

THE MINUTES OF THE REGULAR MEETING OF JUNE 25, 2020

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, June 25, 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. Jennifer Norwood – Planner I and Mr. Nick Torrance – 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 all members present and connected.

Motion by Ms. Wingate to approve the Agenda, 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.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, to approve the Minutes of the May 28, 2020, Planning and Zoning Commission meeting as revised. 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.

OLD BUSINESS

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.

The Commission discussed this application which has been deferred since June 11, 2020.

Ms. Wingate moved that the Commission recommend denial of C/U 2189 for Grace Malone for an Events Venue based upon the record made during the public hearing and for the following reasons:

1. The Applicant is proposing an Event Venue within a 4.59 acre site that is surrounded by homes and land that is actively farmed.
2. There is evidence in the record that the Applicant has already been using the site as an Event Venue without the necessary approvals.
3. The proposed use is not consistent with the uses of the surrounding properties. There was testimony in the record that the proposed use, which is in very close proximity to adjacent homes, will adversely affect the use and enjoyment of those homes as a result of the noise, crowds, activities (including food and alcohol service, live music, entertainment, etc.) and increased traffic associated with the use.
4. There was undisputed testimony in the record from a real estate professional that the proposed use will have an adverse effect on the value of homes that are adjacent to this site. The values of homes with yards that back up to the site would be particularly affected if the use is approved.
5. Although the Applicant cited to other properties in the area with C-1, CR-1 and LI zoning in support of this application, those properties are primarily oriented towards Route 13 and its intersection with Route 24. The location of this site has a much different character than the properties oriented to Route 13 and that intersection.
6. There was testimony in the record that there are recorded Restrictive Covenants in the chain of title to this property and the adjacent lots prohibiting any commercial uses on the property. These Restrictions are recorded in the Sussex County Office of the Recorder of Deeds at Deed Book 4473 Page 14.
7. Absent any compelling evidence to the contrary, Sussex County should not ignore restrictive covenants that prohibit a use. Because there are Restrictive Covenants limiting the property to residential uses, this application should be denied.
8. There were petitions in opposition to the application signed by at least 21 neighboring and nearby property owners expressing concerns about the “noise, traffic, property values, trash, car lights [and] trespassing” as reasons for their opposition. These are all reasonable concerns, since by its nature an event venue is used for celebratory and noisy activities.
9. The proposed use is not compatible with the active farming operations on adjacent farmland. Unlike other event venues that have been approved which are used in conjunction with the farmland and farming operations as “agri-tourism” facilities, this one has no connection with the adjacent farming operations. The use as an event venue is incompatible with the noise, dust, odors, spray applications, night operations and other general farming uses that will occur on the adjacent farmland.
10. It does not appear that there is adequate space on the site to accommodate the parking required by patrons of the proposed events. This will lead to overcrowding and parking on area roadways and the access road leading into the site.
11. It was disputed that the Applicant has the right to use the access driveway for commercial purposes. At a minimum, it does not appear that the driveway contains enough space for

the vehicle traffic that would be generated by the proposed use based upon the Applicant's projected numbers of event attendees.

12. Although the Applicant stated that the intended project will be regulated by conditions placed upon it through the Conditional Use process, there are other locations that are more appropriate for a use such as this.
13. The application, if approved, would be detrimental to the health, safety and general welfare of neighboring property owners and farmers in the area.
14. For all of these reasons, this conditional use application should be denied.

Motion by Ms. Wingate, seconded by Mr. Mears, and carried unanimously to recommend denial 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 2219 - 32630 Dupont Boulevard, LLC (Stonegate Granite, LLC)

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)

The Commission discussed this application which has been deferred since June 11, 2020.

Ms. Wingate moved to recommend approval of C/U 2219 for 32630 Dupont Boulevard, LLC (Stonegate Granite, LLC) for the sale of stone, granite and quartz and the fabrication, cutting and display of stone, granite and quartz products based upon the record made at the public hearing and for the following reasons:

1. The property is situated along Route 113 and is zoned C-1 General Commercial. The
2. adjacent parcels to the north and south are also zoned as C-1. This is an appropriate location for this use.
3. The Sussex County Comprehensive Plan indicates that the property has the land use designation of "Commercial Area" with the southwestern portion of the parcel designated as a "Developing Area". Both of these classifications are appropriate for this type of use.
4. The property has previously been used for commercial purposes. This application will utilize some of the existing buildings on the site for the use.
5. The use will not adversely affect neighboring properties or roadways.
6. No parties appeared in opposition to the application.
7. This recommendation is subject to the following conditions and stipulations:
 - a. The hours of operation shall be from 9:00 am until 5:00 pm, seven days per week.
 - b. Since this property is located within the C-1 General Commercial District, it shall comply with the signage requirements of the C-1 District.
 - c. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.

- d. The Final Site Plan shall designate the areas set aside for outside display of the stone materials, and this area shall be clearly marked on the site itself.
- e. All grinding and fabrication operations shall occur indoors.
- f. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.
- g. Any violation of these conditions may be grounds for termination of this conditional use.
- h. 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. Mears, 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 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)

The Commission discussed this application which has been deferred since June 11, 2020.

Mr. Mears moved to recommend approval of C/U 2223 for A&W Burbage, LLC for boat and RV storage based upon the record made at the public hearing and for the following reasons:

1. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
2. The use as a boat storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
3. The site is conveniently located near several residential developments that do not permit the storage of boats or RVs within them. This facility will serve that need.
4. No parties appeared in opposition to this application.
5. This recommendation for approval is subject to the following conditions and stipulations:
 - a. The site shall be limited to boat and RV storage only.
 - b. The perimeter of the site shall be fenced with a 7-foot high chain linked type of fencing. The entrance shall be gated with electronic access.
 - c. No maintenance of boats or RVs shall be performed on the site.
 - d. Security lighting shall be provided on the site and shall be directed away from neighboring properties.
 - e. No junked or inoperable boats, boat trailers or RVs shall be kept on the site.
 - f. There shall be no more than 145 spaces for boat and RV storage. Those parking or storage spaces shall be shown on the Final Site Plan and marked on the site itself.
 - g. One lighted sign shall be permitted near the entrance. It shall not be larger than 32 square feet per side.

- h. Violation of any condition of approval may be grounds for terminating this conditional use approval.
- i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, 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/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

The Commission discussed this application which has been deferred since June 11, 2020.

Ms. Stevenson moved that the Commission recommend approval of C/Z 1908 for W & B Hudson Family, LLC for a change in zone from AR-1 Agricultural-Residential zoning to C-2 “Medium Commercial” zoning based upon the record made during the public hearing and for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant’s property is currently zoned AR-1, but it is in the Harbeson area along Routes 9 and 5 where other commercial zonings and commercial uses exist at the intersection. The rear of the property is next to the future extension of the Lewes-to-Georgetown rail path, too. And, there is a significant amount of residential in the area that will be served by the C-2 uses. This is an appropriate location for C-2 zoning.
3. C-2 Zoning at this intersection of Routes 9 and 5 will benefit nearby residents of Sussex County by providing a commercial location for local shopping and similar uses without having to travel to Lewes, Milton, Long Neck or Georgetown.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is mostly in the “Low Density Area” with a small section in the “Developing Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
6. It is anticipated that the site will have central water and sewer service provided by Artesian Wastewater Management, Inc, which serves other developments in the area.
7. The property has a natural gas transmission line which will provide service to any future development that occurs there.

8. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
9. No parties appeared in opposition to the rezoning application.
10. 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 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/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.

The Commission discussed this application which has been deferred since June 11, 2020.

Ms. Stevenson moved to recommend approval of Change in Zone #1912 for Beach and Bay, LLC for a change in zone from AR-1 Agricultural-Residential zoning to C-2 “Medium Commercial” zoning based upon the record made during the public hearing and for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant’s property is currently zoned AR-1, but it is in an area along Kings Highway near Route One where other commercial zonings and commercial uses exist. This is an appropriate location for C-2 zoning.
3. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for small retail and service uses.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is in the “Coastal Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
6. The location is served by central water and sewer, which is appropriate to support C-2 and the permitted uses within that district.
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 rezoning 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. Stevenson, 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.

2020-3 – Lands of Cypress Point Properties, LLC

A standard subdivision to divide 9.603 acres +/- into 4 single family lots to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County. The property is lying on the south side of Gordy Road approximately 0.31 miles east of Old Stage Road. Tax Parcel: 332-4.00-49.00. Zoning District. AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record were a site plan, a staff analysis, a letter from the State Fire Marshal, comments from the Sussex County Engineering Department Utility Planning Division, a letter from the applicant requesting a waiver of the forested buffer requirement and the topographic requirement, a letter of no objection from DelDOT, and a copy of the Applicant's feasibility study.

The Commission found that Mr. Don Miller was not present on behalf of the Application. Mr. Wheatley tabled the Application to the end of the Agenda to allow the Applicant to connect by telephone.

At the end of the Agenda, the Commission returned to this Application.

The Commission found that Mr. Mike Smith, Esq. was present on behalf of the Applicant, Cypress Point Properties; that also present is Mr. James Kernodle one of the principals of Cypress Point Properties; that the Application is for four new lots with residual lands on a 9.603 acre parcel; that the new lots would vary in size from 1.24 acres to the residual lands of 2.69 acres; that the land is located in an area that is largely agricultural; that on Gordy Road there are similar lots and homes have been constructed; that Kernodle Construction will build homes on these lots; that the lots will all meet the lot frontage requirements of 150 ft. on Gordy Road; that the property on the northwest is agricultural lands so the setback for this property will be 50 ft. as required; that there will not be an adverse impact on traffic by the creation of these lots; that it will not have an adverse impact on any of the neighboring landowners or the community; and that there is a request for a waiver from the forested buffer requirement as it is a four acre subdivision with agricultural lands in the rear setback at 50 ft and there will not be any HOA to maintain the buffer as open space.

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 2020-3 – Lands of Cypress Point Properties, LLC. 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.

At the request of the applicant, the Commission agreed to consolidate the next two items C/Z #1907 and C/U #2209 into one public hearing. Chairman Wheatley explained that, although the two applications will be heard together that there would ultimately be two votes, one for each application, when any action is taken by the Commission.

C/Z 1907 – Matthew C. Hete

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR Medium Density Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.25 acres, more or less. The property is lying on the southeast side of Postal Lane approximately 0.22 mile northeast of Plantation Road. 911 Address: 34360 Postal Lane, Lewes. Tax Parcel: 334-6.00-686.00

Mr. Whitehouse advised the Commission that submitted into the record were a site plan, a boundary survey, a copy of the Applicant's exhibit book, a staff analysis, comments from the Sussex County Engineering Department Utility Planning Division, and the DelDOT service level evaluation response. Also, received are eight letters in support of and twelve letters in opposition to the Application.

At the conclusion of the Public Hearings, the Commission discussed Application C/Z 1907 - Matthew C. Hete. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins, 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 2209 – Matthew C. Hete

An Ordinance to grant a Conditional Use of land in an MR Medium Density Residential District for multi-family (14 units) to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 1.25 acres, more or less. The property is lying on the southeast side of Postal Lane approximately 0.22 mile northeast of Plantation Road. 911 Address: 34360 Postal Lane, Lewes. Tax Parcel: 334-6.00-686.00

Mr. Whitehouse advised the Commission that submitted into the record were a site plan, a boundary survey, a copy of the Applicant's exhibit book, 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. Also, received are seven letters in support of and fourteen letters in opposition to the Application.

The Commission found that Mr. Kevin Smith, Project Manager with Kercher Group, was present by teleconference on behalf of the applicant, Matthew C. Hete; that also present are Mr. Matthew Hete, Applicant and , Developer; that Mr. Smith stated that the request is for a change of zone from Agricultural Residential (AR-1) to Medium Residential (MR); that there are several MR properties in the area; that across the street is the Sandy Brae Development which is zoned MR and a number of additional developments on Plantation Road that are zoned MR; that Heritage Village which is approximately 500 ft. northeast of the site is zoned MR; that the subject property is approximately 0.25 mile from Coastal Highway where most of the properties are zoned General Commercial (C-1); that the Applicant wishes to rezone his property to MR as AR-1 does not allow a multi-family option; that the site plan included shows 14 townhomes; that according to the Comprehensive Plan this property is identified for future land use as mixed residential; that the State Strategies identify the property as being in Investment Level I; that the project is in character with the history of approved development in the immediate area; that the project will provide housing where transit services and infrastructure are available and therefore, meet the purpose of the Counties Zoning Ordinance by promoting the orderly growth, convenience, order, prosperity, and welfare of the County; that the project will be served by central water and sewer; that proposed conditions of approval have been submitted by the Applicant; that if approved there would be no more than 14 dwelling units on the property; that the final site plan be subject to approval by the Planning and Zoning Commission; and that the letters of opposition have been reviewed and the points of traffic and safety are being addressed between the Applicant and DelDOT.

Ms. Stevenson asked how parking would be addressed for the property. Mr. Smith responded that each unit would have a one car garage and a driveway to accommodate two vehicles per dwelling; that the roadway is not wide enough for additional parking; that curbing would be required by DelDOT.

Mr. Hopkins asked what improvements are currently on the property and if there is a plan for guest parking. Mr. Smith stated that there is a single-family home on the property currently; that the single-family home on the property will be removed; and that this is a preliminary site plan and it is possible that the front could be paved to allow for two parking spaces in front of each unit.

Ms. Wingate asked about the dimensions of each home. Mr. Smith stated that each unit would be 20 ft. by 50 ft. Ms. Wingate asked if there would be enough space for a bus stop and pull over area for the bus. Mr. Smith stated the Applicant may have to put more paving in front.

Mr. Mears stated that if approved, he would want to see two parking spaces in front of each unit in addition to the one car garage.

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

The Commission found that Ms. Donna Pesto spoke in opposition to the Application; that Ms. Pesto stated the traffic on Postal Road is already heavy and that there is no sidewalk for pedestrians; that paving a 1.25 acre lot for 14 homes and 2 parking spaces per home and a bus stop is excessive; that the Comprehensive supports multi-family when the project supports the goal of providing affordable housing but there is no commitment from the Applicant to build affordable housing on this property; that the project does not satisfy the criteria for higher density at this location through meeting affordable housing goals; and that a 14 townhome development on a 1.25 acre property is far too ambitious and not in keeping with the character of the surrounding neighborhood.

Ms. Stevenson asked about the price point for the homes. Mr. Hete stated that the homes will be sold in the mid \$300,000 range.

At the conclusion of the Public Hearings, the Commission discussed Application C/U 2209 - Matthew C. Hete. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins, 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 1916 Alice P. Robinson, Trustee

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 Broadkill Hundred, Sussex County, containing 3.03 acres, more or less. The property is lying on the southwest side of Coastal Highway (Route 1) approximately 458 feet south of Cave Neck Road (S.C.R. 88). 911 Address: Not Available. Tax Parcel: 235-23.00-54.01. 54.02, and 54.05

Mr. Whitehouse advised the Commission that submitted into the record were a site plan, comments from the Sussex County Engineering Department Utility Planning Division, and the DelDOT service level evaluation response, a boundary survey, a copy of the Applicant's exhibit book and the Applicant's concept plan.

The Commission found that Mr. Mark Davidson was present by teleconference representing the Applicant, Alice P. Robinson, Trustee; that also present are Mrs. Alice Robinson and Mr. Thomas Robinson; that this is an application to grant a rezoning of lands in an AR-1 Agricultural Residential zoning district located on 3.03 acres on the west side of Coastal Highway (Route 1) to C-2 Medium Commercial district; the properties are bordered on the north by vacant property which is zoned B-1, on the south by Heritage Antiques Market which is zoned C-1, on the west by Paynter's Mill which is a mixed use – multi-family, single-family with commercial within that community and on the east by Coastal Highway with is a principal arterial roadway; that the subject property is in the vicinity of other commercially zoned properties and will not impair or diminish property values within the neighborhood; that the rezoning will not be a public nuisance and will not create an increase in public spending; that C-2 zoning permits a variety of retail businesses and services; that the district should be near arterial and collector streets and accommodates community commercial uses that do not include outdoor storage or sales; that a concept plan has been provided to show the vision for the site showing some small warehouses, storage and offices; that in the Comprehensive plan the area is shown to be in a growth area; that the site will be served by public water and sewer; that the Applicant's will coordinate with DelDOT on road improvements and may be served by a service road if the Cave Neck Road overpass is completed; that there are no wetlands on the property and the property is located in the flood zone X; that there are no historical or natural features on the property; that stormwater management will be on site; that the property is not in any groundwater protection zones or well-head protection area; that there are no existing wooded areas on the site; 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 exists, which is essential and desirable for the general convenience, orderly growth, prosperity and welfare 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 1916 – Alice P. Robinson, Trustee. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins, 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

Lands of Merrill J. & Betty L. Parker (Phase 2) (2019-18)

Final Subdivision Plan

This is a Final Subdivision Plan for a standard subdivision of 8 single family lots and site improvements. This site is 49.80 acres located on the northeast side of Lakeview Rd. The Planning and Zoning Commission approved the Preliminary Subdivision Plan with conditions at its meeting of Thursday, October 17, 2019. The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Code and all conditions of approval. Phase 1 was approved by the Planning and Zoning Commission at its meeting of Thursday, March 12, 2020 which consisted of 4 lots and the residual land. Phase 2, the final phase, consists of 4 lots totaling 27.797 +/- acres. Tax Parcel: 133-15.00-19.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff is in receipt of all agency approvals for the Phase 2 portion of the subdivision.

Motion by Ms. Wingate, seconded by Ms. Stevenson 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.

Johnsonville Subdivision (2006-39)

Revised Final Subdivision Plan

This is a Revised Final Subdivision Plan for the Johnsonville Subdivision (2006-39) (F.K.A. the Henry James Johnson Subdivision) for the addition of a masonry monument sign, a 750 square foot easement on Lot 22, relocation of the existing bus shelter, and the reduction of the Forest Conservation Easement from 100-ft to 50-ft to the rear of Lots 2-16. The Planning and Zoning Commission approved the Final Subdivision Plan at its meeting of Thursday, March 10, 2011. The applicant has also received approval from the Sussex Conservation District for the reduction of the forest conservation easement for the development. The subdivision is located on the east and west sides of Lawson Road (S.C.R. 296). The Revised Final Subdivision Plan complies with the Sussex

County Zoning and Subdivision Code and all conditions of approval. Tax Parcel: 234-21.00-141.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins to defer action on the Revised Final Subdivision Plan for further study and information. 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-20-19 Howard T. Ennis School

Final Site Plan

This is a Final Site Plan for a proposed 1-story 94,500 square foot special needs school with 353 parking spaces and other site improvements for the Indian River School District on a 32.43-acre parcel located on Patriots Way (S.C.R. 318). Conditional Use 2211 was approved by the Planning and Zoning Commission at their meeting of Thursday, February 27, 2020 and approved by the Sussex County Council on March 17, 2020. The Final Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 133-7.00-8.01. Zoning: AR-1 (Agricultural Residential Zoning District). Staff is in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson to approve the 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.

Arbor-Lyn (C/U 2046)

Preliminary Amenities Plan

This is a Preliminary Amenities Plan for the construction of a clubhouse, in-ground pool, 19 parking spaces and other ancillary improvements. The Planning and Zoning Commission approved the Final Site Plan at their meeting of October 17, 2019. The property is located on the north side of Warrington Road (S.C.R. 275). The Preliminary Amenities Plan complies with the Sussex County Zoning and Subdivision Code and all conditions of approval. Tax Parcels: 334-12.00-127.02, 127.04 & 127.05. Zoning: MR (Medium Density Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate to approve the Preliminary Amenities Plan as a preliminary 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.

S-20-18 Destiny Apartments

Preliminary Site Plan

This is a resubmittal of a previously submitted Preliminary Site Plan for a proposed 15-unit, 3-story apartment complex 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. The Planning and Zoning Commission had previously denied this plan at its meeting of Thursday, June 11, 2020 due to 11 parking spaces being proposed within the front yard setback. Since that application was considered by the Commission, staff have identified that, at their meeting of Thursday, March 9, 2017 and through a previously submitted site plan for the Days Inn Hotel (S-17-16), the Planning and Zoning Commission approved the provision of parking within the front yard setback on this same parcel. The applicant has submitted a letter providing further justification for parking within the front yard setback which describes the existing site constraints and relevant DelDOT approvals received. 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 Mr. Mears, seconded by Mr. Hopkins to approve the Preliminary Site Plan with final approval by staff subject to receipt of all agency approvals. Motion carried 3-2

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

Lands of Ann J. Banks

Minor Subdivision off a 50-ft easement

This is a Preliminary Subdivision Plan for a minor subdivision of a 2.12-acre parcel into 2 lots, each consisting of .60 acres for a total of 1.20 acres off of a 50-ft easement over an existing 18-ft wide entrance and paved drive. The property is located off Banks Road in Ocean View, Delaware. Tax Parcel: 134-12.00-275.00. Zoning: MR (Medium Density Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate to approve the Minor Subdivision off a 50-ft easement. 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.

Lands of Jay A. Challman

Minor Subdivision off a 50-ft easement

This is a Preliminary Subdivision Plan for a minor subdivision of a 64.08-acre parcel into 4 lots, for a total of 29.88 acres off of a 50-ft easement over an existing drive, 1 lot consisting of 3.84 acres with an entrance off of Asketum Branch Rd. (S.C.R. 442), and residual lands of 8.37 acres. The property is located off Asketum Branch Rd. (S.C.R. 442) and Hardscrabble Rd. (Rt. 20) in Georgetown, Delaware. Tax Parcel: 133-13.00-2.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate to approve the Minor Subdivision off a 50-ft easement 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

Meeting Adjourned 7:15 p.m.