

MINUTES OF THE REGULAR MEETING OF DECEMBER 11, 2014

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 11, 2014 in the County Council Chambers, Sussex 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. Michael Johnson, Mr. Rodney Smith, Mr. I.G. Burton, III, and Mr. Marty Ross with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence B. Lank – Director, and Shane Abbott – Assistant Director.

Mr. Lank advised the Commission that Stockley Materials, LLC under Other Business has been removed from the Agenda.

There was a consensus of the Commission to reverse the order of the two public hearings.

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

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of November 13, 2014 as corrected. Motion carried 5 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson and carried unanimously to approve the Minutes of November 20, 2014 as corrected. Motion carried 5 – 0.

OLD BUSINESS

**Conditional Use #1998 Todd Fisher**

Application of **TODD FISHER** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a self-storage facility to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 3.74 acres, more or less, land lying northwest of Old Mill Road (Road 265-A) 300 feet northeast of Route One (911 Address: 16542 Old Mill Road, Lewes, DE) (Tax Map I.D. # 3-34-1.00-15.02/15,04).

The Chairman referred back to this application, which has been deferred since October 23, 2014.

The Commission discussed this application under Old Business.

Mr. Burton stated that he would move that the Commission recommend denial of C/U #1998 for Todd Fisher for a conditional use for a mini-storage facility based upon the record made during the public hearing and for the following reasons:

1. This location is not suitable for a mini-storage facility. While there are some commercially used properties adjacent to this street, those properties have primary frontage on Route 1.
2. A conditional use of this type, which is essentially in the form of warehousing, is not appropriate for this location. The property is currently zoned AR-1 Agricultural Residential and the use of all adjacent properties and nearby properties, except those with

frontage on Route 1, is residential. The conversion of this property to a warehousing use is not compatible with the predominantly residential nature of this neighborhood and the residential roadways.

3. As many people testified during the public hearing, the intersection of Old Mill Road and Route 1 is already a dangerous intersection. Old Mill Road intersects with Route 1 and Nassau Road at the base of the Route 1 Nassau Bridge and is directly in line with the New Road/Nassau Road yield lane only Route 1. Residents of the surrounding neighborhood testified that it is currently dangerous to leave Old Mill Road for access to Route 1 given the high speeds of traffic coming off of the Nassau Bridge at the same time as crossing traffic accelerating from New Road into Route 1 traffic.
4. Four (4) large box-like warehouse buildings are not appropriate for this site and are out of character with the residential setting of Old Mill Road.
5. A conditional use such as this is more appropriate for property that has direct frontage onto an arterial road where other commercial and business uses exist.
6. More than 30 individuals, including residents of the surrounding neighborhood, appeared in opposition to the application. A petition signed by 50 people was entered into the record. There were also 55 letters received by the County in opposition to the application. Reasons for the opposition included inconsistency with the homes in the community, the size of the facility, the volume of traffic, safety concerns, personal safety, devaluation of residential properties, and other reasons.
7. While the property previously had a conditional use for a tennis center, that use is much different from mini-storage warehouse buildings. Unlike the mini-storage facility, tennis facilities are often incorporated into residential uses and developments and are an amenity or activity for the surrounding residential properties. The multi-story warehouse structures proposed as part of this conditional use are neither compatible nor integrated into the residential properties along Old Mill Road.
8. In summary, this site, along this residential road, is not appropriate for the proposed mini-storage conditional use.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to forward this application to the Sussex County Council with the recommendation that this application be denied for the reasons stated. Motion carried 5 – 0.

### **Conditional Use #2000 Jovid Venture, LLC**

Application of **JOVID VENTURE, LLC** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a facility for wedding ceremonies and receptions to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.683 acres, more or less, land lying at the southwest corner of Warrington Road (Road 275) and Old Landing Road (Road 274) (911 Address: 35060 Warrington Road, Rehoboth Beach, DE) (Tax Map I.D. # 3-34-12.00-121.00).

The Chairman referred back to this application, which has been deferred since November 13, 2014.

The Commission discussed this application under Old Business.

Mr. Johnson stated that he would move that the Commission recommend approval of C/U #2000 for Jovid Ventures, LLC for a facility for wedding ceremonies and receptions based upon the record made during the public hearing and for the following reasons:

1. The site is currently approved for use for a bed and breakfast. The owners are seeking to have weddings on the site as part of the bed and breakfast operation.
2. The use will be limited in scope, and will not require any additional permanent structures on the property.
3. The use of the site for outdoor weddings and receptions on a limited basis is not inconsistent with the surrounding residential uses.
4. With the conditions and limitations placed upon the conditional use, it will not adversely affect neighboring or adjacent properties or area roadways.
5. Several neighboring property owners appeared in support of the application.
6. The use is a benefit to Sussex County residents and visitors by providing an affordable location for wedding receptions in a convenient area near hotels, shopping and restaurants.
7. This recommendation is subject to the following conditions:
  - A. No more than 25 events per year shall occur. “Events” shall include activities occurring over more than one day if they are for the benefit of the same host/guest/client (for example, a rehearsal dinner on Friday, wedding on Saturday, and a Sunday brunch, all count as a single event). If a tent is required for the event, tent setup may occur two (2) business days prior to the event and removal must occur within two (2) business days after the event.
  - B. No more than 125 guests (not including staff) shall be permitted at any event.
  - C. All events shall conclude no later than 10:00 p.m. on Fridays and Saturdays. Events held on Sundays through Thursdays shall conclude no later than 9:00 p.m.
  - D. Music or similar entertainment is permitted. The area set aside for a stage location shall be generally shown on the Final Site Plan.
  - E. Portable toilet facilities may be permitted during any event as needed. They must be delivered no more than two (2) days prior to the event and removed no later than two (2) days after the event. The general location of the portable toilets must be shown on the Final Site Plan, and the location must be screened from view of neighboring properties and roadways.

- F. Subject to the Final Site Plan approval, at least 12 parking spaces shall be shown on the Final Site Plan and clearly marked on the site itself. No parking shall be permitted along Warrington Road or Old Landing Road.
- G. No drop-offs or pickups of guests or staff shall occur on either Old Landing Road or Warrington Road. All vehicles must be required to pull into the site. No vehicles shall be permitted to back out onto Old Landing Road or Warrington Road.
- H. The interior drive and parking area shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.
- I. All entrance locations shall be subject to the review and approval of DelDOT.
- J. To insure that traffic and associated parking with the events are not adversely affecting area roadways or the community, this use and its site plan shall reviewed by the Planning and Zoning Commission five (5) years after Final Site Plan approval is granted.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Johnson, seconded by 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 and with the conditions stated. Motion carried 5 – 0.

**Conditional Use #2001 Christina Abramowicz**

Application of **CHRISTINA ABRAMOWICZ** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a veterinary practice to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 32,671 square feet, more or less, land lying southeast of Old Mill Road (Road 265-A), 1,900 feet northeast of Route One (Coastal Highway) (911 Address: 16403 Old Mill Road, Lewes, DE) (Tax Map I.D. # 3-34-1.00-23.00).

The Chairman referred back to this application, which has been deferred since November 13, 2014.

The Commission discussed this application.

Mr. Burton stated that he would move that the Commission recommend denial of Conditional Use #2001 for Christina Abramowicz for a veterinary practice based upon the record made during the public hearing and for the following reasons:

1. The site is located within an entirely residential location. The proposed use is inconsistent with the residential surroundings.
2. He does not want to start a trend of small businesses locating in this otherwise residential neighborhood. There are other locations for small businesses with the possibility of

expansion on properties that are more appropriate for business uses or are already zoned for business use.

3. Many parties from the neighborhood appeared in opposition to the Conditional Use expressing concerns about the traffic generated by it, the incompatibility with the neighborhood, concerns about the number of animals that could be seen at the facility being incompatible with the residential area; concerns about the property losing its appearance as a residential structure within the otherwise residential neighborhood; and other issues. During the public hearing, 17 people were present in opposition to the application from the neighborhood. While there were people on the record in favor of the application, none of them were from the residential neighborhood surrounding the site.
4. While this could be a home occupation that does not require a conditional use, the information in the record does not clearly support that possibility. For example, the Applicant stated that she has an intern working with her which is not permitted as a home occupation. Also, based upon the Applicant's plans for the property, it was unclear whether she intended to reside there full time. The information that was provided about the Applicant's business plan was also unclear, with the possibility of business growth and expansion exceeding what is permitted as a home occupation.
5. To summarize, he is concerned that the approval of a Conditional Use for a veterinary practice at this site, even with conditions, would create problems in this residential neighborhood. Even if the Commission imposed restrictive conditions on the use, it would lead to future problems as a veterinary practice becomes more popular and expands. It is more appropriate for this use to be started in an appropriate location from the beginning, where it can reasonably expand under appropriate zoning and a location that is suitable to future expansion.

Mr. Johnson stated that this application differs from some applications; there is a volunteer student intern, who is not paid; the lot is not in a subdivision; the lot fronts a public street; the use should qualify as a home occupation since the applicant is residing there and there are no employees; the use should be a low impact since there are no housed animals, and since it is a residential use.

Mr. Robertson advised the Commission that the definition of a home occupation references that the use shall be operated solely by a member or members of a family residing on the premise.

Mr. Smith agreed with Mr. Burton's comments.

Mr. Ross agreed that the Code must be complied with.

Mr. Wheatley agreed with Mr. Johnson's reference that the use could be considered as a home occupation, and also agreed with Mr. Burton that the Commission has had a long standing policy that conditional uses are not typically approved in subdivisions.

Motion by Mr. Burton, seconded by Mr. Smith, 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 3 – 2, with Mr. Johnson and Mr. Wheatley opposing the motion.

**Conditional Use #2002 Beach Bum Distilling, c/o I3A**

Application of **BEACH BUM DISTILLING, C/O I3A** to consider the Conditional Use of land in a C-1 General Commercial District for a distillery with tours/tasting/retail to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 24,523 square feet, more or less, land lying at the southeast corner of Nassau Road (Route 14) and New Road (Road 266) (911 Address: 32191 Nassau Road, Lewes, DE) (Tax Map I.D. # 3-34-5.00-74.01).

The Chairman referred back to this application, which has been deferred since November 20, 2014.

The Commission discussed this application.

Mr. Burton stated that he would move that the Commission recommend approval of C/U #2002 for Beach Bum Distilling for a distillery with tours, tastings and retail sales based upon the record made during the public hearing and for the following reasons:

1. The location of the site is zoned C-1 General Commercial. The C-1 Zoning District is appropriate for this type of use and the conditional use.
2. The Conditional Use will be on a small scale as proposed by the Applicant and will be housed within an existing building on the site.
3. The proposed Conditional Use will not adversely impact neighboring or adjacent properties or uses, and several letters were received by the County supporting the proposal. There was also testimony that the use as a small distillery would enhance the other uses that currently exist at this corner of New Road and Nassau Road.
4. No parties appeared in opposition to the proposed Conditional Use.
5. This recommendation for approval is subject to the following conditions:
  - A. The use shall be limited to a distillery with tours, tasting and retail sales to be located within the existing building on the site.
  - B. The proposed use shall comply with all parking requirements associated with it. The parking required by Sussex County Code shall be clearly depicted on the Final Site Plan.
  - C. The Final Site Plan shall clearly show the location for all shipping deliveries associated with the use. The location shall be placed so that it does not interfere with neighboring roadways or parking for this use or other uses on the property.

- D. As stated by the Applicant’s representative, there shall be no on-premises sales of alcoholic beverages, but tastings will be permitted. All sales shall be for off-premises consumption only.
- E. Only alcoholic beverages distilled on the site can be sold at the site.
- F. The use shall comply with all requirements of the State and County for distillery operations, including requirements of the Sussex County Engineering Department regarding wastewater collection, conveyance and disposal associated with the process.
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. 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 5 – 0.

#### PUBLIC HEARINGS

##### **Subdivision #2014 – 6 James Swann**

Application of **JAMES SWANN** to consider the Subdivision of land in an AR-1 Agricultural Residential Zoning District in Baltimore Hundred, Sussex County, by dividing 3.40 acres into 5 lots, and a waiver from the forested buffer requirements, located on the northeast and northwest corner of the intersection of Cygnet Drive, within Swann Estates and Route 20 (Zion Church Road) (Tax Map I.D. # 5-33-12.00-297.00 and 364.00).

Mr. Abbott advised the Commission that the Commission reviewed this item as an Other Business item on July 24, 2014 and determined that an application for a major subdivision should be required; that the Technical Advisory Committee did not review this application since access to the proposed lots will be from Cygnet Drive within Swann Estates which is already constructed; that the two subject sites were labeled as reserved for future development on the Swann Estates record plan recorded in Plot Book 37 Page 5; and that Lot E needs to be revised to have a minimum 150 lot width along Route 20.

The Commission found that the Sussex Conservation District had provided comments in the form of a memorandum, referencing that the site has three soil types; that the applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation after construction; that no storm flood hazard area is affected; that it would not be likely for any off-site drainage improvements; that it is possible that it will be necessary for on-site drainage improvements; and that no tax ditch is affected.

The Commission found that the County Engineering Department Utility Planning Division had provided comments in the form of a memorandum referencing that the site is located in the Johnson’s Corner Sanitary Sewer District; that wastewater capacity is available; that Ordinance No. 38 construction is required; that there are not any System Connection Charge credits available; that additional System Connection Charges will be required; that the current System

Connection Charge Rate is \$5,500.00 per EDU; that gravity sewer is available in Cygnet Drive; that conformity to the Johnson's Corner Sanitary Sewer District Preliminary Engineering Report will be required; that connection to the system is mandatory; that the Sussex County Engineer must approve the connection points; that an extension of gravity sewer and installation of sewer laterals at the developer's expense will be required; and that a sewer concept plan must be approved prior to any sewer construction.

The Commission found that James Swann and Pete Loewenstein, Surveyor, were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that the County has provided central sewer to the area through the Johnson's Corner Sanitary Sewer District; that the County has served the sites with 8 inch sewer laterals; that the proposed lots exceed 0.50 acre and are in keeping with the existing lots located in Swann Estates; that no commercial uses will be permitted; that the applicant maintains the subject sites; that when the original Swann Estates plan was approved, these areas did not perk for on-site septic systems; that the sites were reserved for future development; that all of the lots in Swann Estates have been sold; that on site wells are proposed; that the applicant has no plans for a school bus stop since there are not many children that reside in the development; that the easement across Lot D is for utilities to serve Lot E; that the proposed lots will become a part of the Swann Estates Homeowners' Association; that a buffer would be out of character with the existing Swann Estates subdivision; and that DelDOT has conceptually approved the plan.

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

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

Mr. Smith stated that he would move that the Commission grant preliminary approval of Subdivision #2014 – 6 for James Swann, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 5 lots on 3.40 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values. It is also an expansion of the existing Swann Estates subdivision.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. A waiver from the buffer is appropriate in this case, since no trees presently exist on the site and since this is an expansion of an existing subdivision without buffers.
7. This preliminary approval is subject to the following conditions:
  - A. There shall be no more than 5 lots within the subdivision.



- B. The subdivision shall comply with all Sussex County Engineering Department requirements regarding sewer connections to the subdivision.
- C. All entrance shall comply with all of DelDOT's requirements.
- D. Lot E must be revised so that it has 150 feet of frontage on State Route 20. This must be corrected on the Final Site Plan.
- E. The 20 foot utility easement across Parcel D shall be clearly marked on that Lot so that there is no interference with the utilities.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve this application as a preliminary, for the reasons, and with the conditions stated. Motion carried 5 – 0.

**Subdivision #2013 – 4 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 108.75 acres into 69 lots (Environmentally Sensitive Developing District Overlay Zone), located northwesterly of Canary Creek Subdivision, approximately 400 feet northwest of Park Road (Tax Map I.D. # 3-35-7.00-part of 1.00).

Mr. Abbott advised the Commission that this application was filed with the County on April 8, 2013; that the applicants considered annexation into the City of Lewes; that on September 30, 2014 the applicants advised the County that they have withdrawn their request for annexation into the City of Lewes and wish for this application to proceed through the County process; that the Technical Advisory Committee Report of June 14, 2013 is a part of the record for this application; that the applicants submitted an Exhibit Booklet into the record on December 1, 2014; that the Commission was previously provided a copy of a letter and an adopted resolution from the City of Lewes; and provided the Commission with a letter in support of this application and copies of seventeen letters in opposition to this application.

The Commission found that Nick Hammonds of Lack Lingo Asset Management, LLC, Gene Bayard, Esquire, and Ring Lardner, P.E., with Davis, Bowen & Friedel, Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that since 1965 the subject site has been known as the Ritter Farm; that the Hercules Company, a Fortune 500 company, once owned the property and had intentions of developing it as an industrial port prior to the Coastal Zone Act being adopted in the early 1970's; that Sussex County Council eventually owned the property; that the County found that the site was not suitable for a planned regional wastewater site and sold the property to the existing owners who have farmed the property since acquiring it; that the site proposes 69 lots on 35 upland acres; that the site is adjacent to the existing 102 lot Canary Creek development; that the site is surrounded by The Reserves at Pilottown, Pilottown Park, the University of Delaware College of Marine Studies, the Roosevelt Inlet and the Delaware Bay; that the application was filed with the County in April of 2013; that the developers were approached by the City of Lewes to try to develop the project through the City of Lewes; that the applicants have spent over two years going through the City of Lewes annexation process and the subdivision process; that during the annexation process, the applicants received a favorable response and was granted

a preliminary consent approval in August of 2014; that the developers found out that an amendment would be necessary to the City of Lewes's Comprehensive Plan and later withdrew their request for annexation into the City; that if they continued their request with the City of Lewes, it would take three to four years to obtain final approval; that the developers determined that the County's process is quicker; that the preliminary plan before the Commission is the same plan that received preliminary approval from the City of Lewes; that the developers have met with the State Historic Preservation Office about potential archaeological sites on the property; that a Phase 1 Environmental Assessment of the site revealed no prehistoric or historic findings; that the study was performed by Dr. Edward Otter; that if any findings are discovered they will be reported to the State; that the applicants have gone through the State's PLUS process two times and has responded to the comments; that the adjoining Canary Creek development supports the application with certain conditions being attached to it; that the entire site contains 108.75 acres with 70.5 acres being wetlands; that the wetlands have been delineated and approved by the Army Corps of Engineers; that their jurisdictional determination is found in Exhibit #11 of the Exhibit Book; that the project will not impact the City of Lewes' groundwater recharge area; that the site is located on a good groundwater recharge area; that the site contains over 75 acres of woodlands and that the applicants intend to preserve the wooded areas; that there are no threatened or endangered species on the site according to the report found in Exhibit #14 of the Exhibit Book' that a 50 foot buffer is proposed from all non-tidal wetlands; that the topography of the site will range from 2 to 12 feet; that this will be the developable area of the site; that the City of Lewes' wastewater treatment facility is at elevation four feet; that the elevation for the open areas will range from 2 to 6 feet and the elevations of the homes will range from 8 to 12 feet which is the same as other developments in the area; that the project was designed using the cluster design ordinance; that all wetlands will be a non-disturbance area; that a 50 foot buffer is proposed from Canary Creek; that over 30% of the site is open space; that all lots exceed the minimum requirement of 7,500 square feet; that the streets within the project will be private and sidewalks will be installed on both sides of all streets; that a swimming pool and pool house are proposed; that sewer, water and electricity will be provided by the Lewes Board of Public Works; that the restrictive covenants include one foot of freeboard for all dwellings; that the project exceeds all FEMA regulations; that a traffic impact study has been completed and reviewed by DeIDOT; that improvements will be required to Park Road; that there is a 20 foot buffer around the perimeter of the project; that the Exhibit Book contains the applicant's response to the PLUS comments; that the items referenced in Section 99-9C of the Subdivision Code have been addressed and are found in Exhibit #5 of the Exhibit Book; that the required Environmental Assessment and Public Facility Evaluation Report is found in Exhibit #7 of the Exhibit Book; that the applicants have addressed the Environmentally Sensitive Developing District Overlay Zone Ordinance; that the Canary Creek development was basically the same as this application; that approval of the development will positively impact the area through transfer taxes, property taxes, inspection fees and permits and usage fees; that the development will not have any negative impacts on the local school district as most buyers will be retirees or second home owners; that approximately 3% of the Lewes residents have school aged children; that the perimeter lots will abut wetlands, interior lots will abut ponds, and the remaining lots will abut buffers; that the lots will start in the \$600,000 price range; that there is a market

demand at this time; that Canary Creek homes start at \$400,000; that the developers sold 124 lots last year in the Senators development; that the developers can meet all suggestions made by the City of Lewes except for an interconnection road with the Canary Creek development; that the residents of Canary Creek do not want an interconnection provided; that an interconnection to Canary Creek may be an illegal amendment to their site plan; that the project is consistent with the State's Strategies for Spending, the Comprehensive Land Use Plan and the Subdivision and Zoning Codes; that the site is in a Level 1 and 3 investment area; that the preliminary plan is the same as what the City of Lewes approved; that the Exhibit Book contains findings of fact and conditions for preliminary approval; that a proposed man made swale will drain to the south to the Great Marsh; that the proposed swale will be located on the Harbor Point side of the buffer; that some fill will be required in the middle of the site; that the wetlands can be marked by appropriate markers; that Park Road is part of a public road regulated by the DNREC Parks and Recreation; that the applicants have had discussions with DNREC; that Park Road will be constructed to DelDOT standards; that the City of Lewes has similar requirements as Section 99-9C; that 16 of the 17 standards have been favorably addressed; that the developers or property owners could apply to FEMA for Letters of Map Amendment; that sea level rise will impact the proposed development as it will impact the City of Lewes; that the State of Delaware has no regulations to sea level rise at this time; that all homes will be constructed with 1 foot of free board; that the City of Lewes' height requirement is 35 feet and the County's is 42 feet; that the developers have no plans to annex into Lewes if approval is granted from the County; that the project will be beneficial to the City of Lewes Board of Public Works; that the City of Lewes requires wider streets than the County specifications; that the paved streets will be 22 feet in width with sidewalks located in the right of way; that rolled curb will be used; that each dwelling will have 2 off street parking spaces; and that on-street parking is not permitted.

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

The Commission found that Richard Moore, Maryann Ennis, Janice Pinto, Jerry Lechliter, Bill Landon, Seth Price and David Ennis, all Lewes area residents, were present in opposition to this application and stated in their presentations that the applicants have not addressed economic liability; that there is only one road out of the proposed development; that due to the elevations of the site, there is cause for flooding concerns; that sea level rise is an issue; that all of Lewes will be impacted by this development; that there will be negative impacts to the Great Marsh; that not all of the PLUS comments have been adequately addressed; that the project will be harmful to wildlife habitat and wetlands; that storm surges could impact the development; that the development is in an inappropriate location; that the City of Lewes Board of Public Works will not serve the project if the project is not located in the City's limits; that DNREC has no authority to approve improvements to Park Road; that the Comprehensive Plan calls for the protection of open space and farmland; that the development violates the City of Lewes' Comprehensive Land Use Plan; that New Road is an evacuation route; that there are mostly farms along New Road; that there could be hydrostatic pressure concerns; that the project will have negative impacts to the citizens of Lewes; that they were not given the complete file to review; that a sign was not posted on the site giving public notice(NOTE: the file contains a photograph of the sign at the site); that they believe that the parcel number on the application is

incorrect (NOTE: the parcel number is correct based on the date that the application was filed); that legal decisions will be made in the future; that the State Historic Preservation Office has requested additional information; that the project should be required to go through the PLUS process again since it a new application; that 7,500 square foot lots are out of character with the area; that there is flooding along New Road; that New Road has no shoulders; that the plan is different than what was submitted to the City of Lewes; that the City of Lewes will receive revenue either way; that the headwaters of Canary Creek are located behind the Wawa on the west side of Route One; that upstream development has caused problems in the area; that archaeological concerns require further investigations; that a new PLUS review should be required; and submitted written comments and photographs into the record.

The Commission found by a show of hands, that 16 people were present in opposition to this application.

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

Motion by Mr. Burton, seconded by Mr. Johnson and carried unanimously to leave the record open for a copy of the Applicant's response to the June 2014 PLUS letter. The record shall also be held open for the clarification from the Office of State Planning Coordination as to whether the current plan is required to go through the PLUS comment process again. If the Office of State Planning requires additional PLUS review, the record shall remain open for that process, plus 20 additional days for public comment. The Delaware State Historic Preservation Office shall be allowed to submit any additional comments during this time period. Motion carried 5 – 0.

#### OTHER BUSINESS

##### **Savannah Road Professional Center CU #1801 Amended Condition**

Mr. Abbott advised the Commission that this item has been deferred since September 25, 2014; that this is a request to amend the condition of approval that limits the one permitted sign on the premises not to exceed 32 square feet on each side; that this conditional use was approved on June 7, 2011; that on November 19, 2009 the Commission recommended that the application be approved; that the applicant is requesting that the condition be amended to permit 78.3 square feet per side sign on the site; that since the condition originated with the Commission, the Commission may amend/modify the condition if it so chooses; and that the Commission was previously provided a copy of a letter from the applicant, a rendering of the proposed sign, and pictures of other signs along Savannah Road.

Heidi Gilmore, Attorney, was present and advised the Commission that her client has submitted photographs of other signs along Savannah Road; that the signs in the area range in size from 72 square feet to 312 square feet; that her client is requesting that he be permitted to erect a 112 square foot sign per side; that the photographs of the signs along Savannah Road are for conditional use applications; that no signs that are on C-1 zoned lands were measured; that AR-1 districts permit up to 3 - 32 square foot signs; that if conditional uses are not conditioned, signs would be able to meet the B-1 and C – 1 sign sizes; and that the proposed sign would not be out of character with the area.

Mr. Johnson advised the Commission that Savannah Road is a scenic by-way and that the size of the sign should not change.

Motion by Mr. Burton, seconded by Mr. Ross, and carried 3 votes to 2 with Mr. Johnson and Mr. Smith opposed, to amend the condition of approval are requested. Motion carried 3 – 2.

**Stockley Materials**  
**CU #1770 Amended Condition**

This item was removed from the Agenda on December 5, 2014 and will be placed on the January 8, 2015 Agenda.

**Holland Mills Subdivision**  
**Request to Delete Sidewalks**

Mr. Abbott advised the Commission that this is a request to delete the sidewalks within this subdivision; that the Commission granted preliminary approval on November 9, 2005; that sidewalks were not a part of the conditions of approval; that the Commission granted final approval on July 26, 2007 at which time the applicant proffered the sidewalks on one side of all streets; and that the Commission was previously provided a copy of a letter from the developer and documentation from property owners within the development agreeing with the request.

The Commission discussed the request and questioned if all of the residents are in agreement with the removal of the sidewalks; that approximately 30 owners have signed the agreement and that they are all dated the same date; and that the number of times that developers keep coming back asking for items to be amended or deleted is a concern.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to deny the request. Motion carried 5 – 0.

**Sawgrass at White Oak Creek North MR/RPC**  
**Request to Delete Cart Path**

This is a request to delete a proposed cart path across Lot 85 within the development; the cart path was proffered on the final site plan; that the cart path would have connected to the adjoining Kings Creek Country Club provided that permits could have been obtained from the Corps of Engineers and the State since the path would have crossed both Federal and State tidal wetlands; and that the Commission was previously provided a copy of the proposed plan.

Mike Cotton, P.E., advised the Commission that the depth of some of the lots has also been increased.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to approve the request. Motion carried 5 – 0.

**Inland Bays Community  
CU #1850 Site Plan – Road 360**

Mr. Abbott advised the Commission that this is a preliminary site plan for 48 multi-family units located on 11.96 acres; that the site is zoned MR - Medium Density Residential and this conditional use was approved on September 14, 2010 with 19 conditions of approval; that this approval is valid until January 1, 2016; that the conditions of approval are noted and depicted on the site plan; that 48 units are proposed within 8 buildings; that the setbacks, building lengths and building separations meet the minimum requirements of the zoning code; that a swimming pool and pool house are proposed; that 149 parking spaces are proposed; that a dumpster pad site is located approximately 20 feet from the front property line which the Commission may want to be relocated; that the project will be served by central sewer and water; that the site is located in X and AE-6 Flood Zones; that there is not any disturbance to the wetlands; 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.

Mr. Johnson questioned if sidewalks are proposed.

James Fuqua, Attorney, advised the Commission that sidewalks are not proposed nor were they a condition of approval; and that the dumpsters will be screened from neighboring properties and roadways.

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

**Blue Bird Lane Warehouse  
Commercial Site Plan – Blue Bird Lane**

Mr. Abbott advised the Commission that this is a preliminary site plan for a 2-story building located on 0.38 acres that is zoned C-1; that the first floor is a 3,360 square foot warehouse and the second story is a 3,360 square foot office; that the setbacks meet the minimum requirements of the Zoning Code; that 21 parking spaces are required and provided; that central water will be provided by the City of Rehoboth and central sewer will be provided by Sussex County; that the site is not located in a flood zone and there are not any wetlands on the site; 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. 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 Planning and Zoning staff receiving all agency approvals. Motion carried 5 – 0.

**Ocean Way Estates Subdivision  
Request to Install Gates**

Mr. Abbott advised the Commission that this item has been deferred since September 25, 2014; that this is a request to allow for 2 manual gates and an electronic gate to remain within this subdivision; that the Commission was previously provided documentation from the applicant's attorney explaining this request; and that the Commission was provided with three additional letters from the applicant's attorney.

Tim Willard, Attorney, was present and advised the Commission that the local fire department, EMS and other emergency responders have provided documentation that they are not opposed to the gates remaining, that all emergency responders defer to the State Fire Marshal Office for approval; that he will meet with the local fire department and then submit the plans to the Office of the State Fire Marshal for approval.

Mr. Robertson advised the Commission that if the Commission approves the concept, a revised plan will need to be submitted to the Commission for approval.

Motion by Mr. Smith, seconded by Mr. Burton, and carried unanimously to approve the request as a concept. Motion carried 5 – 0.

**Bay Forest Club MR/RPC  
Preliminary Site Plan – Phase 5.2 Marina**

Mr. Abbott advised the Commission that this item was deferred at the November 20, 2014 meeting for further consideration; that the Commission has been provided a copy of a revised plan addressing concerns that were raised at the November 20, 2014 meeting; that the revised plan incorporates a dry fire hydrant and locking steel pipe bollard at the top of the boat ramp; that a Knox box has also been added for access by the local fire department and to restrict access to the boat ramp; that with these 2 exceptions, the site plan is the same that was reviewed at the November 20, 2014 meeting; and that the discussion of the November 20, 2014 meeting will be made a part of the record for this item.

Mr. Smith advised the Commission that the revised plan has addressed his concerns and that the local fire department requested the boat ramp.

Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to approve the site plan as a preliminary. Motion carried 5 – 0.

Meeting adjourned at 9:45 p.m.