

THE MINUTES OF THE REGULAR MEETING OF MAY 24, 2018

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, May 24, 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. Jamie Sharp – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mrs. Jennifer Walls – Planning Manager, Mr. Jamie Whitehouse - Planner III, and Samantha Bulkilvish – Planner I.

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

Motion by Ms. Stevenson, seconded by Mr. Wheatley, and carried unanimously to approve the Minutes for May 10, 2018 as submitted. Motion carried 5-0.

OLD BUSINESS

C/U #2124 Jeri Berc

This is an Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an Agricultural Educational Facility with Commercial Kitchen to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 3.9785 acres, more or less. The property is lying on the west side of Hudson Rd approximately 400 feet south of Eagles Crest Rd. 911 Address: 16040 Hudson Road, Milton. Tax Parcel: 235-22.00-424.00

The Planning Commission discussed the application which had been deferred since April 26, 2018.

Ms. Stevenson moved that the Commission recommend approval of CU #2124 for Jeri Berc for an Agricultural Education Facility with Commercial Kitchen based upon the record made during the Public Hearing and for the following reasons:

1. The applicant is seeking to use her property as a small education facility associated with agricultural uses that occur on the property. As stated by the applicant, this includes small plots of crops grown on the property, canning fruit and vegetables that grow on the property, and tending to farm animals on the property. All of this is consistent with the underlying AR-1 Agricultural Zoning of the property.
2. There was concern about the request for a “Commercial Kitchen” as part of this Conditional Use. This kitchen, if built, shall only be for educational purposes. The applicant clarified this request during the public hearing to confirm that it will only be a small kitchen used educational purposes by student for canning fruits and vegetables grown on the property and other similar uses. The applicant shall not use the kitchen for large-scale commercial food production or cooking food or complete meals on the premises.
3. The property is adjacent to the Cripple Creek Development. That development is a unique residential development with a very defined agricultural farming theme to it. While this property is not part of the Cripple Creek development, there are several recorded restrictive

covenants that are common to both. In neither case is there a prohibition against commercial uses. But, both contemplate that the properties will be used for agricultural purposes. In fact, the recorded covenants include provisions for agricultural uses, the keeping of large and small farm animals, and the effects that go along with them. According to the documents, even “non-agricultural type people” must accept the consequences of these activities, and agree not to take any action against their neighbors for these types of activities.

4. There is no indication that the use will have any adverse impact upon neighboring or adjacent properties. To the contrary, it will be consistent with the anticipated agricultural uses on surrounding properties in Cripple Creek. The use is also consistent with the Sposato landscaping business right across the road.
5. The applicant is seeking to focus on providing educational outreach to Sussex County residents with disabilities or who suffer from brain damage or similar ailments. This use is in a good location, in close proximity to the new Sussex Consortium School that is being built as part of the Cape Henlopen School District. The applicant also intends to use the site for Osher Lifelong Learning classes for adults.
6. The use will not generate a significant amount of traffic, or otherwise have an adverse effect on traffic or area roadways.
7. The use, as an agricultural education facility, is of a public or semi-public character that will be a benefit to Sussex County.
8. This use is subject to the following conditions:
 - A. As stated by the applicant, the requested kitchen shall only be used for educational purposes, to be used by students to prepare and preserve food grown by students on the site. The Kitchen shall not be used for other commercial meal production or food preparation purposes.
 - B. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
 - C. The applicant shall comply with all DelDOT entrance and roadway improvement requirements.
 - D. The applicant shall submit a Final Site Plan, which shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

2018-1 Acadia – Carlton O. Dorman, Michael A. Hazzard, Linda Hazzard, Linda Wardup and Steven Hazzard

This is a cluster subdivision. The cluster subdivision is to divide 117.21 +/- acres into 234 single family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying on the southeast corner of Conley’s Chapel Rd. and Dorman Rd. and on the northwest side of Robinsonville Rd. south of Conley’s Chapel Rd. Tax Parcels: 234-11.00-60.00, 234-11.00-62.03, and 234-11.00-64.00 Zoning District. AR-1 (Agricultural Residential District).

The Planning Commission discussed the application which has been deferred since May 10,

2018.

Mr. Hopkins moved that the Commission grant Preliminary Approval for Subdivision 2018-1 for Acadia – Carlton O. Dorman, Michael A. Hazzard, Linda Hazzard, Linda Wardup and Steven Hazzard based upon the record made during the Public Hearing and for the following reasons:

1. The Applicant is seeking approval of a clustered subdivision within the AR-1 zone.
2. A subdivision on this site, with the conditions imposed upon it, will not have an adverse impact on the neighboring properties or community.
3. The subdivision will not adversely impact schools, public buildings, area roadways or public transportation.
4. The proposed subdivision meets the purpose and standards of the Subdivision Ordinance.
5. I am satisfied that this project is a superior design under the cluster subdivision ordinance for the following reasons:
 - A. 50.45 acres, or 43% of the site, will be preserved as open space.
 - B. A majority of the lots will be adjacent to open space.
 - C. There are passive amenities in the form of park areas throughout the development available for use by the residents.
 - D. There are active amenities including a substantial clubhouse and pool.
 - E. The development's stormwater management system will help address drainage issues that exist in the area.
6. There are no wetlands that exist on the site.
7. The subdivision will be served by central water and Sussex County sewer.
8. The design addresses the requirements of Section 99-9C of the Code.
9. The subdivision will have no more than 234 lots on approximately 117.21 acres. This results in a density that is less than the maximum density permitted in the AR-1 zone. Also, while the Code permits lots with a minimum size of 7,500 square feet, the smallest lot in this subdivision will be 8,750 square feet in size, and the average lot size is 10,272 square feet.
10. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 234 lots within the subdivision.
 - B. The Applicant shall form a homeowners' association responsible for the perpetual maintenance of the amenities, streets, roads, 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. And, in cooperation with the Sussex Conservation District, the system shall help address drainage issues that currently exist in this area of Conley's Chapel Road and Wil King Road.
 - D. All entrances shall comply with all of DeIDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.
 - 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. As stated by the applicant, a 50 foot buffer shall be shown along all boundaries. Within this buffer, a depth of at least 30 feet shall be landscaped with vegetation. The Final Site Plan shall contain a landscape plan for all of the buffer areas, showing all

- of the landscaping and vegetation to be included in the buffer areas.
- H. As proposed by the Applicant, a pool and clubhouse shall be constructed. The clubhouse shall be a minimum size of 3,500 square feet when constructed. Both the pool and clubhouse shall be completed prior to the issuance of the 90th residential building permit.
 - I. 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.
 - J. A system of streetlights shall be included throughout the development.
 - 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 on it,
 - L. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

2018-3 Fox Haven II - Earl J. and Eula Mae Savage, Trustees

This is a cluster/ESDDOZ subdivision. The cluster/ESDDOZ subdivision is to divide 49.57 +/- acres into 99 single family lots to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County. The property is lying on the southwest side of Johnson Rd. approximately 680 ft. south of Zion Church Rd. Tax Parcel: 533-11.00-48.00 Zoning District. GR (General Residential District).

The Planning Commission discussed the application which has been deferred since May 10, 2018.

Mr. Hudson moved that the Commission grant Preliminary Approval for Subdivision 2018-3 for Fox Haven II – Earl J. and Eula Mae Savage, Trustees 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 GR (General Residential) Zoning District. The Applicant is seeking clustered lots with an average lot size of 8,500 square feet.
2. The proposed subdivision will have no more than 95 lots on approximately 49.57 acres. This results in a density of approximately 1.93 units per acre, which is well below the maximum density permitted in the GR zone. This is also a lower density than the adjacent Fox Haven development, which is roughly 2.2 units per acre.
3. This subdivision will not have a significant impact on the neighboring properties or area roadway.
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, with amenities that include a clubhouse and pool.
7. The development will include approximately 22.5 acres of open space which is a significant portion of the total acreage at 46% of the site.

8. This subdivision will become an addition to the adjoining Fox Haven subdivision, with access through Fox Haven and also access from Johnson Road.
9. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 95 lots within the subdivision.
 - B. The developer shall establish a unified homeowner's association with the existing Fox Haven subdivision responsible for the maintenance of street, 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 30 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 shall include interconnectivity with the existing Fox Haven development.
 - H. The development shall be served by its own on-site active amenities such as a pool and club house. The developer shall complete all amenities prior to the issuance of the 30th building permit.
 - I. There shall be a 30 foot buffer from all waterways on site.
 - 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 and forested areas that will be preserved.
 - M. As proffered by the applicant, a boat storage area shall be permitted in the location shown on the preliminary site plan. The boat storage area shall be available to owners within the existing Fox Haven subdivision and this subdivision.
 - 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 Mr. Hudson, seconded by Ms. Stevenson and carried unanimously to grant Preliminary Approval with Final Subdivision Plan approval by Planning and Zoning Commission. Motion carried 5-0.

C/U #2126 Nikolajas Lituinenkous

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for Commercial Vehicle Storage and Car Sales to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 9.54 acres, more or less. The property is lying on the south side of Vines Creek Rd., approximately 0.44 mile east of Armory Rd. 911 Address: 30028 Vines Creek Rd., Dagsboro. Tax Parcel: 233-11.00-172.00

The Planning Commission discussed the application which has been deferred since May 10, 2018.

Mr. Wheatley moved that the Commission grant approval CU #2126 for Nikolajas Lituinenkous and ES Motors for Commercial Vehicle Storage and Car Sales based upon the record made during the public hearing and for the following reasons:

1. This site been used for automobile repairs and sales for decades. As such, it is a legally nonconforming, or grandfathered use. This conditional use merely gives formal approval to these longstanding uses.
2. There are other small business uses and commercial or business uses in the area, and the next door property appears to be used currently as some sort of junk or storage yard. This use is consistent with the area and will not have an adverse effect to it.
3. The use as car sales facility at this location, which has been used for this type of purpose for many years, is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
4. No parties appeared in opposition to this application.
5. This recommendation for approval is subject to the following conditions and stipulations:
 - A. The existing signage shall be permitted.
 - B. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
 - C. Any dumpster shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - D. All repairs shall be performed indoors.
 - E. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.
 - F. The site shall be subject to all DelDOT entrance and roadway requirements.
 - G. The automotive sales hours shall only be from 9:00 am through 7:00 pm, Monday through Saturday. The garage hours shall only be between 9:00 am and 6:00 pm on weekdays, and 9:00 am until 3:00 pm on Saturdays. There shall not be any Sunday hours.
 - H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Final Site Plan shall clearly show the areas set aside for vehicle sales and vehicle storage.

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

C/U #2127 Wine Worx, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an Event Venue to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 25.60 acres, more or less. The property is lying on the west side of Blackwater Rd., approximately 1,007 feet north of Burbage Rd. 911 Address: 32512 Blackwater Rd., Frankford. Tax Parcel: 134-11.00-53.00

The Planning Commission discussed the application which has been deferred since May 10, 2018.

Mr. Hudson moved that the Commission grant approval CU #2127 for Wine Worx, LLC for an Event Venue based upon the record made during the public hearing and for the following reasons:

1. The site is 26 acre parcel of land owned by the applicant. It has County approval for a winery, and this is an extension of that agricultural use.
2. The applicant intends to hold events that are connected with the primary use as a winery, such as live entertainment, craft nights, weddings, birthday parties and similar events.
3. The site will have 54 dedicated parking spaces, plus plenty of room for overflow parking.
4. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
5. The applicant testified that the existing customers have been asking to use the winery for these activities. This use will serve that need in Sussex County.
6. This use promotes agricultural activities in Sussex County and is an innovative agritourism destination.
7. No parties appeared in opposition to this application.
8. This recommendation is subject to the following conditions:
 - A. All events shall end no later than 10:30 p.m. and clean up after 10:30 p.m.
 - B. Food and beverage service and music or similar entertainment is permitted.
 - C. As stated by the Applicant, there shall be nor more than 200 people at any event.
 - D. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
 - E. All entrance locations shall be subject to the review and approval of DeIDOT.
 - F. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

PUBLIC HEARINGS

Mr. Sharp described how the public hearings are processed.

2018-4 Beach Tree Preserve – Double DB, L.P.

This is a cluster/ESDDOZ subdivision. The cluster/ESDDOZ subdivision is to divide 77.789 +/- acres into 155 single family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying at the northeast corner of Robinsonville Road and John J. Williams Highway (Route 24) and at the southeast corner of Angola Rd. and John J. Williams Hwy. (Rt. 24). Tax Parcel: 234-11.00-49.00 Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were a subdivision plan, an exhibit booklet, TAC, comments from PLUS, Sussex Conservation District, DeIDOT, Sussex County Engineering Department Utility Planning Division, Delaware Electric Co-op, Office of the Fire Marshal, DNREC Divisions of Groundwater Discharges, Air Quality, and Waste and Hazardous Substances, Office of Drinking Water, Sussex County Mapping and Addressing Department, and Chesapeake Utilities.

The Commission found James Fuqua, Attorney with Fuqua, Willard, Stevens and Schab, Josh Gray and Webster Gray, owners of Double DB, L.P. and Kevin Smith, with Kercher Group Inc. were present on behalf of the application; that Mr. Fuqua stated this is an application to

subdivide a 66.36 acre parcel of land located on the west side Route 24 and an 11.4 acre parcel on the east side of Route 24; that the 66 acre is the location of the development; that the 11 acre is to be preserved in its existing natural state; that the Land Use classification per the Comprehensive Plan is Environmental Sensitive Developing Area; that this is a proposal for an ESDDOZ subdivision with 155 lots and recreational amenities; that there is a boundary line overlap on the north side of the property; that the Applicant has excluded 4.36 acres from this application; that there is an existing 80 foot power line easement to remain open space; that there are four residential lots along Robinsonville Road; that there are woods along Robinsonville Road and Route 24; that this parcel is near the proposed Acadia subdivision; that the east side of the County is a growing residential area with residential developments; that the parcel is zoned AR-1; that this is a proposed cluster with 7,500 square feet lots with central water and sewer; that the central water will be supplied by Tidewater Utilities; that the site is located in the Angola Neck Planning Area of the Sussex County Sewer District and will be annexed into the sewer district; that an area containing 1.914 acres of non-tidal wetlands on the 66 acres portion will remain undisturbed with a 25 foot buffer; that the Applicant can contribute to the area wide study fee in lieu of a TIS; that the Applicant will be required to contribute to two off-site road projects; that they also required to have a ROW dedication of 30 feet on Robinsonville Road and a 40 feet on Route 24; that there will be one entrance off of Robinsonville Road; that the Applicant will help with the realignment to Conley's Chapel Road intersection; that there are no archeological, historical or endangered species located on the site; that the stormwater management will be reviewed and approved by Sussex Conservation District; that the site is located in the Cape Henlopen School District; that fire protection will be provided by the Lewes Rehoboth Fire Company; that the minimum lot size is 7,500 square feet and the average is 8,991 square feet; that density will be 1.99 per acre; that there will be a minimum 20 foot buffer around the site except behind the four lots which will have a 30 foot buffer and a minimum 25' foot buffer from the wetlands; that there will be centrally located recreational area which contains approximately 2.4 acres of space with various amenities; that proposed recreational amenities will be completed by the 75th building permit; that interconnectivity is not available; that the streets will have sidewalks on both sides and streetlights will be provided; that there will be a total open space of 32.1 acres which is 41% of the site; that the 11 acre parcel has approximately 2,100 feet of road frontage along Route 24; that the boundary is the center line of Sara Run and contains non-tidal wetlands, uplands and the parcel is all wooded; that this parcel will be preserved in its natural state and no wetland investigation was preformed; that there are uplands on this parcel and would be appropriate for some type of business use through a conditional use; that the parcel is not completely wetlands; that the woods contain mature trees; that the preservation of this property will insure that 2,100 feet of that forest will remain to provide a corridor for wildlife; that the Applicant will provide an easement of 11.4 acres of the parcel; that it will never be developed; that the subdivision will have an HOA responsible for maintaining common areas; that proposed findings and conditions were submitted; that there will be no irrigation wells; that there is no active recreation on the 11 acre parcel; and that there will be 11 feet travel lanes with 5 feet shoulders along Robinsonville Road and a 15 foot easement for a path.

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

The Commission found that Harry Farreny spoke in opposition to the application; and that Mr. Farreny stated he has concerns with the traffic.

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

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

C/U #2128 Larry Martin

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an Auto Repair Shop to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 3.0381 acres, more or less. The property is lying on the east side of Horsey Church Rd. and on the south side of Shadow Point Ln. 911 Address: 9534 Shadow Point Ln. Tax Parcel: 532-19.00-12.21

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

The Commission found Larry Martin was present on behalf of his application; that Mr. Martin stated he put up a pole building for auto repair; that there is transmission shop two miles down the road, a used car lot and Delmar Auto is also in the area; that there is a butcher shop in the area; that there will be no employees and the hours of operation will be 7:00 am. through 6:00 p.m., Monday through Friday and Saturday by appointment only in the a.m.; that the majority of the work will be done inside and nothing will be done outside; that he will store cars short term but no parts or equipment will be stored outside; that there is no sales of used cars at this time but maybe in the future; that there is proper disposal of waste and oil; that he would like to put a sign on the building; that he would like a lighted ground sign; that there could be three cars a day; that the building has three bays that face the house and one bay is on the other side of the building; that he would repair auto, light truck and no semi's; that it is a local base of customers; that there are six parking spaces shown on the site plan; that he repairs an average of three cars a day; and that he would like to store up to a max of 10 cars.

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

C/U #2129 Brian P. Lessard, Lessard Builders, Inc.

An Ordinance to grant a Conditional Use of land in a GR General Residential District for Mini-Storage Buildings to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 11.70 acres, more or less. The property is lying at the southeast corner of Argos Corner Rd. and Coastal Hwy. (Rt. 1). 911 Address: 22754 Argos Corner Rd. Tax Parcels: 230-7.00-95.00, 96.00 & 97.00

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, site plan, photos, 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, Brian Lessard, owner, Pat Ryan, with Ryan Architecture and Kevin Minnich, with Minnich Engineering were present on behalf of the application; that Mr. Fuqua stated the parcel of land contains 11 acres that is zoned GR and AR-1; that there are some residential lots to the south of the property; that Taylor Marine is across Argos Corner Road; that the site will utilize an on-site well with a tank for fire protection and on-site septic system; that DelDOT did not require a TIS; that DelDOT would except an area wide study fee; that because the property is adjacent to Route 1 it is also subject to DelDOT's Corridor Capacity Preservation Program; that the entrance will be located off of Argos Corner Road; that there are 0.58 acres of non-tidal wetlands located in the south corner along Route 1 and will be protected with a 25 foot buffer; that stormwater management will be constructed within Sussex Conservation District regulations and will use Best Management Practices; that there will be 12 buildings of various sizes, all one story buildings and less than 15 feet in height; that two of the buildings will be climate controlled; that the units of these buildings will have interior access for climate control and sprinkler system for fire protection; that there will be one 40,000 gallon tank with a maximum height of 18 feet; that the area surrounding the buildings will be paved; that some of the paved area is for outdoor storage with a maximum 80 boats and RV's to be stored outside; that the site is near Jellystone Campground and it is convenient for them; that Taylor Marine has outside storage; that the Applicant is requesting one freestanding lighted sign of 96 square feet per side as well as a 32 square foot sign per side at the entrance; that an office will be in the first building with access to storage through a secured gate; that the storage area and stormwater pond will be fenced with a black 6 foot chain link fence; that the office will be open seven days a week from 8:00 a.m. through 6:00 p.m. and the access to the climate control will be allowed during those hours; that there will only be one employee during office hours; that the non-climate control buildings and vehicle storage area will be accessible from 6:00 a.m. through 10:00 p.m.; that the facility will have a security system; that the lighting will be minimal and on a timer with the lighting turning off at 10:00 p.m.; that there will be no contractor or businesses at the facility; that they will incorporate a 20 foot buffer along Route 1 per CHCOZ; that Mr. Lessard does own another facility near Lewes; that the population is increasing; that this site is located less than two miles south of Milford and the new hospital and the area is expected to experience growth; that this site is in character with the area and is needed; that it is appropriate use of the site; and that the intent of the plan was to have A-frame type roof.

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

The Commission found that Chris Hitchens spoke in opposition to the application; and that Mr. Hitchens stated he was hoping they would leave the woods as a buffer to his back yard and neighbor's yard; and Mr. Fuqua will talk with Mr. Hitchens.

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

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

C/Z #1850 Swann Cove West, LLC.

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR-RPC Medium Residential District-Residential Planned Community (Extension of Change of Zone No. 1471) for a certain parcel of land laying and being in Baltimore Hundred, Sussex County, containing 7.236 acres, more or less.

The property is lying on the northeast and southeast corners of Herring Way and Old Mill Bridge Rd. 911 Address: N/A. Tax Parcel: 533-12.00-73.02

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, site plan, exhibit booklet, comments from Sussex Conservation District, Delaware Electric Co-op, DNREC Divisions of Air Quality and Fish and Wildlife, Sussex County Engineering Department Utility Planning Division and DelDOT. Letters were received from the HOA agreeing with the proposed extension to the existing Residential Planned Community, and one letter in opposition.

The Commission found James Fuqua, Attorney with Fuqua, Willard, Stevens and Schab, Jim Swann, owner of Swann Cove and Steve Gorski, with Duck Tail Associates were present on behalf of the application; that Mr. Fuqua stated the application is a proposal for 20 single family lots as part of Swann Cove West; that back in 2002 the Change of Zone 1471 application was proposed for 109 acres to MR-RPC; that the application was approved on July 3, 2002; that the RPC was approved with 15 conditions, one of the conditions was a maximum number of 372 units which would be developed in eight phases with 362 single family lots; that the RPC is fully developed and the infrastructure is completed; that there are two amenities in the area; that the community has two access points to Route 54 and Old Mill Bridge Road; that the 7.236 acres was not owned by Swann's at the time of the original application; that Delaware Electric Co-op owned the land; that they would like to incorporate the last vacant parcel into the RPC; that the HOA has no objection to the inclusion; that this is a better use than commercial development or a separate subdivision; that the Land Use classification per the Comprehensive Plan is Environmental Sensitive Developing Area; that no TIS or TOA was required by DelDOT; that the entrance has been approved and converted; that there will be a ROW dedication along Old Mill Bridge Road; that water is provided by Artesian Water Company; that the site will be served by County Sewer; that electricity will be provided by Delaware Electric Co-op; that there are no endangered species or historical resources on the site; that the lot sizes and setbacks will comply with the original RPC; that the minimum lot sizes are 7,500 square feet with a minimum width of 60 feet and sidewalks on both sides of the cul-de-sac; that stormwater management will meet DNREC regulations; that they will have 1.5 acres of open space; that the gross density is 2.7 and less than the 3.4 per acre within the original RPC; that the owners will be members of the existing HOA; that this is an addition to, or extension of, the existing CZ 1471 and subject to two conditions; that it is a meandering way to get from commercial site to Old Mill Bridge Road and there is not a lot of benefit to cut through; that the main roads are built to DelDOT standards and are state roads; that Mr. Gorski stated the stormwater management will meet Sussex Conservation District requirements and will have a pond and bio swale; and that there are no known drainage issues.

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

The Commission found that Gary Ward spoke in opposition to the application; that Mr. Ward stated he has concerns with the buffer to his house; that the new lots are about nine feet off the ditch; that he has concerns with the setbacks to the lots and houses; and that he has concerns with the stormwater management.

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

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

OTHER BUSINESS

Love Creek Marina (S-17-43)

Revised Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Revised Site Plan for Love Creek Marina for the creation of 180 multi-family dwelling units, a 5,000 S.F. restaurant, and a 500 S.F. retail area with amenities and site improvements to be located off John J. Williams Highway (Rt. 24). The Planning and Zoning Commission approved the Preliminary Site Plan for 188 units and allowed parking in the front yard setback on August 24, 2017. A revised Preliminary Site Plan was approved by Planning and Zoning Commission at its meeting on December 21, 2017. The plan has been revised again. The parking design and building locations have since been redesigned to accommodate design requirements for the Office of the State Fire Marshal. A large section of off-road parking is now proposed in the center of the site. The Revised Site Plan complies with County Code. The property is zoned M (Marine District) and the use is permitted within the District. The Tax Parcel is 234-7.00-108.00. Staff is awaiting agency approvals.

The Commission found Alan Hill, with Hillcrest Associates was present on behalf of the application and stated that the stormwater management is in the 50 foot buffer along Love Creek.

Motion by Mr. Hudson, seconded by Mr. Wheatley, 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.

Covered Bridge Trails (CU 2012) (S-18-10) (FKA Reserves at Nassau Landing Phase 2)

Preliminary Amenities Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Amenities Plan for a clubhouse, swimming pool, tot lot and pickleball courts as part of the Covered Bridge Trails 134-unit age-restricted community. Planning & Zoning Commission recommended approval of CU 2012 at its meeting of April 09, 2015. County Council approved the Conditional Use Permit application at its meeting of March 05, 2015 subject to conditions, including a condition that the clubhouse, pool and playground amenities shall be constructed prior to the issuance of the 73rd residential building permit. Final Site Plan approval was issued on June 02, 2017. Both the Preliminary and Final Site Plans showed a place holder on the plan in the location where the amenities were to be sited. The submitted Amenities Plan complies with the Zoning Code, and all conditions of approval for CU 2012. All agency approvals have been received and the amenities plan may be considered as a Final Amenities Plan. Tax Parcel: 335-11.00-59.00. Zoning District: MR (Medium Density Residential District).

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

Senator's (2006-52)

Request to delete interconnectivity to Governors

Ms. Cornwell advised the Commission that this is a request to delete the interconnectivity as shown on the approved Final Subdivision Plan dated April 14, 2010 for the Senator's subdivision. The request for the elimination of the interconnection is from the Senator's Homeowner Association. Their letter stating their reasons for the request was included in Commissioner's packets. This portion of J.G. Townsend Blvd. was constructed as part of Phase 1

of the Senator's subdivision. The Governors development (CU 1772) is adjacent to Senators. It was approved with a condition requiring interconnectivity to the adjacent properties. If the request is granted Governors is still required to build their road that would connect to J. G. Townsend Blvd. This would create a situation of a road to nowhere. If the interconnectivity is removed then the Senators Subdivision Plan will need to be re-recorded showing the removal of the interconnectivity. The office also received additional emails in support and in opposition to the request to remove the interconnectivity. The Senator's HOA has not indicated, if approved, what would happen to the existing road.

The Commission discussed the request. They found that interconnectivity was part of the Final Subdivision Plan; that if the interconnectivity was part of a Condition, then a Public Hearing would be required; however, it is not included in a Condition on the site plan, even though it is noted on the site plan; that Larry Manlove, with the HOA spoke, that Mr. Manlove stated the road was previously a construction road that would be taken away and replaced with sod; that they never knew there was interconnectivity; and that they have concerns with safety of the interconnectivity.

Motion by Ms. Stevenson, seconded by Mr. Wheatley, and carried with three (3) votes to deny the request to delete interconnectivity to Governors. Motion carried 3-2. Roll call vote: Mr. Wheatley – No, Ms. Stevenson – Yes, Mr. Hudson – Yes, Mr. Hopkins – No, and Mr. Ross – Yes.

Meeting adjourned at 8:40 p.m.