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Sussex County

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COUNTY ADMINISTRATIVE OFFICES
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GEORGETOWN, DELAWARE

PLANNING & ZONING COMMISSION

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KIM HOEY STEVENSON, VICE-CHAIRMAN
R. KELLER HOPKINS
J. BRUCE MEARS
HOLLY J. WINGATE



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PLANNING AND ZONING AND COUNTY COUNCIL INFORMATION SHEET

Planning Commission Public Hearing Date: December 9th, 2021

Application: CZ 1948 The Grande at Canal Point Maintenance Operations Corp.

Applicant: The Grande at Canal Point Maintenance Operations Corp.
P.O. Box 1418
Rehoboth Beach, DE 19971

Owner: The Grande at Canal Point Maintenance Operations Corp.
P.O. Box 1418
Rehoboth Beach, DE 19971

Site Location: The property is lying on the east side of Hebron Rd., approximately 0.19 mile south of the intersection of Hebron Rd. and Holland Glade Rd. (S.C.R. 271)

Current Zoning: Medium Residential (MR-RPC) Residential Planned Community

Proposed Zoning: Medium Residential (MR-RPC) Residential Planned Community

Comprehensive Land
Use Plan Reference: Coastal Area

Councilmanic
District: Mr. Hudson

School District: Cape Henlopen School District

Fire District: Rehoboth Beach Fire Department

Sewer: Sussex County

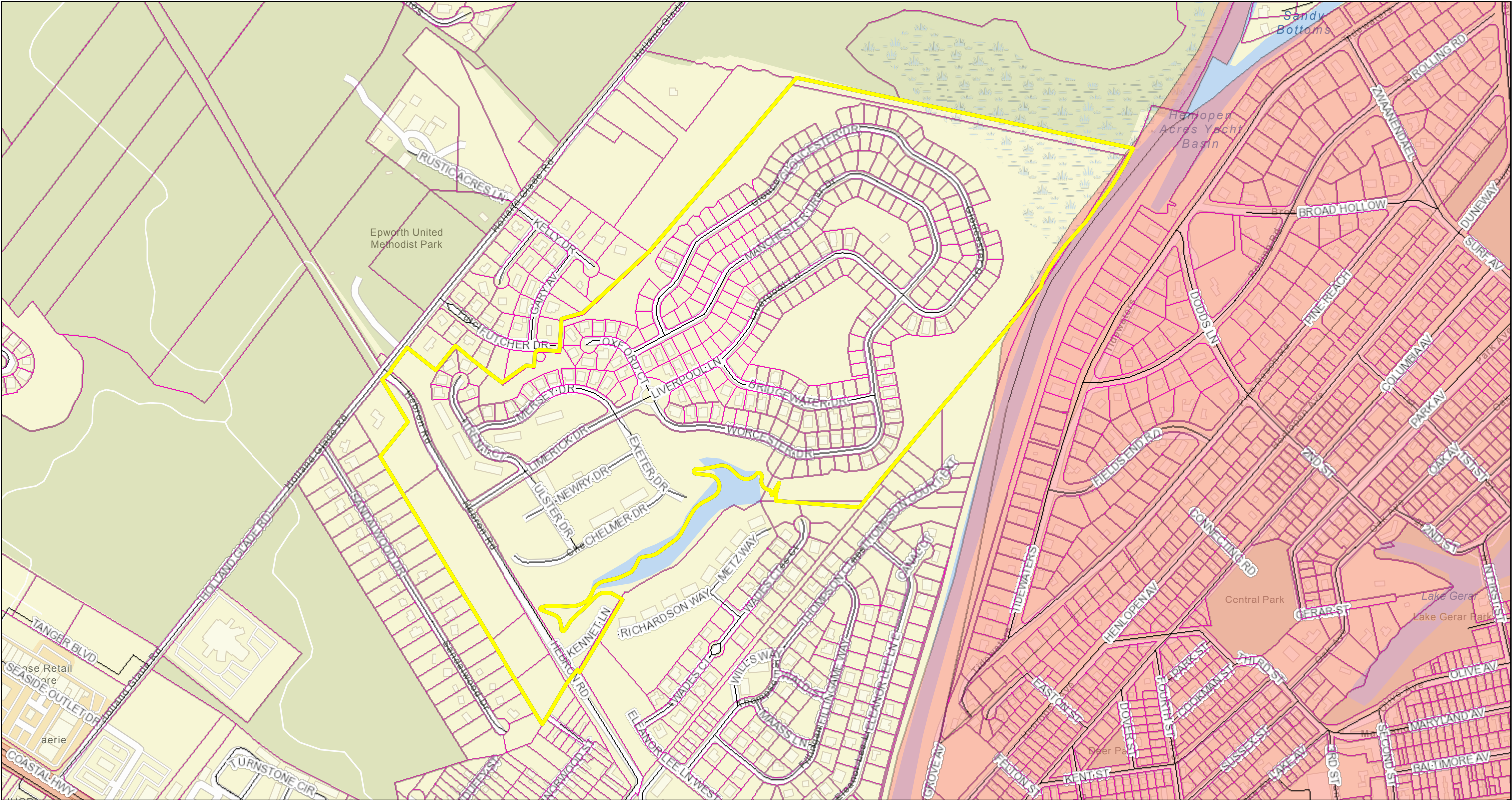
Water: City of Rehoboth

Site Area: 180.60 acres +/-

Tax Map ID.: 334-13.00-334.00. 1448.00 through 1750.00

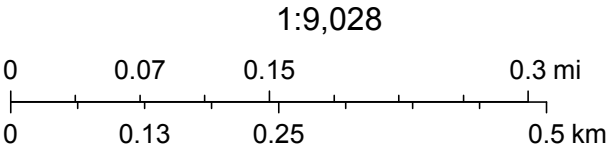


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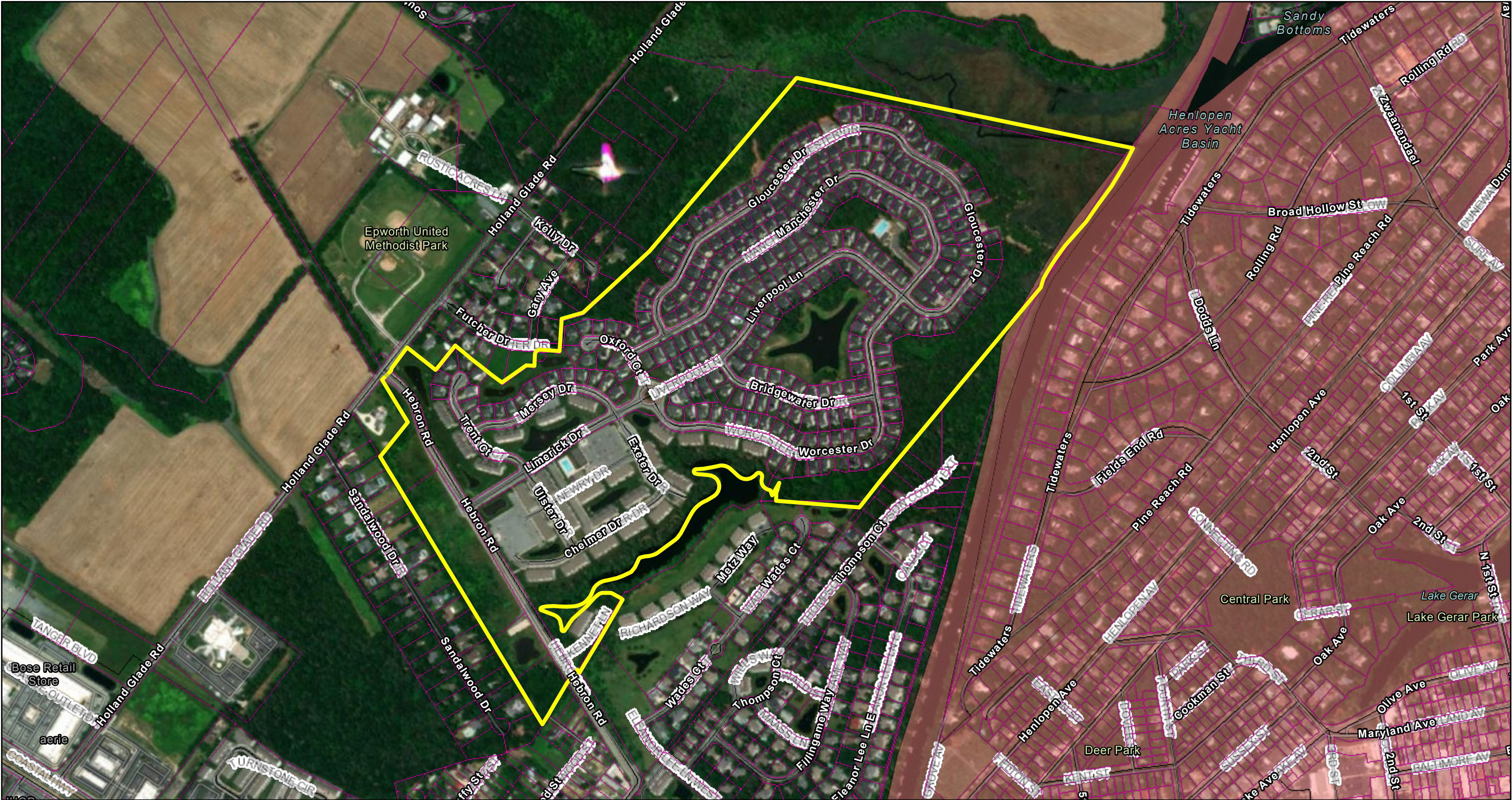
November 17, 2021

- Override 1
- Override 1
- Tax Parcels
- Streets
- County Boundaries
- Municipal Boundaries
- TID



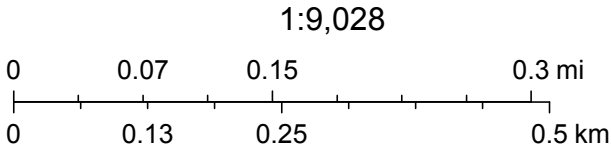
DNREC, Division of Watershed Stewardship, Drainage Program,
john.inkster@state.de.us, Sussex County, Sussex County
Government, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, ©
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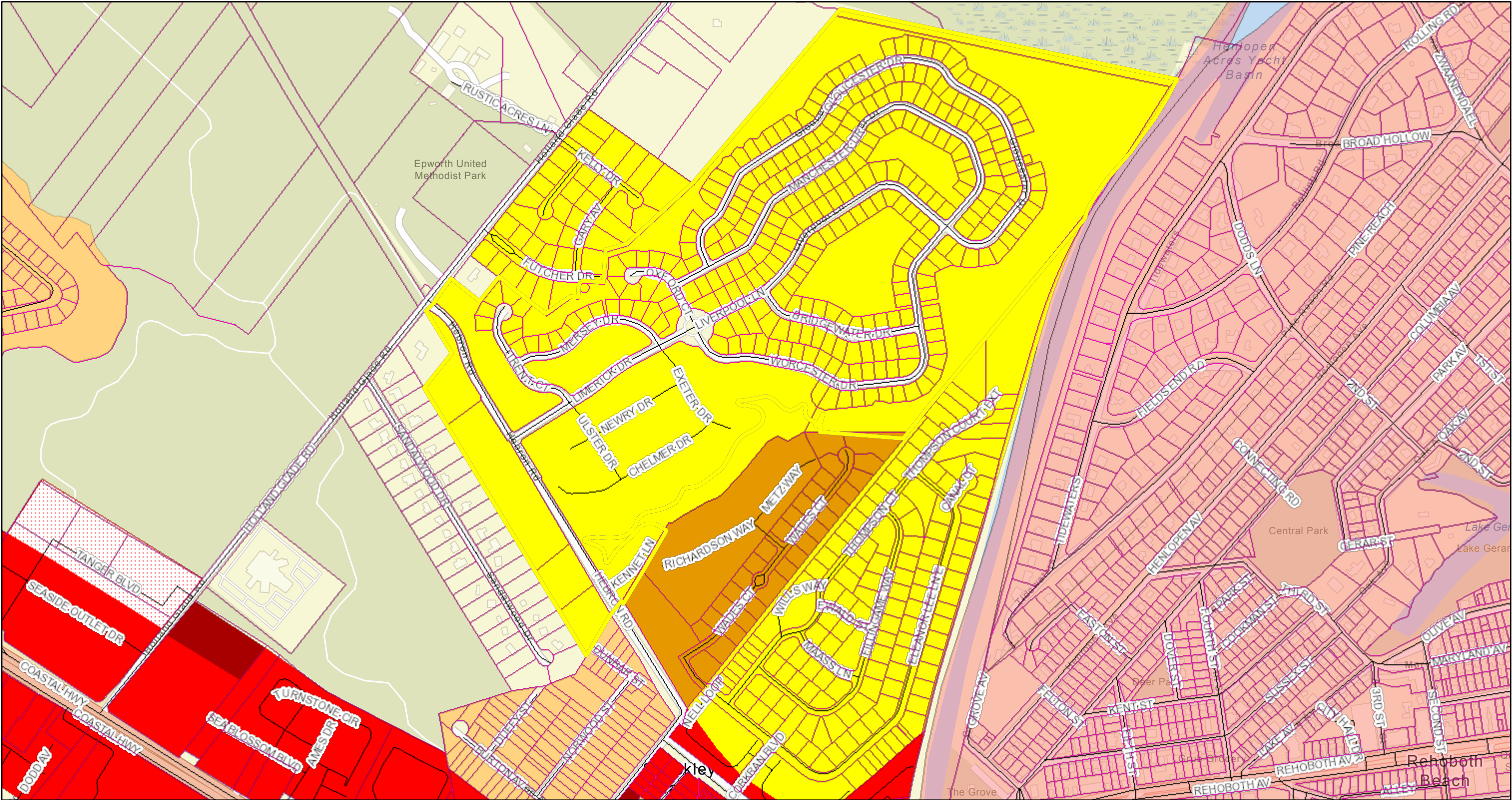
November 17, 2021

- Override 1
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Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, ©

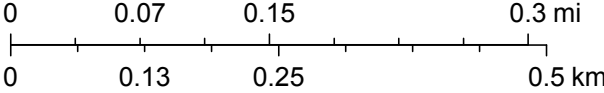
Sussex County



November 17, 2021



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DNREC, Division of Watershed Stewardship, Drainage Program, john.inkster@state.de.us, Sussex County, Sussex County Government, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

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Memorandum

To: Sussex County Planning Commission Members
From: Christin Scott, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: December 3, 2021
RE: Staff Analysis for CZ 1948 The Grande at Canal Point Maintenance Corp.

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1948 The Grande at Canal Point Maintenance Corp. to be reviewed during the December 9, 2021 Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for an Amendment to the Conditions of Approval for the existing Change of Zone (CZ 1538) for Rebay, LLC, for a change of zone from AR-1 to MR/RPC on Tax Parcel 334-13.00-334.00, recently amended by CZ 1926 for CP Townhomes, LLC, for a change of zone from AR-1 to MR/RPC on Tax Parcel 334-13.00-334.00. Specifically, the applicant is requesting an amendment to Condition "F" which requires specific dimensions for the dock construction. The applicant has suggested that this condition be struck from the Conditions of Approval and all other conditions would remain. The previous Change of Zone application was recommended for approval by the Planning and Zoning Commission at their meeting of Thursday, May 13, 2021 and approved by the Sussex County Council at their meeting of Tuesday June 29, 2021 and the change of zone was adopted through Ordinance No. 2786. Copies of the Meeting Minutes from both of these meetings have been attached to this memo for circulation to members of the Commission and Council.

The community lies on the east side of Hebron Road approximately 0.19 mile southeast of Holland Glade Road (S.C.R 271). The property consists of 180.60 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area."

The Coastal Area land use designation recognizes that a range of housing types should be permitted in Coastal Area, including single-family homes, townhouses, and multifamily units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. It also recognizes a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenient services and to allow people to work close to home.



Based on the analysis of the land use, surrounding zoning, and uses, an Amendment to Condition “P” of the previously approved Change of Zones (CZ 1538 and CZ 1926) could be considered as being consistent with the land use, area zoning, and surrounding uses.

THE MINUTES OF THE REGULAR MEETING OF MAY 13, 2021

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday afternoon, May 13, 2021, in Room 540, Carter Partnership Center, Delaware Technical Community College, 21179 College Drive, Georgetown, Delaware. Members of the public also attended this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 4:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, Mr. J. Bruce Mears, with Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mr. Chase Phillips – Planner I, Mr. Elliott Young – Planner I, and Mr. Nick Torrance – Planner I.

Mr. Robertson explained how the meeting would be conducted at this location.

Mr. Whitehouse noted that there were no changes to the Agenda. Motion by Ms. Wingate seconded by Mr. Mears and carried unanimously to approve the Agenda. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Ms. Wingate to approve the Minutes of the April 8, 2021 Planning and Zoning Commission meeting as revised. Motion carried 5-0

OTHER BUSINESS

Citation Meadows (2018-22)

Final Subdivision Plan

This is a Final Subdivision Plan that proposes the creation of forty-nine (49) single-family lots as a cluster subdivision over 54.40 acres +/- . The property is located on the northern side of Phillips Hill Road (S.C.R. 472), approximately 0.42 of a mile west of Lakeview Road. The Planning and Zoning Commission approved the Preliminary Subdivision Plan for the subdivision at their meeting of Thursday, December 20, 2018. This plan includes 5.9 acres of land to be utilized as a wet pond, 6.1 acres to be used as open space for residents, and other amenities. The plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 133-19.00-30.00. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

The Commission discussed the Final Subdivision Plan.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Final Subdivision Plan. Motion carried 5-0.

The Estuary Phase 5 (2019-06) (F.K.A. Zinszer Property)

Final Subdivision Plan

This is a Final Subdivision Plan for the subdivision of a 26.96 acre +/- parcel of land into thirty-four (34) single-family lots as part of a proposed cluster subdivision to be located on the northeast corner of the Estuary Subdivision, Phase 1D. The Planning and Zoning Commission approved the Preliminary Subdivision Plan for the development at their meeting of Thursday, April 11, 2019. The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 134-19.00-105.05. Zoning District: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Stevenson and carried to approve the Final Subdivision Plan. Motion carried 4-0 with Ms. Wingate abstaining.

Harvard Business Services

Preliminary Site Plan

This is a Preliminary Site Plan for a 19,635 square foot, 3-story, office building with 155 parking spaces and other site improvements to be located on the west side of Coastal Highway (Route 1). The applicant has requested relief from interconnectivity requirement and the documentation provided has been included in the Commission's paperless packet. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 235-23.00-54.06 Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Preliminary Site Plan with the addition of a fifth handicapped parking space and the addition of interconnectivity with adjacent commercial property. Motion carried 5-0.

The Vines of Sand Hill (2006-73)

Request to Amend Conditions of Approval

This is a request to amend the Conditions of Approval for the previously approved The Vines of Sand Hill Subdivision. At their meeting of Thursday, August 20, 2008, the Planning and Zoning Commission approved the major subdivision subject to 15 conditions. Specifically, the request is to amend "Condition M" which states, "Within 2 years of the issuance of the first residential building permit, the developer shall construct all of the recreational amenities." The applicant is requesting a change to match the Phasing Plan, which was approved by the Planning and Zoning Commission at their meeting of Thursday December 14, 2017. General Note Number 3 on the Phasing Plan states, "Clubhouse construction is to be completed prior to the issuance of the 136th home certificate of occupancy or earlier. The tennis courts and athletic fields are to be completed prior to the issuance of the 136th home certificate of occupancy or earlier." The applicant has stated that currently, construction of the amenities is proposed to begin the Fall of 2021 and be completed prior to the issuance of the 136th Certificate of Occupancy. Tax Parcel: 135-10.00-63.00. Zoning District: AR-1 (Agricultural Residential Zoning District).

The Commission discussed this request to amend conditions.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried to approve the Request to Amend Conditions of Approval, that the commencement of the amenities should begin within 6 months and completion within 18 months or the issuance of the 136th Building Permit, whichever is the earlier. Motion carried 4-1 with Mr. Mears dissenting.

Lewes Crossing – Phase 8 (2016-4)

Revised Landscape Plan

This is a Revised Landscape plan that proposes modifications to the forested buffer that comprises Perimeter 2 of Phase 8 of the Lewes Crossing Subdivision. The Planning and Zoning Commission approved the Final Subdivision Plan at their meeting of Thursday, September 28, 2018. Specifically, the revised plan proposes 50 trees be planted rather than the 212 that were originally proposed. The reduction of 162 trees is proposed behind Lots 215 through 227 along Perimeter 2 which is 1,408 linear feet. Included in the published packet are two letters that summarize specific environmental reasons for the request. Furthermore, the proposal has received approval from 60% of the residents within Lewes Crossing. The 60% approval equates to 140 of the total 233 homeowners among all phases with 147 homeowners voting in total. No other changes were proposed to the Revised Landscape Plan. Tax Parcel:

334-5.00-222.01. Zoning District: AR-1.

The Commission discussed the revised landscape plan.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to defer for further consideration the Revised Landscape Plan. Motion carried 5-0.

Lewes Crest Amenities Plan

Amenities Plan

This is a Preliminary Amenities Plan for Lewes Crest which is a multi-family residential development that consists of 31 townhouses. Specifically, this plan proposes a pool, a 160 square foot pool house, landscaping, and interconnectivity to the Lewes-Georgetown Trail. The property is located on the southern side of Nassau Road (S.C.R. 266D) adjacent to Coastal Highway (Rt. 1). The Planning and Zoning Commission approved the Final Site Plan for Lewes Crest at their meeting of Thursday, February 14, 2019. The plan complies with the Sussex County Zoning Code and the requirements of the Combined Highway Corridor Overlay Zone (CHCOZ). Tax Parcel: 334-5.00-87.00. Zoning District: C-1 (General Commercial District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried to approve the Preliminary Amenities Plan with final approval by staff upon receipt of all agency approvals. Motion carried 4-0. Ms. Wingate abstained.

Lands of Vincent Paul Griscavage & Martha E. Rothenberg

Minor Subdivision off a 24-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 1.25-acre +/- parcel of land for the creation of one (1) lot plus residual lands with Lot 2 having access off a proposed 24-ft ingress/egress access easement. Lot 1 will consist of 20,000 square feet +/- and Lot 2 will consist of 35,412 square feet +/- . The parcel is located on the south side of Clay Road (S.C.R 269). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 334-6.00-46.00. Zoning District: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Minor Subdivision off a 24' easement. Motion carried 5-0.

Lands of Matthew S. Marvil

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 20.739-acre +/- parcel of land for the creation of two (2) lots plus residual lands with Lots 2B & 3 having access off a two proposed 50-ft ingress/egress access easement. Lot 2B will consist of 7.180 acres +/- and Lot 3 will consist of 6.00 acres +/- . The parcel is located on the southeast side of Camp Road (S.C.R 470). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 232-6.00-42.02 & 42.03. Zoning District: 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 Minor Subdivision off a 50' easement. Motion carried 5-0.

Lands of Janet V. Nichols

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 19.88-acre +/- parcel of land for the creation of one (1) lot plus residual lands with Lot 2 having access off an existing 50-ft ingress/egress access easement. Lot 2 will consist of 4.00 acres +/- . The parcel is located on the south side of Hunters Cove Road (S.C.R 602). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 430-9.00-25.00. Zoning District: 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 Minor Subdivision off a 50' easement. Motion carried 5-0.

OLD BUSINESS

2020-15 – The Estuary at Oyster Rock

A standard subdivision to divide 28.80 acres +/- into 21 single-family lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the north side of Sandbar Court, which is within the existing Oyster Rock subdivision, and accessed from the northwest side of Oyster Rocks Road approximately 0.61-mile northeast of Coastal Highway (Rt. 1). Tax Parcel: 235-16.00-45.01. Zoning District: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval for Subdivision **2020-15** for **THE ESTUARY AT OYSTER ROCK** based upon the record made during the public hearing and for the following reasons:

1. This is a property that is adjacent to the existing Oyster Rock Subdivision. It will be integrated into that subdivision.
2. This expansion of the Oyster Rock Subdivision will consist of 21 new lots, this results in a density that is significantly less than what is permitted under the AR-1 Zoning District.
3. This expansion area will be interconnected with the interior roads of the Oyster Rock Subdivision.
4. This expansion area will be served by central water and individual on-site septic systems.
5. The stormwater management of this expansion area will be integrated into the existing system within Oyster Rock. It will be designed by engineers and approved by the Sussex Conservation District. It will then be constructed with oversight by the Conservation District. This will improve the drainage and flow of water not only within this property but also in how it impacts adjacent properties.
6. This expansion of the Oyster Rock Subdivision will not adversely affect area roadways, traffic, or nearby property values.
7. The proposed subdivision meets the purpose and standards of the Subdivision Code and the Applicant has addressed the requirements of Section 99.9.C of the Code.
8. The Development complies with the Sussex County Comprehensive Plan as a Low-Density single-family dwelling subdivision.
9. This recommendation is subject to the following conditions:
 - a. There shall be no more than 21 lots within the subdivision.
 - b. This subdivision shall be integrated into the existing Homeowners Association within Oyster Rock. The Association shall be responsible for the maintenance of streets, roads, buffers, stormwater management facilities and, other common areas within Oyster Rock and this new subdivision.

- c. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sediment control facilities.
- d. There shall be forested or landscaped buffer of at least 20 feet in depth along the perimeter of the project. The Final Site Plan shall contain a landscape plan for all of these areas. This buffer area shall utilize the existing vegetation along the southern and eastern boundaries of the site. All silt fencing shall be located along the interior limit of the buffer area, the edge of the buffer nearest the interior development. The Final Site Plan shall identify the limit of disturbance to prevent disturbance of the buffer area.
- e. There shall be a buffer that is at least 50 feet wide from all tidal waters, tidal tributaries streams, tidal wetlands, perennial rivers and non-tidal streams. As proffered by the Applicant there shall also be a buffer that is at least 25 feet wide from all federal wetlands. There shall not be any disturbance, clear-cutting or stump removal of trees or other vegetation within these buffer areas. No construction activities that disturb the existing grade shall be permitted in the buffer area and the required silt fencing shall be upland of these buffer areas to avoid disturbance.
- f. The development shall comply with all DelDOT entrance and roadway improvement requirements.
- g. The subdivision shall be served by a publicly regulated water system.
- h. Street design shall meet or exceed Sussex County standards.
- i. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
- j. Construction, site work and deliveries shall only occur on the site between the hours of 7:30 a.m. through 7:30 p.m., Monday through Friday. No weekend construction activities or deliveries shall occur. A 24-inch X 36-inch notice sign confirming these hours shall be prominently displayed at all entrances to the site during construction.
- k. A revised preliminary site plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
- l. 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. Hopkins and carried unanimously to approve Subdivision 2020-15 for The Estuary at Oyster Rock, for the reasons and conditions stated in the motion. Motion carried 5 – 0.

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-30.00-58.02 (PORTION OF)

The Commission discussed this ordinance which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval of the Ordinance to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcel 235-30.00-58.02 from a Low Density Area to a Commercial Area based on the record made during the public hearing and for the following reasons:

1. The parcel currently has two Area designations. The frontage of the parcel is designated as the Existing Development Area while the rear portion of the property is designated as Low-Density Area according to the Future Land Use Map in the Sussex County Comprehensive Plan. This

application seeks to convert the rear portion of the property from Low-Density to Commercial Area.

2. The parcel has frontage on Route 9 and the rear of the Parcel is bounded by a railroad. This is an appropriate location for a Map Amendment designating the parcel as Commercial Area.
3. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways or future land-use planning in the area.
4. With the adjacent railroad service, this Map amendment promotes the transportation goals in the Sussex County Comprehensive Plan, which states that one way of reducing truck impacts on area roadways is to shift more freight to rail. This site presents an opportunity to achieve this goal. This is also supported in the Comprehensive Plan by Goal 13.5, Objective 13.5.1 and the Strategies attached to them.
5. No parties appeared at the public hearing to object to this Map Amendment.
6. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to recommend approval of the Ordinance to the Future Land Use Map of the Comprehensive Plan in relation to Parcel 235-30.00-58.02 (portion of) for the reasons and conditions stated in the motion. Motion carried 5 – 0.

C/Z 1929 – Ryan Lehmann (Manntino Realty Holdings, LLC)

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.4653 acres, more or less. The property is lying on the south side of Lewes Georgetown Hwy (Rt. 9) approximately 0.7 mile east of the intersection of Harbeson Rd (Rt. 5) and Lewes Georgetown Hwy (Rt. 9). 911 Address: 26822 Lewes Georgetown Hwy. Tax Parcel: 235-30.00-58.02 (Portion of)

The Commission discussed this application which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval of CZ#1929 regarding Ryan Lehmann (Manntino Realty Holdings, LLC) for a change in zone from AR-1 to a C-3 based upon the record made during the public hearing and for the following reasons:

1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations.
2. The area of this rezoning is part of a larger parcel that already has commercially-zoned frontage. This rezoning will give the entire property a commercial zoning designation. It will also permit the property owner to use the entire property for outdoor storage of materials associated with his existing business on the front section of the property.
3. The entire parcel is adjacent to Route 9 and the rear of the parcel has access to an active railroad. This is an appropriate location for commercial zoning.
4. The parcel is in a section of Route 9 where there are commercial districts and business and commercial uses that have developed. This location is appropriate for an extension of this type of zoning.

5. Upon the approval of the Future Land Use Map Amendment, this site will be in the Commercial Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
7. No parties appeared in opposition to this rezoning application.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/Z 1929 Ryan Lehmann (Manntino Realty Holdings, LLC) for the reasons and conditions stated in the motion. Motion carried 5 – 0.

C/U 2245 – Jonathan Plump

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for outdoor boat and RV storage to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 4.5 acres, more or less. The property is lying on the northeast side of Milton Ellendale Highway (Rt. 16) approximately 0.55 mile southeast of Holly Tree Road (S.C.R. 226). 911 Address: 20723 and 20715 Milton Ellendale Highway, Ellendale. Tax Parcels: 235-13.00-2.02 & 235-13.00-2.03

The Commission discussed this application which has been deferred since April 22, 2021.

Ms. Stevenson moved that the Commission recommend approval of Conditional Use #2245 for Jonathan Plum for outdoor RV and boat storage based on the record made during the public hearing and for the following reasons:

1. The Applicant seeks approval for an RV and boat storage facility on approximately 4.5 acres.
2. The proposed Conditional Use is located along Route 16, which is an appropriate location for this type of use.
3. There is a need for the use proposed by the Applicant in this area of Sussex County.
4. This use is limited in nature and will not involve any new buildings.
5. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact upon the neighboring properties or community.
6. The use as a boat and RV storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
7. No parties appeared in opposition to this Application.
8. This recommendation for approval is subject to the following conditions:
 - a. The use shall be limited to the storage of boats and RVs. No other storage of vehicles or equipment shall occur on the site.
 - b. The facility shall only be accessible from 5:00 am until dusk and the access gate shall be locked to prevent after-hours access to the site.
 - c. The perimeter of the site shall be fenced with a 6-foot-high fence that screens the property from neighboring and adjacent properties and roadways.
 - d. There shall be a landscaping buffer between the outside of the fence and the adjacent residential properties to screen the use and the fence from those adjacent homes. The Final Site Plan for this use shall include a landscaping plan for this buffer area.

- e. No sales or maintenance of boats or RVs shall occur on the site.
- f. All security lighting shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.
- g. No more than 90 boats and RVs shall be permitted on the site.
- h. The storage area shall be covered with a pervious stabilizing material. The location and type of this material shall be shown on the final site plan.
- i. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.
- j. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats and RVs located on the site.
- k. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.
- l. No junked or unregistered boats, boat trailers or RVs shall be stored on the site.
- m. The final site plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to recommend approval of C/U 2245 Jonathan Plump for the reasons and conditions stated in the motion. Motion carried 5 – 0.

C/Z 1926 – CP Townhomes, LLC (Canal Point RPC)

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium-Density Residential District-Residential Planned Community to a MR-RPC Medium-Density Residential District - Residential Planned Community to amend conditions of approval of CZ 1538 (Ordinance 1700) in relation to piers, docks, boat ramps and other water related recreational facilities for a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 180.60 acres, more or less. The property is lying on the east side of Hebron Road approximately 0.19 miles south of the intersection of Hebron Road and Holland Glade Road (S.C. R. 271). 911 Address: N/A Tax Parcels: 334-13.00-334.00, 1448.00 through 1750.00

The Commission discussed this application which has been deferred since April 22, 2021.

Mr. Mears moved that the Commission recommend approval of an amendment to Condition #15 of Change of Zone # 1926 and Ordinance #1700 regarding docks within the Canal Pointe RPC based upon the record made during the public hearing and for the following reasons:

1. Condition #15 of CZ # 1926 and Ordinance #1700 currently states that “No piers, docks, boat ramps or other water-related facilities shall be permitted” within the Canal Pointe RPC.
2. The Canal Pointe RPC is adjacent to the Lewes-Rehoboth Canal, which is a source of water-related activities for many Sussex County residents and visitors.
3. It was shown during the public hearing that this area of the Lewes-Rehoboth Canal has developed with many personal docks attached to individual lots as well as a large marina associated with the Town of Henlopen Acres.
4. The revised condition #15, which will be limited to non-motorized boats, will have less of an impact on the waterway and the environment than many of these existing docks and the motorized boats that they serve.
5. With one point of access to the Lewes-Rehoboth Canal, there will be a well-designed and permitted dock available to the residents of Canal Pointe instead of multiple undefined points of access that could cause more damage to the Canal and the environment.

6. Condition #15 of CZ # 1926 and Ordinance # 1700 should be amended to state as follows:
“15. Subject to the receipt of all applicable permits from the U.S Army Corps of Engineers, DNREC and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the RPC. There shall be an amendment to the Canal Pointe Master Plan and a subsequent final site plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps or other water-related facilities shall be permitted.”

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1926 for CP Townhomes, LLC (Canal Point RPC) for the reasons and conditions stated in the motion. Motion carried 5 – 0.

PUBLIC HEARINGS

Mr. Robertson described the procedures for public hearings before the Planning and Zoning Commission.

2020-20 – Johnsonville (2006-39)

A revision to an existing and previously approved standard subdivision to divide 42.11 +/- acres into 32 single-family lots lying and being in Indian River Hundred, Sussex County. The proposal is to reduce the existing Forest Conservation Easement from 100-ft in-depth to 50-ft in-depth to the rear of Lots 2-16 for the future accommodation of patios, decks, sheds or, swimming pools. The property is lying on the northeast and southwest sides of Lawson Road (S.C.R. 296). Tax Parcel: 234-21.00-141.00, 234-21.00-394.00 through 234-21.00-425.00. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy Applicant's Revised Subdivision Plan, a copy of the previous Notice of Decision for the previous subdivision, a copy of TAC comments including DNREC Division of Fish and Wildlife, a copy of the Delaware Hunting Regulations, a copy of comments from the Sussex County Engineering Department Utility Planning Division, and two letters of support.

The Commission found that Mr. Kenneth Christenbury, P.E. was present on behalf of the Applicant, Johnsonville; that this is a 2006 subdivision that is under construction; that the subject of the amendment is that the original developer proffered 100-ft Forest Conservation Easement and the current developer would like to reduce the Forest Conservation Easement to 50-ft; that would allow homeowners to build patios, decks, sheds or swimming pools; that this matter came before the Commission last year and the Commission requested that it have a public hearing; that a question arose about the protection of hunting rights; that the request is only for lots 2 – 4 and 8 – 16 so, there would be no impact on hunting rights of adjoining property owners; and that lots 5 – 7 would retain the 100-ft Forest Conservation Easement.

Ms. Stevenson and Mr. Hopkins both expressed concerns that the hunting rights of adjoining property owners are not adversely affected.

Mr. Christenbury referred to an aerial map and explained that eliminating lost 5 – 7 from the request, will not affect the hunting rights of adjacent property owners.

The Commission found that Jordan Ashburn spoke in support of the request to revise the previously approved subdivision; that the lots tend to be narrow and deep; that it is difficult for placement of the house on the lot due to the septic systems being placed towards the front of the lots; that many of the clients have interest in having the forested buffer reduced; that this would be of benefit to the residents of the neighborhood; and that the 100-ft buffer will remain on lots 5, 6, and 7 so that it will not affect the hunting rights of adjacent property owners.

The Commission found that John Davidson had questions regarding the request to revise the previously approved subdivision; that he is not necessarily in opposition to the request but would like to know if any buffers on the west side of Lawson Road are being affected by this request.

Chairman Wheatley stated that Mr. Christenbury indicated that the request will not affect any buffers on the west side of Lawson Road.

The Commission found that Jessica Romante was present by teleconference; that she and her husband have purchased lot 7; that she is now concerned to learn that lot 7 is not included in the request; that lot 7 will have a tight backyard; that there are 140 ft of trees behind her lot, does that mean she can remove 40 ft of trees.

Mr. Christenbury explained that the lot line between lots 6 and 7 is 163 ft deep; that after the 30 ft. front yard setback, it would mean there is approximately 133 ft of buildable space and offered to email a copy of the site plan.

The Commission found that Jeff DeLeo was present by teleconference; that the buffer behind his lot is 140 ft and should only be 100 ft.

Chairman Wheatley stated that lots 5, 6 and, 7 are not part of this request and there will be no changes to these lots.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

Prior to the recess, the Commission discussed Application 2020-20 Johnsonville (2006-39) Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

2021-17 – Toback Subdivision

A standard subdivision to divide 10.15 acres +/- into 5 single-family lots to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County. The property is lying on the northwest corner of the intersection of Prettyman Rd. (S.C.R. 254) and Lewes-Georgetown Hwy. (Rt. 9). Tax Parcel: 235-30.00-6.21. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy Applicant's Subdivision Plan, a copy of a letter that has been received from Artesian Resources, a copy of the Applicant's Chapter 99.9.C response, a copy of comments from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that the Application also requires a waiver from the forested buffer requirements.

The Commission found that Mr. Carlton Savage, P.E. was present on behalf of the Applicant, Toback Subdivision, that also present is Mr. Matt Toback; that the request is for a standard subdivision of 4 lots and a residual lot; that the property is located on the corner of Prettyman Road and Route 9, just west of the Royal Farms; that this was originally submitted as a minor subdivision; that the parent parcel had other minor subdivisions in the past so this was this process was required; that the lots will be served by public water and sewer; that each lot will be 0.76 acre in keeping with the area around it; that the total acreage of the parcel is 10.15 acres; that the residual will be 7.12 acres; that there will be a fence on the rear of the property and the section closest to the intersection; that some waivers are requested since this is essentially a minor subdivision in nature; that new roads are not proposed; that a waiver from Article 3 regarding street requirements is requested; that no storm drainage is being proposed because these lots will front on Prettyman Road; that each lot will comply with Sussex Conservation District; that no open space or amenities are being proposed; that a waiver from the landscaped buffer is being requested; that a waiver from Article 4 regarding detailed construction plans is being requested; and that a waiver from master plan grading is requested as they are large lots and the dwellings will be placed in the center of each lot.

Ms. Stevenson asked about the proposed fencing.

Mr. Savage stated that the type of fencing has not been decided but that it would meet all the County standards.

Chairman Wheatley asked if this subdivision would have a Homeowners Association.

Mr. Savage stated there will not be a Homeowners Association.

Chairman Wheatley asked who will maintain the fencing.

Mr. Savage stated that the fencing will be on the residual land at the edge of the four lots and will be maintained by the Developer.

Mr. Robinson asked Staff if all agency comments have been received.

Mr. Whitehouse stated that Staff has received all agency comments.

The Commission found that Mr. Matt Toback was present in support of his Application; that the fencing will be white vinyl privacy fencing which will be on the residual lands close to the proposed lots.

The Commission found that there was no one present in the room or by teleconference who wished to speak in support or in opposition to the Application.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

Prior to the recess, the Commission discussed Application 2021- 17 Toback Subdivision. Ms. Stevenson moved to grant preliminary and final site plan approval for the subdivision **2021-17 for Toback Subdivision** based upon the record made during the public hearing and for the following reasons:

1. This is a small standard subdivision seeking approval of 4 lots, each lot will comply with the requirements of the AR-1 Zoning District.
2. Each lot will have frontage on Prettyman Road and no internal streets will be required.
3. The lots will be served by central water and sewer.
4. The Applicant has addressed the requirements of Section 99-9.C of the Subdivision Code.
5. Given the small size of the subdivision and because it is a strip lot subdivision, a waiver from the buffer and street requirements of the code is appropriate.
6. The subdivision will not adversely affect neighboring properties or roadways.
7. No parties appeared in opposition to the Application.

Motion by Ms. Stevenson to approve Subdivison 2021-17 for Toback Subdivison, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

C/Z 1942 – Bay Developers, LLC (Twin Cedars, LLC)

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a C-1 General Commercial District, CR-1 Commercial Residential District and GR General Residential District to a GR-RPC General Residential District - Residential Planned Community for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 64.32 acres, more or less. The property is lying on the south side of Zion Church Road (Rt. 20), approximately 0.55-mile northwest of Bayard Road. 911 Address: N/A. Tax Parcel: 533-11.00-42.00.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Staff Analysis, a copy of the Applicant's exhibit booklet, a copy of comments received from PLUS review, a copy of the TIS review letter from DelDOT, a copy of the Applicant's TIS, a copy of the DelDOT Service Level Evaluation response, a copy of comments from the Sussex County Engineering Department Utility Planning Division, and one written response which was included in the packet.

The Commission found that Mr. David Hutt, Esq. was present on behalf of the Applicant, Bay Developers, LLC; that also present are Mr. Henry Mast, Principal of Bay Developers, LLC, Mr. Chris Flathers, P.E. – Morris & Ritchie Associates, Inc., Mr. Greg Sauter, P. E. - Geo-Technology Associates, and Mr. Joe Caloggero, P.E. – The Traffic Group, Inc.; that this property was the subject of prior approvals of the Commission and County Council; that this Application is a redesign of a previously approved RPC and commercial project; that in 2010 County Council approved a Change of Zone Applications 1668 and 1669 for this property; that C/Z 1669 was an application seeking to change an area consisting of 5.79 acres of land from General Commercial (C-1) and General Residential (GR) to Commercial Residential (CR-1); that this application was approved; that C/Z 1668 was an application for an Resident Planned Community (RPC) overlay for the balance of the property and was also approved; that the application known as Twin Cedars for 199 residential units consisting of 120 apartments or condos, 45 townhomes and 34 duplexes; that the project was not built and the RPC lapsed; that a new application was filed under C/Z 1909 and was scheduled for a public hearing approximately two months ago; that because the CR-1 portion of the property was not shown on the Zoning Map, the application was terminated which allowed the County to update the Zoning Map and allowed the Applicant to submit a new application listing all the zoning classifications; that the current application is exactly the same as the terminated application C/Z 1909 except that the new application references the 5.79 acres of CR-1 zoning on the property; that the property consists of 64.32 acres situated along Zion Church Road east of the intersection of Zion Church Road and Deer Run Road; that the property is presently unimproved; that there were previously three apartment buildings on this property; that there

are similar residential communities in the area such as Hampton Park, Sweet Bay, Ashton Oaks, Fox Haven and many others; that the property is currently zone C-1, GR and CR-1, that the majority of zoning on Zion Church Road is GR and Medium Residential (MR) with some C-1; that this application seeks to rezone the entire property to GR with an RPC overlay; that the Applicant proposes to leave most of the forested area undisturbed and designate it as open space; that the RPC tool was chosen to maximize the preservation of woods; that the redesign allowed for all the residential areas to be clustered so that each lot would back up to open space or amenities; that this will be a walkable community with centrally located amenities with all homes being within 700 ft. of the amenities; that the entrance to this community would be off Zion Church Road; that 254 units are being proposed comprising of 168 apartments within 7 buildings, 44 townhomes across 11 buildings and 42 single-family lots; that the apartments would be toward the front of the property and the single-family lots toward the rear with the townhomes between both; that the gross density would be 3.95 units per acre and the net density would be 4.31 units per acre; that this density is consistent with the GR district; that the Future Land Use Map shows that this property is located in the Coastal Area which is a growth area; that this property is in the Level 3 area on the State Strategies Map; that the proposed design complements the existing character of the site by keeping the open space and clustering it at the rear of the property; that 28.5 acres will remain forested and undisturbed; that where an existing buffer does not exist, the Developer will install a landscaped buffer to conform with County Code; that sidewalks will be installed on both sides of the street; that amenities proposed include a pool, patio area, a clubhouse, a tot lot area and a walking trail; that the County Code requires 508 parking spaces; that the Applicant is proposing 563 parking spaces; that the Developer will work with the Indian River School District regarding the location of a bus stop; that public utilities are available for the site; that the property is not within a Wellhead Protection Area or within a Groundwater Recharge Area; that there are no known historical sites located on the property; that there are no threatened or endangered species on the property; that the property is not within a flood plain or flood zone; that there will be a Property Owners Association created to manage and govern the common areas within the Community; that DelDOT required a Traffic Impact Study (TIS); that the TIS review letter required that a entrance access from Zion Church Road align with the Bayside Storage entrance across the road; that the entrance be designed and constructed with current DelDOT standards; that the Developer contribute towards a traffic signal at the intersection of Zion Church Road and Bayard Road and Johnson Road; that the Developer include bicycle and pedestrian improvements along the property frontage on Zion Church Road; that a neighboring resident raised concerns that notice be given to future residents regarding the RV park to the rear of this site and that there are hunting and shooting activities in the area; that the same concern was raised in 2010 and the RPC approval contained a requirement that notice be given to all future residents similar to the Agricultural Protection notice; that the Developer has proffered this as part of the proposed conditions and findings; that the purpose of the RPC tool is to encourage large-scale developments as a means of creating a superior living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan; that the RPC overlay is appropriate for this project but is also superior to the design that was approved in 2010; that this design meets the requirements of the Comprehensive Plan in the Zoning Code; that for all these reasons the Applicant requests recommendation of approval for this Change of Zone application to County Council.

Ms. Wingate asked if the hunting is taking place on the Lost Lands RV Park property.

Mr. Hutt stated that he assumes the hunting takes place during the season when the RV's are not occupied; that the current design retaining the forested area allows for a much greater distance from the RV park to the proposed dwellings on the subject property; and that all future residents will be given notice of hunting activities on adjoining property.

Ms. Wingate asked for clarification regarding the numbers on the TIS.

Mr. Joe Caloggero stated that the TIS was prepared for 44 single-family homes, 44 townhomes and, 168 apartments and that's what the numbers are based on.

Ms. Wingate commented that she will expect to see the landscape buffer/berm along Route 20 when the site plan is submitted.

Ms. Stevenson asked for confirmation that the berm is being proposed.

Mr. Hutt stated that Mr. Flathers will address the berm but noted that the nearest residence is a good distance from Route 20 because of the stormwater management systems to the front of the property.

Mr. Chris Flathers stated that the intent is to utilize berms when possible for screening, but it is not always possible with drainage issues and that on the west side of the property the nearest residence is 44 ft. from the property line.

Ms. Stevenson asked the Applicant to address the soils on the property especially, subaqueous soils.

Mr. Greg Sauter stated that the soils at this site are suitable for the proposed development; that hydric soils would not prevent building; that the existence of hydric soils would not prevent the building of an environmentally sensitive development; that the stormwater management facilities proposed for this site will improve the overall stormwater run-off in the area; that subaqueous soils are related to the wetland aspect and that this property has been farmed for many years, therefore, those soils would not be subaqueous; and that there are no wetlands on this site.

Ms. Stevenson commented that the road within the community should have a sign stating that it is for connectivity to future developments.

Mr. Hutt stated that a sign could be placed without the expense of extending a road for something that may never happen.

Ms. Stevenson asked for an explanation of the full-movement access traffic entrance.

Mr. Caloggero stated that it is a full movement of left, right and, straight through so the access to this site will be designed to cross the street from Bayside Storage.

The Commission found that there was no one present in the room or by teleconference who wished to speak in support or in opposition to the Application.

Mr. Whitehouse confirmed that the County Council hearing date for this Application will be June 29, 2021, at 1:30 pm in County Council Chambers and not at Del Tech.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

Prior to the recess, the Commission discussed Application C/Z 1942 – Bay Developers, LLC (Twin Cedars, LLC). Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 5-0.

Recess 6:55 P.M. – 7:20 P.M.

C/Z 1922 – Baywood, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a B-1 (Neighborhood Business District), C-1 (General Commercial District) and, CR-1 (Commercial Residential District) to a HR-RPC High-Density Residential District - Residential Planned Community for a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 54.38 acres, more or less. The property is lying on the north side and south side of Long Neck Road, approximately 0.47 miles east of the intersection of Long Neck Road and John J. Williams Highway (Route 24). 911 Address: 32147 Long Neck Road, Millsboro. Tax Parcels: 234-23.00-270.00, 273.01, 273.02, 273.03, & 273.05.

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Staff Analysis, a copy of the Applicant's exhibit booklet, a copy of the Applicant's conceptual site plan, a copy of comments received from PLUS comments and, a copy of the Applicant's response to the PLUS comments, a copy of a letter received from the Indian River Volunteer Fire Company, two copies of TIS submissions in relation to the Application sites, a copy of comments from the Sussex County Engineering Department Utility Planning Division, and nine comments which have been distributed to members of the Commission.

The Commission found that Mr. James Fuqua, Esq. was present on behalf of the Applicant, Baywood, LLC; that also present are Robert Tunnell, Jr. and Robert Tunnell, III on behalf of the Applicant, Jason Palkewicz - Solutions IPEM, and Betty Tustin – The Traffic Group; that this is an application to rezone a 54.38 acre parcel of land on both the north and south sides of Long Neck Road to High Density Residential District (HR) with a Residential Planned Community (RPC) overlay; that the proposed use is a 514 unit multi-family rental community; that the parcel on the north side of Long Neck Road contains 38.17 acres and is approximately 1,000 ft. east of the Route 24 intersection; that along Long Neck Road between Route 24 and the north parcel, the uses are a gas station, food mart, funeral home and a church; that the north parcel also borders the Greens at Long Neck and the Baywood Greens and Golf Course; that the parcel on the south side of Long Neck Road contains 16.21 acres and is approximately 2,000 ft. east of Route 24; that along Long Neck Road between Route 24 and the south parcel, the uses are a bank, a medical office building, a Beebe health care facility and Bayshore which is a 146 unit multi-family community located on 17 acres of land; that the south parcel borders School Lane to the east and the rear borders the Long Neck Elementary School; that the proposed development is to be called Baywood Gardens; that 354 units would be on the north side in nine multi-family buildings and 160 units would be on the south side in four buildings; that the HR zoning would permit a maximum density of 12 units per acre and the 514 units proposed would be a density of 9.45 units per acre; that no

commercial uses or buildings are being proposed; that the Applicant, Baywood, LLC is owned by the Tunnel family; that the Tunnel family has a history of over 60 years in the Long Neck area including the Baywood development adjacent to the north and the various Pot Nets communities; that tonight's application addresses a much needed housing type and that is the multi-family rental housing.; that the north parcel is currently zoned Neighborhood Business (B-1) and General Commercial (C-1); that there was a prior approved development plan for the northern portion of the subject property which consisted of a Conditional Use for the B-1 land and uses permitted by right for the C-1 land; that in 2010 the County Council approved C/U 1797 for 143 multi-family units on B-1 portion of the site and on the C-1 portion which already permits multi-family, the mixed use proposal was for a total of 354 multi-family units and commercial space of 48,000 sf.; that planned development did not move forward; that this Application is for the same number of multi-family units but eliminates the commercial space; that the south portion of the property is zoned CR-1; that the woods on the property were removed by the previous owner as part of the contract of sale; that the property is located in Investment Levels 1 and 2 according to the Strategies for State Policies and Spending; that the State Strategies is not a land use document but is a guide to where the State plans to direct investments; that Investment Levels 1 and 2 reflect areas that are already developed; that the Comprehensive Plan projects that by the year 2035 there will be an additional 60,000 permanent and seasonal residents in Sussex County; that this growth will correlate into a need for various types of housing; that this project will find a more affordable alternative to home ownership as compared to single-family ownership; that a rental development will have lower costs to the renter, shorter time commitments, no large down-payment, no annual tax bills and no maintenance and landscaping required; that Baywood Gardens will provide more affordable housing to workers in eastern Sussex County; that according to the Comprehensive Plan, Baywood Gardens is located in the Commercial Area and the Coastal Area which are both considered growth areas; that the Applicant has requested that the Future Land Use Map be amended to designate all of the Applicant's land to the Coastal area rather than in two growth areas; that the Comprehensive Plan states that medium and higher density (4-12 units per acre) can be appropriate in certain locations: that Medium and higher density could be supported in areas: where there is central water and sewer; near sufficient commercial uses and employment centers; where it is in keeping with the character of the area; where it is along a main road or at/or near a major intersection; where there is adequate Level of Service; or where other considerations exist that are relevant to the requested project and density; that this project is appropriate as it is served by central water and sewer, it is near commercial uses and employment centers, it is in keeping with the character of the area, it is along a main road, and there is adequate level of service and the Applicant will be making improvements to the roadways; that the purpose of the HR-1 district is to permit variety in housing types and provide for residential densities appropriate for areas which are or will be served by public sanitary sewer and water systems and which are well-located with respect to major thoroughfares, shopping facilities and centers of employment; that this describes this site; that the purpose of the RPC overlay is to encourage large-scale developments as a means of creating a superior living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan; that Baywood Gardens is the type of development envisioned in the purpose clause for the HR-RPC; that the proposed development is in accordance with State Investment Level designations, the Sussex County Comprehensive Plan and the purpose of the HR-RPC under the Zoning Ordinance; that the stormwater management facilities will be designed and constructed in accordance with DNREC's sediment and stormwater regulations; that there are no State regulated or tidal wetlands on the property; that the property is designated as being in flood zone X and outside of the 100 year flood plain; that the

State Historic Preservation Office advised that there are no known archeological or national registered listed or registered features on the site; that the site is located in the Indian River School District and the Indian River Volunteer Fire Company; that DelDOT did require a Traffic Impact Study (TIS) for the proposed development; that there were two TIS completed, one for the north parcel and one for the south parcel and that the property is not in the Henlopen Transportation Improvement District (TID); that the Applicant will be required to provide a 40 ft. right-of-way from center line on both sides of Long Neck Road along the site frontage and a 30-ft right-of-way from center line on School Lane along the site frontage; that the Applicant will also dedicate a permanent 15 ft. easement along the site frontage for a shared path which will be constructed by the developer; that the Applicant will also be responsible for certain roadway improvements and traffic signal improvements in the area; that the entrance to the northern portion of this site shall be on Long Neck Road directly across from Bayshore Drive; that there will be a secondary entrance from Greens Way; that the entrance to the southern portion of the site shall be on Long Neck Road directly across from Greens Way; that there will be a secondary entrance from School Lane; that the traffic improvements will include bus stops on Long Neck Road; that the north parcel will contain 354 units located in nine four-story buildings, eight buildings would contain 40 units each and the ninth would have 34 units; that parking would be adjacent to the buildings and a large parking area next to the recreational complex; that the recreational facilities will be on the north parcel and will include a clubhouse, outdoor pavilion, indoor and outdoor pools, playground, pickleball courts, Bocce courts, a practice putting green, a community garden and passive open space; that a central mailbox facility will be located near the recreational facility; that 602 parking spaces are required per County Code and 791 spaces are being provided for the north parcel; that there will be an interior sidewalk system connecting to the shared use path on both the northern and southern portions of the development; that there will be non-intrusive lighting throughout the north and south portions of the development; that the location of the school bus stop will be coordinated with the school district for both sections of the development; that there will be buffers and privacy fencing between the adjacent development; that the south parcel will contain 160 units located in four four-story buildings containing 40 units each; that there will be a 20-ft landscape buffer between this development and adjacent properties; that 287 parking spaces are required per County Code and 320 parking spaces are being provided; that the south parcel will have two open space gathering areas with two tot-lot playgrounds; that there is a signalized crosswalk on Long Neck Road at the intersection with Banks Road and School Lane to allow for pedestrians to cross safely between the north and south side of the property; that there will be 210 two-bedroom units and 304 three-bedroom units; that the Baywood Garden Community would be operated by the Tunnell Companies; that the gross density would be 9.45 units per acre and the net RPC density would be 9.94 units per acre with approximately 27.5 acres of open space which is 51% of the development; that the Applicant has submitted proposed findings and conditions; that the Applicant proposes that the recreational complex be completed prior to the issuance of a Certificate of Occupancy for the 161st unit; that the Applicant proposes that if the RPC is voided for any reason that the zoning revert back to the zoning classification on the date of approval; that this condition is offered by the Applicant with full knowledge of its intent and purpose with the understanding that the Applicant voluntarily offers this condition with the knowledge that they will be bound to it; and that the Applicant respectfully requests recommendation of approval subject to conditions.

Mr. Mears expressed concerns about the safety of pedestrians, especially children crossing Long Neck Road even with the signalized crossing.

Ms. Wingate asked if a property manager will be on site.

Mr. Fuqua stated that there will be a management office on-site and there will be a telephone number for 24-hour access for emergencies.

Ms. Stevenson asked about the height of the four-story buildings.

Mr. Fuqua stated that the buildings will be 52 ft. tall.

Ms. Stevenson asked if there are other buildings of similar height in the area.

Mr. Robert Tunnell, III stated that the Baywood Clubhouse is 65.5 ft.; that the water tower on Route 24 is approximately 60 ft. and the Baywood sales center is 54 ft. and there were 3 height variances for these buildings.

Mr. Robertson commented that the County cannot unilaterally revert something to a different zoning category because of the Code and due process of public hearings but that it could be stated as if the RPC is voided, the County will schedule a public hearing to consider the rezoning of the property.

The Commission found that Terry Phelan spoke in support of the Application; that there seasonal rentals but few permanent rental units available; that it would be good for local workers and young families; that she also has concerns about the crossing issue between the parcels and that golf carts should not be allowed.

The Commission found that Jim Carlson spoke in opposition of the Application; that the infrastructure cannot accommodate all the development in this area and that the roads are not adequate for the traffic in the area.

The Commission found that Jane Rakowski spoke in opposition of the Application; that the traffic is already an issue and adding more units will exacerbate the problem.

The Commission found that Rick Mortimer stated that he had questions for the Applicant; that he asked if the existing Baywood residents would bear any expense to enjoy the proposed amenities.

Mr. Tunnel stated that the existing residents would be able to use the proposed Community Center and that the cost would be spread across all the lots and that there would not be a membership fee.

The Commission found that Eul Lee spoke by teleconference and stated that she had questions regarding the Application; was there a PLUS review for this Application; are four-story apartment buildings considered low-rise; and what are the rental rates. Ms. Lee also expressed concerns about the crosswalk to get to the amenities on the northern portion of the property.

Chairman Wheatley stated that the PLUS review was part of the packet posted on the website.

Mr. Robertson stated that low-rise is not defined in the County Code.

Chairman Wheatley added that there are height limitations and that is what governs the height of any building in a zoning district.

Chairman Wheatley stated that the question about rental rates is beyond the scope of the Commission; that the Commission is about Land Use.

Upon there being no further questions, Chairman Wheatley closed the public hearing.

At the conclusion of the Public Hearing, the Commission discussed the Application.

In relation to Application C/Z 1922 – Baywood, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

Mr. Whitehouse confirmed that the County Council hearing date for this Application will be June 29, 2021, at 1:30 pm in County Council Chambers and not at Del Tech.

ADDITIONAL BUSINESS

Commission discussion on potential site visits

Mr. Whitehouse stated that this item was placed on the agenda to garner if the Commission members would have an interest in visiting sites both developed and undeveloped.

Chairman Wheatley stated that this was done in the past.

Commission members discussed this, and all members agreed that it would be a good idea to put site visits on the calendar for the fall.

Commission discussion on paperless packets

Mr. Whitehouse stated that there are different ways to access the paperless packet on the County Website and demonstrated how to get to the packet through the meeting date on the Website.

Mr. Robertson thanked the staff from Del Tech and Sussex County for accommodating the meetings over the past months. The Commission members also gave their thanks.

Meeting adjourned at 8:40 p.m.

**Planning and Zoning Commission meetings can be monitored on the internet at
www.sussexcountyde.gov.**

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 29, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 29, 2021, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

Call to Order	<p>The Invocation and Pledge of Allegiance were led by Mr. Vincent.</p> <p>Mr. Vincent called the meeting to order.</p>
M 267 21 Approve Agenda	<p>A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to approve the Agenda, as posted.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea</p>
Minutes	<p>The minutes of June 15 and 22, 2021 were approved by consent.</p>
Public Comments	<p>Mr. Moore noted that correspondence was received from the Georgetown Public Library and The Home of the Brave Foundation in appreciation of grant funding.</p> <p>Public comments were heard and the following spoke:</p> <p>William Kinnick, President of the Delaware Manufactured Housing Association, reported on raw sewage in 13 manufactured home communities in the County and he asked that the County hold placement permits for these communities. Mr. Kinnick also referenced the drinking water issue in these communities.</p> <p>Mr. Vincent asked that the County hold placement permits for these communities until the problems are resolved.</p>
Report	<p>Mr. Lawson read the following information in his Administrator's Report:</p>

**Administrator's
Report**

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Outer Banks North (Construction Record) received Substantial Completion effective June 14th.

2. Holiday and Council Meeting Schedule

County offices will be closed on Monday, July 5th, for the Independence Day holiday. In addition, Council will not meet on July 6th. The next regularly scheduled Council meeting will be held on Tuesday, July 13th.

3. Joyce Watkinson

It is with sadness that we note the passing of County pensioner Joyce Watkinson on Thursday, June 24th. Mrs. Watkinson began her career with Sussex County in May 1984 and retired from the Planning & Zoning Department in January 2011. We would like to extend our condolences to the Watkinson family.

[Attachments to the Administrator's Report are not attached to the minutes.]

**Excite
Sussex
Loan/
Miller
Metal
Project**

Bill Pfaff, Economic Development Director, discussed the ExciteSussex Loan Program including the framework for the Fund and he presented a recommendation to offer a loan for the Miller Metal project in Bridgeville. The Miller Metal project is an approximate \$6 million project and the loan request to the County is for \$5 million. Per the framework of the Loan Program, the loan limit is \$1 million and for this reason, Mr. Pfaff has packaged out the loan. He reported that the Grow Delaware Fund will loan the project \$2.5 million. He recommended that the County fund \$2.5 million which is beyond the established loan amount for the ExciteSussex Loan Program;. The County's contribution into the Loan Fund is \$625,000 of the \$2.5 million; the difference of \$1,875,000 would be funded by monies granted by Discover Bank to the County for the Fund. Mr. Pfaff presented the public benefits of the Miller Metal project, including the number of employees which will total 141 (at a minimum) in Bridgeville.

**M 268 21
Approve
Loan
Package/
Excite
Sussex
Loan/
Miller
Metal**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that the Sussex County Council approves the loan package under the ExciteSussex Loan Fund for Miller Metal, Bridgeville, in an amount not to exceed \$2.5 million.

Motion Adopted: 5 Yeas.

**M 268 21
(continued)**

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**Compre-
hensive
Land Use
Plan
Annual
Report**

Jamie Whitehouse, Planning and Zoning Director, presented the annual update to the Office of State Planning and Coordination on the Comprehensive Plan. The Comprehensive Plan was completed by the County in 2018 and certified by the Governor in March 2019; this is the second annual report on year two progress (for the July 1, 2020 through June 30, 2021 review period). He noted that the County has undertaken a number of initiatives to implement the strategies within the Comprehensive Plan, the most significant of which is the Henlopen Transportation Improvement District (TID) and the Funding Accelerating Safety in Transportation (FAST) Track Program. (The full report was included in the Council packets for this meeting.)

**M 269 21
Approve
Compre-
hensive
Land Use
Plan
Annual
Report**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that the Sussex County Council approves the (*Annual Comprehensive Plan*) Report to the Governor's Advisory Council on Planning for the 2020 to 2021 period.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

**Old
Business/
CZ 1926**

Under Old Business, the Council considered Change of Zone No. 1926 filed on behalf of CP Townhomes, LLC (Canal Pointe Residential Planned Community).

The Planning and Zoning Commission held a Public Hearing on this application on April 22, 2021 at which time action was deferred. On May 13, 2021, the Commission recommended approval contingent on the following: Condition No. 15 of Change of Zone No. 1538 (Ordinance No. 1700) should be amended to state as follows:

15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the RPC. There shall be an amendment to the Canal Pointe Master Plan and a subsequent Final Site Plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps or other water-related facilities shall be permitted.

(continued) **The County Council held a Public Hearing on this application on June 15, 2021 at which time action was deferred.**

M 270 21 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend**
Amend **Condition No. 15 for Change of Zone No. 1538 (Ordinance No. 1700) by**
Condition **deleting it in its entirety and inserting the following amended Condition No.**
15/ **15, as follows:**
CZ 1926

- 15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, the RPC's Grande at Canal Pointe Maintenance Corp. shall be permitted to have only one (1) dock for the use of its residents, subject to the following requirements:**
 - a. This dock shall only be utilized for kayaks, canoes and paddleboards or similar non-motorized vessels.**
 - b. No motorized boats of any kind or other similar types of marine equipment shall be stored, launched, docked or otherwise permitted along the dock or landward of it within the park property.**
 - c. No storage of kayaks, paddleboards, boats or any other marine equipment shall be permitted along the dock or landward of it within the park property.**
 - d. No storage facilities or other structures or improvements shall be located along the dock or landward of it within the park property.**
 - e. No bathrooms, running water, electricity/lighting or parking shall be located along the dock or landward of it within the park property.**
 - f. The permitted dock shall be configured for kayak and canoe launch with one slip which shall extend no farther into the canal than 18 feet from the mean highwater mark and which shall be no larger than the following combined specifications:**
 - i. A ramp measuring 6 feet in width by 8 feet in length which runs to and connects with a fixed pier.**
 - ii. A fixed pier measuring 6 feet in width by 16 feet in length which is connected to the ramp and runs to a floating kayak slip dock to be located in the canal.**
 - iii. A floating kayak slip dock connected such that it is perpendicular to the fixed pier in the shape of a square bracket measuring 8 feet in length into the canal with two parallel sides perpendicular to the fixed pier, each measuring 12 feet in length.**
 - g. The permitted dock shall be secured via gated fencing (with a fob pass) to prevent members of the public from accessing it.**
 - h. No other piers, docks, boat ramps or other water-related facilities shall be permitted.**
 - i. There shall be an amendment to the Canal Pointe Master Plan and a subsequent Final Site Plan showing the dock and its points of access from the RPC.**

**M 270 21
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 271 21
Adopt
Ordinance
No. 2786/
CZ 1926**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to Adopt Ordinance No. 2786 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CZ 1538 (ORDINANCE 1700) IN RELATION TO PIERS, DOCKS, BOAT RAMPS AND OTHER WATER RELATED RECREATIONAL FACILITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1926) filed on behalf of CP Townhomes, LLC (Canal Pointe Residential Planned Community), with the following amended Condition No. 15 as follows:

- 15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, the RPC’s Grande at Canal Pointe Maintenance Corp. shall be permitted to have only one (1) dock for the use of its residents, subject to the following requirements:**
 - a. This dock shall only be utilized for kayaks, canoes and paddleboards or similar non-motorized vessels.**
 - b. No motorized boats of any kind or other similar types of marine equipment shall be stored, launched, docked or otherwise permitted along the dock or landward of it within the park property.**
 - c. No storage of kayaks, paddleboards, boats or any other marine equipment shall be permitted along the dock or landward of it within the park property.**
 - d. No storage facilities or other structures or improvements shall be located along the dock or landward of it within the park property.**
 - e. No bathrooms, running water, electricity/lighting or parking shall be located along the dock or landward of it within the park property.**
 - f. The permitted dock shall be configured for kayak and canoe launch with one slip which shall extend no farther into the canal than 18 feet from the mean highwater mark and which shall be no larger than the following combined specifications:**
 - i. A ramp measuring 6 feet in width by 8 feet in length which runs to and connects with a fixed pier.**

**M 271 21
Adopt
Ordinance
No. 2786/
CZ 1926
(continued)**

- ii. A fixed pier measuring 6 feet in width by 16 feet in length which is connected to the ramp and runs to a floating kayak slip dock to be located in the canal.
- iii. A floating kayak slip dock connected such that it is perpendicular to the fixed pier in the shape of a square bracket measuring 8 feet in length into the canal with two parallel sides perpendicular to the fixed pier, each measuring 12 feet in length.
- g. The permitted dock shall be secured via gated fencing (with a fob pass) to prevent members of the public from accessing it.
- h. No other piers, docks, boat ramps or other water-related facilities shall be permitted.
- i. There shall be an amendment to the Canal Pointe Master Plan and a subsequent Final Site Plan showing the dock and its points of access from the RPC.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

Mrs. Jennings presented grant requests for the Council's consideration.

**M 272 21
Council-
manic
Grant**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to give \$12,913 (\$8,913 from Mr. Schaeffer's Councilmanic Grant Account, \$1,500 from Mrs. Green's Councilmanic Grant Account and \$2,500 from Mr. Rieley's Councilmanic Grant Account) to the Town of Ellendale for park playground renovations.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 273 21
Council-
manic
Grant**

*** A Motion was made by Mrs. Green, seconded by Mr. Rieley, to give \$5,000 ~~\$2,500~~ from Mrs. Green's Councilmanic Grant Account to Little League Baseball, Inc. for Woodbridge Little League field upgrades.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
7-Eleven
Bridgeville**

A Public Hearing was held on the Proposed 7-Eleven Bridgeville Expansion of the Sussex County Unified Sanitary Sewer District (Western Sussex Area). John Ashman, Director of Utility Planning & Design, reported that

**Extension
Public
Hearing/
7-Eleven
Bridgeville
Extension
(continued)**

the proposed expansion will include several parcels in the Bridgeville Expansion Area. The Engineering Department received a request from Becker Morgan Group on behalf of their client, PTV 1081, LLC, the owners/developers of a project known as 7-Eleven Bridgeville for Parcel Nos. 131-19.00-7.00 and 8.02. The project is for a proposed convenience store and service station. The project will be responsible for system connection charges in place at the time of connection.

There were no public comments.

The Public Hearing and public record were closed.

**M 274 21
Adopt
R 012 21**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Resolution No. R 012 21 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE PARCELS 131-19-7.00 & 8.02 ON THE WEST SIDE OF SUSSEX HIGHWAY; THE PARCELS ARE LOCATED IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, DELAWARE, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR SUSSEX COUNTY, DELAWARE" (7-ELEVEN BRIDGEVILLE).

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
Peninsula
Square
Extension**

A Public Hearing was held on the Proposed Peninsula Square Expansion of the Sussex County Unified Sanitary Sewer District. John Ashman, Director of Utility Planning & Design, reported that the Engineering Department received a request from Duffield Associates, LLC on behalf of their client, Four Diamonds Development & Consulting, LLC, the owners/developers of a project known as Peninsula Square on Parcel No. 234-23.00-115.00. The project is for a proposed hotel, gas station, retail and office space. The project will be responsible for system connection charges in place at the time of connection.

There were no public comments.

The Public Hearing and public record were closed.

**M 275 21
Adopt
R 013 21**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 013 21 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) TO INCLUDE PARCEL 234-23.00-115.00 ON THE NORTH SIDE OF JOHN J. WILLIAMS HIGHWAY (ROUTE 24); THE PARCEL IS LOCATED IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE

M 275 21 **RECORDER OF DEEDS IN AND FOR SUSSEX COUNTY,**
(continued) **DELAWARE” (PENINSULA SQUARE).**

Motion Adopted: **4 Yeas, 1 Abstention.**

Vote by Roll Call: **Mrs. Green, Yea; Mr. Schaeffer, Abstained;**
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

Public
Hearing/
Cardinal
Grove
Extension

A Public Hearing was held on the Proposed Cardinal Grove Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). John Ashman, Director of Utility Planning and Design, reported that the Engineering Department received a request from Solutions IPEM on behalf of their client, 18898 Beaver Dam Road, LLC, the owners/developers of a project known as Cardinal Grove on Parcel No. 234-2.00-1.10. The project is proposed for 98 units. The expansion would also include Parcel 234-2.00-25.01 as requested by the parcel owner, Linda D. Beebe. The project will be responsible for system connection charges in place at the time of connection.

M 276 21 A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt
Adopt Resolution No. R 014 21 entitled “A RESOLUTION TO EXTEND THE
R 014 21 BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER
DISTRICT (SCUSSD) TO INCLUDE PARCELS 234-2.00-1.10 & 25.01 ON
THE BOTH SIDES OF BEAVER DAM ROAD; THE PARCELS ARE
LOCATED IN INDIAN RIVER HUNDRED, SUSSEX COUNTY,
DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER
OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”
(CARDINAL GROVE).

Motion Adopted: **5 Yeas.**

Vote by Roll Call: **Mrs. Green, Yea; Mr. Schaeffer, Yea;**
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

Grant
Requests

Mrs. Jennings presented additional grant requests for Council’s consideration.

M 277 21 A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$6,500
Council- (\$4,300 from Mr. Hudson’s Councilmanic Grant Account and \$2,200 from
manic Mr. Rieley’s Councilmanic Grant Account) to the Nanticoke Indian
Grant Association, Inc. for the Annual Nanticoke Indian PowWow and Cultural
Awareness Program.

Motion Adopted: **5 Yeas.**

M 277 21
(continued)

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 278 21
Council-
manic
Grant

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$2,000.00 (\$1,000 each from Mr. Hudson's and Mr. Rieley's Councilmanic Grant Accounts) to the Indian River School District for the Indian River Baseball Boosters for batting cage renovations.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 279 21
Council-
manic
Grant

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$4,000 from Mr. Vincent's Councilmanic Grant Account to the Town of Laurel for Library and Town Hall renovations.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 280 21
Council-
manic
Grant

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$4,000 from Mr. Vincent's Councilmanic Grant Account to the Town of Bridgeville for Town Hall renovations.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

M 281 21
Council-
manic
Grant

A Motion was made by Mrs. Green, seconded by Mr. Hudson, to give \$5,000 from Mrs. Green's Councilmanic Grant Account to the Town of Greenwood for playground renovations.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

M 282 21
Council-
manic
Grant

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$4,000 from Mr. Vincent's Councilmanic Grant Account to the Sussex Montessori School, Inc. for repairs and construction costs.

**M 282 21
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 283 21
Countywide
Youth
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$3,600 from Countywide Youth Grants to the Harry K. Foundation for the Halt Child Hunger Initiative.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 284 21
Countywide
Youth
Grant**

A Motion was made by Mr. Hudson to give \$1,500 from Countywide Youth Grants to the Girl Scouts of the Chesapeake Bay Council, Inc. for girl scouting for Latina girls.

Mr. Vincent handed the gavel over to Mr. Rieley.

Mr. Vincent seconded the Motion.

Mr. Rieley handed the gavel over to Mr. Vincent.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 285 21
Countywide
Youth
Grant/
Council-
manic
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$6,900 (\$3,900 from Countywide Youth Grants, \$2,000 from Mr. Rieley's Councilmanic Grant Account, and \$1,000 from Mr. Hudson's Councilmanic Grant Account) to the Make-A-Wish Foundation of Philadelphia, Delaware & Susquehanna Valley for wishes for children with critical illnesses.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 286 21
Go Into
Executive
Session**

At 10:47 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending litigation, land acquisition, personnel and job applicants' qualifications.

- M 286 21**
(continued)
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea
- Executive Session**
- At 11:00 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to pending litigation, land acquisition, personnel and job applicants' qualifications. The Executive Session concluded at 11:54 a.m.
- M 287 21**
Reconvene
Regular
Session
- At 11:56 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to come out of Executive Session and to reconvene the Regular Session.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Absent;
Mr. Vincent, Yea
- E/S Action**
- There was no action on Executive Session matters.
- M 288 21**
Recess
- At 11:56 a.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to recess until 1:30 p.m.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Absent;
Mr. Vincent, Yea
- M 289 21**
Reconvene
- At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to reconvene.
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea
- Rules**
- Mr. Moore read the rules of procedure for zoning hearings.
- Public Hearing/
CZ 1942**
- A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN

**Public
Hearing/
CZ 1942
(continued)**

PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 64.32 ACRES, MORE OR LESS” (Change of Zone No. 1942) filed on behalf of Bay Developers, LLC (Twin Cedars, LLC) (Tax I.D. No. 533-11.00-42.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on May 13, 2021 at which time action was deferred. On June 10, 2021, the Commission recommended approval with the following conditions:

- a. There shall be no more than 254 dwelling units consisting of 168 apartments, 44 townhomes and 42 single family units.**
- b. A homeowners association shall be formed to provide for the perpetual maintenance, repair and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- c. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
- d. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- e. The RPC shall be served by central water for drinking water and for protection.**
- f. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.**
- g. Interior street design shall meet or exceed Sussex County’s street design requirements. There shall also be street lighting and sidewalks on both sides of the streets within the RPC.**
- h. The development shall be served by its own on-site amenities including a clubhouse, pool, walking paths along the wooded open space and a tot-lot. All amenities shall be completed and open for use prior to the issuance of a building permit for the 100th unit on the site or the building containing the 100th unit on the site.**
- i. A 20-foot wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the “Limit of Disturbance” to prevent disturbance of the buffer area.**
- j. If requested by the local school district, a school bus stop shall be provided by the entrance to the development, with the location and any related parking to be approved by the school district’s transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.**

**Public
Hearing/
CZ 1942
(continued)**

- k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- l. 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.**
- m. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all “Limits of Disturbance” within the site. This landscape plan shall also provide enhanced screening and landscape berms along the front entrance as well as the sides of the property (excluding the rear open space), as presented during the Public Hearing and described at Pages 15, 16 and 17 of the Applicant’s project notebook.**
- n. The Final Site Plan shall include a grading plan that shall be submitted to County staff for review and approval.**
- o. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. A 24 inch by 36 inch “NOTICE” sign, in English and Spanish, confirming these hours shall be prominently displayed at all entrances to the site during construction.**
- p. The Final Site Plan and the recorded governing documents for this development shall include the Agricultural Use Preservation Notice. These documents shall also include similar notices that there is a camping/RV park adjacent to the site and that hunting activities occur in the vicinity of this site.**
- q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated May 13 and June 10, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that David Hutt, Attorney, was present on behalf of the Applicant along with Henry Mast, Principal of Bay Developers, LLC; Phil Tolliver of Morris & Ritchie Associates; Greg Sauter of Geo-Technology Associates; and Joe Caloggero of The Traffic Group. They provided a history of the project and stated that this application is for the redesign of a previously approved RPC and commercial project; that, previously, the Council approved a RPC and a commercial project for this parcel of land (Change of Zone Nos. 1668 and 1669) and that the project was not built and the RPC designation lapsed; that a new application was filed under Change of Zone No. 1909 but because the CR-1 portion of the property was not shown on the Zoning Map, the application was terminated which allowed the County to update the Zoning Map and allowed the Applicant to submit a new application; that the current application is exactly the same as the terminated application Change of Zone No. 1909 except that the new application references the 5.79 acres of CR-1 zoning on the property; that the property consists of 65.32 acres situated along Zion Church Road; that the property is

**Public
Hearing/
CZ 1942
(continued)**

presently unimproved; that there are other residential communities in the area as well as commercial uses and zonings; that the majority of the zoning on Zion Church Road is GR and MR with some C-1; that this application seeks to rezone the entire property to GR with a RPC overlay; that the Application proposes to leave most of the forested area undisturbed and designate it as open space (20.5 acres to remain forested); that the design allows for all the residential areas to be clustered so that each lot would back up to open space or amenities; that the entrance to this community would be off of Zion Church Road; that 254 units are being proposed comprising of 168 apartments within 7 buildings, 44 townhomes across 11 buildings and 42 single-family lots; that the gross density would be 4.31 units per acre; that the property is located within the Growth Area according to the Comprehensive Plan; that this project is located in the Investment Level 3 Area according to the Strategies for State Policies and Spending; that where an existing buffer does not exist, the Developer will install a landscaped buffer; that sidewalks will be installed on both sides of the street; that the proposed amenities include a pool, patio area, clubhouse, tot lot area and a walking trail; that County Code requires 508 parking spaces and they are planning 563 spaces; that there will be a Property Owners Association created to manage and govern the common areas with the community; that DelDOT required a Traffic Impact Study (TIS) which has been completed; that the DelDOT TIS review letter contained three requirements including entrance requirements and a contribution by the Developer for a traffic signal on Zion Church Road; that with this project design, there will be more separation between this project and the RV park and any hunting/shooting activities; that the proposed project provides other housing options in the area, all within the same unified project, and is a superior design when compared to the application made in 2010; that there are no regulated wetlands on the site; that there are predominant wet areas and, therefore, the Applicant plans to stay out of the rear area which will remain wooded; that they have met with DNREC regarding the tax ditch right-of-way; that the application is in compliance with the Comprehensive Plan and the Zoning Code; that they are requesting that Condition M recommended by the Planning and Zoning Commission be modified; that the Planning and Zoning Commission liked the proposed berm which varies in height and moves in and out along the property frontage and the Commission asked that it be extended down the sides of the property; that while it is possible to incorporate this along the frontage on Zion Church Road, there are some drainage ditches that exist along the perimeter of the property that would be difficult to integrate into that enhanced landscaping berming; that the proposed Condition M is in conflict with Condition I and that they propose Condition M to be amended to read as follows: The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas and the forested areas that will be preserved. The landscape plan shall also identify all "Limits of Disturbance" within the site. This landscape plan shall also provide enhanced screening and landscape berms along the property frontage along Zion Church Road (Route 20), as presented during the Public Hearing, and as described in Pages 15, 16, and 17 of the Applicant's project notebook.

(continued) **There were no public comments.**

M 290 21 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to defer action**
Defer **on Change of Zone No. 1942 filed on behalf of Bay Developers, LLC (Twin**
Action on **Cedars, LLC).**

CZ 1942

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**
CZ 1922 **SUSSEX COUNTY FROM A B-1 (NEIGHBORHOOD BUSINESS**
 DISTRICT), C-1 (GENERAL COMMERCIAL DISTRICT) AND CR-1
 (COMMERCIAL RESIDENTIAL DISTRICT) TO A HR-RPC HIGH
 DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED
 COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND
 BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY,
 CONTAINING 54.38 ACRES, MORE OR LESS” (Change of Zone No.
 1922) filed on behalf of Baywood, LLC (Tax I.D. No. 234-23.00-270.00,
 273.01, 273.02, 273.03, & 273.05) (911 Address: 32147 Long Neck Road,
 Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on May 13, 2021 at which time action was deferred. On May 22, 2021, the Commission recommended approval with the following conditions:

- A. The maximum number of residential units shall be 514.**
- B. All entrances, intersections, roadway and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- C. The project shall be served by central sewer through the Inland Bays Preservation Company and Sussex County. The Developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by central water to provide drinking water and fire protection.**
- E. Interior street design shall meet or exceed the Sussex County street design requirements.**
- F. Construction, material deliveries and site work shall only occur on the property between 7:30 a.m. and 7:00 p.m. Monday through Friday. No Saturday or Sunday hours shall be permitted. A 24 inch by 36 inch “NOTICE” sign confirming these hours shall be prominently displayed at all entrances to the site during construction.**
- G. Street naming and addressing shall be subject to the review and**

**Public
Hearing/
CZ 1922
(continued)**

- approval of the Sussex County Mapping and Addressing Department.
- H. 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.**
 - I. 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.**
 - J. The Applicant shall coordinate with the Indian River School District to establish a school bus stop area which shall be shown on the Final Site Plan if required by the District.**
 - K. The Central Recreational Complex, including the community clubhouse, indoor and outdoor swimming pools, shall be completed prior to the issuance of the Certificate of Occupancy for the 161st multi-family unit.**
 - L. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
 - M. Lighted signs shall be permitted at each of the four entrances to the development. Those signs shall not exceed 32 square feet in size per side.**
 - N. As proffered by the Applicant, this HR-RPC rezoning was sought for the specific purpose of development of a 514-unit multi-family development depicted on the site plan submitted with this application. In the event the RPC is not developed and is declared null and void pursuant to Section 99-9B or 99-40A of the Sussex County Code, then Sussex County may initiate the rezoning process and schedule public hearings to consider whether to revert this land (currently Tax Map Parcel 2-34-23.00-270.00, 273.01, 273.02, 270.03 and 270.05) back to the zoning classification of the land in existence immediately prior to this HR-RPC rezoning.**
 - O. The Developer shall coordinate with DelDOT for safe and clearly marked pedestrian crossings at the intersection of Long Neck Road and School Lane for the two sections of this development. The Developer shall clearly indicate the means of safe crossing on the Final Site Plan and no apartments shall be constructed on the south side of Long Neck Road until those safety measures are installed.**
 - P. This recommendation is contingent upon an amendment to the Future Land Use Map in the Sussex County Comprehensive Plan revising the designation of a portion of the property from "Commercial Area" to the "Coastal Area" which otherwise surrounds it.**
 - Q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated May 13 and 22, 2021.)

Jamie Whitehouse, Planning and Zoning Director, presented the application and reported that 20 letters have been received in opposition to the application.

**Public
Hearing/
CZ 1922
(continued)**

Jim Fuqua, Attorney, and Robert Tunnell III were present on behalf of the Applicant with Betty Tustin of The Traffic Group, and Jason Palkewicz of Solutions IPEM. Mr. Fuqua reported that the application is to rezone a 54.38 acre parcel of land on both the north and south sides of Long Neck Road to a High Density Residential District (HR) with a Residential Planned Community (RPC) overlay; that the proposed use is a 514 unit multi-family rental/apartment community (Baywood Gardens); that the parcel on the north side of Long Neck Road contains 38.17 acres; that the parcel on the south side of Long Neck Road contains 16.21 acres; that 354 units would be on the north side and 160 units would be on the south side; that HR zoning permits a maximum density of 12 units per acre and the 514 units proposed would result in a density of 9.45 units per acre; and that no commercial uses or buildings are proposed.

Mr. Fuqua reviewed other uses in the area and the history of the Tunnell family's developments in the Long Neck Area over the past 60 years. He stated that a similar application (planned and approved) was filed by the Tunnell's in 2010; however, the development did not proceed due to the recession; that this application addresses a much needed housing type which is rental housing; that the properties are located in Investment Level Areas 1 and 2 according to the Strategies for State Policies and Spending; that this project will be a more affordable alternative to home ownership, providing more affordable housing to workers in eastern Sussex County; that the property is located in the Commercial Area and the Coastal Area according to the Comprehensive Plan, which are both Growth Areas; that the Applicant has requested that the Future Land Use Map be amended to designate all of the Applicant's land to the Coastal Area; that the project would be served by central water and sewer; that stormwater management facilities will be designed and constructed in accordance with DNREC's sediment and stormwater regulations; that there are no State regulated or tidal wetlands on the site; that DelDOT required a Traffic Impact Study (TIS) and there were two studies completed, one for the north parcel and one for the south parcel; that in accordance with the TIS, the Applicant will be required to make certain roadway and traffic signal improvements and to dedicate a permanent easement along the site frontage for a shared path; that the entrance to the northern portion of the site will be on Long Neck Road across from Bayshore Drive with a secondary entrance from Greens Way; that the entrance to the southern portion of the site will be on Long Neck Road directly across from Greens Way with a secondary entrance from School Lane; that the north parcel will contain 354 units located in nine four-story buildings, eight buildings will contain 40 units each and one building will have 34 units; that the south parcel will contain 160 units located in four four-story buildings containing 40 units each; that there will be 210 two-bedroom units and 304 three-bedroom units; that the gross density would be 9.45 units per acre and the net RPC density would be 9.94 units per acre with approximately 27.5 acres of open space which is 51 % of the development; that the recreational facilities will be on the north parcel and will include a clubhouse, outdoor pavilion, indoor and outdoor pools, playground, pickleball and bocce courts, etc.; that the south parcel

**Public
Hearing/
CZ 1922
(continued)**

will have two open space gathering areas with playgrounds; that 602 parking spaces are required per County Code for the north parcel and 791 spaces will be provided; that 287 parking spaces are required per County Code for the south parcel and 320 are provided; that there will be an interior sidewalk system connecting to the shared use path on both the northern and southern portions of the development; that buffers and privacy fencing will be provided; that there is a signalized crosswalk on Long Neck Road at the intersection with Banks Road and School Lane which will allow pedestrians to cross safely between the north and south parcels; that the application will be in character with the area; and that the application is consistent with the Comprehensive Plan and the Zoning Code.

Mr. Fuqua noted that the Applicant voluntarily offered Condition N that if the approved RPC is voided for any reason listed in the Code, the underlying HR-1 zoning would revert back to the zoning in place on the date of approval.

Mr. Fuqua presented a request for a modification of Condition F regarding construction hours. He stated that the Applicant has no objection, in general, to Condition F except for one point: the Condition prohibits any Saturday construction hours. The Applicant is requesting that Condition F be modified so that the prohibition on Saturday hours would only be in effect from May 15 to September 15th (and could be limited to 8:00 a.m. to 5:00 p.m.).

Mr. Fuqua commented on some of the letters in the record relating to traffic, and fire and police needs. He stated that, based on the road and intersection improvements that DelDOT is requiring of the Applicant per the two Traffic Impact Studies, the Development's impact will be mitigated and the long term traffic function in the area will ultimately be improved once the improvements are completed.

Mr. Fuqua stated that the Tunnell Companies has its own safety division and they will be responding to a lot of the lesser involved issues instead of the State Police. He also noted a letter in the record from the Indian River Fire Company thanking the Tunnell Companies for their pledge of \$150,000 toward the purchase of equipment, which is ideally suited for situations involving multi-story condominium and apartment buildings.

Council questioned if there would be a sidewalk between Banks Road and Greens Way, referenced the proposal to widen the current pathway to 10 feet which would be made a part of the multi-modal pathway, and questioned if this should be included in the proposed conditions. Council also commented on traffic burden, adequate Level of Service, the cumulative effect of traffic, the schedule for the four-lane road development, and the need for a municipal police force in the area.

**Public
Hearing/
CZ 1922
(continued)**

In response to questions, the Applicant's representatives stated that this project will result in approximately 2,800 daily trips (which is spread out through the day); and that it is not peak hour traffic. Additionally, DelDOT has a significant number of projects on Route 24, mostly to the east; however, these projects will have a ripple effect and will improve traffic flow in this project area also.

Mr. Rieley requested a copy of the traffic schematic.

Public comments were heard.

There were no public comments in support of the application.

Paul Greenblath spoke in opposition to the proposed project and expressed concern about the additional number of vehicles this project will bring to the area; that traffic in Long Neck is already a bottleneck; that if they build 540 apartments, there will be 2,000 more cars; that the number of accidents will increase; that the area is over-crowded now; and that the County needs to put the brakes on development.

John Dill (representing the Bayshore Townhomes/Condo Owners Association) stated that he was not speaking in favor of nor against the application. He questioned what is actually going to happen at the intersection across from Bayshore Drive and Baywood Gardens – is it just going to be an intersection or will there be a traffic signal there; that they question how vehicles will enter and exit Bayshore Drive; that there is concern about vehicles taking a shortcut through their development; that children's safety is a concern; that he questions if there will be sidewalks on their side of the road to go to Beebe Medical Center; and he questions how the project will affect stormwater management in Bayshore.

Jean Bartlett (representing the Bayshore Condo Association) questioned the impact the apartment buildings will have on the schools and stated that she does not think the area will support 500 more people; that there are not enough jobs for the additional people; that she questions what the 20 foot buffers will look like between Bayshore and the Baywood Gardens apartment buildings that are proposed; and that they do not want construction to take place on Saturdays or Sundays, not even in the winter.

Joyce Jason stated that changing the zoning will set a precedent; that no additional development is needed; that emergency response is a concern; that traffic is a bottleneck; that there is a lengthy line-up of school traffic on School Street to Long Neck Road; that a State Police sub-station is needed in the area; that speed limits need to be enforced; and that more streetlights are needed in the area.

Eul Lee stated that there are no plans for DelDOT to dualize up to Love Creek Bridge on Route 24 until the Year 2045, so she does not know if DelDOT plans to dualize up to the location of the proposed project. Ms.

**Public
Hearing/
CZ 1922
(continued)**

Lee questioned the location of the amenities in the proposed project being located all on one side and she stated that the residents of the southern site would have to walk a total of .4 miles including crossing the road; that the area does not have affordable options and she questions what the rental rates will be for this project. Ms. Lee stated that she questions if Route 24 can handle the additional 2,800 daily trips generated by the Baywood Gardens project and asked Council to look at the cumulative impacts on the area.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 291 21
Defer
Action on
CZ 1922**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to defer action on Change of Zone No. 1922 filed on behalf of Baywood, LLC.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 292 21
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to adjourn at 3:49 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

{An audio recording of this meeting is available on the County's website.}

File #: C21946

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph, 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use ☐

Zoning Map Amendment ☒

Site Address of Conditional Use/Zoning Map Amendment

Limerick Drive, The Grande at Canal Point Maintenance Corporation

Type of Conditional Use Requested:

Amendment to Condition #15 of Ordinance 1700 C/Z 1538 recently amended by C/Z 1926, Ordinance #
See attached correspondence.

Tax Map #: 234-13.00-1745.00

Size of Parcel(s): 180.60

Current Zoning: MR/RPC

Proposed Zoning: MR/RPC

Size of Building: N/A

Land Use Classification: Coastal

Water Provider: Fidewater

Sewer Provider: Sussex County

Applicant Information

Applicant Name: The Grande at Canal Point Maintenance Corporation

Applicant Address: P.O. Box 594 PO Box 1418

City: Bethany Beach Rehoboth Beach State: DE Zip Code: 19803-19971

Phone #: (703) 887-8703

E-mail: MelissaGCP@comcast.net

Owner Information

Owner Name: Same

Owner Address: _____

City: _____ State: _____ Zip Code: _____

Phone #: _____ E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Tim Willard

Agent/Attorney/Engineer Address: 26 The Circle

City: Georgetown State: DE Zip Code: 19947

Phone #: (302) 856-7777

E-mail: tim@fwsslaw.com



Check List for Sussex County Planning & Zoning Applications

The following shall be submitted with the application

☒ Completed Application

☐ Provide eight (8) copies of the Site Plan or Survey of the property

- o Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
- o Provide a PDF of Plans (may be e-mailed to a staff member)
- o Deed or Legal description

☒ Provide Fee \$500.00

☒ Optional - Additional Information for the Commission/Council to consider (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

☒ Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.

☐ DelDOT Service Level Evaluation Request Response

☐ PLUS Response Letter (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney

_____ Date: _____

Signature of Owner

Michael J. Board President Date: 7/20/21

For office use only:

Date Submitted: _____

Fee: \$500.00 Check #: _____

Staff accepting application: _____

Application & Case #: _____

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____

File #: CZ 1948
202110897

Planning & Zoning Commission Application Sussex County, Delaware

Sussex County Planning & Zoning Department
2 The Circle (P.O. Box 417) Georgetown, DE 19947
302-855-7878 ph. 302-854-5079 fax

Type of Application: (please check applicable)

Conditional Use ☐

Zoning Map Amendment ☒

Site Address of Conditional Use/Zoning Map Amendment

Limerick Drive, The Grande at Canal Point Maintenance Corporation

Type of Conditional Use Requested:

Amendment to Condition #15 of Ordinance 1700 C/Z 1538 recently amended by C/Z 1926, Ordinance #
See attached correspondence.

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Land Use Classification: Coastal

Water Provider: Tidewater

Sewer Provider: Sussex County

Applicant Information

Applicant Name: The Grande at Canal Point Maintenance Corporation

Applicant Address: P.O. Box 594

City: Bethany Beach

State: DE

Zip Code: 19803

Phone #: (703) 887-8703

E-mail: MelissaGCP@comcast.net

Owner Information

Owner Name: Same

Owner Address: _____

City: _____

State: _____

Zip Code: _____

Phone #: _____

E-mail: _____

Agent/Attorney/Engineer Information

Agent/Attorney/Engineer Name: Tim Willard

Agent/Attorney/Engineer Address: 26 The Circle

City: Georgetown

State: DE

Zip Code: 19947

Phone #: (302) 856-7777

E-mail: tim@fwsslaw.com



Check List for Sussex County Planning & Zoning Applications

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☒ **Completed Application**

☐ **Provide eight (8) copies of the Site Plan or Survey of the property**

- ☐ Survey shall show the location of existing or proposed building(s), building setbacks, parking area, proposed entrance location, etc.
- ☐ Provide a PDF of Plans (may be e-mailed to a staff member)
- ☐ Deed or Legal description

☒ **Provide Fee \$500.00**

☒ **Optional - Additional information for the Commission/Council to consider** (ex. architectural elevations, photos, exhibit books, etc.) If provided submit 8 copies and they shall be submitted a minimum of ten (10) days prior to the Planning Commission meeting.

☒ **Please be aware that Public Notice will be sent to property owners within 200 feet of the subject site and County staff will come out to the subject site, take photos and place a sign on the site stating the date and time of the Public Hearings for the application.**

☐ **DeIDOT Service Level Evaluation Request Response**

☐ **PLUS Response Letter** (if required)

The undersigned hereby certifies that the forms, exhibits, and statements contained in any papers or plans submitted as a part of this application are true and correct.

I also certify that I or an agent on my behalf shall attend all public hearing before the Planning and Zoning Commission and the Sussex County Council and any other hearing necessary for this application and that I will answer any questions to the best of my ability to respond to the present and future needs, the health, safety, morals, convenience, order, prosperity, and general welfare of the inhabitants of Sussex County, Delaware.

Signature of Applicant/Agent/Attorney

Tim Willard

Date: 7-20-21

Signature of Owner

TRP

Date: _____

For office use only:

Date Submitted: _____

Fee: \$500.00 Check #: _____

Staff accepting application: _____

Application & Case #: _____

Location of property: _____

Subdivision: _____

Date of PC Hearing: _____

Recommendation of PC Commission: _____

Date of CC Hearing: _____

Decision of CC: _____

**SUSSEX COUNTY ENGINEERING DEPARTMENT
UTILITY PLANNING & DESIGN REVIEW DIVISION
C/U & C/Z COMMENTS**

TO: **Jamie Whitehouse**

REVIEWER: **Chris Calio**

DATE: **11/23/2021**

APPLICATION: **CZ 1948 The Grande at Canal Point Maintenance Operations Corp.**

APPLICANT: **The Grande at Canal Point Maintenance Operations Corp.**

FILE NO: **OM-9.04**

TAX MAP &
PARCEL(S): **334-13.00-334.00 & 1448.00 through 1750.00**

LOCATION: **Lying on the east side of Hebron Road, approximately 0.19 mile south of the intersection of Hebron Road and Holland Glade Road (SCR 271)**

NO. OF UNITS: Click or tap here to enter text.

GROSS
ACREAGE: **180.60**

SYSTEM DESIGN ASSUMPTION, MAXIMUM NO. OF UNITS/ACRE: **4**

SEWER:

- (1). Is the project in a County operated and maintained sanitary sewer and/or water district?
Yes ☒ No ☐
- a. If yes, see question (2).
b. If no, see question (7).
- (2). Which County Tier Area is project in? **Tier 1**
- (3). Is wastewater capacity available for the project? **N/A** If not, what capacity is available? **N/A**.
- (4). Is a Construction Agreement required? **No** If yes, contact Utility Engineering at (302) 855-7717.
- (5). Are there any System Connection Charge (SCC) credits for the project? **No** If yes, how many? **N/A**. Is it likely that additional SCCs will be required? **No**

If yes, the current System Connection Charge Rate is **Unified \$6,600.00** per EDU. Please contact **Christine Fletcher** at **302-855-7719** for additional information on charges.

- (6). Is the project capable of being annexed into a Sussex County sanitary sewer district? **N/A**

☐ Attached is a copy of the Policy for Extending District Boundaries in a Sussex County Water and/or Sanitary Sewer District.

- (7). Is project adjacent to the Unified Sewer District? **N/A**


- (8). Comments: **Petitioned for relief from Condition F. Want to change to allow an electric gate.**

- (9). Is a Sewer System Concept Evaluation required? **Not at this time**

- (10). Is a Use of Existing Infrastructure Agreement Required? **Not at this time**

- (11). **All residential roads must meet or exceed Sussex County minimum design standards.**

UTILITY PLANNING & DESIGN REVIEW APPROVAL:



John J. Ashman
Sr. Manager of Utility Planning & Design Review

Xc: Hans M. Medlarz, P.E.
Lisa Walls
Christine Fletcher

File

FUQUA, WILLARD, STEVENS & SCHAB, P.A.

PAYNTER HOUSE ☒

26 THE CIRCLE OR P.O. BOX 250
GEORGETOWN, DELAWARE 19947
PHONE 302-856-7777
FAX 302-856-2128
onthecircle@fwsslaw.com

REHOBOTH OFFICE ☐

20245 BAY VISTA ROAD, UNIT 203
REHOBOTH BEACH, DE 19971
PHONE 302-227-7727
FAX 302-227-2226

JAMES A. FUQUA, JR.

WILLIAM SCHAB

TIMOTHY G. WILLARD

TASHA MARIE STEVENS

NORMAN C. BARNETT

www.fwsslaw.com

HART HOUSE ☐

9 CHESTNUT STREET
GEORGETOWN, DELAWARE 19947
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realestate@fwsslaw.com

LEWES REAL ESTATE OFFICE ☐

16698 KINGS HIGHWAY, SUITE B
LEWES, DELAWARE 19958
PHONE 302-645-6626
FAX 302-645-6620
realestate@fwsslaw.com

July 7, 2021

Emailed and Hand Delivered

Michael H. Vincent, President
Sussex County Council
2 The Circle
Georgetown, DE 19947

**RE: Change of Zone 1926-CP
Application for Reconsideration**

Dear President Vincent & County Council:

Please accept this letter as the applicant's request for reconsideration of Council's June 29th, 2021 approval conditions amending Condition 15 in Ordinance No. 1700. The reasons for this request for reconsideration are as follows:

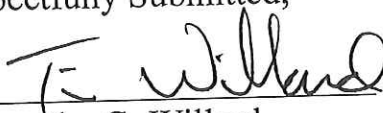
Specifically, condition (f) includes specific dimensions for the dock construction. As the record indicates, DNREC and the Corps of Engineers have jurisdiction in permitting the design, construction and location of such docks. The parameters that the Council has imposed apparently will not be acceptable with these agencies. Please find attached a letter from Ed Launay explaining the conflict and offering a clarification. Attached are tracked conditions which should satisfy this issue for your consideration. It includes deleting the no electricity condition just in order to have a operating fob gate.

While the applicant understands the Council's effort's to address some comments made at the hearing, the scope of these conditions appear to exceed their scope of review and would defeat the intent of their approval, to allow a legally approved and safe launch site.

Page 2
July 7, 2021

Therefore the applicant respectfully asks for reconsideration of these specific conditions.

Respectfully Submitted,

By 
Timothy G. Willard

Attachments

Pc: Everett Moore, County Attorney
Todd Lawson, County Administrator
Jamie Whitehouse, Planning Director
John Paradee, Esq.
Canal Point HOA

July 7, 2021

ERI Project No. 1012#1126

Michael H. Vincent, President
Sussex County Council
2 The Circle
Georgetown, DE 19947

**RE: Change of Zone 1926-CP
Application for Reconsideration**

Dear President Vincent & County Council,

I have been asked by the applicant and their counsel, Mr. Timothy Willard, Esquire to provide a letter discussing conditions f) through f)iii as detailed in the Council's June 29th, 2021 approval to amend Condition 15 in Ordinance No. 1700. In part, I am writing you to confirm one aspect of the condition and then state the technical reasons why the dimensions specified in conditions f) through f)ii are not workable from a practical standpoint.

Beginning with condition f)iii, it discusses a floating dock to be used for the purpose of launching kayaks (canoes, kayaks, paddleboards, etc.). A maximum width of 8 feet wide is given. It then requires that the floating dock be centrally located and be perpendicular to a landward 6 foot wide fixed dock section with two sides, each 12 feet long extending on each side. It appears the intent is to ensure that the long side of the rectangular dock is set in the water parallel to the Lewes-Rehoboth Canal shoreline. As I also understand this specification, it is setting the maximum size of a future rectangular floating dock as 8 feet wide by 30 feet long ($12+6+12=30$).

A floating dock of this size will be adequate to provide enough floatation for the dock to be safe and stable in the environment of the Lewes-Rehoboth Canal. It also provides enough room for users to safely maneuver and manage the launching of a canoe or kayak. I can say that based upon my experience in design and permitting other community docks for similar uses, 8'x24' is the minimum that I would recommend for safety and stability. Therefore, this particular condition does not pose any problem. However, the other dimensions and specifications listed in the June 29th approval are very problematic.

Please note a couple of items. The maximum width of a pier or ramp extending to the dock allowed by DNREC either fixed or floating is generally 4 feet over water and 3 feet over any state regulated wetland. The 6 foot width listed in conditions f)i and f)ii will not be approved by DNREC as it conflicts with their policies and regulations.

Furthermore, with respect to these two conditions and the lengths listed, lengths of the ramps or fixed piers accessing the dock must be based entirely upon actual site conditions. These include the distance from the upland boundary over wetlands to the waters edge and then the distance that the dock must be placed out into the water to have sufficient depth to float the dock during low tide conditions. DNREC and the Corps of Engineers require at least 18 inches of water below the submerged part of the floating dock at mean low water. More depth is preferable in order to prevent the floating dock from sitting on the bottom even occasionally.

One point of confusion may have stemmed from review of the kayak dock plan previously approved by DNREC and the Corps which shows the 8'x30' floating dock with an attached 10 foot long x 6 foot with a "T" shaped stem. To clarify that plan, this stem is all part of the floating dock structure. The 10 foot x 6 foot "T" shaped stem provides the place where a ramp (aka gangway) rolls back and forth as the tides vary. The ramp then attaches to a fixed pile supported pier attached to the land, to which the ramp (gangway) is attached. The dimension for the fixed pier and attached ramp or gangway are kept by DNREC at no more than 4 feet as stated earlier.

I also stated at the hearing that in order to meet DNREC required distances from other property lines, the future dock location may be shifted somewhat northwest of the previously approved location. The exact lengths of any ramp or fixed access pier simply cannot be known or specified at this point.

This brings me to condition f) which is especially problematic. Condition f) requires that the kayak dock extend no further than 18 feet from the mean high water line along the bank. At this location, the distance between the mean high water line and mean low water line is at least 6 feet or more. The dock will be 8 feet wide. This allows only four feet to achieve a depth of at least two or more feet at mean low water so the kayak dock will fully and properly float. This will not be possible in a distance of 18 feet from mean high water.

As I testified at the hearing, the Corps of Engineers has mapped the navigational channel in the Lewes-Rehoboth Canal. They impose a 10 foot buffer landward of the navigable channel beyond which no dock, pier, piling or any structure can extend. DNREC also has their own standard for allowable encroachment into the Canal.

The plan for the kayak launch dock previously approved by DNREC and the Corps authorized the floating kayak dock to extend into the canal 30 feet beyond the mean high water line. This met all required standards to avoid any safety or navigational impact. I can also certify that I have reviewed the length the other docks and piers extending into the canal on both sides. In this project vicinity a distance of 25 to 30 feet is quite common.

I have also suggested to the homeowner's association that a cradle or similar apparatus be attached to the future floating dock to allow for better safety and ease of launching canoes or kayaks. If a cradle is attached to the face of the floating dock, this is where extension into the channel will be measured from. Depending on the manufacturer, cradles are usually less than 4

feet wide. Adequate room is needed for a properly designed facility. The 18 foot distance listed in condition f) is simply not adequate.

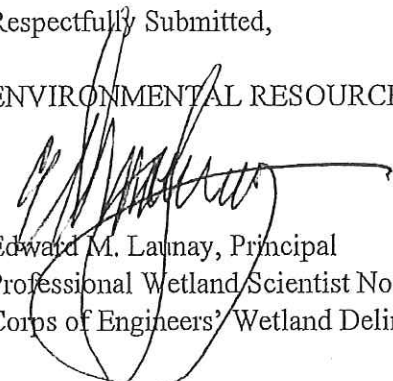
I trust that I have given sufficient explanation as to why specifying exact dimensions of pier or ramp structures is not practical as a condition of approval for this project. Respectfully, I would offer the following for consideration as a revised conditions.

1. No part of the kayak launch dock including any kayak cradle for launch may extend beyond the Corps of Engineers Lewes-Rehoboth Canal 10 foot wide navigational channel buffer. The encroachment of the structure must also be in compliance with all DNREC regulations.
2. The main portion of the floating kayak dock will not be greater than 8 feet wide by 30 feet long. An attachment to the rear of the rectangular dock to allow for placement of a ramp no larger than 8 feet long by 6 feet wide will be permitted, if needed. The long side of the rectangular dock will be parallel to the shoreline of the Lewes-Rehoboth Canal.
3. Any ramp or gangway accessing the floating dock will be no wider than four feet.
4. Any fixed pier over water or wetlands constructed as part of access to the kayak floating dock will be no wider than 4 feet.
5. In addition to other required approvals listed herein, actual construction or installation of any dock, ramp, pier or support piling shall not occur without obtaining all required permits from DNREC and the U.S. Army Corps of Engineers.

Should any Council Member or Planning and Zoning Department Staff have any questions regarding this letter, I am available at their convenience.

Respectfully Submitted,

ENVIRONMENTAL RESOURCES, INC.



Edward M. Launay, Principal
Professional Wetland Scientist No. 875, Society of Wetland Scientists
Corps of Engineers' Wetland Delineator Certification No. WDCP93MD0510036B

Cc: Timothy Willard, Esquire

**CP Town Homes LLC
Canal Point HOA
C/Z 1538
Reconsideration Conditions Tracked**

15. Subject to the receipt of all applicable permits from the U.S. Army Corps of Engineers, DNREC and any other agencies having jurisdiction, the RPC's Grand at Canal Pointe Maintenance Corp. shall be permitted to have only one (1) dock for the use of its residents subject to the following requirements:

a. This dock shall only be utilized for kayaks, canoes, and paddleboards or similar non-motorized vessels.

b. No motorized boats of any kind or other similar types of marine equipment shall be stored, launched, docked, or otherwise permitted along the dock or landward of it within the park property.

c. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the park property.

d. No storage facilities, or other structures or improvements shall be located along the dock or landward of it within the park property.

e. No bathrooms, running water, ~~electricity~~/lighting or parking shall be located along the dock or landward of it within the park property.

f. ~~The permitted dock be configured for kayak and canoe launch with one slip which shall extend no farther into the canal than eighteen (18) feet from the mean highwater mark and which shall be no larger than the following combined specifications shall comply with the following conditions:~~

i. ~~— A ramp measuring six (6) feet in width by eight (8) feet in length which runs to and connects with a fixed pier.~~

ii. ~~— A fixed pier measuring six (6) feet in width by sixteen (16) feet in length which is connected to the ramp and runs to a floating kayak slip dock to be located in the canal; and~~

iii. ~~A floating kayak slip dock connected such that it is perpendicular to the fixed pier in the shape of a square bracket measuring eight (8) feet in length into the canal with two parallel sides perpendicular to the fixed pier each measuring twelve (12) feet in length.~~

(1) No part of the kayak launch dock including any kayak cradle for launch may extend beyond the Corps of Engineers Lewes-Rehoboth Canal 10 foot wide navigational channel buffer. The encroachment of the structure must also be in compliance with all DNREC regulations.

(2) The main portion of the floating kayak dock will not be greater than 8 feet wide by 30 feet long. An attachment to the rear of the rectangular dock to allow for placement of a ramp no larger than 8 feet long by 6 feet wide will be permitted, if needed. The long side of the rectangular dock will be parallel to the shoreline of the Lewes-Rehoboth Canal.

(3) Any ramp or gangway accessing the floating dock will be no wider than four feet.

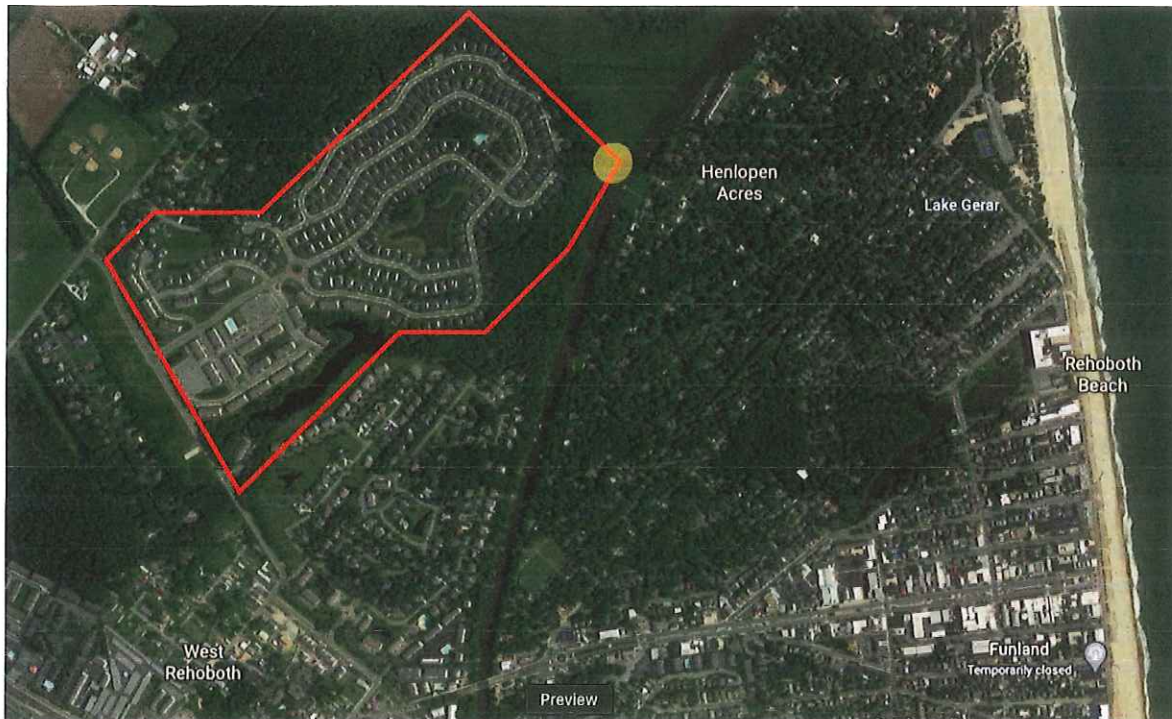
(4) Any fixed pier over water or wetlands constructed as part of access to the kayak floating dock will be no wider than 4 feet.

(5) In addition to other required approvals listed herein, actual construction or installation of any dock, ramp, pier or support piling shall not occur without obtaining all required permits from DNREC and the U.S. Army Corps of Engineers.

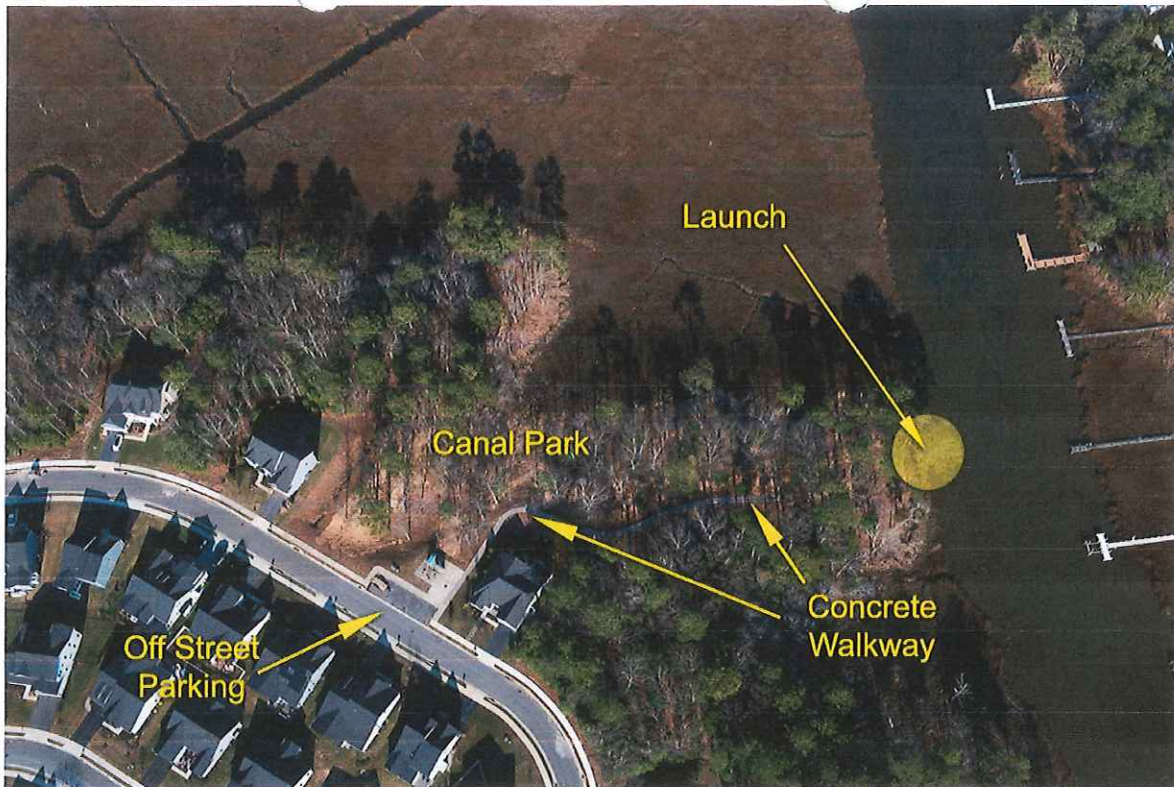
g. The permitted dock be secured via gated fencing (with a fob pass) to prevent members of the public from accessing it.

h. No other piers, docks, boat ramps, or other water-related facilities shall be permitted.

i. There shall be an amendment to the Canal Pointe Master Plan and a subsequent final site plan showing the dock and its point of access from the RPC.



The Grande at Canal Point is located on the west side of the Rehoboth / Lewes Canal, North of Canal Corkran, and across from Henlopen Acres. Numerous docks line both sides of the Lewes and Rehoboth Canal ("Canal"). The light yellow circle at the upper right corner of the area outlined in red is the planned location for a dock and launch facility.



In the back of the Canal Pointe community is a private common area known as Canal Park, owned by the HOA, which abuts a marsh area and the Canal. Off-street parking is available.



The concrete walkway depicted above was constructed when development of the community first started, and leads to the Canal in the area of Canal Park designated to be a future launch (if approved).

In 2017, after control of the HOA was turned over from the Developer to the residents of Canal Pointe, the HOA began the process of planning for a dock and acquiring the necessary permits from the Delaware Department of Natural Resources and Environmental Control (DNREC) and the Army Corps of Engineers ("Army Corps"). At the time, the HOA was unaware of Condition 15. DNREC and the Army Corps both issued permits to install the dock. Copies of the permits are included in this package submitted to the commission. Those permits expired December 31, 2020, because once the HOA became aware of Condition 15 for the first time in 2018, in the context of other activities related to HOA/Developer turnover, all efforts to fund and build a dock were halted. The HOA had hoped to have a hearing on this issue before the permits expired, but COVID-19 intervened.



If approved, the HOA plans to install one recreational dock/pier for the community to launch small, non-motorized watercraft, such as kayaks, canoes and paddle boards and for fishing. The HOA has no intent, and does not herein seek, to use the dock/pier for launching or parking of motorized watercraft. Removal of Condition 15 would not permit individual homeowners of Canal Pointe to construct a dock/pier, as no individual homeowner owns land adjacent to the canal – all such land in Canal Pointe bordering the canal is the property of the HOA, and designated as common area for the community.

The HOA is not aware of any other communities having county restrictions against building docks on the canal. Docks line both sides of the canal.



The lack of a dock, pier, or other facility also creates a safety issue for Canal Pointe residents. The photograph above shows the bank of the Canal, where residents so inclined might otherwise launch kayaks, canoes and paddle boards into the canal, absent a proper facility to do so. The land in this location is muddy and unstable, especially at low tide. The HOA believes that providing safe and secure access to the Canal for its homeowners will not only be safer for its residents, but will also help preserve at least this portion of the bank of the Canal from further erosion from the wake created by motorized watercraft that already traverse the canal regularly.

The HOA currently lacks the necessary DNREC and Army Corps permits to construct the dock, because those permits expired after the HOA became aware of the need to first remove Condition 15. The HOA respectfully requests the removal of Condition 15 from Ordinance 1700 as a first step to begin the process again of seeking to enhance this amenity for the Sussex County homeowners we represent.

Attachments:

- Ordinance 1700,
- Community vote results.
- DENREC building permit.
- Army Corp of Engineers permit with dock plans.

**The Grande at Canal Pointe Maintenance Association
2019 Special Ballot Regarding Modifications to the Canal Pointe Plans - 2004**

The Grande at Canal Pointe Maintenance Association ("HOA") Board held a community vote on modifications to Grande at Canal Pointe Record and Landscape Site Plans originally filed with Sussex County by the Developer in 2004.

As of January 10, 2020, a total of (180) owners have voted either by paper or electronic ballot and the results are listed below.

Based on total number of homes of (288), the majority threshold of 51% or (147) owners has been achieved in all categories and questions.

1. Eliminate from the developer's landscape site plan the planting of trees around the storm water management pond bounded by Worcester, Bridgewater, and Liverpool.
 - (151) Owners APPROVE the proposed modification to the Landscape Site Plan
 - (29) Owners OPPOSE the proposed modification to the Landscape Site Plan

2. Eliminate from the developer's landscape site plan the trail off the parking lot on Gloucester between lots 45 and 46.
 - (162) APPROVE the proposed modification to the Landscape Site Plan
 - (18) OPPOSE the proposed modification to the Landscape Site Plan

3. Removal of Ordinance 1700 item number 15 which states "no piers, docks, boat ramps, or other water related recreational facilities shall be permitted."
 - (163) APPROVE the proposed modification to the Landscape Site Plan
 - (17) OPPOSE the proposed modification to the Landscape Site Plan

JAMIE WHITEHOUSE, AICP MRTPI
PLANNING & ZONING DIRECTOR
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Planning Commission Members
From: Nicholas Torrance, Planner I
CC: Vince Robertson, Assistant County Attorney and applicant
Date: April 15th, 2021
RE: Staff Analysis for CZ 1926 CP Townhomes, LLC

This memo is to provide background and analysis for the Planning Commission to consider as a part of application CZ 1926 CP Townhomes, LLC to be reviewed during the April 22, 2021, Planning Commission Meeting. This analysis should be included in the record of this application and is subject to comments and information that may be presented during the public hearing.

The request is for an Amendment to the Conditions of Approval for the existing Change of Zone (CZ 1538) for Rebay, LLC for a change of zone from AR-1 to MR/RPC on Tax Parcel 334-13.00-334.00. Specifically, the applicant is requesting an amendment to Condition "15" which requires the provision of "No piers, docks, boat ramps, or other water-related facilities shall be permitted" on the site. The applicant has suggested that this condition be struck from the Conditions of Approval and all other conditions would remain. The previous Change of Zone application was recommended for approval by the Planning and Zoning Commission at their meeting of Thursday, June 10th, 2004 and approved by the Sussex County Council at their meeting of Tuesday, June 29th, 2004 and the change of zone was adopted through Ordinance No. 1700. Copies of the Meeting Minutes from both of these meetings have been attached to this memo for circulation to members of the Commission and Council.

The community lies on the east side of Hebron Road approximately 0.19 mile southeast of Holland Glade Road (S.C.R 271). The property consists of 180.60 acres +/-.

The 2018 Sussex County Comprehensive Plan Update (Comprehensive Plan) provides a framework of how land is to be developed. As part of the Comprehensive Plan, a Future Land Use Map is included to help determine how land should be zoned to ensure responsible development. The Future Land Use map in the plan indicates that the subject property has a land use designation of "Coastal Area."

The Coastal Area land use designation recognizes that a range of housing types should be permitted in Coastal Area, including single-family homes, townhouses, and multifamily units. Retail and office uses are appropriate but larger shopping centers and office parks should be confined to selected locations with access along arterial roads. Appropriate mixed-use development should also be allowed. It also recognizes a careful mixture of homes with light commercial, office and institutional uses can be appropriate to provide convenient services and to allow people to work close to home.

Based on the analysis of the land use, surrounding zoning, and uses, an Amendment to Condition "15" of the previously approved Change of Zone (CZ 1538) could be considered as being consistent with the land use, area zoning, and surrounding uses.



C/Z 1926 – CP Townhomes, LLC (Canal Point RPC)

BM

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium-Density Residential District-Residential Planned Community to a MR-RPC Medium-Density Residential District - Residential Planned Community to amend conditions of approval of CZ 1538 (Ordinance 1700) in relation to piers, docks, boat ramps and other water related recreational facilities for a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County, containing 180.60 acres, more or less. The property is lying on the east side of Hebron Road approximately 0.19 miles south of the intersection of Hebron Road and Holland Glade Road (S.C. R. 271). 911 Address: N/A Tax Parcels: 334-13.00-334.00, 1448.00 through 1750.00

The Commission discussed this application which has been deferred since April 22, 2021.

Mr. Mears moved that the Commission recommend approval of an amendment to Condition #15 of Change of Zone # 1926 and Ordinance #1700 regarding docks within the Canal Pointe RPC based upon the record made during the public hearing and for the following reasons:

1. Condition #15 of CZ # 1926 and Ordinance #1700 currently states that “No piers, docks, boat ramps or other water-related facilities shall be permitted” within the Canal Pointe RPC.
2. The Canal Pointe RPC is adjacent to the Lewes-Rehoboth Canal, which is a source of water-related activities for many Sussex County residents and visitors.
3. It was shown during the public hearing that this area of the Lewes-Rehoboth Canal has developed with many personal docks attached to individual lots as well as a large marina associated with the Town of Henlopen Acres.
4. The revised condition #15, which will be limited to non-motorized boats, will have less of an impact on the waterway and the environment than many of these existing docks and the motorized boats that they serve.
5. With one point of access to the Lewes-Rehoboth Canal, there will be a well-designed and permitted dock available to the residents of Canal Pointe instead of multiple undefined points of access that could cause more damage to the Canal and the environment.
6. Condition #15 of CZ # 1926 and Ordinance # 1700 should be amended to state as follows:

“15. Subject to the receipt of all applicable permits from the U.S Army Corps of Engineers, DNREC and any other agencies having jurisdiction, this RPC shall be permitted to have only one dock for the use of residents. This dock shall only be utilized for kayaks and paddleboards. No motorized boats shall be launched or docked at this location. No storage of kayaks, paddleboards, boats or other marine equipment shall be permitted along the dock or landward of it within the RPC. There shall be an amendment to the Canal Pointe Master Plan and a subsequent final site plan showing the dock and its point of access from the RPC. No other piers, docks, boat ramps or other water-related facilities shall be permitted.”

Jamie Whitehouse

From: Town Clerk Henlopen Acres <townclerk@henlopenacres.com>
Sent: Wednesday, September 8, 2021 3:34 PM
To: Lester Shaffer
Cc: Jamie Whitehouse
Subject: Canal Pointe
Attachments: signed canal pointe letter with attachments.pdf; Canal point video.3gp

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or reply unless you recognize the sender and know the content is safe. Contact the IT Helpdesk if you need assistance.

Good Afternoon Gentlemen,

Attached please find a letter, photos and a video in reference to the wetlands adjacent to The Grande at Canal Pointe subdivision. Should you wish to discuss this information further, Mayor Joni Reich can be reached by email at joni.reich@gmail.com <joni.reich@gmail.com>

Thank you

--

Lisa Michaels
Town Clerk-Henlopen Acres
104 Tidewaters
Henlopen Acres, DE 19971
302-227-6411 Phone
302-227-3978 Fax

Town of Henlopen Acres

104 Tidewaters
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Email: townhall@henlopenacres.com

Mayor
Joni Reich

Commissioners:
Andrew Brittingham
Timothy Hidell
Jeffrey Jacobs
Beatrice Richards
John Staffier
Richard Thompson

Town Manager:
Thomas Roth

**Maintenance
Supervisor:**
Alexander McClure

**Security
Supervisor:**
Lee Stewart

Town Solicitor:
Glenn C. Mandalas
Baird Mandalas
Brockstedt LLC

Member:
Association of
Coastal Towns

Delaware League of
Local Governments

Sussex County
Association of
Towns

Delaware Rural
Water Association

American Shore and
Beach Preservation
Association

September 8, 2021

RECEIVED

SEP 08 2021

SUSSEX COUNTY
PLANNING & ZONING

VIA EMAIL & REGULAR MAIL

Sussex County Administrative
Attn: Chief Constable Lester Shaffer
Office Building, 1st Floor
2 The Circle
P.O. Box 589
Georgetown, DE 19947

RE: Grande at Canal Pointe

Dear Constable Shaffer:

The Commissioners of the Town of Henlopen Acres respectfully request investigation of the denuding of wetlands adjacent to the residential subdivision known as The Grande at Canal Pointe (the "Subdivision"). The Town of Henlopen Acres is a small, incorporated municipality of 200 homes on 156 acres that borders the Lewes Rehoboth Canal and is directly opposite the Subdivision.

For background, the Subdivision was approved by Sussex County Council on May 25, 2004 and denominated as C/Z 1538 (the "Application"). Notably, except for a small communal, recreational area commonly referred to as "Canal Park," the entire border of the subdivision consists of Federal and State protected wetlands.

When the Subdivision Application was presented to County Council in 2004, there was significant public opposition to the proposed subdivision related to the potential impacts of the Subdivision on existing natural buffers, wetlands, open space, wildlife habitat, endangered species, and nutrient management. The Delaware Department of Natural Resources and Environmental Control (DNREC) also expressed concerns about the Subdivision's potential impact on the adjacent wetland areas.

Accordingly, Sussex County Council approved C/Z 1538 subject to twenty (20) conditions, including Condition 14, which reads as follows:

14. State Wetlands shall not be included in any individual lots. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.



The Town of Henlopen Acres and its residents value the protection of environmentally sensitive areas, and we request Sussex County officials to investigate the Subdivision's violation of Condition 14 on the basis of the natural wetlands buffer bordering the perimeter of the Subdivision having been denuded.

It is our understanding that this issue was previously brought to your attention, although we do not believe you were made aware of the exact location where Condition 14 is being repeatedly and regularly violated, as no formal remedial action has been taken by Sussex County to our knowledge. We have attached a map of the Subdivision where the vegetation is being cut along the Canal behind several homes in Grande at Canal Pointe. (See lines marked in color on attached map, with the "X" indicating the entrance to the Subdivision's Park.)

We have also attached photographs of the area before and after the cutting, along with a video clip that identifies the area west of Canal Park where the vegetation has been repeatedly removed. The video clip begins with the area of concern where the vegetation has clearly been removed and then pans right toward Canal Park some distance away at the far end. We understand removal of invasive species (i.e. Phragmites) from the wetlands area is permissible under certain circumstances with proper permitting; however, the vegetation removal far exceeds the removal of invasive species and is more of a complete clear-cutting.

The Town of Henlopen Acres believes the Subdivision's removal of vegetation from the wetlands area is cause for concern that the Subdivision is not maintaining the wetland areas as non-disturbance areas in violation of Condition 14, requiring further investigation and possible enforcement action by Sussex County.

We thank you in advance for your prompt attention to this matter and look forward to receiving an investigation report once the County has inspected the Subdivision for compliance with Condition 14.

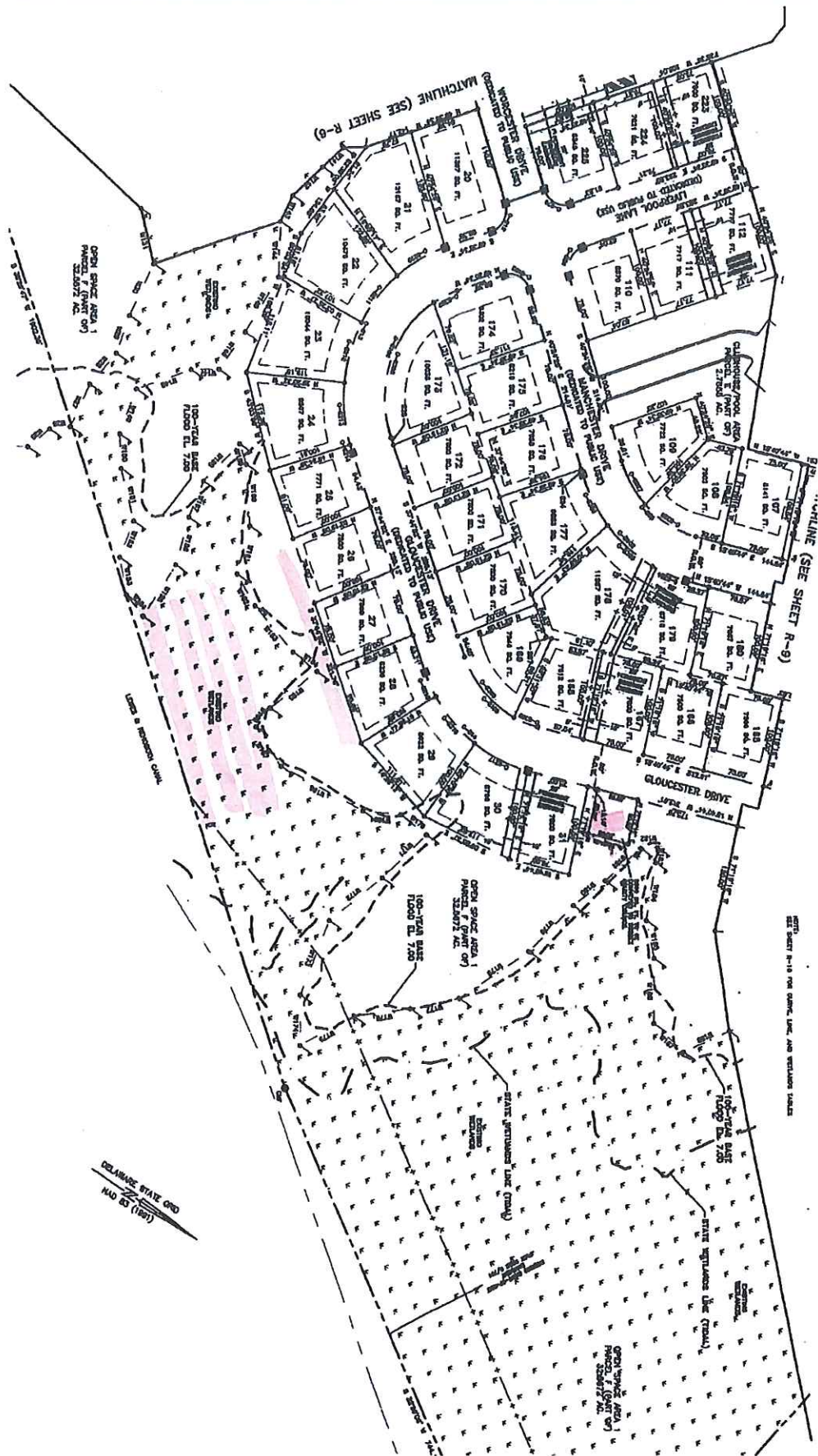
Sincerely,




Joni Reich
Mayor, Town of Henlopen Acres

cc:
Town of Henlopen Acres Manager
Town of Henlopen Acres Commissioners
Glenn Mandalas, Town Attorney
Director Jamie Whitehouse, jamie@sussexcountyde.gov

Attachments



 : Vegetation Cutting Area
 : Park Entrance

DELAWARE STATE GRID
 1000 80 1000

