MINUTES OF THE REGULAR MEETING OF DECEMBER 13, 2012

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, December 13, 2012 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Michael Johnson, Mr. Marty Ross and Mr. Rodney Smith along with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, and Mr. Shane Abbott – Assistant Director.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the Agenda as circulated. Motion carried 4 – 0.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action on the Minutes of December 6, 2012. Motion carried 4 – 0.

OLD BUSINESS

Subdivision #2005 – 74 - - application of **DELMARVA WOODLANDS ALLIANCE 4, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District and a GR General Residential District in Indian River Hundred, Sussex County, by dividing 172.12 acres into 296 lots (Cluster Development), located south of Road 48, east and west of Road 305 and south of Road 302. (Tax Map I.D. 2-34-15.00-40.00)

Mr. Abbott advised the Commission that this is the final record plan for a 124 lot standard and cluster subdivision application; that the 124 lots are for Phase 1 only; that the Commission granted preliminary approval for 296 lots on December 14, 2006 and granted time extensions on January 17, 2008, January 14, 2009, December 16, 2009 and February 3, 2011; that this application also received an extension by Ordinance No. 2208; that the final record plan complies with the subdivision and zoning codes and the conditions of the preliminary approval; that all agency approvals have been received; and that Phase 2 is permitted to be submitted at a later date.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve Phase 1 as a final. Motion carried 4 – 0.

Subdivision #2005 – 52 - - application of **UNDERHILL PROPERTIES, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 104.79 acres into 139 lots (Cluster Subdivision), located east of Road 279, 515 feet southeast of Road 289 (Tax Map I.D. 2-34-7.00-132.00, 132.05, 132.06 and 132.07) and

Subdivision #2008 – 25 - - application of **UNDERHILL PROPERTIES, LLC** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 8.78 acres into 14 lots (Environmentally Sensitive Developing District Overlay Zone), expansion to a 138 lots (Cluster Subdivision #2005 – 52), located 500 feet east of

Road 279 and 700 feet north of Road 279A. (Tax Map I.D. 2-34-7.00-132.00, 132.05, 132.06, 132.07 and 2-34-12.00-22.00).

Mr. Abbott advised the Commission that this is the final record plan for a 152-lot cluster subdivision; that the Commission granted preliminary approval for Subdivision #2005 – 52 for 139 lots on July 27, 2006 and time extensions on August 15, 2007, July 16, 2008, August 19, 2009; that the Commission granted preliminary approval for a 13 lot expansion to Subdivision #2005 – 52 on June 16, 2010 and determined that the preliminary approval for both applications is valid for a three-year period; that the final record plan complies with the subdivision and zoning codes and the conditions of the preliminary approvals; and that all agency approvals have been received.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve these applications as a final. Motion carried 4 – 0.

PUBLIC HEARING

Subdivision #2012 – 4 - - application of **MAIN STREET HOMES AT SUSSEX, LLC** to consider the Subdivision of land in an MR Medium Density Residential District in Lewes and Rehoboth Hundred, Sussex County, by dividing 19.71 acres into 32 lots, located at the end of Fairway Drive within Old Landing Development, approximately 1,950 feet west of Road 274 (Old Landing Road). (Tax Map I.D. 3-34-18.00-83.14).

Mr. Abbott advised the Commission that this application was previously reviewed as Subdivision #2003 – 27; that the Commission granted preliminary approval for 35 lots on April 14, 2005 and granted final record plan approval for the same on May 14, 2008; that the final record plan was never recorded therefore the final approval was voided; that the Technical Advisory Committee Report of November 15, 2012 is a part of the record for this application; and that an Exhibit Booklet was submitted as a part of this application.

Mr. Abbott read a letter from Chris Israel into the record expressing concerns about the existing fence along the boundary line of the site and the Old Landing Woods development.

Gene Bayard; Attorney, Jason Palkewicz, P.E. with Solution IPEM, and David Dombert of Main Street Homes were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that this application was previously heard as Subdivision #2003 – 27; requested that the record of Subdivision #2003 – 27 be made a part of the record for this application; that the previous application received preliminary approval for 35 lots in 2005 and received final approval in 2008; that the previous final record plan was not recorded within the sixty days as allowed by the Subdivision Ordinance; that the previous plan is depicted in Figure #4 of the Exhibit Book; that on-site wells and central sewer will serve the project; that a 20-foot forested buffer surrounds the perimeter of the new application; that a proposed pump station has been relocated into a wooded area on this plan; that this application is for 32 lots; that 3 lots were lost from the previous application due to the forested buffer requirements; that the proposed street design is similar to the previous plan; that this plan has "T turnarounds" instead of cul-de-sacs; that a new wetlands delineation has been performed; that no

lots are located within any wetlands; that the site is in character with the surrounding developments; that the items referenced in Section 99-9C of the Subdivision Code and the requirements of the Environmentally Sensitive Developing District Overlay Zone are addressed in the Exhibit Book and highlighted certain aspects of these; that the site contains approximately 43% open space; that County sewer is proposed; that there is adequate capacity for sewer; that there are no know historical features on the site; that the applicants will preserve as many trees as possible; that minimal lot clearing is anticipated; that the homes will be located to the front of the lots; that once construction commences, the chain-link fence will be removed; and there will be a buffer from the adjoining development; that there is a 50-foot buffer from all tidal wetlands; that the minimum lot size is 10,000 square feet as permitted by Code; that the proposed dwellings will be stick built and contain a minimum of 2,000 square feet; that a homeowners' association will be established; that Tab #15 of the Exhibit Book references the recorded easement for access to the site; that the Marshal family owns the street and contributes to the maintenance of Old Landing Drive; that chain-link fences will be prohibited by restrictive covenants; that the owners were not aware that the previous approved plan was not recorded; that this application has been designed by a different engineering firm; that the applicants will follow all current regulations; and that the storm water management approval may be grandfathered.

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

The Commission found that John Hammett, Susan Delaney, Mark Hubbard, Isabell Benson and Debbie McDermott residents of Old Landing Woods were present in opposition to this application and expressed concerns about the maintenance of Old Landing Drive, new residents contributing to the cost of maintenance and repair of Old Landing Drive; that there needs to be a written agreement between the parties for the maintenance of the road; that construction vehicles will cause damage to Old Landing Drive; that they have concerns about the proposed restrictive covenants, types of homes that will be built; that property values should not be negatively impacted; that they have concerns about potential hours of construction; that there could potentially be problems between the different homeowners' associations; questioned the type of water and sewer that will serve the project; questioned who will build the homes; and questioned if there is any other access to the site.

In response to the questions raised by the opposition, the applicants stated that there is already a recorded easement agreement for the use of Old Landing Drive; that the applicants will be responsible for maintenance of Old Landing Drive; that the applicants are required to contribute to the maintenance of the street; that the applicants will meet with the residents of Old Landing Woods; that the proposed pump station has been relocated to a wooded area form the previous plan; that this plan is for 3 less lots than the previous approved plan; that one of the proposed streets may be redesigned to allow for a cul-de-sac; that on-site wells and central sewer are proposed; that there is adequate sewer capacity available according to the Sussex County Engineering Department; that the applicants plan to build the homes; and that lot/home packages will be offered.

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

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

OTHER BUSINESS

Hudson's Hotel
Preliminary Commercial Site Plan – Route One

Mr. Abbott advised the Commission that this is a preliminary site plan for a 57,640 square foot, 4-story, 94-room hotel located on 3.37 acres; that the site is zoned C-1 General Commercial; that the proposed building height is 50 feet which is permitted provided that the side and rear yard setbacks are increased by 1 foot for each foot over the 42 foot height limit; that the setbacks meet the minimum requirements of the zoning code; that 146 parking spaces are required and provided; that 22 spaces are located within the front yard setback and are subject to site plan review; that there are other establishments in the immediate area with parking located within the front yard setback; that DelDOT has issued a Letter of No Objection; that ingress/egress to the site will be a right in/right out off of Route One; that the site is not located in a flood zone and there are no encroachments into the 404 wetlands; that the project will be served by central sewer and water; 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. Johnson, seconded by Mr. Smith 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 4 – 0.

Because Jesus Loves You Ministries, Inc.
Preliminary Site Plan – Road 213

Mr. Abbott advised the Commission that this is a preliminary site plan for a 2,800 square foot, 1-story church with seating for 150 members located on 4.41 acres; that this site plan is for Phase 1; that the site is zoned AR-1 Agricultural Residential and GR General Residential; that 38 parking spaces are required and 39 spaces are proposed; that the setbacks meet the minimum requirements of the zoning code; that central sewer will be provided by Sussex County and water will be from an on-site well; that a future expansion of 7,199 square feet with seating for 298 members is proposed for Phase 2; that this expansion would require 75 parking spaces and 75 spaces are proposed; that the site is not located in a flood zone and the wetlands on the site are not impacted; 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. Johnson, seconded by Mr. Smith 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 4 – 0.

Donna Milligan
Lot and 50' Easement – Road 413

Mr. Abbott advised the Commission that this is a request to create a 1.0-acre lot with access from a 50-foot easement; that the residual land will contain 2.48-acres; that the owner is proposing to create the 50-foot easement over an existing driveway; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a copy of 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. Motion carried 4 – 0.

Ruth A. Moore
Parcel and 50' Easement – Road 498

Mr. Abbott advised the Commission that this is a request to create an approximately 20-acre, plus or minus parcel with access from a 50-foot easement out of a 120-acre parcel; that the owner is proposing to extend an existing 20-foot easement and widen it to 50-feet across the proposed parcel to serve as access to the parcel; that the residual land will contain approximately 100-acres; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a copy of 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. Motion carried 4 – 0.

Woodrow Whaley
2 Lots and 50' Easement – Road 464

Mr. Abbott advised the Commission that this is a request to create 2 lots with access from a 50-foot easement; that the owner is proposing to extend an existing 50-foot easement to serve as access to the 2 lots; that the residual land will have access from existing road frontage on Road 458; that the request may be approved as submitted, or an application for a major subdivision can be required; and that the Commission was previously provided a copy of a sketch drawing of the request.

Motion by Mr. Ross, seconded by Mr. Johnson and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

Michael E. Smack
Parcel and 50' Easement – North Street

Mr. Abbott advised the Commission that this is a request to create a 1.33-acre parcel with access from a 50-foot easement; that the owner is proposing to create the 50-foot easement over an existing gravel drive; that the request may be approved as submitted, or an application for a

major subdivision can be required; and that the Commission was previously provided a sketch drawing of the request.

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to approve the request as submitted as a concept. Motion carried 4 – 0.

Meeting adjourned at 7:05 p.m.