

## MINUTES OF THE REGULAR MEETING OF APRIL 28, 2016

The regular meeting of the Sussex County Planning and Zoning Commission was held Thursday evening, April 28, 2016 in the County Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. I.G. Burton, and Mr. Marty Ross, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Ms. Janelle Cornwell – Planning and Zoning Manager, and Mr. Daniel Brandewie – Planner.

Mr. Lank stated that there are no changes in the Agenda and announced that Change of Zone No. 1799 for WMF Watercraft & Marine has been withdrawn.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to approve the Agenda as circulated. Motion carried 3 – 0.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to approve the Minutes of April 14, 2016 as amended. Motion carried 3 – 0.

### OLD BUSINESS

#### **2016-3 - Black Creek Cove Subdivision Expanded – Stockley Materials, LLC**

This is a major subdivision plan to subdivide 9.96 acres +/- into 8 single family lots with private roads and open space. The subdivision will be part of the Black Creek Cove Subdivision and will have access off of Green Fern Drive. The property is located on the southeast side of Peterkins Road approximately 1,671 feet northeast of Zoar Road. The property is zoned AR-1 (Agricultural Residential District). Tax Map I.D. 133-3.00-6.02.

#### **Waiver request for elimination of Landscape Buffer**

The Commission discussed this application which has been deferred since April 14, 2016.

Mr. Ross stated that he would move that the Commission grant preliminary approval of Subdivision No. 2016-3 for Black Creek Cove Expanded – Stockley Materials, LLC, based on the record and for the following reasons:

- 1) This application is an expansion of the pre-existing Black Creek Cove Subdivision that was approved in 2005.
- 2) At least 51% of the lot owners have consented to this expansion of the Black Creek Cove Subdivision.
- 3) The application meets the purpose of the Subdivision Code in that it protects the orderly growth of the County. It also meets the requirements of the Subdivision Code, and the items listed in Section 99-9C of the Code have been favorably addressed.
- 4) The proposed subdivision density is equivalent to what already exists within Black Creek Cove. There is also no change in the open space percentage for the development.

- 5) The subdivision is consistent with Black Creek Cove and other developments in the area. It is basically an infill development.
- 6) The proposed subdivision expansion will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
- 7) The lots will be served by individual wells and septic systems.
- 8) Because this is an expansion of the existing Black Creek Cove Subdivision which was approved prior to the current buffer ordinance (Ordinance #1984), a waiver from the buffer requirements is appropriate for this expansion in this case. However, as stated by the Applicant, there shall be a 30 foot landscaped buffer along Peterkins Road.
- 9) This approval is subject to the following conditions:
  - A. There shall be no more than 8 lots within the subdivision expansion area that is the subject of this application.
  - B. The expansion area shall be subject to the Black Creek Cove Restrictive Covenants and shall be governed by the Homeowners Association of Black Creek Cove, Inc., which shall be responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
  - C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
  - D. The Applicant or Developer shall coordinate with DelDOT to obtain a construction entrance directly on to Peterkins Road to avoid the necessity of construction equipment travelling through the existing Black Creek Cove Subdivision.
  - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
  - F. 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.
  - G. Buffers shall be shown on the Final Site Plan in the same areas as they appear on the Preliminary Site Plan.
  - H. The development shall be subject to the applicable conditions of approval of Subdivision No. 2004-12, as amended.
  - I. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.
  - J. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to grant Preliminary approval of Subdivision No. 2016-3 for Black Creek Cove Expanded – Stockley Materials, LLC for the reasons and with the conditions of approval stated. Motion carried 3 – 0.

#### **2016-4 – Lewes Crossing Subdivision – Phase 8 – BDRP, LLC**

This is a major subdivision plan to subdivide 19.52 acres +/- into 42 single family lots with private roads and open space. The subdivision will be part of Lewes Crossing and will have access off of Frances Ann Street. The property is located on the south side of Beaver Dam Road approximately 1,436 feet west of Salt Marsh Boulevard. The property is zoned AR-1 (Agricultural Residential District). Tax Map I.D. 334-5.00-222.01.

The Commission discussed this application which has been deferred since April 14, 2016.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision No. 2016-4 for Lewes Crossing Phase 8 – BDRP, LLC, based upon the record and for the following reasons:

- 1) The proposed subdivision meets the purpose of the Subdivision Code in that it protects the orderly growth of the County.
- 2) The proposed subdivision meets the requirements of the Subdivision Code, and the items listed in Section 99 9C of the Code have been favorably addressed.
- 3) This is an expansion to the existing Lewes Crossing Subdivision and the restrictive covenants to Lewes Crossing consent to this expansion.
- 4) The proposed subdivision is within the Environmentally Sensitive Developing District Overlay Zone and it complies with the density and other requirements of this zone.
- 5) The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values. It is an infill development in between the existing Henlopen Landing and Lewes Crossing Development and it will be consistent with both.
- 6) The proposed subdivision will not adversely impact schools, public buildings and community facilities or area roadways and public transportation.
- 7) The project will be served by central sewer provided by Sussex County.
- 8) A Traffic Impact Study was not required, but the applicant has contributed to an Area-Wide Study performed by DelDOT.
- 9) The Applicant will comply will all DelDOT requirements regarding traffic and roadway improvements associated with the project.
- 10) This approval is subject to the following conditions:
  - A. There shall be no more than 42 lots within the subdivision.
  - B. The development shall be governed by a homeowners' association responsible for the perpetual maintenance of streets, roads, and any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.
  - C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
  - D. All entrances shall comply with all of DelDOT's requirements.
  - E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
  - F. 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.
  - G. No wetlands shall be included within any lots.

- H. Sidewalks shall be located on one side of all streets in the subdivision. There shall be a pedestrian walkway to Route 23 joining the walkway along Route 23.
- I. The subdivision shall be served by a central sewer system.
- J. Landscaped buffers shall be provided as required by Code. The buffers shall be identified in a landscape plan submitted along with the Final Site Plan.
- K. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted upon it.
- L. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to grant preliminary approval of Subdivision No. 2016-4 for Lewes Crossing Subdivision – Phase 8 – BDRP, LLC For the reasons and with the conditions of approval stated. Motion carried 3 – 0.

## PUBLIC HEARINGS

### **C/Z #1799 – WMF Watercraft & Marine**

**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 Indian River Hundred, Sussex County, containing 4.489 acres, more or less.** The property is located south of John J. Williams Highway (Route 24) 210 feet east of Layton Davis Road (Road 312!). (911 Address: 27037 John J. Williams Highway, Millsboro) Tax Map I.D. 234-29.00-64.00, 64.01, 65.00.

**Withdrawn on April 19, 2016.**

### **2016-6 - Benson Subdivision – Delmarva Development Group, LLC**

This is a major subdivision plan. The plan proposes to subdivide 18.4754 acres +/- into 24 single family lots with open space and a public road. The property is located at the northeast corner of Slaughter Beach Road (Road 224) and Coastal Highway (U.S. Route 1). The property is zoned AR-1 (Agricultural Residential District). Tax Map I.D. 230-7.00-89.00-89.24.

Ms. Cornwell advised the Commission that this application was the same as application 2006-6 that expired on January 1, 2016. The Planning Commission waived the requirement to go through the TAC process at their meeting on January 28, 2016. The applicant is in receipt of all agency approvals. There were no changes from the previously approved subdivision plan.

The Commission found that Bonnie Benson Esquire of Bonnie M. Benson P.A. was present; that the wetlands on the site are contained in the open space; that there is a forested buffer; that there will be on-site well and on-site septic; that there will be no direct access to Rt. 1 or Slaughter Rd.; that the subdivision complies with Chapter 99-9C of the Subdivision Code and does not impact public facilities or schools; that it will improved property values; that they have all agency approvals and that the development was previously approved in 2006.

The Commission found no parties in support of or in opposition to the application.

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

Mr. Burton stated that he would move that the Commission grant preliminary and final subdivision approval of Subdivision No 2016-6 - Benson Subdivision – Delmarva Development Group, LLC based on the record and for the following reasons:

1. This subdivision is identical to Subdivision 2006-6, which received preliminary approval on May 16, 2007. Because the prior approvals expired, a new application is necessary.
2. The Development is designed in accordance with the Cluster Development Ordinance. The proposed Cluster design with ½ acre lots is superior to a standard subdivision.
3. The items listed in Section 99-9C of the Subdivision Ordinance have been favorably addressed.
4. The applicant has proposed 24 lots within the project, which is less than the allowable density for an AR-1 subdivision on this land.
5. The project will not have an adverse impact on the neighboring properties or community.
6. DNREC has approved the site for individual septic systems.
7. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
8. As stated by the applicant, the subdivision streets will be state maintained.
9. All required agency approval have been received by the Planning and Zoning Office.
10. This approval is subject to the following conditions:
  - A. There shall be no more than 24 lots within the Subdivision.
  - B. The Applicant shall form a homeowners' association to be responsible for the maintenance of buffers, storm water management facilities, and other common areas.
  - C. The storm water management system shall meet or exceed the requirements of the State and County. Best management practices shall be used in its construction and operation.
  - D. All entrances shall comply with all of DelDOT's requirements.
  - E. A fence shall be constructed along the project's boundary with Route One. The location and type of fencing shall be shown on the Final Site Plan.

- F. The location of a school bus stop shall be coordinated with the local school district. The area set aside for the bus stop shall be shown on the Final Site Plan.
- G. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- H. The Restrictive Covenants for the Project shall include the following statement:  
“This property is located in the vicinity of land used for commercial purposes including a bus business that may have noise associated with them. The use and enjoyment of this land is expressly conditioned on acceptance of any annoyance or inconvenience, which may result from such activities or uses. “

Motion by Mr. Burton, seconded by Mr. Ross, and carried unanimously to grant preliminary and final subdivision approval. Motion carried 3-0.

**C/Z #1800 – Sussex Real Estate Partners, LLC (Belle Terre)**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a MR-RPC (Medium Density Residential District – Residential Planned Community) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 123.75 acres, more or less.** The property is located southwest of Dorman Farm Lane, 1,000 feet southwest of Mulberry Knoll Road (Road 284) and being approximately 1,800 feet southeast of Cedar Grove Road (Road 283) and approximately 1,200 feet northwest of John J. Williams Highway (Route 24). (911 Address: None Available) Tax Map I.D. 334-12.00-17.00, 18.00, 19.00 and 20.00.

Mr. Lank advised the Commission that this application was filed on February 22, 2016 with surveys and site plans, and that an Exhibit Booklet was submitted on April 15, 2016. The Exhibit Booklet contains an Executive Summary, a Project Overview, references to compliance with applicable regulations, conclusions with eleven (11) figures, maps, and response letters, and two resumes.

Mr. Lank that this application was forwarded to the Technical Advisory Committee for comments and that the agencies commented on the application on or before April 18, 2016, and that Ms. Cornwell provided a staff analysis on April 25, 2016.

Mr. Lank advised the Commission that 31 letters and/or emails have been received in opposition.

Mr. Lank advised the Commission that on April 26, 2016 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum referencing that the project is in the Goslee Creek Planning Area; that wastewater capacity is available to the project; that Ordinance 38 construction will be required; that the current System Connection Charge Rate is \$5,775.00 per EDU (Equivalent Dwelling Unit); that sewer service has not been extended to the Goslee Creek Planning Area at this time; that the project is capable of being annexed into the West Rehoboth Expansion Area; that conformity to the Goslee Creek Planning Study will be required; that annexation into a sewer district must be completed prior to submittal of required construction plans for the project; that proper zoning must be in place prior to beginning the

annexation process; that the developer proposes to use a temporary connection point for the developer constructed sewer system; that an agreement between the County and the developer for the construction of future off-site sewer must be approved by the County Council; that a draft agreement will be provided to the developer in the near future; that the agreement must have approval prior to annexation into the sanitary sewer district or approval of construction plans; that the County recently completed a planning study to determine how service to the planning area will be provided; that the proposed project is within capacity assumptions for future sewer service; that the County does not have a schedule to extend sewer service at this time; that the County will allow the temporary connection of a developer constructed sewer system built to County standards and specifications upon execution of the agreement; that the County requires design and construction of the collection and transmission system to meet County sewer standards and specifications; that the County Engineer must approve the construction plans; that a sanitary sewer concept plan was approved by the County on April 11, 2016; and that one time system connection charges will apply.

The Commission found that Dan McGreevy of Sussex Real Estate Partners, LLC, was present with James Fuqua, Jr., Esquire of Fuqua, Yori & Willard, P.A., Frank Kea, Landscape Architect, and Jason Palkiwicz, Professional Engineer, of Solutions IPEM, Edward Launay, Environmental Consultant, and Betty Tustin, Traffic Engineer with The Traffic Group and that they stated in their presentations and in response to questions raised by the Commission that they are proposing to develop the 123.75 acre parcel with 378 units containing single family dwellings and duplexes; that access to the project will be via Mulberry Knoll Road; that the project is immediately adjacent to or in close proximity to Briarwood Subdivision; the recently approved Saddleridge Residential Planned Community, Harts Landing Residential Planned Community, the recently approved Cape Henlopen School site, the recently approved Delaware State Police troop facility; that there are two lots that currently access the entry easement; that the remaining area around the site is farmland; that the site contains both farmland and woodlands, and include the Hetty Fisher Glade and the Hetty Fisher Pond; that the Dorman family has owned and worked this property in excess of 115 years; that the site is located in a Developing Area according to the Comprehensive Plan; that they are proposed to develop the site with two housing types, single family dwellings adjacent to Briarwood, and duplexes adjacent to the Cape Henlopen School Site and the State Police site; that the site is located within the Environmentally Sensitive Developing District Overlay Zone and will be developed with private streets with sidewalks on both sides of the streets; that sidewalks will be on one side of the entry casement; that street lighting will be provided; that a sewer concept plan has been approved by the County Engineering Department; that the sewer concept plan is designed to not exceed 4.0 Equivalent Dwelling Units per acre; that stormwater management of the site will be designed per the requirements of the Sussex Conservation District and the State DNREC; that fire protection will be provided by the Rehoboth Beach Volunteer Fire Department and the Lewes Volunteer Fire Department; that the site is located in the Cape Henlopen School District; that the site is in close proximity to medical facilities, retail and service uses; that wetlands have been delineated and that they are waiting on approval on their mapping of the wetlands; that it appears that there are 5.12 acres of Tidal Wetlands and 6.35 acres of Non-Tidal Wetlands within the boundaries of the site; that 50 foot wide buffers will be provided from all Tidal Wetlands; that a 40 foot setback is proposed from all Non-Tidal Wetlands; that the Fish and Wildlife Service has advised that there are no endangered species on the site; that there are no reported Registered Cultural or Historic

sites on the site; that the Traffic Group did prepare a Traffic Impact Study for the project and has not yet received a response to the study from DelDOT; that they understand that the Planning and Zoning Commission will probably defer action pending receipt of the DelDOT response; that the applicants reviewed the Comprehensive Plan prior to considering applying for this application; that the natural woodlands around the Hetty Fisher Pond are proposed to be retained with additional setbacks; that they are proposed 20 foot wide landscape buffering and a 30 foot wide drainage utility area along the perimeter in non-wooded areas; that they are willing to provide a walking access to the Cape Henlopen school site, but have yet received a response from the School District; that the design of the project does not include any back to back lots, that all lots will face streets and open space; that the stormwater design will improve the drainage that currently exist on the site; that the amenity area is proposed near the end of the entry easement; that amenities include a recreational center, picnic areas, outdoor living/seating areas, a clubhouse and pool; pickle ball courts, walking trails, and a kayak/canoe launch area; that the Traffic Impact Study included considerations for seven development areas and ten intersections and/or roads; that it was determined that a traffic signal is needed at John J. Williams Highway and Mulberry Knoll Road; that in reference to the soils and wetlands on the site, the soils are mostly sandy; that there are two hydric soils in the wetlands areas; that a wetlands crossing will be needed to access the eight lots in the northeast corner of the site; that all development will occur outside of the floodplain areas; that the proposed kayak/canoe access shall be limited to non-motorized boats; that there will be no impact on Welsh Pond which is over 1,000 feet away from the site; that the project meets the purpose of the MR Medium Density Zoning Classification; that the project meets the purpose of the Residential Planning Community; that the development trend of the area is now more urban in character; that development of the adjoining J.G. Townsend property is anticipated; that central sewer and central water is coming into the area; that the project is consistent with the anticipated sewer capacity; that the project meets the purpose of the State Strategies which reference that the site is located in an Investment Level No. 2, an area where growth is anticipated; that the developer will participate in the improvements on area roadways and intersections; that health and social services are in the area; that the use is a permitted use in the Environmentally Sensitive Developing Area according to the Comprehensive Plan; that the concept plan exceeds setback requirements by State and County jurisdictions; that Briarwood, an AR-1 Agricultural Residential Subdivision, recorded in 1988, has a density of 1.25 units per acre; that Harts Landing, an AR-1 Agricultural Residential – Residential Planned Community, recorded in 2004, has a density of 1.75 units per acre; that this project has a gross density of 3.0 units per acre; that the proposed density is less than the density allowed based on the sewer district capacity calculation; that there will be no adverse impact on ground water with central sewer; that the adjacent farmland of J.G. Townsend, Jr. and Company is zoned AR-1 Agricultural Residential and GR General Residential and is also located in the sewer district study area which will allow 4.0 units per acre; that they are anticipating that the opposition to the project will suggest that the density should not exceed 2.0 units per acre; that the majority of the County is zoned AR-1 Agricultural Residential with a density of 2.0 units per acre; that this site is within a growth area and it should be anticipated that the density be 4.0 units per acre; that the cost of the possible road improvements is unknown since DelDOT has not yet responded to the Traffic Impact Study; that a lower density would impact the developer financially on a per acre basis; that the 50 foot easement crossing the Townsend property will have a sidewalk adjacent to the State Police Troop Facility; that this application for a Residential Planned Community is based on the Comprehensive Plan and the State Strategies; that an area



proposed for 8 lots in the northeast corner of the project will require a wetlands crossing; that wetlands markers will be provided to designate the wetland boundaries; that DNREC approval is necessary for the kayak/canoe launching area; that DNREC and the Army Corps. of Engineers approval is required for any docking; that the Gosling Creek sewer project must be completed prior to the school opening; that the project will be phased with a mix of both single and duplex units; that no lots will be located in a Flood Zone; that no parking is proposed near the kayak/canoe launching area; that the stormwater management facilities will be a combination of grass fields, pocket parks, and wet ponds with landscaping; that all buildings are proposed to be 10 feet apart; that no multi-family buildings are proposed, except for the duplex buildings; and that the developer has considered purchasing the easement area.

Mr. Fuqua submitted suggested proposed Findings of Fact and Conditions of Approval for consideration.

The Commission found that there were no parties present to speak in support of the application.

The Commission found that Greg Kordell, Robert Warzmeyer, Bill Baydalla, James Schneider, Billy Westergard, William Zak, Andreina Crimmins, Mary Ann Bell, Eul Lee, Alan Strigga, and John Paterniti were present and spoke in opposition to the application expressing concerns that the Hetty Fisher Glade is severely impaired with respect to bacteria and nitrogen and that the high density development will worsen environmental conditions in the tributary of Love Creek; that the assessment of impairment is based on water samples collected between July and September of 2014 from the upper reaches of the Hetty Fisher Glade; that the upstream water was essentially fresh and relatively cold indicative of a significant groundwater component; that the highest concentration of bacteria in the waterways tested were 10 times above the EPA standard for "Safe" swimming in fresh water; that separate samplings for nitrate/nitrogen were found to be almost 50 times greater than the concentration recommended for the restoration of eelgrass in the Inland Bays; that eelgrass provides important habitat to support crabs and fish population and is not almost totally absent; that potential environmental impacts are revealed by this project, containing 387 units and a reduction of forested lands from 43% to less than 14%; that it is likely that this project will result in an increase in impervious surfaces (roads, drives, sidewalks, roofs, etc.) that will generate run-off; that the developer has not responded to DNREC's request for information on the amount of impervious surfaces; that management of stormwater run-off is critical and is required to reduce Total Maximum Daily Loads of sediment and nutrients such as nitrogen that pollute adjacent waterways and for the safety and comfort of future residents; that the current forest areas should be all or mostly retained; that the benefits of forested riparian buffers for reduction of pollution and sediment are well established; that approximately 130 lots may be completed or substantially deforested; that problems with soils, wetlands and elevated water tables are likely to interfere with stormwater management, potentially resulting in ponding and flooding and reducing the efficiency of nutrient reduction; that there are areas on the site where the management of stormwater run-off may be difficult; that the site may not be able to support the increase in density; that traffic is a major concern and a bad example is the 10 or more fatal accident markers on Route 24 from Route One to Long Neck Road; that the setbacks are too close causing fire and safety concerns; that a request for rezoning must be evaluated against whether the newly zoned property would fit in with the surrounding properties and that the density of the proposal does not fit; that there are no communities in the

nearby vicinity that come close to the level of density proposed; that a precedent for future rezonings with high levels of density is a major concern by the residents in the area; that the County should consider more than just this property and the adjacent farmland, but should include all properties between Route 24, Plantation Road and Robinsonville Road; that the area support lower density as exhibited by the existing development densities in the area; that the school, the police troop facility and this project will add unnecessary increased traffic flows in the area; that traffic congestion could impede State police response times; that the average density of the five project close to Love Creek is 1.25 units per acre; that the residents in Briarwood will experience density in their backyard more than three times that of their own development; that property values could be impact in the Briarwood subdivision; that when The Retreat was approved the multi-family component was rejected because it was not consistent with the character of the surrounding property; that the project should be limited to single family dwelling with no duplexes; that the project is not consistent with the current Comprehensive Plan and the surrounding area; that this project has the potential to impact issues: traffic congestion, safety, environmental risks, and demands on infrastructure; that more traffic and congestion is a quality of life issue, but with increased traffic safety concerns become more prevalent; that infrastructure improvements are necessary, but must be complimented with reasonable sized developments to be effective; that the County can influence the level of future traffic by not increasing density; that we should not add to the stress on the Emergency Medical Services by allowing developments above current zoning limits; that the residents of the communities along Route 24 are already experiencing delays in getting out of their communities due to traffic; that more homes create more traffic which create more problems; that a traffic light is needed at the intersection of Route 24 and Mulberry Knoll Road; that Route 24 needs to provide two lanes in each direction from Route One to Love Creek Bridge, and in the future to Millsboro; that Route 24 does not have proper shoulders or left turn lanes; that traffic backups are a regular thing in this area; and that the residents are concerned that increased development in the area will impact emergency vehicle response time.

In response to some of the questions raised in opposition to the application, Mr. Kea responded that the 20 foot wide buffers will be landscaped based on the current Code, and that the 30 foot easement area will be a drainage swale.

Mr. Robertson added that the streets and street widths will meet or exceed County specifications, and that a minimum of two parking spaces are required on each individual lot.

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

Motion by Mr. Ross, seconded by Mr. Burton, and carried unanimously to defer action for receipt of DelDOT's comments on the Traffic Impact Study and for further consideration.  
Motion carried 3 – 0.

## OLD BUSINESS

### **Canaan Woods – 2006-67 Final Subdivision Plan**

Ms. Cornwell advised the Commission that this is a final subdivision plan for the creation of 99 single family lots with open space and private roads. The property is zoned AR-1 and is located off of Benson Rd. The Planning Commission granted preliminary subdivision approval on January 14, 2009. The Planning Commission removed Condition L requiring sidewalks at their meeting on March 19, 2015. The Planning Commission removed Condition D requiring a new easement with Delmarva Power and Light at their meeting on October 15, 2015. The final plan complies with the conditions of preliminary plan approval and as revised. A time extension was granted for this application and the plan shall be recorded prior to July 1, 2016 otherwise the plan shall expire. The Planning Office is in receipt of all agency approvals.

Motion by Mr. Burton, seconded by Mr. Ross and carried unanimously to approve the final subdivision plan. Motion carried 3-0.

#### **Apple Arbor – 2014-8 Final Subdivision Plan**

Ms. Cornwell advised the Commission that this is a final subdivision plan for the creation of 14 single family lots with open space and private roads. The site is located off of Double Bridges Rd. The property is zoned MR. The tax parcel is 134-19.00-19.00. The Planning Commission granted preliminary subdivision approval on March 12, 2015. There were no significant changes from the preliminary subdivision to the final subdivision. The final subdivision complies with the conditions of approval. The Planning Office is in receipt of all agency approvals.

Motion by Mr. Ross, seconded by Mr. Burton and carried unanimously to approve the final subdivision plan. Motion carried 3-0.

#### **Kaisey's Restaurant Final Site Plan**

Ms. Cornwell advised the Commission that this is a final site plan for the construction of a 4,300 SF mixed use building and site improvements. The property is zoned C-1 (General Commercial District) and is located along Westcoats Rd. and Clay Rd. The tax parcel number is 335-12.05-13.00. There are several existing buildings that will be removed and replaced with the new building. The new building will contain a restaurant and retail space on the first floor and an apartment and office to be located on the second floor. The uses are all permitted within the C-1 Zoning District. The plan proposed parking to be located within the front yard setback was approved by the Planning Commission as part of the preliminary site plan at their meeting on December 16, 2015. As part of the preliminary site plan approval the Planning Commission required that they review the final site plan. The Planning Office is in receipt of all agency approvals.

Motion by Mr. Burton, seconded by Mr. Ross and carried unanimously to approve the final site plan. Motion carried 3-0.

#### **The Reserves Partial Sidewalk Waiver**

Ms. Cornwell advised the Commission that this is a request for a partial removal of sidewalk within the Reserves development. The partial elimination of sidewalk is only for a small portion of the east side of Bella Villa Way from Tivoli Court south to Venezia Court. The request for the partial elimination of the sidewalk in this area is due to the tax ditch being relocated. The tax ditch was relocated too close to the right-of-way not leaving enough room to install a safe sidewalk. The applicant has provided information and photos showing issue with the relocated tax ditch. Sidewalks will be provided on both sides of the roads throughout the rest of the development.

Motion by Mr. Ross, seconded by Mr. Burton and carried unanimously to approve the elimination of a portion of sidewalk along the east side of Bella Villa Way. Motion carried 3-0.

### **The Reserves Amendment to Condition of Approval**

Ms. Cornwell advised the Commission that this is a request to amend the Condition of approval that requires the construction of a tennis court as part of the amenities. The applicant would like to remove the tennis court and provide two bocce ball courts and two horseshoe pits. The other amenities required will be provided and an Amenities Site Plan will be reviewed by the Planning Commission at a future date

Motion by Mr. Ross, seconded by Mr. Burton and carried unanimously to approve the amendment of the condition of approval to allow for the removal of the tennis courts and replace with bocce ball courts and horseshoe pits. Motion carried 3-0.

### **Lands of Gallo Jr. – off Greenhurst Farm Road Minor Subdivision off Private Road**

Ms. Cornwell advised the Commission that this is a minor subdivision to create one parcel with a residual off the existing private road. There is an existing driveway that will be used as the private road. The property is zoned AR-1 (Agricultural Residential District). The tax parcel is 430-2.00-1.00. The Planning Commission granted preliminary approval with final approval by the Commission at their meeting on November 12, 2015. Staff is in receipt of approvals from DelDOT and the Office of the State Fire Marshal.

Motion by Mr. Burton, seconded by Mr. Ross and carried unanimously to approve the final minor subdivision plan. Motion carried 3-0.

Meeting adjourned at 9:38 P.M.