

THE MINUTES OF THE REGULAR MEETING OF JUNE 14, 2018

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, June 14, 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. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mr. Jamie Whitehouse - Planner III, and Ms. 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. Hopkins, and carried unanimously to approve the Minutes for May 24, 2018 as revised. Motion carried 5-0.

OLD BUSINESS

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).

The Planning Commission discussed the application which had been deferred since May 24, 2018.

Ms. Stevenson moved that the Commission grant preliminary approval of subdivision for Beach Tree Preserve – Double DB, L.P. based upon the record made during the public hearing and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects orderly growth of the County and the items in Section 99-9C of the Code have been favorably addressed.
2. The proposed subdivision is zoned AR-1 and also within the County's Environmentally Sensitive Developing Area land use classification or Environmentally Sensitive Developing District Overlay Zone (ESDDOZ).
3. As a subdivision in the Environmentally Sensitive Developing District Overlay Zone, the project is permitted to have minimum lot sizes of 7,500 square feet with central sewer and water.
4. The proposed subdivision's density of 155 single-family lots with a gross density of 1.99 lots per acre complies with the density requirements for the parcel.
5. The proposed subdivision will be a residential development and will not adversely affect nearby uses or property values. It is also consistent with nearby residential developments.

6. The proposed subdivision will not adversely impact schools, public buildings or community facilities.
7. The proposed subdivision will not have an adverse impact on wetlands or other environmental features. A voluntary buffer will be provided from the non-tidal wetland line and the portion of the site located to the easterly side of Route 24 will be permanently preserved in its natural state.
8. The proposed subdivision will comply with all DelDOT requirements and construction of the entrance on Robinsonville Road will include the realignment of Conley's Chapel Road and construction of turn lanes improving the safety of the intersection.
9. Fire service and elementary and middle schools are located near the site.
10. With the conditions imposed, the development will be designed and built in accordance with the subdivision code and the requirements of the "Environmentally Sensitive Development District".
11. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 155 lots in the subdivision.
 - B. The applicant shall form a homeowners' association to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas.
 - C. The proposed subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
 - D. The proposed subdivision shall be annexed into a County Sewer District and served by County sewer.
 - E. A thirty (30) foot buffer shall be provided from the four (4) adjacent lots to the northeast corner of the site.
 - F. 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.
 - G. A 20 foot forested or landscaped buffer shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscape plan for these areas.
 - H. As offered by the Applicant, sidewalks shall be installed on both sides of all internal streets in the site and any street lighting within the development shall be downward screened.
 - I. All entrances, intersections, roadway improvements, and multi model facilities required by DelDOT shall be constructed in accordance with DelDOT's requirements.
 - J. Street design shall meet or exceed Sussex County Standards.
 - K. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.
 - L. The location for a school bus shelter shall be coordinated with the local school district's transportation manager. The location of the bus stop shelter shall be shown on the Final Site Plan.
 - M. As stated by the applicant, there shall be at least a 25 foot buffer from all wetlands. The wetlands shall be marked with permanent markers to prevent disturbance.
 - N. 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.
 - O. No other outdoor construction activities shall occur at the site except between the

- hours of 7:30 a.m. through 7:00 p.m., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays.
- P. All recreational amenities shall be constructed on or before the issuance of the 75th Building Permit.
 - Q. As offered by the Applicant, the 11.4 acre portion of the site located to the eastern side of Route 24 shall be made subject to a perpetual conservation easement providing a scenic vista and wildlife corridor.
 - R. The preliminary plan submitted by the Applicant identifies an area consisting of 4.36 acre on the north side of the site as “Possible Boundary Line Overlap.” As proposed by the Applicant, this area shall not be considered as part of the site for purposes of density calculations, setback and buffer determinations, or development.
 - S. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Sussex County Office of Planning and Zoning.
 - T. 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 Subdivision Plan approval by Planning and Zoning Commission. 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

The Planning Commission discussed the application which has been deferred since May 24, 2018.

Mr. Wheatley moved that the Commission recommend approval of C/U 2128 for Larry Martin for and Auto Repair Shop based upon the record made during the public hearing and for the following reasons:

1. The Applicant proposes to operate a small auto repair shop on his property which consists of 3.032 acres more or less, The Applicant has no employees and typically work on an average of 3 cars per day.
2. The use as an auto repair shop at this location is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
3. The project, with the conditions and stipulations so placed upon it, will not adversely affect area roadways.
4. No parties appeared in opposition to this application.
5. This recommendation for approval is subject to the following conditions and stipulations:
 - A. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - B. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
 - C. Any dumpsters shall be screened from view of neighbors and roadways. The

- dumpster locations shall be shown on the Final Site Plan.
- D. Except for the property owner's personal vehicles located on site, no more than 10 vehicles shall be parked on the site.
 - E. No sales of automobiles shall be permitted.
 - F. All repairs shall be performed inside the existing pole building located on the property. No other buildings on the property shall be used for the auto repair shop. No automobile parts or equipment shall be stored outside.
 - G. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.
 - H. The site shall be subject to all DelDOT entrance and roadway requirements.
 - I. Handling and disposal of all hazardous waste from the auto repair shop shall comply with all local, state, and federal laws, rules, and regulations.
 - J. The automotive repair hours shall only be from 7:00 a.m. through 6:00 p.m., Monday through Saturday. There shall not be any Sunday hours.
 - K. 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 parking.

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.

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

The Planning Commission discussed the application which has been deferred since May 24, 2018.

Ms. Stevenson moved that the Commission recommend approval of C/U 2129 for Brian Lessard – Lessard Builders, Inc., for mini storage buildings based upon the record made during the public hearing and for the following reasons:

1. The use as a mini- storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of area residents.
2. Entrance and roadway improvements will be constructed in accordance with DelDOT requirements. The proposed use as a storage facility generates less traffic than other retail, commercial, or residential uses. As a result, the use will not adversely affect traffic or adjacent roadways.
3. The site is located just south of Milford and the hospital currently under construction. The facility is needed and will serve the anticipated increasing population and business needs in the area.
4. Because this application is a conditional use, the underlying zoning will not be changed and the use will be limited to that of a storage facility with site design reviewed and approved by the Commission.

5. The site has no environmental restraints associated with the property and the small area of on-site wetlands will be protected by a 25 foot buffer.
6. The site is located adjacent to Route 1, a major arterial road which is appropriate for the proposed use. The site is also located along Argo's Corner Road directly across from an established boat dealership which has substantial outdoor display and storage of boats. The proposed use is consistent with the character of the area.
7. The site's location between Route 1 and the boat dealership would not be appropriate or desirable for residential development under its current zoning.
8. With conditions and stipulations placed upon it, the conditional use will not have an adverse impact on nearby properties or uses.
9. This recommendation for approval is subject to the following conditions and stipulations.
 - A. No outside storage, except for boats, trailers, campers, recreational vehicles (RV's), and vehicles, shall be allowed on the premises. The number of boats, trailers, campers, recreational vehicles (RV's), and vehicles stored on the site shall not exceed 80.
 - B. All buildings shall be one story tall and shall not exceed 15 feet in height except that the water tank shall not exceed 18 feet tall.
 - C. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
 - D. Entrance and roadway improvements required by DelDOT shall be constructed in accordance with DelDOT regulations and the site design shall be in compliance with DelDOT's Corridor Capacity Preservation Program.
 - E. The area used for the storage buildings and the storage of boats, trailers, campers, recreational vehicles (RV's), and vehicles shall be fenced and gated. The type of fencing shall be shown on the Final Site Plan.
 - F. There shall not be any building contractor's or subcontractor's offices or workshops within the project.
 - G. Stormwater Management design shall meet or exceed DNREC requirements and shall be approved the Sussex Conservation District.
 - H. One office for management and security of the facility shall be permitted.
 - I. A landscape buffer shall be established along the Route 1 right-of-way in compliance with the Combined Highway Corridor Overlay Zone Section of the Zoning Ordinance. A landscape plan for the site shall be included with the Final Site Plan.
 - J. There shall be a maintained, forested buffer of 50 feet from neighboring properties to the north and east of the site identified as Tax Map Numbers 230-7.00-95.01, 230-7.00-94.00, 230-7.00-93.00, and 230-7.00-89.00.
 - K. One lighted sign with a maximum area of 32 square feet per side shall be permitted.
 - L. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
 - M. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.
 - N. The hours of operation shall only be from 6:00 a.m. through 10:00 p.m. daily.
 - O. 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 size and location of buildings related to the facility.

Motion by Ms. Stevenson, 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.

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

The Planning Commission discussed the application which has been deferred since May 24, 2018.

Mr. Wheatley moved that the Commission recommend approval CZ 1850 for Swann Cove West, LLC, for a change of zone from AR-1 to MR-RPC based upon the record made during the public hearing and for the following reasons:

1. This application is for an extension of the Swann Cove West MR-RPC (CZ #1471), which includes 372 units on 109 acres. The expansion area consists of 20 single family lots on 6.913 acres. This expansion area is identified as “Phase 9” of the Swann Cove MR/RPC.
2. This expansion area will use the existing Swann Cove entrances on Route 54 and Old Mill Bridge Road.
3. The residents of this expansion shall become part of the existing Swann Cove HOA, and shall be entitled to use all of the existing Swann Cove amenities.
4. This new MR/RPC area will include 1.5 acres of open space, or approximately 21% of the site.
5. The site is located in the Environmentally Sensitive Development Area which is designated as “Growth” area under the Comprehensive Plan.
6. The density of this application is approximately 2.89 units per acre, which is less than the 3.4 units per acre in the existing MR/RPC.
7. The site is located within the Sussex County Sewer District and the water service area of Artesian Water Company.
8. This expansion of the existing Swann Cove MR/RPC will not adversely affect neighboring roadways, traffic or the community.
9. The Findings of Fact supporting approval of CZ #1471 are incorporated by reference herein.
10. This recommendation for approval is subject to the following conditions and stipulations:
 - A. The maximum number of lots permitted in Phase 9 of Swann Cove West shall not exceed 20.
 - B. Phase 9 of Swann Cove West shall be an extension of the Swann Cove West MR-RPC (CZ #1471) and is subject to the conditions imposed on CZ #1471, approved on July 23, 2002, as amended and subject to any revisions caused by these conditions.
 - C. As proposed by the Applicant, Phase 9 of Swann Cove West shall be subject to the existing Swann Cove West Homeowners Association covenants and deed restrictions. The residents of Phase 9 of Swann Cove West shall become members of the Swann Cove Homeowners Association and shall have access to the amenities within Swann

- Cove. The Applicant shall record with the Recorder of Deeds all necessary documents evidencing that this condition has been met.
- D. The streets shall meet or exceed the County street design standards.
 - E. The applicant shall submit a revised RPC Master Plan for the entire Swann Cove MR/RPC to include this new Phase 9.
 - F. The Final Site Plan shall contain the review and approval of the Sussex Conservation District for the design and location of all stormwater management areas.
 - G. 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.
 - H. No other outdoor construction activities shall occur at the site except between the hours of 7:30 a.m. through 7:00 p.m., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays.
 - I. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Wheatley, 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.

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

2018-5 Meadow View, Lot 10 - Box 64B Selbyville, LLC

This is a standard subdivision to divide 13.24 +/- acres into 2 single family lots to be located on a certain parcel of land lying and being in Seaford Hundred, Sussex County. The property is lying at the west side of Camp Rd. approximately 2,500 feet south of Cannon Rd. Tax Parcel: 331-2.00-18.13. Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were comments from Sussex Conservation District, and Sussex County Engineering Utility and Planning Division, preliminary subdivision plan and an exhibit booklet.

The Commission found Mark Davidson, with Pennoni Associates was present on behalf of the application; that Mr. Davidson stated this is an application to subdivide Lot 10 into two lots; that the property is zoned AR-1; that this proposal would result in a total of three lots including the residual lot; that he submitted a waiver for the landscape buffer; that Lot 10 is part of an existing subdivision that was approved in 1996; that the property is located in a Level 2 State Strategy; that the adjacent parcels are zoned C-1 and some AR-1; that the new lots will adhere to the covenants and deed restrictions; that the applicant has provided majority consent from the rest of the subdivision to increase the density by two additional lots (6-yes, 2-no and 2-no response); that all the parcels will be over three acres and an average lot size of 4.41 acres; that they will create a 50 foot easement off the existing driveway for access; that there is a restriction that there will be no further subdivision of these lots; that there is a maintenance agreement in the plan for the access road and easement; that the two lots have been approved for septic; that the new lots are in keeping with the other lots in the subdivision; that the new lots will be for single family;

that they meet the general purpose of the Subdivision Code; and that they are also asking for a waiver from the street design standards.

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

The Commission found that William Reynolds spoke in opposition to the application; that Mr. Reynolds stated he doesn't like it; that he has concerns with wetlands, renters, and drainage; and that Mr. Davidson stated there are no wetlands found on-site.

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

Mr. Wheatley moved that the Commission grant preliminary approval of Subdivision 2018-5 for Meadow View, Lot 10 – Box 64B Selbyville, LLC based upon the record made during the Public Hearing and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 2 additional lots on 13.24 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. The applicant has obtained consents from existing lot owners within the Meadow View development as required by Section 99-13 of the Subdivision Code.
7. Because this is a small re-subdivision of an existing subdivision lot, a waiver from the street design requirements and landscaped buffer requirements is appropriate.
8. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 2 new lots in addition to Lot10 within the subdivision.
 - B. All entrances shall comply with all of DelDOT's requirements.
 - C. The applicant shall record an easement providing for the shared perpetual maintenance of the driveway providing access to the lots.
 - D. The Final Site Plan shall be subject to the review and approval of Sussex County.

Motion by Mr. Wheatley, 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 #2130 The Evergreene Companies, LLC (NKA Pallots Corner)

An Ordinance to grant a Conditional Use of land in a MR Medium Density Residential District for multi-family dwellings (20 townhomes) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.3817 acres, more or less. The property is lying at the northeast corner of Cedar Neck Rd and Fred Hudson Rd., and on the northeast side of Cedar Neck Rd. approximately 255 ft. north of Fred Hudson Rd. 911 Address: 30733 Cedar Neck Road, Ocean View. Tax Parcels 134-13.00-72.00 and 72.01.

Ms. Cornwell advised the Commission that submitted into the record were a site plan, an exhibit booklet, comments from Sussex Conservation District, staff analysis, PLUS Response Letter, Sussex County Engineering Utility and Planning Division and one letter of opposition.

The Commission found James Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab, Josh Mistrangelo and Ring Lardner, with Davis, Bowen and Friedel, LLC were present on behalf of the application; that Mr. Fuqua stated this is an application for a Conditional Use in an MR district for 20 townhomes; that they consider the parcel as an in-fill property; that a previous application was submitted in 2011 to request a Change of Zone to a B-1 and was denied as the area is primarily residential uses; that this is a proposal for 20 townhomes with a pool and clubhouse; that the gross density would be 8.4 units per acre; that they believe the density is appropriate with the area and the Comprehensive Plan; that there is Bethany Lakes and Sunset Harbor in the area; that to the south of the property is Salt Pond which is a RPC; that the commercial component of Salt Pond RPC is across the street and has a grocery store and gas station; that adjacent to Bethany Lakes is a very large community facility; that the Land Use classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area, mixed residential land use, and is a growth area; that there is a full range of housing types including townhomes with water and sewer and up to 12 units per acre is appropriate; that water will be provided by Sussex Shores; that sewer will be provided by Sussex County and there is adequate sewer capacity; that there are no wetlands on the site and it is not in a floodplain; that the site does not contain any historic or endangered species; that the stormwater management will meet all requirements; that the site is located in the excellent recharge area and will comply with requirements; that DelDOT did not require a TIS or TOA; that the 20 units will be located in six buildings; that four of the buildings will have three units each and two of the buildings will have four units each; that the north boundary will have an extra eight foot setback; that they will provide a Landscape Plan for a buffer adjacent to the residential lots; that one acre will be open space which is approximately 42% of the site; that there will be curbs and gutters; roads with streetlights downward screened; that the community will be a condominium ownership; that the site fronts on two roads at a major intersection; that the site backs up to Bethany Lakes recreational facility; that Bethany Lakes has a net density of 5.6; that Sunset Harbor has a net density of 9.8, Cedar Bay has a net density of 11.9, Bethany Grand has a net density of 10.6 and Magnolias has a net density of 11.4 with a restaurant on the site; that the proposed use and density is in character with the area and Comprehensive Plan; that they submitted proposed findings and conditions; that a fence, plantings or both will be adjacent to the single family homes; that there will be a right turn lane off of Cedar Neck Road; that the entrance is across from Bayside; that Mr. Mistrangelo stated there will be parking in the garage, surface parking and two extra parking spaces; that a 50 foot setback along both sides of the roads and try to keep as many trees as possible; that Mr. Lardner stated they submitted a sewer concept plan and will have to do and pay for upgrades and will meet Chapter 110 standards; and that the sidewalks will connect to existing sidewalks.

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

The Commission found that Peter Hartogenesis and Sue O'Neill spoke in opposition to the application; that Mr. Hartogenesis stated he is speaking on behalf of Board of Bethany Lakes; that there are seven board members present; that Bethany Lakes has 88 homes on spacious lots and nice amenities; that the proposed project is adjacent to the community; that this is not in

character with the neighborhood; that he has concerns with traffic, especially in the summer months; that the only way in and out is through the light; that he concerns with drainage from stormwater management; that he has concerns with the sewer pump station; that Ms. O'Neill stated that Bethany Lakes does not have an indoor pool and there are only single family on their site; that the pump station overloads especially on 4th of July and smells some days; and that she has concerns with traffic.

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

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

C/U #2131 CBB Cedar Pines, LLC (NKA Oceanside Vista)

An Ordinance to grant a Conditional Use of land in a MR Medium Density Residential District for multi-family dwelling structures to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 11.53 acres, more or less. The property is lying on the east side of Cedar Neck Rd, approximately 722 feet north of Yacht Basin Rd. 911 Address: Not Available. Tax Parcel 134-9.00-21.00.

Ms. Cornwell advised the Commission that submitted into the record were a site plan, exhibit booklet, comments from the Sussex Conservation District, staff analysis, Sussex County Engineering Utility and Planning Division, PLUS Response Letter, DelDOT Service Level Evaluation and one letter in opposition.

The Commission found James Fuqua, Attorney with Fuqua, Willard, Stevens, and Schab, Todd Burbage and Jeff Clark, with Land Tech Land Planning, LLC were present on behalf of the application; that Mr. Fuqua stated that Conditional Use 1986 was previously approved; that the previous application is the same as this application; that the previous Conditional Use expired after three years; that Conditional Use 1488 was approved for 143 multi-family units and the owner passed away; that eventually the construction got underway, recession hit and the work stopped; that in 2012 a new application was made for an RV park and water park but was withdrawn; that three new applications were filed in 2014; that the first application was to rezone the site from Commercial to MR, the second application was for an MR-RPC for 45 single family lots and the third application was for a Conditional Use for the 30 units and was approved; that this application is for the exact 30 units as the Conditional Use; that the new stormwater regulations caused issues; that the RPC had received the Final Site Plan and was valid for five years but the Conditional Use is valid for three years and construction has to be substantially underway; that the stormwater management complies with the Sussex Conservation District; that most of the agency approvals have been obtained; that the units will be clustered around the entrance and amenities; that there will be 10, three unit buildings; that water will be provided by Sussex Shores; that sewer will be provided by Sussex County; that a sewer concept plan has been approved; that the wetlands have been delineated and the townhomes are away from the wetlands; that there are no wetlands on the Conditional Use site; that the Land Use classification per the Comprehensive Plan is Environmental Sensitive Developing Area, mixed use area and both are growth areas; and that they are seeking re-approval.

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

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

Mr. Hudson move the Commission recommend approval of Conditional Use #2131 for CBB Cedar Pines, LLC for multi-family dwelling structures based on the record made during the public hearing and for the following reasons:

1. This conditional use is identical to Conditional Use #1986 filed by Castaways Bethany Beach, LLC. That prior approval expired.
2. This Conditional Use permits the development of 30 multifamily units to be part of a mixed use residential development.
3. The Conditional Use will allow the development of this property in a way that is consistent with nearby residential communities and it is consistent with the prior approvals for multifamily units on this parcel.
4. The Conditional Use will be served by central water and Sussex County sewer.
5. The Conditional Use will not adversely affect adjacent properties, roadways or other public facilities.
6. This recommendation is subject to the following conditions:
 - A. There shall be no more than 30 units within the Conditional Use area.
 - B. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of streets, roads, and 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, 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 Department.
 - 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.
 - G. A 20 foot forested Agricultural Buffer shall be shown along the perimeter of the entire residential development, including the area covered by Change in Zone #1947 for the RPC portion of the development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.
 - H. The project shall be served by Sussex County sewer.
 - I. As proffered by the Applicant, the developer shall construct all of the recreational amenities no later than the issuance of the 50th residential building permit for the entire project, including the RPC portion of the development covered by CZ #1747.
 - J. Construction, sitework, grading and deliveries of construction material, landscaping material and fill on, off or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m.
 - K. The 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. Hudson, seconded by Mr. Hopkins, and carried unanimously to forward this application to Sussex County Council with the recommendation that the application be approved. Motion carried 5-0.

C/U #2132 Dorothy Darley

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a hair studio to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.504 acres, more or less. The property is lying on the north side of Clay Rd, approximately 600 feet east of Marsh Road. 911 Address: 33995 Clay Rd, Lewes. Tax Parcel 335-12.06-58.00.

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

The Commission found David Hutt, Attorney with Morris, James, Wilson & Halbrook, Joe Johnson, owner of the property and Dorothy Darley were present on behalf of the application; that Mr. Hutt stated there was a previous Conditional Use for a yoga studio; that the instructor has moved; that a new use for the site has three buildings on the site, a house, 800 square foot building to be used for a hair studio and an accessory structure in the back that is used by the owner of the property; that there is B-1 zoning in the area; that there is industrial use as a gas company across the street; that there are other small businesses in the area; that the site is close to Route 1 and many C-1 zonings; that the property is in the Level 2 State Strategy; that that the Land Use classification per the Comprehensive Plan is Environmental Sensitive Developing Area; that there are two employees that work part-time; that the hours of operation are casual with six days a week; that hours are Monday through Friday, 9:00 a.m. through 6:00 pm., Saturdays 9:00 a.m. through 2:00 pm., and they do not work all five days of the week; that there was seven letters of support; that they recently obtained the DelDOT entrance approval; and that the applicant is ok with all the previous conditions from Planning Commission and County Council.

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

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

Ms. Stevenson moved that the Commission recommend approval of C/U #231 for Dorothy Darley for a hair studio based upon the record made during the public hearing and for the following reasons:

1. The use is very small in nature. It is very consistent with the size and scope of a permitted “home occupation” under the County Code.
2. The small structure and limited use will have little, if any, impact on neighboring properties or the community.
3. The proposed use will not adversely affect traffic, roadways or community facilities in

the area.

4. The site is in a location where a mixture of residential, commercial and neighborhood uses exist. It is located on Clay Road, which is a transitional area from the more intensive uses closer to Westcoats Corner. This small business use is consistent with this area.
5. The property is within the Environmentally Sensitive Developing Area according to the County's Comprehensive Plan. This type of use is appropriate in this Area under the Plan.
6. This recommendation is subject to the following conditions:
 - A. The use shall be limited to the 800 square foot building shown on the plan submitted during the public hearing identified as "Existing One Story Building (Salon)."
 - B. The Applicant shall submit a Final Site Plan showing all entrance and parking areas.
 - C. One unlighted sign shall be permitted, it shall not exceed 32 square feet per side.
 - D. As stated by the Applicant, the hours of operation shall be between 9:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. through 3:00 p.m. on Saturdays.
 - E. Any security lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
 - F. The applicant shall comply with all DelDOT requirements concerning entrance and roadway improvements.
 - G. No parking shall be permitted within the front yard setback.
 - H. The Final Site Plan shall show all designated parking areas, and these locations shall also be clearly designated on the site itself.
 - I. The Final Site Plan 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.

OTHER BUSINESS

Hamlet of Tillery (2016-10)

Final Subdivision Plan

Mr. Whitehouse advised the Commission that this is a Final Subdivision Plan for 27 single family lots on 27.61 acres with open space and a tot lot located on the west side of Long Branch Rd., approximately 822 ft. northwest of Sharps Mill Rd. The Final Subdivision Plan meets the requirements of the County Zoning and Subdivision Codes and staff are in receipt of all agency approvals. Zoning District is AR-1 (Agricultural Residential District). The Tax Parcels: 430-11.00-30.00 & 107-139.

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to approve the Final Subdivision plan. Motion carried 5-0.

Nanticoke Indian Association (CU 2115)

Revised Final Site Plan

Ms. Bulkilvish advised the Commission that this is a Revised Final Site Plan for the placement of a new sign approved by Sussex County Council on March 13, 2018 as part of Conditional Use 2115. Staff are in receipt of all agency approvals. Tax Parcel: 234-29.00-53.00. Zoning District

AR-1 (Agricultural Residential District).

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to approve the Revised Final Site Plan. Motion carried 5-0.

The Centre at Love Creek (FKA Pelican Landing) (S-17-45)

Revised Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Revised Preliminary Site Plan for an 84,576 SF shopping center accessed from John J. Williams Hwy (Rt. 24). Planning & Zoning Commission approved a Final Site plan for a similar shopping center at its meeting of August 01, 2017. The name of the development has since changed and the total amount of floor area reduced from 87,800 SF to 84,576 SF. The site layout has been amended to create an additional building, and parking rearranged to accommodate this change. The revised Preliminary Site Plan complies with the Zoning Code. Staff are currently awaiting verification on whether further agency approvals are required for the changes. Tax Parcels: 234-7.00-88.00, 89.00, 90.00, 91.00, 92.00 and 92.01. Zoning District is B-1 (Neighborhood Business District)

Motion by Mr. Hopkins, seconded by Ms. Stevenson, 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.

Southern DE Therapeutic & Recreational Horseback Riding, Inc. (CU 2103)

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for a recreational facility commercially operated for therapeutic horseback riding, office, caretakers house and stables on a 9.38 ac. parcel of land located off Harbeson Rd. This site plan is part of CU 2103 which was approved by Sussex County Council on November 7, 2017. Tax Parcel: 235-26.00-17.14. Zoning District is AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

The Commission discussed the plan regarding the use as a stable.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, 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.

Clean Cut Pavers (CU 2083 & S-18-42)

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for a 3,200 SF building for equipment maintenance and storage, parking and other site improvements as part of CU 2083 which was approved by Sussex County Council on August 8, 2017. The site is 5.96 ac. located off Lewes-Georgetown Hwy (Rt. 9). Tax Parcel: 135-15.00-79.03. Zoning District is AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, 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.

Waste Management (S-18-43)

Preliminary Site Plan

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for a 10,000 SF +/- maintenance garage, 2,000 SF +/- office building and other associated works on a 12.16 ac. parcel of land accessed from Trussum Pond Rd (SCR 462). Zoning District is C-1 (General Commercial District). Tax Parcel: 332-2.00-79.00. The site plan complies with the Zoning Code. Staff are awaiting agency approvals.

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.

Good Earth Market (CU 2038 & S-18-45)

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for three (3) 600 SF tourist homes and a 300 SF bathhouse for a wedding venue as part of CU 2038 which was approved by Sussex County Council on December 10, 2015. The proposed cabins are located on a 4.68 ac. parcel of land located on Atlantic Avenue. Tax Parcel: 134-11.00-181.03. Zoning District is CR-1 (Commercial Residential District). Staff are awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson, 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.

Hayes Route 9 Car Sales (CU 2119 & S-18-47)

Preliminary Site Plan

Me. Bulkilvish advised the Commission that this is a Preliminary Site Plan for an existing building to be used for car sales and minor repairs as well as a contractor office with storage located off Lewes Georgetown Hwy. (Rt. 9). This site plan is part of CU 2119 which was approved by Sussex County Council on April 17, 2018. Tax Parcel: 135-15.00-40.00. Zoning District is AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to approve the Preliminary Site Plan and Final Site Plan. Motion carried 5-0.

Delaware State Police Troop 7 (CU 2015 & S-18-51)

Preliminary Site Plan

This is a Preliminary Site Plan for a 25,270 SF building for office use, a 10,115 SF maintenance building and other site improvements on a 9.16 ac. parcel located off Mulberry Knoll Rd. This site plan is part of CU 2015 which was approved by Sussex County Council on June 16, 2015. The applicant has submitted a time extension request for consideration by County Council. Tax Parcel: 334-12.00-16.06. Zoning District is AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the Preliminary Site Plan and Final Site Plan. Motion carried 5-0.

EM Smith Farms Limited (S-18-53)

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for a 145-ft. telecommunications tower on a 45.88 ac. parcel at the intersection of Cross Keys Rd. and Hardscrabble Rd. The telecommunications tower (Case No. 12086) was approved by the Board of Adjustment on January 22, 2018. The Preliminary Site Plan complies with the Zoning Code. Tax Parcel: 133-15.00-10.00. Zoning District is AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Wheatley, seconded by Ms. Stevenson, and carried unanimously to approve the Preliminary Site Plan and Final Site Plan. Motion carried 5-0.

JKJ Properties

Minor Subdivision off 50' easement

Ms. Bulkilvish advised the Commission that this is a minor subdivision to create one lot measuring 1.00 acres +/- off an existing 50' easement leaving a residual parcel measuring 1.00 acres +/- off Broadkill Rd. Tax Parcel: 235-14.00-122.03. Zoning District AR-1 (Agricultural Residential District). 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 approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Meeting adjourned at 8:04 p.m.