

## THE MINUTES OF THE REGULAR MEETING OF MAY 13, 2021

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday afternoon, May 13, 2021, in Room 540, Carter Partnership Center, Delaware Technical Community College, 21179 College Drive, Georgetown, Delaware. Members of the public also attended this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 4:00 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, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mr. Chase Phillips – Planner I, Mr. Elliott Young – Planner I, and Mr. Nick Torrance – Planner I.

Mr. Robertson explained how the meeting would be conducted at this location.

Mr. Whitehouse noted that there were no changes to the Agenda. Motion by Ms. Wingate seconded by Mr. Mears and carried unanimously to approve the Agenda. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Ms. Wingate to approve the Minutes of the April 8, 2021 Planning and Zoning Commission meeting as revised. Motion carried 5-0

### OTHER BUSINESS

#### **Citation Meadows (2018-22)**

##### Final Subdivision Plan

This is a Final Subdivision Plan that proposes the creation of forty-nine (49) single-family lots as a cluster subdivision over 54.40 acres +/- . The property is located on the northern side of Phillips Hill Road (S.C.R. 472), approximately 0.42 of a mile west of Lakeview Road. The Planning and Zoning Commission approved the Preliminary Subdivision Plan for the subdivision at their meeting of Thursday, December 20, 2018. This plan includes 5.9 acres of land to be utilized as a wet pond, 6.1 acres to be used as open space for residents, and other amenities. The plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 133-19.00-30.00. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

The Commission discussed the Final Subdivision Plan.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Final Subdivision Plan. Motion carried 5-0.

#### **The Estuary Phase 5 (2019-06) (F.K.A. Zinszer Property)**

##### Final Subdivision Plan

This is a Final Subdivision Plan for the subdivision of a 26.96 acre +/- parcel of land into thirty-four (34) single-family lots as part of a proposed cluster subdivision to be located on the northeast corner of the Estuary Subdivision, Phase 1D. The Planning and Zoning Commission approved the Preliminary Subdivision Plan for the development at their meeting of Thursday, April 11, 2019. The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 134-19.00-105.05. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

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

### **Harvard Business Services**

#### **Preliminary Site Plan**

This is a Preliminary Site Plan for a 19,635 square foot, 3-story, office building with 155 parking spaces and other site improvements to be located on the west side of Coastal Highway (Route 1). The applicant has requested relief from interconnectivity requirement and the documentation provided has been included in the Commission's paperless packet. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 235-23.00-54.06 Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Site Plan with the addition of a fifth handicapped parking space and the addition of interconnectivity with adjacent commercial property. Motion carried 5-0.

### **The Vines of Sand Hill (2006-73)**

#### **Request to Amend Conditions of Approval**

This is a request to amend the Conditions of Approval for the previously approved The Vines of Sand Hill Subdivision. At their meeting of Thursday, August 20, 2008, the Planning and Zoning Commission approved the major subdivision subject to 15 conditions. Specifically, the request is to amend "Condition M" which states, "Within 2 years of the issuance of the first residential building permit, the developer shall construct all of the recreational amenities." The applicant is requesting a change to match the Phasing Plan, which was approved by the Planning and Zoning Commission at their meeting of Thursday December 14, 2017. General Note Number 3 on the Phasing Plan states, "Clubhouse construction is to be completed prior to the issuance of the 136<sup>th</sup> home certificate of occupancy or earlier. The tennis courts and athletic fields are to be completed prior to the issuance of the 136<sup>th</sup> home certificate of occupancy or earlier." The applicant has stated that currently, construction of the amenities is proposed to begin the Fall of 2021 and be completed prior to the issuance of the 136<sup>th</sup> Certificate of Occupancy. Tax Parcel: 135-10.00-63.00. Zoning District: AR-1 (Agricultural Residential Zoning District).

The Commission discussed this request to amend conditions.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried to approve the Request to Amend Conditions of Approval, that the commencement of the amenities should begin within 6 months and completion within 18 months or the issuance of the 136<sup>th</sup> Building Permit, whichever is the earlier. Motion carried 4-1 with Mr. Mears dissenting.

### **Lewes Crossing – Phase 8 (2016-4)**

#### **Revised Landscape Plan**

This is a Revised Landscape plan that proposes modifications to the forested buffer that comprises Perimeter 2 of Phase 8 of the Lewes Crossing Subdivision. The Planning and Zoning Commission approved the Final Subdivision Plan at their meeting of Thursday, September 28, 2018. Specifically, the revised plan proposes 50 trees be planted rather than the 212 that were originally proposed. The reduction of 162 trees is proposed behind Lots 215 through 227 along Perimeter 2 which is 1,408 linear feet. Included in the published packet are two letters that summarize specific environmental reasons for the request. Furthermore, the proposal has received approval from 60% of the residents within Lewes Crossing. The 60% approval equates to 140 of the total 233 homeowners among all phases with 147 homeowners voting in total. No other changes were proposed to the Revised Landscape Plan. Tax Parcel:

334-5.00-222.01. Zoning District: AR-1.

The Commission discussed the revised landscape plan.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer for further consideration the Revised Landscape Plan. Motion carried 5-0.

### **Lewes Crest Amenities Plan**

#### **Amenities Plan**

This is a Preliminary Amenities Plan for Lewes Crest which is a multi-family residential development that consists of 31 townhouses. Specifically, this plan proposes a pool, a 160 square foot pool house, landscaping, and interconnectivity to the Lewes-Georgetown Trail. The property is located on the southern side of Nassau Road (S.C.R. 266D) adjacent to Coastal Highway (Rt. 1). The Planning and Zoning Commission approved the Final Site Plan for Lewes Crest at their meeting of Thursday, February 14, 2019. The plan complies with the Sussex County Zoning Code and the requirements of the Combined Highway Corridor Overlay Zone (CHCOZ). Tax Parcel: 334-5.00-87.00. Zoning District: C-1 (General Commercial District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried to approve the Preliminary Amenities Plan with final approval by staff upon receipt of all agency approvals. Motion carried 4-0. Ms. Wingate abstained.

### **Lands of Vincent Paul Griscavage & Martha E. Rothenberg**

#### **Minor Subdivision off a 24-ft Easement**

This is a Minor Subdivision Plan for the subdivision of a 1.25-acre +/- parcel of land for the creation of one (1) lot plus residual lands with Lot 2 having access off a proposed 24-ft ingress/egress access easement. Lot 1 will consist of 20,000 square feet +/- and Lot 2 will consist of 35,412 square feet +/- . The parcel is located on the south side of Clay Road (S.C.R 269). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 334-6.00-46.00. Zoning District: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Minor Subdivision off a 24' easement. Motion carried 5-0.

### **Lands of Matthew S. Marvil**

#### **Minor Subdivision off a 50-ft Easement**

This is a Minor Subdivision Plan for the subdivision of a 20.739-acre +/- parcel of land for the creation of two (2) lots plus residual lands with Lots 2B & 3 having access off a two proposed 50-ft ingress/egress access easement. Lot 2B will consist of 7.180 acres +/- and Lot 3 will consist of 6.00 acres +/- . The parcel is located on the southeast side of Camp Road (S.C.R 470). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 232-6.00-42.02 & 42.03. Zoning District: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

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

### **Lands of Janet V. Nichols**

#### **Minor Subdivision off a 50-ft Easement**

This is a Minor Subdivision Plan for the subdivision of a 19.88-acre +/- parcel of land for the creation of one (1) lot plus residual lands with Lot 2 having access off an existing 50-ft ingress/egress access easement. Lot 2 will consist of 4.00 acres +/- . The parcel is located on the south side of Hunters Cove Road (S.C.R 602). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-9.00-25.00. Zoning District: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

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

#### OLD BUSINESS

#### **2020-15 – The Estuary at Oyster Rock**

A standard subdivision to divide 28.80 acres +/- into 21 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 north side of Sandbar Court, which is within the existing Oyster Rock subdivision, and accessed from the northwest side of Oyster Rocks Road approximately 0.61-mile northeast of Coastal Highway (Rt. 1). Tax Parcel: 235-16.00-45.01. Zoning District: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval for Subdivision **2020-15** for **THE ESTUARY AT OYSTER ROCK** based upon the record made during the public hearing and for the following reasons:

1. This is a property that is adjacent to the existing Oyster Rock Subdivision. It will be integrated into that subdivision.
2. This expansion of the Oyster Rock Subdivision will consist of 21 new lots, this results in a density that is significantly less than what is permitted under the AR-1 Zoning District.
3. This expansion area will be interconnected with the interior roads of the Oyster Rock Subdivision.
4. This expansion area will be served by central water and individual on-site septic systems.
5. The stormwater management of this expansion area will be integrated into the existing system within Oyster Rock. It will be designed by engineers and approved by the Sussex Conservation District. It will then be constructed with oversight by the Conservation District. This will improve the drainage and flow of water not only within this property but also in how it impacts adjacent properties.
6. This expansion of the Oyster Rock Subdivision will not adversely affect area roadways, traffic, or nearby property values.
7. The proposed subdivision meets the purpose and standards of the Subdivision Code and the Applicant has addressed the requirements of Section 99.9.C of the Code.
8. The Development complies with the Sussex County Comprehensive Plan as a Low-Density single-family dwelling subdivision.
9. This recommendation is subject to the following conditions:
  - a. There shall be no more than 21 lots within the subdivision.
  - b. This subdivision shall be integrated into the existing Homeowners Association within Oyster Rock. The Association shall be responsible for the maintenance of streets, roads, buffers, stormwater management facilities and, other common areas within Oyster Rock and this new subdivision.

- c. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sediment control facilities.
- d. There shall be forested or landscaped buffer of at least 20 feet in depth along the perimeter of the project. The Final Site Plan shall contain a landscape plan for all of these areas. This buffer area shall utilize the existing vegetation along the southern and eastern boundaries of the site. All silt fencing shall be located along the interior limit of the buffer area, the edge of the buffer nearest the interior development. The Final Site Plan shall identify the limit of disturbance to prevent disturbance of the buffer area.
- e. There shall be a buffer that is at least 50 feet wide from all tidal waters, tidal tributaries streams, tidal wetlands, perennial rivers and non-tidal streams. As proffered by the Applicant there shall also be a buffer that is at least 25 feet wide from all federal wetlands. There shall not be any disturbance, clear-cutting or stump removal of trees or other vegetation within these buffer areas. No construction activities that disturb the existing grade shall be permitted in the buffer area and the required silt fencing shall be upland of these buffer areas to avoid disturbance.
- f. The development shall comply with all DelDOT entrance and roadway improvement requirements.
- g. The subdivision shall be served by a publicly regulated water system.
- h. Street design shall meet or exceed Sussex County standards.
- i. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- j. Construction, site work and deliveries shall only occur on the site between the hours of 7:30 a.m. through 7:30 p.m., Monday through Friday. No weekend construction activities or deliveries shall occur. A 24-inch X 36-inch notice sign confirming these hours shall be prominently displayed at all entrances to the site during construction.
- k. A revised preliminary site plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
- l. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve Subdivision 2020-15 for The Estuary at Oyster Rock, for the reasons and conditions stated in the motion. Motion carried 5 – 0.

**AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-30.00-58.02 (PORTION OF)**

The Commission discussed this ordinance which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval of the Ordinance to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcel 235-30.00-58.02 from a Low Density Area to a Commercial Area based on the record made during the public hearing and for the following reasons:

1. The parcel currently has two Area designations. The frontage of the parcel is designated as the Existing Development Area while the rear portion of the property is designated as Low-Density Area according to the Future Land Use Map in the Sussex County Comprehensive Plan. This

application seeks to convert the rear portion of the property from Low-Density to Commercial Area.

2. The parcel has frontage on Route 9 and the rear of the Parcel is bounded by a railroad. This is an appropriate location for a Map Amendment designating the parcel as Commercial Area.
3. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways or future land-use planning in the area.
4. With the adjacent railroad service, this Map amendment promotes the transportation goals in the Sussex County Comprehensive Plan, which states that one way of reducing truck impacts on area roadways is to shift more freight to rail. This site presents an opportunity to achieve this goal. This is also supported in the Comprehensive Plan by Goal 13.5, Objective 13.5.1 and the Strategies attached to them.
5. No parties appeared at the public hearing to object to this Map Amendment.
6. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of the Ordinance to the Future Land Use Map of the Comprehensive Plan in relation to Parcel 235-30.00-58.02 (portion of) for the reasons and conditions stated in the motion. Motion carried 5 – 0.

**C/Z 1929 – Ryan Lehmann (Manntino Realty Holdings, LLC)**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.4653 acres, more or less.** The property is lying on the south side of Lewes Georgetown Hwy (Rt. 9) approximately 0.7 mile east of the intersection of Harbeson Rd (Rt. 5) and Lewes Georgetown Hwy (Rt. 9). 911 Address: 26822 Lewes Georgetown Hwy. Tax Parcel: 235-30.00-58.02 (Portion of)

The Commission discussed this application which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval of CZ#1929 regarding Ryan Lehmann (Manntino Realty Holdings, LLC) for a change in zone from AR-1 to a C-3 based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations.
2. The area of this rezoning is part of a larger parcel that already has commercially-zoned frontage. This rezoning will give the entire property a commercial zoning designation. It will also permit the property owner to use the entire property for outdoor storage of materials associated with his existing business on the front section of the property.
3. The entire parcel is adjacent to Route 9 and the rear of the parcel has access to an active railroad. This is an appropriate location for commercial zoning.
4. The parcel is in a section of Route 9 where there are commercial districts and business and commercial uses that have developed. This location is appropriate for an extension of this type of zoning.

5. Upon the approval of the Future Land Use Map Amendment, this site will be in the Commercial Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
7. No parties appeared in opposition to this rezoning application.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/Z 1929 Ryan Lehmann (Manntino Realty Holdings, LLC) for the reasons and conditions stated in the motion. Motion carried 5 – 0.

**C/U 2245 – Jonathan Plump**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for outdoor boat and RV storage to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 4.5 acres, more or less.** The property is lying on the northeast side of Milton Ellendale Highway (Rt. 16) approximately 0.55 mile southeast of Holly Tree Road (S.C.R. 226). 911 Address: 20723 and 20715 Milton Ellendale Highway, Ellendale. Tax Parcels: 235-13.00-2.02 & 235-13.00-2.03

The Commission discussed this application which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval of Conditional Use #2245 for Jonathan Plum for outdoor RV and boat storage based on the record made during the public hearing and for the following reasons:

1. The Applicant seeks approval for an RV and boat storage facility on approximately 4.5 acres.
2. The proposed Conditional Use is located along Route 16, which is an appropriate location for this type of use.
3. There is a need for the use proposed by the Applicant in this area of Sussex County.
4. This use is limited in nature and will not involve any new buildings.
5. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact upon the neighboring properties or community.
6. The use as a boat and RV storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
7. No parties appeared in opposition to this Application.
8. This recommendation for approval is subject to the following conditions:
  - a. The use shall be limited to the storage of boats and RVs. No other storage of vehicles or equipment shall occur on the site.
  - b. The facility shall only be accessible from 5:00 am until dusk and the access gate shall be locked to prevent after-hours access to the site.
  - c. The perimeter of the site shall be fenced with a 6-foot-high fence that screens the property from neighboring and adjacent properties and roadways.
  - d. There shall be a landscaping buffer between the outside of the fence and the adjacent residential properties to screen the use and the fence from those adjacent homes. The Final Site Plan for this use shall include a landscaping plan for this buffer area.

- e. No sales or maintenance of boats or RVs shall occur on the site.
- f. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- g. No more than 90 boats and RVs shall be permitted on the site.
- h. The storage area shall be covered with a pervious stabilizing material. The location and type of this material shall be shown on the final site plan.
- i. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.
- j. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats and RVs located on the site.
- k. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.
- l. No junked or unregistered boats, boat trailers or RVs shall be stored on the site.
- m. The final site plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/U 2245 Jonathan Plump for the reasons and conditions stated in the motion. Motion carried 5 – 0.

**C/Z 1926 – CP Townhomes, LLC (Canal Point RPC)**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium-Density Residential District-Residential Planned Community to a MR-RPC Medium-Density Residential District - Residential Planned Community to amend conditions of approval of CZ 1538 (Ordinance 1700) in relation to piers, docks, boat ramps and other water related recreational facilities for a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 180.60 acres, more or less.** The property is lying on the east side of Hebron Road approximately 0.19 miles south of the intersection of Hebron Road and Holland Glade Road (S.C. R. 271). 911 Address: N/A Tax Parcels: 334-13.00-334.00, 1448.00 through 1750.00

The Commission discussed this application which has been deferred since April 22, 2021.

Mr. Mears moved that the Commission recommend approval of an amendment to Condition #15 of Change of Zone # 1926 and Ordinance #1700 regarding docks within the Canal Pointe RPC based upon the record made during the public hearing and for the following reasons:

1. Condition #15 of CZ # 1926 and Ordinance #1700 currently states that “No piers, docks, boat ramps or other water-related facilities shall be permitted” within the Canal Pointe RPC.
2. The Canal Pointe RPC is adjacent to the Lewes-Rehoboth Canal, which is a source of water-related activities for many Sussex County residents and visitors.
3. It was shown during the public hearing that this area of the Lewes-Rehoboth Canal has developed with many personal docks attached to individual lots as well as a large marina associated with the Town of Henlopen Acres.
4. The revised condition #15, which will be limited to non-motorized boats, will have less of an impact on the waterway and the environment than many of these existing docks and the motorized boats that they serve.
5. With one point of access to the Lewes-Rehoboth Canal, there will be a well-designed and permitted dock available to the residents of Canal Pointe instead of multiple undefined points of access that could cause more damage to the Canal and the environment.



6. Condition #15 of CZ # 1926 and Ordinance # 1700 should be amended to state as follows:  
“15. Subject to the receipt of all applicable permits from the U.S Army Corps of Engineers, DNREC and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the RPC. There shall be an amendment to the Canal Pointe Master Plan and a subsequent final site plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps or other water-related facilities shall be permitted.”

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1926 for CP Townhomes, LLC (Canal Point RPC) for the reasons and conditions stated in the motion. Motion carried 5 – 0.

### PUBLIC HEARINGS

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

#### **2020-20 – Johnsonville (2006-39)**

A revision to an existing and previously approved standard subdivision to divide 42.11 +/- acres into 32 single-family lots lying and being in Indian River Hundred, Sussex County. The proposal is to reduce the existing Forest Conservation Easement from 100-ft in-depth to 50-ft in-depth to the rear of Lots 2-16 for the future accommodation of patios, decks, sheds or, swimming pools. The property is lying on the northeast and southwest sides of Lawson Road (S.C.R. 296). Tax Parcel: 234-21.00-141.00, 234-21.00-394.00 through 234-21.00-425.00. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy Applicant’s Revised Subdivision Plan, a copy of the previous Notice of Decision for the previous subdivision, a copy of TAC comments including DNREC Division of Fish and Wildlife, a copy of the Delaware Hunting Regulations, a copy of comments from the Sussex County Engineering Department Utility Planning Division, and two letters of support.

The Commission found that Mr. Kenneth Christenbury, P.E. was present on behalf of the Applicant, Johnsonville; that this is a 2006 subdivision that is under construction; that the subject of the amendment is that the original developer proffered 100-ft Forest Conservation Easement and the current developer would like to reduce the Forest Conservation Easement to 50-ft; that would allow homeowners to build patios, decks, sheds or swimming pools; that this matter came before the Commission last year and the Commission requested that it have a public hearing; that a question arose about the protection of hunting rights; that the request is only for lots 2 – 4 and 8 – 16 so, there would be no impact on hunting rights of adjoining property owners; and that lots 5 – 7 would retain the 100-ft Forest Conservation Easement.

Ms. Stevenson and Mr. Hopkins both expressed concerns that the hunting rights of adjoining property owners are not adversely affected.

Mr. Christenbury referred to an aerial map and explained that eliminating lost 5 – 7 from the request, will not affect the hunting rights of adjacent property owners.

The Commission found that Jordan Ashburn spoke in support of the request to revise the previously approved subdivision; that the lots tend to be narrow and deep; that it is difficult for placement of the house on the lot due to the septic systems being placed towards the front of the lots; that many of the clients have interest in having the forested buffer reduced; that this would be of benefit to the residents of the neighborhood; and that the 100-ft buffer will remain on lots 5, 6, and 7 so that it will not affect the hunting rights of adjacent property owners.

The Commission found that John Davidson had questions regarding the request to revise the previously approved subdivision; that he is not necessarily in opposition to the request but would like to know if any buffers on the west side of Lawson Road are being affected by this request.

Chairman Wheatley stated that Mr. Christenbury indicated that the request will not affect any buffers on the west side of Lawson Road.

The Commission found that Jessica Romante was present by teleconference; that she and her husband have purchased lot 7; that she is now concerned to learn that lot 7 is not included in the request; that lot 7 will have a tight backyard; that there are 140 ft of trees behind her lot, does that mean she can remove 40 ft of trees.

Mr. Christenbury explained that the lot line between lots 6 and 7 is 163 ft deep; that after the 30 ft. front yard setback, it would mean there is approximately 133 ft of buildable space and offered to email a copy of the site plan.

The Commission found that Jeff DeLeo was present by teleconference; that the buffer behind his lot is 140 ft and should only be 100 ft.

Chairman Wheatley stated that lots 5, 6 and, 7 are not part of this request and there will be no changes to these lots.

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

Prior to the recess, the Commission discussed Application 2020-20 Johnsonville (2006-39) Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

### **2021-17 – Toback Subdivision**

A standard subdivision to divide 10.15 acres +/- into 5 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 northwest corner of the intersection of Prettyman Rd. (S.C.R. 254) and Lewes-Georgetown Hwy. (Rt. 9). Tax Parcel: 235-30.00-6.21. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy Applicant's Subdivision Plan, a copy of a letter that has been received from Artesian Resources, a copy of the Applicant's Chapter 99.9.C response, a copy of comments from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that the Application also requires a waiver from the forested buffer requirements.

The Commission found that Mr. Carlton Savage, P.E. was present on behalf of the Applicant, Toback Subdivision, that also present is Mr. Matt Toback; that the request is for a standard subdivision of 4 lots and a residual lot; that the property is located on the corner of Prettyman Road and Route 9, just west of the Royal Farms; that this was originally submitted as a minor subdivision; that the parent parcel had other minor subdivisions in the past so this was this process was required; that the lots will be served by public water and sewer; that each lot will be 0.76 acre in keeping with the area around it; that the total acreage of the parcel is 10.15 acres; that the residual will be 7.12 acres; that there will be a fence on the rear of the property and the section closest to the intersection; that some waivers are requested since this is essentially a minor subdivision in nature; that new roads are not proposed; that a waiver from Article 3 regarding street requirements is requested; that no storm drainage is being proposed because these lots will front on Prettyman Road; that each lot will comply with Sussex Conservation District; that no open space or amenities are being proposed; that a waiver from the landscaped buffer is being requested; that a waiver from Article 4 regarding detailed construction plans is being requested; and that a waiver from master plan grading is requested as they are large lots and the dwellings will be placed in the center of each lot.

Ms. Stevenson asked about the proposed fencing.

Mr. Savage stated that the type of fencing has not been decided but that it would meet all the County standards.

Chairman Wheatley asked if this subdivision would have a Homeowners Association.

Mr. Savage stated there will not be a Homeowners Association.

Chairman Wheatley asked who will maintain the fencing.

Mr. Savage stated that the fencing will be on the residual land at the edge of the four lots and will be maintained by the Developer.

Mr. Robinson asked Staff if all agency comments have been received.

Mr. Whitehouse stated that Staff has received all agency comments.

The Commission found that Mr. Matt Toback was present in support of his Application; that the fencing will be white vinyl privacy fencing which will be on the residual lands close to the proposed lots.

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

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

Prior to the recess, the Commission discussed Application 2021- 17 Toback Subdivision. Ms. Stevenson moved to grant preliminary and final site plan approval for the subdivision **2021-17 for Toback Subdivision** based upon the record made during the public hearing and for the following reasons:

1. This is a small standard subdivision seeking approval of 4 lots, each lot will comply with the requirements of the AR-1 Zoning District.
2. Each lot will have frontage on Prettyman Road and no internal streets will be required.
3. The lots will be served by central water and sewer.
4. The Applicant has addressed the requirements of Section 99-9.C of the Subdivision Code.
5. Given the small size of the subdivision and because it is a strip lot subdivision, a waiver from the buffer and street requirements of the code is appropriate.
6. The subdivision will not adversely affect neighboring properties or roadways.
7. No parties appeared in opposition to the Application.

Motion by Ms. Stevenson to approve Subdivision 2021-17 for Toback Subdivision, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

**C/Z 1942 – Bay Developers, LLC (Twin Cedars, LLC)**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a C-1 General Commercial District, CR-1 Commercial Residential District and GR General Residential District to a GR-RPC General Residential District - Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 64.32 acres, more or less. The property is lying on the south side of Zion Church Road (Rt. 20), approximately 0.55-mile northwest of Bayard Road. 911 Address: N/A. Tax Parcel: 533-11.00-42.00.**

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Staff Analysis, a copy of the Applicant's exhibit booklet, a copy of comments received from PLUS review, a copy of the TIS review letter from DelDOT, a copy of the Applicant's TIS, a copy of the DelDOT Service Level Evaluation response, a copy of comments from the Sussex County Engineering Department Utility Planning Division, and one written response which was included in the packet.

The Commission found that Mr. David Hutt, Esq. was present on behalf of the Applicant, Bay Developers, LLC; that also present are Mr. Henry Mast, Principal of Bay Developers, LLC, Mr. Chris Flathers, P.E. – Morris & Ritchie Associates, Inc., Mr. Greg Sauter, P. E. - Geo-Technology Associates, and Mr. Joe Caloggero, P.E. – The Traffic Group, Inc.; that this property was the subject of prior approvals of the Commission and County Council; that this Application is a redesign of a previously approved RPC and commercial project; that in 2010 County Council approved a Change of Zone Applications 1668 and 1669 for this property; that C/Z 1669 was an application seeking to change an area consisting of 5.79 acres of land from General Commercial (C-1) and General Residential (GR) to Commercial Residential (CR-1); that this application was approved; that C/Z 1668 was an application for an Resident Planned Community (RPC) overlay for the balance of the property and was also approved; that the application known as Twin Cedars for 199 residential units consisting of 120 apartments or condos, 45 townhomes and 34 duplexes; that the project was not built and the RPC lapsed; that a new application was filed under C/Z 1909 and was scheduled for a public hearing approximately two months ago; that because the CR-1 portion of the property was not shown on the Zoning Map, the application was terminated which allowed the County to update the Zoning Map and allowed the Applicant to submit a new application listing all the zoning classifications; that the current application is exactly the same as the terminated application C/Z 1909 except that the new application references the 5.79 acres of CR-1 zoning on the property; that the property consists of 64.32 acres situated along Zion Church Road east of the intersection of Zion Church Road and Deer Run Road; that the property is presently unimproved; that there were previously three apartment buildings on this property; that there

are similar residential communities in the area such as Hampton Park, Sweet Bay, Ashton Oaks, Fox Haven and many others; that the property is currently zone C-1, GR and CR-1, that the majority of zoning on Zion Church Road is GR and Medium Residential (MR) with some C-1; that this application seeks to rezone the entire property to GR with an RPC overlay; that the Applicant proposes to leave most of the forested area undisturbed and designate it as open space; that the RPC tool was chosen to maximize the preservation of woods; that the redesign allowed for all the residential areas to be clustered so that each lot would back up to open space or amenities; that this will be a walkable community with centrally located amenities with all homes being within 700 ft. of the amenities; that the entrance to this community would be off Zion Church Road; that 254 units are being proposed comprising of 168 apartments within 7 buildings, 44 townhomes across 11 buildings and 42 single-family lots; that the apartments would be toward the front of the property and the single-family lots toward the rear with the townhomes between both; that the gross density would be 3.95 units per acre and the net density would be 4.31 units per acre; that this density is consistent with the GR district; that the Future Land Use Map shows that this property is located in the Coastal Area which is a growth area; that this property is in the Level 3 area on the State Strategies Map; that the proposed design complements the existing character of the site by keeping the open space and clustering it at the rear of the property; that 28.5 acres will remain forested and undisturbed; that where an existing buffer does not exist, the Developer will install a landscaped buffer to conform with County Code; that sidewalks will be installed on both sides of the street; that amenities proposed include a pool, patio area, a clubhouse, a tot lot area and a walking trail; that the County Code requires 508 parking spaces; that the Applicant is proposing 563 parking spaces; that the Developer will work with the Indian River School District regarding the location of a bus stop; that public utilities are available for the site; that the property is not within a Wellhead Protection Area or within a Groundwater Recharge Area; that there are no known historical sites located on the property; that there are no threatened or endangered species on the property; that the property is not within a flood plain or flood zone; that there will be a Property Owners Association created to manage and govern the common areas within the Community; that DelDOT required a Traffic Impact Study (TIS); that the TIS review letter required that an entrance access from Zion Church Road align with the Bayside Storage entrance across the road; that the entrance be designed and constructed with current DelDOT standards; that the Developer contribute towards a traffic signal at the intersection of Zion Church Road and Bayard Road and Johnson Road; that the Developer include bicycle and pedestrian improvements along the property frontage on Zion Church Road; that a neighboring resident raised concerns that notice be given to future residents regarding the RV park to the rear of this site and that there are hunting and shooting activities in the area; that the same concern was raised in 2010 and the RPC approval contained a requirement that notice be given to all future residents similar to the Agricultural Protection notice; that the Developer has proffered this as part of the proposed conditions and findings; that the purpose of the RPC tool is to encourage large-scale developments as a means of creating a superior living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan; that the RPC overlay is appropriate for this project but is also superior to the design that was approved in 2010; that this design meets the requirements of the Comprehensive Plan in the Zoning Code; that for all these reasons the Applicant requests recommendation of approval for this Change of Zone application to County Council.

Ms. Wingate asked if the hunting is taking place on the Lost Lands RV Park property.

Mr. Hutt stated that he assumes the hunting takes place during the season when the RV's are not occupied; that the current design retaining the forested area allows for a much greater distance from the RV park to the proposed dwellings on the subject property; and that all future residents will be given notice of hunting activities on adjoining property.

Ms. Wingate asked for clarification regarding the numbers on the TIS.

Mr. Joe Caloggero stated that the TIS was prepared for 44 single-family homes, 44 townhomes and, 168 apartments and that's what the numbers are based on.

Ms. Wingate commented that she will expect to see the landscape buffer/berm along Route 20 when the site plan is submitted.

Ms. Stevenson asked for confirmation that the berm is being proposed.

Mr. Hutt stated that Mr. Flathers will address the berm but noted that the nearest residence is a good distance from Route 20 because of the stormwater management systems to the front of the property.

Mr. Chris Flathers stated that the intent is to utilize berms when possible for screening, but it is not always possible with drainage issues and that on the west side of the property the nearest residence is 44 ft. from the property line.

Ms. Stevenson asked the Applicant to address the soils on the property especially, subaqueous soils.

Mr. Greg Sauter stated that the soils at this site are suitable for the proposed development; that hydric soils would not prevent building; that the existence of hydric soils would not prevent the building of an environmentally sensitive development; that the stormwater management facilities proposed for this site will improve the overall stormwater run-off in the area; that subaqueous soils are related to the wetland aspect and that this property has been farmed for many years, therefore, those soils would not be subaqueous; and that there are no wetlands on this site.

Ms. Stevenson commented that the road within the community should have a sign stating that it is for connectivity to future developments.

Mr. Hutt stated that a sign could be placed without the expense of extending a road for something that may never happen.

Ms. Stevenson asked for an explanation of the full-movement access traffic entrance.

Mr. Caloggero stated that it is a full movement of left, right and, straight through so the access to this site will be designed to cross the street from Bayside Storage.

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

Mr. Whitehouse confirmed that the County Council hearing date for this Application will be June 29, 2021, at 1:30 pm in County Council Chambers and not at Del Tech.

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

Prior to the recess, the Commission discussed Application C/Z 1942 – Bay Developers, LLC (Twin Cedars, LLC). Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 5-0.

**Recess 6:55 P.M. – 7:20 P.M.**

**C/Z 1922 – Baywood, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a B-1 (Neighborhood Business District), C-1 (General Commercial District) and, CR-1 (Commercial Residential District) to a HR-RPC High-Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 54.38 acres, more or less.** The property is lying on the north side and south side of Long Neck Road, approximately 0.47 miles east of the intersection of Long Neck Road and John J. Williams Highway (Route 24). 911 Address: 32147 Long Neck Road, Millsboro. Tax Parcels: 234-23.00-270.00, 273.01, 273.02, 273.03, & 273.05.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Staff Analysis, a copy of the Applicant's exhibit booklet, a copy of the Applicant's conceptual site plan, a copy of comments received from PLUS comments and, a copy of the Applicant's response to the PLUS comments, a copy of a letter received from the Indian River Volunteer Fire Company, two copies of TIS submissions in relation to the Application sites, a copy of comments from the Sussex County Engineering Department Utility Planning Division, and nine comments which have been distributed to members of the Commission.

The Commission found that Mr. James Fuqua, Esq. was present on behalf of the Applicant, Baywood, LLC; that also present are Robert Tunnell, Jr. and Robert Tunnell, III on behalf of the Applicant, Jason Palkewicz - Solutions IPER, and Betty Tustin – The Traffic Group; that this is an application to rezone a 54.38 acre parcel of land on both the north and south sides of Long Neck Road to High Density Residential District (HR) with a Residential Planned Community (RPC) overlay; that the proposed use is a 514 unit multi-family rental community; that the parcel on the north side of Long Neck Road contains 38.17 acres and is approximately 1,000 ft. east of the Route 24 intersection; that along Long Neck Road between Route 24 and the north parcel, the uses are a gas station, food mart, funeral home and a church; that the north parcel also borders the Greens at Long Neck and the Baywood Greens and Golf Course; that the parcel on the south side of Long Neck Road contains 16.21 acres and is approximately 2,000 ft. east of Route 24; that along Long Neck Road between Route 24 and the south parcel, the uses are a bank, a medical office building, a Beebe health care facility and Bayshore which is a 146 unit multi-family community located on 17 acres of land; that the south parcel borders School Lane to the east and the rear borders the Long Neck Elementary School; that the proposed development is to be called Baywood Gardens; that 354 units would be on the north side in nine multi-family buildings and 160 units would be on the south side in four buildings; that the HR zoning would permit a maximum density of 12 units per acre and the 514 units proposed would be a density of 9.45 units per acre; that no

commercial uses or buildings are being proposed; that the Applicant, Baywood, LLC is owned by the Tunnel family; that the Tunnel family has a history of over 60 years in the Long Neck area including the Baywood development adjacent to the north and the various Pot Nets communities; that tonight's application addresses a much needed housing type and that is the multi-family rental housing.; that the north parcel is currently zoned Neighborhood Business (B-1) and General Commercial (C-1); that there was a prior approved development plan for the northern portion of the subject property which consisted of a Conditional Use for the B-1 land and uses permitted by right for the C-1 land; that in 2010 the County Council approved C/U 1797 for 143 multi-family units on B-1 portion of the site and on the C-1 portion which already permits multi-family, the mixed use proposal was for a total of 354 multi-family units and commercial space of 48,000 sf.; that planned development did not move forward; that this Application is for the same number of multi-family units but eliminates the commercial space; that the south portion of the property is zoned CR-1; that the woods on the property were removed by the previous owner as part of the contract of sale; that the property is located in Investment Levels 1 and 2 according to the Strategies for State Policies and Spending; that the State Strategies is not a land use document but is a guide to where the State plans to direct investments; that Investment Levels 1 and 2 reflect areas that are already developed; that the Comprehensive Plan projects that by the year 2035 there will be an additional 60,000 permanent and seasonal residents in Sussex County; that this growth will correlate into a need for various types of housing; that this project will find a more affordable alternative to home ownership as compared to single-family ownership; that a rental development will have lower costs to the renter, shorter time commitments, no large down-payment, no annual tax bills and no maintenance and landscaping required; that Baywood Gardens will provide more affordable housing to workers in eastern Sussex County; that according to the Comprehensive Plan, Baywood Gardens is located in the Commercial Area and the Coastal Area which are both considered growth areas; that the Applicant has requested that the Future Land Use Map be amended to designate all of the Applicant's land to the Coastal area rather than in two growth areas; that the Comprehensive Plan states that medium and higher density (4-12 units per acre) can be appropriate in certain locations: that Medium and higher density could be supported in areas: where there is central water and sewer; near sufficient commercial uses and employment centers; where it is in keeping with the character of the area; where it is along a main road or at/or near a major intersection; where there is adequate Level of Service; or where other considerations exist that are relevant to the requested project and density; that this project is appropriate as it is served by central water and sewer, it is near commercial uses and employment centers, it is in keeping with the character of the area, it is along a main road, and there is adequate level of service and the Applicant will be making improvements to the roadways; that the purpose of the HR-1 district is to permit variety in housing types and provide for residential densities appropriate for areas which are or will be served by public sanitary sewer and water systems and which are well-located with respect to major thoroughfares, shopping facilities and centers of employment; that this describes this site; that the purpose of the RPC overlay is to encourage large-scale developments as a means of creating a superior living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan; that Baywood Gardens is the type of development envisioned in the purpose clause for the HR-RPC; that the proposed development is in accordance with State Investment Level designations, the Sussex County Comprehensive Plan and the purpose of the HR-RPC under the Zoning Ordinance; that the stormwater management facilities will be designed and constructed in accordance with DNREC's sediment and stormwater regulations; that there are no State regulated or tidal wetlands on the property; that the property is designated as being in flood zone X and outside of the 100 year flood plain; that the



State Historic Preservation Office advised that there are no known archeological or national registered listed or registered features on the site; that the site is located in the Indian River School District and the Indian River Volunteer Fire Company; that DelDOT did require a Traffic Impact Study (TIS) for the proposed development; that there were two TIS completed, one for the north parcel and one for the south parcel and that the property is not in the Henlopen Transportation Improvement District (TID); that the Applicant will be required to provide a 40 ft. right-of-way from center line on both sides of Long Neck Road along the site frontage and a 30-ft right-of-way from center line on School Lane along the site frontage; that the Applicant will also dedicate a permanent 15 ft. easement along the site frontage for a shared path which will be constructed by the developer; that the Applicant will also be responsible for certain roadway improvements and traffic signal improvements in the area; that the entrance to the northern portion of this site shall be on Long Neck Road directly across from Bayshore Drive; that there will be a secondary entrance from Greens Way; that the entrance to the southern portion of the site shall be on Long Neck Road directly across from Greens Way; that there will be a secondary entrance from School Lane; that the traffic improvements will include bus stops on Long Neck Road; that the north parcel will contain 354 units located in nine four-story buildings, eight buildings would contain 40 units each and the ninth would have 34 units; that parking would be adjacent to the buildings and a large parking area next to the recreational complex; that the recreational facilities will be on the north parcel and will include a clubhouse, outdoor pavilion, indoor and outdoor pools, playground, pickleball courts, Bocce courts, a practice putting green, a community garden and passive open space; that a central mailbox facility will be located near the recreational facility; that 602 parking spaces are required per County Code and 791 spaces are being provided for the north parcel; that there will be an interior sidewalk system connecting to the shared use path on both the northern and southern portions of the development; that there will be non-intrusive lighting throughout the north and south portions of the development; that the location of the school bus stop will be coordinated with the school district for both sections of the development; that there will be buffers and privacy fencing between the adjacent development; that the south parcel will contain 160 units located in four four-story buildings containing 40 units each; that there will be a 20-ft landscape buffer between this development and adjacent properties; that 287 parking spaces are required per County Code and 320 parking spaces are being provided; that the south parcel will have two open space gathering areas with two tot-lot playgrounds; that there is a signalized crosswalk on Long Neck Road at the intersection with Banks Road and School Lane to allow for pedestrians to cross safely between the north and south side of the property; that there will be 210 two-bedroom units and 304 three-bedroom units; that the Baywood Garden Community would be operated by the Tunnell Companies; that the gross density would be 9.45 units per acre and the net RPC density would be 9.94 units per acre with approximately 27.5 acres of open space which is 51% of the development; that the Applicant has submitted proposed findings and conditions; that the Applicant proposes that the recreational complex be completed prior to the issuance of a Certificate of Occupancy for the 161<sup>st</sup> unit; that the Applicant proposes that if the RPC is voided for any reason that the zoning revert back to the zoning classification on the date of approval; that this condition is offered by the Applicant with full knowledge of its intent and purpose with the understanding that the Applicant voluntarily offers this condition with the knowledge that they will be bound to it; and that the Applicant respectfully requests recommendation of approval subject to conditions.

Mr. Mears expressed concerns about the safety of pedestrians, especially children crossing Long Neck Road even with the signalized crossing.

Ms. Wingate asked if a property manager will be on site.

Mr. Fuqua stated that there will be a management office on-site and there will be a telephone number for 24-hour access for emergencies.

Ms. Stevenson asked about the height of the four-story buildings.

Mr. Fuqua stated that the buildings will be 52 ft. tall.

Ms. Stevenson asked if there are other buildings of similar height in the area.

Mr. Robert Tunnell, III stated that the Baywood Clubhouse is 65.5 ft.; that the water tower on Route 24 is approximately 60 ft. and the Baywood sales center is 54 ft. and there were 3 height variances for these buildings.

Mr. Robertson commented that the County cannot unilaterally revert something to a different zoning category because of the Code and due process of public hearings but that it could be stated as if the RPC is voided, the County will schedule a public hearing to consider the rezoning of the property.

The Commission found that Terry Phelan spoke in support of the Application; that there seasonal rentals but few permanent rental units available; that it would be good for local workers and young families; that she also has concerns about the crossing issue between the parcels and that golf carts should not be allowed.

The Commission found that Jim Carlson spoke in opposition of the Application; that the infrastructure cannot accommodate all the development in this area and that the roads are not adequate for the traffic in the area.

The Commission found that Jane Rakowski spoke in opposition of the Application; that the traffic is already an issue and adding more units will exacerbate the problem.

The Commission found that Rick Mortimer stated that he had questions for the Applicant; that he asked if the existing Baywood residents would bear any expense to enjoy the proposed amenities.

Mr. Tunnel stated that the existing residents would be able to use the proposed Community Center and that the cost would be spread across all the lots and that there would not be a membership fee.

The Commission found that Eul Lee spoke by teleconference and stated that she had questions regarding the Application; was there a PLUS review for this Application; are four-story apartment buildings considered low-rise; and what are the rental rates. Ms. Lee also expressed concerns about the crosswalk to get to the amenities on the northern portion of the property.

Chairman Wheatley stated that the PLUS review was part of the packet posted on the website.

Mr. Robertson stated that low-rise is not defined in the County Code.

Chairman Wheatley added that there are height limitations and that is what governs the height of any building in a zoning district.

Chairman Wheatley stated that the question about rental rates is beyond the scope of the Commission; that the Commission is about Land Use.

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 Application C/Z 1922 – Baywood, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

Mr. Whitehouse confirmed that the County Council hearing date for this Application will be June 29, 2021, at 1:30 pm in County Council Chambers and not at Del Tech.

#### ADDITIONAL BUSINESS

##### Commission discussion on potential site visits

Mr. Whitehouse stated that this item was placed on the agenda to garner if the Commission members would have an interest in visiting sites both developed and undeveloped.

Chairman Wheatley stated that this was done in the past.

Commission members discussed this, and all members agreed that it would be a good idea to put site visits on the calendar for the fall.

##### Commission discussion on paperless packets

Mr. Whitehouse stated that there are different ways to access the paperless packet on the County Website and demonstrated how to get to the packet through the meeting date on the Website.

Mr. Robertson thanked the staff from Del Tech and Sussex County for accommodating the meetings over the past months. The Commission members also gave their thanks.

**Meeting adjourned at 8:40 p.m.**

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**Planning and Zoning Commission meetings can be monitored on the internet at  
[www.sussexcountyde.gov](http://www.sussexcountyde.gov).**

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