

THE MINUTES OF THE REGULAR MEETING OF OCTOBER 27, 2022.

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, October 27, 2022, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware. Members of the public were also able to attend this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 5:03 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, and Mr. Bruce Mears. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mr. Chase Phillips – Planner II, Mr. Elliott Young – Planner I, and Ms. Ashley Paugh – Recording Secretary.

Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to approve the Agenda as circulated. Motion carried 5 - 0.

Motion by Ms. Stevenson, seconded by Ms. Wingate to approve the Minutes of the September 8, 2022, Planning and Zoning Commission meeting as revised to correct the error. Motion carried 5 – 0.

PUBLIC COMMENT

The Commission found that Mr. Donald Reppy spoke with concerns regarding the density and easement access of the Revised Final Site Plan for Spring Lake Townhomes.

The Commission found that Ms. Dawn Alexander spoke with concerns regarding the lack of public notification, density, environmental impact, proposed fencing, and approved waiver from the setback requirements for the Spring Lake Townhomes Revised Final Site Plan.

The Commission found that Ms. Trinette Stillman spoke with questions and concerns regarding the lack of public notification, the approval waiver from the setback requirements and she had questions regarding the approval process and agency approvals required for approval of the Spring Lake Townhomes Revised Final Site Plan.

The Commission found that Mr. Greg Stillman spoke with concerns regarding density, the approved waiver from the setback requirements, the ingress/egress easement for the community, traffic, and the lack of public notification for Spring Lake Townhomes Revised Final Site Plan.

Mr. Whitehouse stated the Commission acted on the Spring Lake Townhomes Revised Final Site Plan on September 8, 2022; that the site plan returned to the Commission as a Revised Final Site Plan, for multi-family development, located within C-1 (General Commercial) Zoning District; that the proposed multi-family use is a by-right permitted use within the C-1 Zoning District, which does not require a public hearing; that the Revised Final Site Plan did require site plan review and approval by the Commission; that the Commission did approve the Revised Final Site Plan, contingent on design revision reflecting interconnectivity to a trail on the adjoining parcel and subject to receipt of all agency approvals; that due to the level of interest of the Spring Lake Townhome Final Site Plan revision, he suggested a group meeting be scheduled with any interested parties to discuss the site plan and answer any questions regarding the revised site plan approval process.

Mr. Robertson stated that within the C-1 (General Commercial) Zoning District, multi-family is permitted by-right up to 12 units per acre subject to site plan review and approval; that within the Zoning

Code this permitted use does not require a public hearing; that regardless if this proposal was for this property or any other C-1 property or if the use was for multi-family or for commercial use, it would not have required a public hearing and this is the reason there was no public notice provided.

Upon there being no further public comment, Chairman Wheatley closed the public comment session.

OTHER BUSINESS

2019-13 Bridgewater (F.K.A. Bent Creek & Old Mill Landing North)

Final Subdivision & Landscape Plan

This is a Final Subdivision & Landscape Plan for the establishment of a Coastal Area cluster subdivision to consist of seventy-one (71) single-family lots, two (2) proposed pocket parks, private roads, and open space. The project will share amenities with the adjacent Estates at Bridgewater Subdivision located to the south of the project which includes the use of the clubhouse, pool, dock/pier, and multipurpose courts. At their meeting of Thursday, January 9th, 2020, the Planning and Zoning Commission approved the Preliminary Subdivision Plan for the development. The property is located on the east side of Old Mill Bridge Road (S.C.R. 381) and the north and west sides of Millers Neck Road (S.C.R. 364A). To accord with the Conditions of Approval, a copy of the Archaeological Report prepared by Mr. Edward Otter, as submitted to the State Historic Preservation Office (SHPO) has been included in the Commission's packet this evening. The Final Subdivision Plan complies with the provisions of the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 134-21.00-6.00. Zoning: AR-1 (Agricultural Residential District.) Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to approve the Final Subdivision and Landscape Plan as a final. Motion carried 4-0. Ms. Wingate abstained.

2019-02 The Estates at Bridgewater (F.K.A. Bent Creek Estates & Old Mill Landing South)

Final Subdivision Plan

This is a Final Subdivision Plan for the establishment of a Coastal Area cluster subdivision to consist of one-hundred and fifty-six (156) single-family lots, private roads, open space, and amenities to include a clubhouse, pool, dock/pier, and multipurpose courts. At their meeting of Thursday, January 9th, 2020, the Planning and Zoning Commission approved the Preliminary Subdivision Plan for the development. The property is located on the east side of Old Mill Bridge Road (S.C.R. 381) and the north and west sides of Millers Neck Road (S.C.R. 364A). It should be noted that, in order to comply with Condition "B" of the Conditions of Approval, Lots 77-85 have been relocated to ensure that these areas remain undisturbed which has also resulted in a reduction in the length of Bunting Drive. A separate Exhibit has been included in the Commission's packet this evening showing the location of the previously approved Lots 77-85 and which demonstrates the proposed relocation of these lots. Further revisions to the plans from the previous approval include the reconfiguration of several lots to accommodate the proposed changes to Bunting Drive and amending Sturgis Lane from a bump-out/cul-de-sac to a stub road. The Final Subdivision Plan complies with the provisions of the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 134-21.00-6.00. Zoning: AR-1 (Agricultural Residential District).

Motion by Mr. Mears, seconded by Ms. Stevenson and carried unanimously to approve the Final Subdivision Plan. Motion carried 4-0. Ms. Wingate abstained.

Grotto's Pizza Corporate Office (Mixed-Use)

Final Site Plan & Landscape Plan

This is a Final Site Plan and Landscape Plan for the construction of a three-story, 24,308 square foot +/- mixed-use building to function as corporate office space on the first floor for the Grotto's Pizza restaurant chain, twelve (12) varying size apartment units on the second and third floors, associated parking and other site improvements. The improvements are to be located on the east side of Bay Vista Road (S.C.R. 273(A)) and the south side of Coastal Highway (Route 1) and lie within the Combined Highway Corridor Overlay Zone (CHCOZ). At their meeting of Thursday, August 11th, 2022, the Planning and Zoning Commission approved the Preliminary Site Plan for the proposed use. As part of that meeting, staff received a request to permit fourteen (14) parking spaces to be located within the front yard setback, which was approved by the Commission. The Final Site Plan complies with the provisions of the Sussex County Zoning Code. Tax Parcel: 334-19.00-170.03. Zoning: General Commercial (C-1) District. Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Final Site Plan and Landscape Plan as a final. Motion carried 5-0.

Lauden Investments, LLC (C/U 2264)

Final Site Plan - Waiver Request

At their meeting of Thursday, August 25th, 2022, the Planning & Zoning Commission approved the Preliminary Site Plan for Lauden Investments, LLC (CU 2264) with approval of the Final Plan to be granted by staff upon the receipt of all agency approvals. After additional correspondence, the Applicant's engineer is requesting a waiver from the requirement that a bulk grading plan be included in the Final Site Plan ((§115-221(B)(17)). The Applicant cites the minimal disturbance associated with the proposed improvements at the site as the reason for the waiver request. Staff are in receipt of all agency approvals. The plan proposes the reuse of the two existing one-story office buildings, containing 1,600 square feet and 1,540 square feet respectively, as professional medical offices. The proposed use was approved as a Conditional Use (CU 2264) by the Sussex County Council on November 16th, 2021, through Ordinance No. 2813. The approved Preliminary Plan included improvements primarily related to the design and configuration of the parking and internal circulation on the site. The parcels are located on the southeastern side of Savannah Road (Route 9B/ S.C.R. 443A) approximately 0.77-mile northeast of Wescoats Road (Route 12) and share an entrance. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcels: 335-8.18-15.00 & 16.00. Zoning: AR-1 (Agricultural Residential Zoning District).

Mr. Robertson stated under §115-221(C) regarding Final Site Plan requirements, it states the Commission does have the ability to waive particular requirements, such as a grading requirement, subject to the Commission's opinion that the inclusion of the requirement is not essential for a proper decision on the project and the proposal is for re-use of existing buildings.

Chairman Wheatley questioned Mr. Whitehouse if the staff would have any objection to the waiver request.

Mr. Whitehouse stated the staff is confident there is not much disturbance and that given the information Commission knows about the site, the waiver request is not a concern for the staff.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Final Site Plan and waiver request from the Bulk Grading Plan requirement. Motion carried 5-0.

2018-04 Beach Tree Preserve

Revised Amenities Plan

This is a Revised Amenities Plan for the Beach Tree Preserve (2018-04) subdivision for the construction of a 1-story 1,048 square foot bath house, 1,350 square foot in-ground pool, 1,440 square foot covered patio area, 2,000 square foot dog park, 4,530 square foot pickle ball court, a 2,000 square foot playground, and other site improvements to be located on the north side of Jayda Drive a private street within the Beach Tree Preserve subdivision. Staff would like to note that the Preliminary Amenities Site Plan received preliminary approval at the Sussex County Planning and Zoning Commission meeting on January 27th, 2022. The Revised Amenities Plan complies with the Sussex County Zoning Code. Tax Parcel: 234-11.00-49.06. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals but would like to request final by staff upon the receipt of agency approvals.

Ms. Stevenson stated she was not able to view the proposed plans; she was viewing the proposed plans for the first time; that she noticed the size of the pool was decreased by half; that she understood the revised plan to have removed the clubhouse, replacing it with a proposed covered patio and a bathhouse; that she questioned the provided open space with the decrease of the dog park area and if the previous plan reflected an enclosed building, now proposing a covered patio on the revised plan and if anyone had moved into the neighborhood as of yet.

Mr. Young stated the only substantial difference from the previously approved plan is the decrease in provided space for the pool and deck area; that the pickleball court and playground areas will remain the same; that the water fountain, pavilion area, and dog park have been removed in the revised plan; that in the previous plan the building was noted as a bathhouse; that the bathhouse was located outside of the fenced perimeter around the pool and he stated the project's construction is currently minimal.

Mr. Robertson stated the Commission may require a public hearing with any request for substantial change; that there is always an issue of promises made during the public hearing and then requesting a change after receiving preliminary approval.

Chairman Wheatley requested Mr. David Hutt, Esq. with Morris James, LLC, provide information regarding the revised amenities plan for the Commission.

Ms. Stevenson questioned if lots had been sold in the community, the basic lot size, the basic cost of a home within the community, and if the proposed community would be for workforce housing or not.

Chairman Wheatley questioned the total number of lots for the project.

Mr. David Hutt, Esq. advised the Commission that no lots have been sold within the community; that the marketing has not begun for the lots; that within the process of making arrangements between the developer and the home builder, the home builder stated the amenities were excessive for the proposed number of lots; that the home builder did provide a letter for the record stating this; that he did not have a general proposed cost for a home within the community; that there is a total of 155 proposed lots for the project; that at the project's public hearing the proposal was for a smaller pool than the pool proposed on the revised plan; that after the public hearing, a very extravagant amenities plan was submitted; that after the builder was chosen, the builder felt the amenities were excessive for the number of proposed lots and the revised plan was suggested by the builder, as they felt the plan was more appropriate for the size of the community.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to approve the Revised Amenities Plan. Motion carried 4-1.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – nay, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley – yea

S-22-17 Schellville

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the Schellville outdoor event space. The plan includes landscaping, multiple buildings, an ice rink, a tent, and other site improvements. Board of Adjustment Case No. 12736 was approved by the Board of Adjustment on September 12th, 2022, to allow for the encroachment of the buildings located within the 60-ft front yard setback. Included with the site plan are parking lot lease agreements with Epworth United Methodist Church and the Rehoboth Beach Sports Complex to allow for off-site parking for the Schellville Events. Staff are awaiting receipt of an agreed-upon Parking Management Plan. The Revised Preliminary Plan complies with the Sussex County Zoning Code. Tax Parcels: 334-13.00-325.52 & 325.53. Zoning: C-3 (Heavy Commercial). Staff are awaiting agency approvals.

Mr. Whitehouse advised the Commission that it had taken the Revised Preliminary Site Plan months to have everything assembled to be reviewed by the Commission; that the largest portion of the project began in December 2021; that the Applicant did cooperate with an interim site plan, which was approved administratively by the staff in December 2021; that since that approval the Applicant has been working with staff to gather in information and plan currently before the Commission.

Ms. Stevenson questioned if the Commission previously had agreed with the adjacent property owner that their parking could remain the same, as their property would be able to share parking with what is now Schellville.

Mr. Whitehouse stated he would need to research the previous agreement made and the approved parking plan with the adjacent property owner as it is not specifically mentioned in the current project's parking plan.

Mr. Robertson stated he does not feel the parking is a concern for the current project's parking plan, however further review should be given to the adjacent property's parking plan, as a revision may be required.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan. Motion carried 5-0.

Mr. Phillips stated staff are awaiting agency approvals; that he did not believe there would be a significant change to the plan and requested that final approval be made by the staff.

Amended motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to approve the Revised Preliminary Site Plan as preliminary and final. Motion carried 5-0.

S-22-10 American Storage of Delaware

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of a 75,000-square-foot self-storage facility, including RV and boat storage. The plan includes landscaping along Route 1, standard parking, parking for stored vehicles, an oversized loading area, and other site improvements. The plan designates 5,000 square feet of the building to be allocated to office use. Staff note that the property is within an area designated to have Excellent Groundwater Recharge Potential; therefore, the plan is subject to approval from the Sussex County Engineer. Otherwise, the Preliminary Site Plan complies with the Sussex

County Zoning Code which includes the requirements of the Combined Highway Corridor Overlay Zone. Zoning: C-1 (General Commercial). Tax Parcel: 235-23.00-51.00. Staff are awaiting agency approvals. This plan was last reviewed by the Planning Commission at their meeting of October 13, 2022, in which it was requested that a conceptual plan of the SR-1 Grade Separated Interchange be provided. It has been published in the packet, and staff are available for any questions.

Mr. Phillips advised the Commission that the waiver request from the interconnectivity requirement was still active and still required action by the Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Site Plan and grant approval of the waiver request from the interconnectivity requirement, as a preliminary with final approval to be by the staff upon receipt of all agency approvals. Motion carried 5-0.

Ocean View Beach Club North (F.K.A. Lighthipe) (C/Z 1768) RPC

Preliminary Site Plan

This is a Preliminary Site Plan for the creation of ten (10) single-family lots within the Ocean View Beach Club North community. The plan includes a deleted lot from the previously recorded plan, the proposal of a new street, forested buffers, stormwater management, and other site improvements. This proposal is an addition to the existing Ocean View Beach Club North Residential Planned Community, and it was approved as Change of Zone No. 1931 by the Sussex County Council through Ordinance No. 2807. Included in the published packet are the minutes from the public hearings and the approved Final Site Plan for Ocean View Beach Club North. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 134-17.00-12.02. Zoning: Medium Density Residential – Residential Planned Community (MR-RPC). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan as a preliminary. Motion carried 4-1.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – nay, Chairman Wheatley – yea

S-22-36 Chester and Shirley Townsend (C/U 2253)

Preliminary Site Plan

This is a Preliminary Site Plan for the establishment of an events venue. The plan includes parking and a 2.6-acre area to be designated as event space. This use is supported by Conditional Use No. 2253 which was approved by the Sussex County Council through Ordinance No. 2795. No structures are proposed. Rather, events will be held outdoors and will be catered. No indoor kitchen facilities are proposed. Staff had verified consistency with the five (5) conditions that were established upon the use. The property is located on the north side of Vines Creek Road (Rt. 26), approximately 1,100 feet east of the intersection of Gray Road and Sandy Landing Road. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcels: 134-11.00-3.00 & 2.02. Zoning: AR-1 (Agricultural Residential). Staff had received all agency approvals; therefore, this plan qualifies for preliminary and final approvals.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Preliminary Site Plan as a preliminary and a final. Motion carried 5-0.

Chase Bank

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of a 1-story 3,293 square-foot building and other site improvements, with access from the west side of Old Landing Road (S.C.R. 274), approximately 425 feet southwest of the intersection of Coastal Highway (Rt. 1) and Old Landing Road. Staff would like to note that the proposed building is to be built over the property line and encroach onto parcel 127.00's property. A 99-year lease was signed which allows the owner of parcel 132.00 to "sublet without the consent of the Ground Lessor" regarding parcel 127.00. The Preliminary Site Plan complies with the Sussex County Zoning Code, including the combined Highway Corridor Overlay requirements. Tax Parcels: 334-13.00-132.00 & 127.00. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals and would like to request final by staff upon receipt of approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Site Plan as a preliminary, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 5-0.

Lands of Richard & Beth Miller

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 42.95-acre +/- parcel of land into one lot and residual lands off of a proposed 50-foot ingress/egress access easement. The proposed lot will consist of 15.229 acres +/- and the residual land will consist of 27.72 acres +/- . The property is located on the west side of Truitt Road (S.C.R. 604). Staff are awaiting a revised plan which includes the tax ditch on the property and a wetlands statement. Otherwise, the Preliminary Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 230-25.00-16.00. Staff have received all agency approvals and are requesting final approval by staff upon receipt of the revised plan.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Minor Subdivision off a 50-ft. easement as a preliminary contingent upon receipt of all agency approvals related to the tax ditch. Motion carried 5-0.

Lands of Dennis O'Neal

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the Lands of Dennis O'Neal for the subdivision of a 5.381-acre parcel into two (2) lots including residual. The proposed lot will consist of 2.15 acres +/- and the residual lands will contain 3.23 acres +/- . The following parcels would have combined access off an ingress/egress access easement located on the east side of Sussex Highway (Rt. 13). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: C-1 (General Commercial District). Tax Parcel: 332-1.00-105.00. Staff are in receipt of all agency approvals and are requesting final by staff.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the Minor Subdivision off a 50-ft. easement as a final. Motion carried 5-0.

2006-73 The Vines of Sandhill

Request to Revise Conditions of Approval Relating to Recreational Amenities

The Sussex County Planning and Zoning Department has received a request for a time extension for the construction of the clubhouse within The Vines at Sand Hill residential community. Specifically, the applicant has requested "an extension for the completion of The Vines at Sand Hill clubhouse until the 1st quarter of 2023." Two letters regarding the details supporting the request have been included in the published packet. Staff note an extension for the construction of the clubhouse was previously reviewed and approved by the Planning and Zoning Commission on May 13th, 2021. The minutes and Notice of

Decision from this meeting are also in the published packet. Tax Parcel: 135-10.00-63.00. Zoning: Ar-1 (Agricultural Residential Zoning District).

Mr. Hopkins questioned the number of building permits that had been issued to date.

Mr. Whitehouse advised the Commission he would need to research to provide an accurate number of issued building permits.

Mr. Whitehouse advised the Commission that the original approval required completion within two years of the issuance of the first residential building permit; that this requirement was not met; that the revised Conditions of Approval, from May 13, 2021, required the commencement of the amenities to begin within six months, with the completion of the amenities to be within 18 months or by the issuance of the 136th building permit; that the 136th building permit requirement had not been met; that the extended revised calendar date was approaching, and the current request was to grant a time extension for Spring of 2023.

Mr. Mears advised the Commission that there is a current issue with obtaining building supplies and employees.

Ms. Stevenson questioned how much of the amenities have been completed.

Mr. Whitehouse advised the Commission that the Application had created some attention; that residents had spoken at County Council, specifically regarding the project design and the delivery of amenities.

Mr. Robertson advised the Commission that the Application received Final Site Plan approval in 2008; that homes had been sold; that a revision of Condition M was requested in 2021, which provided a two-year term for construction of the amenities; that there are people living in the development who are expecting amenities; that in 2021, there had been 99 building permits applied for, 96 building permits issued and three pending and at the time, 63 homes had received Certificates of Occupancy.

Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 4-0. Ms. Wingate abstained.

OLD BUSINESS

C/U 2321 Coastal Properties, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A KITCHEN AND BATHROOM SHOWROOM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.248 ACRES, MORE OR LESS. The property is lying on the northeast side of Beaver Dam Road (Rt. 23), approximately 0.16-mile southwest of the intersection of Church Street and Salt Marsh Boulevard. 911 Address: 17677 Stingey Lane, Lewes. Tax Parcel: 334-5.00-196.00.

The Commission discussed the Application which had been deferred since September 8, 2022.

Ms. Stevenson moved that the Commission recommend denial of C/U 2321 Coastal Properties, LLC for a kitchen and bathroom showroom based on the record made during the public hearing and for the following reasons:

1. The Applicants are seeking a kitchen and bathroom showroom on a .248-acre property at the corner of Beaver Dam Road and Stingey Lane in the community known as “Belltown”.
2. The Applicants have a documented history of noncompliance with regard to the property, including the construction of a two-story garage without a building permit; a complete remodel of a dwelling without a proper permit confirming compliance with building code requirements; the unpermitted garage was constructed in violation of county setbacks; trash violations; a shed placed upon the property without a permit; an outdoor second-floor stairway and other construction occurring in spite of the unpermitted and violated structures on the property; and multiple untagged vehicles parked on the small parcel. There have been multiple visits to this property by County Inspectors, yet there has been very slow progress in bringing it into compliance with County Zoning and Building Codes. In short, there is a history of aggravated noncompliance on this property by these Applicants that does not support the approval of a Conditional Use upon it.
3. Although Belltown is evolving with commercial uses along Route 9, the area along Beaver Dam Road remains primarily residential in nature. The use as a kitchen and bathroom showroom is inconsistent with the nature and character of this area of Belltown. There was also testimony from neighboring residential property owners that this proposed use would be detrimental to the use and enjoyment of their home and inconsistent with the residential nature of the community. For these reasons, a Conditional Use for a showroom is not appropriate here.
4. This small .248-acre parcel is not large enough to accommodate the needs of the proposed showroom and the traffic generated by it. There was testimony in the record that cars, trucks, and equipment are parked all over the entire site including its setback areas, and even beyond the property boundaries. This small parcel of property is not an appropriate location for this type of conditional use and the traffic and vehicles that would be associated with it.
5. There is no room on this small property for delivery trucks. There was testimony in the record that delivery trucks have blocked Stingey Lane and the neighbors’ use of that roadway for vehicular access.
6. In general, this use should be located on a property that is appropriately sized for it and in an area that is appropriately zoned for this type of use. A Conditional Use for a kitchen and bathroom showroom is not appropriate for this location and it should be denied.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend denial of C/U 2321 Coastal Properties, LLC for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley – yea

2021-24 Fishers Point

A cluster subdivision to divide 40.657 acres +/- into forty-eight (48) single-family lots to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County. The property is lying on the west side of Revel Road (S.C.R. 410), approximately 0.23 mile north of the intersection of Revel Road (S.C.R. 410) and Lewis Road (S.C.R. 409). Tax Parcels: 133-16.00-81.00, 81.03, 81.04, 81.05, 81.06, 81.10, 81.13. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed the Application which had been deferred since October 13, 2022.

In relation to 2021-24 Fishers Point. Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

2021-32 Riverwood

A cluster subdivision to divide 58.6 acres +/- into one hundred and seventeen (117) single-family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying on the northwest side of Phillips Branch Road (S.C.R. 302), approximately 0.25 mile south of the intersection with Hollymount Road (S.C.R. 48). Tax Parcels: 234-17.00-3.00 & 234-17.00-5.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed the Application which had been deferred since October 13, 2022.

Mr. Robertson read Mr. Hopkins' prepared motion per Mr. Hopkins' request.

Mr. Hopkins moved that the Commission grant preliminary approval of 2021-32 Riverwood based on the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval of a clustered subdivision within the AR-1 Zoning District. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet.
2. As stated by the Applicant, the proposed subdivision will have no more than 117 lots on 58.6 acres. This is within the permitted density of the site.
3. The location is in the Low-Density Area according to the current Sussex County Comprehensive Plan. The proposed subdivision is appropriate in this Area according to the Plan. The proposed project complies with the Comprehensive Plan and Zoning Code.
4. The Applicant had addressed the items contained in Section 99-9C of the Subdivision Code.
5. The proposed development will comply with all DelDOT roadway entrance requirements.
6. There will be a 30-foot perimeter buffer around the entire site.
7. The proposed subdivision contains approximately 27 acres of open space, which represents about 46% of the entire site. This includes 23 acres of contiguous open space.
8. There are non-tidal wetlands on this site. These regulated wetlands will be preserved and protected by a 25-foot buffer.
9. The project will be served by central water and sewer.
10. This subdivision is based on a design that is superior to a standard subdivision. The design includes a substantial amount of open space with amenities.
11. The Applicant has complied with the design process of Section 115-25E of the Zoning Code by seeking to identify and preserve environmentally sensitive areas first and then locating the lots and amenities outside of these areas. Tree removal is also limited to the minimum amount necessary to develop the property. Wetlands and waterways have been avoided, and scenic views are preserved by limiting back-to-back lots with spacing between them.
12. The subdivision meets the purpose of the Zoning and Subdivision Codes and the Comprehensive Plan in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County.
13. This preliminary approval is subject to the following:
 - a. There shall be no more than 117 lots within the subdivision.
 - b. The Final Site Plan shall confirm that approximately 46% of the site remains as open space, subject to the final engineering of the site.
 - c. The developer shall establish a Homeowner's Association responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas.
 - d. 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.

- e. There shall be a vegetated or forested buffer that is at least 30 feet wide installed along the perimeter of this subdivision adjacent to lands of other ownership. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify "Limit of Disturbance" to prevent disturbance of the buffer area.
- f. There shall be a minimum buffer from regulated non-tidal wetlands of at least 25 feet. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of this buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area.
- g. The development shall comply with all DelDOT entrance and roadway improvement requirements.
- h. Sidewalks shall be installed on at least one side of all internal streets with a connection to the DelDOT multi-modal path. A system of downward screened streetlighting shall also be provided.
- i. Amenities including a pool and bathhouse shall be constructed and open to use by residents of this development on or before the issuance of the 70th residential building permit. The Final Site Plan shall contain details as to the size and location of these amenities.
- j. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
- k. Street design shall meet or exceed Sussex County standards.
- l. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Mapping Office.
- m. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. through 5:00 p.m., Monday through Friday, and between the hours of 7:00 a.m. and 2:00 p.m. on Saturdays. No Sunday hours shall be permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
- n. The Applicant shall coordinate with the local school district regarding the location of a school bus stop within the subdivision. If required by the school district, the location of the bus stop area shall be shown on the Final Site Plan.
- o. The Final Site Plan and Declaration of Restrictions shall state that agricultural activities exist nearby, and they shall include the Agricultural Use Protection Notice.
- p. The Final Site Plan shall include a Landscape Plan depicting all landscaping to be provided or preserved in all of the buffer areas. The Landscape Plan shall also clearly show all forested areas that will be preserved. The Landscape Plan shall also identify "Limits of Disturbance" within the site.
- q. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No Certificate of Occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- r. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the 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. Hopkins, seconded by Ms. Stevenson to grant preliminary approval for 2021-32 Riverwood for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley – yea

C/U 2323 Leslye Brossus

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A TREEHOUSE AND YURT TO BE UTILIZED FOR SHORT-TERM RENTALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.26 ACRES, MORE OR LESS. The property is lying on the south side of Reading Street, approximately 0.14 mile south of Old Mill Road (Route 349) and is Lot 45 within the Banks Acres Subdivision. 911 Address: 31631 Reading Street, Millville. Tax Parcel: 134-12.00-1198.00.

The Commission discussed the Application which had been deferred since October 13, 2022.

In relation to C/U 2323 Leslye Brossus. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

C/U 2324 Zachary Bedell

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE AND BOAT REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS. The property is lying on the west side of Central Avenue (S.C.R. 84), approximately 350 feet south of Substation Road (S.C.R. 366). 911 Address: 34282 Central Avenue, Frankford, DE 19945. Tax Parcel: 134-16.00-700.02.

The Commission discussed the Application which had been deferred since October 13, 2022.

Mr. Robertson read Mr. Mears' prepared motion per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/U 2324 Zachary Bedell, for an automotive and boat repair business with several strict conditions based upon the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval for a small automobile and boat repair business on property owned by his family. It is a small business started by the Applicant and it has grown to the point where it must have Conditional Use approval to continue.
2. There were many neighbors who appeared and testified with concerns about the Applicant's current operations on the property and the condition of the property in general. The Conditional Use, with the requirements imposed by it, will clean up the property and set limitations on what the Applicant can and cannot do on the property.
3. The use as a small automobile and boat repair business, if conducted properly, can be a benefit to property owners and businesses in the area by providing a convenient location for the service.

4. If operated correctly and in compliance with the Conditions of Approval, this use is consistent with other conditional uses in the area including a boat and RV storage facility.
5. This small use, with the conditions placed upon it, will not generate a significant amount of traffic on area roadways.
5. This property is in the Coastal Area according to the Sussex County Comprehensive Plan. A small business use like this can be an appropriate use within this Area according to the Plan.
6. This recommendation is subject to the following conditions.
 - A. The use shall be limited to the repair and maintenance of vehicles, boats, and equipment.
 - B. There was concern stated during the hearing about burning that has occurred on the site. No outdoor fires or burning shall be permitted on the site.
 - C. No junked, inoperable, untitled, or unregistered vehicles, boats, or trailers shall be stored on the site.
 - D. No sales of vehicles, trailers, boats, or equipment shall be permitted from the site.
 - E. The area of the Conditional Use shall be limited to a one-half-acre area on the site. This area shall be fenced with a 6-foot-tall solid fence to screen the view from neighboring properties and roadways. The “CONEX”-style metal freight containers must be located within this one-half acre fenced area. This fenced-in area shall be completely outside of all setbacks on the property.
 - F. All repairs, maintenance, and other work must occur within the one-half-acre fenced area. All vehicles, boats, trailers, equipment, or other items associated with the Conditional Use must be located within this fenced area at all times.
 - G. All existing vehicles, boats, trailers, equipment, tractors, machinery, junk, and scrap metal or materials of any kind shall be relocated inside of the one-half acre fenced area. None of these items or anything else not used for residential purposes shall be stored outside of the one-half-acre fenced area.
 - F. Although a Final Site Plan is required as part of this Conditional Use, the fence around the one-half acre area shall be permitted and installed within six months of the approval of this Conditional Use by Sussex County Council. Failure to construct this fence within this timeframe shall be grounds for the termination of this Conditional Use.
 - H. The property shall be cleaned up within six months of the approval of this Conditional Use by Sussex County Council, with all of the existing vehicles, boats, trailers, equipment, tractors machinery, junk, and scrap materials of any kind either removed from the property or relocated into the one-half acre fenced area. Failure to abide by this requirement shall be grounds for the termination of this Conditional Use.
 - I. There shall be no more than 10 vehicles and boats (including trailers) in total on the property at any one time.
 - J. The one-half acre fenced-in area of this Conditional Use shall be clearly shown on the Final Site Plan.
 - K. The violation of any of these Conditions of Approval at any time may be grounds for termination of this Conditional Use.
 - L. The Final Site Plan for this Conditional Use shall be reviewed and approved by the Sussex County Planning & Zoning Commission.
 - M. This Conditional Use shall be automatically reviewed by the Planning & Zoning Commission with a report from Staff within one year from the date of approval by Sussex County Council to review compliance and determine if its existence has any adverse

impacts upon the neighboring and adjacent properties. It shall continue to be reviewed annually by the Commission unless (a) it is terminated or (b) the Commission determines that such annual reviews are no longer necessary.

- N. All oils, liquids, and other fluids of any kind, which are associated with the use shall be disposed of properly.
- O. The hours of operation shall be limited to the hours of 7:00 am to 6:00 pm, Monday through Friday, and 7:00 am to 2:00 pm on Saturdays. There shall be no Sunday hours of operation.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2324 Zachary Bedell for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley - yea

PUBLIC HEARINGS

Mr. Robertson described the procedures for public hearings before the Planning and Zoning Commission.

2022-06 Amelie Sloan Trust – A standard subdivision to divide multiple parcels containing 4.57 acres +/- into six (6) single-family lots, to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying on the north side of Cedar Lane and Pinewater Drive and on the southeast side of Blackberry Lane with access off Sloans Lane, approximately 0.44 mile east of Multiflora Drive. Tax Parcels: 234-17.12-99.01, 99.02, 99.03 & 99.04. Zoning: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record were the Preliminary Subdivision Plan, the Staff Review Letter, the Applicant's Exhibits, the Applicant's Legal Description, comments provided by the Sussex County Engineering Department Utility Planning Division, the Technical Advisory Committee (TAC) comments, including comments from the State Fire Marshal's Office. Mr. Whitehouse advised the Commission that 23 letters were submitted in opposition, with some being duplicates, one petition in opposition containing 97 signatures; that a letter received by Mr. Bruce Rogers and one letter received by the Pinewater Civic Association, in addition to several mail returns.

The Commission found that Mr. Sam Sloan and Ms. Linda Sloan spoke on behalf of their Application; that they are both co-trustees of the Amelie Sloan Trust; that also present was Mr. Domonic Agresta and Mr. Agresta was the surveyor who provided the subdivision plan.

Mr. Sloan stated that the purpose of the proposed subdivision is to settle Mr. Sloan's estate and represent the three beneficiaries of the estate; that proposal revises the subdivision plan which was previously approved on July 26, 2004; that the previous plan consisted of four total lots; that two of the lots were dog-legged lots being 1.45 acres and 1.67 acres and the other two lots being of 32,264 sq. ft. and 30,928 sq. ft.; that the purpose of the re-subdivision is to a re-design of the large awkward dog-legged lots into more reasonably designed lots; that the current lots were created by his mother in 2004 because she believed she needed the road frontage along Pinewater Dr. to create access to both the farmhouse lot and the guesthouse lot; that since the two lots at the entrance of Sloan's Lane were to eventually be owned by others, his mother was afraid she would lose access to her home from Sloans Lane; that his mother created the two dog-legged lots, both having 150-ft. of road frontage on Pinewater Dr. to ensure

that she would always have access to her home; that another goal of the re-subdivision is to reattach the guest house lot to the farmhouse lot; that the intent to allow exclusive access to the farmhouse using an applied easement along Sloans Lane; that after the death of his mother, they obtained legal opinion from Mr. David Hutt, Esq. who stated Sloans Lane allows access only to the farmhouse via Sloans Lane; that access to any new lots would be off of a State maintained road; that the newly designed subdivision plan will allow for two new lots with a minimum square footage of 20,000 sq. ft.; that the proposed Application will improve the existing subdivision by providing better design by maintaining subdivision lots fronting of existing Pinewater Drive, Cedar Lane and Pinewater Farms Subdivision; that the proposed subdivision will not change the existing impact on wetlands and floodplains along Herring Creek, as the additional lots will front along Pinewater Drive and Cedar Lane; that there is an existing barn and outbuildings which will remain, except for the small barn located on Lot 3 which is to be removed; that the proposed subdivision will not interfere with the adjacent four acre open space recreation area located on Pinewater Farm; that the property is currently opened and mowed; that the proposed subdivision will not disturb the existing soil or grade changes; that when constructing the new homes, soil will be disturbed; that it is likely additional landscaping will be added; that there are no objectional features as the area is residential and recreational; that the proposed subdivision will allow for private wells, which is consistent with all of Pinewater Farm; that the proposed subdivision will require two additional wells; that central sewer is currently being installed in Pinewater Farm; that the lots will be connected to public sewer services; that homeowners will be required to comply with the County's soil erosion and sedimentation controls during any construction activities; that compliance of the erosion and sedimentation controls will minimize flooding potential and changes in groundwater levels; that the proposed subdivision will rely on existing State maintained roads, being Cedar Lane and Pinewater Drive; that the proposed driveways will comply with DelDOT requirements; that the proposed subdivision will create two additional driveways; that the proposed minimum lot size is consistent with the Sloan Family Subdivision, located at the western end of Pinewater Drive; that the Sloan Family Subdivision was approved by Sussex County in April 2022 for the creation of eleven lots; that Sussex County Sewer is being installed on Pinewater Farm; that any newer homes built on the lots will be consistent with other homes existing on Pinewater Farm; that currently, over eight percent of Pinewater Farm lots consist of approximately a half-acre; that Pinewater Farm was once agricultural; that Pinewater Farm has since been subdivided into residential lots in the 1970s and 1980s; that farming of the property terminated in the 1970s; that the proposed subdivision is consistent with the existing Pinewater Farm neighborhood; that future lot owners will be required to join the Pinewater Civic Association; that the current dues are \$200 per year; that the proposal of two additional house will not have a significant impact on area roadways; that the driveways will comply with all DelDOT requirements; that the proposed subdivision is consistent with the existing Pinewater Farm residential land use; that there is no proposal for new waterfront lots along Herring Creek; that he and his wife are settling in the State of Delaware; that they wish to keep the farmhouse and the guest house together on one lot, due to their close proximity to each other; that they do not wish to have large expansion areas to maintain and mow; that they do understand the current residents of Pinewater Farm do not want change, keeping things the way they have been for 50 years; that the current residents of Pinewater Farm are not paying the expenses to maintain their property; that the community stated that all Pinewater Farm lots are large; that he and his wife own a lot, which existing in the original subdivision in 1972, being slightly over 20,000 sq. ft.; that there are other waterfront lots, of similar size, which predate the 1972 plot, located along Pinewater Drive; that they believe 20,000 sq. ft. lots, being almost a half-acre, will fit in with the current design of Pinewater Farm; that eight percent of Pinewater Farm lots are approximately a half-acre; that he and his wife are members of the Pinewater Civic Association; that their contact information is listed on the list

of residents; that only two residents from the community have contacted him with questions regarding the proposed re-subdivision before petitions were sent out; that he has paid his dues for many years; that he has respected and enjoyed the progress the residents of Pinewater Farm have made for the community; that he grew up on the farm; that it has been stated the two proposed lots are the proverbial center of the community; that he and his wife disagree with that statement; that they believe the four waterfront acres of open space, which his father Mr. Samuel Sloan, donated to the Pinewater Civic Association, is the proverbial center of the Pinewater community, as it was the area his father designed to be for open space; that the area is a prime location for open space, as it is the area the pavilion is located; that the pavilion area is the location all meetings and picnic are conducted and he requested the Commission approve their preliminary subdivision request.

Ms. Sloan presented to the Commission, the original subdivision plan from 2004; that the issue is the dog-legged lots; that Herring Creek is to the rear of the properties; that the properties are long; that the properties take a left turn, creating frontage on Pinewater Dr.; that the new subdivision proposal does not change any of the property boundaries along Herring Creek; that Ms. Sloan presented the Commission a photo of Sloan's Lane and the lane's location on the property in reference to the current buildings; that in 2004, that lot located at the entrance of Blackberry Lane and Sloan's Lane, where Mr. Sloan's mother would enter and exit, was owned by Mr. Jack Sloan, who was her mother-in-law's stepson; that the property was deeded to Mr. Jack Sloan in 1972; that eventually, Mr. Jack Sloan became the owner of the properties from the water and across Sloans Lane; that her mother-in-law was 85 years old at the time; that her fear of losing access to her home was the reasoning of creating the two dog-legged lots; that there is approximately 25-ft. between the guest house and farmhouse; that the current lot line is between the guest house and farm house; that they propose to cut off the dog-legs which head to the left toward Pinewater Lane and Cedar Lane; that reflected in the new plan, they have relocated the guest house onto one lot for family; that the rest of the properties have been subdivided out; that there are four half-acre lots; that Mr. Hutt, Esq. did confirm there is an applied easement along Sloans Lane, ensuring access to the farmhouse; that there are multiple existing lots, located along Waterside Drive and Pinewater Drive, that are around the half-acre size; that Sloan Family Subdivision was approved by the County on April 28, 2022, for 11 half-acre lots; that Ms. Sloan presented to the Commission photographs of the open area, which her father-in-law had previously donated to the Pinewater Civic Association; that the open space area is approximately four acres; that half of the four acres are waterfront; that in the open space area there is a basketball court, children's recreational area and pavilion; that the current open space area is a wonderful place for residents to enjoy; that the open space area is well maintained; that they do not feel the area of her mother-in-law's cottage and barns are the premier location for open space; that many residents are wedded to the cottage and barn due to their length of existence and she requested the Commission approve their preliminary subdivision request.

Ms. Stevenson questioned if a subdivision was granted, would two dwellings located on one lot comply with the Code; that she questioned the access ways and if a maintenance agreement was in place; that Sloans Lane is not located on the Sloan's property and the Sloans would be required to ensure a legal document is in place stating who is responsible for the maintenance of Sloans Lane.

Mr. Whitehouse stated the guest house could be used for accommodations; that the dwelling could not contain a kitchen; that once a structure contains a kitchen, it is deemed a dwelling, which would create multi-family on the property and there is a process to request approval for multi-family use.

Ms. Wingate questioned if there was a Soil Evaluation Report submitted into the record for the private wells.

Mr. Sloan stated he understood permitted uses under the Code; that he intends to request approval for multi-family on the property; that they have informed all property owners that Sloans Lane is for the exclusive use of the farmhouse; that an agreement can be put into place if needed; that he understood the reason for a maintenance agreement; that there are currently four lots; that if their request is approved there would be a total of six lots, which will consist of two additional lots and the four current lots.

Ms. Sloan stated they can create a maintenance agreement; that Sloans Lane is owned by them for access to the farmhouse; that the only people who should traverse Sloans Lane would be those who are living in the farmhouse or visiting the farmhouse; that whoever should own the long lot, would be required to access the lot from Cedar Lane; that they will have a maintenance agreement with themselves to maintain Sloans Lane and the subdivision will allow for the house and well to be located on the same property.

Mr. Dominic Agresta, the surveyor of the property, stated currently they have not performed soil evaluations, as central sewer is proposed in the area; that soil testing is not required for private wells and the only requirement is for them to obtain the proper permits.

The Commission found that Mr. Bruce Rogers, Esq. spoke in opposition to the Application; that he works for the Pinewater Civic Association; that earlier in the meeting the Commission had discussion regarding people getting what they pay for, not being engaged in a bait-and-switch; that Pinewater Farms is a well settle community; that even when taking into consideration that only eight percent of the lots would be 20,000 sq. ft. or less, he noted all of those lots are located on the outskirts of the community or part of the new addition to the community; that almost all of the existing lots are between 30,000 sq. ft. and 34,000 sq. ft.; that they submitted an original brochure designed by Mr. Sloan upon the creation of the Pinewater Community; that he stated "*a community with spacious lots, between 30,000 sq. ft. and 34,000 sq. ft., enough for both a home and a large garden;*" that Mr. Sloan had also noted the restrictions to protect property values and the right of the property owners; that if the Application were to be approved, it will place smaller lots in the center of the existing community; that the proposed lots will be in direct views of the common area; that the proposal will change the look of the community; that the location of the proposed lots will adversely impact adjacent properties by being located in the center of all surrounding lots; that the proposal will allow the four lots to become six lots, all being approximately 20,000 sq. ft.; that 97 signatures were provided in opposition; that all residents of the Pinewater Farms community signed in opposition, aside from three residents; that one person who did not sign the petition was a realtor who was associated with the proposed project; that the other two people who did not sign the petition are Sloan family members; that his clients found a 1985 memoir, written by the founder of Pinewater Farms, Mr. Samuel Sloan; that located on page 46, it stated between 1955 and 1965, Mr. Samuel Sloan mentioned selling 45 lots of at least $\frac{3}{4}$ acre in size; that on page 57, Mr. Sloan wrote *our four children were deeded jointly the eight acres described above, the only restriction we insisted on, that if it was disposed of, ever being sold as lots, the lots must be 3/4-acre in size to confirm to the restriction*; that it should be noted within the past week, the Sloans and the Sloan Trust have paid all dues to the Pinewater Civic Association; that the Commission has previously discussed the concept of detrimental reliance; that when the 97 residents moved into the community, they had the understanding all lots would be between 30,000 sq. ft. and 34,000 sq. ft. in size; that the current Application proposes six lots, reduced in size, in the middle of the existing area; that the proposal will create far different parcels and uses than the community has had; that Mr. David Hutt, Esq. was involved in the implied access easement issue in 2020; that community does not wish to stand in the way of the right to the property owners; that the community does not agree with the way the property owners have chosen to exercise their rights as they are a detriment to the entire neighborhood and community; that when taking into the consideration the history of the community, the deeds, the sales, the brochures, the maps, the

letters, the custom and the practice, it would find the subject parcel is part of the Pinewater Farm community; that it was always the intent to have all the lots within Pinewater Farm community to be between 30,000 and 34,000 sq. ft. in size; that the community felt if the Applicant were to amend the Application, creating four lots, being between 30,000 sq. ft. and 34,000 sq. ft. in size, it would keep with the character of the existing community; that it would protect the values of the existing neighborhood; that the easement issue could be resolved; that it would create a waterfront lot, which would substantially create the dollars generated for the development; that the issue of the Application being the settlement of an estate is not a question for land use; that the issue of estate settlement is an issue for the heirs; that the recent addition to the Pinewater Community cannot be directly compared to the proposed subdivision, as it is proposed in the center of the original development; that he, on behalf of the Pinewater Civic Community requested the Commission deny the application as it is currently proposed and they would not object to the propose of four lots, being between 30,000 sq. ft. and 34,000 sq. ft. in size.

The Commission found that Mr. John Hukill spoke in opposition to the Application; that he has lived at his property for 50 years; that his property is directly across the road from the subject property; that the subject property is the remaining land of the Pinewater Farm development; that the subject parcel is adjacent to the Pinewater Farms community area, which contains a pavilion, boat ramp and open area, which is the heart of Pinewater Farms; that the subject properties have $\frac{3}{4}$ -acre building lots, as do all other lots within Pinewater Farm development; that the desire to reduce the lot size to $\frac{1}{2}$ -acre is out of character with Pinewater Farms; that the proposed design is poorly laid out; that the current design chops the area into irregular lot shapes; that the current design eliminates the ability for a waterfront lot; that the proposal of smaller lots would have houses jammed together, being completely out of character with the openness of Pinewater Farm; that the proposed layout would produce less financial gain for the Sloan Trust; that the heirs of the Sloan Trust, aside from their youth, have never lived at Pinewater Farms; that the proposed design disrespects the nice, open layout of the entire Pinewater Farm development and he moved the Commission to deny the requested change to the subdivision.

The Commission found Mr. Kirk Christensen spoke in opposition to the Application; that he has lived within Pinewater Farms for the last five years; that he and his wife moved to the Pinewater Farms community for the appearance, larger lot size, and the sense of community; that he requested the proposed Application maintain consistency; that he feels the proposal of four lots, rather than six lots, was a reasonable compromise and the propose of four lots would maintain the integrity of the existing community.

The Commission found that no one was present by teleconference who wished to speak in opposition to the Application.

The Commission found, by a show of hands, that there were 24 people present in opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to 2022-06 Amelie Sloan Trust. Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

2022-03 Paradise Meadows – A cluster subdivision to divide 95.87 acres +/- into one hundred and ninety-one (191) single family lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the south side of Cave Neck Road (S.C.R. 88),

approximately 1.3 mile east of the intersection of Cave Neck Road (S.C.R. 88) and Diamond Farm Road (S.C.R. 257). Tax Parcel: 235-21.00-182.00. Zoning: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record were the Preliminary Subdivision Plat, a copy of the PLUS comments, the Applicant's responses to the PLUS comments, the Staff Review Letter, the Applicant's response to the Staff Review Letter, the Exhibit Booklet which includes the Applicant's Chapter 99-9C response, a letter received from Delaware Department of Transportation (DelDOT), a letter from Sussex County Engineering Department Utility Planning Division, a copy of the Soil Evaluation Report, the Applicant's Wetland Exhibits, the Applicant's Endangered Species review, the Technical Advisory Committee (TAC) comments which include comments from Sussex County Engineering Department, U.S. Department of Fish & Wildlife, Department of Agriculture, Delaware Electric Coop, DNREC and Watershed Stewardship. Mr. Whitehouse advised the Commission that zero comments were received for the Application.

The Commission found that Mr. James Fuqua, Esq., spoke on behalf of the Applicant, CNR Land Investments, LLC; that also present was Mr. Christopher Flathers of Morris Ritchie Associates, Inc and Mr. Matthew Jeanette of Geo Technology Associates; that Mr. John Richardson is the Principal of CNR Land Investments, LLC and has been before the Commission before with other Applications; that due to previously made plans, Mr. Richardson was not able to attend the public hearing; that an exhibit booklet was submitted containing Application information, including the Applicant's PLUS response and Chapter 99-9C Subdivision Report; that the Application proposes 191 single-family lot AR-1 (Agricultural Residential) Cluster Subdivision; that the subdivision is to be called Paradise Meadows; that the site contains 95.87 acres; that the site is located on the southside of Cave Neck Rd.; that the site is just east of the Town of Milton; that the general nature of the area is agricultural lands, woodlands and a number of subdivisions; that all the subdivisions are single-family home subdivisions; that the site borders Beaver Dam Creek to the east; that there are wetlands located along that eastern boundary of the property; that two residential developments, Anthem and Holland Mills, are located to the southwest of the site; that there are several single-family developments located to the east of the site; that River Rock Run and Creek Falls Farm developments are located on the west side of Hudson Rd. and north side of Cave Neck Rd.; that south of Cave Neck Rd. and Hudson Rd. are the Oak Orchard development and Compass Point development; that Compass Point fronts on Hudson Rd. and Sweet Briar Rd.; that to the east of the side, along Cave Neck Rd. is Vincent Overlook, Windstone and the Overbook Shores subdivisions; that the proposed site is zoned AR-1 (Agricultural Residential); that the site is mostly cleared agricultural lands; that some woodlands are located within the southeast corner and along the western boundary of the site; that the proposed development will contain 191 lots with recreational facilities; that single-family dwellings, located on individual lots are a permitted use within the AR-1 Zoning District; that the AR-1 Zoning District also permits cluster design subdivisions; that lots are required to have a minimum lot size of 75,000 sq. ft., creating a density of two lots per acre, being subject to the Cluster Design requirements of the Code; that under the 2019 Sussex County Comprehensive Plan, the site is located within the Low Density area; that the Comprehensive Plan recognized that single-family developments at a density of two lots per acre are appropriate within the Low Density area; that the Comprehensive Plan encourages the use of the cluster design option; that the proposed 191 single-family lots complies with the permitted density for a Cluster subdivision, with two lots per acre, with the AR-1 Zoning District; that central water will be provided by Artesian; that Artesian hold a Certificate of Public Convenience and Necessity (CPCN) to serve the site; that central sewer will be provided by Artesian Wastewater Management, who also holds a CPCN for the area; that electricity will be provided by Delaware Electric Coop; that the stormwater management facilities will be designed

and constructed in accordance with DNREC's current sediment and stormwater management regulations; that stormwater management will be reviewed and approved by the Sussex Conservation District; that the stormwater system will be designed to filter and infiltrate stormwater back into the ground, or to provide a slow, controlled release when necessary; that there was a wetland evaluation performed by Geo Technology Associates, Inc.; that the evaluation determined there were approximately 3.468 acres of jurisdictional non-tidal wetlands located on the western boundary of the site, adjacent to Beaver Dam Creek; that a jurisdictional determination was requested from the U.S. Army Corp of Engineers; that as part of the jurisdictional determination process, representatives of the Army Corp of Engineers met with representatives from Geo Technology Associates onsite; that there were narrow strips of wetlands located along Cave Neck Rd., located on the western frontage of the site; that the wetlands in that area were originally believed to be non-jurisdictional, isolated wetlands; that based on the onsite inspection with the Army Corp of Engineers, the wetlands were determined to be jurisdictional; that the jurisdictional determination resulted in an additional .48 acres of jurisdictional non-tidal wetlands being located on the site; that determining isolated wetlands is a complicated matter; that the jurisdiction comes down to the definition of the Waters of the United States; that he believes there is a case currently before Supreme Court this term, which should provide a definitive answer as how the Waters of the United States is defined; that all the lots and roads within the subdivision will have a minimum of a 30-ft. buffer from the wetlands; that the 30-ft. setback will comply with the newly adopted resource buffer Ordinance, despite the Ordinance not currently being in effect; that there was a soil investigation performed on the site, by Geo Technology Associates, in relation to the design and location of the stormwater management facilities; that based on the soil investigation the stormwater ponds were placed in the northwest and southeast areas of the site; that based on the FEMA Flood Insurance Maps, all of the lots and roads will be located outside of the 100 Year Flood Plain, which is designated as the Flood Zone X; that the U.S. Fish & Wildlife Service confirmed there are no federally listed, endangered or threatened species on the site; that DNREC's Division of Fish & Wildlife indicated that there are no records of State or Federally listed rare plants, animals or natural communities located on the site; that there was a Phase 1 Environmental Assessment performed by Geo Technology Associates; that the Environmental Assessment consisted of a records review, the site inspection, and interviews who may have had knowledge of the certain conditions of the site; that the study concluded that there was no evidence of any found or recognized environmental conditions located on or associated with the site; that the development entrance is proposed from Cave Neck Rd.; that the entrance will be designed and constructed in accordance with the DelDOT requirements; that based on the estimate total daily vehicle trips and in compliance with DelDOT's Development Coordination Manual, DelDOT indicated that a traffic impact study would not be required, as it was acceptable for the Applicant to pay an Area Wide Study Fee in lieu of the Traffic Impact Study (TIS); that the Applicant will be required to improve Cave Neck Rd. within the limits of the site frontage, to meet the applicable road standards of 12-ft. travel lanes, with eight-foot shoulders; that the Applicant will be required by DelDOT to contribute an equitable share to the cost of an existing DelDOT project located at the triangle formed by Cave Neck Rd., Hudson Rd. and Sweet Briar Rd.; that DelDOT is also requiring the Applicant dedicate 40-ft. right-of-way from the centerline on the frontage of the property along Cave Neck Rd.; that there will be a 15-ft. easement adjacent to the 40-ft. right-of-way for the future shared use path; that the site is located within the Cape Henlopen School District; that the elementary and middle schools for the district are located in Milton; that fire protection would be provided by the Milton Volunteer Fire Company; that that 191 single-family lots of the subdivision will vary in size, from 7,786 sq. ft. to 19,786 sq. ft.; that the average lot size is 8,806 sq. ft.; that all lots border some type of community open space; that the entrance to the development will be designed and constructed in compliance with DelDOT standards;

that the entrance will have a separated ingress and egress lanes; that the entrance will be landscaped, with wooded open space located on either side of the entrance; that this will create an attractive view from Cave Neck Rd. with landscaping along the roadway; that a school bus stop is anticipated to be located along Cave Neck Rd. near the entrance of the site; that the exact location of the bus stop will be coordinated with the school district; that along the eastern frontage, between Lot 13 and Lot 14, there will be a reinforced turf emergency entrance connecting the interior main roadway, being Oasis Drive, to Cave Neck Rd.; that the emergency access will also act as a pedestrian walkway from the development to Cave Neck Rd.; that the subdivision streets will be private; that the streets will be built to Sussex County Engineering Department standards; that there will be sidewalks located on both sides of the streets; that there will be nonintrusive street lighting provided; that the interior street design does not provide easements for future connector roads to the properties located to the south and the east of the site; that this is due to those properties being located within agricultural preservation; that the southern parcel is Expansion No. 1 of the Carpenter Preservation District; that the eastern parcel is the Little Field Preservation District; that Morris Ritchie did confirm with the Department of Agriculture that both properties are located within permanent preservation; that there will be a community recreational area centrally located at the end of the entrance road; that the current proposal is the minimum of what would be constructed by the Applicant; that the amenities will include a community clubhouse, an outdoor swimming pool, deck and patio area and a playground; that there will be three neighborhood parks to serve as gathering places for residents; that the parks will be attractively landscaped, with a covered area and benches; that the proposed parks are located within the northwest, southeast and rear center of the site; that there will be pedestrian pathways, which will connect the three park areas; that this will provide walking trails and interconnectivity within the recreational areas of the site; that they propose the central recreational amenities be completed and open to residents prior to the issuance of the 95th building permit; that the layout of the subdivision is shown on the preliminary plan; that the eastern and southern boundaries of the site will have a 30-ft. forested buffer in compliance with the Zoning Ordinance; that those are the boundaries adjacent to the lands found within agricultural preservation; that the lots will have a minimum 50-ft. setback from the property boundary line; that the documents will include the Agricultural Protection Notice, which are required by Delaware Code; that the strip of wetlands located along the site frontage, west of the entrance road, will have a 30-ft. buffer between the wetland line and the lot line; that the proposed buffer will comply with the new Resource Buffer Ordinance; that the 3.46 acres of jurisdictional nontidal wetlands are located along the western boundary, associated with Beaver Dam Creek; that the project does provide for a significant buffer from the wetlands, with wooded open space in those areas; that the closest lot located to the wetlands is setback 139-ft.; that the average setback along the western boundary is 165-ft.; that the proposed buffers are greater than the required buffers within the new Ordinance; that the proposed buffers will remain an undisturbed preservation area for any forests located in those areas; that the total open space proposed is 43.85 acres, being approximately 45.7% of the site; that the development will have a Homeowners Association comprised of all owners; that the Association will be responsible for enforcing all restrictions, collecting assessments, maintaining the development's streets, entrances, buffers, easements, landscaping, stormwater facilities, recreational amenities, and the community common areas; that he did request to submit proposed findings and conditions; that the Paradise Meadows project is designed as an AR-1 cluster subdivision; that the Application is authorized by the 2019 Comprehensive Plan; that the subdivision was designed in accordance with the purpose of the cluster option; that the plan proposes to cluster the lots outside of environmentally sensitive areas; that the plan provides extensive voluntary wetland buffers by preservation of wooded areas along the wetland area; that the project proposes significant active and

passive open space that meet or exceed the Cluster Development Design requirements and under the cluster Ordinance, the proposed plan is superior in design.

Ms. Wingate stated she appreciated the subdivision design, with all the proposed walking paths and amount of green space and she appreciated the vehicle emergency access to the site.

Mr. Mears stated he agreed with Ms. Wingate, stating the proposal is a great design.

Ms. Stevenson stated she liked the design; that she questioned if there will be enough space for vehicle parking, at the entrance, to allow for school bus pick up and drop off and stated it seemed that most of the development would be constructed in the area of the site which was already cleared.

Mr. Robertson stated he appreciated the proposed design, reflecting a development that can comply with the newly adopted Buffer Ordinance while achieving a good subdivision.

Mr. Fuqua stated there is plenty of open space at the entrance area; that area to provide for parking will be part of the entrance design; that a small parking lot could be achieved in the area if needed; that the southeast corner is a wooded corner, which is required for tree removal and the remainder of the site will be constructed within the existing farm field.

Mr. Young did question if the proposed buffer would be achieved along the top right of the property.

Mr. Flathers stated that reflected on their detailed Preliminary Site Plan, the area is labeled to be a vegetated buffer area; that what was reflected on the rendering was an error; that there is no existing vegetation in that area and they would plant the vegetated buffer in accordance with the County Ordinance.

The Commission found that there was no one present in the room or by teleconference who wished to speak in support or opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to 2022-03 Paradise Meadows. Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 5-0.

2022-13 Lands of Chad E. & Amy L. Reed – A standard subdivision within the existing Loblolly Village major subdivision, to divide 6.94 acres +/- into two (2) single family lots, to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County. The property is lying on the north side of Loblolly Avenue a private street within the major subdivision, approximately 500 feet north of Johnson Road (S.C.R. 207). Tax Parcel: 330-15.13-44.00. Zoning: MR (Medium-Density Residential District).

Mr. Whitehouse advised the Commission that submitted into the record was a copy of the legal description, a copy of the Preliminary Subdivision Plat, the Soil Feasibility Study, a copy of the Technical Advisory Comments (TAC), which include comments from the Delaware State Fire Marshal's Office, the Staff Review Letter, the DelDOT Letter of No Objection (LONO), and a letter received from the Applicant, evidencing 51% support and/or no objection to the Application, from owners within the subdivision. Mr. Whitehouse advised the Commission, from looking at the proposed plan, the Applicant would require a waiver from the Lot Grading requirement and from the Forested Buffer requirement.

The Commission found that Mr. Chad Reed spoke on behalf of his Application; that also present was his son, Mr. Tyler Reed; that he currently owns 6.9 acres; that he is proposing to give the residual piece, being 8/10-acre of property to his son; that this property would be located off of the cul-de-sac of Loblolly Lane; that his son and daughter-in-law intend to build their forever home on the proposed property; that the subject property is the residual land of the Loblolly Village Subdivision; that there are five existing lots along Loblolly Lane; that if his son were to build a home on the property, it would create a sixth lot, which required a Major Subdivision request; that they are requesting a waiver from the street improvements and forested buffer requirements; that what is reflected on the map is overgrowth; that when he first purchased his property, the property was open field; that he maintained the area he wanted, allowing the rest of the property to grow; that the property conditions are from the past ten years; that they have provided signatures from property owners along Loblolly Lane; that Loblolly Lane is a hardpacked stone lane; that everyone along the lane helps maintain the Loblolly Lane; that there is not current maintenance agreement in place; that there is no Homeowners Association; that Loblolly Lane is a private lane owned by him; that he accesses his portion of the property by Speed Street and his son would access his portion of the property by Loblolly Lane.

Ms. Wingate stated her only concern was getting a maintenance agreement for Loblolly Lane.

The Commission found that there was no one present in the room or by teleconference who wished to speak in support or opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

Mr. Robertson read Ms. Wingate's prepared motion per Ms. Wingate's request.

Ms. Wingate moved that the Commission grant preliminary approval for 2022-13 Chad E. & Amy L. Reed, based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low-density single-family residential development. This 2-lot subdivision creates a new lot of approximately 8/10 of an acre in size, resulting in an overall density that 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. No parties appeared in opposition to this Application.
5. The proposed subdivision will not adversely impact schools, public buildings, and community facilities.
6. The proposed subdivision will not adversely affect traffic on area roadways.
7. A waiver of the buffer, grading, and street design requirements is appropriate since this is a small subdivision creating only one new lot.
8. Because this is a subdivision that establishes only one lot on an existing lane, there are no Conditions of Approval associated with this Preliminary Approval. However, the Final Plan will need to be submitted to the Planning & Zoning Commission for approval once all agency approvals have been received.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to grant preliminary approval of 2022-13 Lands of Chad E. & Amy L. Reed for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley – yea

C/U 2326 Sun Leisure Point Resort, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION “N” OF THE CONDITIONS OF APPROVAL IN ORDINANCE NO. 2766 (CONDITIONAL USE NO. 2201) RELATING TO THE SALE OF CAMPSITES WITHIN A CAMPGROUND/RV PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS. The property is lying on the south side of Dogwood Lane, approximately 305 feet south of Radie Kay Lane, approximately 0.29-mile northeast of Long Neck Road (Rt. 23). 911 Address: 25491 Dogwood Lane, Millsboro. Tax Parcels: 234-24.00-38.00 (portion of) (F.K.A. Tax Parcels: 234-24.00-39.02 & 39.06).

Mr. Whitehouse advised the Commission that submitted into the record was the Staff Analysis, a copy of the Applicant’s plans, a letter from the Sussex County Engineering Department Utility Planning Division, a copy of Ordinance No. 2766, and the property deed, dated September 2019. Mr. Whitehouse advised the Commission that eight mail returns and no comments were received.

The Commission found that Mr. David Hutt, Esq. with Morris James, spoke on behalf of the Application for Sun Leisure Point Resort, LLC, who is the owner and operator of Leisure Point Resort Community; that also present were Mr. Brian Mingerink, who is the Regional Vice President of Sales and Operations and Ms. Amy Eskridge who is the General Manager for for that Leisure Point Resort Community; that the Leisure Point Resort Community is a combination manufactured home community, RV park and marina located off Long Neck Rd.; that no exhibit books were submitted into the record for the Application; that the Application request is for the limited purpose of requesting modification to Condition N; that Condition N was adopted by County Council through Ordinance No. 2766, being the approval of C/U 2201; that the subject portion of the property, is eight acres, located at the entrance of the community, off of Radie Kay Lane; that when the original Application was filed, there were two, four acre parcels which comprised the subject property; that the two previous four acre parcels were the subject of C/U 2201; that in January 2021 a public hearing was held before the Planning & Zoning Commission to request a Conditional Use to allow for 58 campsites as an extension of the existing campground the existed as part of Leisure Point Resort; that at the original public hearing, he did propose Findings of Fact and Conditions of Approval to the Commission; that as part of the Conditions of Approval, Condition No. 15 stated *there shall be no sale of campsites*; that in February 2021 the Commission issued their recommendations of approval with conditions A through R; that Condition N modified what had been proposed by the Applicant, adding to it, language which stated *no sales of campsite or camping units, including park models, RVs, travel trailers, or cabins*; that in March 2021 the Application moved to County Council; that during the County Council before public hearing, he requested a revision to Condition N, allowing the Condition to state that *there shall be no sales of campsites*; that he read his statement, made during the public hearing before County Council, from the approved meeting minutes of March 2, 2021, which stated that *Sun Leisure does sell RVs; that these RVs are on a campsite and there is no separate show room area; that this request is made so that the expansion site will be consistent with the existing site*; that County Council did not have any opposition

to the proposed revision to the conditions; that during the original application, there was opposition to the overall Application request for the expansion of the campground; that at the time of the public hearing, County Council did defer making a decision; that when County Council did act on the Application, the requested amendment was forgotten; that at the County Council meeting in March 2021, the short title was read into the record, a motion was read to approve the Application and the motion was immediately adopted without any reference to the requested proposed amendment to Condition N; that the current Application request, is the same as the previous request to amend Condition N; that the current request is to propose Condition N to read *that there shall be no sale of campsites*; that the request is made for multiple reasons; that the proposed language is consistent with §115-172 which provide for special requirements which exist for certain types of Conditional Uses; that a campground is a Conditional Use which has special requirements; that Subsection H and Subsection 4 reference campsites within a campground; that the last sentence of §115-172(H)(4) states that *no site shall be offered for sale or sold*; that the condition proposed by the Applicant was consistent with the Code; that the proposed condition is also consistent with the practice of the existing community; that the existing Leisure Point Resort community, was developed in the 1960s through today; that the community was originally developed by the Harris family; that the community was subsequently purchased and developed by Sun Leisure Point Resort, LLC; that the current community consists of 211 manufactured homesites, 317 RV sites and 305 boat slips in the marina; that for RVs in the existing portion of Leisure Point, the community acts as the broker for those sales; that this practice has been conducted from the 1960s until current times; that, in a typical year, there are 15 to 20 sales brokered through the community; that the RV sales are for RVs located on individual sites within Leisure Point Resort; that this indicated there is not a separate showroom or display area onsite; that there is no intention to become an RV dealership; that in June 2021 the Planning & Zoning Commission reviewed the site plan for C/U 2201; that since that time, the site plan as received all agency approvals, receiving final approval by staff in September 2021, and recorded; that the only remaining room left on the site plan was for 58 RV sites, various amenities and buffers; that a display area, for the sale of RVs, was not reflected on the site plan; that the Sussex County Engineering Department did submit comments in relation to the current Application; that he feels the Engineering Department may have misunderstood the Application request; that with the Engineering comments it mentions addressing the “Leisure Point Condition N removal request”; that the current Application is not a request to remove Condition N, but rather to amend Condition N to remove a portion of the current language; that the Engineering Department had a particular concern to not having means for billing individual campsites for sewer; that there is no intention of selling a campsite at the subject location; that it would be for the selling of RVs, travel trailers and park model RVs; that the language used by the Engineering Department, was that which can be found in the Code, except with the additional language *and cabins* at the end; that there is no definition within the Code for cabins; that to avoid confusion, he requested the word, *cabin*, not be included in the condition; that the submitted site plan reflects 58 RV sites; that the Engineering Department also provided comments regarding the disconnection of sewer attachments from RVs, which are not hard piped to the County sewer system and clipping the sewer connections closed during storm events; that he questioned if the Engineering comments fell within the purview of that Application request; that Final Site Plan was recently approved; that construction is about to begin; that if there is a construction requirement the Applicant is happy to work with the Engineering Department to comply.

Mr. Robertson stated he also was confused by the Sussex County Engineering Department comments; that he does understand that the Applicant is not selling individual sites; that due to this, he feels the Engineering Department’s opposition to the Application is terminated.

Mr. Hopkins questioned what the referenced “clip” looks like, which keeps the stormwater from entering the wastewater on the site.

Mr. Hutt presented photos to the Commission, stating that in the event an RV did not have a connection, to allow wastewater to access the sewer cleanout, there is a lid with a fastener, also known as the “clip”, to fasten the lid in place and there may also be a PVC pipe with a threaded top, which could be screwed in place.

The Commission found there was no one in the room who wished to speak in support or opposition to the Application.

The Commission found Mr. James Russell and Mr. Jason Degirolano spoke in opposition to the Application with concerns regarding wastewater, sales of campsites, the spill protocol, and the impacts the Application will have on his adjacent property and wells.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the public hearing, the Commission discussed the Application.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of C/U 2326 Sun Leisure Point Resort, LLC for amendment of Condition “N” to state there shall be no sale of campsites. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley – yea

ADDITIONAL BUSINESS

The Commission discussed scheduling conflicts for the meeting of November 3, 2022.

Mr. Robertson advised the Commission that discussions are being held in regard to the timing requirements for proposed project amenities.

Meeting adjourned at 8:47 p.m.

Planning and Zoning Commission meetings can be monitored on the internet at www.sussexcountyde.gov.
