commission approved an additional request to allow for the proposed expansion of the existing Conditional Use at their meeting of August 13, 2015. The property is zoned AR-1. The tax parcel number is 131-10.00-99.00. The property is located off of Black Cherry Dr. Staff is awaiting approvals from the other reviewing agencies.

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

Lewes Body Works (CU #1158)
Expansion of Conditional Use & Revised Site Plan

Ms. Cornwell advised the Commission that this is a request to expand the existing Conditional Use and to review the Site Plan of the proposed expansion. The Conditional Use is for an auto body shop. The Commission recommended approval at their meeting of June 13, 1996 and County Council approved the Conditional Use at their meeting of July 9, 1996. The body shop occupies the two existing buildings on the site. The proposed expansion is for a 2,400 SF addition to the rear of the 6,000 SF building located on the northeast side of the site. The existing total square footage is 8,400 SF. The proposed total square footage is 10,800 SF. The property is located off of New Rd. The property is zoned AR-1. The tax map number is 335-8.00-21.00. Staff is in receipt of the State Fire Marshal's Office and Sussex Conservation District approval. Staff is awaiting DelDOT approval.

There was a brief discussion about the expansion of the Conditional Use.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to approve the expansion of the Conditional Use without requiring a public hearing and to approve the Preliminary Revised Site Plan with Final Site Plan approval subject to the staff upon receipt of agency approvals. Motion carried 5-0.

Lands of Jones & Whaley Properties, LLC

Minor subdivision off 50' easement

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of four (4) new lots and the residual with access of an existing easement. The four (4) new lots meet the requirements for lot frontage and lot size. The residual will be 22.73+/- acres and will have 53' of frontage along Laurel Rd. and frontage along the existing easement that runs along the entire west property line. The property is zoned AR-1. The tax map number is 232-19.00-30.00. Staff is awaiting approval from DelDOT.

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to approve the minor subdivision off a 50' easement upon receipt of DelDOT approval. Motion carried 5-0.

Lands of Maurice & Pamela Hayes

Minor subdivision with 50' easement

Ms. Cornwell advised the Commission that this is a minor subdivision for one (1) new lot with the creation of a 50' easement. The minor subdivision will create one (1) new parcel approximately 1 ac. The residual will be 3.2 ac. Both the new parcel and the residual will have frontage off of the proposed easement. The easement will utilize the existing driveway. There is an active Conditional Use for the business located on the residual property. The proposed subdivision does not appear to affect the Conditional Use. The property is located off of Martins Farm Rd. The property is zoned AR-1. The tax map number is 334-9.00-1.04. Staff is awaiting approval from DelDOT.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the minor subdivision with a 50' easement upon receipt of DelDOT approval. Motion carried 5-0

Lands of Bettie E. Kelley Estate

Minor subdivision with 50' easement

Ms. Cornwell advised the Commission that this is a minor subdivision for one (1) lot with the creation of a 50' easement. The new lot will be 7.6 acres. The residual will be 11.9 acres. The residual parcel will have access off of the proposed 50' easement. The new easement will utilize the existing entrance. The property is located off of Camp Barnes Rd. The property is zoned AR-1. The tax map number is 134-19.00-112.00. Staff is awaiting approval from the Sussex Conservation District and has approval from DelDOT.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve the minor subdivision with a 50' easement upon receipt of Sussex Conservation District approval. Motion carried 5-0

Lands of Jeffrey & Patricia Peck

Consideration of a Minor subdivision off 50' easement

Ms. Cornwell advised the Commission that this application is for the consideration as a minor subdivision off an existing 50' easement. The proposed subdivision exceeds the number of permitted minor subdivision lots and requires a major subdivision. The Commission may consider the minor subdivision or require an application be submitted for a major subdivision. The property is located off of Abbotts Pond Rd. The tax map numbers are 130-6.00-14.03 and 130-6.00-14.07. Staff is in receipt of an approval letter from DelDOT.

There was a brief discussion regarding the application.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to deny the minor subdivision off a 50' easement and that the application should come through as a major subdivision. Motion carried 5-0

The Vineyards at Nassau Valley

Phasing Plan

Ms. Cornwell advised the Commission that this is for review of the creation of three new phases (phases C, D and E) for the Vineyards at Nassau Valley development. Two of the three new proposed phases (C and D) will each contain a one 3-story building. Phase E includes the clubhouse and 14.197 ac. These areas are part of Phase 1 that were reviewed by the Planning Commission on July 14, 2014.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the phasing plan for phases C, D and E. Motion carried 5-0.

Arbor at Cottage Dale (CU #1845)

Request for extension

Ms. Cornwell advised the Commission that this is a request for a one (1) year extension for the Conditional Use for 6 apartment buildings for a total of 168 dwelling units. The Commission recommended approval of the Conditional Use at their meeting of November, 12, 2009. The Sussex County Council granted approval of the Conditional Use at their meeting of February 23, 2010. The Final Site Plan was approved by the Commission on August 13, 2015. The Conditional Use was granted extensions as part of County Council's Time Extension Ordinances. The plan will expire on January 1, 2016 unless the site is under substantial construction.

There was a discussion regarding the extension request focusing on the brownfield remediation and need for affordable housing in the County.

Motion by Mr. Johnson, seconded by Mr. Smith, and carried unanimously to suspend the extension for six (6) months beginning on August 27, 2015. Motion carried 5-0.

Meeting adjourned at 9:10 p.m.