

MINUTES OF THE REGULAR MEETING OF SEPTEMBER 12, 2013

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, September 12, 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 Revised Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Minutes of August 22, 2013 as corrected. Motion carried 5 – 0.

OLD BUSINESS

Conditional Use #1965 Southern Delaware Botanic Gardens, Inc.

Application of **SOUTHERN DELAWARE BOTANIC GARDENS, INC.** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for botanic gardens and related visitor center, conservatory, theater, nature center and parking, to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 36.99 acres, more or less, lying south of Piney Neck Road (Road 336) 0.5 mile west of Bunting Road (Road 225) (Tax Map I.D. 2-33-6.00-116.10).

The Chairman referred back to this application, which has been deferred since July 11, 2013.

It was noted that the Commission was provided the PLUS comments on August 22, 2013.

Mr. Smith stated that he would move that the Commission recommend approval of Conditional Use No. 1965 for Southern Delaware Botanic Gardens, Inc. to operate a Botanic Gardens and related visitors center, conservatory, theater and nature center based on the record made during the public hearing and for the following reasons:

- 1) The site is zoned AR-1 Agricultural Residential. The use as a botanic garden is compatible with the underlying agricultural zoning of the property.
- 2) The site is in the Environmentally Sensitive Developing District Overlay Zone, and the use for public gardens and environmental education is appropriate for this zone.
- 3) The intended use will be served by central sewer as part of the County's Dagsboro/Frankford Sanitary Sewer District.
- 4) The proposed use is an appropriate conditional use since it has a public character; it protects the natural, cultural, agricultural and recreational resources through inspirational, educational, and sustainable public gardens for the benefit and enjoyment of the public.

- 5) The use will have little or no impact on traffic or the nearby roadways. It will also not have an adverse impact on neighboring or adjacent properties.
- 6) The proposed use meets the purpose of the Zoning Code in that it promotes the orderly growth, convenience, order, prosperity and welfare of the County.
- 7) No parties appeared in opposition to this application.
- 8) This recommendation for approval is, however, subject to the following conditions:
 - a. The site shall be surrounded by a landscaped berm and heavy vegetation to screen it from neighboring properties. The location of the berm and the type of vegetation on the berm shall be shown on the Final Site Plan.
 - b. The hours of public access to the operation shall be Monday through Sunday, 8:00 a.m. to dusk, with the exception of 11:00 p.m. closing times as appropriate for special events.
 - c. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - d. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - e. All entrances, intersections, roadway improvements, etc. as required by DeIDOT shall be completed by the applicant as required by DeIDOT.
 - f. All parking shall comply with the requirements set forth in the Sussex County Zoning Code, with all necessary parking contained completely on the site.
 - g. Stormwater management and erosion and sediment control shall be constructed in accordance with all applicable State and County requirements and shall be operated using best management practices to provide a positive groundwater recharge. The Final Site Plan shall contain the approval of the Sussex Conservation District.
 - h. The applicant stated during its presentation that the use would be funded through Federal, State and County funding sources. As part of any approval, Sussex County Council should consider a statement that the approval of the Conditional Use Ordinance should not be deemed by the applicant to be a commitment to financial support by Sussex County.
 - i. Any major change in this use shall require a new public hearing.
 - j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Smith, seconded by Mr. Ross, 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 #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.

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

PUBLIC HEARINGS

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 Commission found that the Applicant provided surveys/site plans with his application when it was submitted on June 28, 2013.

The Commission found that DelDOT provided comments in the form of a memorandum on June 12, 2013 which state that a Traffic Impact Study is not recommended, and that the existing Level of Service “A” for Rider Road (Road 505) and Shockley Road (Road 506) will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on September 11, 2013 which state that the site is located in the Western Sussex Planning Area #4; that an individual on-site septic system is proposed; that conformity to the Western Sussex Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; and that a concept plan is not required.

The Commission found that Ray Baker was present and stated in his presentation and in response to questions raised by the Commission that his mission is to capitalize on newly enacted Delaware Laws aimed at the micro-distillery business; that he will be using select grains and fruits from Delaware growers; that the County has every ingredient required to produce the product; that he wants to create a responsible and respectable product line that is crafted for the mature connoisseur of hand crafted spirits; that Plant #1 will house all aspects of the five year business model, i.e. manufacturing, finishing, barrel aging, packaging, and shipping; that while the new laws allow for the public to visit the facility for tastings, the manufacturing facility does not accommodate taking advantage of this option for public tastings; that Plant #1 will concentrate only on creating a flagship brand and is expected to take two (2) years; that no new road construction is required for entrances; that increased UPS deliveries are expected to increase by about two (2) per week; that ingredient deliveries will be by standard passenger trucks; that start-up materials will be purchased from local suppliers in 50 pound sacks where possible; that grains will be purchased directly from farmers when possible; that season permitting, fruits will be purchased directly from local orchards; that for waste management, waste streams of grains will be sold as livestock supplements directly to local livestock farmers; that there is no intent to press fruits in Plant #1, which will reduce the waste generation and disposal costs; that processed cooling water will be collected in dedicated closed systems and

recirculated; that processed waste water will be collected and treated off-site by a third party; that the third party has not yet been identified; that in order for a third party to access the waste stream, a representative sample must be supplied for testing; that until all licenses are obtained and permission to operate has been granted representative samples cannot be generated; that the distilling process at Plant #1 will use an immersion heater to heat the product up to vaporization temperatures; that distillation columns have 3/8” atmospheric vents which will vent vapors from the room; that current projections are that the distillery will generate \$203,196.00 in new revenue from assumed taxes for the State of Delaware; that his proposal will utilize four (4) 26-gallon stills; that he has no intent to allow public access for tasting; that he has no intent to mash fruits on site, so he will be utilizing locally produced fruit juices; that he will be residing on the premises; that each building will have double locked doors; that he does not object to fencing the buildings utilized for the distilling and storage; that he has no plans for any employees in Plant #1; that delivery and pickup hours will be limited to Monday through Friday from 8:00 a.m. to 4:30 p.m.; that he has on-site water available; that he does not feel that signage is needed; that there will be no on-site sales; that there will be no tavern or public tasting on the site; that once he receives approval from the County he may make application to the State ABC; that once the State ABC approves the use he can apply for Federal permits; that the site is approximately eight (8) minutes from the closest fire station; that once approval is granted, all entrances and access to buildings will be camera monitored; that Federal and State laws require that the buildings be secured; that he will be bottling on the premises; that bottles will be prepared to orders, and it is not his intent to be storing bottled products; that barrels will be stored for two (2) years for the processing of Bourbon; that he has the potential of processing 150,000 gallons per year; that the product is market driven; that the bonded area of the facility will be 1,859 square feet of the manufacturing floor; that the un-bonded area of the facility will be the 2,400 ground floor level; and that he hopes that the Commission will support his application.

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

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

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

Change of Zone #1733 Rehoboth Appraisal Group, LLC d/b/a First State Appraisal, Inc.

Application of **REHOBOTH APPRAISAL GROUP, LLC D/B/A FIRST STATE APPRAISAL, INC.** to amend the Comprehensive Zoning Map from GR General Residential District to B-1 Neighborhood Business District, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County containing 0.29 acres, more or less, lying northwest intersection of Hebron Street (Road 273) and Burton Avenue in West Rehoboth and being lots 2 and 3 (Tax Map I.D. 3-34-13.19-2.00).

The Commission found that the Applicants provided surveys/site plans with their application when it was submitted on July 15, 2013. The Exhibit Booklet contains a location map/aerial depicting the zoning and business/commercial uses in the area; a copy of the survey/site plan; an

aerial of the lot and immediate vicinity; a map of the zoning for the lot and the immediate vicinity; a map of the general area; a copy of the application form; a copy of the deed to the property; a copy of the Service Level Evaluation Request form and DelDOT Support Facilities Report; a copy of a letter from DelDOT, dated August 17, 2005; a copy of a Sussex Conservation District letter, dated August 25, 2005; a portion of the State Strategies and Investment Levels map depicting that the site is located in an Investment Level 1; a copy of the portions of the Comprehensive Land Use Plan, i.e Investment Level 1, Developing Area; Environmentally Sensitive Developing Area; six (6) letters of support; and suggested Proposed Findings of Fact.

The Commission found that DelDOT provided comments in the form of a memorandum on March 13, 2013 which state that a Traffic Impact Study is not recommended, and that the existing Level of Service “B” for Hebron Road (Road 273) will not change as a result of this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments in the form of a memorandum on September 11, 2013 which state that the site is located in a County operated and maintained sanitary sewer district, the West Rehoboth Expansion Area; that the sewer design assumption is 1.0 EDU per lot in a residential subdivision; that 2.0 EDU were allocated to this parcel; that the parcel has been provided with two (2) sanitary sewer laterals along the parcel’s frontage on Hebron Road; that conformity to the North Coastal Area Planning Study will be required; that the proposed B-1 zoning is not located on residential lands previously identified for commercial use by Planning and Zoning; that the Engineering Department has concerns that the rezoning will result in a potential increase of wastewater flow from the parcel in the future; that a capacity evaluation, at the developer’s expense, may be required to determine what upgrades would be required to serve a future use; that required upgrades would be completed by the developer, at the developer’s expense; and that a concept plan is not required.

The Commission found that a letter in opposition was received from Elizabeth Doty, President of West Rehoboth Community Land Trust, Inc. expressing concerns that more diverse uses could be detrimental to recent strides that have been made in revitalizing the neighborhood; that the structure and business there now is consistent with the neighborhood, but there are far too many uses under B-1 that would not be consistent with the character of the neighborhood; that the location of the business is right at the entrance to the community, so it is critical that it fit in with the residential nature of the community; that in 2008 the West Rehoboth Community Land Trust completed a very comprehensive revitalization plan for West Rehoboth which we have tried to adhere to; that Hebron Road has both residential and commercial uses, so it is extremely important that those two uses blend together well; that they oppose the change in use that is not in keeping with the neighborhood character, and ask the Commission to turn down the request; that the Board has its annual meeting this same evening and will not be able to attend the meeting; and that they just learned about the application yesterday.

The Commission found that R. C. Whiting was present on behalf of the Rehoboth Appraisal Group, LLC with Heidi Gilmore, Esquire, of Tunnell and Raysor, P.A. and that they stated in their presentation and in response to questions raised by the Commission that they are requesting

rezoning from GR General Residential to B-1 Neighborhood Business; that the building on the site was approved for offices as a conditional use in 2004; that conditional uses are difficult to finance; that a change of zoning is preferred; that they have no intent to change the use; that the site plan will remain the same; that the use is in harmony with the neighborhood; that the predominant use of properties along Hebron Road and Route One is commercial and/or business use; that the site is located at the entrance to the West Rehoboth community; that the building was designed and built to appear as a residential use; that all infrastructure exist; that the site is a desirable location for professional uses; that the use is consistent with the trend of development taking place in the area; that the site is too small to impact the area; that retail, business, and commercial uses exist throughout the area; that the site is located in an Investment Level 1 according to the State Strategies for Policies and Spending; that the site is located in the Environmentally Sensitive Developing District Overlay Zone according to the County Comprehensive Land Use Plan; that C-1 General Commercial or CR-1 Commercial Residential zoning would be out of character with the existing use and community; that the proposed rezoning will be consistent with the Comprehensive Land Use Plan and the Zoning Ordinance; that First State Appraisal, Inc. utilizes the first floor of the building, and an Architect rents the second floor; that they have no intent to change the uses or expand the business on site; and that the primary reason for applying is financial purposes.

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

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

Mr. Johnson stated that he would move that the Commission recommend approval of Change of Zone No. 1733 for Rehoboth Appraisal Group, LLC, d/b/a First State Appraisal, Inc. from GR General Residential to B-1 Neighborhood Business based upon the record made at the public hearing and for the following reasons:

- 1) The site is currently approved as a conditional use for an office building under Conditional Use No. 1596. This existing use is consistent with the permitted uses in the B-1 Neighborhood Business zone.
- 2) The Applicant has stated that the current use will not change if the property is rezoned to B-1 Neighborhood Business.
- 3) Given the size of the property, many of the more intensive B-1 Neighborhood Business uses will not fit on the parcel.
- 4) The limited B-1 Neighborhood Business uses that will fit on the property will not adversely affect neighboring properties or roadways.
- 5) The rezoning is consistent with neighboring uses and zonings. It is across the street from C-1 General Commercial zoning, and it is very near the Route One and Rehoboth Avenue commercial corridors.
- 6) The proposed use is consistent with the Sussex County Comprehensive Land Use Plan, and it is located in a Developing District according to the Comprehensive Plan.
- 7) The Applicants have stated that they have pursued B-1 Neighborhood Business zoning instead of C-1 General Commercial zoning, since B-1 Neighborhood Business zoning with its limited uses is more appropriate for the neighborhood.

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 stated. Motion carried 5 – 0.

Change of Zone #1734 American Legion Post #28

Application of **AMERICAN LEGION POST #28** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to CR-1 Commercial Residential District for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 9.33 acres, more or less, lying southwest corner of the intersection of Route 24 (John J. Williams Highway) and Road 298 (Legion Road) (Tax Map I.D. 2-34-29.00-263.00).

The Commission found that the Applicants submitted a survey of the property with the application received on July 25, 2013.

The Commission found that DelDOT provided comments on July 23, 2013 in the form of a letter with related Support Facilities Report which references that no use has been specified for the land to be rezoned, and while it seems that the criteria could be met, the Department cannot predict the site's trip generation with enough accuracy to make a traffic impact study useful; that the Department recommends that this rezoning application be considered without a traffic impact study, and that the need for a traffic impact study be evaluated when a subdivision or land development plan is proposed. The Support Facilities Report indicates that the current Level of Service for Route 24 (John J. Williams Highway) at this location is at Level of Service "E".

The Commission found that the County Engineering Department Utility Planning Division provided comments on September 11, 2013 which reference that the site is located in the Oak Orchard Sanitary Sewer District; that sewer system design assumptions for the parcel is 4.0 EDU per acre for AR-1 zoned land for a total of 37.32 EDU; that the parcel was served with a 6-inch lateral during original sewer district construction; that a 6-inch lateral is not adequate for most potential commercial uses of the parcel; that conformity to the Oak Orchard Sanitary Sewer District Expansion Area #1 Facilities Plan and Environmental Assessment will be required; that the parcel was not previously identified for rezoning to commercial; that sewer capacity downstream of potential connection points is limited and the developer may be required to undertake or participate in upgrades at their expense; that the cost of upgrades could be prohibitive; that prior to issuance of a building permit for construction exceeding 37.32 EDU, the developer is required to undertake a capacity evaluation to determine necessary sewer upgrades; that the capacity evaluation would be at the developers expense; that the development of the parcel may require a developer installed collection system in accordance with County standard requirements and procedures; that the County Engineer must approve the connection point; that the Engineering Department requires that a sewer concept plan be submitted for review and approval prior to development; and that a checklist was attached for preparing conceptual plans.

The Commission found that Michael Cotton, Professional Engineer with Cotton Engineering, LLC was present on behalf of the American Legion Post #28 and stated in his presentation and in response to questions raised by the Commission that the Legion owns three (3) properties; that one property is improved with the Legion Post buildings; that one property is improved with the

parking lot; and this site is improved with a pavilion building and storage buildings; that this Legion Post is the fourth largest in the World; that this Legion Post has generated 25,000 hours of volunteer service work to date; that the property is grassed and has been used for carnivals, car shows, circuses, picnics, and other functions for fund raising for veteran charities; that they are requesting rezoning to CR-1 Commercial Residential for future use of the site; that this rezoning will put them one step ahead in the financial process; that an easement exists on the westerly property line for utilities; that central water is provided by Tidewater Utilities; that the site is adjacent to other commercial and business uses; that within two (2) miles of the site there are many commercial and business uses, i.e. retail, offices, a museum, churches, storage facilities, restaurants, etc.; that there should be no impact on residential properties in the area or roadways; that DelDOT is doing a design study for the area and may limit access to the site from Legion Road; and that this property has approximately 286 feet of frontage along Legion Road.

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

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

Mr. Johnson stated that he would move that the Commission recommend approval of Change of Zone No. 1734 for the American Legion Post #28 for a change of zone from AR-1 Agricultural Residential to CR-1 Commercial Residential based upon the record made during the public hearing and for the following reasons:

- 1) The site has been used by the American Legion for many years. This includes the buildings and the fields which have been used for gatherings, circuses, carnivals, and similar types of uses.
- 2) The rezoning will be consistent with the historical use of the property.
- 3) The site is served by Sussex County sewer and central water.
- 4) The rezoning will not adversely affect neighboring properties or roadways.
- 5) The rezoning will be consistent with nearby uses and zonings.
- 6) This rezoning will allow the American Legion to continue to effectively serve its members, residents of Sussex County, and veterans who have served our Country.

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 stated. Motion carried 5 – 0.

Change of Zone #1735 Holt's Dispensary, Inc.

Application of **HOLT'S DISPENSARY, INC.** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District and a C-1 General Commercial District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.47 acres, more or less, lying north of Route 26 (Atlantic Avenue) 200 feet west of Route 17 (Roxana Road) (Tax Map 1-34-11.00-178.00).

The Commission found that the Applicants submitted surveys with their application showing the entire parcel.

Mr. Lank advised the Commission that when the Zoning Map was established and effective in January 1971 there were no parcel maps showing all parcels in the County; that a line was drawn to the west of the business on this site as the westerly boundary of a C-1 General Commercial District north of Route 26, and that it was realized more recently that the entire parcel was not included in that C-1 District boundary.

The Commission found that DelDOT provided comments on July 23, 2013 in the form of a letter with related Support Facilities Report which references that no use has been specified for the land to be rezoned, and while it seems that the criteria could be met, the Department cannot predict the site's trip generation with enough accuracy to make a traffic impact study useful; that the Department recommends that this rezoning application be considered without a traffic impact study, and that the need for a traffic impact study be evaluated when a subdivision or land development plan is proposed. The Support Facilities Report indicates that the current Level of Service for Route 26 (Atlantic Avenue) at this location is at Level of Service "E".

The Commission found that the County Engineering Department Utility Planning Division provided comments on September 11, 2013 which reference that the site is located in the Millville Expansion of the Bethany Beach Sanitary Sewer District; that wastewater capacity is available so long as the project does not exceed 19.8 total EDU; that sewer service has not been extended to the parcel at this time; that the County will solicit bids for construction soon and sewer service could be available as early as the spring of 2015; that an 8-inch sanitary sewer lateral is proposed to be installed to the parcels property line along Route 26 near the parcel's southeasterly property corner; that conformity to the South Coastal Area Planning Study – 2005 Update and Route 26 West Technical Memorandum will be required; that connection to the sewer system will be mandatory; that improvements on parcels are required to connect within one year of sewer service becoming available; and that a concept plan is required.

The Commission found that Kimberly Billings, Vice President, Secretary, and Treasurer for Holt's Dispensary, Inc., was present and stated in her presentation and in response to questions raised by the Commission that the property contains 2.47 acres; that the use has been a family owned business for many years; that the business is for sale; that they are trying to get conforming zoning for the entire parcel for the existing use on the property; that approximately half of the property is residentially zoned and half of the property is commercially zoned; that the business is still in operation; that DelDOT will be taking a small strip of right-of-way from the front of the property for the on-going expansion of Route 26; and that there are many commercial/business uses in the area, i.e. retail, lumber, funeral home, boat sales and repairs, grocery, carwash, etc.

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

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

Mr. Smith stated that he would move that the Commission recommend approval of Change of Zone No. 1735 for Holt's Dispensary, Inc. from AR-1 Agricultural Residential and C-1 General

Commercial to CR-1 Commercial Residential based on the record made during the public hearing and for the following reasons:

- 1) This property has a split zoning going back to the establishment of County zoning in 1971.
- 2) This rezoning will bring the entire property under one consistent zoning district.
- 3) The site is in a Development District according to the Sussex County Comprehensive Development Plan.
- 4) The rezoning is consistent with other existing commercial uses and zoning in the vicinity.
- 5) No parties appeared in opposition to the application.
- 6) Any proposed uses could require site plan approval from the Sussex County Planning and Zoning Commission and all other agencies.

Motion by Mr. Smith, seconded by Mr. Ross, 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.

Subdivision #2013 – 5 Gulfstream Glen Cove, LLC

Application of **GULFSTREAMGLEN COVE, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Baltimore Hundred, Sussex County, by dividing 8.84 acres into 17 lots (Cluster Development) and a waiver from the forested buffer requirements, located 500 feet west of the intersection of Road 352 (Windmill Drive) and Road 353 (Burbage Road) (Tax Map I.D. 1-34-12.00-374.01).

THIS APPLICATION WAS REMOVED FROM THE AGENDA ON AUGUST 28, 2013 AND WILL BE REDAVERTISED.

OTHER BUSINESS

P G S D, LLC

Preliminary Commercial Site Plan – Route 54

Mr. Abbott advised the Commission that this is a preliminary site plan for 11,780 square feet of retail space located on 2.47 acres; that the site is zoned C-1; that a 6,500 square foot restaurant and a 5,280 square foot retail/office building are proposed; that the setbacks meet the minimum requirements of the zoning code; that 59 parking spaces are required and 144 spaces are provided; that some of the spaces are located within the front yard setback and are subject to site plan review; that there are other projects in the immediate area with parking within the front yard setback; that Sussex County will provide central sewer to the site and Artesian Water Company will provide central water; that ingress/egress to the site is from a cross access easement adjoining this site that has received preliminary approval for a multi-family project, which is also owned by this developer; that there is no direct access to Route 54 from this site; that it does not appear that there are any wetlands on the site but the final site plan needs to include the appropriate wetlands statement; that all building construction is located outside of the 100 year flood plain; 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. 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 staff receiving all agency approvals. Motion carried 5 – 0.

Dutch Brothers

CU #1915 Site Plan – Road 293

Mr. Abbott advised the Commission that this is the preliminary site plan for a manufactured home installation business located on 3.0 acres; that the site is zoned AR-1 Agricultural Residential and this conditional use was approved on March 27, 2012 with 8 conditions of approval; that the conditions of approval 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 condition of approval #3 (Note 8 under the general notes on the site plan); that there does not appear to be any wetlands on the site however the final site plan needs to include the appropriate wetlands statement; that the site is not located in a flood plain; that the project will be served by on-site septic and well; 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.

The Commission discussed the proposed landscaped buffer.

Ken Christenbury, P.E. with Axiom Engineering, LLC and Michael VanDrunen were present on behalf of this request and advised the Commission that the site will be screened from the property owner who complained during the public hearing and that there is an existing buffer to the lands located to the northwest of the site and that Mr. VanDrunen's father is the immediate neighbor to the southeast of the site.

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

Kevin Betts

Lot on Carlisle Drive

Mr. Abbott advised the Commission that this is a request to create a 0.75 acre lot with access off of Carlisle Drive off of Road 305 (Jersey Road); that the proposed lot will have a minimum lot width of 100 feet at the required 30-foot front yard setback; and that the Commission was previously provided a sketch drawing of the request.

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

Monroe E. Brittingham

3 Lots & 50' Easement – Route 9

Mr. Abbott advised the Commission that this is a request to subdivide a 15.34 acre parcel into 3 parcels with access from a 50-foot easement; that the owner is proposing to create the 50-foot easement over an existing drive; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision; and that the Commission was previously provided a sketch drawing of the request.

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

Bobby Niblett

Parcel & 50' Right of Way – Road 554

Mr. Abbott advised the Commission that this is a request to subdivide a 27.25 acre parcel into 2 parcels; that one parcel will be approximately 4.0 acres and there is an existing dwelling located on it; that access is proposed to be by a 50-foot right of way; that the owner proposes to create the right of way over an existing driveway; that the remaining acreage is proposed to become an extension to Tax Map 5-31-4.00-3.00; and that the Commission was previously provided a sketch drawing of the request.

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

Brian Papp

2 Lots on 50' Easement – Road 531

Mr. Abbott advised the Commission that this is a request to subdivide a 1.68 acre lot into 2 lots with access from an existing 50-foot easement; that Lot 1 will contain 38,886 square feet and Lot 2 will contain 34,574 square feet; that the owner is proposing to extend the existing 50-foot easement; that this would be the second and third lot having access from the 50-foot easement; that DelDOT has issued a Letter of No Objection; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require a major subdivision application; and that the Commission was previously provided a sketch drawing of the request.

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

Henry Seppi

3 Parcels and 50' Right of Way – Road 431

Mr. Abbott advised the Commission that this is a request to subdivide a 12.19 acre parcel into 3 lots with access from a 50-foot right of way; that Lot 1 will contain 1.75 acres, Lot 2 1.50 acres and the residual lands 8.94 acres; that the owner is proposing to create the 50-foot right of way over an existing driveway; that the request may be approved as submitted, or an application for a

major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require a major subdivision application; that the Commission approved this request as submitted on March 17, 2010, however the final record plan was never recorded; and that the Commission was previously provided a sketch drawing of the request.

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

Meeting adjourned at 7:55 p.m.