

## THE MINUTES OF THE REGULAR MEETING OF OCTOER 8, 2020

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, October 8, 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. Christin Scott – Planner I and Mr. Nick Torrance – Planner I.

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

### OTHER BUSINESS

#### **Ocean Meadows (2018-28)**

Request to Amend Forested/Landscape Buffer

This is a request to amend the ratio of deciduous trees and evergreen trees provided in the proposed forested/landscape buffer from the 70% deciduous trees and 30% evergreen requirement to 60% evergreen and 40% deciduous trees. The applicant has indicated that the proposed ratio will provide additional year-round screening between this subdivision and the adjacent Ridings of Rehoboth Subdivision. At their meeting of Thursday, January 9, 2020, the Planning and Zoning Commission approved the Final Subdivision Plan. Tax Parcels: 234-2.00-2.00 & 2.02. Zoning: AR-1 (Agricultural Residential Zoning District).

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the request to amend the forested and landscape buffer. Motion carried 5-0.

#### **Welches Pond (2017-20) (F.K.A. Fieldstone, The Grove at Love Creek)**

Request to Amend Forested/Landscape Buffer & Conditions of Approval

This is a request to remove the 50-ft landscape buffer located along the eastern side of the proposed subdivision which separates the subdivision from the residual lands. This buffer is currently required under Condition “E” of the Conditions of Approval. Condition “E” currently reads, “As stated by the applicant, a forested or landscaped buffer of at least 50 feet in depth shall be installed along the entire perimeter of the project. The Final Site Plan shall contain a landscaped plan for all of these areas, with the exception of areas that are currently forested and will not be disturbed.” The applicant intends to submit an additional application for the residual lands for a second phase of the subdivision. The applicant is requesting that Condition “E” be amended to exclude the buffer from the eastern portion of the property. The applicant has provided a Revised Landscape Plan reflecting these proposed changes for the Commission’s consideration. Tax Parcel: 334-12.00-16.00 (part of). Zoning: AR-1 (Agricultural Residential Zoning District) & GR (General Residential Zoning District).

The Commission discussed the request to revise Conditions of Approval and Forested/Landscape Buffer. Mr. Ring Lardner responded to questions from the Commission.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the request to revise the forested and landscape buffer. Motion carried 5-0.

**Dagsboro Trace (2004-34)**

Revised Subdivision Plan

This Revised Subdivision Plan proposes to remove the sidewalks from the subdivision. The Planning and Zoning Commission previously reviewed this request at their meeting of Thursday, September 24, 2020 where they had requested additional information be provided from the applicant prior to a final decision being rendered. The sidewalks have not been installed and the proposed location of the sidewalks would require the relocation of street lighting and transformers already installed throughout the development. The Planning and Zoning Office has received documentation that 51% of existing property owners within the subdivision consent to this proposed change. Tax Parcel: 233-11.00-194.01. Zoning: AR-1 (Agricultural Residential Zoning District).

The Commission discussed the Revised Subdivision Plan.

Ms. Wingate stated that this Revised Subdivision Plan was deferred at the last meeting to receive information from all property owners regarding the request to remove sidewalks from the subdivision.

Mr. Whitehouse stated that the Commission requested information as to why the sidewalks were not being provided; that the construction plans did not show where sidewalks were supposed to be located; and that the developer is available to answer factual questions.

Mr. Wheatley stated that if a property owner has made an agreement with the developer and is expecting sidewalks, then it should not be changed without input from the property owners.

Ms. Wingate asked if all the property owners have been contacted about the removal of the sidewalks.

Mr. Bart Phillips responded that all property owners have been contacted about removing the sidewalks but does not have it in writing.

Mr. Wheatley asked Mr. Phillips to obtain written confirmation from all property owners that they support the removal of the sidewalks from the Subdivision Plan.

Motion by Ms. Wingate, seconded by Mr. Hopkins, and carried unanimously to defer action for receipt of written confirmation from all property owners regarding the removal of sidewalks. Motion carried 5-0.

**Lighthouse Annex Self-Storage**

Revised Site Plan

This is a Revised Final Site Plan for a three story, 34,500 square foot self-storage facility to be located on 1.76-acre parcel. This Revised Site Plan proposes changes to the self-storage building (phase 2) that was previously approved on December 21, 2017 (S-17-40). A 600+/- square foot office space is utilized within an existing building on site. The Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 533-17.00-83.00. Zoning: C-1 (General Commercial Zoning District). Staff are awaiting agency approvals.

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

**Marsh Island (2005-52 & 2008-25)**

**Amenities Plan**

This is an Amenities Plan for a proposed 1,918 square foot clubhouse, 4,308 square foot in-ground pool, playground, covered seating area, boardwalk and 18 associated parking spaces to be located within the existing Marsh Island (2005-52 & 2008-25) cluster subdivision. At their meeting of Thursday, December 13, 2012, the Planning and Zoning Commission approved the Final Subdivision Plan for the development. The Amenities Plan complies with the Sussex County Zoning and Subdivision Code and all conditions of approval. Tax Parcels: 234-7.00-132.00 & 234-12.00-22.00 (portion of). Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate, and carried unanimously to approve the Amenities Plan. Motion carried 5-0.

**Lands of Stoney Creek Realty**

**Minor Subdivision off a 30-ft easement**

This is a Preliminary Subdivision Plan for a minor subdivision off a 30-ft easement over an existing driveway to create three (3) lots with a residual lot located off of Scott Land Road (S.C.R. 434). Lot 1 will measure 0.91 acre +/-, Lot 2 will measure 1.16 acre +/-, Lot 3 will measure 1.00 acres +/- and the residual lot will measure 1.91 acres +/- . Tax Parcel: 232-15.00-67.00. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are in receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Ms. Stevenson, and carried unanimously to approve the Minor Subdivision off a 30' Easement. Motion carried 5-0.

OLD BUSINESS

**C/U 2237 Samuel C. Warrington II**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for outdoor RV and boat storage to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 2.5 acres more or less.** The property is lying on the southeast side of Postal Lane, approximately 0.38 mile southwest of Coastal Highway (Route 1). 911 Address: 34378 Postal Lane, Lewes. Tax Parcel: 334-12.00-55.01 (portion of).

The Commission discussed this application which has been deferred since September 24, 2020.

Ms. Stevenson said that she has concerns about this project because of traffic and safe access to the site by large vehicles.

Ms. Wingate stated that this property has been farmed for several years and tractors and trailers have accessed the site and that they are similar size to trucks towing boats.

Mr. Mears stated that boat or RV traffic should not be frequent as this location would be mostly used as an off-season storage; that it is a large parcel with only approximately 3 acres for this requested use; and that farmers need to be able to supplement their undependable income in other ways. Mr. Mears also noted that the Applicant's plan is to put the storage area next to the adjacent golf course and away from residential properties; that the Applicant is offering a buffer of trees in addition to the fencing; and that the traffic is a DelDOT issue.

Mr. Wheatley stated that his concerns are about the traffic entering and exiting the subject property.

Mr. Hopkins stated that he expects that traffic would make a right in, right out and the he expects that DelDOT may require a deceleration lane and an acceleration lane.

Mr. Robertson stated that DelDOT will mandate the necessary right-of-way from the Applicant and when DelDOT looks at this Application, they may deem economically infeasible to meet the requirements for a commercial venture.

Ms. Stevenson stated that if the entire property was to be developed in the future, there could be a much higher impact to traffic in this area.

Mr. Wheatley reminded the Commission members that this is a recommendation with conditions to County Council and the conditions could note traffic concerns to be addressed by DelDOT at the appropriate time and in a way that keeps citizens safe.

Motion by Ms. Stevenson, second by Mr. Mears, to defer action for further consideration. Motion carried 5-0.

**2019-32 – Lands of Coroc/Rehoboth, III, LLC**

A standard subdivision to divide 10.00 acres +/- into 3 lots to be located on a certain parcel of land lying and being in Lewes and Rehoboth, Hundred, Sussex County. The property is lying on the west side of Holland Glade Road (S.C.R. 271), approximately 0.11-mile northeast of Coastal Highway (Route 1). Tax Parcel: 334-13.00-325.36. Zoning District: C-3 (Heavy Commercial District).

The Commission discussed this application which has been deferred since September 24, 2020.

Mr. Mears moved that the Commission grant preliminary approval for Subdivision 2019-32 Coroc/Rehoboth, III, LLC based upon the record made during the Public Hearing and for the following reasons:

1. This is a proposed subdivision of commercially zoned land. It is intended to divide a 10-acre commercial property into three separate lots that will be developed commercially, but interconnected as part of one overall access and parking design. It will also be integrated into the existing Tanger Outlet center.
2. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County.
3. The proposed commercial subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed commercial subdivision will be served by central water and central sewer.
5. The proposed commercial subdivision will not adversely impact schools, public buildings and community facilities.
  
6. The proposed subdivision will not adversely affect traffic on area roadways.
7. The applicant has addressed the items contained in Section 99-9C of the Subdivision Code.
8. No parties appeared in opposition to this application.
9. Any future development of the property will be subject to commercial site plan review by the

Sussex County Planning and Zoning Commission. The site plan approval process will include further reviews by Del DOT, the Sussex Conservation District and other agencies that have jurisdiction over the commercial development of this site.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to grant preliminary approval for the reasons and conditions stated in the motion. Motion carried 5 – 0.

**2020-06 – Lands of James & Denise Taylor**

A standard subdivision to divide 8.925 acres +/- into 4 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 south side of Asketum Branch Road (S.C.R. 442), approximately 0.21 mile south west of Bryans Store Road (S.C.R. 435) Tax Parcel: 133-14.00-3.05 Zoning District: AR-1 (Agricultural Residential District).

The Commission discussed this application which has been deferred since September 24, 2020.

Mr. Hopkins moved that the Commission grant preliminary approval for Subdivision 2020-06 James and Denise Taylor based upon the record made during the Public Hearing and for the following reasons:

1. This application is for a four (4) lot subdivision upon 8.925 acres. This results in a density that is less than the maximum density permitted in the AR-1 District.
2. The proposed subdivision is consistent with other residential development in the area.
3. The proposed subdivision will not adversely affect neighboring properties, area roadways or public facilities.
4. The proposed subdivision satisfies the requirements of the Subdivision Code and Section 99-9C of the Code.
5. Because of the small size of the property, and because the property is already mostly wooded, a partial waiver of the buffer requirements is appropriate, with the exception of the outside perimeter of the subdivision. Because the property is encumbered by a covenant prohibiting the removal of trees within 30 feet of the property boundary, the forested buffer must be maintained in this area.
6. Because of the small number of lots a waiver from the County street design requirements is appropriate.
7. This recommendation is subject to the following conditions:
  - a. No more than four lots shall be permitted.
  - b. A waiver of the buffer requirements is appropriate along the new internal lot lines. The Buffer shall be required along the outside perimeter of this subdivision.
  - c. The applicant shall comply with all DelDOT requirements regarding entrance and roadway improvements.
  - d. Restrictive Covenants shall be established and recorded governing the shared use and maintenance of the roadways.
  - 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 grant preliminary approval for the reasons and conditions stated in the motion. Motion carried 5 – 0.

**C/Z 1906 Eliud Ramirez-Mejia**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a C-2 Medium Commercial District for a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 2.53 acres, more or less. The**

property is lying on the west side of Dagsboro Road, approximately 0.24 mile south of Crickett Street. 911 Address: 27436 Dagsboro Road, Dagsboro. Tax Parcel: 233-5.00-172.00.

The Commission discussed this application which has been deferred since September 24, 2020.

Ms. Wingate moved that the Commission recommend approval for Change of Zone 1906 Eliud Ramirez-Mejia based upon the record made during the Public Hearing and for the following reasons:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant's property is currently zoned AR-1, but it is in an area along Dagsboro Road where other commercial zonings and commercial uses exist. This is an appropriate location for C-2 zoning.
3. This location is generally in a wedge of properties between Route 113 and Dagsboro Road that has developed commercially. As a result, residential use of this property under the current AR-1 zoning is no longer viable.
4. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for small retail and service uses.
5. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
6. The site is in the "Coastal Area" according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. No parties appeared in opposition to the rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Ms. Wingate, 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.

### **C/U 2239 Coastal Services, LLC**

**An Ordinance to grant a Conditional Use of land in a B-1 Neighborhood Business District and a GR General Residential District for a General Contracting Business to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 1.08 acres, more or less.** The property is lying on the west side of Cedar Neck Rd. (Rt. 357) approximately 0.64 mile north of Fred Hudson Rd. (S.C.R. 360). 911 Address: 30430 & 30432 Cedar Neck Rd., Ocean View. Tax Parcel: 134-9.00-67.00.

The Commission discussed this application which has been deferred since September 24, 2020.

Mr. Mears moved that the Commission recommend approval for Condition Use 2239 Coastal Services, LLC based upon the record made during the Public Hearing and for the following reasons:

1. The site is split-zoned with the frontage having B-1 zoning, and the rear area being zoned GR-General Residential. The applicant has operated a contracting business from the B-1 portion of the site for some time, and this conditional use will bring the entire parcel under one approval.
2. The property is located within the Coastal Area according to the Sussex County Comprehensive Plan. Small business uses like this one are appropriate within this Area according to the Plan.
3. The site is located along Cedar Neck Road and is partially zoned for B-1 uses. There are also commercially zoned properties on the opposite side of Cedar Neck Road. This use is appropriate for this location.
4. Traffic generated by the proposed use will be minimal and will not have a negative impact on the neighboring properties or roadways.
5. The use is of a public or semi-public character that is desirable for the general convenience and welfare of the area and the County.
6. The site is served by Sussex County sewer.
7. No parties appeared in opposition to the application.
8. This recommendation is subject to the following conditions:
  - a. The project shall be used for a General Contracting business.
  - b. There shall be no retail sales from the GR portion of the property.
  - c. There shall be no manufacturing on the site.
  - d. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
  - e. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways. The dumpster locations shall be shown on the Final Site Plan.
  - f. The applicant shall comply with all DeIDOT requirements for entrance and roadway improvements.
  - g. Because the front portion of the conditional use area is currently zoned B-1, the use shall comply with the B-1 District's sign requirements.
  - h. As stated by the Applicant pursuant to an agreement with the neighbors, the boundaries of the property with GR zoning shall be fenced with 6-foot vinyl fencing to screen it from view of neighboring residential properties. The location and type of fencing shall be shown on the final site plan.
  - i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

## PUBLIC HEARINGS

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

### **C/U 2234 James Jones**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a fiberglass swimming pool and spa display and landscaping business to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County, containing 2.70 acres, more or less.** The property is lying on the south side of Cordrey Rd. (S.C.R. 308), approximately 0.12 miles east of William Street Rd. (S.C.R. 309). 911 Address: 28984 Cordrey Road, Millsboro. Tax Parcel: 234-28.00-67.00.

Mr. Whitehouse advised the Commission that submitted into the record is a survey, an exhibit book, a copy of the DeIDOT service level evaluation response, and comments from the Sussex County Engineering Department Utility Planning Division.

Mr. James Jones was present on behalf of his Application; that the swimming pool display is approximately 25 ft. from the road on the northeast portion of the subject property; that there is a sign currently on the property; that a sign is requested; that the Applicant also resides on the property and runs his business from this location.

Mr. Mears asked the Applicant to describe his business operations.

Mr. Jones stated that he has a landscape business but also installs and services swimming pools and hot tubs; that he has a store in Lewes where customers can visit but occasionally a customer will visit this location to see the pool displayed at this site; that he has owned the property since 2015 and the display has been in place for approximately one year.

Mr. Hopkins asked how many employees, trucks, and trailers, etc. for the business. Mr. Jones stated that there are four employees; that there are three landscaping trailers and six work vehicles; that trucks are parked in the rear of the property and that equipment is stored in the pole building in the rear of the building; the hours of operation are from 7:00 am – 6:30 pm; that there are times during inclement weather the hours may vary; that maintenance on the work vehicles is performed within the pole building.

The Commission found that no one was present in Chambers to speak in favor of or in opposition to the Application. There was a technical issue with the volume on the teleconference call-in.

**The Commission took a five-minute recess while the IT Department corrected the issue.**

The Commission found that there were no further comments from the public. 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 2234 James Jones. Motion by Mr. Mears, second by Ms. Stevenson, to defer action for further consideration. Motion carried 5-0.

Mr. Robertson stated that he would not be participating in the following hearing.

**C/U 2240 Tidewater Utilities, Inc.**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a public utility elevated storage tank to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.32 acres more or less.** The property is lying on the southeast side of John J. Williams Highway (Rt. 24) approximately 1.52 miles southwest of Coastal Highway (S.R. 1). 911 Address: 19483 John J. Williams Highway, Lewes. Tax Parcel: 334-12.00-107.00 (portion of).

Mr. Whitehouse advised the Commission that submitted into the record is a site plan, an exhibit book, a staff analysis, a copy of the DeIDOT service level evaluation response, comments from the Sussex County Engineering Department Utility Planning Division, a letter from Cape Henlopen School District, and a copy of a letter from Delaware Health and Social Services.

The Commission found that Mr. James Fuqua, Esquire was present on behalf of the applicant, Tidewater Utilities, Inc.; that also present are Brian Carbaugh, Director of Engineering with Tidewater Utilities, Inc. and Robert Palmer, Senior Engineer with Beacon Engineering; that the Application is a request for a Conditional Use for an elevated water storage tank to be located on lands owned by the Cape Henlopen School District in the rear of Beacon Middle School located on Route 24; that an exhibit book has been submitted to the Commission; that Tidewater Utilities, Inc. is a public water provider regulated by the Delaware Public Service Commission and was established in 1964; that it operates a combination of wells, water treatment plants and storage facilities; that under the 2020 Delaware Strategies for State Policies and Spending this site and a large area surrounding it is designated as being in Investment Level 2; that under Investment Level 2 a wide range of residential and commercial uses are encouraged and are growing areas in the County which will have public water and waste water systems and utilities; that under the 2019 Sussex County Comprehensive Plan this site is totally surrounded by the Coastal area and the Commercial area which are two of the growth areas under the plan; that the plan encourages most concentrated forms of new development in these growth areas including higher density residential and most commercial development and central water and sewer are highly encouraged in these areas; that chapter seven of the Comprehensive Plan addresses utilities and the Plan explains that the Delaware Public Service Commission reviews and approves requests for water utilities to serve an area; that the utility company is required to receive a Certificate of Public Convenience and Necessity (CPCN); that the Public Service Commission encourages compact and contiguous service territories in order to provide efficient delivery of water without redundancy in infrastructure; that in the Plan, map 7.2-1 shows a maps of the water service of Sussex County and shows the area serviced by Tidewater Utilities which is where the proposed tank will be located; that one of the stated goals of chapter seven of the Comprehensive Plan is to support the availability of a safe and adequate water supply that can meet the needs of future demand; that the County Ordinance states that a conditional use provide for certain uses which are not permitted uses in a certain zoning district, conditional uses are generally of a public or semi-public character, they are essential and desirable for the public convenience and welfare but because of the nature of the use, its relationship to the Comprehensive Plan and its possible impact it requires the review of the Planning and Zoning Commission and approval of County Council; that this Application is of a true public character for a water utility storage facility; that the proposed location on a centrally located site in an approved service area where growth is anticipated and is occurring now is appropriate by both the State Plans and County Plans; that when Beacon Middle School was constructed Tidewater Utilities, Inc. entered into a water service agreement with Cape Henlopen School District for an easement to place a water storage facility on the site when the need would arise; that the proposed tank will provide a second water pressure center in the southern portion of the service area to complement the northern tank and ensure water availability well into the future; that the location of the tank will be on a 14,125 sf easement area located to the rear of the school building; that the easement site borders the west side of Mulberry Knoll Road and access to the facility will be from that road; that the entrance will be designed and built in accordance with DeIDOT regulations; that the water tower is a water spheroid design and it's appearance will be similar to the Rehoboth Beach water tank; that the circular base is approximately 52 ft. in diameter and the elevated water tank is approximately 74 ft. in diameter; that the capacity of the tank is one million gallons; that the height from the ground to the top of the tank is approximately 150 ft.; that the tank will meet the design standards of the American Waterworks Association; that the cost of the facility will be approximately four million dollars; that the tank will be built on pilings that will be driven to a depth of between 50 – 100 ft. depending on soil conditions; that there will be no outside ladders or stairs and all access will be internal; that antennas

will be located on the tank for Tidewater Utilities to monitor their equipment and for the Cape Henlopen School district for communications; that the color of the tank will be sky neutral (light blue); that there will be two logos on the tank, one for Tidewater Utilities, Inc. and one for the Cape Henlopen School District or Beacon Middle School; that lighting will be security lights at the base of the facility and lighting on the tank as required by the Federal Aviation Agency (FAA); that the easement area will be enclosed with a six-foot security fence; that no wells; water treatment facilities or pumps will be located at this facility; that there are no odors or noise associated with this use; that there is no use of chemicals; that there will be no sewer connection or water hookup; that there is negligible traffic impact, as there is one employee who will inspect the facility three times per week; that maintenance is minimal and the outside has a twenty-year life before repainting; that there are letters of support from the Cape Henlopen School District and the Office of Social Services for the State of Delaware; that the Applicant has submitted some proposed conditions and findings; and that the Applicant is requesting a recommendation of approval subject to appropriate conditions.

Mr. Wheatley asked if there would be an arrangement to lease antennas on this tower.

Mr. Fuqua responded that there are no arrangements at the present time but that it could be an option in the future.

Mr. Hopkins asked if there would be a lightning rod on the tower.

Mr. Palmer stated there will not be a lightning rod on top of the tower but will have a ground ring around the base so that when the tower is struck by lightning the energy will be safely dissipated.

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 C/U 2240 Tidewater Utilities, Inc. Motion by Mr. Mears, second by Ms. Wingate, to defer action for further consideration. Motion carried 5-0.

**C/U 2241 Jonathan J. Bowman**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for a truck and trailer repair business to be located on a certain parcel of land lying and being in Gumboro Hundred, Sussex County, containing 2.69 acres, more or less.** The property is lying on the east side of Millsboro Highway (S.C.R. 26/30) approximately 120 ft. north of Bradford Road (S.C.R. 426). 911 Address: 34647 Millsboro Highway, Millsboro. Tax Parcel: 333-7.00-32.00

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

The Commission found that Ms. Mackenzie Peet, Esquire was present on behalf of the applicant, Jonathan J. Bowman; that also present was Mr. Jonathan Bowman; that the Applicant, Jonathan and his wife, Veronica reside on this property with their family; that both Mr. and Mrs. Bowman have full time jobs outside of the home; that the use of a truck and trailer repair business began in 2018 as a hobby for

Mr. Bowman; that two notices of violation have been issued regarding the business on the subject property; that one of the violations was for having unregistered and inoperable vehicles on the property; that Mr. Bowman intends to extend the pole barn to remedy this issue should the conditional use be granted; that the second violation was for operating a truck and trailer repair business on site without a conditional use approval; that for Mr. Bowman this business is a hobby, however, he has a friend who works on the site who does garner a small profit from the repairs; that there are no formal hours of operation; that a traffic impact study is not required; that there is a dumpster on site for waste and all oil is disposed of at a nearby oil burner company; that the repairs can create noise on the property, the Applicant is proposing to add Cypress around the perimeter of the property to help reduce the noise to neighboring properties; that the subject property is in a rural area with few neighbors; that the Applicant has discussed the use with neighbors and received no complaints; that the subject property is zoned AR-1 and the surrounding properties are also zoned AR-1; that there no other conditional uses within a one-mile radius; that the location of the business is compatible with the surrounding use; that there are businesses in the area, a chicken farm, Reynolds Garage and a similar truck repair business; that the Applicant will take steps to keep the property neat and presentable; and that the staff memo states that the proposed could be consistent with land use zoning and surrounding uses.

Ms. Wingate asked if the proposed pole barn would be an area to store the inoperable vehicles.

Ms. Peet stated that the Applicant wants to get the inoperable vehicles under a covered structure while they are being worked on.

Ms. Stevenson asked if there is a precedent in the County for this type of business with varied hours of operation.

Mr. Robertson stated that there is not, that each application is different, and conditions can be set by the Commission.

Ms. Wingate stated that the Commission would need more clarity on the hours of operation being requested.

Mr. Bowman stated that there are times when he works late into the night and then days can go by when no work is being performed; that the busiest time is between 3:00 pm – 10:00 pm and all day on weekends; and that a sign is not being requested.

Mr. Robertson asked about the vehicles that the Applicant is working on.

Mr. Bowman stated that two of the vehicles belong to him and that he buys inoperable jockey trucks, repairs the vehicles and sells them at auction.

Mr. Hopkins asked if the Applicant has spoken to his neighbors and how close are the nearest neighbors to the subject property.

Mr. Bowman pointed to the nearest residential neighbor on the map and stated that he has spoken with his neighbors and they have no complaints about the use of his property.

Ms. Stevenson asked about the complaints that were submitted.

Mr. Whitehouse stated that one of the Constables was working in the area when someone mentioned this property, then the Constable stopped by and found the violations and issued the violation letters.

Mr. Wheatley stated that the action taken on this property travels with this property and if the current Applicant sold the property, if there are no conditions then the new owner could do something far different than the current proposed use.

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 C/U 2241 Jonathan J. Bowman. Motion by Ms. Wingate, second by Ms. Stevenson, to defer action for further consideration. Motion carried 5-0.

**C/Z 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut**

**An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-2 Business Community District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 25.63 acres, more or less.** The property is lying on the northeast corner of Bayard Road (S.C.R. 84) and Double Bridges Road (S.C.R. 363). 911 Address: N/A. Tax Parcel: 134-19.00-22.00 (portion of).

Mr. Whitehouse advised the Commission that submitted into the record is an exhibit book, a copy of the Applicant's site plan, a staff analysis, a copy of the DelDOT service level evaluation response, comments from the Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse noted that eight letters of support have been received.

The Commission found that Mr. Russell Archut and Mr. Brenton Archut were present on behalf of their Application. Mr. Brenton Archut stated that they are requesting to rezone a 2.99-acre portion of the property which is approximately 25.63 acres at the intersection of Bayard Road and Double Bridges Road from AR-1 to B-2, Business Community District; that it will provide a convenient location for services needed by this growing area; that having these small type of local businesses will reduce congestion on area roads and streets by providing a variety of services to local residents; that it will also provide opportunities for employment and small businesses to grow their businesses; that there is not enough commercial property in this area to keep up with growing residential needs; and that this rezoning meets the goal of the Sussex County Land Use Plan as it is in the Coastal Area which is considered a growth area where additional consideration should be given.

Mr. Russell Archut stated that currently the entire property is being farmed; that the proposal is that the front portion of the property on the northern most part will be zoned B-2; that the Woodlands at Bethany is the closest subdivision; that there are proposed subdivisions across the street; that there will be a natural buffer of dedicated open space which is wetlands and is covered with trees between the subdivision and the subject property; that the nearest dwelling is approximately 180 ft. away through the woods and to the east the nearest dwelling is approximately 220 ft.; that this property has been owned by family since 1943; that the property is adjacent to the County sewer district; that the developer of the

Woodlands has provided an easement for sewer connection; that Tidewater Utilities have provided an Ability to Serve letter and water lines are currently located along the property frontage; that at this time a Traffic Impact Study (TIS) is not required but if the rezoning is granted and a site plan submitted, a TIS may be required at that time and the Applicant may have to give some land to DelDOT for road improvements; that the property is centrally located in the growth area just below the towns of Millville and Ocean View; that there are two commercial zoned areas in the vicinity in addition to a number of properties with conditional use approvals; that historically this location has always had businesses that provided general services for the area; that H.H. Hickman store was in this location from the late 1800's to the mid-1900's; that the Applicant envisions that this property could host businesses such as a small restaurant, some office space and small retail stores; that many properties in the area are being bought by developers; that the Applicant does not want to sell off and divide the land but would like to be able to use this portion for community business and continue to farm the remainder of the property; and that the Staff Analysis states that based on the surrounding zoning and uses a change of zone to a Community Business could be considered as being consistent with land use, area zoning and surrounding areas.

Mr. Brenton Archut gave a summary of the requested rezoning; that is only 12% of the property is requested to be rezoned; that the remainder of the property will continue to be farmed; that the Comprehensive Plan stated that in the growth area there should be careful mixtures of homes with light commercial office and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home and in addition to being in the Coastal Area this location is also in a low-density rural area which emphasizes that retail and office uses in Low Density Areas should be providing convenience goods and services to nearby residents; that within one mile radius of this property are 1000 plus new and approved homes since 2008 and another 135 potential in near future; and stated that this is an ideal location as it is located 3.1 miles from Route 54 and 3.5 miles from Route 26.

Ms. Wingate stated that she had no questions but wanted to note that the intersection can be dangerous and that she likes where the entrance is shown on the site plan.

Mr. Mears stated that this location is ideal for this type of use.

Mr. Robertson noted that the Ordinance references 25.63 acres, but the Application is only for a 2.99-acre portion of that.

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 C/Z 1925 Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut. Motion by Ms. Wingate, second by Ms. Stevenson, to defer action for further consideration. Motion carried 5-0.

#### ADDITIONAL BUSINESS

Mr. Robertson gave a brief overview of the Memorandum of Understanding with Delaware Department of Transportation.

**Meeting adjourned at 7:44 p.m.**

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