

MINUTES OF THE REGULAR MEETING OF MAY 11, 2017

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, May 11, 2017 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

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

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

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the Minutes for April 6, 2017 as revised and April 20, 2017 as revised. Motion carried 5-0.

OLD BUSINESS

C/U #2071 Blessing Greenhouses and Compost

An Ordinance to grant a Conditional Use of Land in a AR-1 (Agricultural Residential District) for composting, mixing, blending, bagging poultry by-products, compost, potting soil products, for trucking and wholesale distribution to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 31.95 acres, more or less. The property is located near the northwest corner of Draper Road and Thirteen Curves on the west side of Draper Rd. 911 Address: 9372 Draper Rd., Milford. Tax Map I.D. 230-15.00-34.00 and 230-15.00-35.00 (part).

The Commission discussed this application which has been deferred since March 23, 2017.

Ms. Stevenson stated that she would move that the Commission recommend approval of Conditional Use No. 2071 for Blessing Greenhouses and Compost for composting, mixing, blending, bagging poultry by-products, compost, potting soil products, for trucking and wholesale distribution based upon the record and for the following reasons:

1. This is a project that has had a lot of attention and scrutiny lately by the public and even DNREC. The record is clear that both DNREC and the applicant have been working to create a pathway to clean up the site and improve the general conditions and their impact upon the area.
2. The use, if conducted appropriately, is for the semi-public purpose of recycling wastes into composting material that is useful in gardens and for crop production. If operated correctly, it is close to the type of farming operations permitted on land zoned AR-1 (Agricultural Residential District).

3. There have been many concerns expressed by neighbors about current conditions on the property and the smells and other adverse effects coming from it. But, these are in large part due to what has occurred there in the past, and not the improved operations that have been proposed as part of this conditional use.
4. A denial of the conditional use would likely mean that what is there now would simply continue to decay, worsening the impacts on the adjacent properties, the smells, and possibly the environment. A denial would not provide a path forward with new and improved technology on the site that would limit or eliminate the adverse impacts that currently exist. A denial would also likely be detrimental to the solutions that DNREC and the applicant have agreed upon for the site, both in cleanup and future uses.
5. A recommendation for approval should not be without limits, however. For example, the use should be reviewed periodically for compliance and to review any adverse consequences from the use.
6. The use as a compost facility will benefit the citizens and the environment of Sussex County. By recycling materials such as yard waste, vegetable waste, poultry waste, and wood into compost, there will be a reduction of materials going to the landfills.
7. The compost generated at the site will be available for local agricultural and horticultural uses.
8. The use promotes the Conservation Element of the County's Comprehensive Land Use Plan.
9. The ongoing use will continue to be monitored by DNREC, and this approval is contingent upon all DNREC approvals remaining in effect.
10. This recommendation is subject to the following conditions:
 - A. The Applicant shall comply with all requirements established by DNREC and any other regulatory agency having jurisdiction over this use. Failure to comply with DNREC or other agency requirements shall result in the termination of this Conditional Use.
 - B. No new, uncomposted materials (other than what is necessary to complete the composting process for materials existing on the site) shall be accepted at the site until the areas of the concrete pre-composting pad are cleared of the materials that currently exist there as required in the fourth and fifth bullet items of DNREC's March 31, 2017 letter to Jennifer Walls, Sussex County Planning and Zoning Manager. The removal of these materials must be underway immediately upon adoption of the ordinance approving this Conditional Use by County Council, with inspections by Sussex County and DNREC occurring every 3 months to review and report on the status of this work. The quarterly inspections shall include consideration of whether the Applicant is actively cleaning up the site and improved odors coming from it as stated by the Applicant during the public hearing on this application and whether the overall effects of this use upon the neighboring area (including smells) are generally improving. If the Commission finds that any of these requirements are not being satisfied, it may terminate this Conditional Use for non-compliance or require further review of it, including a public hearing.

- C. Once the current materials are removed, pre-compost storage shall only occur on the existing concrete slab, subject to DNREC's inspections of that slab as existing compost material is removed from it.
- D. The Applicant shall comply with all Sussex Conservation District requirements for the site. Failure to comply with any of these requirements shall result in the termination of the use.
- E. Material processing hours, including the use of heavy equipment, will be limited to 7:00 a.m. – 7:00 p.m., Monday through Saturday.
- F. Material acceptance hours will be limited to 7:00 a.m. – 4:00 p.m., Monday through Saturday.
- G. As proposed by the Applicant, there shall be a landscaped buffer of at least 25 feet around the entire property, to be increased if required by other agencies. This buffer area shall include a vegetated berm of at least 8 feet in height. A landscape plan showing the landscaping within the proposed buffer shall be shown on the Final Site Plan.
- H. All new composting shall only occur within new covered concrete-floored composting buildings designed to hold at least 4,000 cubic yards of compost at a time.
- I. A water truck shall be available to control dust within the site.
- J. Once the pre-compost pad is cleared of materials as required by Conditions B and C, this Conditional Use shall be inspected at least annually by DNREC and a County Inspector, with a report from both provided to the Commission. These inspections shall include consideration of whether the Applicant has actively cleaned up the site and improved the odors coming from it as stated by the Applicant during the public hearing on this application; whether the Applicant is in compliance with the conditions of this approval (including all DNREC and SCD requirements); and whether the overall effects of this use upon the neighboring area (including smells) are generally improving. If the Commission finds that any of these requirements are not being satisfied, it may terminate this Conditional Use for noncompliance or require further review of it, including a public hearing.
- K. No sanitary waste shall be accepted at the site.
- L. The Applicant may bag and blend materials properly accepted and composted at the site pursuant to this approval.
- M. County Council should consider whether a bond or other performance guarantee is necessary and appropriate to guarantee the cleanup of the site and the performance of these conditions of approval.
- N. The Final Site Plan including all buildings, buffers, a landscaping plan (with types, heights and/or diameter of plantings shown), and stormwater management facilities shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Stevenson, 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 4-0. Mr. Hopkins

recused himself.

C/U #2074 Quail Valley 1525, LLC

An Ordinance to grant a Conditional Use of Land in a AR-1 (Agricultural Residential District) for a commercial use as a therapy and fitness center to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 6.113 acres, more or less. The property is located on the north side of Savannah Rd., approximately 2,150 ft. west of Dove Dr. 911 Address: 1523 Savannah Rd., Lewes. Tax Map I.D. 335-12.06-1.00.

The Commission discussed this application which has been deferred since April 6, 2017.

Ms. Stevenson stated that she would move that the Commission recommend approval of Conditional Use No. 2074 for Quail Valley 1525, LLC for a therapy and fitness center based upon the record and for the following reasons:

1. The project is located on the north side of Savannah Road in an area where there are mixed uses of residences and businesses. The primary uses in the area are offices and residential. There are multiple conditional uses in the area for offices and medical offices.
2. With the conditions imposed on this use, this is an appropriate location for the Conditional use.
3. The property is currently zoned AR-1 (Agricultural Residential District) and the proposed project meets the purposes and requirements of that District. This application is for a conditional use in an AR-1 district.
4. The proposed project will be served by central water and sewer, in accordance with Federal, State, and County requirements.
5. Through consultation with DelDOT, the proposed project will have one entrance on Savannah Road.
6. The property will be used as a therapy and fitness center and will have a minimal impact on the character of the neighborhood.
7. The project, with the conditions and limitations placed upon it, will not have an adverse impact on the neighboring properties or community.
8. The proposed project meets the purposes and standards of the Sussex County Zoning Code and the purposes of the AR-1 district.
9. This recommendation for approval is subject to the following conditions and stipulations:
 - A. The project shall be served by a central sewer system in accordance with the Sussex County Engineering Department specifications and in conformity with all DNREC regulations as part of the Sussex County West Rehoboth Expansion of the Dewey Beach Sanitary Sewer System.
 - B. The project shall be served by a publicly regulated central water system providing drinking water and fire protection as required by applicable regulations through Tidewater Utilities, Inc.
 - C. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements including the

requirements of the Sussex Conservation District and the Inland Bays Pollution Control Strategy. The Applicant, its successors and assigns, shall operate the stormwater management facilities using Best Management Practices and Best Available Technologies.

- D. All entrances, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT.
- E. A landscape buffer of Leyland Cypress or similar vegetation shall be maintained or planted along the boundaries of the project adjacent to any residential properties so that the facility will be screened from view from any residential properties. The landscape buffer must be located on the project site. The Final Site Plan shall contain a landscape plan showing the planned vegetation within this buffer area.
- F. An 8 foot tall fence shall be constructed along the boundaries of the project adjacent to any residential properties.
- G. The proposed therapy and fitness center shall be set back at least 40 feet from all property lines.
- H. The number of parking spaces required for this proposed project is clearly excessive and unreasonable. Accordingly, the number of parking spaces required shall be modified and reduced. The proposed project shall have 200 parking spaces. All vehicle parking areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself.
- I. Any security lighting shall be low-level lighting on a timer and downward screened so that it does not shine onto neighboring properties or roadways.
- J. Hours of operation shall be between 5:00 am and 9:00 pm, Monday through Friday and between 5:00 am and 5:00 pm (Saturday).
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Ross, and carried with four (4) votes to forward this application on to the Sussex County Council with the recommendation that the application be approved for the reasons and with the condition stated. Motion carried 4-1.

The vote by roll call: Mr. Ross-yea; Mr. Hudson-nay; Mr. Hopkins-yea; and Ms. Stevenson-yea; Mr. Wheatley-yea.

C/U #2075 Burton's Pond, LLC (Burton's Pond Section II)

An Ordinance to grant a Conditional Use of Land in a MR (Medium Density Residential District) for a multi-family (100 townhouse units) to be located on a certain parcel of land lying and being in Indian River, Sussex County, containing 30.95 acres, more or less. The property is located at the southwest corner of John J. Williams Hwy. (Rt. 24) and Sloan Rd. (Rd. 49). 911 Address: None Available. Tax Map I.D. 234-17.00-29.00 (portion of).

Mr. Robertson stated that he would not be participating in the discussion for this application since he was not present during the public hearing and that Mr. Sharp will be participating in this

application.

The Commission discussed this application which has been deferred since April 6, 2017.

Mr. Ross stated that he would move that the Commission recommend approval of Conditional Use No. 2075 for Burton's Pond, LLC (Burton's Pond Section II) for multi-family (100 townhouse Units), based upon the record and the following reasons stated:

1. This property is currently zoned MR (Medium-Density Residential District) and the proposed project meets the purposes and requirements of the District.
2. This application is for a conditional use in an MR (Medium-Density Residential District) to allow for the construction of townhouses. The applicant proposes 100 dwelling units on 30.95 acres, located in Indian River Hundred, adjacent to John J. Williams Highway (Route 24) at Sloan Road (Country Road 49).
3. This project was previously approved as an MR-RPC by Ordinance No. 1919 (CZ No. 1610) with 102 dwelling units, adopted by County Council on July 31, 2007.
4. The property is in an Environmentally Sensitive Development District Overlay Zone (ESDDOZ).
5. The applicant has submitted the application to PLUS and has responded appropriately to the PLUS Comments and provided the Commission with the required information for its consideration.
6. The property contains no wetlands and is not located in a Wellhead Protection Area.
7. The project is designed to preserve wooded areas and the natural buffer next to the adjacent residential communities. Dwelling units will be adjacent to open space, sidewalks and walking, jogging and bike trails, promoting interconnectivity within the project. The design preserves 19 acres of open space when a grid MR subdivision would preserve significantly less open space.
8. The applicant has proposed 100 dwelling units within the project, which is permissible density of 3.23 units per acre within an MR (Medium Density Residential District).
9. The project will not adversely affect neighboring or adjacent properties. The project is consistent with existing residential development in the area.
10. The proposed project will be served by central water and sewer, in accordance with Federal, State and County requirements.
11. Through consultation with DelDOT, the proposed project shall have one (1) entrance on Sloan Road (County Road 49).
12. The proposed project will have both active and passive open space.
13. The proposed project meets the purposes and standards of the Sussex County Zoning Code and the purposes of the MR (Medium-Density Residential District).
14. This recommendation for approval is subject to the following conditions and stipulations:
 - A. There shall be no more than 100 townhouse units within the project.
 - B. The applicant shall create a fee simple townhome community which will be part of the Burton Pond Communities Homeowners Association, possibly through a separate sub-homeowners association, to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas including the Environmental Management Plan for Burton's Pond as stated in the Conditions for Burton's Pond Section 1.

- C. The project shall be served by a central sewer system in accordance with the Sussex County Engineering Department specifications and in conformity with all DNREC regulations as part of the Sussex County Unified Sanitary Sewer District North Coastal Planning Area.
- D. The project shall be served by a publicly regulated central water system providing drinking water and fire protection as required by applicable regulations through Tidewater Utilities, Inc.
- E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements including the requirements of the Sussex Conservation District and PCS. The Applicant, its successors and assigns shall operate the stormwater management facilities utilizing Best Management Practices (BMP) and Best Available Technologies (BAT). The final site plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- F. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT. In addition, the relocation of Sloan Road shall be completed within the first phase of the development.
- G. The recreational amenities in Section II shall be constructed and open to the use by residents upon the issuance of the 50th residential building certificate of occupancy for Section II.
- H. Street lighting shall be provided and the location of the streetlights shall be shown on the Final Site Plan.
- I. Sidewalks shall be installed on one side of all streets within the project and shall be shown on the Final Site Plan. There shall also be walking, jogging, and bike paths throughout the subdivision as shown on the Preliminary Site Plan.
- J. The undisturbed forested areas shall be shown on the Final Site Plan.
- K. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- L. A school bus stop area with parking shall be located within the project. The Developer shall coordinate and cooperate with the local school district's transportation manager to establish the school bus stop area. The location of the bus stop area, with the approval of the local school district, shall be shown on the Final Site Plan.
- M. The Applicant shall provide agricultural buffers and wetland buffers, as necessary, in accordance with the applicable regulations. The Agricultural Use Notice shall be included in covenants, conditions, and restrictions or instruments of conveyance.
- N. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
- O. The Developer shall design and install a landscape buffer of berms and plantings running South to North along the entire property boundary with John J. Williams Highway (Route 24) and running East to West along the entire property boundary with the relocated Sloan Road (County Road 49). The Final Site Plan shall

contain a landscape plan showing the proposed design and vegetation of all landscape buffer areas.

- P. The interior street design shall be in accordance with or exceed Sussex County street requirement and/or specification. Street design shall include curbs, sidewalks, and street lighting.
- Q. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. and Saturday between the hours of 8:00 a.m. 1:00 p.m.
- R. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Sussex County Office of Planning and Zoning.
- S. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Ms. Stevenson, and carried unanimously to forward this application on to the Sussex County Council with the recommendation that the application be approved for the reasons and with the condition stated. Motion carried 5-0.

2017-1 Baylis Estates Phase 2 – Intrinsic Financial, LLC

A Major Subdivision for the creation of a cluster subdivision. The cluster subdivision is for the creation of 37 additional single family lots with private roads and open space. The property is located on the northeast side of Mt. Joy Rd. (Rt. 297), approximately 1,243 ft. north of John J. Williams Hwy. (Rt. 24) Millsboro. Tax ID: 234-29.00-42.00. Zoning: AR-1 (Agricultural Residential District).

Announcement of receipt of MOU

Mr. Wheatley stated that the Commission has received the copy of the MOU that the Commission had requested.

2017-2 Woodfield Preserves Expansion – Thompson Schell, LLC

A Major Subdivision for the creation of a cluster subdivision. The cluster subdivision is for the creation of 36 single family lots with private roads and open space. The property is located on the south side of Broadkill Rd. (Rt. 16), approximately 2,184 ft. east of Coastal Hwy. (Rt. 1) Milton. Tax ID: 235-8.00-87.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since April 20, 2017.

Ms. Stevenson stated that she would move that the Commission grant preliminary approval of Subdivision 2017-2 for Woodfield Preserves Expansion – Thompson Schell, LLC, based upon the record and the following reasons stated:

1. The application is for the extension of Subdivision #2007-9.
2. The application is seeking approval of a clustered subdivision within the AR-1 (Agricultural Residential District) zone. The Applicant is seeking clustered lot with a minimum area of 15,000 square feet. The Average lot size is 18,034 square feet.
3. The proposed extension of subdivision will have no more than 36 lots on 25.96 acres.

This results in a density of approximately 1.31 lots per acre, which is much less than the maximum density permitted in the AR-1 zone.

4. This 36 lots expansion of the existing subdivision on this site will not have an adverse impact on the neighboring properties or area roadways.
5. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has addressed the requirements of Section 99-9C of the Code.
6. I am satisfied that this project is a superior design under the cluster subdivision ordinance. For example, it provides for the preservation of 8.09 acres of open space.
7. The project will be served by central water and sewer.
8. The development complies with the Sussex County Comprehensive Plan as a low density, single family dwelling subdivision.
9. This preliminary approval is subject to the following:
 - A. There shall be no more than 36 lots within the subdivision.
 - B. The extension shall be part of the Woodfield Preserve Subdivision and the lot owners shall be members of the HOA responsible for the maintenance of streets, roads, buffers, stormwater management facilities and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - D. The Applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be clearly shown on the Final Site Plan.
 - E. A forested or landscaped buffer of at least 20 feet in depth shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscaped plan for these areas.
 - F. As proffered by the Applicant, sidewalks shall be installed on both side of the streets in the site, with the exception of the access road which shall have a sidewalk on one side.
 - G. The subdivision shall be served by a central sewer system.
 - H. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
 - I. Street design shall meet or exceed Sussex County standards.
 - J. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - K. Deliveries of dirt, fill or other similar materials shall only be made to or from the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.
 - L. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
 - M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to grant preliminary approval of Subdivision No. 2017-2 for the reasons and with the condition stated. Motion carried 5-0.

C/U #2072 KMH Ventures DE, LLC

An Ordinance to grant a Conditional Use of land in a GR (General Residential District) for multi-family dwelling structures (20 units) located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 5.1 acres, more or less. The property is located on the north side of Munchy Branch Rd, approximately 1,064 ft. southwest of Field Ln. 911 Address: 18834 Munchy Branch Rd., Rehoboth Beach. Tax Map I.D. 334-13.00-27.00

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

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

2017-3 River Rock Glen – Key Properties Group, LLC

This is a cluster subdivision. The cluster subdivision is for the creation of 26 single family lots with private roads and open space. The property is located on the south side of Hudson Rd. across the street from River Rock Run approximately 1,500 ft. northeast of Sweetbriar. Tax Parcel: 235-22.00-19.00. Zoning: AR-1 (Agricultural Residential District).

Mr. Robertson recused himself and Mr. Jamie Sharp was present.

Ms. Cornwell advised the Commission that submitted into record as part of the application were comments received from TAC Process, Department of Ag, Delaware Electric Cooperative, Sussex Conservation District, and from the Sussex County Utility Planning Division; that there was a Soil Feasibility Study submitted; and that the applicant submitted a subdivision plan.

The Commission found Mark Davidson, with Pennoni Associates, Jim Baeurle, member of Key Properties, were present on behalf of the application; that Mr. Davidson spoke that this project was previously approved subdivision in 2009; that it did not get a time extension in 2015; that the entrance is partially constructed along with partial stormwater management; that turn lanes have been put in; that the Sussex Conservation District did reapprove the stormwater management and the redesign of the stormwater management; that now the 26 lots have a slightly different look; that the stormwater management will follow the slopes; that the shifted lots allow for better septic systems and limit the removal of dirt; that the average lot size is 23,115 square feet; that there will be 40% open space with approximately 11 acres as open space as well; that the stormwater management emergency will overflow will go into River Rock Run; that there will be a 20 foot landscape buffer; that they are asking for a partial waiver for the landscape buffer; that there are asking for a partial waiver from the east and west sides of the existing woods with large trees; that there will be landscaping along Windstone subdivision; that all lots are for single family dwellings; that they have submitted covenants and restrictions; that the subdivision will have a new name, due to 911 and Mapping and Addressing requirements; that they submitted a response to Chapter 99-9C in the exhibit booklet; that there are no wetlands, no cultural or historical features on the site; that there will be a walking path along the stormwater facilities with connections around the road; that they will comply with the County

road design standards; that they are not opposed to talking to the School District in reference to a possible bus shelter; that they have space area for back up septic, that they are not in a Sewer District; that it is tough to get sidewalks on the sides with swales along both sides of the road; that there will be a walking path with access to the stormwater management pond in lieu of sidewalks, and that the path will be paved; and that they are open to adding more access points to be able to have access to the walking path. Mr. Ross questioned to the Planning and Zoning Commission's authority to waive sidewalks on one side, which is a requirement of the cluster subdivision.

The Commission found that there were no parties in support to this application.

The Commission found that George Ward spoke; that he lives in River Rock Run; that has concerns with traffic; that there is a subdivision sign put up on to Hudson Road advertising the subdivision.

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

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

C/U #2076 Joseph Mark Zdurienick

An Ordinance to grant a Conditional Use of land in a GR (General Residential District) for an event venue to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 62.157 acres, more or less. The property is located on the north side of Johnson Rd in the Smokey Hollow development. 911 Address: None Available. Tax Map I.D. 533-18.00-20.01 through 20.10

Ms. Cornwell advised the Commission that there was a staff analysis submitted into record as part of the application as were comments received from DelDOT, Sussex Conservation District, and the Sussex County Utility Planning Division; and that the applicant submitted a site plan and exhibit booklet.

The Commission found that Joseph Mark Zdurienick was present on behalf of his application; that Mr. Zdurienick spoke that the application is for tented events at the beginning; that eventually he would like to build a barn on the property; that there would be a maximum of 200 to 250 people at each event; that the events would be held 2 to 3 times a month; that he is the only one that lives there; that this is a recorded subdivision; that he does not have plans to sell any lots; that the streets are in; that he is the only property owner of all lots and has the ability to use any lot for the tented events; that if a lot is sold then this may impact the Conditional Use; that the parking area will be on the grass with telephone poles and parallel parking; that the land is pretty solid and if the venue grows, it will possibly become a gravel parking lot; that the events would end at 10:00 pm; that no sign is needed; that all the facilities will be brought in until the barn gets built; that when the barn gets built, they will have DNREC approvals; that all the events will be catered; that there will eventually be lighting; that the road narrows to one lane to over the ditch; and that there could be a Condition put on the Conditional Use, that he own all the lots.

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

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

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

2017-4 Bryden C. Joseph – Howaida M. El Baf & Fadi El Mir

This is a major subdivision. The major subdivision is for the creation of 1 single family lot with an access off a 50ft. easement. The property is located approximately 1,420 ft. south of (Wooten Rd.) Rt. 72 and west of Hitch Pond Rd. (Rt. 463). Tax Parcel: 332-5.00-4.12. Zoning: AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into record as part of the application were comments from the Sussex Conservation District; DelDOT approval and a Soil Feasibility Study; and that the applicant submitted a subdivision site plan.

The Commission found Bryden C. Joseph was present on behalf of his application; that wants to purchase the property to grow his chicken business; that he will be responsible for maintenance of the 50-foot easement; that it is a major subdivision due to the number of lots off of the private land; and that the current owner wants to keep the home.

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

Mr. Ross stated that he would move that the Commission recommend approval of major Subdivision 2017-4 for Bryden C. Joseph for a single lot subdivision 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 (Agricultural Residential District) which permits low density single family residential development. The proposed subdivision density of 1 lot consisting of 4.5 acres with a residual lot of 17.789 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.
4. The proposed subdivision will adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. This applicant is granted a waiver from the landscaped buffer requirements and street design requirements.

Motion Mr. Ross, seconded by Mr. Hudson and carried unanimously to approve the preliminary

and final subdivision plan. Motion carried 5-0.

OTHER BUSINESS

Terry Sockriter Moore (2016-18)

Final Subdivision Plan

Mrs. Walls advised the Commission that this is the Final Subdivision Plan for the Lands of Terry Sockriter Moore for the creation of two lots from a 26.83 +/- acre tract off Robin Hood Road (Rt. 453). The Preliminary Subdivision Plan was approved by the Planning Commission on November 3, 2016. The Planning Commission waived the 20-ft. landscape buffer requirement and compliance with the County's street design standards. The parcel is zoned GR (General Residential District). Tax Parcel is 532-14.00-36.00. Staff is in receipt of all agency approvals.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to approve the final subdivision plan. Motion carried 5-0.

AutoZone Store #6778-Lewes

Final Site Plan

Mr. Brandewie advised the Commission that this is Final Site Plan for the construction of a 6800 sq. ft ± retail store with a 28-space parking lot on a .71-acre site. The Planning Commission approved the Preliminary Plan on Nov. 17, 2016 and granted parking waivers within the front yard setback and buffer areas, and to allow a reduction in the required landscaping within the buffer area. The Commission requested the applicant evaluate the access or interconnection to adjacent parcels and the use of cross access easements. The applicant has provided a Memo explaining why this is not feasible. The property is zoned C-1 with a CHCOZ (Combined Highway Commercial Overlay Zone). The Tax Parcel is 334-6.00-4.01. Staff is in receipt of all agency approvals.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried with four (4) votes to approve the final site plan. Motion carried 4-1.

Middle Creek Preserve (2016-1)

Revised Preliminary Subdivision

Mr. Brandewie advised the Commission that this is revised Preliminary Subdivision Plan for the Middle Creek Preserve (2016-1) for the subdivision of the 314 parcels with site improvements to be located on a 145.74 acre combined parcels off Angola Rd. The property is zoned AR-1 and is within the Environmental Sensitive Development District Overlay Zone. This plan is a revision of previously approved plans for Estates at Middle Creek (2016-1) as acted upon by the Planning Commission at their meeting on December 22, 2016 and subject to conditions. The applicant has resubmitted this plan with minor design changes under a new name (Middle Creek Preserve). Tax Parcels: 234-11.00-513.00, 54.00, 54.01, 54.02, 54.03 & 234-12.0-14.00. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to approve the revised preliminary subdivision with final plan approval by Planning Commission upon receipt of all agency approvals. Motion carried 5-0.

Salt Pond Plaza (MR-RPC)

Revised Site Plan

Mrs. Walls advised the Commission that this is a revised Preliminary Site Plan for Salt Pond Plaza (MR-RPC) for the construction of a 20' by 50' gas pumps with canopy and reduction in retail "A" from 11,523 sq. ft. to 9,226 sq. ft. The site is located at the intersection of Fred Hudson Road and Cedar Neck Road. This project was previously approved by Planning and Zoning Commission on May 16, 2007. The parcel is zoned MR-RPC. The Tax Parcels are 134-13.00-88.11, 88.12, and 88.05. Staff is awaiting updated agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the revised site plan with final approval by Planning Commission upon receipt of all agency approvals. Motion carried 5-0.

Swann Cove West

Revised Amenities Plan

Mrs. Walls advised the Commission that this is a revised amenity plan for the Swann Cove West subdivision (Phase 8) to add a boardwalk located behind Tammy Court and cross access easement located behind Homestead Court for a dock. The parcel is zoned MR-RPC. The tax parcel is 533-12.00-80.00 (part of). Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to approve the revised amenities plan with final approval by Planning Commission upon receipt of all agency approvals. Motion carried 5-0.

Prettyman-Bonham (S-17-29)

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a preliminary site plan for the construction of a 3,798-sq. ft. building to be located off Central Avenue in Rehoboth Beach. The parcel is zoned C-1. The plan complies with the zoning code. The Tax Parcel is 334-13.20-23.00. Staff is awaiting agency approvals.

Motion by Mr. Ross, seconded by Mr. Hudson, and carried unanimously to approve the preliminary site plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

Peninsula Lakes (MR/RPC)

Preliminary Amenities Site Plan

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

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the preliminary amenities site plan with final approval by Planning Commission upon receipt of all agency approvals. Motion carried 5-0.

Delaware Electrical Cooperative – Delmar (CU 2007 and S-17-23)

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is preliminary site plan for the construction of an electric substation near Delmar as authorized by CU 2007 on March 31, 2015 by Sussex County Council. The substation will be situated on a 4.0 acre parcel zoned AR-1. The Tax Parcel is 532-11.00-25.01. Staff is in receipt of all agency approvals.

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

Rudy South (S-17-20)

Preliminary Commercial Site Plan

Mrs. Walls advised the Commission that this is a Preliminary Site Plan for the Rudy South Boat Sales and Service facilities to construct five new sales and service buildings for a combined total of 25,000 square feet. The site will also include a 3,000-sq. ft. security domicile (single family house), a boat display and storage area with parking. It is located on west side of Rt. 113 in proximity to Frankford. The Tax Parcel is 233-16.00-26.00. The property is zoned AR-1 and C-1 and is within the Combined Highway Corridor Overlay Zone (CHCOZ). The Board of Adjustment granted a variance on May 1, 2017 for the elimination of the 20 foot CHCOZ buffer. The proposed use and buildings are located in the C-1 portion of the property. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to approve the preliminary commercial site plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

Andrea Hall (S-17-21)

Preliminary Site Plan

Mrs. Walls advised the Commission that this is a preliminary site plan for a 2,000-sq. ft. farm produce/retail building to be located on Muskrat Town Road, Selbyville. The produce sold in the building will be grown on site. The parcel is zoned GR (General Residential District). The use is

permitted within the GR as it allows the uses in the AR-1 zoning district The Tax Parcel is 533-18.00-86.00. Staff is in receipt of all agency approvals.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to approve the preliminary site plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

The Estuary (2005-64)

Revised Preliminary Subdivision Plan – Phases 2-4

Mr. Brandewie advised the Commission that this is a Preliminary Subdivision Plan for Phases 2-4 for The Estuary to create 347 single family lots, roads and open space to be located off Camp Barnes Road. Phase 2-4 consists of 290.95 acres. The property is zoned AR-1, Environmentally Sensitive Development Overlay District. The Planning Commission approved revisions to the Master Plan on April 6, 2017. The Tax Parcels are 134-19.00-115.00; 134-21.00-8.00, 11.00, 12.01. Staff is awaiting agency approvals.

Motion by Mr. Hudson, seconded by Mr. Ross, and carried unanimously to approve the revised preliminary subdivision plan with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

Walter Davis District (AP-17-02)

Agriculture Preservation District

Mrs. Walls advised the Commission that this is an application for the creation of a new Agriculture Preservation District to be located on the east side of Sharps Road. The proposed district includes 165 acres of cropland, 50 acres of woodland, and 228.48 acres of marsh/wetland. There are no dwelling units on the property. There are no easements or rights-of-way, nor does the farm have historic significance. The property is zoned AR-1. The Tax Parcel is 330-12.00-14.00.

Motion by Ms. Stevenson, seconded by Mr. Ross, and carried unanimously to approve the Agricultural Preservation District. Motion carried 5-0.

Lands of Jack and Judy Williams

Minor Subdivision off 50' Easement.

Mr. Brandewie advised the Commission that this is a minor subdivision for the creation of two (2) parcels of land and a 50-ft. easement over an existing driveway. Parcel "A" contains 1.68 acres +/-, and will be accessed via an easement through the residual lands, Parcel B, which will contain 4.34 acres +/- . Maintenance of the easement will be the responsibility of the owners of Parcel "A". The property is zoned AR-1. The Tax Parcel is 532-20.00-24.00. Staff is awaiting agency approvals.

Motion by Mr. Ross, seconded by Mr. Hopkins, and carried unanimously to approve the minor subdivision with 50' easement with the final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

ADDITIONAL BUSINESS

Discussion regarding of the Comprehensive Plan

The Commission discussed upcoming dates for workshops and determined that workshops would be held on June 5, 2017, June 16, 2017, and June 26, 2017 from 9:00 am till 3:00 pm.

Ms. Cornwell will confirm with McCormick Taylor, if they are available to attend the workshops on June 5, 2017, June 16, 2017, and June 26, 2017.

Opportunity for public comment regarding Comprehensive Plan

None

Meeting adjourned at 7:53 p.m.