

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 26, 2013

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 26, 2013, in the County Council Chambers, County Administrative Office Building in 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. I.G. Burton, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. Martin Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. C. Shane Abbott – Assistant Director.

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 September 12, 2013 as circulated. Motion carried 5 – 0.

OLD BUSINESS

CONDITIONAL USE #1967 – TIDEWATER ENVIRONMENTAL SERVICES, INC.

Application of **TIDEWATER ENVIRONMENTAL SERVICES, INC.** to consider the Conditional Use of land in an MR Medium Density Residential District for a wastewater treatment plant to treat offsite waste, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 10.26 acres, more or less, lying south of Road 283 (Cedar Grove Road) and east of Road 277 (Robinsonville Road) (Tax Map I.D. # 3-34-11.00-83.00 and 83.04),

The Chairman referred back to this application, which has been deferred since August 8, 2013.

Mr. Robertson advised the Commission that an issue has come to the attention of the County as to whether the applicant had standing to apply for the Conditional Use on the subject property, or stated another way, whether the County has jurisdiction to consider the applicant's Conditional Use for this property; and that while legal staff continues to review this issue, he asked that the matter be deferred for receipt of a legal opinion on the issue.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action pending the legal opinion from County Council. Motion carried 5 – 0.

CONDITIONAL USE #1968 – RAY BAKER

Application of **RAY BAKER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a micro-distillery, to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 4.06 acres, more or less, lying at the

intersection northwest of Road 506 (Shockley Road) and northeast of Road 505 (Rider Road) and 730 feet south of Route 24 (Sharptown Road) (Tax Map I.D. #5-32-1.00-6.00).

The Chairman referred back to this application, which has been deferred since September 12, 2013.

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use #1968 for Ray Baker for a micro-distillery based on the record made during the public hearing and for the following reasons:

1. The applicant lives on this property, and desires to start a small distillery in the existing outbuildings on the site.
2. The use is consistent with the underlying AR-1 Agricultural Zoning.
3. The use will incorporate locally grown agricultural products, including grains and fruits.
4. The applicant has stated that this is the initial phase of his distillery project. There will be no retail sales from this site or public access to the site. If the operation requires significant expansion, the applicant has stated that he will move to a different site.
5. The use will not have an adverse effect on neighboring properties, public facilities or roadways.
6. The application is being made under newly enacted Delaware Legislation permitting micro-distilleries. Micro-distilleries will be reviewed, approved and regulated by the Office of the Delaware Alcoholic Beverage Control Commissioner.
7. No parties appeared in opposition to the project.
8. This recommendation is subject to the following conditions:
 - a. All processed wastewater must be collected and treated off-site by a third party.
 - b. That all operations shall be contained within existing structures on the site.
 - c. No on-site sales shall be permitted.
 - d. No taverns or public tastings shall be permitted from the site.
 - e. As stated by the applicant, there shall not be any employees in the micro-distillery other than the applicant and his family.
 - f. Delivery of materials to and from the site shall occur between the hours of 8:00 am and 4:30 pm.
 - 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. Smith, 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 5 – 0.

SUBDIVISION #2008 – 5 – MATTHEW BRITTINGHAM

Application of **MATTHEW BRITTINGHAM** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 55.20 acres into 110 lots (Environmentally Sensitive Development District Overlay Zone and Cluster

Development) located west of Road 384, 1,650 feet north of Route 20 (Tax Map I.D. #5-33-11.00-84.00).

Mr. Abbott advised the Commission that this is the final record plan for a 110-lot environmentally sensitive developing district overlay zone cluster subdivision; that the Commission granted preliminary approval for 110 lots on October 14, 2009 and granted a revised preliminary approval for 110 lots on March 10, 2011; that the revised preliminary approval was for the deletion of a cul-de-sac; that the final record plan complies with the subdivision and zoning codes and the conditions of the preliminary approval; that the conditions of the preliminary approval are noted and depicted on the final record plan; and that all agency approvals have been received.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve this application as a final. Motion carried 5 – 0.

PUBLIC HEARINGS

CONDITIONAL USE #1969 – MELVIN L. JOSEPH CONSTRUCTION CO., INC.

Application of **MELVIN L. JOSEPH CONSTRUCTION CO., INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for excavation of a borrow pit to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 7.2 acres, more or less, lying east of Powell Farm Road (Road 365) approximately 0.5 mile north of Burbage Road (Road 353) (Tax Map I.D. #1-34-11.00-207.00).

The Commission found that the Applicants submitted a survey/site plan with the application on July 31, 2013, and Exhibit Booklets on September 16, 2013. The Exhibit Booklets contain a cover letter; a copy of the Application form for the Conditional Use; a copy of the deed to the property; a zoning map of the area; a copy of a portion of the State Strategies and Investment Levels map; a series of aerial maps, i.e. a recent Google map, a 1954 Orthophoto, a 1961 Orthophoto, a 1968 Orthophoto, a 1992 Orthophoto, a 1997 Orthophoto, a 2007 Orthophoto, and a 2012 Orthophoto; site plans; copies of letters from DelDOT, dated July 23, 2013 and August 5, 2013; suggested proposed Findings of Fact; and suggested proposed Conditions of Approval.

The Commission found that the County Engineering Department Utility Planning Division provided comments on September 24, 2013 in the form of a memorandum and referencing that the site is located in the Beaver Dam Planning Area; that Ordinance 38 construction will not be required; that central sewer has not been extended to the area at this time; that conformity to the South Coastal Area Planning Study – 2005 Update will be required; that if the parcel requires sewer service in the future, the owner could install infrastructure to an approved connection point; and that a concept plan is not required.

The Commission found that on September 16, 2013 the Applicants provided four (4) letters in support of the application to expand the existing borrow pit onto the proposed site.

The Commission found that five (5) letters in opposition have been received.

The Commission found that Ken Adams, President of Melvin L. Joseph Construction Co., Inc. was present with Gene Bayard, Esquire of Morris James Wilson Halbrook & Bayard, LLP, Robert L. Stickels of Melvin L. Joseph Construction Co., Inc., and Mark Davidson of Pennoni Associates, LLC, and that they stated in their presentations and in response to questions raised by the Commission that the company has been operating the adjoining borrow pit, called the Gibson Pit, for approximately 40 years; that the Gibson Pit site contains approximately 14 acres of which 2 acres has not been disturbed; that the Gibson Pit site is gated; that keys have been made available to local emergency agencies for access to the dry well; that no fuel is stored on the site; that water trucks, sweepers and broom trucks are available when needed to control dust; that the only entrance is on Burbage Road; that the frontage along Powell Farm Road will never be used for truck traffic; that materials removed will be used for fill for construction projects in the area; that normal activity hours on the site will be on Monday through Friday from 6:00 am to 6:00 pm, and Saturday from 6:00 am until 12:00 noon; that there will be no Sunday activities; that they are proposing to include the Gibson Pit site in their plans for reclamation of the project, and that the reclamation will bring the Gibson Pit into compliance with current regulations; that aerial photography depicts borrow activities on this site since 1954; that they are proposing to borrow approximately 3.5 acres of the 7.2 acre site; that the proposed borrow pit will connect to the existing Gibson Pit; that the remaining 3.7 acres of the site will be left undisturbed; that no off-site materials will be brought onto this site; that the existing entrance on Burbage Road will be the only access to this site by extending the access road from the Gibson Pit site to this site; that they have met with DelDOT representatives who support the use of the existing entrance; that the entrance has recently been paved and the apron extended into the site; that the site is not located in a flood plain; that there are no wetlands on the site; that no endangered species were reported on the site; that 2:1 slopes are proposed with 10 foot safety benches; that they will improve those areas of the 50 foot buffer with additional tree plantings where needed; that the service road will be located outside of the buffer areas; that the borrow area will be no closer than 300 feet to Powell Farm Road; that the borrow area will be no closer than 200 feet to any adjacent dwellings; that no buildings are proposed to be erected on the site; that Preliminary and Final Site Plans will be submitted for Planning and Zoning Commission review and approval; that once the project is fully excavated the 2:1 slopes and landscaping will be provided; that they would like it to be clear that they are doing a voluntary reclamation of the Gibson Pit; that vegetated area buffering of the site should not cause any negative impact on property owners along Powell Farm Road; that a Traffic Impact Study was not required by DelDOT; that no permanent or temporary office will be erected on the site; that they will not start excavation until they receive all appropriate agency approvals; that a need exists to provide materials to serve projects in the area; that the landscaping provided will include native species; that they will comply with all County requirements; that areas of the site that have been previously disturbed will be improved; that when the site slopes are repaired and brought to 2:1 slopes, they will also be stabilized, seeded, planted, and then left to remain in a natural state; that there was an incident that happen years ago when a gentleman trespassed onto the site and swung out over a pond in the pit, and he was paralyzed at impact; that some berms already exist; that the borrow pit area

will be posted with warning signage about trespassing and deep water; that a neighbor oversees the site and reports any trespassing; that this site was timbered approximately 10 years ago; that they are proposing to start digging from the far corner back out toward the Gibson Pit; that they area intending to use excavators, but may dredge; that they will maintain any average depth of 25 feet; that they have estimated that there may be 180 vehicle trips per day; that according to DelDOT this number of trips should not impact Burbage Road; that they have received 4 additional letters in support from Beth Cumby, Josh Cain, Casey Whitney, and James Gibbs; that they submitted suggested proposed Findings of Fact as follows: 1) This is an application by Melvin L. Joseph Construction Co., Inc. for a conditional use to excavate a borrow pit for the removal of sand, gravel and stone on Powell Farm Road (SCR 365) in Baltimore Hundred, Sussex County, pursuant to §§ 115-22 and 115-172B of the S.C. Zoning Code; 2) The conditional use is 7.2 acres, more or less, and is identified on the Tax Maps of the Sussex County Department of Finance as T.M. No. 1-34-11.00-207.00; 3) The conditional use site is immediately adjacent to a pre-existing borrow pit of the applicant and will be an extension thereof; 4) A borrow pit is a public or semi-public use that is essential and desirable for the general convenience and welfare, which, because of possible impacts on neighboring properties requires the exercise of planning judgment; 5) The granting of this application will provide a borrow pit for the processing and removal of sand, gravel, and stone, to be used in the construction of private and public works projects in the immediate area and the southeastern region of Sussex County; 6) The conditional use requested will promote the health and safety of the inhabitants of Sussex County and any nearby projects that have been or may be approved for development; 7) By the use of the appropriate conditions of approval, the impact of the borrow pit on neighboring properties may be reduced; and that they submitted suggested proposed Conditions as follows: 1) A final site plan of the project shall be subject to review by the Commission prior to the commencement of operations. The final site plan shall include the present and proposed pits, all side slopes, excavation phasing, and reclamation plans; 2) Reclamation plans shall indicate finished grading, seeding, and planting schedules designed to create a pleasing appearance. The applicant shall notify the Office of the Planning and Zoning Commission in writing on or before April 1st of each year as to the status of the reclamation plans for the following year; 3) No materials may be brought from off the site for processing, mixing or similar purposes; 4) The entrance to the borrow pit shall be from the Burbage Road entrance of the adjacent borrow pit; 5) Any roadway and entrance improvements required by DelDOT shall be completed by the applicant; 6) Entrances to the borrow pit shall be secured when the pit is not in operation; 7) The hours of operation of trucking activities shall be from 6:00 a.m. to 6:00 p.m. Monday through Friday and 6:00 a.m. to 12:00 p.m. on Saturday. There shall be no borrow or trucking activities on Sunday; and 8) The operation of the borrow pit shall be controlled to provide reasonable protection to surrounding properties, as follows: A. A 50 foot buffer, 30 feet of which shall be vegetated buffer, shall be maintained along the perimeter of the site, except where it adjoins the adjacent pre-existing borrow pit; B. A water truck will be available to control dust from road traffic when conditions require; C. No materials may be stored on an access roads or buffer areas; D. No fuel may be stored on-site for borrow pit operations; E. No stumps, branches, debris or similar items will be buried on the site; F. Markers and signs shall be placed at appropriate locations to designate pit areas; G. The pit shall have 2:1 slopes and the slopes shall be seeded and planted to control erosion; H. No more than 180 loads

per day of materials may be hauled from the site; and I. The pit operations shall be consistent with the Mine Safety and Health Administration (MHSa) requirements; 8) This conditional use shall expire forty (40) years from the date of its granting. Every five (5) years after the commencement of excavation, the Planning and Zoning Commission shall perform an inspection of the site and shall request written comment from all appropriate State agencies so that the Planning and Zoning Commission in order to verify compliance with the then existing regulations. After twenty (20) years, the property owner shall complete at its expense an environmental resources and impact study, as that phrase is defined by the DNREC, or its successor. Upon confirmation by DNREC of the owner's compliance with the then-existing regulations, the permit shall continue for the remaining period of twenty (20) years; and 9) The applicant shall secure all other licenses and permits required for the use of the premises as a borrow pit from all state or federal agencies with jurisdiction over the use of the property and shall otherwise comply will all applicable rules, regulations, statutes or ordinances relating to the use of the premises as a borrow pit.

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

The Commission found that Joyce Logan, Claudia Howard, and Florence Mumford, all area residents, were present in opposition to this application and stated that the borrow pit started around 1951; that they are concerned about the safety of children in the area; that the existing pit does not have any safety features; that a church in close proximity to the site operates a summer kids camp and they are concerned about the children; that the church has plans on improving the cemetery and is concerned about damage and trespass on the cemetery site; that trees have already fallen onto the cemetery property; that they oppose any further digging; that they oppose the number of trucks and truck trips; that area roadways cannot handle the anticipated truck traffic; that there is frontage for the property on Powell Farm Road and they are concerned about the use of that frontage for access to the pits; that they are concerned about noise; that they question the proposed truck routes to be utilized; that they question what happens to lands left undisturbed; that they question if the property will, in the future, be developed residentially; and they questioned the setback from the church property.

The Commission found that Mr. Davidson responded that the borrow pit will be reclaimed as a pond, that a minimum of 50 feet setback will be maintained from the church property line, and that the maximum number of trucks per day will be 180 trucks.

The Commission found that Mr. Bayard responded that the applicants will comply with the Findings proffered.

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

Mr. Smith stated that he would like to review all of the letters received.

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

SUBDIVISION #2013 – 8 – JACK LINGO ASSET MANAGEMENT, LLC

Application of **JACK LINGO ASSET MANAGEMENT, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Lewes and Rehoboth Hundred, Sussex County, by dividing 34.65 acres into 97 lots (Environmentally Sensitive Developing District Overlay Zone) located south of Road 275 (Warrington Road) approximately 650 feet west of Old Landing Road (Road 274) (Tax Map 3-34-12.00-122.03).

Mr. Abbott advised the Commission that the Technical Advisory Committee review of July 1, 2013 is a part of the record for this application and that on September 16, 2013 the applicants submitted an Exhibit Booklet containing a Presentation Outline, a Data Column, a Concept Plan, the Original Preliminary Subdivision Plan, the Revised Preliminary Subdivision Plan, Exhibits containing Maps, the Preliminary Land Use Services (PLUS) Response, a copy of a 1868 Beers Atlas – Lewes and Rehoboth map, Edward Otter’s Archaeological Assessment, a copy of the comments from the Technical Advisory Committee Report and Response, a response to the items listed in Chapter 99-9C, a response to the Cluster Subdivision requirements, an Environmental Assessment and Public Facility Evaluation Report, a Tidewater Utilities, Inc. willing and able to serve letter, a Delaware Electric Cooperative willing and able to serve letter, Professional Biographies, proposed Findings of Fact and possible conditions of approval; and a revised preliminary site plan reducing the number of lots to 85 total.

Mr. Robertson advised the Commission that the applicants submitted the restrictive covenants, and that he has reviewed the covenants and finds them acceptable.

The Commission found that Gene Bayard; Attorney, Nick Hammonds with Jack Lingo Asset Management, and Ring Lardner; P.E. with Davis, Bowen and Friedel, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that according to a 1992 aerial photograph, there was little development in the immediate vicinity; that according to a 2012 aerial photograph, there is a lot of development in the immediate vicinity and that the subject parcel is one of the only parcels that has not yet been developed; that the trend and character of the area is single-family development with a few multi-family projects; that this project will be similar to another project being developed by the applicants and will provide for smaller lots; that the project will be marketed to retirees and pre-retirees; that the smaller lots will provide for less maintenance of the lots; that the applicants have spoken with the Cape Henlopen School District and were advised that there are capacity issues at this time, however with the project being marketed to retirees and pre-retirees, the project will not have a negative impact on the school district; that the amenities will include a pool and a poolhouse; that the project has been reduced from 97 lots to 85 lots; that according to the State of Delaware Strategies Map, the site is located in a Level 1 and Level 2 Investment Area; that 69 lots are permitted by Code; that the applicants are requesting 16 additional lots under the Bonus Density Ordinance and are aware that each lot over the permitted density requires a \$20,000.00 per lot fee; that this fee is used for the purchase of future open space area; that there are no State of Delaware and Federal wetlands located on the site; that there are no

known limitations for storm water management design; that an archaeological area was found on the site and that proposed lots in that area have been removed from the project; that the design of the project has all lots abutting open space to the rear of the lots; that the applicants went through the PLUS process and the revised plan addresses the comments that were made by PLUS; that the Exhibit Booklet contains the comments and the applicant's response to the comments; that the project has the required 20-foot landscape buffer and the buffer will be planted with native species; there is a portion of the site that will have a 50-foot agricultural buffer from adjacent agricultural lands; that the minimum lot size is 7,500 square feet with an average lot size of 8,700 square feet; that the applicants are dedicating 5-feet of additional right of way along Warrington and Old Landing Roads; that DelDOT is requiring multi-modal paths; that the Mapping and Addressing Department has approved the project name and the street names; that the only entrance to the site is off of Old Landing Road; that there are no entrances off of Warrington Road; that an emergency entrance could be provided off of Warrington Road; that DelDOT will require improvements to Old Landing Road; that the project provide 13 acres of open space; that Tidewater will provide central water to the site; that central sewer will be provided by Sussex County; that a pump station exists at one of the property corners; that the items referenced in Section 99-9C are listed in the Exhibit Booklet along with a response for each item; that the items referenced in the Environmentally Sensitive Developing District Overlay Zone are referenced in the Exhibit Booklet along with a response for each item; that sidewalks will be provided along both sides of all streets; that construction of the amenities will begin prior to the issuance of the 50th residential building permit; that the streets will be private with curb and gutter; that the homes will begin in the high \$300,000.00 range to \$500,000.00; that the homes will include attached garages; that a portion of the site is located in a groundwater recharge area; that this area is shown on the preliminary plan; that all storm water management areas will be on-site; that a standard by-right or cookie-cutter subdivision could permit 45 to 50 lots; that this project is an in-fill project as it is surrounded on three sides by other developments; that the plantings for the forested buffer are required to be submitted to and approved by the Commission; that DelDOT did not require a traffic impact study to be completed; that the site plan meets most of the requirements referenced in the Superior Design section of the Code; and that the Exhibit Booklet contains proposed findings of fact and conditions for preliminary approval.

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

The Commission found that Beth Doty, Ann Meredith, Meg Ellicott, Frank Barnett, Larry Walton, Jerome Sandy and Pat Sandy, residents of the Arnell Creek development were present in opposition to this application and expressed concerns about additional traffic to the area; run-off and drainage concerns; the need for a traffic impact study; negative impacts to Arnell Creek; additional noise in the area; the types of homes proposed; types of buffers proposed; and negative impacts to wildlife in the area.

The Commission found that Mr. Lardner responded that DelDOT did not require a traffic impact study; and that DelDOT only wanted one entrance to the project with it being off of Old Landing Road.

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 consideration. Motion carried 5 – 0.

OTHER BUSINESS

Dutch Brothers

CU #1915 Site Plan – Road 293

Mr. Abbott advised the Commission that this item was deferred at the September 12, 2013 meeting; that this is a preliminary site plan for a manufactured home installation business located on 3.0 acres; that the site is zoned AR-1 and this conditional use was approved on March 27, 2012 with 8 conditions; that the conditions are noted and depicted on the site plan; that the Commission needs to determine if the landscaping along the perimeter of the driveways is sufficient and meets the intent of the condition of approval requiring landscaping; that the final site plan needs to include the appropriate wetlands statement; that the project will be served by on-site septic and well; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan prior to the September 12, 2013 meeting.

Mr. Johnson advised the Commission that he visited the site again; that the eastern driveway is the primary drive to the site; that the wooden fence screens the work area; that there doesn't seem to be a need for any additional plantings; and that the plantings that are provided on the site plan are adequate.

Motion by Mr. Johnson, seconded by Mr. Burton and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

Savannah Road Professional Center

CU #1801 Site Plan – Savannah Road

Mr. Abbott advised the Commission that this is a preliminary site plan for 2, 2-story office buildings containing 6,000 square feet each located on 1.34 acres, that the site is zoned AR-1 and this conditional use was approved on June 7, 2011 with 9 conditions; that the conditions of approval and the approved Ordinance are noted on the site plan; that the setbacks meet the minimum requirements of the zoning code; that ingress/egress to the site is off of Ritter/Dove Drive and there is no direct access to Savannah Road; that DeIDOT has issued a Letter of No Objection for recordation; that 60 parking spaces are required and proposed; that the site is not located in a flood zone; that the final record plan needs to include the appropriate wetlands statement; that central sewer will be provided by Sussex County and an on-site well is proposed;

that the landscaping plan provides for shade trees, ornamental trees and evergreen trees; that a 6-foot high vinyl fence is proposed along the northern and eastern property lines; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the site plan as a preliminary with the stipulation that final site plan approval shall be subject to the staff receiving all agency approvals. Motion carried 5 – 0.

**Rivera Property
CU #1950 Site Plan – Road 516**

Mr. Abbott advised the Commission that this is a preliminary site plan for parking of commercial tractor trailers located on 9.57 acres; that the site is zoned AR-1 and this conditional use was approved on April 23, 2013 with 9 conditions; that the conditions of approval are noted on the site plan; that 10, 20-foot by 50-foot parking spaces are proposed; that the parking area is proposed to be dirt; that the location meets the 50-foot setback requirements imposed by the condition of approval; that ingress/egress to the site is off of Road 516; that if preliminary approval is granted, final approval could be subject to the staff receiving all agency approvals; and that the Commission was previously provided a copy of the site plan.

Motion by Mr. Smith, seconded by Mr. Ross and carried unanimously to approve the site plan as a preliminary with the stipulation that the final site plan shall indicate the type of markings used for the 50-foot setback and that final site plan approval shall be subject to the review and approval of the Planning and Zoning Commission. Motion carried 5 – 0.

**Virginia P. Young
2 Parcels & 50' Easement – Route 14**

Mr. Abbott advised the Commission that this is a request to subdivide a 24.507 acre parcel into 2 parcels with access from a 50-foot easement off of Route 14; that Lot 1 will contain 3.066 acres and there is an existing dwelling located on it; that the residual lands will contain 21.44 acres; that the owner is proposing to create the 50-foot easement over an existing stone driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a sketch drawing of this request.

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to approve the request as submitted as a concept and with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 5 – 0.

**Charles H. Moore
Lot on 50' Right of Way – Road 228A**

Mr. Abbott advised the Commission that this is a request to subdivide a 4.64 acre parcel into 2 lots with access from an existing 50-foot right of way; that Lot A will contain 33,875 square feet and Lot 2 will contain 3.86 acres; that Lot 1 has 161.48 feet of road frontage along Road 228A; that DelDOT has issued a Letter of No Objection; that both parcels are to have access from the 50-foot right of way; that this would make 4 lots having access from the 50-foot right of way and an application for a major subdivision should be required; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Burton, seconded by Mr. Smith and carried unanimously to deny the request as submitted and to require an application for a major subdivision. Motion carried 5 – 0.

Meeting adjourned at 8:58 p.m.