

THE MINUTES OF THE REGULAR MEETING OF JANUARY 26, 2023.

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, January 26, 2023, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware. Members of the public were also able to attend this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 3:00 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, and Mr. Bruce Mears. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mr. Chase Phillips – Planner II, Mr. Elliott Young – Planner I, and Ms. Ashley Paugh – Recording Secretary.

Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to approve the Agenda as revised. Motion carried 5 - 0.

Motion by Ms. Stevenson, seconded by Ms. Wingate to approve the Minutes of the December 8, 2022, and December 15, 2022, Planning and Zoning Commission meetings as circulated. Motion carried 5 – 0

PUBLIC COMMENT

The Commission found there was no one present in the room or by teleconference who wished to provide public comment.

OTHER BUSINESS

Covered Bridge Inn (C/U 2177)

Final Site Plan

This is a Final Site Plan for an events venue consisting of approximately three (3) barns, a 2-story dwelling, a maintenance building, an innkeeper office/apartment, a courtyard, grassed event area, a patio, parking, and other site improvements. All improvements on the site are currently existing. This use is supported by Conditional Use No. 2177, which was approved by the Sussex County Council at their meeting of Tuesday, July 30th, 2019, and the change was adopted through Ordinance No. 2670. It should also be noted that the property also is the site of a Special Use Exception for the operation of a five (5) bedroom tourist home (bed-and-breakfast inn), which was approved by the Board of Adjustment as part of BOA Case No. 12026 at their meeting of Monday, September 18th, 2017. The Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. The property is located on the north and south sides of Fisher Road (S.C.R. 262). Tax Parcel: 334-10.00-53.00 & 55.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Final Site Plan as a final. Motion carried 5-0.

S-22-42 Caden Oplinger (C/U 2341)

Final Site Plan

This is a Final Site Plan for the construction of a 4,800-square-foot building and other site improvements for a landscaping business. This use is supported by Conditional Use No. 2341, which was approved by the Sussex County Council at their meeting of Tuesday, June 7th, 2022, through Ordinance No. 2858. The parcel is 19.836 acres +/- and is located on the south side of Shawnee Road (Rt. 36). The applicant

is requesting a waiver for the bulk grading plan requirement. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 130-6.00-22.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Final Site Plan as a final. Motion carried 5-0.

S-22-20 Long Neck Community Bank

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the construction of a 4,000-square-foot retail building, a 3,200-square-foot bank, and a 4-story 18,000-square-foot mixed-use building with 16 apartment units on the second story and retail on the first story. Included in the plan is associated parking, an existing cemetery, and other site improvements. Change of Zone 1940 was approved by the Sussex County Council at their meeting of Tuesday, February 1st, 2022, through Ordinance No. 2829 from AR-1 to C-2 and Change of Zone 1880 was approved by the Sussex County Council at their meeting of Tuesday, July 16th, 2019, through Ordinance No. 2669 from AR-1 to C-2. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcels: 234-23.00-261.00 and 262.00. Zoning: C-2 (Medium Commercial District). Staff are awaiting agency approvals and confirmation of the extent of the cemetery. Staff would like to request final approval be made by the Commission upon the receipt of the required approvals and confirmation.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan as a preliminary, with final approval to be by the Commission subject to the receipt of all agency approvals and the confirmation and delineation to the extent of any burials located on the site. Motion carried 5-0.

Bay Forest Club Phase 6 (Sprogell Infill Parcel) Residential Planned Community (RPC)

Preliminary Site Plan

This is a Preliminary Site Plan for Phase 6 (Sprogell Infill Parcel) within the existing and previously approved Bay Forest Club Residential Planned Community (RPC) for the construction of twenty-three (23) units to consist of fifteen (15) single-family detached condominiums and eight (8) townhomes to be located on the north side of Sanderling Road and with access off of Flycatcher Way. At their meeting of Tuesday, April 27th, 2021, the Sussex County Council approved a change of zone application (Change of Zone No. 1921) for rezoning from Agricultural Residential (AR-1) District to a Medium Density Residential, Residential Planned Community (MR-RPC) District. The Preliminary Site Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 134-8.00-17.01. Zoning: Medium Density Residential, Residential Planned Community (MR-RPC). Staff are in receipt of all agency approvals; therefore, this plan may be considered for preliminary and final approval.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the Preliminary Site Plan as preliminary and final. Motion carried 4-0. Ms. Wingate abstained.

S-22-44 American Storage of Delaware – Route 24 (C/U 2315)

Preliminary Site Plan

This is a Preliminary Site Plan for a proposal for a storage facility to consist of a three (3) story mini-warehouse building totaling 150,000 square feet +/-, consisting of 1,200 square feet +/- of storage units, and 1,200 square feet +/- of office space,) stormwater improvements and RV parking (some covered) are proposed on the front portion of the property. The rear of the property is proposed to house five (5) 28-unit, three (3) story apartment buildings housing 140 apartment units and consisting of 170,000

square feet of residential use, a clubhouse, in-ground pool, related parking, playground amenity, and stormwater management improvements. The rear portion of the property was the subject of two (2) approved Change of Zone Applications, Change of Zone No. 1954 (which changed the front 8.27-acre portion of the property to Heavy Commercial (C-3)) and Change of Zone No. 1955 (which changed the rear 17.63-acre portion of the property to Medium Density Residential (MR)). This same 17.63-acre portion of the property was also the subject of a Conditional Use Application, Conditional Use No. 2315, to allow for 140 multifamily units within an Agricultural Residential (AR-1) District. The Application was approved by the Sussex County Council at their meeting of Tuesday, June 14th, 2022, and the change was adopted through Ordinance No. 2861. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcels: 234-29.00-49.02, 49.03 & 50.00. Zoning: C-3 (Heavy Commercial District) & MR (Medium Density Residential District). Staff are awaiting agency approvals and would like to request final by staff upon the receipt of the required approvals.

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

S-22-41 Coastal Services, LLC

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of a 7,560-square-foot pole barn to be utilized for a general contracting business. Included in the plan is associated parking, a 6-foot privacy fence, and other site improvements. The property currently has a dwelling and associated parking that is currently used for commercial purposes. This use is supported by Conditional Use No. 2239 which was approved by the Sussex County Council on October 27th, 2020, through Ordinance No. 2749. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 134-9.00-59.12. Zoning: B-1 (Neighborhood Business) and GR (General Residential District.) Staff note that one change will be required to the plan, and that includes the introduction of the correct Ordinance that includes the applicable Conditions of Approval. Therefore, it is requested that any final approval be granted by staff upon the receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan as a preliminary, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 5-0.

2020-13 Atlantic East (F.K.A. Terrapin Island & Salt Cedars)

Amenities Plan

This is an Amenities Plan for the construction of a 1,000 square foot +/- clubhouse, 1,095 square foot in-ground pool +/-, covered porch, open space/amenities area, umbrellas, and other site improvements. The Final Subdivision Plan for the Subdivision was approved by the Planning and Zoning Commission at their meeting of Thursday, September 21st, 2022. The parcel is located on the south side of Brackish Drive within the previously approved Atlantic East Subdivision, which is a cluster subdivision to consist of a total of forty-two (42) single-family lots. The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 234-18.00-31.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals and would like to request that final approvals be made subject staff upon the receipt of the required approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to approve the Amenities Plan as a preliminary, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 5-0.

2018-09 Plover Point (F.K.A. Oak Landing)

Amenities Plan

This is an Amenities Plan for the construction, installation, and placement of a proposed 1,250 square foot in-ground pool, and 3,036 square foot pool house/clubhouse. 4,000 square foot volleyball and sand court, 18,060 square foot sports field, a fire pit, eight (8) picnic table seating areas, playground with mulch base, and ornamental pond. The improvements are proposed to be located in the existing subdivision of Plover Point, which is a cluster subdivision to consist of one-hundred and forty-seven (147) single-family lots. The Final Subdivision Plan for the development was approved by the Planning and Zoning Commission at their meeting of Thursday, June 24th, 2021. The parcel is located on the south side of Reeve Road and on the north side of Shorebird Way within the existing subdivision. The Amenities Plan complies with the Sussex County Zoning Code and all Conditions of approval. Tax Parcel: 234-34.00-97.01. Zoning: GR (General Residential District). Staff are awaiting agency approvals and would like to request that final approvals be made subject staff upon the receipt of the required approvals.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Amenities Plan as a preliminary, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 5-0.

Lands of Mark J.& Jane Blevins

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 0.99-acre parcel into one (1) lot and residual lands. Proposed Parcel A consists of 0.40 acres +/- and the residual land consists of 0.59 acres +/- . The property is located on the north side of Fred Hudson Road (S.C.R. 360). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 134-13.00-76.00. Zoning: MR (Medium Residential District). Staff are in receipt of all agency approvals; therefore, this plan may be considered for preliminary and final approval.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Minor Subdivision off a 50-ft. easement as a preliminary with final approval to be by the staff upon receipt of all agency approvals. Motion carried 5-0.

Lands of Winward Village LLC

Minor Subdivision off a 30-ft Easement

This is a Minor Subdivision Plan for the Lands of Windward Village, LLC for the subdivision of a 1.00-acre parcel into four (4) buildable lots including residual. Proposed Lot 1 will consist of 0.245-acres +/- (10,687 sq ft.), Proposed Lot 2 will consist of 0.266-acres +/- (11,619 sq ft.), Proposed Lot 3 will consist of 0.251-acres +/- (10,917 sq ft.) and the residual land or Proposed Lot 4 will contain 0.253-acres +/- (11,029 sq ft.). All lots shall have combined access from a 30-ft ingress/egress access easement located on the east side of Kent Avenue (S.C.R. 361). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 134-17.11-6.00. Zoning MR (Medium Residential District). Staff are awaiting agency approvals and would like to request that final approvals be made by staff subject to the receipt of the required approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 30-ft. easement as a preliminary, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 5-0.

OLD BUSINESS

2021-36 Wynford Preserve (F.K.A. Prettyman Road Development, LLC)

A cluster subdivision to divide 50.50 acres +/- into one hundred (100) single-family lots to be located on a certain parcel of land lying and being in Broad Kill Hundred, Sussex County. The property is lying on the south side of Prettyman Road (S.C.R. 254), approximately 0.87-mile northwest of Lewes-Georgetown Highway (Rt. 9). Tax Parcel: 235-29.00-25.00. Zoning: AR-1 (Agricultural Residential).

The Commission discussed the Application which had been deferred since January 12, 2023.

Ms. Wingate moved that the Commission grant preliminary approval of 2021-36 Wynford Preserve (F.K.A. Prettyman Road Development, LLC), based on the record made during the public hearing and for the following reasons:

1. The Applicant is seeking approval of a cluster subdivision on land zoned AR-1 located within the “Low Density” Area of the 2019 Comprehensive Plan.
2. The subdivision will have no more than 100 lots on 50.50 acres of land resulting in a gross density that is permitted in the AR-1 cluster subdivision. All lots will be at least 7,500 square feet in size.
3. The proposed development will comply with all DelDOT roadway and entrance requirements.
4. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the Applicant has addressed the requirements of Section 99-9C of the Code.
5. Approximately 49% of the site will remain as open space.
6. The subdivision will be served by central water and sewer.
7. The subdivision provides for a total environment and design which are superior to that of a standard subdivision including a substantial amount of open space and buffers and it complies with the design requirements and review procedures for an AR-1 cluster subdivision. It is evident from the record that the Applicant complied with the design process of Section 115-25 of the Zoning Code by seeking to identify and preserve environmentally sensitive areas first and locating the roads and lots last.
8. The subdivision is consistent with the character and trend of residential development in the area and with the conditions imposed by this preliminary approval it will not adversely affect the neighboring and adjacent properties. It is consistent with the adjacent Hawthorne community and will be interconnected with that community.
9. The subdivision meets the purpose of the Zoning and Subdivision Codes and Comprehensive Plan in that it promotes the orderly growth, convenience, order, prosperity, and welfare of the County.
10. This recommendation is subject to the following conditions:
 - a. There shall all be no more than 100 lots within the subdivision.
 - b. The developer shall establish a Homeowner’s Association responsible for the maintenance of the streets, buffers, stormwater management facilities, and other common areas.
 - c. As shown on the Preliminary Site Plan, approximately 49% of the site shall remain as open space.

- d. The stormwater management system shall meet or exceed the requirements of the State and County and the Final Site Plan shall contain the approval of the Sussex Conservation District. The system shall be maintained and operated using Best Management Practices.
- e. There shall be a forested and/or vegetated buffer strip that is at least 30 feet wide along the perimeter of the subdivision adjacent to land of other ownership (but not along Prettyman Road) in accordance with Section 99-5 of the Subdivision Ordinance. This buffer shall increase to a width of 40 feet adjacent to properties identified as Sussex County Tax Map and Parcel Numbers 2-35-29.00-23.00, 23.02, 23.03, 24.00, 25.01, 25.03, 25.04, 25.05, 2-35-30.00-6.00, and 1-35-11.00-68.00. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area. In addition, as proffered by the Applicant, dirt berms shall be installed within the buffer along the properties identified by Tax Parcel Number above. These berms shall be at least four feet in height, planted and maintained using best management practices to maximize the survivability of the vegetation. The berm dimensions and plantings shall be shown on the Landscape Plan included in the Final Site Plan and they must be installed and planted prior to the issuance of the first residential Building Permit. In the event that the berm is not possible due to any State Agency, County, or Conservation District requirements, a Public Hearing shall be scheduled and noticed to address such a change in this condition of approval.
- f. The development shall comply with DelDOT Entrance Roadway Improvement requirements.
- g. Street design shall meet or exceed Sussex County standards.
- h. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Office.
- i. The subdivision shall be served by Central Sewer.
- j. The subdivision shall be served by a Publicly Regulated Central Water System providing drinking water and fire protection.
- k. Sidewalks shall be installed on at least one side of all internal streets and downward-screened streetlighting shall be provided.
- l. Construction, site work, and deliveries shall only occur on the site between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and 8:00 a.m. through 2:00 p.m. on Saturday. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
- m. The Applicant shall coordinate with the local school district for a school bus stop within the subdivision. If required by the school district, the location of the bus stop area shall be shown on the Final Site Plan.
- n. There shall be on-site recreational amenities including a clubhouse and outdoor pool. The size and dimensions of the clubhouse, pool, and pool deck shall be included on the Final Site Plan. These amenities shall be completed and open to use prior to the issuance of the 60th residential building permit.

- o. The Final Site Plan shall include a Landscape Plan depicting all landscaping to be provided, the preservation of all buffer areas, and the forested areas that will be preserved. The Landscape Plan shall also identify all “Limits of Disturbance” within the site.
- p. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
- q. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
- r. No irrigation wells serving individual lots shall be permitted within this subdivision. Wells for a central irrigation system may only be installed and operated as permitted by D.N.R.E.C. The Final Site Plan and recorded Restrictive Covenants shall contain a notice as follows: “Trichloroethylene (TCE) exists in the ground beneath the property where this subdivision is located. No well of any kind, other than irrigation well(s) installed and operated with approval by the Delaware Department of Natural Resources and Environmental Control shall be permitted. No irrigation wells serving individual lots shall be permitted.”
- s. 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. Mears and carried unanimously to grant preliminary approval of 2021-36 Wynford Preserve (F.K.A. Prettyman Road Development, LLC) for the reasons and conditions stated in the motion. Motion carried 4-0. Chairman Wheatley abstained.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea

C/U 2337 Community Power Group, LLC

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District and a C-1 General Commercial District for a solar farm to be located on a portion of a certain parcel of land lying and being in Cedar Creek Hundred, Sussex County, containing 25.327 acres, more or less. The property is lying on the north side of Beach Highway (Route 16), approximately 0.20 mile east of Dupont Boulevard (Route 113). 911 Address: 18019 Beach Highway, Ellendale. Tax Parcel: 230-26.00-39.00 (p/o).

The Commission discussed the Application which had been deferred since January 12, 2023.

Mr. Hopkins moved that the Commission recommend approval of C/U 2337 Community Power Group, LLC for a solar farm in the AR-1 District, based on the record made during the public hearing and for the following reasons:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 26 acres of a larger 52.23-acre farm.

3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties and there is information and data in the record that the use will not generate any excessive noise or glare.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. The Applicant has included a Decommissioning Phase in the record for when this solar farm is no longer in use.
7. There will be a buffer of existing vegetation along the north and a portion of the west sides of this site to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly. In addition, vegetated buffers will be planted along the remainder of the western portion of the solar array and along the southern boundary of it.
8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. This recommendation is subject to the following conditions:
 - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information and instructions in case of emergency.
 - d. The site shall be secured by fencing with a gate with a "Knox Box" or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - e. The location of any transformers or similar equipment, or structures, shall be shown on the Final Site Plan.
 - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - h. There shall be a vegetated buffer of existing vegetation along the northern and a portion of the western sides of the solar area. In addition, vegetated buffers shall be planted along the remainder of the western boundary and the southern boundary of the solar array area. These buffer areas shall be clearly shown on the Final Site Plan. These buffers shall screen solar arrays while allowing the solar arrays to function properly.
 - i. The Final Site Plan shall identify a Decommissioning Plan that includes financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.

- j. 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 of C/U 2337 Community Power Group, LLC, for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley - yea

C/U 2375 Shane & Laura Karlik

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a mercury marine service business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 1.70 acres, more or less. The property is lying on the east side of Cool Spring Road (S.C.R. 290) approximately 0.28 mile north of Stockley Road (S.C.R. 280). 911 Address: 20635 Cool Spring Road, Milton. Tax Parcel: 234-5.00-40.04.

The Commission discussed the Application which had been deferred since January 12, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2375 Shane & Laura Karlik for a Mercury Marine service business in the AR-1 District, based on the record made during the public hearing and for the following reasons:

1. The use is for a Mercury Marine service business located on the property where the Applicants reside.
2. The use will allow the Applicants to do repair and maintenance work on marine motors as overflow from offsite work they primarily do as part of this business at marinas, boatyards, boat storage facilities, or other similar locations.
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 Applicants have stated that there will be very little traffic or interaction with the public except for limited deliveries for repairs.
5. The use will not adversely affect neighboring properties or roadways.
6. The use provides a needed service for residents of Sussex County who own or operate boats and it promotes boating which is an important part of Sussex County tourism. As a result, the use has a public or semi-public character.
7. No parties appeared in opposition to the application.
8. This recommendation is subject to the following conditions:
 - A. The use shall be limited to the repair and maintenance of marine motors. No fiberglass repairs or grinding of materials unrelated to boat motor repairs shall be permitted.
 - B. There shall not be any boat storage on the property, and no more than five boats shall be on the property at any one time for repairs. No junked or permanently inoperable boats, trailers, or boat motors shall be located on the site.
 - C. All chemicals, oils, or other liquids associated with the use shall be stored and disposed of as required by law.
 - D. One unlighted sign, no larger than 4 feet by 4 feet in size, shall be permitted.

- E. The hours of operation shall be limited to the hours between 7:00 am and 5:00 pm daily.
- F. The Final Site Plan shall show the areas where repairs and maintenance will occur and where boats and trailers will be located. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2375 Shane & Laura Karlik, for the reasons and conditions stated in the motion. Motion carried 5-0.

Vote by roll call: Mr. Hopkins – yea, Ms. Stevenson – yea, Ms. Wingate – yea, Mr. Mears – yea, Chairman Wheatley - yea

Ord. 23-02

An Ordinance to amend the Future Land Use Map of the Comprehensive Plan in relation to Tax Parcel No. 334-5.00-153.00 and 334-5.00-153.02. The property is lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard. 911 Address: 32172 Janice Road, Lewes. Tax Parcel: 334-5.00-153.00 and 334-5.00-153.02.

The Commission discussed the ordinance which has been deferred since January 12, 2023.

Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

C/Z 1995 Janice CRP3, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District and C-1 General Commercial District to an MR-RPC Medium-Density Residential – Residential Planned Community District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 61.39 acres, more or less. The property is lying on the west side of Janice Road, approximately 0.10 mile west of Nassau Commons Boulevard. 911 Address: 32172 Janice Road, Lewes. Tax Parcel: 334-5.00-153.02.

The Commission discussed the Application which had been deferred since January 12, 2023.

Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

Recess

3:49 pm – 3:56 pm

PUBLIC HEARINGS

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

Chairman Wheatley granted approval to combine the presentation for the next two Applications, Ord. 22-07 related to Tax Parcel 135-15.00-98.00 & 98.01 and C/U 2369 Leeward Chase DE, LLC, as they

are related to the same properties. Chairman Wheatley advised the Commission the Applications would be acted on separately.

Ord. 22-07

An Ordinance to amend the Future Land Use Map of the Comprehensive Plan in relation to Tax Parcels 135-15.00-98.00 & 98.01. The properties are located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway. 911 Address: 22242 Lewes Georgetown Highway, Georgetown. Tax Parcels: 135-15.00-98.00 & 98.01.

Mr. Whitehouse advised the Commission that the Ordinance request was to amend the area designation on the Future Land Use Map from the Commercial Area to the Developing Area. Mr. Whitehouse advised the Commission that submitted into the record were the Application form, an Exhibit Map, a copy of the Ordinance introduced by the County Council on January 3, 2023, and a copy of the Applicant's statement made to PLUS. Mr. Whitehouse advised the Commission that no PLUS comments had been received regarding the Ordinance and the Ordinance is required to go through the new PLUS process.

C/U 2369 Leeward Chase DE, LLC

An Ordinance to grant a Conditional Use of land in an Agricultural Residential District for multi-family dwellings (106 units) to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 50.80 acres, more or less. The properties are located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway. 911 Address: 22242 Lewes Georgetown Highway, Georgetown. Tax Parcels: 135-15.00-98.00 & 98.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's Exhibit Booklet, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, the State's PLUS comments, the Applicant's response to the State's PLUS comments, a letter received from the Federal Aviation Administration, a letter received from Tidewater Utilities, Inc., and the Applicant's Assessment of Environmental Conditions.

Mr. Whitehouse advised the Commission that no comments were received for either Application.

The Commission found that Mr. James Fuqua, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Applications Ord. 22-07 and C/U 2369 Leeward Chase DE, LLC in a combined presentation; that also present were Mr. Jack Hayes, Mr. Jason Palkewicz, and Mr. Edward Launay; that the Conditional Use Application requested the proposed use of multi-family dwellings, consisting of 106 units, within 53 duplex buildings; that the development is proposed to be called Leeward Chase; that the second Application is a request to amend the parcel's Future Land Use designation per the Comprehensive Plan from the Commercial Area designation to a Developing Area designation; that the parcel contains 50.79 acres; that the property is located on the southside of Rt. 9, being just east of the Town of Georgetown municipal boundary; that the site contains a wide variety of existing uses; that residential uses and woodlands are located to the west of the site; that Sussex Academy School is located to the west of the site; that residential homes are located to the north of the site; that a strip of C-1 (General Commercial) zoned land is located to the north, containing various businesses, which include Servepro, Dixie

Construction Co. Inc., Delaware Home Health Care, Inc., and Techgas Inc.; that there are various other businesses within the surrounding area which were granted Conditional Uses; that to the east of the site is the location of the Route 9 Liquors; that the remaining eastern boundary of the site is adjacent to Sports at the Beach facility; that Sports at the Beach was previously approved as a Conditional Use as a baseball facility, geared toward youth baseball tournaments; that Sports at the Beach is approximately 100 acres, containing 16 baseball fields, welcome center, concession stands, an academy building and onsite accommodations for players and their families; that these accommodations include playgrounds, basketball courts and a swimming pool; that the southern boundary of the site will be adjacent to the future Lewes Georgetown Bike Trail; that the trail currently exists from Lewes to Fisher Rd.; that the first section of the trail, heading east from Georgetown, has been constructed; that once the trail is fully completed, pedestrians will have the ability to ride from Georgetown to Lewes or Rehoboth via the bike trail; that the bike trail is located adjacent, on the northernly side of the railroad right of way track; that the railroad right of way goes from Georgetown to Gravel Hill; that the railroad track has been decommissioned from Lewes to Gravel Hill, however is currently in use; that there will be a security chain link fence placed between the bike trail and the rail line for security purposes; that on the other side of the railroad line is the location of the Delaware Coastal Airport, which is zoned Industrial; that the airport is owned and operated by Sussex County; that this area is surrounded by many uses involving, planes, trains, bikes, sports, commercial and residential uses; that the Leeward Chase project was reviewed through the PLUS process in March 2022; that a PLUS comment letter was issued by the Office of State Planning Coordination in April 2022; that the PLUS letter stated the property is located within Investment Levels 2 & 3 under the State Strategies Plan; that Investment Levels 2 & 3 are areas where growth is anticipated; that the PLUS comments state the property is located within a Growth Area under the Comprehensive Plan; that most, if not all, of the proposed site development will be located within Investment Level 2, which is an area where the State does support, encouraging a wide variety of uses, including departure from typical single-family developments in order to promote a broader mix of housing types with open space a recreational activities; that the Investment Level 3 areas contain wetlands, which will remain undisturbed; that the Application proposes 53 duplex buildings, which will contain 106 residential units; that the property is zoned AR-1 (Agricultural Residential); that multi-family dwellings, such as duplexes, are permitted within the AR-1 district as a Conditional Use in accordance with the provisions of the Zoning Ordinance in §115-22; that the site of a Conditional Use for multi-family units with AR-1 Zoning must be located within certain growth areas as designated by the Comprehensive Plan, being Town Center, Coastal and Developing Growth Areas; that the site is located within the Commercial Growth Area; that due to this, the Applicant additionally filed an application for a Future Land Use Designation Amendment, requesting the designation be changed from the Commercial Growth Area to the Developing Growth Area; that the majority of the land adjacent to and surrounding the site is currently located within the Developing Growth Area; that the requested change would be consistent and in character with the designations of the surrounding properties; that the Developing Area designation is a less intense classification than the existing Commercial Growth Area designation; that the Comprehensive Plan states, within Commercial Growth Areas can included concentrations of retail and service uses, which include shopping centers and other medium and large commercial uses, such as hotels, motels, car washes and auto dealerships; that the Developing Area designation would not permit the majority of the uses permitted in the Commercial Area; that the Developing designation offers a range of housing types, some office use and limited commercial uses within selected locations; that the Developing Area designation would result in a residential community, which would have much less potential for adverse impacts related to noise, lights, hours of operations and traffic; that the Future Land Use Map designates the property in the Commercial Area, however, the

Zoning Map designates the property within AR-1; that the Zoning Ordinance states the developer of multi-family units, within an AR-1 zone, is permitted to pay a development fee for each unit requested in excess of two units per gross acre; that the site contains 50.797 acres; that the site, at two units to the acre, would support 101.594 units; that the Applicant is proposing 106 units, which is 4.406 units in excess of the permitted two units to the acre; that the Ordinance provides the required development fee within the Georgetown Developing Area is \$15,000.00; that if the Application were approved for the request 106 units, the Applicant would be responsible for paying the County a development fee of approximately \$66,090.00; that the required development fee is noted within the Applicant's proposed Conditions of Approval; that central sewer will be provided by Sussex County; that the development will have gravity sewer lines, which will connect to an onsite pump station; that Sussex County Engineering Department indicated that wastewater capacity is available for the project; that originally the County suggested the Applicant contact the Town of Georgetown for sewer service; that the Town of Georgetown stated they would not have the ability to provide sewer services to the project; that central water service will be provided by Tidewater Utilities, Inc.; that an Ability to Serve Letter was provided by from Tidewater Utilities, Inc.; that service will require an expansion of Tidewater's franchise area to include the site; that stormwater management facilities will be designed and constructed in accordance with the DNREC Sediment and Erosion Control Regulations and will be reviewed and approved by the Sussex Conservation District; that a wetland delineation was performed on the site by Mr. Edward Launay of Environmental Resources, Inc.; that the delineation determined that the site contained 17.55 acres of Federal Jurisdictional Non-Tidal wetlands; that the wetlands are located on three site areas; that the wetland areas are located along the western boundary, the center of the site and a larger area along the south east boundary, within the wooded area of the site; that U.S. Army Corp of Engineers did provide approved Jurisdictional Determination; that the non-tidal wetland areas are forested and will remain undisturbed, except for a road crossing and a pedestrian trail crossing, proposed over a small area; that the road crossing is located along the line of trees located to the east of the property; that the proposed crossing would be constructed in accordance with the U.S. Army Corp regulations and authorized under existing law; that the Application was filed before the adoption of the newly adopted Buffer Resource Ordinance; that the Application would not be subject to the new Buffer Ordinance; that the Applicant is proposing a voluntary 30-ft. buffer to all of the non-tidal wetlands areas, except for the locations for the road and trail crossings; that the proposed 30-ft. buffer complies with the new Buffer Ordinance; that the property is located within Flood Zone X; that the Coastal Airport Area is located to the rear of the property; that the airport runway path goes over the Sports at the Beach property; that the subject site is not impacted by the airport runway path; that the Applicant did contact the Federal Aviation Administration (FAA), who conducted an Aeronautical Study; that the FAA did issue a Determination to No Hazard to Air Navigation Letter dated April 3, 2022; that the U.S. Fish & Wildlife Service indicated there were no federally listed species or critical habitats found on the site; that DelDOT indicated that based on traffic generation, the Application would be permitted to pay an Area Wide Study Fee in lieu of a Traffic Impact Study (TIS); that Rt. 9 physically meets the DelDOT road standards, with 12-ft travel lanes and 10-ft. shoulders; that no additional road improvements are required on Rt. 9; that the Applicant will dedicate a 50-ft right-of-way from the centerline of Rt. 9, along the site frontage, if the right of way does not currently exist; that the Applicant will dedicate a 15-ft. wide easement along the frontage right of way to DelDOT; that the Applicant will construct a shared use path along the frontage of Rt. 9; that the site is located within the Sussex Central School District; that the Georgetown Volunteer Fire Company will provide fire protection to the site; that the proposed density would be 2.08 per acre, which is consistent with the density permitted within the AR-1 Zoning District; that 60% of the units would be two-bedroom units, with a one vehicle garage; that 40% of the units would be three-

bedroom units, with a two vehicle garage; that the entrance to the development is proposed from Rt. 9, from approximately the center of the site; that the entrance location will be reviewed and approved by DelDOT, being designed and constructed in conformity with DelDOT requirements; that the buildings, internal streets, and the stormwater facilities locations are reflected on the Preliminary Site Plan; that sidewalks are proposed on both sides of the development streets; that non-intrusive street lighting will be provided to the development; that the cul-de-sac roads offer turn around areas in appropriate locations; that additional off-road parking is provided for the development; that a 10-ft. public shared use path is proposed along Rt. 9; that reinforced emergency-only access is proposed for the development; that a school bus stop is proposed along Rt. 9; that the location of the bus stop would be coordinated with the school district; that a centrally located recreational amenities area is proposed, which would contain an outdoor pool, bathhouse, meeting room building, and storage area; that the recreational amenities are proposed to be completed prior to the issuance of the 60th residential unit building permit, which would equal the 30th duplex building permit; that a trail will connect the units located to the rear of the site to the recreation area in the center of the site; that if permitted by DelDOT, an internal trail is proposed to connect the streets to the bike trail; that a 20-ft wide landscape buffer is proposed at appropriate locations along the perimeter of the property; that a 75-ft vegetated buffer is proposed along the site frontage along Rt. 9; that there will be a voluntary 30-ft buffer provided from the non-tidal wetlands; that the open space, which includes wetland areas, buffers and recreational areas, totals 35.9 acres of the site, being approximately 70% of the site; that the 70% is in excess of the 40% open space requirement per the Ordinance for a multi-family Conditional Use; that the project does provide for a use which is public or semi-public in character; that the project is essential and desirable to the general convenience and welfare of Sussex County residents; that the units are not proposed to be sold; that the development is planned to be a Residential Rental Community, which is also known as Build to Rent; that the proposed rentals should benefit the Affordable Housing issue; that the developer will be the owner of the property and all units; that the developer will be responsible for all maintenance, all repair, all management associated with the buildings, roads, recreational amenities, common areas, buffers etc.; that the development will be a Market Rate Rental Community; that residents will enter into a Residential Lease Agreement; that the developers business plan is based on the existing need for more affordable housing in the Georgetown area and the needs for employees working in the Lewes and Rehoboth Beach areas; that the Georgetown 2021 Comprehensive Plan stated that Georgetown recognized the importance of affordable housing and supported a balance of housing for all ages and incomes, including Workforce Housing; that Chapter 8 of the Sussex County 2019 Comprehensive Plan states a shortage of affordable housing is a problem for low and medium income households in Sussex County, including many families with full-time, year-round employment; that the County Comprehensive Plan states there is a particular shortage of affordable housing in eastern Sussex County and that a lot of the workforce have long commutes from eastern Sussex County; that additionally, the PLUS letter stated reviewed comments from the Delaware State Housing Authority indicated the need for additional housing, affordable to a broader spectrum of County residents is well documented and that additional market-rate, multi-family, rental units will provide a more affordable housing option to help mitigate the current housing insecurity; that the Delaware State Housing Authority is in support of the Application; that from a land use perspective, there is no distinction from a rental unit to a sold unit, however rental units are the Applicant's business plan; that should a situation arise, where the property would be sold in the future, it would be subject to the Delaware Condominium Law, where the responsibilities of the Developer would be taken over by a Condominium Association; that currently, there is no intent to establish a condominium regime; that with one owner, being the Developer, a condominium regime is not necessary; that there is a lack of housing; that it is very expensive to purchase

a home in eastern Sussex County; that aside from the price of the home, a 20% down payment is required, a mortgage payment, property taxes, homeowners insurance and property maintenance; that the business plan proposes a person would have the ability to rent a modern home, with space, not having other residents located above or below them; that the proposed duplexes will have a parting wall between them; that the two and three bedroom units will have yards and garages; that the Applicant believes the Conditional Use is appropriate as it is essential and desirable for the general convenience and welfare, providing an affordable housing option for Sussex County residents; that the proposed use is consistent with and responsive to the State and the County and Town of Georgetown Comprehensive Plans by addressing the current need for more affordable housing; that the location is surrounded by a wide range of existing uses, including residential, retail service businesses, sports complex, bike trail and airport; that the location is an appropriate place for the proposed use; that the proposed Future Land Use Map designation from Commercial Area to Developing Area would provide less intensive uses to the area and the Applicant requested the Commission recommend approval for the requested Applications.

Ms. Wingate stated she liked the proposal of rental units for the area, and she questioned if there were plans to have an onsite property manager.

Ms. Stevenson questioned how many parking spaces are provided for the development; that she had concerns regarding potential road parking, which may create difficulties for emergency personnel; that she expressed concern about the lighting from the Sports at the Beach facility spilling over onto the proposed homes; that she questioned if any measure is proposed to mitigate a lighting issue and she questioned the current market rate for a two-bedroom unit.

Mr. Fuqua stated the Applicant does propose to have an onsite resident manager; that the units will have one to two-vehicle garages, that up to four vehicles could fit in the driveway; that additional parking is provided in front of the recreational center and throughout the development; that the intention is to have no road parking for the development; that the proposed parking does meet the Code requirements; that the plan will be reviewed and approved by the Delaware Fire Marshal Office; that the Applicant can attempt to add additional parking to the proposed plan; that he believed the Sports at the Beach lighting are directional lights, specifically to the ball fields; that he did not believe there was anything that could be done to the sports facility lighting and he did not believe the ball games ran late in the evenings.

Mr. Jack Hayes stated he had spent a lot of time performing studies on the rental market, approximately a year apart; that the studies confirmed little to no vacancy; that the majority of the units constructed five to six years ago are full and have remained full; that there was little family-oriented homes offered; that the proposed housing product has been built very successfully in Florida, for younger families and for families requiring more affordable housing; that the study suggested a three-bedroom unit would rent approximately between \$1,700 and \$1,800 per month; that the monthly cost would include all exterior and lawn maintenance; that the smaller units would rent approximately between \$1,375 to \$1,400 per month; that there is a cost savings; that aside from a dividing wall, the units are essentially single-family units; that due to this, it allows for some cost savings, which allows them to be competitive; that proposed are annual rentals; that there is no intention to change the business plan to sell off as condominiums; that the intention is to hold the units, potentially refinance them with the Federal Housing Administration (FHA) 223 Program, placing the pool of mortgages in a certificate; that his partners have performed this many times before and the proposed use is a niche that is not being fulfilled in Sussex County currently.

Mr. Jason Palkewicz stated in regards to the lighting issue from Sports at the Beach, there are maintenance buildings, two ponds, and two hedge rows between the baseball fields and the subject property.

The Commission found there were two people present who wished to speak in opposition to the Application.

The Commission found that Mr. Raymond Hopkins spoke in opposition to the Application, also present was his wife, Ms. JoAnn Hopkins; that he and his wife own property, adjacent to Servepro, located directly across the street from the subject site; that his concern was to the potential traffic generated by the project; that many employees and customers enter and exit from Servepro and he requested the Commission consider traffic safety measures for the Servepro customers and employees.

The Commission found that Mr. Harry Larson, III, spoke in opposition to the Application; that his property is located adjacent to the subject site; that he was not in support of or in opposition to the Applications; that he wanted to ensure the Application is developed in the right way; that he is disheartened to see a development be placed, but understood, as it is the change of the times; that he had concerns regarding drainage and flooding; that he had experienced 14 inches of flooding around his house; that the ditch, located between his property and the subject site, relieves a lot of water; that a State representative previously informed him, that his property catches the majority of the water run off from the Sports at the Beach facility all the way down to the intersection of Rogers Avenue; that he would like to ensure the drainage situation be address; that additionally he requested consideration be given to the placement of an eight foot vinyl privacy fence, separating his property from the development; that within the last five years, traffic has become a nightmare; that the lighting from the Sports at the Beach facility lights up his backyard and he hears the National Anthem every Saturday and Sunday morning.

The Commission found that Ms. Jennifer Cinelli-Miller, with DelDOT Planning, provided neutral comment regarding the Applications; that her comments were not made in support or opposition to the Applications; that she wanted to remind the Commission and the Applicant that the DelDOT Coastal Corridors Study, which is the second joint effort between Sussex County and DelDOT, is still ongoing; that DelDOT is in the process of conducting State Corridors conversations with the Corridors Committee; that the Corridors Committee will be discussing U.S. 9 Corridor on February 13, 2023; that DelDOT anticipates to attend a public workshop later in the spring; that she estimates a final report will be available in late summer or early fall; that there is a lot needing to be done, in conjunction with the Applicant and DelDOT Development Coordination; that anything which may come out of the study, which may be a recommendation or plan for traffic improvements around the subject corridor would need to be adhered to; that the Applicant may be asked to contribute to potential changes or the implementation of future projects and the study is currently moving forward in a very positive way.

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

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

At the conclusion of the public hearings, the Commission discussed the Applications.

In relation to Ord. 22-07 related to Tax Parcels 135-15.00-98.00 & 98.01. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

In relation to C/U 2369 Leeward Chase DE, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 5-0.

C/U 2370 William D. & Carol Emmert

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for amendments to Conditional Use No. 1334 (Ordinance No. 1383) to allow for an additional commercial building for storage and operations of a construction business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 3.93 acres, more or less. The property is lying on the north side of Four of Us Road, approximately 234 feet west of Hollyville Road (S.C.R. 48). 911 Address: 28816 Four of Us Road, Harbeson. Tax Parcel: 234-10.00-12.09.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Staff Analysis, a letter from Sussex County Engineering Department Utility Planning Division, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission zero comments had been received for the Application.

The Commission found Mr. Blake Carey, with the Smith Firm, LLC, spoke on behalf of the Application; that also present was Mr. William D. Emmert; that the property is located on the northerly side of Four of Us Road, being west of Hollyville Rd. in Harbeson; that the Applicants acquired the property in approximately 2000; that the property is roughly 3.93 acres; that around the time of acquisition, the Applicants did seek a Conditional Use; that Conditional Use was granted for C/U 1334, which became Sussex County Ordinance No. 1383; that Ordinance 1383 allowed for two buildings to be located on the property; that one building was permitted for storage related to the Applicant's auction business, known as Emmert Action Associates; that the other building was permitted for a landscaping business; that thereafter the approval, the first building was constructed on the western side of the property; that building was utilized and continues to be utilized by the Applicant for the auction business; that approximately 2020 or 2021, the Applicant sought a permit for the construction of the second building; that the second building is existing and currently constructed; that the second building was utilized by a business that performs residential hardscaping and patio work; that Sussex County informed the Applicant the use for residential hardscaping and patio work was not permitted; that this initiated the currently Conditional Use request; that the previous Conditional Use was permitted for a landscape business, office and equipment; that no retail sales were approved for the property; that currently there is no retail sales on the property for either building; that the current Conditional Use request is related only to the proposed use for the second building on the property; that no retail sales are proposed at the building; that manufacturing would not take place at either building on the property; that the Applicant does propose hardscaping and residential hardscaping materials and equipment, along with portable dumpsters for rent; that some dumpsters would be stored within the second building, with other dumpsters around or about the second building; that the amount of construction equipment and portable dumpsters for rent would vary; that typically, customers will rent a dumpster; that the dumpster is delivered to the home construction site; that the dumpsters are utilized; that the dumpsters are then

dumped and returned to the site to be stored until a customer rents the dumpster again; that he stated from personal experience, the rental dumpsters are hard to find; that he currently has a similar dumpster at his property; that he stated the rental dumpsters are expensive; that the more businesses who can serve the need the better; that employee parking is located around the second building; that employee parking is noted on the Site Plan; that the second building and employee parking are both well within the required setbacks; that the other properties located along Four of Us Road, consist of additional buildings used for the storage of vehicles and vehicle mechanical work; that Parcel 12.11, located to the west, is utilized for a large scale landscaping business; that water for the property is served by a private well; that waste water is served by private septic; that the property is located in the AR-1 (Agricultural Residential) Zoning District; that the Conditional Use request is to allow the second building to be located on the property, and for the second building and the area surrounding it to be utilized for a residential construction business; that the residential construction business would include an office to be located within the second building, employee parking to be located around the second building, the storage of equipment and materials to be located within and outside of the second building; that the request would also include the storage of the portable rental dumpsters to be located on the property; that the proposed Conditional Use is similar in character of the surrounding area and properties along Four of Us Road; that nearby properties of the site, include several storage buildings and businesses, which include other construction related businesses; that located within a one mile radius, are other professional services with contractor storage have been permitted via Conditional Uses for AR-1 zoned properties; that the proposed use would have no adverse impact on the character or property values of the surrounding area; that DelDOT confirmed a Traffic Impact Study (TIS) was not required; that the AR-1 property is located within a Low Density area, per the Comprehensive Plan; that the proposed use is not an intense commercial use and is not large in scale; that due to this, the proposed use is permissible according the Comprehensive Plan; that the Staff Analysis concluded that subject to considerations of scale and impact, a Conditional Use to allow for an amendment of Ordinance 1383, could be considered consistent with land use area zoning and surrounding uses; that the proposed use is for residential construction, not commercial construction, therefore not involving large-scale operations; that the proposed use will benefit the health, safety and welfare of existing and future Sussex County residents; that the proposed use will benefit and address the needs of residential and agricultural owners, by providing convenient services to neighboring properties and residents of Sussex County; that permitting the use will increase competition within the residential construction setting, which is beneficial to County residents, healthy for the environment and a benefit to the public itself; that similar properties are hard to come by, or too expensive, along commercial areas; that this creates stifling of small businesses to survive in the area; that the use will not impact nearby properties or roadways; that the second building and its uses will be generally shielded from Hollyville Rd. by existing tree lines; that there is existing fencing around the property; that the second building is located 463.7-ft. from the nearest adjacent residential property off Hollyville Rd.; that the second building is 99.9-ft from the property located to the north, which is an existing open field; that the proposed use would not generate any significant noise or construction equipment; that equipment would only be utilized when mobilizing to sites to perform hardscaping installs; that the Application is consistent with Code requirements for a Conditional Use; that proposed Conditions of Approval were submitted; that proposed conditions stated that the property would be limited to operations and storage for a residential construction business, including an office and outside storage of materials, equipment and portable rental dumpsters; that hours of operation are proposed to be 7:00 am until 5:00 pm; that no retail would be conducted at the site; that all exterior lighting shall be downward screened so it does not shine on neighboring properties and one lighted sign is requested as permissible by County Code.

Ms. Wingate questioned if the Applicant owned all the properties along Four of Us Road, if Four of Us Road was a private road, who maintains Four of Us Road, and if a maintenance agreement is in place for the road.

Mr. Mears questioned if there would be any grinding of mulch or materials on site.

Ms. Stevenson mentioned concern about noise and questioned how close a dumpster would be placed on the site from the residential homes along Hollyville Rd.

Chairman Wheatley questioned if the Applicant would be agreeable to the placement of screening.

Mr. Hopkins questioned if there was a home located on Parcel 12.05.

Mr. Carey stated the Applicant does not own all the properties along Four of Us Road; that Four of Us Road is a private road; that no grinding of mulch or materials is proposed at the site; that the dumpsters are delivered to a residential construction site; that at the site, the dumpsters are filled; that once filled, the dumpsters are taken to Delaware Solid Waste Authority (DSWA) to be dumped; that DSWA is located up the road from the site; that the dumpsters are brought back to the site to be stored until the next rental; that the second building is located approximately 400-ft. from the closest residential home; that they propose to keep the rental dumpsters as close to the second building as possible; that the dumpsters would be unloaded only during the proposed hours of operation; that on the eastern portion of the property, Mr. Emmert plants grass, which is utilized for duck blinds; that the grass grows very tall; that in the summer the grass does provide a good deal of screening to the property; that the grass is harvested in the winter; that there is not a home located on Parcel 12.05; that there are no homes located along Four of Us Road; that all the buildings along Four of Us Road are for storage or business uses and the closest residential property's ingress/egress is from Hollyville Rd.

Mr. Emmert stated Four of Us Road is owned and maintained by himself and his neighbor, Shore Property Maintenance, who is located behind him; that there is a shared maintenance agreement in place for Four of Us Road; that he believed there are six portable rental dumpsters proposed for the site and that he was agreeable to the placement of screening on the property.

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

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

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/U 2370 William D. & Carol Emmert. Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson and carried unanimously. Motion carried 5-0.

C/Z 1974 Gregory T. White and Patricia P. White

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-3 Heavy Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.83 acres, more or less. The

property is lying on the northeast side of Vines Creek Road (Rt. 26), approximately 425 feet northwest of Powell Farm Road (S.C.R. 365). 911 Address: 34371 Vines Creek Road, Dagsboro. Tax Parcel: 134-11.00-152.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Property Survey, the Applicant's Conceptual Site Plan, the Staff Analysis, the DeIDOT Service Level Evaluation Response, the Applicant's Exhibits, the PLUS comments, and the Applicant's response to the PLUS comments. Mr. Whitehouse advised the Commission zero comments had been received for the Application.

The Commission found that Ms. Mackenzie Peet, with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Application; that also present was Mr. Gregory T. White; that the Applicant was seeking a request for a Change of Zone from AR-1 (Agricultural Residential) to C-3 (Heavy Commercial); that the property is located off Vines Creek Rd., being along the northeast side of Rt. 26; that the property is 2.83 acres; that the property is approximately 425-ft. from the intersection of Rt. 26, Omar Rd. and Powell Farm Rd.; that along this intersection and adjacent to the site is Car Quest Auto Parts, on property zoned as CR-1 (Commercial Residential); that the property adjacent to the auto part store is a marine store; that east along Atlantic Ave. are multiple properties zoned for commercial; that Good Earth Market is zoned CR-1; that Creative Concepts, Liberty Gas Station, Hockers and Walgreens are all zoned for commercial; that last year, a nearby property was re-zoned to C-3 (Heavy Commercial) for the proposal of mixed-use, with commercial on the bottom and residential located on top; that also St. George's Church and cemetery are also located nearby the property; that the Applicant is seeking to rezone the property for future development of a self-storage facility, to include the storage of vehicles, which is permitted with C-3 Zoning; that the storage of vehicles is not permitted within C-2 (Medium Commercial) Zoning; that a tax ditch runs through the site; that the tax ditch is noted on the Site Plan; that a Tax Ditch Right of Way Modification will be required, as stated within the Applicant's response to the PLUS comments; that the tax ditch is required to be surveyed and analyzed for effective function; that along the rear portion of the property, DNREC had noted the potential presence of wetlands; that the Applicant does understand the wetlands would require delineation for any future development of the site; that these issues would be addressed at Site Plan approval for the property; that the property is located within the Tier I of the Sussex County Unified Sanitary Sewer District; that the proposed increase in traffic and impact to surrounding roadways will be analyzed, reviewed and approved by DeIDOT; that the PLUS comments indicated that frontage and entrance related improvements are anticipated at this time; that the property is located within three different Investment Levels, being Investment Levels 2, 3 and 4; that the front portion of the property is located within Investment Level 2; that the middle of the property is located within Investment Level 3; that the rear portion of the property is located within Investment Level 4; that the intention is to only develop within Investment Levels 2 & 3; that the Level 4 area, being the location of the tax ditch, would not be developed; that the future use of the property is intended for a storage facility, for the storage of parked vehicles; that the Applicant intends for the subject property to be considered Phase 2 of the overall project; that the proposed storage facilities would be under the same business; that Parcels 107 and 108, located across the street, would be developed first; that the subject parcel, Parcel 152, would be developed thereafter; that the proposed rezoning is consistent with the Comprehensive Plan and Future Land Use Area; that the property, and entire surrounding area, is designated as the Coastal Area; that within the surrounding area of the site, there have been five Change of Zone applications filed; that C/Z 1738 for a Change of Zone from AR-1 to B-1 (Neighborhood Business) for the existing thrift store; that C/Z 1789 from AR-1 to CR-1 (Commercial Residential), which is the location of Good Earth Market; that C/Z 1798 from AR-1 and CR-1 (Commercial Residential) zoning to C-1 (General Commercial), which is the location of the auto

center; that C/Z 1840 from AR-1 to CR-1 (Commercial Residential), which is adjacent to Bob's Marine; that C/Z 1980 for MARS-RE, LLC was recently approved to change the zoning from AR-1 to C-3 (Heavy Commercial); that Table 4.5-2 for Zoning Districts Applicable to Future Land Use Categories confirms that C-3 (Heavy Commercial) is an applicable zoning district in the Coastal Area; that for all the reasons stated the proposed rezoning of the property meets the general purpose of the Zoning Ordinance, promotes the orderly growth, prosperity and welfare of Sussex County and the proposed use will provide storage services, being a great need in the area, where there is a huge demand and there is a lot of residential growth.

Mr. Mears stated he believed the proposed use is needed for the area.

Ms. Wingate questioned if the subject property would be only for the storage of vehicles.

Ms. Stevenson questioned the amount of paving proposed for the property, as the property is located within an Excellent Groundwater Recharge Area.

Ms. Peet stated the subject property is intended for the storage of vehicles; that vehicle and camper storage is not permitted within the C-2 (Medium Commercial) Zoning District; that there is a footnote on the Permitted Use table which states outside storage is not permitted with C-2; that outside storage is permitted with C-3 (Heavy Commercial); that the intention is to have self-storage located on one side of the road, on Parcels 107 and 108, located with C-2 Zoning; that if the demand is there, the opportunity for self-storage and the outside storage of vehicles located on the other side road within C-3 Zoning; that the Excellent Groundwater Recharge concern was mentioned within the PLUS comments; that it is the Applicant's intention to have a more pervious surface, such as crush and run or something similar; that the Applicant has not gotten to the point in the process to make those types of considerations, but the topic has been discussed; that the Applicant does understand there are environmentally sensitive portions located to the rear of the property and the properties location within the Excellent Groundwater Recharge Area.

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

The Commission found Mr. Dennis White spoke by teleconference in support of the Application.

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

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/Z 1974 Gregory T. White and Patricia P. White. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

C/Z 1975 Gregory T. White and Patricia P. White

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an MR Medium Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 3.64 acres, more or less. The properties are lying on the southwest side of Vines Creek Road (Rt. 26) approximately 450 feet northwest of Powell Farm Road (S.C.R. 365). 911 Address: 34360 & 34376 Vines Creek Road, Dagsboro. Tax ID: 134-11.00-107.00 and

108.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Property Survey, the Applicant's Conceptual Site Plan, the Staff Analysis, the DelDOT Service Level Evaluation Response, the Applicant's Exhibits, a letter from the Sussex County Engineering Department Utility Planning Division, the PLUS comments, and the Applicant's response to the PLUS comments. Mr. Whitehouse advised the Commission zero comments had been received for the Application.

The Commission found that Ms. Mackenzie Peet, with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Application; that also present was Mr. Gregory T. White; that the Change of Zone request is for two parcels being Parcel 107 and Parcel 108; that the intension is to rezone the properties from MR (Medium-Density Residential) to C-2 (Medium Commercial) for a self-storage facility; that the subject properties are located across from the property of the previous Change of Zone application; that east along Atlantic Ave. are multiple properties zoned for commercial; that Good Earth Market is zoned CR-1; that Creative Concepts, Liberty Gas Station, Hockers and Walgreens are all zoned for commercial; that last year, a nearby property was re-zoned to C-3 (Heavy Commercial) for the proposal of mixed-use, with commercial on the bottom and residential located on top; that also St. George's Church and cemetery are also located nearby the property; that Parcel 107 is located within the Tier 1 Sussex County Sanitary Sewer District; that there is an existing well on the site, which is noted on the Concept Plan; that the proposed increase in traffic and impact to surrounding roadways will be analyzed, reviewed and approved by DelDOT; that the PLUS comments indicated that frontage and entrance related improvements are anticipated at this time; that the subject site is located within Investment Level 2; that Investment Level 2 are areas where growth is anticipated in the near future; that the PLUS comments reference some discussion concerning the downzoning of the property to AR-1 (Agricultural Residential) in addition to seeking a Conditional Use; that there is an existing dwelling located on Parcel 108; that when the Application was initially submitted, they had not had an updated survey of the property; that once an update survey was performed, it reflected the existing structure being within the required setbacks; that due to this, there was some consideration given to changing the initial Application; that the existing structure is considered legal non-conforming, as it has existed since 1935; that the dwelling will be incorporated into the proposed use; that there is an existing tenant, who will help run and manage the self-storage facilities; that the PLUS comments also make reference to the existence of a cemetery; that the cemetery referenced, is the location of the St. Georges cemetery; that the Applicant did contact Dr. Edward Otter regarding the cemetery issue; that Dr. Otter suggested there was most likely an error with the map noting a cemetery located on the project; that the cemetery is located on the adjacent property, where the St. Georges Cemetery is located; that this issue led to title research being performed for the property, which confirmed that neither of the subject properties were ever owned by the church or cemetery; that Mr. Whitehouse has spoken with Mr. Wayne Bowden, President of St. George's Cemetery Association, Inc., who also provided an email confirming the St. George's Cemetery dates back to the 1800s; that there have never been any grave sites located on the subject property and there is a existing wall that separates the properties from one another; that he had never seen a gravesite and does not believe there are any current grave sites located on the property; that the proposed use is for a self-storage facility, which is a permitted use within the C-2 Zoning District; that the intention is to develop both the subject properties and the property across the street; that the subject properties are to be developed first and the parcel across the street being developed thereafter; that C-2 District is purposed for supporting uses that include retail sales and performance of consumer services, permitting a variety of retail, professional and service businesses; that C-2 Districts are also

located near arterial and collector streets, like Rt. 26; that the proposed use is permitted and will support the demanded for needed storage; that the property and surrounding area is located within the Coastal Area; that the Coastal Area is a Growth Area; that the proposed commercial use is completely in character with the surrounding area; that within the surrounding area of the site, there have been five Change of Zone applications filed; that C/Z 1738 for a Change of Zone from AR-1 to B-1 (Neighborhood Business) for the existing thrift store; that C/Z 1789 from AR-1 to CR-1 (Commercial Residential), which is the location of Good Earth Market; that C/Z 1798 from AR-1 and CR-1 (Commercial Residential) zoning to C-1 (General Commercial), which is the location of the auto center; that C/Z 1840 from AR-1 to CR-1 (Commercial Residential), which is adjacent to Bob’s Marine; that C/Z 1980 for MARS-RE, LLC was recently approved to change the zoning from AR-1 to C-3 (Heavy Commercial); that Table 4.5-2 for Zoning Districts Applicable to Future Land Use Categories confirms that C-2 (Medium Commercial) is an applicable zoning district in the Coastal Area and for all the reasons stated the proposed rezoning of the property meets the general purpose of the Zoning Ordinance, promotes the orderly growth, prosperity and welfare of Sussex County.

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

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

At the conclusion of the public hearing, the Commission discussed the Application.

In relation to C/Z 1975 Gregory T. White and Patricia P. White. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

ADDITIONAL BUSINESS

Mr. Whitehouse advised the Commission of an upcoming training scheduled on February 2nd, 2023, at 1:00 pm, and that a disclosure form was circulated to the Commission to sign and return.

Mr. Whitehouse advised the Commission the document management system is ready for launch; that staff will be presenting the document management system to County Council on February 7th, 2023; that if County Council grants approval, the document management system will be online the same day; that Mr. Whitehouse proposed a small training be performed for the Commission at their meeting of February 9th, 2023, regarding the document management system.

Meeting adjourned at 5:47 p.m.

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