

## MINUTES OF THE REGULAR MEETING OF SEPTEMBER 10, 2015

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 10, 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. 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. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Agenda as circulated. Motion carried 4 – 0.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Minutes of August 27, 2015 as circulated. Motion carried 4 – 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.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

#### **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.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

**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 discussed this application which has been deferred since August 27, 2015.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 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 discussed this application which has been deferred since August 27, 2015.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 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 discussed this application which has been deferred since August 27, 2015.

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use No. 2027 for SLC Homestead, LLC to operate a retail gun shop with gunsmithing based upon the record made during the public hearing, and for the following reasons:

- 1) The use is for a retail gun shop and gunsmithing business located on 6.61 acres out of a 14.04 acre tract of land.
- 2) The use will exist within existing structures on the premises, and the applicants intend to reside there while the business is underway.
- 3) The use is small in nature, and is very nearly a home occupation.

- 4) The use will not adversely affect neighboring properties or roadways. There are no residences that are close by to the proposed use.
- 5) The applicant has stated that there will not be a firing range located on the premises.
- 6) The applicant has stated that many of his customers include local law enforcement officers. As a result, the use has a public or semi-public character.
- 7) No parties appeared in opposition to the application.
- 8) This recommendation is subject to the following conditions:
  - A. The applicant must comply with all Federal and State licenses and regulations for the use.
  - B. As stated by the applicant, there shall not be a firing range on the site.
  - C. The hours of operation shall be 11:00 a.m. to 7:00 p.m. weekdays, 10:00 a.m. to 4:00 p.m. on Saturdays, and no Sunday hours.
  - D. As stated by the applicant, the use shall be operated within the structures that currently exist on the site as shown on the preliminary site plan submitted with the application.
  - E. On lighted sign, not to exceed 32 square feet per side, shall be permitted.
  - F. Security lights shall be installed. All lighting shall be downward screened so that it does not shine onto neighboring properties or roadways.
  - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 4 – 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 discussed this application which has been deferred since August 27, 2015.

Mr. Johnson stated that he would move that the Commission recommend denial of Change of Zone NO. 1782 for Robert Atallian for a change in 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) Although the site has been approved for various conditional uses, those approvals are for limited purposes with conditions placed upon them. The applicant has not provided a clear reason to rezone the property to CR-1 Commercial Residential, other than vague possibilities of expanding the existing business. Such expansions could be sought through the Conditional Use process.
- 2) The site is not appropriate for CR-1 Commercial Residential zoning and the many permitted uses that are allowed in that zoning district.

- 3) The rezoning is not compatible with the surrounding zoning, which is all AR-1 Agricultural Residential, subject to some limited conditional uses.
- 4) The traffic that could be generated from the potential permitted uses under a CR-1 Commercial Residential zoning is not compatible with the existing traffic conditions on Route 9.
- 5) The Commission recently recommended denial of a change in zone from AR-1 Agricultural Residential to B-1 Neighborhood Business for a nearby property. This recommendation of denial is consistent with the denial of that prior application.
- 6) There are residential properties to the rear of this site which are served by a private drive through this property. A rezoning to CR-1 Commercial Residential would be inconsistent with the adjacent homes and their only means of access.
- 7) There is simply not a sufficient basis in the record for rezoning this property from AR-1 Agricultural Residential to CR-1 Commercial Residential.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be denied for the reasons stated. Motion carried 4 – 0.

#### PUBLIC HEARINGS

##### **C/Z #1784 – Marlene C. Stebelsky**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a C-1 (General Commercial District) to a MR (Medium Density Residential District) for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 0.9 acres, more or less.** The property is located south of Route 326A (Betts Pond Road) at the southerly end of the dead end of Heritage Lane and north of Betts Pond (911 Address: 12 Heritage Lane, Millsboro) Tax Map I.D. 133-16.00-57.00.

The Commission found that the application was filed on June 30, 2015 and included a survey of the property depicting the location of the dwelling and accessory buildings; and that on August 31, 2015 the applicant submitted an Exhibit Booklet for consideration. The Exhibit Booklet contains a copy of the application form, receipt, and mailing listing reference; a copy of the survey; a copy of the deed to the property; a series of photographs; a series of maps and aerials; a copy of the Strategies for State Policies and Spending map and a portion of the Comprehensive Land Use Plan map of the area; and suggested proposed Findings of Fact for consideration.

Mr. Lank advised the Commission that DeIDOT comments were not requested since this application is a down zoning and since the parcel has access from a private street.

The Commission found that the County Engineering Department Utility Planning Division provided comments on September 9, 2015 in the form of a memorandum referencing that the property is located in a Town of Millsboro Growth Area; that continued use of an existing septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the parcel is not in an area where the County will provide sewer service; that the applicant can contact the Town of Millsboro for information on sewer service; and that a concept plan is not required.

The Commission found that Mrs. Marlene C. Stebelsky was present with David Hutt, Esquire of Morris James Wilson Halbrook & Bayard, LLP and that they stated in their presentation and in response to questions raised by the Commission that the purpose of the application is to downzone a portion of the property from C-1 General Commercial to MR Medium Density Residential to be more compatible with the residential character of the property and the adjacent properties to the north and east; that access to the property is from Heritage Lane off of Betts Pond Road; that the Stebelsky's have owned the property since 1999; that they only recently found out that the property was partially zoned C-1 General Commercial; that lending institutes may require commercial loans since the property is partially zoned C-1 General Commercial; that the property does not have any direct access to U.S. Route 113; that the adjacent subdivision lots on Lakeside Lane are also zoned MR Medium Density Residential; and that based on the lack of frontage on U. S. Route 113 and the historic use of the property as residential the property should be downzoned to conform to the adjacent residential properties.

Mr. Lank advised that the boundaries of the C-1 General Commercial area along the east side of U.S. Route 113 were established when the original Zoning Map was established in 1971, and that the Commission, at that time, did not have any property maps to plan by and did dimensional boundaries to establish the zoning districts.

The Commission found that Neva and David Proudfoot were present and stated that they support this application to downzone the property to MR Medium Density Residential.

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

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

Mr. Ross stated that he would move that the Commission recommend approval of Change in Zone No. 1784 for Marlene C. Stebelsky for a down-zone change in zone from C-1 General Commercial to MR Medium Density Residential, based upon the record made during the public hearing and for the following reasons:

- 1) Although the property is currently zoned C-1 General Commercial, it has been used for residential purposes since the 1960s.
- 2) Rezoning of this property to MR Medium Density Residential will make the zoning consistent with the long-standing use of the property as a residence.
- 3) The property is located on a cul-de-sac in a private residential community. The current C-1 General Commercial zoning of the property is not suitable for this location in a small residential subdivision.
- 4) There is no frontage on a State Highway that is appropriate for commercial zoning.
- 5) The property is in a development with restrictive covenants that prohibit commercial uses.
- 6) MR Medium Density Residential zoning is compatible with the zoning on contiguous properties.
- 7) Neighbors of the applicant spoke in favor of the application, and testified that the downzoning to MR Medium Density Residential would be a benefit to the community.
- 8) No parties appeared in opposition to the application.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 4 – 0.

**C/Z #1786 – Wilson Baker, Inc.**

**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 Cedar Creek Hundred, Sussex County, containing 1.0 acre, more or less.** The property is located east of DuPont Boulevard (U.S. Route 113) 200 feet north of Beach Highway (Route 16) (911 Address: None Available) Tax Map I.D. 230-26.00-40.00.

The Commission found that the applicants provided a survey of the property with their application on July 7, 2015; and that the applicants provided an Exhibit Booklet for consideration on August 28, 2015. The Exhibit Booklet contains references to the Project Team and their qualifications; a series of maps and aerials; a copy of a portion of the Comprehensive Land Use Plan map and attachments; a survey and a copy of the deed to the property; a copy of the Ellendale Sanitary Sewer District map; a copy of a DelDOT letter, dated July 29, 2015 with an attached Support Facilities Report; and suggested proposed Findings of Fact for consideration.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on September 9, 2015 referencing that the site is located in the Ellendale Sanitary Sewer District; that wastewater capacity is available for up to 4.0 EDU (Equivalent Dwelling Units) per acre; that downstream upgrades, at the developer's expense, could be required for a project that exceeds 4.0 EDU per acre; that the current System Connection Charge Rate is \$8,000.00 per EDU; that the parcel has not been provided with a sewer connection point; that the project is capable of being annexed into the Ellendale Sanitary Sewer District; that conformity to the Ellendale Wastewater Planning Study of June 2007 will be required; that the parcel must be annexed into the sewer district, prior to connecting to sewer service; and that a concept plan is not required.

The Commission found that Mark Baker of Wilson Baker, Inc. was present with Mark Davidson of Pennoni Associates, Inc. and that they stated in their presentations and in response to questions raised by the Commission that Wilson Baker, Inc. has been in business since 1952; that they are applying to rezone this property from AR-1 Agricultural Residential to CR-1 Commercial Residential for this property that is immediately adjacent to their convenience store property near Ellendale; that this property is surrounded by U.S. Route 113 and properties that are already zoned C-1 General Commercial; that their property immediately adjacent to the south is improved by a convenience store and gas filling pumps and canopy; that it is their intent to expand the convenience store use; that DelDOT has commented that they will allow a right-in/right-out access to this property; that the County Comprehensive Land Use Plan depicts this property as a commercial property within a Developing Area; that other business and commercial uses and zonings in the immediate area include a Royal Farm Store across U.S. Route 113, Whites Well Drilling and a Weller property to the north on the east side of U.S. Route 113, and a Dollar General store and office uses on the east side of U.S. Route 113 and

south of Route 16; that their existing convenience store property has an on-site well and is connected to the Ellendale Sanitary Sewer District; that they have provided some suggested proposed Findings of Fact in their Exhibit Booklet; that no public water supply exist in the area at this time; and that they intend to combine the two properties to create a larger property so that they can enlarge the convenience store facility.

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. Burton stated that he would move that the Commission recommend approval of Change in Zone No. 1786 for Wilson Baker, Inc. for a change in zoned 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) The property is surrounded by other properties with commercial zonings. As a result, this rezoning is an infill of a small area to conform with the surrounding commercial zonings.
- 2) Commercial zoning is appropriate for this location at the intersection of U.S. Route 113 and Route 16.
- 3) The rezoning is consistent with other commercial uses, including the adjacent Exxon, a Royal Farms store, a Dollar General store, and other uses.
- 4) This rezoning will permit the applicants reasonable expansion of the adjacent gas station and convenience store.
- 5) The Sussex County Comprehensive Land Use Plan designates this parcel as being within a Highway Commercial area where CR-1 Commercial Residential zoning is appropriate.
- 6) No parties appeared in opposition to the application.
- 7) Any future development of the site will require DelDOT and other agencies reviews, and will be subject to site plan approval by the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously 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.

**C/Z #1783 – Cauthen Ventures DE, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a MR (Medium Density Residential District) for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 14.79 acres, more or less.** The property is located north of Lighthouse Road (Route 54) east of Laws Point Road, and northwest of Bayville Shores Drive (911 Address: None Available) Tax Map I.D. 533-12.00-100.00.

**C/U #2028 – Cauthen Ventures DE, LLC**

**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 Baltimore Hundred, Sussex County, containing 14.79 acres, more or less.** The

property is located north of Lighthouse Road (Route 54), east of Laws Point Road, and northwest of Bayville Shores Drive (911 Address: None Available) Tax Map I.D. 533-12.00-100.00.

After asking James A. Fuqua, Jr. Esquire, present on behalf of the applicants, it was decided that the public hearings for C/Z #1783 and C/U #2028 would be combined and heard as one public hearing to establish the record and that individual decisions would be rendered on each application after the public hearing.

The Commission found that the applications were filed on June 24, 2015 and included a survey and site plan; that copies of the applicant's response to the PLUS comments were submitted; that a statement of compliance of the Environmentally Sensitive Development District Overlay Zone was submitted; and that the applicant provided an Exhibit Booklet on August 27, 2015 for consideration. The Exhibit Booklet contains a description of the project team; an Executive Summary; a Project Overview with a boundary survey, topographic and non-tidal wetlands survey; an overview of the current site conditions; references to DelDOT improvements; references to the PLUS comments; references to compliance with the MR Medium Density Residential Zoning District; references to compliance with Chapter 99-9C of the Subdivision Code; references to compliance with the Comprehensive Land Use Plan 2008 Update; a map of the general area; a copy of the Environmental Assessment and Public Facilities Evaluation Report; a copy of an email between a representative of the applicants and DelDOT; a copy of the PLUS comments with red-lined responses from the applicant; a copy of a portion of the Strategies for State Policies and Spending map of the area showing that the site is located in a Level 3 area; a series of maps and aerials, and resumes.

The Commission found that on September 9, 2015 DelDOT provided additional comments referencing that initially it was determined that no Traffic Impact Study was warranted; that upon further review the site still exceeds the 50 vehicle trip ends per hour; that DelDOT will accept an Area Wide Study Fee of \$10.00 per daily trip in lieu of a Traffic Impact Study; that payment would be due when the site plan is submitted for no objection review; that the Department will be requiring a right turn lane with bike lane, and that the existing pedestrian facilities are restored with ADA compliance ramps and crosswalks for the new entrance; that the existing center turn lane will suffice for traffic making lefts into the development; that a 15-foot wide permanent easement will need to be established across the property frontage; that the location of the easement shall be outside the limits of the ultimate right-of-way for this road; that the easement can be used as a part of the open space calculation for the site; that the Department would have no objection with the application moving forward through the zoning process, but will require the project to obtain a Letter of No Objection and entrance approval prior to final approval with Sussex County.

The Commission found that the County Engineering Department Utility Planning Division provided comments on September 9, 2015 in the form of a memorandum referencing that the site is located in the Fenwick Island Sanitary Sewer District; that wastewater capacity is available for the project; that Ordinance 38 construction will be required; that the current System Connection Charge Rate is \$5,775.00 per EDU; that a potential gravity connection point is available in Lighthouse Road; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that connection to the sewer system is mandatory; that sewer capacity has been



allocated on the basis of 4.0 EDU per acre; that the proposed project is within planning study and system design assumptions for sewer service and that there will be adequate capacity for the proposed project; that the County requires design and construction of the collection and transmission system to meet County Engineering Department standards and procedures; that the County Engineer must approve the connection point; that all cost associated with extending sewer service will be the sole responsibility of the developer; and that a concept plan is required.

Mr. Lank advised the Commission that three (3) letters in opposition to the applications have been received and express concerns about the number of homes; a preference for single family homes; loss of a beautiful wooded parcel; the impact of development on birds and other wildlife; the loss of trees; the impact on property values if the project would permit rentals; noise; concerns about drainage; increased traffic; the overdevelopment of the area; the lack of adequate traffic lanes and turning lanes; the impact of additional traffic on emergency vehicles causing delays in emergency services; and that allowing increased density in an already overcrowded area is not in the best interest of the property owners, the community, or the coastal environment.

The Commission found that Dan McGreevy was present on behalf of Cauthen Ventures DE, LLC with James A. Fuqua, Jr. Esquire with Fuqua, Yori & Willard, PA, and Jason Palkewicz, Professional Engineer, and Frank Kea, Landscape Architect with Solutions IPPEM, and that they stated in their presentations and in response to questions raised by the Commission that they are applying for rezoning from AR-1 Agricultural Residential to MR Medium Density Residential and then Conditional Use for 61 Multi-family units on the 14.79 acre parcel; that the area is predominantly zoned MR Medium Density Residential and has been developed with densities similar to the MR Medium Density Residential district; that no State tidal wetlands exists on the property; that some Federal non-tidal wetlands exists on the property; that there will be no encroachments into or disturbance of any wetlands; that the properties across Lighthouse Road are zoned AR-1 and AR-2 Agricultural Residential and include the Teaberry Woods Subdivision; that the properties west and north of the site are zoned AR-1 Agricultural Residential with a manufactured home park (Shady Park) which is partially pre-existing to zoning regulations and expanded by Conditional Use; that further north from the site is properties zoned GR General Residential (Swann Keys Subdivision); that northeast of the site includes properties zoned HR High Density Residential (Bayville Shores Condominiums); that the properties to the east of the site are HR High Density Residential (Bayville Shores South and Bayview Landing); that DelDOT did not require a Traffic Impact Study; that the applicant will contribute to the DelDOT Area Wide Study Fund; that the applicant will comply with all DelDOT required improvements; that the property is located in the Fenwick Island Sanitary Sewer District; that adequate wastewater capacity is available; that the applicant will comply with the required stormwater management requirement of the new Stormwater Regulations of the Sussex Conservation District; that the site is located in the Indian River School District; that the site is located in the Roxana Volunteer Fire Company service area; that central water for drinking and fire protection will be provided by Artesian Water Company; that 60% of the site will remain as open space, and includes the wetlands and stormwater management areas; that the site is currently taking drainage from portions of the Bayville Shores South site; that the outfall is not anticipated to change; that they cannot discharge anymore runoff than that which already exist; that a condominium project is proposed and that a home owners association will be established; that the proposed project is in accordance with the County Comprehensive Land Use

Plan and is located in the Environmentally Sensitive Developing District Overlay Zone and in an area designated for mixed residential use, both of which are growth areas; that the use and the density are appropriate; that they do not intend to access Bayville Shores Drive; that access is intended to be from Lighthouse Road; that the project will be served by an interior driveway system with street lighting; that the driveway will be curbed and guttered and will have an additional 5 feet added to the required width to provide for a bike and pedestrian path; that perimeter buffering will be at least 20 feet in width; that the trees within the wetlands areas will be left undisturbed; that the wetlands boundaries will be permanently marked with signage; that they are proposing an outside living environment for gatherings with a fireplace, picnic tables, etc. for the residents; that the property line crosses part of Laws Point Road which is an easement; that a street lighting plan will be submitted after working with the electric company; that access to Laws Point Road or Bayville Shores Drive was not chosen or required by DelDOT; that they do not want to create a cut-through for by-passing the traffic light at Laws Point Road; that the outdoor living environment eliminates the need for a clubhouse/pool which was financially impact the residents of the project once completed; that the project conforms to the densities of the area projects; that they plan on retaining as much woodland as possible to develop the project; and that the units will appear to be townhouse, but will be sold as condominium units; that no parking will be permitted on the street driveway.

The Commission found that Mr. Fuqua submitted two photographs of a similar outdoor living environment depicting a fireplace, picnic tables and a privacy wall; and suggested proposed Findings of Fact and Conditions of Approval for consideration.

The Commission found that Janet Dubbert, President of the Bayville Shores Homeowners Association, and Mike Milam, of Bayville Shores South, were present and spoke in opposition to the applications referencing that Bayville Shores Drive serves three communities: Bayville Shores, Bayview Landing, and Bayville Shores South; that the three project have densities of 3.5 units per acre or less; that the current owners of the site have two access easements to access the site from Bayville Shores Drive; that they are concerned about additional traffic, increased brown water, surface water ponding, stormwater management, drainage, and runoff; that they support the developers commitment to not access Bayville Shores Drive, but are still concerned about the traffic pattern, increased traffic near the traffic light at Laws Point Road, the lack of amenities, and the number of units proposed; and that a 20-foot wide wooded buffer is not adequate, and should be at least 50-feet wide.

The Commission found, by a showing of hands, that 17 people were present in opposition.

At the conclusion of the public hearings, the Commission discussed the applications.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action on Change of Zone No. 1783 for further consideration. Motion carried 4 – 0.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action on Conditional Use No. 2028 for further consideration. Motion carried 4 – 0.

## OTHER BUSINESS

### **Coastal Club – Land Bay 4** Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a Preliminary Site Plan for Coastal Club – Land Bay 4 to allow for the creation of 78 single family lots. The plan is in compliance with all conditions of the RPC including sidewalks along both sides of the roads. The property is zoned MR (Medium Density Residential District) and is a RPC. The tax parcel number for this portion is 334-11.00-5.00. The property is located off of Beaver Dam Rd. Staff has Sussex County 911 Addressing approval and is awaiting approval from the other reviewing agencies.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Preliminary Site Plan. Motion carried 4-0.

### **Double R Holdings, LLC – C/U # 1855** Revised Final Site Plan

Ms. Cornwell advised the Commission that this is a Revised Final Site Plan and revised Architectural Elevations for CU 1855 to allow for the construction of three (3) professional office buildings. The proposed revision to the Site Plan is regarding the stormwater management on the site. The plan will be installing stormwater management ponds instead of underground infiltration. The stormwater management ponds will be located along Plantations Rd. The applicant is also proposing to amend the architecture of the building. A condition of approval is that the buildings have a residential appearance. The Planning Commission granted Final Site Plan approval on June 11, 2015. The Conditional Use was granted approval on December 7, 2010. The property is zoned AR-1. The tax parcel number is 334-12.00-53.03. The property is located on Plantations Rd.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the Revised Final Site Plan. Motion carried 4-0.

### **The Marina at Peppers Creek** Revision to Lot 120

Ms. Cornwell advised the Commission that this is a revision to lot 120 within the Marina at Peppers Creek Subdivision. The plan proposes to add 1,903 SF of land from Open Space “A” to lot 120. It will also create a 10’ drainage and maintenance easement along the rear of the property. The proposed change is similar to the change the Planning Commission approved for lots 116-119. This is proposed to be the last lot that will request an extension in lot area. The tax parcels are 233-7.00-30.00 and 233-7.00-327.00. The property is located off Piney Neck Rd.

Motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to approve the revisions to Lot 120. Motion carried 4-0.

**Josh Grapski – C/U #2009**  
Request to Amend Condition of Approval

Mr. Robertson recused himself from this application.

Ms. Cornwell advised the Commission that this is a request to amend a Condition of Approval for a Conditional Use (CU 2009) for the use of a food truck. The Planning Commission recommended approval of the use as a food truck at their meeting on March 12, 2015. The County Council granted approval at their meeting of March 31, 2015. Condition D states that “if the truck is to be located within any setback, a variance from the Sussex County Board of Adjustment shall be required.” The applicant is requesting that Condition D be removed from the Use. On May 19, 2015 County Council adopted a Temporary Removable Vendor Ordinance. The Temporary Removable Vendor Ordinance allows vehicles and stands to encroach into the setbacks. The property is zoned C-1. The tax parcel is 334-13.00-325.02. The property is located on West side of Coastal Hwy.

There was a brief discussion that the request is for only for Condition D of the Conditional Use and that all other conditions shall be complied with.

Motion by Mr. Johnson, seconded by Mr. Burton, and approved unanimously to approve the request to remove Condition D of the Conditional Use. Motion carried 4-0.

**Meeting adjourned at 8:08 p.m.**