

MINUTES OF THE REGULAR MEETING OF OCTOBER 26, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, October 26, 2017 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Ross presiding. The following members of the Commission were present: Mr. Martin Ross, Mr. Doug Hudson, Mr. Keller Hopkins, Mr. Robert Wheatley, Ms. Kimberly Hoey-Stevenson, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Planning and Zoning Director, Mrs. Jennifer Walls - Planning Manager and Mr. Jamie Whitehouse, Planner II.

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to approve the Agenda. Motion carried 5-0

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the Minutes for October 12, 2017 as revised. Motion carried 5-0.

ADDITIONAL BUSINESS

Discussion regarding of the Comprehensive Plan

Ms. Cornwell stated that the public hearing for the Comprehensive Plan will be held on November 2, 2017 at 6:00 p.m. in the Sussex County Council Chambers.

Opportunity for public comment regarding Comprehensive Plan

None

OLD BUSINESS

C/Z #1829 Theresa Elizabeth Murray Irrevocable Trust

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a GR (General Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Baltimore Hundred, Sussex County containing 5.58 acres, more or less. The property is located on the west side of Cedar Neck Rd., approximately 475 ft. north of Hickman Rd. 911 Address: None Available. Tax Map I.D. 134-9.00-70.00

The Commission discussed this application which has been deferred since October 12, 2017.

Mr. Hudson, moved that the Commission recommend approval of Change of Zone #1829 for Theresa Elizabeth Murray Irrevocable Trust for a change in zone from GR to CR-1 based upon the record made during the public hearing and for the following reasons:

1. The site is located in an area of Cedar Neck Road where other Commercial and Business zoned properties exist. The CR-1 zoning will be consistent with the area zoning uses.
2. Although the property is currently zoned GR General Residential, it has been used for commercial purposes as a boat storage location pursuant to Conditional Use No. 478. CR-1 zoning is consistent with the prior and current use of the property.
3. The site is in a Developing Area according to the Sussex County Comprehensive Plan.

CR-1 Zoning is appropriate within this area according to the Plan.

4. The proposed use will not adversely affect neighboring or adjacent properties or roadways.
5. Whenever this property is developed for a particular use, the applicant will be required to meet or exceed all DelDOT requirements and DelDOT will determine where appropriate entrance locations should be.
6. Any development of the site will require preliminary and final site plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Ms. Stevenson, 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 5-0.

C/Z #1827 Fenwick Commons, 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 13.33 acres, more or less. The property is located at the south west corner of Lighthouse Rd. (Rt. 54) and Sand Cove Rd., and the east side of Sand Cove Rd., approximately 211 ft. south of Lighthouse Rd. (Rt. 54). 911 Address: None Available. Tax Map I.D. 533-19.00-52.00

The Commission discussed this application which has been deferred since October 12, 2017. Mr. Ross stated that the application is in an Environmental Sensitive Development Area and the adjacent properties are similar; and that Ms. Stevenson spoke that other applications have limited reasons for people not to get on the road.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration for Change of Zone 1827. Motion carried 5-0.

C/U #2098 Fenwick Commons, LLC

An Ordinance to grant a Conditional Use of land in a MR (Medium Density Residential District) for a multi-family (62 duplex units) structure to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 13.33 acres, more or less. The property is located at the southwest corner of Lighthouse Rd. (Rt. 54) and Sand Cove Rd. and the east side of Sand Cove Rd., approximately 211 ft. south of Lighthouse Rd. (Rt. 54). 911 Address: None Available. Tax Map I.D. 533-19.00-52.00

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration for Conditional Use 2098. Motion carried 5-0.

PUBLIC HEARINGS

Mr. Robertson described the process for public hearings.

C/U #2105 Thomas Engel

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a commercial landscaping business with outdoor parking, storage of vehicles,

equipment and other ancillary storage related to the business to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 25.156 acres, more or less. The property is located on the northwest side of Doddtown Rd., approximately 1,600 ft. southwest of Harbeson Rd. (Rt.5). 911 Address: 20104 Doddtown Rd., Harbeson. Tax Map I.D. 235-30.00-103.09

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, exhibit booklet, comments from Sussex Conservation District and results from the DelDOT Service Level Evaluation stating a TIS is not required.

The Commission found that Aaron Baker, Attorney with Baird Mandalas Brockstedt, LLC and Thomas Engel were present on behalf of the application; that Mr. Baker stated that applicant purchased the property in June of 2016 and has spent money and time cleaning up the site; that trucks have entered the site to bring and take dumpsters to clean up the site; that the applicant owns Double E Lawn Care and it is currently operated out of Lewes; that the applicant is looking to use part of the two of the existing buildings for storage of vehicles and materials for the business; that the employees will pick up the vehicles and materials in the morning on week days and return in the late afternoon; that they occasionally work on Saturdays with a three to four man crew that will collect and return vehicles and equipment; that there is no operation on Sundays; that the vehicles do not require a CDL licenses; that only eight employee vehicles and 12 commercial vehicles will be on the property at any one time; that none of the proposed uses will be visible from the property; that there will be no in-person business; that they will not use the site to store yard waste and debris; that they will no use the site to chip or grind any material as part of the business; that the proposed use is to store vehicles, equipment, and some related materials on the property to be retrieved by employees in the morning and return in the evening; that this use is similar to other uses in AR-1 and the Comprehensive Plan; that a Conditional Use was approved in the area; that in 2011 the County adopted Ordinance 2246 which granted a Conditional Use of approval for a nearby property owner to use their property for a manufactured home placement business as a place for trucks, equipment, to be stored, collected by employees in the morning and returned in the evening; that the County approved a nearly identical use in a nearly identical location; that this property is a ¼ mile off of the road; that it is a less intense use than that use already approved by the County; that DelDOT did not warrant a TIS; that they submitted a list of proposed conditions to limit the number of business vehicles and employees permitted on the property and restrict the hours of operation; that the hours of operation are Monday through Saturday 6:30 am to 5:00 pm; that on rainy days they may be back early to the site; that they are not proposing a sign; that the site is purely for storage of material and equipment; that there will occasionally be deliveries to the site; that they go to other location to get the mulch and any leftovers may be stored on the site; that mulch is not delivered to the site; that if a truck has to deliver to the site is a place for the truck to turn around; that they do sharpen the blades inside the building and it takes about 15 minutes to sharpen the blades; that there are no further plans of clearing the property; that sometime in the future he may sell his land on New Road; and that the location of the property is nice to live there and near the business they currently use.

The Commission found that Tom Colucci spoke in support of this application; that he has worked with Tom and he is a man of his word; and that he would like to see him get the opportunity to do this.

The Commission found that Michael Schlitter, Vincent Lickman, Diane Johnson, Zeljko Jaron, Patricia Beckley, and Mary Ann Hughes spoke in opposition to the application; that Mr. Schlitter stated that he has concerns with noise and diesel fumes; that there has been a lot of storage containers in and out of the property; that he was in violation with the Department of Agricultural in May 10, 2017 for improper use of pesticides; that he let his pesticides license expire in December 31, 2003; that there are concerns with storage of pesticides; that they have concerns with traffic; that they are afraid Doddtown Road will become an industrial area; that Mr. Lickman stated that DelDOT said no trucks over two axels are permitted on the road; that he spoke with Kyle Banks from DelDOT and Mr. Banks stated that no tractor trailers are permitted on Doddtown Road; that Ms. Johnson stated that the previous owner built the buildings for migrant workers and the neighbors opposed it; that the bins filled with all kinds of things; that there is another business on the property; that the business is to only help himself; that she is not sure he lives on the site; that there were other business trucks on the property during the summer; that Mr. Engel stated that he would like a dumpster on the site; that there are no tri axels or containers on-site; that Mr. Jaron submitted videos of the site; that Ms. Beckley stated that she has concerns with speeding traffic; that she can't be outside due the speeding cars; that the road is a narrow road; that Ms. Hughes spoke that the use does not belong on Doddtown Road; that Mr. Engel stated that a friend with large trucks were in and out on the property along with his own dumpsters to clean up the site and he is OK with a fence to screen the dumpster; that he is willing to install a landscape buffer along the road; that his driveway is 20 feet wide and it is paved; and that only non CDL vehicles will travel Doddtown Road.

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

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

C/Z #1830 H. Dale Parsons

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 Georgetown Hundred, Sussex County containing 24.98 acres, more or less. The property is located at the southeast corner of Lewes Georgetown Hwy. (Rt. 9) and Steiner Rd. 911 Address: None Available. Tax Map I.D. 135-16.00-23.00

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from Sussex Conservation District, results from the DelDOT the Service Level Evaluation stating a TIS is not required, a site plan, and an exhibit booklet.

The Commission found that Mark Davidson, with Pennoni Associates and H. D. Parsons were present on behalf of the application; that Mr. Davidson stated that the applicant would like to rezone a portion of the parcel on Route 9; that they subdivided four, two acre lots along the frontage and they are zoned C-1; that 26 acres of the property is zoned C-1; that back portion of the property which is approximately 24.98 acres is zoned AR-1; that along the back of the property is a Railroad; that there are two buildings on the site which are about 5,000 square feet; that Mr. Parsons is the owner of a charter boat business and has owned this parcel for about 20 years; that one of the buildings is in an AR-1 zone and wants to bring all of the property into

compliance; that in the Comprehensive Plan the property is identified as a Highway Commercial Area; that there are other commercial zone properties in the area; that across the street is a Limited Industrial zoned property; that the property is located in a State Strategy Level 4 but adjacent properties are in Level 2 and Level 3; that the proposed zoning meets the general purpose of the Zoning Ordinance; that they will keep the entrance off of Steiner Road; and that in the future there may be an entrance off of Route 9.

The Commission found that there was no one in support of or in opposition to the application.

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

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

C /Z #1831 East Gate Farm, Inc.

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a B-1 (Neighborhood Business District) for a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County containing 16.669 acres, more or less. The property is located on the south side of Cedar Neck Rd., approximately 900 ft. east of Coastal Hwy. (Rt. 1). 911 Address: None Available. Tax Map I.D. 330-11.00-73.09

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from the Sussex Conservation District, results from the DelDOT Service Level Evaluation that stated a TIS is not required, a site plan, and an exhibit book.

The Commission found that Dennis Schrader, Esquire of Morris James Wilson Halbrook and Bayard, LLP, Anthony Conduro, principal owner of East Gate Farm, Inc., Ken Christenbury, with Axiom Engineering, and D. J. Hughes, with Davis, Bowen, & Freidel Inc. were present on behalf of the application; that Mr. Schrader stated that the 16.7 acre parcel is near Milford; that the property is unique in size; that the property is located across from the new Bayhealth Medical Campus; that the property is currently zoned AR-1 and the applicant would like to rezone the property to B-1; that the development of this property is for professional or general offices; that it is in State Strategy Level 3; that the Comprehensive Plan identifies the property as a Town Center land use; that Mr. Christenbury stated that the property is different than it is today with the interchange; that other properties are zoned Highway Commercial by the City of Milford; that the property is not eligible for annexation and are not able to get their utilities; that there are no wetlands on the property and it is suitable for on-site septic; that any use will be limited to low water users; that restaurants are not suitable for this property but professional offices with low water usage are suitable; that in the future the property could be annexed into the City of Milford; that Mr. Hughes spoke that the property is located near the access bridge and do not have access to Route 1; that if the rezoning is approved, a site plan will be submitted to DelDOT for approval of the entrance; that Mr. Conduro stated that he has owned the property since 2002; that he lost less than one acre to DelDOT; that he has been growing shrubs and some trees which are located in the back corner of the property; that he found another property sufficient to have a nursery; that he agrees with the proposed uses; that the staff analysis concluded that this application, if granted would be consistent with the Comprehensive Plan; that the project did not require PLUS review; that they cannot go above 50,000 square feet on this site; and that a

proposed Findings of Facts were submitted in the exhibit book.

The Commission found that there was no one in support of or in opposition to the application.

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

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to defer action for further consideration. Motion carried 5-0.

C /Z #1833 Eagles Nest Fellowship Church

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a CR-1 (Commercial Residential District) for a certain parcel of land lying and being in Broadkill Hundred, Sussex County containing 2.13 acres, more or less. The property is located at the northeast corner of Reynolds Rd. and Broadkill Rd. 911 Address: 13275 Reynolds Rd. and 26381 Broadkill Rd., Milton Available. Tax Map I.D. 235-15.00-7.01

Mr. Wheatley and Ms. Stevenson recused themselves.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from the Sussex Conservation District, results from the DelDOT Service Level Evaluation that stated a TIS is not required, a survey, and an exhibit book.

The Commission found that Mark Davidson, Principal Land Planner with Pennoni Associates, Pastor Bob Weed, Pastor John Mcernan, Pastor John Hoenen, Drew Sammons, and Matt Windsor, Board of Directors for Eagles Nest Fellowship Church were present on behalf of the application; that Mr. Davidson stated that this application is to rezone the property for an AR-1 to CR-1; that property is approximately 2.13 acres in size; that the property is located on the north side of Route 16 and on the east side of Reynolds Road; that there are several C-1 and CR-1 uses across the road; that they have owned the property since 1995; that the buildings were built in 1941; that it use to be an old feed store and used for commercial activities over the years; that the property is currently being use by the church for youth group activities; that the property started out as being Eagles Nest Church prior to them moving to their current location; that property was being used for a daycare, preschool, and other church related activities throughout the years; that the church would like to lease the property and use it for commercial activities; that CR-1 zone allows for agricultural repair, sales, etc. which will allow the church many opportunities to be able to utilize this property, and expand what they are currently doing; that the Comprehensive Plan states that this area is in a Developing Area; that majority of the site is a State Strategies Level 2 area; that the property is being served by an on-site well and an on-site septic system that has been permitted through DNREC; that the site is keeping in with the character of section of Route 16; that property is located on Route 16 with is a major collector road and near Route 1; that it is good for the welfare and property of the County; and that there are Findings of Facts in the exhibit booklet.

The Commission found that there was no one in support of or in opposition to the application.

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

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried three (3) to defer action for further consideration. Motion carried 3-0.

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, VI, X, XI, XIA, and XII BY AMENDING SECTIONS §§115-20, 115-22, 115-39, 115-69, 115-71, 115-77, 115-79, 115-83.2, 115-83.5, 115-85 and 115-87 TO AMEND AND CLARIFY CERTAIN SHORT-TERM “SPECIAL EVENTS” AS PERMITTED USES IN THE AR-1, GR, B-1, C-1, CR-1 and M DISTRICTS

Mr. Robertson stated that there are currently two separate parts of the Code that address special uses/events; that there is Section 115 in the AR-1 Section 115-23 which deals with Special Use Exception; that the Planning and Zoning would not see those because they go to the Board of Adjustment (BOA); that in 115-23 reads, “tents for special purposes for a period exceeding 3 days. The Director may, without requiring an application for a special use exception, grant approval for a tent for a special purpose (revival, reception, tent sale, as an accessory to a business or commercial use, or other similar activities). If approved by the Director, a tent for special purposes may be utilized on a parcel no more than three times in a calendar year.” That it is limited to tented events, although it has evolved to include tent-like advertising such as large blow-ups; that it is less than three day, the Director can approve it; that more than three days, you have to go to the BOA, which requires a full application, a hearing, application fees, and time involved getting on the agenda for the BOA; that if approved, there is a three event limit in this section; that also in the past, it is the understanding that the Director and staff try to require set up and tear down to occur within the three days, although there were some reasonable accommodations; that this is not stated in the Code either way; that there is also a in Section AR-1 that talks about Conditional Uses; that it says “Special events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/ walks or any other special event or mass gathering being held outdoors or without a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanently or for a temporary time period exceeding three days. Special events as defined herein, with a duration not exceeding three days, are not subject to the Conditional Use process. Upon receipt of an application, the Director or his/her designee may grant approval of a special event not exceeding three days. All special events regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”; that if less than three days, the Director can approve administratively; that if more than three days, the applicant needs to seek a Conditional Use, which requires public hearings before both the Planning and Zoning Commission and County Council; that there is no limit on the number of times a three day event could occur on a property, although the County has historically looked to the tent ordinance for guidance and also applied the three event limit, until recently when the County looked to accommodate some events; that there is also no indication of whether set-up and tear down is part of the three days; that there is no guidance given to the County to decide whether to approve or deny any event less than three days unlike the tent policy; that this is not available currently in all districts, that is only stated in AR-1, GR, B-1, C-1, CR-1 and M Districts; that theoretically, some could request three day events every weekend on a property and there would not be any guidance or clear basis whether to approve or deny them; that that gave rise to the thought – at what point is an event no longer

“special” and occurring so much that it requires some other level of approval; that the Code did not give any guidance on that question; that the Goals of this Ordinance; that first, as you know, no part of this Ordinance is set in stone’ that they don’t believe County Council intended it to be that way; that after the public hearings, changes/improvements to it are certainly likely and expected; that they looked at all sorts of other jurisdictions – urban, suburban and rural; that they are all over the place in how they treat special events – from near prohibition to lots of red tape; that they have many different limitations or descriptions of what is permitted, with different durations; that some have minimum parcel size requirements and some require fees; that staff tried to keep it simple and close to what we have now; that it does not apply to anything in any town; that there are no fees associated with the application, unless it is for greater than three days (either BOA or CU depending on type); that it is not intended to put a stop to any events. Instead, give better guidance to the public, applicants and the County on the process, contrary to the vague ordinances we have now; that it clarifies our Code to state that these permitted events (less than three days) fall within the “Permitted Uses” section of various districts in the Code. Right now, it is all within CU section of Code, even if you are less than three days and can be permitted by the Director; that it clears up that set up and tear-down are not counted against the event days; that if the event is denied by the Director, you can always appeal that decision to the BOA. That is a right that any aggrieved party has with regard to any decision of the Director under Title 9 and the zoning code; that does not create any new rules or, if it is denied, you can seek a CU, which is what the Code currently states; that the criteria the Director must consider under the proposed Ordinance (all considerations that the County has historically looked at, but never codified anywhere): the number of participants, size of the parcel, parking needs, roads/traffic patterns, prior events, conducted by the applicant, noise, light, odor and dust, proposed hours of operation; that there are some variables within the proposed Ordinance to consider: how many events are appropriate on a parcel in a given year, how many days should each event last? (introduced Ordinance says you get three days of events, whether it is one three-day event, or three one day events), not stated in the Ordinance, but could be considered – some exemption based on the number of participants or size or both or percentage, and an application form; and that if the Ordinance gets adopted and it is finalized, there would be an application form that everyone would use; that they would understand what the criteria are when they apply.

Ms. Cornwell stated that there were three letters in opposition; that one would actually like to address noise and reduce the number the number of events allowed; and that they would like some revisions to the proposed Ordinance.

The Commission found that Joanne and Roger White, Christian Hudson, John Paradee, Tommy Cooper, Judy Mangini, Lynn Brannon, Natasha Norwood Carmine, Ben Jones, Jen Rowan, Pat Martin, Lindsey Tobin, Gail Elliott, Sarah Lancaster, Bea Hickey, Scott Dailey, Kevin Burdette, DJ Hughes, Tom Colucci, Steven Spence, Ryan Moore, Matt Windsor, Alana Keely, Chris Weeks, Tim Van Bryant, Alex Pires, William Lankford, and Peter Mercado spoke regarding the ordinance; that they would like some changes to the application; that they would to see an application form to include site plan, a business license, and permits to serve alcohol; that the applicant have a letter of coordination with Police and Fire service for coverage of the event; that a letter be provided for waste services, they have liability insurance for the event; that music/noise should be in a manner consistent with the peace and order of the community; that the special event should be posted on the County website for two weeks to allow for public comment prior to the event approval by the Director; and that they have major concerns with traffic, number of events, and lack of notification;

that they have concerns with the noise; that how do you keep young people here and the young people want things to do; that they it takes a lot of time and money for a Conditional Use; that there have not been a lot of approvals and the County has sponsored or held over 300 events; that they do not understand the definitions of events; that there are a lot of illegal events in Sussex County; that there were 56 concerts held in a MR District last year; that they have concerns with events being held at VFW and Fire Halls; that what would or could be exempt; that it is important to have venues for young people; that they have concerns with churches holding events; that a public workshop should take place so they can speak; that they believe that when people come together at local events they gain a sense of belonging that increases their participation in their communities; that the County should collaborate with us in retaining and magnifying the great qualities that make Sussex County a sought after community to call home; that the County needs to keep down the number of regulations; that it is not the number of events, it is that concerts are a separate issue; that because of growth in our population is growing, there is a need for limits, updating old Ordinances; that we need regulations to consider the problems of late hours, loud noise, event lights, traffic congestion, and maximum number of concerts allowed; that zoning is to provide a benefit to the community; that the Ordinance creates more problems than solutions; that it lacks quantitative objectives and measures; that the Ordinance does not provide guidance on how the County is going to monitor these activities; that they have concerns with yard sales; that they recommend to have open workshops or committee to redraft another Ordinance that better addresses the items that they have indicated are important them; that why do parades in town limits need a County permit, a Town permit and a DeIDOT permit; that barn wedding parties are not subject to County regulations; that the Government should be careful of writing too complicated Code; that non-profit events should be exempt; that the County needs a public park and recreation field; that safety is needed; that it is difficult to find venues for non-profit events; that they have concerns about youth development; that will this Ordinance force some of these events to end or leave the County; that these events create confident and resilient kids and they provide a family atmosphere that forms close knit communities that support one another; that this could create obstacles to youth development creating a false hope of limiting minor inconveniences between neighbors; that it is their opinion that fences do not make good neighbors and in this case barriers do not make good neighbors but corporation and collaboration between those neighbors is what you are looking for; that you can hear the music because the County is flat; that request of any Ordinance created, the County should abide by it as well; that concerts do not make money; that all liquor sales go charities; that they would like them to use common sense; and that you talk to the non-profit groups.

The Commission discussed the application.

Motion by Mr. Wheatley, seconded by Mr. Hopkins, and carried unanimously to recommend withdraw and if continue to be done with a public workshop format. Motion carried 5-0.

OTHER BUSINESS

Americana Bayside Melson Property (RPC)

Final Site Plan

Mrs. Walls advised the Commission that this is a final site plan to construct 48 duplex single-family units on a portion of a 16.29-acre tract. Access is off Sand Cove Road. The property is zoned MR-RPC (Medium Residential-Residential Planned Community). The property is also

subject to the overall conditions of approval for American Bayside (CZ 1393). No commercial development is planned. The Planning Commission approved the Preliminary Site Plan on December 22, 2016. The site plan complies with County Code and staff is in receipt of agency approvals. The Tax Parcel number are 533-19.00-50.00, and 56.03.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the final site plan. Motion carried 5-0.

Peninsula Lakes (MR/RPC)

Final Amenities Site Plan

Mrs. Walls advised the Commission that this is a final amenities site plan for Peninsula Lakes, an RPC located in Millsboro. The amenities include a pool, pool house, with pool deck, a clubhouse, tennis courts, bocce ball pit, pickle ball courts, horseshoe pits, dog park, walking trails, tot lot, and other amenities. Planning Commission approved the preliminary site plan on May 11, 2017 and approved revisions to the Master Plan and a request to amend the condition of approval for the community amenities schedule on April 20, 2017. The final site plan complies with the County Code and staff is in receipt of all agency approvals. The parcel is zoned MR-RPC. Tax Parcels are 234-29.00-248.00, 249.00, 249.01, 249.02, 256.00, and 259.00.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to approve the final amenities site plan. Motion carried 5-0.

Tidewater Landing (2013-2)

Preliminary Amenities Plan

Mrs. Walls advised the Commission that this application is for approval of the Preliminary Amenities Plan for the Tidewater Landing Subdivision consisting of a pool, clubhouse, tennis court, and tot lot. The clubhouse and pool were originally shown on the Final Subdivision Plan approved on August 18, 2016. The site plan complies with County Code. The property is located off of Robinsonville Road and is zoned AR-1 and is a cluster subdivision. The tax parcel is 234-6.00-90.00. Staff is in receipt of all agency approvals.

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to approve the preliminary amenities plan and as a final site plan. Motion carried 5-0.

Midway Hotel

Revised Preliminary Site Plan

Mrs. Walls advised the Commission that this is a revised preliminary site plan for the construction of a 4 story hotel with 93 rooms and a 120 space parking lot. County Code requires 142 parking spaces. The applicant is requesting a modification of the required parking in accordance with Section 115-164. Preliminary approval was previously granted on May 26, 2016 for 85 rooms and 130 parking spaces. The property is zoned C-1 General Commercial and also is located within the Combined Highway Corridor Overlay Zone (CHCOZ) and the ES-1 (Environmentally Sensitive Development District Overlay Zone). The tax parcel is 334-6.00-144.01. Staff is awaiting approvals from the appropriate agencies.

There was discussion regarding the parking lot; that the Commission recognized that Mr. James Fuqua was present on behalf of the application and stated that this hotel just has rooms and no

conference center; that other jurisdictions have parking requirements one car per motel room; that the number of parking spaces provided is sufficient for the use as a hotel.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried with four (4) votes to approve the revised preliminary site plan with final site plan approval to be by the Planning Commission upon receipt of all agency approval and grant the parking waiver. Motion carried 4-1. Ms. Stevenson voted no.

Allen Harim

Revised Site Plan

Mrs. Walls advised the Commission that this is a revised site plan for construction of a hatchery addition, pump house and screen room for Allen Harim located off 9 Foot Rd (RT 26). The property is zoned LI-2 (Limited Industrial District). The tax parcel is 233-10.00-78.00. Staff is awaiting DelDOT approval.

Motion by Mr. Wheatley, seconded by Ms. Stevenson, and carried unanimously to approve the revised site plan with the final site plan approval subject to staff upon receipt of DelDOT entrance approval. Motion carried 5-0.

Governor's (CU 1772)

Amend Conditions of Approval

Mr. Whitehouse advised the Commission that this is a request to amend Condition #8 for Governor's (CU 1772), a 423-unit development to be located off Gills Neck Road. The Planning Commission approved the revised preliminary site plan on March 23, 2017. The developer has requested to amend Condition 8 that requires a continuous landscape buffer be placed around the perimeter of the site. The applicant requests to revise the condition to the following:

"The entire perimeter, excluding areas that are adjacent to a stormwater management pond, shall be surrounded by a 30-ft vegetated buffer. The vegetation to be included in this buffer shall be shown on the landscape plan submitted as part of the final site plan review."

The property is zoned AR-1 and the tax parcel is 335-12.00-3.11.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the amended condition to state the entire perimeter excluding areas that are adjacent to the stormwater management pond shall be surrounded by a 30 foot vegetated buffer. The vegetation to be included in this buffer should be shown on the landscape plan submitted as part of the final site plan review. Motion carried 5-0.

Meeting adjourned at 10:20 p.m.