

MINUTES OF THE REGULAR MEETING OF APRIL 12, 2018

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, April 12, 2018 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

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

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the Agenda as posted. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the Minutes for March 22, 2018 as submitted. Motion carried 5-0.

OLD BUSINESS

2017-17 Haileys Glen (also known as Kielbasa) – David K. Kielbasa and Terry Jan Kielbasa

This is a cluster/ESDDOZ subdivision. The cluster/ESDDOZ subdivision proposes to subdivide 32.3 +/- acres into sixty-eight (68) single family lots. The property is located on the north side of Angola Rd. and across from Angola Beach Rd. Zoning: AR-1 (Agricultural Residential District). 911 Address: 33199 Angola Rd., Millsboro. Tax Map I.D. 234-12.00-11.00

The Planning Commission discussed the application which had been deferred since March 8, 2018.

Mr. Hudson moved that the Commission grant preliminary approval for Subdivision 2017-17 for Haileys Glen (also known as Kielbasa) – David A. Kielbasa and Terry Jan Kielbasa based upon the record made during the Public Hearing and for the following reasons;

1. The Applicant is seeking approval of a subdivision within the Environmentally Sensitive Developing Area and the AR-1 Zoning District. The Applicant is seeking clustered lots with a minimum area of 7,500 square feet.
2. The proposed subdivision will have no more than 68 lots on approximately 32.3 acres. This results in a density that is within the maximum density permitted in the AR-1 zone for a project within the Environmentally Sensitive Developing Area.
3. This subdivision will not have a significant impact on the neighboring properties or area roadways.
4. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has addressed the requirements of Section 99-9C of the Code.
5. The project will be served by central water and sewer.
6. The development complies with the Sussex County Comprehensive Plan as a low density, single family dwelling subdivision.
7. The development will include approximately 14.5 acres of open space which is 44% of the site. Part of this open space includes 5.3 acres of forested areas and 3.0 acres of wetlands.

8. The subdivision shall not share any amenities with other nearby subdivisions. That arrangement as proposed by the applicant creates a dangerous situation for children and families having to travel on two different County roads to access their pool or clubhouse. And, it would create unnecessary traffic in the area. It is not a workable proposal for this project.
9. This preliminary approval is subject to the following:
 - A. There shall be no more than 68 lots within the subdivision.
 - B. The developer shall establish a homeowner's association responsible for the maintenance of streets, roads, buffers, stormwater management facilities and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - D. A forested or landscaped buffer of at least 20 feet in depth shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscaped plan for all of these areas.
 - E. The subdivision shall be served by Sussex County for sewer service.
 - F. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
 - G. Street design shall meet or exceed Sussex County standards. This includes County street design requirements for turnarounds along the dead-end roadway.
 - H. The development shall be served by its own on-site active amenities such as a pool and pool house, and not a sharing arrangement with any other nearby development. These amenities shall be centrally located within the project. The location and type of amenities shall be shown on a revised Preliminary Site Plan submitted in accordance with Condition M.
 - I. The developer shall complete all amenities within 2 years of the issuance of the first residential building permit.
 - J. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 - K. Deliveries of dirt, fill or other similar materials shall only be made to or from the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.
 - L. The Final Site Plan shall indicate all forested areas that will be preserved.
 - M. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
 - N. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to grant Preliminary approval with Final Site Plan approval by Planning and Zoning Commission. Motion carried 5-0.

2017-20 The Grove at Love Creek - J.G. Townsend, Jr. & Co.

This is a cluster/ESDDOZ subdivision. The cluster/ESDDOZ subdivision proposes to subdivide 200.69 +/- acres into two-hundred forty-seven (247) single family lots, amenities and site improvements to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County. The property is located on the south sides of Ward Rd. (Rd. 283A) and Cedar Grove Rd. and east of Mulberry Knoll Rd. (Rd. 284). The subdivision is zoned AR-1 (Agricultural Residential District) and GR (General Residential District). 911 Address: None

Available. Tax Map I.D. 334-12.00-16.00

The Planning Commission discussed the application which has been deferred since March 22, 2018.

Mr. Wheatley stated that he had reviewed the record and listened to the recording and was able to vote on the application.

Ms. Stevenson moved that the Commission grant preliminary approval for Subdivision 2017-20 for The Grove at Love Creek – J G Townsend Jr & Co based upon the record made during the public hearing and for the following reasons;

1. This property is zoned both AR-1 Agricultural Residential and GR General Residential. The proposed subdivision is a permitted use in both of these zoning districts.
2. A large portion of this property was the subject of an application for an RV Park and Campground that required a change in zone from AR-1 to all GR. County Council denied that application, stating that land should remain available for affordable housing opportunities in the area. This subdivision application serves Council's stated goal for this property.
3. The Applicant is seeking clustered lots with a minimum lot area of 10,000 square feet.
4. The proposed subdivision will have no more than 247 lots on 200.47 acres. This results in a density of 1.23 units per acre based on the gross acreage and 1.39 units per acre after subtracting wetlands. This is well within the maximum density permitted in the AR-1 and GR zones, and it is consistent with nearby residential projects and developments.
5. This subdivision will not have an adverse impact on the neighboring properties or area roadways.
6. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has addressed the requirements of Section 99-9C of the Code. There is also a satisfactory environmental report as required within the Environmentally Sensitive Developing Area Overlay Zone.
7. The subdivision contains approximately 115.79 acres of active and passive open space, which includes 78.13 acres of wooded areas that will be preserved. There will be an Open Space Management Plan in place for all of these areas.
8. The subdivision incorporates a minimum 50 foot forested/landscaped buffer from the outer property boundaries and a voluntary 100 foot buffer from all non-tidal wetlands, except for the small isolated wetlands along Lots 193-197. This design includes a buffer of more than 100 feet from Welches Pond with the preservation of forest and wooded wetland corridors nearby the Pond.
9. The project will be served by central water and sewer.
10. The development complies with the Sussex County Comprehensive Plan as a low density, single family dwelling subdivision.
11. This preliminary approval is subject to the following:
 - A. There shall be no more than 247 lots within the subdivision.
 - B. The developer shall establish a homeowner's association responsible for the maintenance of streets, roads, buffers, stormwater management facilities and other common areas.
 - C. The site shall include approximately 115.79 acres of active and passive open space, including approximately 78.13 acres of wooded areas that will be preserved. The wooded areas to be preserved shall be clearly shown on the Final Site Plan. There shall be an Open Space Management Plan in place for all of these 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. As stated by the Applicant, a forested or landscaped buffer of at least 50 feet in depth shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscaped plan for all of these areas, with the exception of areas that are currently forested and will not be disturbed.
- F. The subdivision shall be served by a central sewer system.
- G. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
- 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. Deliveries of dirt, fill or other similar materials shall only be made to or from the site between the hours of 8:00 a.m. through 5:00 P.m., Monday through Friday.
- K. The developer shall complete all amenities for the project as follows;
 - (1) The community park near Welches Pond shall be constructed within 1 year of the issuance of the 1st Certificate of Occupancy.
 - (2) The primary community clubhouse/pool shall be constructed prior to the issuance of the 130th Building Permit.
 - (3) All other recreation area, including the boathouse and kayak ramp and dock, shall be constructed prior to the issuance of the 185th Building Permit. No motorized boats shall be permitted to access the kayak ramp and dock.
- L. As stated by the applicant, a 100 foot buffer from all non-tidal wetlands, except for the small isolated wetlands along Lots 193-197, shall be included throughout the site. This design includes a buffer of more than 100 feet from Welches Pond with the preservation of forest and wooded wetland corridors near the Pond. Welches Pond shall be preserved, subject to any mitigation of invasive species that the developer or HOA may pursue. These areas shall be clearly shown on the Final Site Plan.
- M. The applicant shall consult with DelDOT the State Fire Marshal about an appropriate location for a separate emergency entrance to the development. This entrance is not required to be built to Sussex County street standards. The location of the entrance shall be shown on the Final Site Plan. This entrance shall not be required if it is not approved by either DelDOT or the Fire Marshal.
- N. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
- O. 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. Hudson and carried unanimously to grant Preliminary approval with Final Site Plan approval by Planning and Zoning Commission. Motion carried 5-0.

C/U #2122 Richard Thurman Jr. (Arbor Care)

An Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for a plant, tree, and lawn care diagnostic center to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 4.0 acres, more or less. The property is located on the southwest side of Robinsonville Rd., approximately

1,737 ft. south of Kendale Rd. 911 Address: 20182 Robinsonville Rd, Lewes. Tax Map I.D. 234-6.00-88.01

At their meeting of April 12, 2018, the Commission discussed the application which had been deferred since March 22, 2018.

Mr. Wheatley stated that he had reviewed the record and listened to the recording and was able to vote on the application.

Ms. Stevenson moved that the Commission recommend approval of CU#2122 for Richard Thurman, Jr. (Arbor Care) for a Plant, Tree and Lawncare Diagnostic Center in an AR-1 Zone based upon the record made during the public hearing and for the following reasons:

1. The applicant treats trees, plants and natural areas in Sussex County, including residential developments.
2. The use is similar in nature to agricultural uses that occur within certain types of farming operations that are permitted in the AR-1 Zoning District.
3. The applicant stated that most of his employee's work occurs offsite. As a result, this use will have little or no impact on the neighborhood, or area roadways.
4. The proposed use will be a benefit to Sussex County residents and the applicant provides a needed service to commercial and residential developments throughout Sussex County.
5. No parties appeared in opposition to this application.
6. This recommendation is subject to the following conditions:
 - A. As stated by the applicant, most of the work shall occur offsite. There shall be no retail sales from this site, and there shall not be any stockpiles of dirt, mulch or similar materials on the site.
 - B. As stated by the applicant, there shall not be any sign advertising this use on the site.
 - C. The hours of operation shall be from 6:00am until 8:00pm, 7 days per week, with extra hours permitted for emergency needs such as snowplowing.
 - D. All security lighting shall be screened so that it does not shine onto neighboring properties or roadways.
 - E. All dumpsters shall be screened from view from neighboring properties or roadways.
 - F. All required parking spaces shall be clearly marked on the Final Site Plan and on the site itself, including areas set aside for equipment parking and storage.
 - G. The application shall comply with all DelDOT entrance or roadway improvement requirements.
 - H. 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 forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 5-0.

C/U #2123 Mark Yoder Jr.

This is an Ordinance to grant a Conditional Use of land in an AR-1 (Agricultural Residential District) for multi-family as a retirement community to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing

43.748 acres, more or less. The property is located at the southeast corner of Hickman Rd. and University Dr. 911 Address: 6939 Hickman Rd., Greenwood. Tax Map I.D. 530-9.00-4.00 & 530-4.00-23.00

The Planning Commission discussed the application which had been deferred since March 22, 2018.

Mr. Robertson stated the this is an expansion of the Country Rest Homes that is an existing nursing home facility on one side of Route 16; that what they have applied for is an expansion of an over-all project under the concept of aging in place; that the idea based on the testimony and record you could reside in the new area and transition to higher level of care as age without leaving the community; that the existing facility was approved as a Special Use Exception in the AR-1 zone as a convalescent homes or homes for the aged; that if the project have come in as a standard residential development, then it would be most appropriate as a Conditional Use application; that the Commission should also consider whether it would be appropriate to approve that location as a stand-alone residential development because there is no infrastructure such as central water and sewer; that it is not in the developing area; that this is an expansion of the existing Special Use Exception; and that the question before the Commission was should the applicant apply to the Board of Adjustment.

Mr. Wheatley stated that he had reviewed the record and listened to the recording and was able to vote on the application.

Ms. Stevenson and Mr. Wheatley request the fees be waived for Board of Adjustment for a Special Use Exception.

Mr. Hopkins moved that the Commission recommend a denial of Conditional Use #2123 for Mark Yoder for multi-family dwellings as a retirement community based upon the record made during the public hearing and for the following reasons:

1. This is an expansion of the existing Country Rest Home nursing home. This new area proposes to allow residents of Sussex County to “age in place” and ultimately transition from this complex to the higher level of care in the nursing facility if necessary. It is all part of the Country Rest Homes complex within the overall concept of nursing home or assisted living services provided by the Country Rest Home.
2. The Country Rest Home’s most recent County approval was through a Special Use Exception from the Sussex County Board of Adjustment.
3. While I believe that this is a very good project, and one that is needed for this area of Sussex County, I also believe that this application should be considered the same way as the prior approvals for the Country Rest Home: through a Special Use Exception considered by the Board of Adjustment.
4. Part of my reasoning for this recommendation to deny the Conditional Use is based upon the fact this was an application for a stand-alone project with a mix of multi-family and single family homes it would not most likely not be approved here. It is only viable because it is a part of the existing Country Rest Homes that was approved separately through the Special Use Exception process. For that reason, this expansion should be considered the same way-through an application to the Board of Adjustment for a Special Use Exception.
5. Because this recommendation for denial is based more upon the process and not the substance of the application, it is my recommendation that any filing fees to the Board of

Adjustment be waived should the applicant choose to apply to that Board.

Motion by Mr. Hopkins, seconded by Mr. Wheatley and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be denied for the reasons stated. Motion carried 5-0.

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

C/U #2121 Cheryl Webster and Kenna Nethken

An Ordinance to grant a Conditional Use of land in an AR-1 (agricultural residential district) for a tree care business to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County, containing 3.9713 acres, more or less. The property is located on the southwest side of Old Furnace Rd., approximately 677 ft. northwest of Middleford Rd. 911 Address: 10404 Old Furnace Rd., Seaford. Tax Map I.D. 331-6.00-134.00

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, site plan, results from the DeIDOT Service Level Evaluation, comments from the Sussex Conservation District and Sussex County Engineering Utility Planning Division and three (3) letters of support were read into the record.

The Commission found that Mr. Kenna Nethken was present on behalf of the application; that he has been in business for 25 years; that he has had no complaints about his business from his neighbors; that he recycles all of the material for the business through other businesses and no materials are stored on site; that there are 5 work vehicles and 5 employees; that the employees come and pick up the trucks and go off site to work; that the public does not come to the site; that the equipment stored outside are a stump grinder and chippers; that most vehicles are stored indoors; that the only maintenance he does on the equipment is greasing the machines and that occurs indoors and outside; equipment is typically maintained on Saturdays; that all other maintenance is done elsewhere; that his hours are 7 am-5 pm six (6) days a week with some emergencies; that he would like to keep his existing sign.

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

Mr. Wheatley moved that the Commission recommend approval of Conditional Use # 2122 Cheryl Webster and Kenna Nethken for a tree care business based upon the record made at the public hearing and for the following reasons:

1. The applicant prunes and cuts down trees in Sussex County, including residential developments.
2. The use is similar in nature to agricultural uses that are permitted in the AR-1 Zoning District.
3. The applicant stated that most of his employee's work occurs offsite. As a result, this use will have little or no impact on the neighborhood, or area roadways.
4. The proposed use will be a benefit to Sussex County residents and the applicant provides a needed service to commercial and residential developments throughout Sussex County.
5. No parties appeared in opposition to this application.
6. This recommendation is subject to the following conditions:

- A. As stated by the applicant, most of the work shall occur offsite. There shall be no retail sales from this site, and there shall not be any stockpiles of dirt, mulch or similar materials on the site.
- B. There shall be one lighted sign advertising this use on the site. The sign shall not exceed 32 SF per side.
- C. The hours of operation shall be from 7:00am until 5:00pm, Monday through Saturday, with extra hours permitted for emergency needs.
- D. All security lighting shall be screened so that it does not shine onto neighboring properties or roadways.
- E. All dumpsters shall be screened from view from neighboring properties or roadways.
- F. All required parking spaces shall be clearly marked on the Final Site Plan and on the site itself, including areas set aside for equipment parking and storage.
- G. The application shall comply with all DelDOT entrance or roadway improvement requirements.
- H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

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

2017-19 Headwater Cove – Carlton Simpler and Bryton Simpler Farm, LLC

This is a cluster subdivision. The cluster subdivision is to divide 81.99 +/- acres into one hundred sixty-three (163) single family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is located on the south side of Dorman Rd. and east of John J. Williams Hwy. (Rt. 24). Tax Parcel: 234-11.00-58.00, 66.00 & 66.01 Zoning District: AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, subdivision plan, comments from PLUS, TAC, Division of Natural Resource Ground Water Discharge, Office of Drinking Water, Mapping and Addressing Department, Department of Natural Resource Waste and Hazardous Substances, Delaware Electric Co-op, Office of State Fire Marshal, and Sussex Conservation District.

The Commission found James Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab, Dan Smith, Dan McGreevy, Frank Kea and Jason Palkewicz with Solutions IPEM were present on behalf of the application; that Mr. Fuqua stated an exhibit booklet contained the PLUS response, 99-9C report, and a summary of the proposed subdivision; that this is an application for an AR-1 cluster subdivision with 163 single family lots with recreational amenities containing 82 acres; that site is half wooded and half in agricultural use; that the land is adjacent to agricultural lands to the east; that Wyndam and Holly Oak subdivision is nearby; that Lockwood subdivision is to the west of the site and other subdivisions in the area; that this is an AR-1 cluster with water provided by Tidewater; that sewer is provided by Sussex County; that it has requested annexation into the sewer district and capacity is available; that a wetlands delineation found there is 7.19 acres are in non-tidal wetlands on the site; that a voluntary buffer of 50 feet minimum will be provided from the non-tidal wetlands; that the site is in Flood zone X and part in zone A that is wetlands and will not be disturbed; that the applicant will be required to pay wide area study fee to DelDOT; that they will meet DelDOT regulations and improve Dorman

Road and include a shared use path and contribute to other intersections improvements including participation in signal agreement; that the sediment and stormwater management facilities will be design regulations with Sussex Conservation District and will use Best Practice Management's; that the site is in the Cape Henlopen School District; that the minimum lot is 8,973 square feet and the average lot size is 9,761 square feet; that overall density is 1.99 lots per acre which complies with permitted AR-1 Cluster requirements; that a minimum 20 foot landscape or wooded buffer will be provided around all surrounding property lines; that 37 acres of the site will remain as open space and it is approximately 45% of the site; that approximately 86% of 163 lots are adjacent to open space; that in the southeast corner of the site will be dedicated to active recreational use to include a bath house, swimming pool, multi-purpose court, playground and a parking lot; that streets will be built to County standards and will have sidewalks on both sides with curb, gutter and street lights; that there is potential for interconnection; that there is one main entrance off of Dorman Road; that the development will be constructed in five phases, and the proposed recreational amenities will required to be completed by the 80th building permit; that there will be a HOA; that they submitted a proposed findings; that they believe this is in compliance with the requirements of the subdivision and is a donut hole of surrounding subdivisions; that Burtons Pond is privately owned and there is no direct access to the pond at this time and have talked to the owner.

The Commission found that no one spoke in favor to the application.

The Commission found that Todd Williams and Harry Farreny spoke in opposition to the application; that Mr. Williams is not opposed to the subdivision; that he thinks it will be a good community; that he has concerns with traffic; that Mr. Farreny stated the entrance is across from his development; that he has concerns with traffic; that he would like to see larger lots; and that the stormwater may go into their pond.

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

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

C/U #2120 PJM Properties, LLC

An Ordinance to Grant a Conditional Use of Land in an AR-1 Agricultural Residential District to Amend Conditions of Approval for Conditional Use No. 1106 to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, Containing 5.706 acres, more or less. The property is lying on the northeast side of Williamsville Road approximately 2,476 feet southeast of Lighthouse Road (Rt. 54). 911 Address: Not Available. Tax Map I.D. 533-19.00-287.02

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, and an exhibit booklet.

The Commission found James Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab, and Mike Ferrari, owner of PJM Properties, LLC were present on behalf of the application; that Mr. Fuqua stated this is an application to amend two conditions of 1106 and the Conditional Use was approved by County Council on May 23, 1995 for boat related uses; that the original owner operated business for approximately 20 years and sold the business in November 2016; that they use about half of the site; that the aerial photos show the use and number of boats stored vary due

to the season and are stored for the winter; that there are about four entrances, exits per year per boat; that the original approval was subject to eight (8) conditions; that they are requesting to amend conditions eight (8) and five (5); that the original condition number eight was limited to 108 boats and would like to change to not more than 300 boats on site; that the Conditional Use was approved for the entire site and only increase to storage use; that the business has been successful and an increase in demand for service over the last 20 years; that the site is adjacent to America Bayside; that they are requesting to amend condition five (5) relating to a repair building limited to one story or 30 foot in height, the owner wished to replace the repair building with a new 50x100 building to connect to the old building and it won't exceed the one story or 30 foot in height; ; that to avoid confusion they asking to amend condition 5 even though there are no restrictions on the site for building square footage, only height; that they will connect to sewer and water when the new building is built; that he has other areas and uses; that this site will predominately be most for storage and repair will be at other locations; that the customers access is limited to the site; that the area is fenced and there is security lighting is indirect; that the use has been in operation for over 20 years; that Mr. Ferrari stated there is no change in hours; that the new building will be used for storage; that the current building houses equipment to move boats; that there is no current lighting; and that there is no intention of housing old boats and have a process to handle abandoned boats.

The Commission found that no one spoke in favor or in opposition to the application.

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

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

C/Z #1848 R. Keller and Joann Hopkins

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 22.53 acres, more or less. The property is lying at the southeast corner of E. Redden Rd. and DuPont Blvd. 911 Address: 18864 E. Redden Rd., Georgetown. Tax Map I.D. 135-6.00-10.00

Mr. Hopkins recused himself.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, results from DelDOT TIS, an exhibit booklet, comments from the Sussex Conservation District and Sussex County Engineering Department Utility Planning Division.

The Commission found James Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab, Mark Mervine, Frank Kea and Jason Palkewicz with Solutions IPEM were present on behalf of the application; that Mr. Fuqua stated there is a small wooded area; that there is an existing home; that there are no wetlands on site; that the site is on the west side of East Redden Road and adjacent to four residential lots across East Redden Road and is wooded to the south; that adjacent to the site is C-1 parcel; that further south of the site is C-1 and commercial uses; that there is extension of commercial zoning in the area; that he would like to relocate his business (Hopkins Construction Company); that the company does sewer and water infrastructure construction; that the current site is too small; that this site is a few miles north of Georgetown and is more centrally located; that the site is adjacent to Route 113 which is a major arterial road; that

large scale commercial uses must be along a major arterial road and this is not a large scale use; that the size is adequate to allow growth of the business; that the home will be used as a home; that this is in character with the uses in the area; that the major arterial road is not appropriate for residential uses; that he believes this meets the purpose of CR-1 purpose; that the site is located at a signal; that a TIS was not required at this time; that it is subject to corridor capacity program that limits access of Route 113 and access of Redden Road; and that there is a tax ditch in the area.

The Commission found that Kimley Hines spoke in favor to the application; that Ms. Hines stated she owns 68 acres across the street; that she was told by Mr. Hopkins would maintain the road; that there are no traffic problems.

The Commission found that no one in opposition to the application.

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

OTHER BUSINESS

The Estuary Phase 1-D (2005-64)

Revised Final Subdivision Plan

Ms. Cornwell advised the Commission that this is a revised Final Subdivision Plan for Phase 1-D of the Estuary. The Revised Final Subdivision Plan shows the addition of a 100' Right of Way to connect to the adjoining parcel known as Zinszer Parcel (Tax Parcel ID 134-19.00-105.00). The Revised Final Subdivision Plan complies with the County Codes, and no further agency approvals are required for the proposed change. Zoning District: AR-1 (Agricultural Residential District). Tax Parcels: 134-19.00-103.00, 689.00-701.00

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

Majestic Meadows (2017-03) (formerly known as River Rock Glen)

Revised Preliminary Subdivision Plan

Mr. Whitehouse advised the Commission that this is a Revised Preliminary Subdivision Plan for the construction of cluster subdivision of 26 single-family lots to be located off of Hudson Rd. (Rt. 258). The Preliminary Subdivision Plan was approved by Planning & Zoning Commission at its meeting of July 27, 2017. The revised plan shows adjustments to lot sizes and the road design. Sidewalks have been added per the condition of approval. All required agency approvals have been received and the Subdivision Plan complies with the requirements for both Preliminary and Final Subdivision Plans. All conditions of approval. Tax Parcel: 235-22.00-19.00. Zoning District: AR-1 (Agricultural Residential District).

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

Arbor Lyn (CU 2046)

Revised Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a revised Preliminary Site Plan for 142 single family condo units instead of 142 multi-family dwelling units on a 35.45 ac. parcel of land accessed from Warrington Road (Rd. 275). Planning and Zoning Commission approved the

Preliminary Site Plan at its meeting of July 27, 2017. The Revised Preliminary Site Plan complies with the Zoning Code, and all conditions of approval. The site is within the MR (Medium Density Residential) Zoning District. Staff are awaiting agency approvals. Tax Parcels: 334-12.00-127.02, 127.04, and 127.05.

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

Americana Bayside Lot 5 – RPC

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for Americana Bayside Lot 5 for a proposed 9,000 SF +/- office building with associated car parking and landscaping. The site forms part of the Americana Bayside Medium Density Residential Planned Community (MR-RPC). The site plan complies with the Zoning Code and all conditions of approval for the RPC. Staff are awaiting agency approvals. Tax Parcel ID: 533-19.00-777.00

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

Burton's Pond Section II (CU 2075)

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for 100 townhouse units to be located at John J. Williams Hwy (Rt. 24). Condition 'R' of the Conditional Use Permit, approved by County Council on January 25, 2018 requires a revised Preliminary Site Plan, containing a list of the approved conditions, to be submitted and approved. The submitted Preliminary Site Plan complies with the requirements of Condition 'R'. Tax Parcel: 234-17.00-29.00. Zoning District: MR (Medium Density Residential District).

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

Two Farms #956 (S-18-11)

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for a proposed commercial retail center, car parking, landscaping and other associated works to be located on a 2.85 ac. parcel of land located at the intersection of Gravel Hill Road (Rt. 30) and Lewes-Georgetown Hwy. (Rt. 9). The site is within the B-1 (Neighborhood Business) Zoning District. Tax Parcel: 135-11.00-78.00. The Preliminary Site Plan complies with the Zoning Code. Staff are awaiting agency approvals.

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

Caswell Real Holdings (S-17-58)

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for a 9,750 SF storage building with ancillary office, parking and landscaping. The site is located in the C-1 (General Commercial) Zoning District and is accessed from Long Neck Rd. Tax Parcel: 234-30.00-8.01. The Preliminary Site Plan complies with the Zoning Code. All agency approvals have been received, and the submitted plan also complies with the requirements for Final Site Plan approval.

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

Hawthorne (2005-73) (formerly known as Paradise Lakes)

Request to Amend Condition of Approval

Mr. Whitehouse advised the Commission that this is an application to amend Condition #8 associated with the Hawthorne 213-lot cluster subdivision off of Lewes-Georgetown Hwy. (Rt. 9). The Commission approved the Preliminary Subdivision Plan at its meeting of August 13, 2015 subject to conditions. The current wording of condition #8 requires amenities, including a swimming pool and clubhouse, to be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit. The proposed change of wording would require the amenities, including a swimming pool and clubhouse, to be constructed and open to use by residents within 2 years from the issuance of the first Certificate of Occupancy of the subdivision (September 8th, 2018). The application is supported by a 64-signature petition from the current occupiers of the subdivision.

Tax Parcel ID: 135-11.00-66.00. Zoning District is AR-1.

The Commission discussed the request to amend the condition of approval.

The Commission found Charles Stransky, Mark Machala and Jack Hayes were present on behalf the application; that Mr. Stransky stated construction will begin this month and is expected to be completed in September 2018; that they have been promised officially in the past that the clubhouse would be built in the spring of 2017; that they were promised the clubhouse would be finished in August of 2017; that then they were promised the clubhouse would be ready by December of 2017; that the last meeting they were promised by the owner of Hawthorne that the shovels would be in the ground this month; that the clubhouse was going to be enlarged all along; that Mr. Machala stated they had their first HOA meeting and they announced they were going to increase the size of the property from 213 lots to 254 lots; that original conditions of approval stated there would be no more than 213 lots; that the clubhouse and pool would be open March of 2018; they within a few years of the first building permit; that they have not followed any of the conditions of approval; they are concern with them meeting dates and deadlines; that Mr. Hayes stated that he has been reviewing all three of the contractors bids for the site plan development; that the plans will be awarded by Friday; that infrastructure, sewer, and water connection will take place while they are building the building; that the clubhouse should be completed in September; that the DeIDOT road work was been delayed and is now started; that it was posted properly; that there was a condition on site when Artisan was putting in the water line and sewer line in front of the project; that there was some cross over the lines because the easements were not properly located; that they had to go back to DeIDOT with an amended plan; that DeIDOT approved and now is under construction; that starting Friday there will be junction boxes for the water flow and run-off put in place and DeIDOT has approved the plan; that a letter is in place stating they may need extension for the road work; that there is a letter to DeIDOT with conditions that they could not build more than 40 houses on the property until the work is

done; and that they have requested a change in that condition to allow the work to continue and for them to continue to build houses; that are waiting for a letter of approval from DelDOT about the amended conditions.

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to approve the clubhouse and amenities are to be opened within 2 years of the issuance of the first Certificate of Occupancy which will be September 2018 and the date will be verified by the Planning and Zoning office. Motion carried 5-0.

Lands of Webb

Minor Subdivision off 50 Ft. easement

This is a request for the subdivision of one lot off a 50' easement measuring 2.134 acres +/- leaving a residual parcel measuring 0.75 acres +/- . The parcel is zoned AR-1. Tax Parcel ID: 132-1.00-6.01. Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the minor subdivision off 50 ft. easement with final site plan subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Meeting adjourned at 8:12 p.m.