

## THE MINUTES OF THE REGULAR MEETING OF JUNE 11, 2020

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, June 11, 2020, by Teleconference.

The meeting was called to order at 5:30 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. Vince Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Director of Planning and Zoning, Ms. Lauren DeVore – Planner III and Mr. Chase Phillips – Planner I.

Mr. Whitehouse read the following statement at the beginning of the meeting:

Today's Planning and Zoning Commission meeting is being conducted electronically by means of a teleconference under the authority of Governor John C. Carney's declaration of a state of emergency and proclamation number 17-3292. Planning and Zoning Commission members and staff are connected by phone and/or internet and are participating in real time. Members of the public may connect using a telephone conference number that was advertised on this week's agenda. Members of the public may access the packet materials on the County's website. Also, member of the public may listen and view this meeting using the regular chambers broadcast found on the County's website.

Mr. Whitehouse conducted a roll call of members and found four members present and connected. Ms. Wingate joined the meeting later.

Motion by Mr. Mears to approve the Agenda, seconded by Ms. Stevenson, and carried. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley - yea.

### OLD BUSINESS

#### **C/Z 1914 – Ronald E. & M. Candice Gray**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-2 Business Community District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 10.06 acres, more or less.** The property is lying on the northwest side of Roxana Road, approximately 0.61 mile southwest of Peppers Corner Road. (Rt. 17). 911 Address: Not Available. Tax Parcel: 134-15.00-20.06

The Commission discussed this application which has been deferred since May 28, 2020.

Mr. Mears moved that the Commission recommend approval of C/Z 1914 for Ronald E. & M. Candice Gray for a Change in Zone from AR-1 (Agricultural Residential Zoning) to B-2 (Business Community Zoning) based upon the record made during the public hearing and for the following reasons:

1. B-2 Business Community Zoning is designed to allow office, retail shopping and personal service uses that serve a relatively small area, including low density and medium density neighborhoods.
2. The site is in the Coastal Area according to the current Sussex County Comprehensive Plan and it is surrounded by this classification on the north, south, east and west. B-2 zoning and the uses permitted in that District are appropriate in the Coastal Area according to the Plan.
3. The site is located along Route 17. This location is appropriate for B-2 zoning.
4. The rezoning will not adversely affect area roadways or traffic.
5. The rezoning will also not adversely affect nearby properties or property values.
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 the 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 Mr. Mears, seconded by Ms. Stevenson, and carried to recommend approval for the reasons and conditions stated in the Motion. Motion carried 3-1.

The vote by roll call: Ms. Stevenson – nay, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

### **C/U 2213 – Whitetail Lane, LLC**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a 15-acre borrow pit to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 220.38 acres, more or less.** The property is lying on the northeast side of Cedar Lane, approximately 1.09 mile southeast of Wood Branch Road. 911 Address: 17471 Whitetail Lane, Georgetown. Tax Parcel: 135-20.00-137.00

The Commission discussed this application which has been deferred since May 28, 2020.

Mr. Hopkins moved to recommend approval of C/U 2213 for Whitetail Lane, LLC based upon the record made at the public hearing and for the following reasons:

1. This application is for a 15 to 20-acre borrow pit operation within a 220.38-acre site.
2. A need exists in the area for dirt, sand and gravel, and existing borrow pit sources are becoming depleted. The material removed from this site will be used throughout the County for a variety of residential and commercial uses and road construction.
3. The borrow pit is within a much larger parcel owned by the Applicant, which is wooded land in Forest Preservation. The borrow pit is within a 31-acre area that is not subject to the preservation easement. The preserved woodlands will provide an extensive buffer from the borrow pit operations. This is an appropriate location for this use.
4. The Applicant will provide dust control to keep the area roadways free of dirt and dust from trucks leaving the site.
5. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on traffic or the neighboring properties.

6. As a source of fill dirt available to the entire County, the project is essential and desirable for the general convenience, safety and welfare of the current and future residents of the County.
7. The borrow pit area is not visible from Cedar Lane and it should not be visible from neighboring properties.
8. The use is subject to approvals from State Agencies including DeIDOT and DNREC.
9. No parties appeared in opposition to this application, and there were several letters submitted in support of the application.
10. This recommendation for approval is subject to the following conditions and stipulations:
  - a. No materials shall be brought from off the site for processing, mixing or similar purposes.
  - b. The borrow pit area shall not exceed 20-acres.
  - c. Water or a water truck shall be available to control dust from road traffic when conditions require.
  - d. The entrance to the borrow pit shall be paved and the roadway from Cedar Road can be millings or stone. The entrance shall be fenced or gated to prevent access.
  - e. Any roadway and entrance improvements required by DeIDOT shall be completed by the Applicant. All entrances shall be secured when the borrow pit is not in operation.
  - f. The hours of operation shall be between the hours of 8:00 a.m. to 4:00 p.m. Monday through Saturday. No Sunday hours shall be permitted.
  - g. No materials shall be stored on any access roads or within any buffer area.
  - h. No fuel shall be stored on-site.
  - i. No stumps, branches, debris or similar items shall be buried or placed in the site of the borrow pit.
  - j. The proposed pit will have a 3:1 side slope down to a 10-foot level bench that will be approximately near or 1 foot below the static water surface. Below the water level the borrow pit shall have 2:1 slope. The depth of the proposed borrow pit will not exceed 35 feet.
  - k. A final site plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations. Reclamation plans shall indicate finished grading, seeding and planting schedules designed to create a pleasing appearance and protect existing and future developments.
  - l. The Applicant shall comply with all State and County erosion and sediment control regulations.
  - m. The Applicant shall comply with all of the requirements set forth in Section 115-172B of the Sussex County Zoning Ordinance.
  - n. The borrow pit shall be surrounded by a buffer strip a minimum distance of 100 feet from any street lines, 200 feet from any dwelling of other ownership, and 50 feet from all other property lines of other ownership. The buffer area shall be a vegetated buffer of existing vegetation or native species vegetation.
  - o. No wetlands on the site shall be disturbed.
  - p. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Wingate, and carried unanimously to recommend approval for the reasons and conditions stated in the Motion. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

**C/U 2221 – Dominic Lombardi**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a small auto repair business to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 0.75 acres, more or less.** The property is lying on the northeast corner of the intersection of Sheep Pen Road and Godwin School Road. 911 Address: 24169 Godwin School Road, Millsboro. Tax Parcel: 133-16.00-73.04

The Commission discussed this application which has been deferred since May 28, 2020.

Ms. Wingate moved to recommend approval of C/U 2221 for Dominic Lombardi for a small auto repair business based upon the record made at the public hearing and for the following reasons:

1. The proposed automobile repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.
2. The site is located in a Developing Area according to the Sussex County Comprehensive Plan. This type of use is appropriate in this Area according to the Comprehensive Plan.
3. The Applicants live on the site and the use will occur in a pole building. The Applicants intend to keep the residential appearance of the property.
4. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
5. No parties appeared in opposition to this application.
6. This recommendation for approval is subject to the following conditions and stipulations:
  - a. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
  - b. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
  - c. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
  - d. All repairs shall be performed indoors. No automobile parts shall be stored outside.
  - e. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.
  - f. There shall not be any parking in the front yard setback.
  - g. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.
  - h. No cars shall be sold on the property.
  - i. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.

- j. The site shall be subject to all DeIDOT entrance and roadway requirements.
- k. The hours of operation shall be 8:00 am through 8:00 pm, Monday through Friday, and 9:00 am until 5:00 pm on Saturdays. There shall not be any Sunday hours.
- l. Any violation of these conditions may be grounds for termination of this conditional use.
- m. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Hopkins, and carried unanimously to recommend approval for the reasons and conditions stated in the Motion. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

**C/Z 1915 – Fisher’s Popcorn Fenwick, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-3 Business Research District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 17.15 acres, more or less.** The property is lying on the north side of Zion Church Road (Rt. 20), approximately 318 feet southeast of Deer Run Road. 911 Address: Not Available. Tax Parcel 533-11.00-78.04 (Portion of)

The Commission discussed this application which has been deferred since May 28, 2020.

Ms. Wingate moved that the Commission recommend approval of C/Z 1915 for Fisher’s Popcorn Fenwick, LLC for a Change in Zone from AR-1 (Agricultural Residential Zoning) to B-3 (Business Research District) based upon the record made during the public hearing and for the following reasons:

1. The B-3 Business Research District is designed to allow a range of business research and business park uses, including office and administrative uses. According to the Zoning Code, these uses are to occur entirely within enclosed buildings.
2. The site is in the Coastal Area according to the current Sussex County Comprehensive Plan and it is surrounded by this classification. B-3 uses are appropriate in the Coastal Area according to the Plan.
3. The site is located along Zion Church Road in an area where there is a mix of commercial zoning, small businesses and residential uses. The properties on either side are zoned C-1 and CR-1, and the property across the road is zoned C-1. This location is appropriate for B-3 zoning, which allows less-intensive uses than the existing C-1 and CR-1 zones nearby.
4. The rezoning will not adversely affect neighboring properties or property values.
5. The rezoning will not adversely affect area traffic or roadways.
6. The sanitary sewer service is available to the property from Sussex County.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. No parties appeared in opposition to the application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to recommend approval for the reasons and conditions stated in the Motion. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

**C/U 2215 - BZ Land, LLC**

**An Ordinance to grant a Conditional use of land in an AR-1 Agricultural Residential District for professional offices to be located on a certain parcel of land lying and being in Baltimore hundred, Sussex county, containing 1.56 acres, more or less.** The property is lying on the south side of Lighthouse Road (Rt. 54) at Bayville Road. 911 Addresses: 37116 and 37124 Lighthouse Road, Selbyville. Tax Parcel: 533-19.00-26.00

The Commission discussed this application which has been deferred since May 28, 2020.

Ms. Wingate moved to recommend approval of C/U 2215 for BZ Land, LLC for professional offices based upon the record made at the public hearing and for the following reasons:

1. This property has previously been used for office purposes for 36 years. This Conditional Use will be consistent with the historical use of the property.
2. The office will continue to maintain a residential appearance.
3. The use as a professional office will benefit the health, safety and welfare of present and future residents of Sussex County residents by providing such a use in a convenient location.
4. The site is within the Coastal Area according to the Sussex County Comprehensive Plan. Professional Offices are an appropriate use within this Area according to the Comprehensive Plan.
5. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.
6. The site will be served by central water and sewer.
7. No parties appeared in opposition to this application.
8. This recommendation is subject to the following conditions:
  - a. The use shall be limited to professional offices.
  - b. As stated by the Applicant, the existing structures and the proposed additions shall maintain a residential appearance.
  - c. The hours of operation open to the public shall be between 8:00 am and 7:00 pm Monday through Friday, and 8:00 am until 4:00 pm on Saturdays. This shall not prohibit professionals utilizing the offices from working at other hours or on weekends.
  - d. Any dumpsters shall be located to the rear of the property and screened from view of neighboring properties and roadways.
  - e. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.
  - f. The Applicant shall comply with all DelDOT requirements concerning entrance, traffic and roadway improvements.

- g. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- h. One lighted sign shall be permitted on the property. The sign shall be no larger than 32 square feet per side.
- i. A landscaping plan shall be submitted as part of the Final Site Plan review. It shall include a vegetated buffer along the eastern boundary of the property.
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Hopkins, and carried unanimously to recommend approval for the reasons and conditions stated in the Motion. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

#### PUBLIC HEARINGS

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

#### **C/U 2189 - Grace Malone**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for an events venue to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County, containing 4.59 acres, more or less.** The property being a landlocked parcel of land lying on the south side of Laurel Road, approximately 0.38 mile east of Sussex Highway (Rt. 13). 911 Address: N/A. Tax Parcel: 332-2.00-75.00.

Mr. Whitehouse advised the Commission that submitted into the record were an applicant exhibit book, a site plan, a staff analysis, comments from the Sussex Conservation District, comments from the Sussex County Engineering Department Utility Planning Division, and a copy of the DelDOT service level evaluation response. Also, submitted into the record are an opposition exhibit booklet, seven letters of opposition, submission containing 25 signatures in opposition and zero letters of support.

That the Commission found that Mr. Mike Smith, Esquire was present by teleconference on behalf of the applicant Grace Malone; that also present are Mr. Charles Malone and Mrs. Grace Malone; that the site plan provided to the Commission does indicate an improvement on the property but the Application is for a Conditional Use and not for the improvements as that would come under Site Plan review; that the property is 4.59 acres; that the property is not landlocked but there is a 30 ft. wide road that connects out to Laurel Road (Route 24) and was recorded in deed book 310 page 600; that this road was also confirmed in 2018 in deed book 258 page 38; that the property is very close to the intersection of Route 13 and Route 24; that the property is currently zoned AR-1; that there are multiple properties in the area that are zoned C-1, CR-1 or LI-1; that the property is located in

the growth and annexation area of the Town of Laurel; that the Applicant, Ms. Malone operates two other venues that are similar to what is being asked for this lot; that the request is for an event venue but primarily to host weddings; that one of the locations owned by Ms. Malone is next to her personal residence so she is familiar with the noise level from the events held there; that it is expected that the venue would be used on Fridays, Saturdays and Sundays and this has been submitted as proposed conditions; that there would always be a staff member present to oversee the events; that music would end by 10 pm and guests to leave by 11 pm after the event concludes; that alcohol would be distributed by licensed third-party vendors; that the improvement on the site has been built to accommodate this type of use; that trash removal would be removed at the end of each event; that DelDOT did not require a Traffic Impact Study; that the Applicant understands that if the Conditional Use were approved that the building would have to comply with Sussex County Building Codes; that the building does have Fire Marshal approval; that the use is consistent with the Comprehensive Plan; that the property is in a developing area; that there is a need for this type of use in Sussex County; that the use is of a public or semi-public character that will benefit the residents of Sussex County; that the proposed conditions are as follows:

1. This approval is for an event venue, permitting events including, by way of example and not limitation, weddings, birthday parties, and funeral gatherings.
2. One lighted sign, not to exceed thirty-two (32) square feet shall be permitted on the subject property.
3. No events on the subject property shall begin prior to 8:00 a.m. or end later than 11:00 p.m. Music shall end not later than 10:00 p.m.
4. Events shall be restricted to Friday, Saturday and Sunday, with the ability of small groups (not exceeding 20 people) to be present at the venue Monday through Thursday for event planning purposes.
5. Parking shall be on the subject property, and not on area roadways.
6. Parking areas for vehicles shall be clearly shown on the Final Site Plan, and parking barriers shall be placed on the site itself.
7. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.
8. Any pole mounted or other security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
9. The Final Site Plan showing this use shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Ms. Malone affirmed the statements made by Mr. Smith as true and accurate.

Ms. Wingate asked how the 30 ft. access easement would work for traffic. Mr. Smith stated that it is wide enough for two cars so one could be traveling in and one out at the same time if needed. Ms. Wingate asked if there is adequate parking on the site and about the bathroom facilities. Mr. Malone stated that based on his other locations with similar parking that there is enough parking on this site; that they will have comfort stations which are air-conditioned and will be removed at the end of each event. Ms. Wingate acknowledged that she has read all the letters of opposition.



Mr. Mears asked the following questions:

Will the proposed project will affect the environment, waterways, streams or groundwater?

Will the proposed project affect the local school system?

Will the proposed project affect local roads and traffic?

Would the Applicant require a sign on the property?

Mr. Smith said that he does not expect that it would affect the environment and every structure on the site will be approved and permitted; that there will be no impact on local schools; that there will be no impact on roadways; and that the Applicant is requesting one lighted sign not to exceed 32 sf.

Mr. Hopkins asked about the length of the driveway; the maximum number of people on the property at one time; if there is adequate parking for that number of cars or does the Applicant anticipate more clearing of trees to accommodate more parking. Mr. Smith stated it is approximately 600 ft to the edge of the property; that the fire marshal has approved the property for 140 seated guests and that would be approximately 70 cars; that there would not be any clearing of trees, that the Applicants have recently planted 37 trees on the southern boundary of the property. Mr. Hopkins asked how the dust would be controlled with 70 cars entering and exiting the property. Mr. Smith stated that the roadway is blacktop millings and that efforts could be made to minimize the dust by using water. Mr. Malone also commented that an employee is dedicated to just help with the traffic and parking for each event. Mr. Malone stated that the nearest dwelling is between two hundred and fifty feet to three hundred feet.

Ms. Stevenson asked about the ownership of the private road to access the property and if there is a shared use and maintenance agreement. Mr. Smith stated that the roadway was dedicated to public use in the 1940's plat and confirmed in the 2018 subdivision plat and therefore, is a statutory dedication of use; that there is no maintenance agreement in place; and that Mr. and Mrs. Malone have been maintaining the road.

Mr. Robert Witsil, Esq. spoke in opposition on behalf of his client, Mr. Fred English; that also present on behalf of the opposition is Mr. Ed. Higgins, Keller Williams Realty; that Mr. English owns the 37.4 acre farm adjacent to the subject property; and that submitted into the records are proposed findings of fact as to why the application should be denied; that the proposed use is not compatible with the surrounding residential properties and uses of the adjacent farmland; that the proposed use is not appropriate in the developing district; that the proposed conditional use is not in compliance with the objectives and goals of the 2018 Sussex County Comprehensive Plan; that the proposed conditional use is not in compliance with section 115-19 of the Sussex County Code addressing the purpose of the Agricultural Residential district to protect agricultural operations and activities from objectionable uses or with the conditional use provisions of section 115-71 and 173; that a doubt exists as to whether the applicant has complied with issued building permits or whether necessary agency review of plans has occurred; and that the Commission has previously recommended approval of event venue conditional uses only where adjacent lands have been owned and operated by the applicant and when no opposition has been expressed to the proposal.

Mr. English stated that the structure on the subject property is not 200 ft. from the nearest property; that the access roadway does not have the capability to handle the amount of traffic; that there is not adequate parking for the planned events; that he does not want cars parking on his property; and that

included in the opposition exhibit are documents showing that they Applicants have been advertising as an event venue prior to this hearing.

Mr. Higgins stated that he has been realtor for 16 years in the Seaford Laurel area; that he assisted Mr. English in the subdivision of his property; that he is familiar with the properties along Route 24; that the proposed use is not compatible with the surrounding area; that the proposed use will affect home values in the area; and that this is a residential subdivision area.

Mr. Jerry Devine spoke in opposition to the Application. Mr. Devine stated that he submitted a letter of opposition and that he objects to the terms typical and very rarely, so that means there is no guarantee that there will only be 50 cars, certain hours, and so many people; that his main objection is that the American Legion rents halls in the area and he does not see a need for another hall rental particularly in a residential area.

Mr. Jay Windsor spoke in opposition to the Application. Mr. Windsor stated that his daughter and another neighbor submitted letters and he did not see them on the Planning and Zoning Packet. Mr. Whitehouse confirmed that both letters were received and are part of the supplemental packet given to Commission members. Mr. Windsor stated that he has concerns about the process of holding meetings by teleconference; that it is three right angles to access the property; and that cars will not be able to safely maneuver past each other on the corners.

Mr. William Lee Hastings and Ms. Peggy Sue Hastings spoke in opposition to the Application. Mr. Hastings stated that though the access easement has existed on the plat, it has never been used in the 29 years that he has lived there; that the Applicant told him that he was putting a pole building and a dwelling on the property; that there is no dwelling on the property; and that the parking area is not adequate for 70 cars. Ms. Hastings stated that there was an outdoor event held in November which was very loud and continued after 10 pm; that guests were driving on her driveway to try to access the event; and that the venue structure does not appear to be 200 ft. from her dwelling.

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

Mr. Hopkins asked for clarification about the septic system. Mr. Smith responded that portable bathrooms will be on site during events; that the Applicant is aware that he will have to comply with all agency requirements during the site plan review and that this Application is for the use of the property.

At the conclusion of the Public Hearings, the Commission discussed Application C/U 2189 – Grace Malone. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears, and carried unanimously. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

**An Ordinance to grant a Conditional Use of land in a C-1 (General Commercial District) for stone & granite retail, fabrication, cutting, displaying & selling of granite, stone & quartz to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 11.80 acres more or less.** The property is lying on the west side of DuPont Boulevard (Route 113) approximately 0.51 miles south of Nine Foot Road. 911 Address: 32630 S. DuPont Highway, Dagsboro. Tax Parcel: 233-16.00-27.00 (portion of)

Mr. Whitehouse advised the Commission that submitted into the record were a boundary survey, a staff analysis, comments from the Sussex County Engineering Department Utility Planning Division, and the DelDOT service level evaluation response confirming that a Traffic Impact Study is not required.

That the Commission found that Mr. Enes Celik, Ms. Victoria Hudgins and Mr. Charlie Rodriguez were present by teleconference on behalf of the applicant, 32630 Dupont Boulevard, LLC; that Mr. Rodriguez stated that Stonegate Granite plans to purchase this property of approximately 22 acres; that 11.8 acres of the property is zoned C-1 and the balance is zoned AR-1; that the wooded area of the property on the south and west will create a natural buffer; that Rudy's Marine is adjacent to this property on the north; that granite and stone retail is a permitted use in the General Commercial Zoning; that the request is for a Conditional Use for the fabrication portion of the business.

Ms. Wingate asked if all the fabrication and cutting would be completed within the building. Mr. Celik responded that all fabrication and cutting will be completed inside the building. Ms. Wingate asked about the noise of cutting and fabricating the stone. Mr. Celik stated that machinery is used for cutting and fabricating, but it will all be completed inside the building with the doors closed. Ms. Wingate asked what the hours of operation are. Mr. Celik responded that he would like 8 am – 5 pm Monday to Friday and 9 am – 4 pm on Saturday and Sunday.

Mr. Mears asked if slabs of granite and stone would be also stored outside of the building. Mr. Celik responded that some of the more durable slabs such as granite would be displayed outside and stored on A-Frames, that it would be strapped down for safety during inclement weather.

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

At the conclusion of the Public Hearings, the Commission discussed Application C/U 2219 - 32630 Dupont Boulevard, LLC (Stonegate Granite, LLC). Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

**C/U 2223 - A&W Burbage, LLC**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for boat & RV storage to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.93 acres, more or less.** The property is lying on the northeast corner of Jones Road (SCR. 369) and Burbage Road (SCR. 353), approximately 0.72 mile east of Omar Road. 911 Address: 32855 Jones Road, Frankford. Tax Parcel: 134-14.00-36.00 (Part of)

Mr. Whitehouse advised the Commission that submitted into the record were a site plan, a staff analysis, comments from the Sussex County Engineering Department Utility Planning Division, and the DelDOT service level evaluation response confirming that a Traffic Impact Study is not required.

That the Commission found that Mr. Gerald Burbage was present by teleconference representing his company, A&W Burbage, LLC; that the request is for a Conditional Use for boat and RV storage; that approximately 4 acres of the property will be used for 145 storage areas; that a sign of no larger than 32 sf is being requested; that the hours of operation will be 24/7; that the site will be monitored by an electronic controlled automatic gate at the entrance of the storage area; that there will be no impact on traffic or schools as the entrance will be approximately 50 ft. from the highway.

Mr. Mears asked if the dwelling on the property would be used for the business. Mr. Burbage stated that the house is a rental and will not be used for the storage business.

Ms. Stevenson asked how the site would be monitored to make sure that no-one is residing in an RV. Mr. Burbage responded the site will have lights and be monitored by cameras.

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

At the conclusion of the Public Hearings, the Commission discussed Application C/U 2223 – A&W Burbage, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

**C/Z 1908 – W & B Hudson Family, Ltd.**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District and MR Medium Density Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 37.08 acres, more or less.** The property is lying on the south side of Lewes-Georgetown Highway (Route 9) approximately 340 feet east of Harbeson Road (Route 5), and on the east side of Harbeson Road (Route 5) approximately 456 feet south of Lewes-Georgetown Highway (Route 9). 911 Address: N/A. Tax Parcel: 235-30.00-62.00, 64.00, 66.00, 67.00, 70.00, and 72.00

Mr. Whitehouse advised the Commission that submitted into the record were a boundary plat, an applicant exhibit book, a staff analysis, comments from the Sussex County Engineering Department Utility Planning Division, and a copy of the DelDOT service level evaluation.

The Commission found that Mr. Mark Davidson, Pennoni Associates was present by teleconference on behalf of the Applicant, W&B Hudson Family, Ltd., that also present is Mr. Wayne Hudson; that this parcel was before the Commission for a rezoning to Heavy Commercial previously but was withdrawn when the Applicant understood that it was in conflict with the Future Land Use Plan; that the rezoning tonight is to rezone these properties from AR-1 (Agricultural Residential) and MR (Medium Residential) to C-2 (Medium Commercial District); that the property is 37.08 acres

consisting of six tax parcel numbers; that the properties have been in the Hudson family for several generations; that the property has access on Harbeson Road and the Lewes-Georgetown Highway; that the land has been used in the past for waste water treatment for Clean Delaware Inc.; that the properties are bordered on the north with existing commercially zoned property; that the properties are bordered on the south by Delmarva Central Railroad; that a right-of-way is also slated for the future Delaware rails to trails program; that at the other side of the tracks is land that is currently under agricultural preservation; the property is bordered on the west with

some existing commercial uses and on the east with agricultural lands; that the property is situated just off of the intersection of Route 5 and Route 9 which is a major crossroads centrally located between Five Points and Georgetown and Milton and Long Neck; that the property is also in the vicinity of the Allen Harim Poultry Processing which has a heavy industrial zoning category; that there is lot of C-1 zoning in the area; that the Applicant is requesting C-2 (Medium Commercial) which is consistent with the surrounding land uses; that rezoning to C-2 will not diminish or impair property values in the neighborhood; that it will not create a nuisance or an increase in public expenditures; that the purpose of the C-2 zoning is to support uses that include retail sales and performances of consumer services, it permits a variety of retail and service businesses; that if the rezoning is successful, Mr. Hudson would like to create a shopping complex constructed around a supermarket and/or drug store that will provide for the sale of convenience goods and personal services for the day to day living needs of the community; that the area nearest to the railroad tracks would be slated as warehouse storage which will have access to the railroad; that Royal Farms and the Hudson Family have created easements on each of their properties to allow access to both properties from Route 5 and Route 9 as shown in the photographs in the presentation and on the boundary plat; that in the 2019 Sussex County Comprehensive Plan the properties owned by the Hudson Family is in a low-density and partly in an existing developing area; that in a previous Comprehensive Plan, the entire property was in a developing area; that Artesian water and sewer is available for this property; that the properties are 600 ft. away from the closest residential development and are close enough to offer services to this development without being adjacent to the community; that this will help the orderly growth rather than unplanned sprawl; that chapter one of the Comprehensive Plan talks about how new commercial development will be needed to support residential growth; that the Hudson Family worked with DelDOT and Royal Farms to allow for a shared cross access easement within the Hudson Properties; that the Hudson's worked with DelDOT regarding the upgrade to the Route 5 and Route 9 intersection and dedications some lands along the front of their property so that the upgrade to that intersection could occur; that although a Traffic Impact Study (TIS) was not required as part of this Application, the Hudson's will have to provide future transportation improvements to adjacent roadways during the future planning of the commercial development; that access to the future rails to trails will be coordinated with DelDOT; that as Route 9 is a major arterial road, setbacks will be increased to allow for future capacity in the form of additional right-of-way dedications; that the Comprehensive Plan allows for medium commercial in low density areas; that the focus of retail and offices uses in low-density areas will be providing convenience goods and services to nearby residents which is what is being proposed for these properties; that commercial uses are appropriate depending on surrounding uses; that the surrounding uses are primarily commercial and industrial with some residential homes adjacent; that local services will prevent residents having to travel to Route 1 for services; that the 2015 Strategies for State Policies and Spending identifies the Area Level 3; that the focus of level 3 is for DelDOT to primarily focus on regional movements between towns and other population centers; that developers and property owners make roadway improvements as development occurs; that all the infrastructure improvements will be made by the Applicant; that Delmarva Power and Light has an easement running through this property; that there is natural gas pipeline access for these properties;

that the proposed rezoning meets the general purpose of the zoning ordinance being located in an appropriate location meeting the purpose of this district and the Future Land Use Plan strategies and objectives of the Comprehensive Plan that promotes growth and development through community, design, mobility, utilities, transportation and economic development in an area where a general mixture of commercial and service activity now exist, which is essential and desirable for the general convenience, orderly growth, prosperity and well-being of the County.

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

At the conclusion of the Public Hearings, the Commission discussed Application C/Z 1908 – W & B Hudson Family, Ltd. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Mears, and carried unanimously. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

#### **C/Z 1912 - Beach and Bay, LLC**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 (Agricultural Residential District) to a C-2 (Medium Commercial District) for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.92 acres, more or less.** The property is lying on the south west corner of Savannah East Drive and Kings Highway (Route 9). 911 Addresses: 16816 and 16820 Kings Highway, Lewes. Tax Parcel: 334-6.00-58.00.

Mr. Whitehouse advised the Commission that submitted into the record were a site plan, an Applicant exhibit book; comments from the Sussex County Engineering Department Utility Planning Division, and the DelDOT service level evaluation response.

That the Commission found that Mr. David Hutt, Esquire was present by teleconference on behalf of the Applicant, Beach and Bay, LLC, that also present are Kyle Norwood and Katie Davison owners of the property in question; that this Applicant seeks to change the zoning classification for the approximately 38,500 sf property; that the property is currently zoned AR-1 and the Applicant is seeking to change the zoning to medium commercial (C-2); that the property is in close proximity to Route 1 which is the busiest commercial corridor in Sussex County; that there is a range of housing options in the area ranging from medium and higher densities of the Apartment complexes to the lower density of Townhomes and single-family home developments; that in addition to the residential use in the area there are also numerous businesses along King's Highway; that the property meets the minimum area requirements of County Code for a C-2 zoning classification; that the property is currently improved with a home and two outbuildings; that the Applicants may renovate the existing structures or remove them entirely; that public sewer and water is available at this property; that the DelDOT service level evaluation response shows that for a lot of this size, a traffic impact study is not required; that when a land use plan is submitted the TIS will be reevaluated by DelDOT; that the property is not in a flood zone and there are no wetlands; that the property is in the Coastal Area according to the 2020 Comprehensive Plan and C-2 is an appropriate district as this is a growth area; that King's Highway (Route 9) is an arterial road; that the intended use will be for professional offices for much needed health care in Sussex County; and that the Applicant Mr. Norwood is a native of Sussex County who has now qualified as a dentist and wishes to return to practice in Sussex County.

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

At the conclusion of the Public Hearings, the Commission discussed Application C/Z 1912 - Beach and Bay, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

#### OTHER BUSINESS

##### **Osprey Point MR-RPC (CZ 1759)**

###### Revised Final Site Plan

This is a Revised Final Site Plan for the creation of 217 single-family lots to be located off Old Landing Road (Route 274). The site was approved by County Council for a Change of Zone 1759 from Agricultural Residential (AR-1) to Medium Density Residential District, Residential Planned Community (MR-RPC) on November 15, 2016 through Ordinance No. 2475. The Planning and Zoning Commission approved the Revised Preliminary Site Plan at its meeting of Thursday, February 14, 2019. Revisions to the original plans include changes to the lot layout, stormwater management ponds, and removing a portion of Providence Drive and Richard Henry Lee Drive. The applicant has provided an illustrative copy of the plans showing the new plan changes with the original plans ghost-lined underneath. The Revised Final Site Plan complies with the Sussex County Zoning and Subdivision Code and all conditions of approval. Tax Parcel: 334-18.00-83.00. Zoning: MR-RPC (Medium Density Residential Zoning, Residential Planned Community District.) Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate to approve the Revised Final Site Plan. Motion Carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

##### **Sweetbay Subdivision (2018-26)**

###### Final Subdivision Plan

This is a Final Subdivision Plan for the provision of 65 (sixty-five) single-family lots using the cluster development option on a 41.55-acre parcel of land and accessed off Zion Church Road (S.C.R. 382). The Planning and Zoning Commission approved the Preliminary Subdivision Plan at its meeting of Thursday, February 28, 2019. The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Code and all conditions of approval. Tax Parcels: 533-11.00-81.00 & 82.01. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Mears to approve the Final Subdivision Plan. Motion Carried 5-0.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

**S-20-18 Destiny Apartments**

**Preliminary Site Plan**

This is a Preliminary Site Plan for a proposed 15-unit, 3-story apartment building with a 924 square foot building containing storage lockers and associated parking located on the north side of Delaware Route 1 and Parsonage Road in Rehoboth Beach, Delaware. Approximately 11 parking spaces are proposed within the front yard setback. The applicant has submitted a letter providing justification for this which further describes the existing site constraints. The project also lies within the Combined Highway Corridor Overlay Zone (CHCOZ). The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 334-13.00-5.00. Zoning: C-1 (General Commercial Zoning District) and GR (General Residential Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate to deny the Preliminary Site Plan based on the proposed parking in the front setback. Motion Carried 3-2.

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – nay, Mr. Hopkins – yea, and Mr. Wheatley – nay

**S-20-13 Tanger Microtel**

**Preliminary Site Plan**

This is a Preliminary Site Plan for a 77-bedroom hotel with 119 total parking spaces with 98 to be located within “proposed Lot 1” of a proposed major subdivision, Lands of Coroc/Rehoboth III LLC (2019-32) and 21 parking spaces to be shared with the neighboring proposed Tanger Fitness Center. All lot lines for this site are proposed and are dependent upon the approval of a separate application for consideration of a major subdivision by the Commission. The Applicant is requesting preliminary approval of the site plan prior to the Commission considering the Subdivision Plan later this year. The Applicant is requesting to allow 15 parking spaces to be located within the front yard setback, as well as a dumpster located within the side and rear setback. The site plan complies with the Sussex County Zoning Code. Tax Parcel: 334-13.00-325.36. Zoning: C-3 (Heavy Commercial Zoning District) Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate to approve the Preliminary Site Plan with final approval by staff subject to receipt of all agency approvals. Motion carried 5-0

The vote by roll call: Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Mr. Hopkins – yea, and Mr. Wheatley – yea.

**ADDITIONAL BUSINESS**

Mr. Whitehouse asked if the Commission members need further training on bookmarks for the packet materials. Ms. Stevenson asked if it could be broken down even further as it is very helpful when looking at individual cases. Ms. Wingate asked if it would be possible to get site plans in hard copy. Mr. Whitehouse stated that he will discuss with members individually about distributing hard copies of the site plans.



Meeting Adjourned 9:04 p.m.