

MINUTES OF THE REGULAR MEETING OF DECEMBER 22, 2016

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, December 22, 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. Doug Hudson, Mr. Keller Hopkins, Mr. I.G. Burton, III, Mr. Martin Ross (by telephone), with Vincent Robertson – Assistant County Attorney, Mr. Lawrence Lank – Director, Ms. Janelle Cornwell – Director Appointee, and Mr. Daniel Brandewie – Planner II.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to approve the Agenda as revised by removal of the Approval of Minutes. Motion carried 4 – 0.

OLD BUSINESS

Mr. Robertson announced that Mr. Ross was physically absent, but was present on-line (by telephone) so that he could participate in the first two Old Business Items. It was noted that Mr. Wheatley, Mr. Burton, and Mr. Ross were the only members of the Commission that were present during the public hearings on Subdivision 2015-1 and Subdivision 2016-1; that both public hearings had been deferred for specific information and that as a result of Mr. Burton's election to County Council this is the last time that the applications could be voted on by a quorum which was present during the public hearings; that Mr. Ross is participating on-line so that decisions could be rendered on both applications; and that Mr. Hudson and Mr. Hopkins were not members of the Commission when the public hearings were held.

2015-1 – Lands of Roy F. Rogers

Zoned AR-1 (Agricultural Residential District) in Indian River Hundred, Sussex County, by dividing 17.42 acres into 5 lots and a waiver from the street design requirements and forested buffer requirements. The property is located at the southeast corner of Washington Street Extended and Walt Carmean Lane. Tax Map I.D. 234-32.00-40.09.

The Commission discussed this application which has been deferred since May 7, 2015.

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision No. 2015-1 for Roy Rogers, based upon the record 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 in zoned AR-1 (Agricultural Residential District) which permits low density single family residential development. The proposed subdivision of 5 additional strip lots along Walt Carmean Lane and Washington Street Extended is well within the density requirements of the Code.
- 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 or community facilities.
- 5) The proposed subdivision will not adversely affect traffic on area roadways.
- 6) This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 5 lots within this subdivision.
 - B. The Final Site Plan shall be subject to the review and approval of Sussex County.

Motion by Mr. Burton, seconded by Mr. Ross, via telephone, and carried with 3 votes to grant preliminary approval of Subdivision No. 2015-1 for Roy F. Rogers. Motion carried 3 – 0.

Roll Call Vote: Mr. Burton, yea; Mr. Ross, via telephone, yea; Mr. Wheatley, yea. Mr. Hudson and Mr. Hopkins not voting since they were not members of the Commission at the time of the public hearing.

2016-1 – The Estates at Middle Creek Subdivision – BDRP, LLC

This is a major subdivision plan to subdivide 146.96 acres +/- into 314 single family lots with private roads and open space. The property is located on the north side of Angola Rd. approximately 2,210 ft. east of John J. Williams Hwy. (Rt. 24). The property is zoned AR-1 (Agricultural Residential District). Tax Map I.D. 234-11.00-51.00, 54.00, 54.01, 54.02, 54.03 and 234-12.00-14.00.

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. 2016-1 for The Estates at Middle Creek Subdivision – BDRP, 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 orderly growth of the County. The proposed subdivision is zoned AR-1 (Agricultural Residential District) and is also within the County's Environmentally Sensitive Developing Area.
- 2) As a subdivision in the Environmentally Sensitive Developing Area, the project is permitted to have minimum lot sizes of 7,500 square feet with central sewer and water. The subdivision complies with the density requirements for the parcel.
- 3) The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values. It is also consistent with nearby residential developments which include Angola-By-The-Bay and Bay Ridge Woods.
- 4) The proposed subdivision will not adversely impact schools, public buildings or community facilities.
- 5) The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
- 6) The site contains a significant area of woodlands that the applicant has pledged to preserve. Also, 45% of the property will remain as open space.
- 7) Although there are wetlands on the site, they will not be disturbed by this development, and the lots are substantially separated from them. In many cases, the wetlands are approximately 200 to 300 feet away from any lots. All wetland areas will also be marked

with permanent markers to put people on clear notice of their existence to prevent any unapproved disturbance of them.

- 8) The applicants have provided an Environmental Assessment and Public Facility Evaluation Report that favorably addresses the items required by the County Code.
- 9) 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”.
- 10) This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 314 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 Development shall be served by central water.
 - D. The Development shall be served by central sewer as part of a Sussex County Sanitary Sewer District.
 - E. 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.
 - F. A 20 foot forested and landscaped buffer shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscape plan of these areas.
 - G. All entrances and roadway improvements shall be constructed in accordance with all of DelDOT’s requirements.
 - H. Street design shall meet or exceed Sussex County Standards.
 - I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.
 - J. The location for a school bus stop shall be coordinated with the local school district’s transportation manager. The location of the bus stop shall be shown on the Final Site Plan.
 - K. As stated by the applicant, there shall be at least a 50 foot buffer from all wetlands. The wetlands shall be marked with permanent markers to prevent disturbance.
 - L. Deliveries of dirt, fill, or other similar materials shall only be made to the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Saturday.
 - M. The amenities shall be constructed on or before the issuance of the 100th building permit.
 - N. As stated by the applicant, as many existing trees shall be preserved as possible.
 - O. The Final Site Plan shall include a Landscaping Plan which shall clearly delineate all undisturbed trees and forest areas.
 - P. A revised Preliminary Site Plan, either depicting or noting these conditions, must be submitted to the Sussex County Office of Planning and Zoning.
 - Q. This site may be in the vicinity of an existing well head. The Final Site Plan and the development of this project shall comply with the requirements of the Sussex County Source Water Protection Ordinance.
 - R. 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, via telephone, and carried with 3 votes to grant preliminary approval of Subdivision No. 2016-1 for BDRP, LLC, the Estates at Middle Creek Subdivision. Motion carried 3 – 0.

Roll Call Vote: Mr. Burton, yea; Mr. Ross, via telephone, yea; Mr. Wheatley, yea. Mr. Hudson and Mr. Hopkins not voting since they were not members of the Commission at the time of the public hearing.

Be it noted that Mr. Ross has signed off and is no longer participating in the decisions or public hearings.

2016-16 – Piney Creek – Briggs 2, LLC

This is a major subdivision for a standard subdivision. The plan proposes to subdivide 9.39 acres +/- into 7 single family lots with a private road and open space. The property is located on the south side of Piney Neck Rd. approximately 101 ft. east of Bunting Road. Tax Map I.D. 233-7.00-10.00 and 10.03 – 10.10. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since December 8, 2016.

Mr. Hudson stated that he would move that the Commission grant preliminary approval of Subdivision No. 2016-16 for Piney Creek – Briggs 2, LLC, based upon the record and for the following reasons:

- 1) This same subdivision was approved in 2007 as 2006-18 and it previously lapsed.
- 2) The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
- 3) The land in zoned AR-1 (Agricultural Residential District) which permits low density single family residential development. The proposed subdivision density of 7 lots on 9.39 acres of land is significantly less than the allowable density.
- 4) The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
- 5) The proposed subdivision will not adversely impact schools, public buildings and community facilities.
- 6) The proposed subdivision will not adversely affect traffic on area roadways.
- 7) Because this subdivision is the same basic layout as was previously approved, and because some agency approvals may still be in effect for it under this design, a waiver of the 20 foot landscape buffer requirement is appropriate.
- 8) This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 7 lots within the subdivision.
 - B. The stormwater management system shall meet or exceed the requirements of the State and County.
 - C. As required by the prior approval for this project in 2007, no lots shall contain any wetlands, and all existing wetlands shall be marked with permanent markers and shall remain undisturbed.
 - D. As reflected in the prior 2007 approval for this project, trees shall be preserved to the fullest extent possible on the site, except for as needed for rights of way and home

construction. The Final Site Plan shall contain a landscape plan showing all areas of tree preservation.

- E. All entrances shall comply with all of DeIDOT's requirements.
- F. A homeowners' association shall be formed to provide for the permanent maintenance of all roads, stormwater management facilities, and drainage facilities.
- G. The applicant shall consult with the County Engineering Department about annexing into a County Sewer District for connecting into the County sewer system.
- H. 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.
- I. The Final Site Plan shall be subject to the review and approval of Sussex County.

Motion by Mr. Hudson, seconded by Mr. Burton, and carried unanimously to grant Preliminary approval of Subdivision No. 2016-16 for Piney Creek – Briggs 2, LLC based on the stated reasons and conditions. Motion carried 4 – 0.

2016-15 – Belle Terre – Sussex Real Estate Partners, LLC

This is a Major Subdivision for cluster subdivision. The plan proposes to subdivide 123.75 acres +/- into 269 single family lots with a private road and open space. The property is located southwest of Dorman Farm Ln., approximately 1,000 ft. southwest of Mulberry Knoll Rd. (Rd. 284), approximately 1,800 ft. southeast of Cedar Grove Rd. (Rd. 283) and approximately 1,200 ft. northwest of John J. Williams Hwy. (Rt. 24). Tax Map I.D. 334-12.00-17.00, 18.00, 19.00, and 20.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since December 8, 2016.

Mr. Burton stated that he does not like this subdivision very much; that he did not like it when it first came through the process; that he somewhat agrees with the citizens who have stated that there is no difference between this plan and the one that was rejected by the Commission and withdrawn before it went to County Council; that the previous plan was a maximum use of all of the available land using the current Code requirements to their full advantage; that the current Code has some glaring flaws that will allow for certain developers to maximize the development of the land; that these ordinances hopefully will be addressed in the coming year with the new comprehensive land use plan; but with that being said, this development does currently meet the guidelines of the current land use plan and Code, and therefore:

Mr. Burton stated that he would move that the Commission grant preliminary approval of Subdivision No. 2016-15 for Belle Terre – Sussex Real Estate Partners, 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. The proposed subdivision is zoned AR-1 (Agricultural Residential District) and is also within the County's Environmentally Sensitive Developing Area.

- 2) As a subdivision in the Environmentally Sensitive Developing Area, the project is permitted to have minimum lot sizes of 7,500 square feet with central sewer and water. The subdivision complies with the density requirements for the parcel.
- 3) The proposed subdivision will be a restricted residential development and will not adversely affect nearby uses or property values.
- 4) The proposed subdivision will not adversely impact schools, public buildings or community facilities.
- 5) With the conditions required by this approval, the development will be designed and constructed in accordance with the Subdivision Code and the Environmentally Sensitive Development District.
- 6) The applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
- 7) The development is in close proximity to retail and service uses, medical providers, an elementary and middle school, police and fire services, and major County roads.
- 8) Although there are wetlands on the site, they will not be disturbed by this development, and there will be a 50 foot buffer from all non-tidal wetlands. All wetland areas will also be marked with permanent markers to put people on clear notice of their existence to prevent any unapproved disturbance of them.
- 9) The applicants have provided an Environmental Assessment and Public Facilities Evaluation Report that favorably addresses the items required by Code.
- 10) This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 269 single family 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 development shall be served by central sewer as part of a Sussex County Sanitary Sewer District.
 - D. The development shall be served by central water.
 - E. 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.
 - F. A 20 foot forested or landscaped buffer shall be installed along the entire perimeter of the project. As stated by the applicant, this buffer shall utilize the existing trees. The Final Site Plan shall contain a landscape plan for these areas, including the trees to be preserved.
 - G. All entrances and roadway improvements shall be constructed or funded in accordance with all of DelDOT's requirements.
 - H. As stated by the applicant, the street design shall include sidewalks on both sides of all streets, and a sidewalk on one side of the entrance road.
 - I. Street design shall meet or exceed Sussex County Standards.
 - J. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Department.
 - K. The location of a school bus stop shall be coordinated with the local school district's transportation manager. The location of the school bus stop shall be shown on the

- Final Site Plan. The applicant shall also coordinate the location of a sidewalk connecting this project with the new elementary school on Route 24.
- L. As stated by the applicant, there shall be a 50 foot buffer from all tidal and non-tidal wetlands. The wetlands shall be marked with permanent markers to prevent disturbance.
 - M. There shall be a buffer of at least 100 feet from the Hetty Fisher Pond.
 - N. Deliveries of dirt, fill, or other similar materials shall only be made to the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Saturday.
 - O. There shall be additional parking added at the location of the cul-de-sac serving the kayak launch.
 - P. The amenities shall be constructed on or before the issuance of the 150th Building Permit.
 - Q. A revised Preliminary Site Plan, either depicting or noting these conditions of approval, must be submitted to the Sussex County Office of Planning and Zoning.
 - R. As stated by the applicant, as many existing trees shall be preserved as possible.
 - S. The Final Site Plan shall include a landscaping plan which shall clearly delineate all undisturbed trees and forested areas. These areas must be clearly marked on the Plan, and also clearly marked on the site to prevent any disturbance during construction.
 - T. 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. Hudson, and carried unanimously to grant Preliminary approval of Subdivision No. 2016-15 for Belle Terre – Sussex Real Estate Partners, LLC based on above reasons and conditions. Motion carried 4 – 0.

PUBLIC HEARINGS

2016-20 – Donna Smith and Teresa Smith

This is a Major Subdivision for the creation of a standard subdivision. The plan proposes to subdivide 63.64 acres +/- into 1 single family lot (0.90 ac. +/-) with a residual parcel of land. The property is located on the west side of Clendaniel Pond Rd., the north side of Fleatown Rd. and is approximately 218 ft. northwest of the intersection of said roads. Tax ID: 230-13.00-121.00. Zoning: AR-1 (Agricultural Residential District).

Ms. Cornwell commented on the staff review of the application.

The Commission found that Mr. Robert Smith was present on behalf of the application and stated during his presentation and in response to questions raised by the Commission that his daughters are the trustees of the property; that they are proposing to offer a 0.90 acre lot for sale so that the buyer will be able to build a home on the lot; that the sale will help provide some additional income for the family; that the lot is a higher part of the property; that the soils are sandy, drain well, and that there are standard septic systems in the area; and that he does not yet have a septic feasibility for the lot from the State DNREC, or an entrance location approval from DelDOT.

The Commission found that there were no parties present in support of or in opposition to this application.

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

Motion by Mr. Burton, seconded by Mr. Hopkins, and carried unanimously to defer action pending receipt of the septic feasibility. Motion carried 4 – 0.

2016-14 – Burton’s Pond – Burton’s Pond, LLC

This is a Major Subdivision for a cluster subdivision. The plan proposes to subdivide 158.75 acres +/- into 265 single family lots with private roads and open space. The property is located on the northwest and southwest corners of Hollymont Rd. and John J. Williams Hwy. (Rt. 24). Tax ID: 234-17.00-17.00 and 234-11.00-97.00. Zoning: AR-1 (Agricultural Residential District).

Mr. Robertson recused himself and did not participate in the public hearing.

Mr. James Sharp, Esquire and Assistant County Attorney, stepped in to participate in the public hearing.

Ms. Cornwell summarized the documentation received from agencies and public comments in letters and emails.

The Commission found that Ben Gordy was present on behalf of Burton’s Pond, LLC, with Dennis Schrader, Esquire of Morris James Wilson Halbrook & Bayard, LLP, and Zac Crouch, Professional Engineer with Davis Bowen and Friedel, Inc., and that they stated in their presentation and in response to questions raised by the Commission that the Exhibit Booklet provided, which is in the record, provides the record for this application; that they are proposing to develop at a density of 1.75 units per acre, which is less than the normal 2.0 units per acre in the AR-1 (Agricultural Residential District); that the site is located in a Level 1 according to the State Strategies; that proposed covenants have been submitted for review; that they are submitting suggested proposed Findings of Fact and suggest Conditions of Approval for consideration; that this application is similar to Subdivision No. 2006-32 which has sunset and is being applied for again under this application, except for the elimination of the entrance only Route 24, which has been eliminated, and that central sewer is now available; that the number of lots has not changed; that the acreage has not changed; that the lots cover approximately 64 acres of the site, and will contain 9,000 to 13,000 square feet each; that there will be 9.3 acres of active recreation area and 58 acres of passive open space; that wetlands will not be disturbed; that they are proposing a minimum setback of 30 feet from all wetlands; that 95% of the existing woodlands will be preserved; that Phase 1 and Phase 2 Environmental Studies have been performed; that stormwater management facilities and features will be subject to the review and approval of the State DNREC and the Sussex Conservation District with some wet ponds; that County sewer is available to the project; that central water will be provided by Tidewater Utilities; that the primary recreational facilities will be located on the north side of Hollymont Road and will include a pool, clubhouse, tot-lot, and access to the Burton’s Pond; that the streets will be private; that curb and gutter will be provided with sidewalks on at least one side of all streets; that a walking trail will be provided and will have a distance of approximately one mile; that landscaping within 30 foot wide buffers will be provided around the perimeter and along Hollymont Road and John J. Williams Highway; that DelDOT will require and oversee the

realignment of Sloan Road, Hollymont Road and John J. Williams Highway to create a four way intersection, rather than an off-set intersection; that a traffic impact study has been performed; that the developers will have to pay for the realignment along with multiple improvements for turning lanes, and will be required to participate in a signal agreement with DelDOT for a traffic light at the intersection; that DelDOT will determine when the signal is installed; that the subdivision plan complies with the requirements of a cluster subdivision within an Environmentally Sensitive Developing Area and Section 99-9C of the Subdivision Code; that additional parking spaces can be provided at the clubhouse; that the project will comply with the Sussex County Source Water Protection Ordinance; that a separate entity or the Homeowners Association will own the Burton's Pond; and that pedestrian crossings can be provided for the residents to cross from the subdivision to the open space and clubhouse area.

The Commission found that there were no parties present in support of this application.

The Commission found that Linda Dean, Michael Burdette, Donna Whiteside, Robert Fender, John Hall, Karen Snoots, Arnold Pitman, Kyle Spence, W. T. Stewart, Al Trycicle, Rick Foster, William Gulden, Tom Birago, Carol Hughes, Debbie Trifal, Elizabeth Dixon, Joe Peltz, Jerry Sideman, Arzela Stewart, Diane Gulden, and Chris Davis, all area residents, spoke in opposition to this application and expressed concerns about traffic; Burton's Pond; the high rate of development in the area; the impact on the environment and the wildlife; that a pair of Bald Eagles frequent the Pond; that the Pond has changes in the last 10 years; pond retention and control for maintenance; questioning the realignment of Sloan Road; traffic difficulties and signalization; that the realignment should take place first and before the development of either side of Route 24; questioning the environmental studies and the requirements of previous conditions; questioning if dredging will occur; questioning who will be maintaining the spillway; questioning if bonding will be required to guarantee maintenance; that the project does not compare in lot size to other area projects; that children's safety is a major concern for children crossing Hollymont Road to get to the recreational area and pool due to the amount of traffic existing and anticipated; that stormwater management is a major concern since there are existing drainage problems to the south of the project; that a drainage study should be performed prior to final approval if the project gets approved; that there will be light pollution, water pollution, and trash; that larger lots would be preferred to be similar to other projects in the area; concerns about emergency services being delayed causing public safety concerns; that there may be a negative impact on property values; that Hollymont Road should be elevated at Route 24 to improve sight view; that Route 24 is overloaded now and that this project will add to the traffic problem; that the clubhouse and recreational area should be within the project, not across Hollymont Road; that the proposed ponds on the site may overflow and impact adjacent properties; questioning if Route 24 is an Evacuation Route; questioning the landscape buffering; that the neighbors would like to see the proposed intersection realignment; that some of the area developments have drainage issues after large rain occurrences; that some of the intersections in the area may not be improved until 2021, according to DelDOT; questioning when the Traffic Impact Study was performed; questioning why there is only one entrance, which will cause traffic backups; that the neighbors would prefer to see the area retain its rural character; that the neighboring development, Greenbank Estates, which has 0.75 acre lots, will have three lots backed up to some of the individual lots based on this design.

The Commission found that Mr. Crouch responded to some of the questions raised by the opposition advising the Commission that the realignment of the intersection will be developed at the same time as the project; that the intersection will be completed prior to the sale of the 51st lot; that DelDOT has determined that the improvements are needed to relocate and create the intersection of Sloan Road and Hollymont Road; that the sight alignments will be a part of the evaluation of the intersection; that the Traffic Impact Study was done in 2006 and recalculated and redesigned in 2016 to bring the counts up to current rates; that the design is similar to the 2006 project, but with more criteria, signalization, and major changes in the turn lanes, the removal of the entry/exit from Route 24, since it only allowed rights-in and rights-out, the multi-modal path along Hollymont Road, and internal sidewalks.

Mr. Lank advised the Commission that Route 24 is considered a Primary Evacuation Route according to the Comprehensive Land Use Plan.

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 4 – 0.

OTHER BUSINESS

Mr. Robertson returned as Mr. Sharp departed.

Captain's Way

Final Site Plan

Mr. Brandewie advised the Commission that this is a final site plan to construct 301 single family lots on 154.9 acres with private streets and site improvements located off of Milton Ellendale Highway (Rt. 16). The property is zoned GR with RPC Overlay. The proposed use is for manufactured housing with 3 acres set aside for commercial land uses per B-1 zoning. Change of Zone No. 1721 and preliminary site plan approval (with conditions) was granted by County Council on March 19, 2013. An extension request approved by County Council on July 19, 2016 is valid until December 31, 2016. The Tax Parcel numbers are 235-13.00-2.00, 2.08, 2.06 and 2.07. Staff is in receipt of all agency approvals.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to grant Final approval of Captain's Way Residential Planned Community. Motion carried 4 – 0.

Bay Forest Club

Revised Master Plan

Ms. Cornwell advised that Commission that this is a revised Master Plan to reflect the changes that occurred as part of Change of Zone No.1795. The change of zone application was to allow for the correction of the total number of units to 913 within the existing Residential Planned Community. The Planning Commission recommended approval of the Change of Zone on March 10, 2016. The revised master plan was required to come back before the Planning

Commission for review and approval. The revised master plan complies with all conditions of approval and reflects several small proposed changes. The small changes include changes to the location of units within Phase 5.2 Sections W and Y and the second clubhouse.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to approve the Revised Master Plan for Bay Forest Club. Motion carried 4 – 0.

Beaver Dam Pet Foods
Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan to allow for the construction of an 8,800 sq. ft. building with site improvements. The property is located along Sussex Hwy. and is zoned C-1. The site complies with the Zoning Code and complies with the Combined Corridor Highway Overlay Zone. The tax parcel is 530-14.00-45.04. Staff is awaiting approvals from the reviewing agencies.

Motion by Mr. Burton, seconded by Mr. Hopkins, and carried unanimously to approve the site plan for Beaver Dam Pet Foods as a preliminary. Final Site Plan approval shall be subject to the staff upon receipt of all necessary agency approvals. Motion carried 4 – 0.

Americana Bayside – Phase 13
Revised Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a revised preliminary site plan to allow for the conversion of 84 multifamily dwellings into 26 townhouse units with site improvements. The property is zoned MR-RPC. The plan complies with the conditions of approval and the Zoning Code. The tax parcel is 533-19.00-301.01. Staff is awaiting approvals from the reviewing agencies.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to grant revised preliminary approval of Phase 13 of Americana Bayside. Final Site Plan approval shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of appropriate agency approvals. Motion carried 4 – 0.

Americana Bayside/Harris Teeter - Accessory Parking Lot
Preliminary Site Plan

Mr. Brandewie advised the Commission that this is preliminary site plan for the construction of a 42 space parking lot to the rear or east of the Harris Teeter Shopping Center located off of Lighthouse Rd. (Rt. 54). The parking is intended for employee parking. The property is zoned MR-RPC and the Tax Parcel is 533-19.00-37.00. Staff is awaiting agency approvals.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to grant approval of the Preliminary Site Plan for the proposed Accessory Parking Lot at Harris Teeter. Final Site Plan approval shall be subject to review and approval by the Planning and Zoning Commission upon receipt of appropriate agency approvals. Motion carried 4 – 0.

Americana Bayside – Village C - The Point Amenity
Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a preliminary site plan to construct a pool and accessory buildings, deck and accessory parking identified as the American Bayside Village C – The Point Amenity. The property is zoned MR-RPC and is associated with the approved master plan for the Americana Bayside residential planned development. The Tax Parcels is 533-19.00-304.00. Staff is awaiting agency approvals.

Motion by Mr. Burton, seconded by Mr. Hopkins, and carried unanimously to grant approval of the Preliminary Site Plan for Village C - The Point Amenity. Final Site Plan approval shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all appropriate agency approvals. Motion carried 4 – 0.

Americana Bayside-Melson Property
Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a Preliminary Site Plan to construct 48 duplex single family units on a portion of a 16.29-acre tract. Access is off Sand Cove Road. The property is zoned MR-RPC (Medium Residential-Residential Planned Community). The Planning Commission recommended approval of the expansion of the MR-RPC (CZ 1803) at their meeting of August 11, 2016. The property is also subject to the overall conditions of approval for American Bayside (CZ #1393). No commercial development is planned at the present time. The Tax Parcel number is 533-19.00-50.00, 56.03. Staff is awaiting agency approvals.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to grant approval of the Preliminary Site Plan for the proposed 48 units. Final Site Plan approval shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all appropriate agency approvals. Motion carried 4 – 0.

Bay Forest Club – Phase 5.2
Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan for the construction of 60 dwellings with site improvements as part of the Bay Forest Club MR-RPC. Phase 5.2 includes sections “W” and “Y”. The plan includes 52 single family dwellings and eight (8) townhouse units. The two (2) units located within “W” reflect a reduction in the number of units that were originally proposed in “W”. The plan also includes the construction of additional kayak storage areas around the previously approved marina. The plan complies with the conditions of approval and the Zoning Code. Staff is awaiting approvals from the reviewing agencies.

Motion by Mr. Hudson, seconded by Mr. Burton, and carried unanimously to grant approval of the Preliminary Site Plan for Phase 5.2. Final Site Plan approval shall be subject to the review

and approval of the Planning and Zoning Commission upon receipt of all appropriate agency approvals. Motion carried 4 – 0.

Bay Forest Club Phase – Clubhouse #2

Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan for the construction of Bay Forest Club Community Center #2 for the construction of a 7,080 sq. ft. fitness center, 7,566 sq. ft. recreational facility, and pool with site improvements. The property is zoned MR-RPC. The site plan complies with the conditions of approval and the Zoning Code. This is the second community center within the development. The tax parcel is 134-8.00-15.02. Staff is awaiting approvals from the reviewing agencies.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to approve the Preliminary Site Plan for Clubhouse #2 at Bay Forest Club. Final Site Plan approval shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all appropriate agency approvals. Motion carried 4 – 0.

Delaware Electric Cooperative (CU #2052)

Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan to construct a 20,000 sq. ft. warehouse with site improvements. The property is zoned C-1. The use was approved as CU #2052. The Planning Commission recommended approval of the Conditional Use at their meeting of June 9, 2016. County Council approved the Conditional Use on July 19, 2016. A parcel consolidation plan was recorded as part of the site plan process. The property is located on Sussex Hwy. The Tax Parcel numbers are 530-14.00-16.00 and 18.01. The staff has received all appropriate agency approvals, therefore both Preliminary Site Plan and Final Site Plan approvals can be granted.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to grant both Preliminary Site Plan and Final Site Plan approval for Conditional Use No. 2052. Motion carried 4 – 0.

Delaware Electric Cooperative (CU #2057)

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a preliminary site plan to construct of an electric substation to be located off of Zoar Rd. The Conditional Use (CU #2057) was approved by the Sussex County Council on October 25, 2016. The site will consist of approximately 4.0 acres and replaces an adjacent substation. The property is zoned AR-1 and the Tax Parcel number is 234-21.00-138.00. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to grant Preliminary Site Plan approval for Conditional Use No. 2057. Final Site Plan approval shall be subject to the review and approval by the staff upon receipt of all appropriate agency approvals. Motion carried 4 – 0.

Lands of Anthony Crivella and Harold Dukes-Commercial Building

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is Preliminary Site Plan to construct a 2 story commercial building consisting of 1,710 sq. ft. with parking facilities on a portion of Lot 11 at the southwest corner of Hebron Road and Canal Street. The Planning Commission must act to approve parking in the front yard setbacks. As part of this request, the developer is proposing to re-plot Lot 11 into two smaller lots (formerly Lot 16 and 15). The property is zoned C-1 and the Tax Parcel number is 334-13.20-11.00. Staff is waiting for agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to grant Preliminary Site Plan approval for the Commercial Building. Final Site Plan approval shall be subject to the review and approval by the staff upon receipt of all appropriate agency approvals. Motion carried 4 – 0.

Trinity Holiness Church

Preliminary Site Plan

Ms. Cornwell advised the Commission that this is a preliminary site plan for the construction of a 4,000 SF building with site improvements. The property is located off of Delaware Ave. The property is zoned AR-1. The use as a church is a permitted use within the AR-1 Zoning District. The plan is proposing parking to be located within the front yard setback. Parking within the front yard setback requires approval by the Planning Commission. The Tax Parcel is 433-11.00-31.00. Staff is in receipt of all agency approvals.

Motion by Mr. Burton, seconded by Mr. Hopkins, and carried unanimously to grant Preliminary Site Plan approval for the proposed building with a waiver to allow the parking in the front yard setback. Final Site Plan approval shall be subject to the review and approval by the staff upon receipt of all appropriate agency approvals. Motion carried 4 – 0.

Lands of Richard Poppleton-Commercial Storage Building

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a preliminary site plan to construct a 1,500 sq. ft. storage building to be located on a 5,000 sq. ft. parcel (Lot 37) at the northeast corner of Central Avenue and Mallory Street. The plan is proposing parking to be located within the front yard setback. Parking within the front yard setback requires approval by the Planning Commission. The property is zoned C-1 and the Tax Parcel number is 334-13.20-32.00. Staff is awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to grant Preliminary Site Plan approval for the proposed commercial storage building with a waiver for the parking in the front yard setback. Final Site Plan approval shall be subject to the review and approval by the staff upon receipt of all appropriate agency approvals. Motion carried 4 – 0.

Lands of Harold E. Dukes Jr. - (2) Warehouse Storage Buildings

Preliminary Site Plan

Mr. Brandewie advised the Commission that this is a preliminary site plan to construct two (2) 4,800 sq. ft. warehouses with parking facilities located a 2.00 acre parcel zoned C-1. The site presently consists of a 2,480 sq. ft. storage building with an existing driveway entrance. The Tax Parcel number is 133-6.00-44.00 and is located at 26029 Governor Stockley Road near the intersection of Governor Stockley Road and Bunting Road. Staff is awaiting agency approvals.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to grant Preliminary Site Plan approval for the two (2) proposed warehouse storage buildings. Final Site Plan approval shall be subject to the review and approval by the staff upon receipt of all appropriate agency approvals.

Motion carried 4 – 0.

Waters Run

Request for Elimination of Sidewalk

Ms. Cornwell advised the Commission that this is a request for the elimination of a portion of the sidewalk. The Planning Commission previously approved a partial elimination waiver from the sidewalks at their meeting on May 12, 2016. The previous approval was for the deletion of the requirement to construct sidewalks along lots 5-9, 21-38, 41-48, the open space between lots 10 and 21. The previous request also included the removal of sidewalk from lots 4, 10 and 39-40. The sidewalk along the clubhouse was proposed to be constructed along with sidewalk along lots 10-20 and the existing sidewalk along lots 49-56 was to remain with the gap in front of lot 50 filled in and a cross walk provided. The new request is for the removal of sidewalk along lots 49-53 and 11-20.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to grant approval of the request for elimination of additional sidewalks. Motion carried 4 – 0.

Lands of Stephen and Evelyn Prettyman

Minor Subdivision with 50 ft. easement.

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of a parcel of land with a 50 ft. easement. The new lot will contain 1 ac. +/-, and the residual land will contain 50.89 ac. +/- . The new parcel will have frontage along a proposed 50 ft. easement that will go over the existing driveway. The property is zoned AR-1. The tax parcel is 430-11.00-39.00. Staff is awaiting approval from DelDOT and the Office of the Fire Marshal.

Motion by Mr. Burton, seconded by Mr. Hopkins, and carried unanimously to grant preliminary approval of the Minor Subdivision with a 50 foot easement. Final approval shall be subject to the staff receiving approvals from DeIDOT and the Office of the State Fire Marshal. Motion carried 4 – 0.

Lands of John Copeland

Minor Subdivision with 50 ft. easement.

Ms. Cornwell advised the Commission that this is a minor subdivision for the creation of a parcel of land with a 50 ft. easement. The new lot will contain 2.9 ac. +/- and the residual land will contain 17 ac. +/- . The new parcel will have frontage along a proposed 50 ft. easement that will go over the existing driveway. The property is zoned GR. The tax parcel is 231-13.00-2.00. Staff is awaiting approval from DeIDOT.

Motion by Mr. Burton, seconded by Mr. Hudson, and carried unanimously to grant preliminary approval of the Minor Subdivision with a 50 foot easement. Final approval shall be subject to the staff receiving approval from DeIDOT. Motion carried 4 – 0.

ADDITIONAL BUSINESS

Discussion regarding Comprehensive Plan

Ms. Cornwell advised the Commission that the Goals and Objections would be sent out soon.

Opportunity for public comment regarding Comprehensive Plan

Richard Teraso of Milton was present and advised the Commission that he was active with the opposition to the TD Rehoboth application; thanked Mr. Lank for his years of service to the County and being helpful to the citizens; thanked Mr. Burton for his courage and leadership to recommend denial to the application; thanked the County leaders and staff for the Comprehensive Plan Website, its ease to use, and his hopes for an improved Comprehensive Plan; and questioned why the County Council did not consider all of the ordinances that were suggested by the 2008 Plan.

Mr. Robertson responded and advised the Commission that the suggested ordinances were considered by the County Council, some were adopted, and some were not acted upon; that the State requirements have changed since 2008; that originally Plans had to be updated every 5 years; that the process has changed, now Plans have to updated every 10 years, but every year an annual report has to submitted to the Office of State Planning to show the activities that have taken place within the County; and that the first annual report addressed each of the suggested ordinances and how they were considered and/or adopted.

Jeanette Akhler was present and asked what requirements would be necessary for Planning and Zoning Commission members (legal backgrounds, getting along with people); that there is a need for balance and intelligent growth; that there is a need for transparency and accountability;

that public input is needed for development of a Comprehensive Plan; that there seems to be a difference this time around with the availability of the Website, board exercises at the public meetings, which are included on the website; and questioned who is responsible for reading, processing and interpreting the information received during the public meetings.

Paul Reiger was present and expressed concerns that there is a need to review and improve definitions for farms; farm ponds; fencing types, especially barbed-wire; the use of storage containers as sheds; and private stables; and questioning the difference between GR zoning and AR-1 zoning.

The Commission members, along with Mr. Robertson, Joe Conaway, Jim Fuqua, Dennis Schrader, Gene Bayard, Zac Crouch, and Mark Davidson thanked Mr. Lank for his service to the County and his assistance to the citizens of Sussex County, with a few joking remarks.

Meeting adjourned at 10:17 p.m.