

THE MINUTES OF THE REGULAR MEETING OF SEPTEMBER 10, 2020

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, September 10, 2020 in the County Council Chamber, Sussex County Administration Office Building, 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 5:00 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, Ms. Lauren DeVore – Planner III and Mr. Chase Phillips – Planner I.

Chairman Wheatley noted that there is a change to the order of the Agenda. Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the revised Agenda. Motion carried 5-0.

Motion by Ms. Stevenson, seconded by Ms. Wingate to approve the revised Minutes of the August 27, 2020, Planning and Zoning Commission meeting. Motion carried 5-0.

OTHER BUSINESS

Somerset Green (F.K.A Lewes Townhouses)

Revised Site Plan

This is a Revised Site Plan for the previously approved 53-unit multi-family townhouse development approved under the name “Somerset Green”. The development is located on a 6.49-acre parcel at the intersection of Plantations Road and Shady Road. The Revised Site Plan seeks to site a 7-ft high fence along the perimeter of Plantations Road and Shady Road. The Planning and Zoning Commission previously approved the Preliminary Site Plan with final approvals to be made by staff at their meeting of December 18, 2014. In support of the Revised Site Plan, the Applicant has submitted letters of support from 20 occupiers, representing 38% of the units in the development. Tax Parcel: 334-6.00-687.00. Zoning: C-1 (General Commercial Zoning District). Staff are in receipt of all required agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to defer action for the Revised Site Plan until the Homeowners Association has voted on the proposed fence. Motion carried 5-0.

Bridgeville Concrete Plant (S-20-22)

Preliminary Site Plan

This is a Preliminary Site Plan for a concrete plant to be located on a 5.77-acre parcel of land consisting of an existing 6,640 square foot commercial building, 19 parking spaces, a batch plant, 20,250 square feet of material storage and other site improvements. The property is located on the west side of Sussex Highway (Route 13) and lies within the Combined Highway Corridor Overlay Zone (CHCOZ). The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel 131-19.00-5.00. Zoning: HI-1 (Heavy Industrial Zoning District). Staff are awaiting agency approvals.

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

Hocker's Super Center Phase 2 (S-20-24)

Preliminary Site Plan

This is a Preliminary Site Plan for a commercial center to consist of two retail spaces, a bank, a fast food establishment, and a previously approved car wash to be located over four (4) parcels of land that have a combined area of 12.0437 acres. There are 107 parking spaces to be provided (including the car wash). This property is located on the corner of Roxana Road (S.C.R. 17) and Atlantic Avenue (S.C.R. 26). The Preliminary Site Plan complies with Sussex County Zoning Code. Tax Parcels: 134-12.00-330.01, 331.00, 332.00, 333.00, 334.00. Zoning: C-1 (General Commercial Zoning District). Staff are awaiting agency approvals.

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

Best Shot Delaware (S-20-28)

Preliminary Site Plan

This is a Preliminary Site Plan for a 13,305 square foot indoor shooting range, retail, and office space for Best Shot Delaware. The property is located on the north side of Coastal Hwy (Route 1) and lies within the Combined Highway Corridor Overlay Zone (CHCOZ). The applicant is requesting a waiver to allow for 28 proposed parking spaces to be located within the front yard setback. The additional parking provided is for future development. The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 334-1.00-15.00. Zoning: C-2 (General Commercial Zoning District) and AR-1 (Agricultural Residential Zoning District) The structure is proposed within the C-2 portion of the parcel. Staff are awaiting agency approvals.

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

Lands of Layton

Minor Subdivision off an existing easement

This is a Preliminary Subdivision Plan for a minor subdivision of a 9.96-acre parcel to create two (2) lots. Lot 1 will consist of 2.134-acres +/-, Lot 2 will consist of 2.656-acres +/- . The residual land will consist of 5.170-acres +/- . The property is located off Woodland Ferry Rd (S.C.R. 78), and the existing easement measures 34.93-ft over an existing driveway (Got Chicken Lane). The Preliminary Subdivision Plan complies with the Sussex County Zoning and Subdivision Code. Tax Parcel: 232-4.00-7.13. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to approve the Preliminary Site Plan for a Minor Subdivision off an existing 50' Easement with final approval by staff subject to receipt of all agency approvals and confirmation of a shared easement maintenance agreement. Motion carried 5-0.

Lands of Ronda A. Banning

Minor Subdivision off a 34.93' wide easement

This is a Preliminary Subdivision Plan for a minor subdivision of a 42.17-acre parcel to create two (2) lots. Lot No. 8 will consist of 1.0274 acres +/-, and Lot No. 9 will consist of 1.4449 acres +/- . The

residual land will measure 39.70 acres +/- . The property is located on the north side of Wootten Road (S.C.R. 72). The proposed lots will have access off an existing 50-foot ingress/egress easement over a private road known as Haven Way. The Preliminary Subdivision Plan complies with Sussex County Zoning and Subdivision Codes. Tax Parcel: 332-5.00-15.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Wingate, seconded by Mr. Hopkins, and carried unanimously to approve the Preliminary Site Plan for a Minor Subdivision off a 34.93' Easement with final approval by staff subject to receipt of all agency approvals. Motion carried 5-0.

Lands of Hazel L. Cordrey Trustees

Minor Subdivision off a 50' wide easement

This is a Preliminary Subdivision Plan for a minor subdivision off a 4.9998-acres parcel to create one (1) lot consisting of 1.00 acre, off a proposed 50-ft ingress/egress easement, over an existing driveway. Lot A will consist of 1.00 acre and the residual lands will consist of 3.9998 acres. This property is located off Conleys Chapel Road (S.C.R. 280B). The Preliminary Subdivision Plan complies with Sussex County Zoning and Subdivision Code. Tax Parcel: 234-11.00-74.00. Zoning: MR (Medium Density Residential Zoning District.) Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the Preliminary Site Plan for a Minor Subdivision off a 50' Easement with final approval by staff subject to receipt of all agency approvals and confirmation of a shared easement maintenance agreement. Motion carried 5-0.

OLD BUSINESS

C/U 2220 Sussex Land Company, LLC (Victor Little)

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a fence construction business and for outdoor storage of construction materials to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 6.00 acres, more or less. The property is lying on the west side of Holly Tree Road approximately 0.21 mile south of Fleatown Road (S.C.R. 224). 911 Address: 11412 Holly Tree Road, Lincoln. Tax Parcel: 230-20.00-9.09

The Commission discussed this application which has been deferred since August 27, 2020.

Ms. Stevenson moved that the Commission recommend approval for Conditional Use 2220 Sussex Land Company, LLC (Victor Little) based upon the record made during the Public Hearing and for the following reasons:

1. There is a need for this type of use in this area of Sussex County. The Applicant stated that this site is centrally located in the County.
2. The applicant has stated that the work is mostly performed offsite, and that retail sales will not occur on the site.
3. The use does not require any regular deliveries during the day. The only traffic is typically in the morning and afternoon when employees take the equipment to offsite job locations. Most of the materials are delivered to the off-site location where a fence will be built.
4. The Applicant stated that he will reside on the site. His residence is set back approximately 200 feet from the roadway, and the area where the fencing business is located is another 180 feet or

so beyond that. The pole barn associated with the fencing business is approximately 400 feet from the roadway and cannot easily be seen from the road.

5. The Applicant presented an approved amendment to the restrictive covenants governing the property which will allow this use to occur on this property. In addition, one letter in support of the application was provided.
6. With the conditions and limitations of this approval, the use will not adversely affect neighboring properties, roadways or traffic.
7. The applicant has stated that his company provides a service to Sussex County by providing a conveniently located fencing business. This use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.
8. This recommendation is subject to the following conditions:
 - a. This use shall be limited to the applicant's fencing business and storage of equipment and materials related to that use. No retail sales or other business shall be conducted from the site.
 - b. The hours of operation shall be limited to 7:00 am through 6:00 pm, Monday through Saturday.
 - c. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
 - d. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
 - e. All maintenance of vehicles and equipment associated with the use shall be performed indoors.
 - f. The Final Site Plan shall clearly show all areas for vehicle and equipment parking and material storage. These areas shall also be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
 - g. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
 - h. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

C/U 2226 Jonathan E. & Karen M. Hearn

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 Northwest Fork Hundred, Sussex County, containing 3.024 acres, more or less. The property is lying on the north side of Cannon Rd. approximately 0.92 mile west of Sussex Hwy. (Route 13). 911 Address 8275 Cannon Road, Seaford. Tax Parcel: 131-18.00-33.00 (part of)

The Commission discussed this application which has been deferred since August 27, 2020.

Mr. Hopkins moved that the Commission recommend approval for Conditional Use 2226 Jonathan E. & Karen M. Hearn based upon the record made during the Public Hearing and for the following reasons:

1. The site is 3.024 acres of a larger a 17.26-acre parcel of land owned by the applicant. The use will occur within a structure set back from the roadway.
2. The property is less than a mile from Route 13 and approximately 3 miles from the center of Bridgeville. This is an appropriate location for this type of use.

3. The applicants will continue to reside on the property during its operation as an event venue.
4. The applicants intend to hold events that include weddings, birthday parties and similar events.
5. The site will have sufficient areas for parking.
6. With the conditions and limitations placed upon the Conditional Use, it will not adversely affect neighboring or adjacent properties or area roadways.
7. There is a need for this type of use in western Sussex County, and it will provide an economic benefit to this area of the County.
8. No parties appeared in opposition to this application, and one person appeared in support of it. The record also contains 8 letters in support of the application.
9. This recommendation is subject to the following conditions:
 - a. Food and beverage service and music or similar entertainment is permitted. As stated by the Applicant, food and beverage service shall be provided by catering services, as there will not be any kitchen facilities on-site.
 - b. All parking areas shall be shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
 - c. All entrance locations shall be subject to the review and approval of DelDOT.
 - d. All events shall conclude prior to 10:30 at night.
 - e. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

C/U 2229 D.R.'s Lawn Maintenance, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a landscaping and lawn maintenance business on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 5.678 acres, more or less. The property is lying on the north side of Hollis Rd. (S.C.R. 295), approximately 0.38 mile east of the intersection of Gravel Hill Rd. (Rt. 30) & Hollis Rd. (S.C.R. 295). 911 Address: 25479 Hollis Rd., Harbeson. Tax Parcel: 135-16.00-43.09

The Commission discussed this application which has been deferred since August 27, 2020.

Ms. Stevenson moved that the Commission recommend approval for Conditional Use 2229 D.R.'s Lawn Maintenance, LLC based upon the record made during the Public Hearing and for the following reasons:

1. The site is part of a 5.678-acre parcel. The conditional use will only occupy approximately .62 acres of the entire site.
2. The site is located within a Low-Density Area according to the Sussex County Comprehensive Plan. This low impact type of use is appropriate within this Area.
3. The site is heavily vegetated, which will screen the use from neighboring properties.
4. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.
5. The use will not adversely affect area roadways or neighboring properties.
6. The applicant has stated that his landscaping company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.

7. Two people spoke in favor of the application, including one of the neighboring property owners.
8. The Applicant has stated that he will reside upon the property.
9. This recommendation is subject to the following conditions:
 - a. This use shall be limited to a landscaping and lawn care business. The use shall only occupy a .62-acre portion of the entire site, and this area shall be shown on the Final Site Plan.
 - b. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and the dyeing of mulch or similar materials.
 - c. As stated by the Applicant, there shall not be any retail sales occurring from the site.
 - d. A sign was not requested by the Applicant, so no sign shall be permitted on the site.
 - e. The hours of operation shall be limited to 7:00 am through 6:30 pm, Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as - needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
 - f. There shall not be any dumping of trees, branches, grass or other debris on the site.
 - g. The on-site storage of mulch, stone, topsoil and similar materials shall be located in bins or enclosures. The location of these storage areas shall be shown on the Final Site plan.
 - h. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.
 - i. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
 - j. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
 - k. The Applicant has stated that a privacy fence will be installed along the common boundary with one of the neighboring properties. The location and type of fencing shall be shown on the Final Site Plan.
 - l. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.
 - m. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

C/U 2230 Ralph A. Kemmerlin, Sr.

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a professional gunsmithing business to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 0.74 acres, more or less. The property is lying on the south side of the intersection of Elks Lodge Rd. (S.C.R 211) and Hammond Dr. approximately 0.74 mile southeast of Marshall St (S.C.R. 225). 911 Address: 19306 Elks Lodge Road, Milford. Tax Parcel: 330-11.18-41.00

The Commission discussed this application which has been deferred since August 27, 2020.

Ms. Stevenson moved that the Commission recommend approval for Conditional Use 2230 Ralph A. Kemmerlin, Sr. based upon the record made during the Public Hearing and for the following reasons:

1. The use is for a retail gunsmithing business located within the applicant's existing residence.
2. The Applicant has stated that he is a member of several professional organizations regarding firearm education, training and gunsmithing. He also has extensive experience in law enforcement.
3. The use is small in nature and is very nearly a home occupation which would be a permitted use on this property.
4. The Applicant has stated that there will be very little interaction with the public except for appointments made for drop-off or pick-up of a firearm that is left at the business for servicing.
5. The Applicant has stated that there will be some gun sales from the premises, but gunsmithing will be the primary business that will occur.
6. The use will not adversely affect neighboring properties or roadways.
7. The Applicant has stated that there will not be a firing range located on the premises and firearms will not be discharged on the premises.
8. The use provides a needed service for residents of Sussex County who own firearms. As a result, the use has a public or semi-public character.
9. No parties appeared in opposition to the application, and one neighbor appeared in support of it.
10. This recommendation is subject to the following conditions:
 - a. The use shall be a professional gunsmithing business, with firearm sales associated with the use. Gunsmithing shall remain the primary business.
 - b. The Applicant must comply with all Federal and State licenses and regulations for the use.
 - c. As stated by the Applicant, no firearms shall be discharged on the site.
 - d. As stated by the Applicant, the use shall occur within the Applicant's exiting home on the site. No gunsmithing activities shall occur outdoors.
 - e. One unlighted sign, no larger than 4 feet by 4 feet in size, shall be permitted.
 - f. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

PUBLIC HEARINGS

Chair Wheatley read the mask policy.

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

C/Z 1913 FW & SV Thoroughgood Family Limited Partnership

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a HI-1 Heavy Industrial District for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 3.60 acres, more or less. The property is lying on the west side of Thorogoods Road. 911 Address: 30512 & 30540 Thorogoods Road,

Dagsboro. Tax Parcel: 233-5.00-70.00.

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

The Commission found that Mr. David Hutt, Esquire was present on behalf of the applicant, FW & SV Thoroughgood Family Limited Partnership, that also present are Mr. Frank and Ms. Sarah Thoroughgood and Mr. Bill Thoroughgood who are all part of the family limited partnership; that the property is located off Thorogood Road; that the request is for a change of zone from AR-1 to HI-1; that this property has a conditional use for a truck repair business that was approved by County Council in 1995; that the use is limited to what is specifically provided for in the conditional use; that instead of seeking modifications to the conditional use the Applicant has decided to seek a change of zone for this property; that the property to the rear of the Applicant's property is zoned HI-1; that the property is close to railroad tracks; that the property is presently improved with an outbuilding and garage; that the property is served by on-site water and sewer; that there are no wetlands located on the property; that the property is not within a flood plain; that DelDOT did not require a traffic impact study as part of this application; that the 2020 Delaware Strategies for State Policies and Spending identify the property as Investment Level 2 which support and encourage a wide range of uses; that the 2018 Comprehensive Plan identifies the property as being in the developing area which is one of Sussex County's growth areas; that the Future Land Use map identifies the area to the north and west as being within an Industrial Area; that the only property between the asphalt plant and the railroad that is not in the Industrial Area is the subject property so therefore the rezoning would be consistent with the Future Land Use Map; that the purpose of the HI-1 district is to provide for a variety of industrial operations and to exclude new residential and commercial developments and the fact that there are other industrial uses in this area this change of zone is appropriate for this parcel; that the aerial history of this area has remained consistent since 1992; that based upon the uses of adjacent properties, and that the uses of the HI-1 district, the State Strategies Map, and the designation on the Future Land Use Map, the Applicant is requesting that the Commission recommend approval of this change of zone to County Council.

The Commission found that no one spoke in favor of or in opposition to the Application. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application but stated that he would hold the record open for public comments at the end of the meeting as the order of the agenda was revised.

Motion by Ms. Stevenson, second by Mr. Hopkins to close the public hearing. Motion carried 5-0.

At the conclusion of the Public Hearing Chairman Wheatley asked if there was anyone who wished to speak in favor of or in opposition to this Application and did not get an opportunity to speak when the case was presented. There were no further comments from the public either in person or by teleconference.

At the conclusion of the Public Hearings, the Commission discussed C/Z 1913 FW & SV Thoroughgood Family Limited Partnership. Motion by Ms. Wingate, second by Ms. Stevenson, to defer action for further consideration. Motion carried 5-0.

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a C-1 (General Commercial District) to a LI-2 (Light Industrial District) for a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County, containing 23.7021 acres, more or less. The property is lying on the south side of E. Newton Road, approximately 791 feet west of Sussex Highway (Route 13). 911 Address: N/A. Tax Parcel: 131-6.00-8.00.

Mr. Whitehouse advised the Commission that submitted into the record is an exhibit book, a staff analysis, a copy of the DelDOT service level evaluation response indicating that the Applicant will have to contribute to the area wide study fee.

The Commission found that Mr. David Hutt, Esquire was present on behalf of the applicant, Newton Farms, LLC, that also present are Mr. Rob Ryder who is a principal of Newton Farms and Mr. David Heatwole, an Engineer with Siteworks Engineering; that this is an application to amend the comprehensive zoning map from C-1 to LI-2 for 23.7 acres location on E. Newton Road; that the property is unimproved and used for agricultural purposes; that the intended use of the site will be for manufacturing and light industrial; that the property is served by on-site water and sewer; that there are no wetlands located on the property; that the property is not within a flood plain; that the service level response from DelDOT indicated that no traffic impact study would be required; that DelDOT would require the first use of the property to pay an area wide study fee; that the 2020 Delaware Strategies Map identify the property as an Investment Level 2 which is one of the most active levels in Delaware's developed landscape; that the 2018 Comprehensive Plan and particularly the Land Use Map identifies this as being in the developing area; that this property is completely surrounded by the designation of industrial on the Future Land Use Map; that the Future Land Use Map supports industrial uses; that in the Developing Area with good road access and few nearby homes should allow for business and industrial parks; that this location is approximately 600 ft. from Route 13; that there are few residential homes in the area; that the purpose of the LI-2 district is to provide for a wide variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access by major thoroughfares or railroads; that when you have LI-2 areas, it promotes job creation and job retention; that the intended use for this property is a new location for Miller Metal Fabrication; that the concept plan is similar to the buildings on the adjacent properties; and that based upon the consistency of this application with the surrounding area, the uses of adjacent properties, the purpose of the LI-2 zoning district, the investment level on the State Strategies Map and the designation of the Future Land Use Map the Applicant is requesting that the Commission recommend approval of this change of zone to County Council.

Mr. Martin Miller spoke in favor of the Application; that Mr. Ryder has agreed to sell Miller Metal this property and that it would be a great location for their growing business.

Mr. Rob Ryder spoke in favor of the Application; that this is an ideal location; that Miller Metal has been a partner of OA Newton for sixteen years; and that Miller Metal does all fabrication work for OA Newton and has created quality jobs for Sussex County.

The Commission found that no one spoke in opposition to the Application. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application but stated that he would hold the record open for public comments at the end of the meeting as the order of the agenda was revised.

At the conclusion of the Public Hearing Chairman Wheatley asked if there was anyone who wished to speak in favor of or in opposition to this Application and did not get an opportunity to speak when the

case was presented. There were no further comments from the public either in person or by teleconference.

Motion by Ms. Stevenson, second by Ms. Wingate to close the public hearing. Motion carried 5-0.

At the conclusion of the Public Hearings, the Commission discussed C/Z 1919 Newton Farms, LLC. Motion by Mr. Hopkins, second by Ms. Stevenson, to defer action for further consideration. Motion carried 5-0.

2020-02 – Lands of Steve Axe Sr.

A standard subdivision to divide 5.00 acres +/- into 2 single family lots to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County. The property is lying on the north side of Bunting Road, approximately 0.33 mile east of Kruger Road. Tax Parcel: 133-6.00-56.11. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's subdivision plan, comments from the Sussex County Engineering Department Utility Planning Division, comments from the Fire Marshall's office, comments from DelDOT including a letter of no objection, a copy of the Applicant's approved soil feasibility study and a request from the Applicant for a waiver from the topographic contour requirement and the forested buffer requirement.

The Commission found that Mr. Steve Axe and Ms. Karen Illian were present to present the Application. Ms. Illian stated that her stepfather, Mr. Axe owns the five-acre parcel and the subdivision will allow for a dwelling for her and her family.

Mr. Hopkins asked if there would be a plan for shared use on the easement and if they Applicant would agree to a maintenance agreement between the properties using the driveway.

Ms. Illian stated that the easement will be widened to accommodate two-way traffic and there will be a shared maintenance agreement.

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

Mr. Tony Morgan spoke in opposition to the Application, he stated that he owns the parcel 56.00, that he has concerns about the easement as it is very narrow and has concerns about traffic.

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

At the conclusion of the Public Hearings, the Commission discussed 2020-02 – Lands of Steve Axe Sr.

Mr. Hopkins moved that the Commission grant preliminary approval of Subdivision 2020-02 – Lands of Steve Axe Sr. based upon the record made during the Public Hearing and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 2 lots on 5 acres of land is significantly less than the allowable density.

3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. Because this is a small subdivision upon existing lots, a waiver of the County's road construction requirements, topographic requirements and forested buffer requirements is appropriate.
7. This preliminary approval is subject to the following conditions:
 - a. There shall be no more than 2 lots within the subdivision.
 - b. All entrances shall comply with all DelDOTs requirements.
 - c. The Final Site Plan shall contain a shared maintenance obligation for the driveway.
 - d. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised plan upon confirmation that the conditions of approval have been depicted or noted on it.
 - e. The Final Site Plan shall be subject to the review and approval of Sussex County.

Motion by Mr. Hopkins, second by Ms. Stevenson, and carried unanimously to grant preliminary approval for the reasons and with the conditions stated in the Motion. Motion carried 5 – 0.

2020-05 – Lands of James D. West

A standard subdivision to divide 4.296 acres +/- into 4 single family lots to be located on a certain parcel of land lying and being in Northwest Fork Hundred, Sussex County. The property is lying on the west side of Sussex Highway (Route 13), approximately 0.80 mile south of Adams Road (S.C.R. 583). Tax Parcel: 530-17.00-2.02. Zoning District: AR-1 (Agricultural Residential District).

Mr. Whitehouse advised the Commission that submitted into the record is a copy of the Applicant's subdivision plan, comments from the Sussex County Engineering Department Utility Planning Division, a copy of the Applicant's approved soil feasibility study and a request from the Applicant for a waiver from the topographic contour requirement and the forested buffer requirement.

The Commission found that Mr. James West presented his Application. Mr. West stated that there is a road on the property and will be extended to access the four lots.

Mr. Hopkins asked if there will be a formal maintenance agreement for the easement.

Mr. West stated that there will be an easement maintenance agreement.

The Commission found that no one spoke in favor of or in opposition to the Application. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed 2020-05 – Lands of James D. West

Mr. Hopkins moved that the Commission grant preliminary approval of Subdivision 2020-05 – Lands of James D. West based upon the record made during the Public Hearing and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
2. The land is zoned AR-1 which permits low density single family residential development. The proposed subdivision density of 4 lots on 4.296 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings, and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. Because this is a small subdivision, it is appropriate to waiver of the County's road requirements, topographic survey requirements and forested buffer requirements.
7. No parties appeared in opposition to this application.
8. This preliminary approval is subject to the following conditions:
 - a. There shall be no more than 4 lots within the subdivision.
 - b. All entrances shall comply with all DelDOTs requirements.
 - c. The Final Site Plan shall contain a shared maintenance obligation for the access roadway.
 - d. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised plan upon confirmation that the conditions of approval have been depicted or noted on it.
 - e. The Final Site Plan shall be subject to the review and approval of Sussex County.

Motion by Mr. Hopkins, second by Ms. Stevenson, and carried unanimously to grant preliminary approval for the reasons and with the conditions stated in the Motion. Motion carried 5 – 0.

C/U 2231 Solid Walls, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a concrete contractor office, storage and maintenance to be located on a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 9.51 acres, more or less. The property is lying on the east side of VFW Road, 288 feet south of Ellendale Forest Road. 911 Address: 14411 VFW Road, Ellendale. Tax Parcel: 230-31.00-24.00.

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

The Commission found that Mr. Mark Davidson was present on behalf of the applicant, that also present is Mr. Peter Nau, owner of Solid Walls, LLC; that this is an application to grant a conditional use of lands in an AR-1 district located on 9.51 acres on the east side of VFW road; that the property has a existing condition Use for the Georgetown-Ellendale VFW Post 2931; that the property is bordered on the north and east by single-family detached residences on wooded lands, on the south by an existing storage building on wooded lands; and on the west by VFW road which connects to Route 113 and provides easy access to Georgetown, Ellendale and Milford; that the proposed use is for a Concrete Contractor Office, Storage and Maintenance for Solid Walls, LLC; that Solid Walls has been in business since 2005 and employs approximately 50 people; that their office is currently in Camden,

Delaware and the business would like to relocate to Sussex County; that the purpose of the conditional use is to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations; that these uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare but, because of the nature of the use, the importance of the relationship to the Comprehensive Plan and possible impact not only on neighboring properties but on a large section of the county, require the exercise of planning judgment on location and site plan; that the site plan shows the existing buildings used by the VFW in the past and will be utilized as offices for the needs of Solid Walls, LLC; that there is a permitted entrance and sufficient parking for the business; that proposed are two additional storage and maintenance buildings which will allow the Applicant to store materials out of the sight of the general public; that maintenance to work vehicles will be completed inside the buildings and will not alter the essential character of the neighborhood; that there is a stormwater pond on site and it is outside of the 500 year flood plain in zone X; that the area in the 2019 Sussex County Comprehensive Plan, this area is identified as being low-density and the focus of businesses in low-density areas should be to provide services to nearby residences and each application should be reviewed on its own merit; that one 32 square foot sign is being requested; that the hours of operation would be Monday through Friday 6 am – 6 pm, Saturday 7 am – 2 pm and permission for employees to return to the property after 6 pm to retrieve their personal vehicles; that the proposed conditional use meets the general purpose of the Zoning Ordinance being located in an appropriate location meeting the purpose of this district and the comprehensive plan by providing sufficient space in appropriate locations for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations, which is essential and desirable for the general convenience, orderly growth, prosperity and welfare of the County.

Mr. Hopkins asked how the variation in hours would work.

Mr. Robertson stated that there would have to be definitive hours for the entire business.

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

Mr. Gary McCrae spoke in opposition to the Application. Mr. McCrae stated that he owns the property opposite the subject property; that this is a low-density area and businesses should address the needs of two uses – agricultural and providing convenience goods for local residents; that this Application seeks to turn a Conditional Use into a full-blown commercial use; that there are no commercial businesses in this area; that the roads are not equipped for the trucks that will be associated with the proposed use and that there are concerns about chemicals used for the business.

Mr. Davidson stated that there will be no chemicals on-site, that the forms are cleaned on the job site before being returned to the subject property.

Ms. Louise King spoke in opposition to the Application. Ms. King stated that the road is narrow and has concerns about the traffic; there will be negative impact to the people who live in the area; that the back up beeping of the trucks would be annoying to neighbors; that the comment from the Applicant regarding room for growth on this site creates additional concerns for neighbors; and that this area does not fit the bill for this type of business.

Mr. Chris Kaifer spoke in opposition to the Application. Mr. Kaifer stated that he does not want to stand in the way of anyone making a living however, this is a rural area with many residences; that there is no shoulder on the road; and that the road is narrow and this use will create a lot of traffic.

Chairman Wheatley stated that the Applicant testified that the trucks do not have back-up alarms.

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

At the conclusion of the Public Hearings, the Commission discussed C/U 2231 Solid Walls, LLC. Motion by Mr. Hopkins, second by Ms. Stevenson, to defer action for further consideration. Motion carried 5-0.

Ord. 20-04 – Amendment to Future Land Use Map

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 135-16.00-23.00 (PORTION OF)

Mr. Whitehouse advised the Commission that submitted into the record for this Ordinance is a copy of the proposed ordinance, a copy of the State's Spending Strategies Map, a copy of Exhibit A which shows the 15-acre portion of the subject parcel, and a copy of the County's application to PLUS.

The Commission found that Mr. Jamie Whitehouse, Director of Planning and Zoning for the County presented the Amendment. Mr. Whitehouse reminded the Commission that in January 2020, there was an application for a change of zone from CR-1 zoning district to HI-1 zoning district for a portion of parcel 135-16.00-23.00; that application was recommended for approval by the Commission; that at the County Council approved the application but subject to an amendment to the Future Land Use Map of the County; that amendment has necessitated the need for public hearings; that Staff have also submitted the PLUS response, they noted that it is in a Level 4 but as it is next to the railroad line they have not opposed it; and that the proposed change is to change the designation for part of the parcel shown on Appendix A from the commercial area which does not permit HI-1 zoning to the industrial area to meet the County Councils approval contingent on this change.

Mr. Robertson stated that in the future the Commission could look at the Future Land Use Map and say that it makes sense to add more industrial areas, that this one was missed in the Future Land Use Map; that the Commission does not want to make the Future Land Use Map irrelevant with Applicants requesting changes to the Map with their rezoning; that planning is important and that is what the Future Land Use Map was designed to do.

Mr. Hopkins stated that this is a great opportunity to be able to correct an area that was missed in the Future Land Use Map.

The Commission found that no one spoke in favor of or in opposition to the Application. Upon there being no further questions, Chairman Wheatley closed the public hearing for this application.

At the conclusion of the Public Hearings, the Commission discussed the Amendment to the Future Land Use Map.

Ms. Stevenson moved that the Commission recommend approval of Ordinance Subdivision 20-04 Amendment to the Future Land Use Map of the Comprehensive Plan from CR-1 to HI-1 for a 15-acre portion of Tax Map No. 135-16.00-23.00; that this amendment is appropriate based on the following:

1. The proximity to an active railway line.
2. The proximity to Route 9.
3. The proximity to Sussex County's Industrial Park and for the types of uses that are planned for and that already exist on this site.
4. The Future Land Use Map includes Industrial Area across the railway lines from this site.

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

ADDITIONAL BUSINESS

The Commission had a brief discussion about the number of Applications that request parking in the front yard setback and if this issue could be addressed.

Meeting adjourned at 7:43 p.m.

**Planning and Zoning Commission meetings can be monitored on the internet at
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