

## **THE MINUTES OF THE REGULAR MEETING OF NOVEMBER 3, 2022.**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, November 3, 2022, 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 4:30 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Keller Hopkins, Ms. Holly Wingate, and Mr. Bruce Mears. Ms. Kim Hoey-Stevenson was absent. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Ms. Lauren DeVore – Planner III, Mx. Jesse Lindenberg – Planner I, and Ms. Ashley Paugh – Recording Secretary.

Motion by Ms. Wingate, seconded by Ms. Mears and carried unanimously to approve the Agenda as revised. Motion carried 4 - 0.

### **PUBLIC COMMENT**

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

Upon there being no provided public comment, Chairman Wheatley closed the public comment session.

### **OTHER BUSINESS**

#### **Captain's Way Residential Planned Community (RPC) (C/Z 1721 & 1878)**

##### **Revised Final Site Plan**

This is a Revised Final Site Plan for the Captain's Way Residential Planned Community (RPC), a development comprised of 301 lots to include single-wide manufactured homes, double-wide manufactured homes, and stick-built homes and associated amenities to include a clubhouse, pool, pickleball court, tot lot, community garden, greenhouse, dog park, and potting shed. The site was approved for a Change of Zone (Change of Zone No. 1721) from an Agricultural Residential (AR-1) Zoning District to a General Residential, Residential Planned Community (GR-RPC) known as Captain's Way by the Sussex County Council at their meeting of Tuesday, March 19th, 2013, through Ordinance No. 2295. This Change of Zone Application was subsequently amended to permit Garage Studio Apartments (GSAs) on no more than 15 percent of the lots through Change of Zone No. 1878. The proposal was approved by the Sussex County Council at their meeting of Tuesday, October 1st, 2019, and the change was adopted through Ordinance No. 2681. Revisions to the original plans include the relocation of Lots 139, 140, 146, 248, and 249 to the east side of Dockside Drive and on the west side of the proposed clubhouse amenity, the relocation of Lot 244 to the south side of Brigandine Gardens and the relocation of Lot 245 to the east side of Boatswain Avenue. Further changes include revisions to Open Space and pavements totals within the development. The plans also update Conditions "F" and "P" of the Conditions of Approval for the use to state their amended language. The Revised Final Site Plan complies with the provisions of the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 235-13.00-2.00. Zoning: General Residential, Residential Planned Community (GR-RPC). Staff are in receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to approve the Revised Final Site Plan as a final. Motion carried 4-0.

### **Lands of Jessey Roger Shupe & Terri Ann Shupe**

#### **Minor Subdivision off a 25-ft Easement**

This is a Minor Subdivision Plan for the subdivision of an 8.78-acre parcel into two (2) lots and residual lands with access off a proposed 25-ft wide ingress/egress access easement. The proposed Lot 1 will consist of 1.00 acre +/-, proposed Lot 2 will consist of 1.00 acre +/-, and the residual lands will contain 6.78 acres +/- . The parcel is located on the east side of Sussex Highway (Rt. 13) at the end of Kent Avenue. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 530-14.00-6.00. Staff are in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 25-ft. easement. Motion carried 4-0.

### **2020-11 Cardinal Grove Amenities**

#### **Preliminary Amenities Plan**

This is a Preliminary Amenities Plan for the Cardinals Grove (2020-11) subdivision for the construction of a 1-story 455 square pool building, 1,650 square foot in-ground pool, playground area, Cornhole and Horseshoe tossing areas, mailboxes, and other site improvements to be located on the north side of Safflower Way a private street within the Cardinals Grove subdivision. Staff would like to note that the Subdivision received final approval at the Sussex County Planning and Zoning Commission meeting on December 8, 2021. The Preliminary Amenities Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-2.00-1.13. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals but would like to request final by staff upon the receipt of agency approvals.

Mr. Hopkins questioned the number of building permits that had been issued and if the proposed sizes of the amenities remained the same.

Mr. Whitehouse advised the Commission that one building permit had been issued; that the building area is 445 sq. ft.; that the pool and deck area is 5,900 sq. ft. and is consistent with what staff had seen.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Amenities Plan as a preliminary, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

### **Nine-Foot Road Warehousing**

#### **Preliminary Site Plan**

This is a Preliminary Site Plan for Nine-Foot Road Warehousing for the construction of the proposed 9,800 square-foot warehousing structure and other site improvements to be located on the northwest side of Nine Foot Road (Rt. 26). The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 233-10.00-50.00. Zoning: C-1 (General Commercial District) and CR-1 (Commercial Residential District). Staff are not in receipt of agency approvals but would like to ask for Final by Staff upon the receipt of 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 4-0.

### **Lands of Fernando Vasquez**

#### Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the Lands of Fernando Vasquez for the subdivision of a 2.689-acre parcel into three (3) lots including residual. Proposed Lots 1 & 2 both would consist of 0.826 acres +/- and the residual lands would consist of 1.037 acres +/-=. The following parcels would access off an ingress/egress access easement located on the north side of Johnson Road (S.C.R. 207). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. The Applicant has requested a waiver from the grading plan requirement. Zoning: AR-1 (Agricultural Residential District) Tax Parcel: 330-15.13-13.00. Staff are not in receipt of agency approvals but would request final approval to be by staff based on the receipt of said approvals.

Mr. Whitehouse advised the Commission that as part of the building permit, without a provided Grading Plan, staff would have no Bulk Grading Plan to compare a building permit to, therefore making it preferable to require a Bulk Grading Plan.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to deny the waiver from the Bulk Grading Plan requirement and 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 4-0.

### **2022-11 Hunter's Creek Subdivision**

#### Request to Revise Conditions of Approval

On October 14, 2022, the Planning & Zoning Department received a request to amend Condition G of the September 8<sup>th</sup> Planning & Zoning Commission Approval of a 95-lot single-family cluster subdivision. Condition G requires *“There shall be vehicular entrances to this development via both Omar Road and Hickory Manor Road. This development shall comply with all DelDOT entrance and roadway improvement requirements associated with the Omar Road and Hickory Manor Road entrances”*. The applicant has requested that the condition be modified to state: *“There shall be one vehicular entrance to this development from Omar Road. This development shall comply with all DelDOT entrance and roadway improvement requirements associated with the Omar Road entrance”*. The property is located on the north side of Omar Road (SCR. 54), approximately 0.27 mile west of Powell Farm Road (SCR 365). The property is located within the MR Medium-Density Residential Zoning District. Tax Parcels 134-11.00-102.00 & 103.00.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to deny the request for the amendment of Condition G of the Conditions of Approval. Motion carried 4-0.

### **2006-73 The Vines of Sandhill**

#### Request to Revise Conditions of Approval Relating to Recreational Amenities

The Sussex County Planning and Zoning Department has received a request for a time extension for the construction of the clubhouse within The Vines at Sand Hill residential community. Specifically, the applicant has requested “an extension for the completion of The Vines at Sand Hill clubhouse until the 1st quarter of 2023.” Two letters regarding the details supporting the request have been included in the published packet. Staff note an extension for the construction of the clubhouse was previously reviewed and approved by the Planning and Zoning Commission on May 13th, 2021. The minutes and Notice of Decision from this meeting are also in the published packet. The Planning and Zoning Commission last reviewed this request at their meeting of Thursday, October 27<sup>th</sup>, 2022, where it was requested that further information regarding the total number of building permits and Certificates of Occupancy that have been issued to date, be provided. The requested information has also been provided within the

Commission's published packet this evening. Tax Parcel: 135-10.00-63.00. Zoning: AR-1 (Agricultural Residential Zoning District).

Ms. Devore advised the Commission that staff note for purpose of the record that the Commission has been supplied with a copy of the meeting minutes from the Sussex County Council meeting of November 16, 2021, which was requested by legal Counsel.

Mr. Whitehouse advised the Commission that a paper packet, including additional documents, was circulated to the Commission; that the additional documents included, Sussex County Council meeting minutes from August 24<sup>th</sup>, the Staff Memorandum to County Council for Council's November 12<sup>th</sup> meeting; that the Staff Memorandum included, a summary of the issued building permit status as of the November 12<sup>th</sup> meeting; that 96 building permits had been issued; that also included were submitted plans and copies of the building permit and Certificate of Occupancy numbers as of the current date being November 3<sup>rd</sup>, 2022; that Mr. Whitehouse advised the Commission that currently there are 126 issued building permits, with one pending permit, with a total of 127 building permits before the Commission; that staff did provide an inspection of the site; that the structure is under construction; that framing and roofing have been completed; that siding has not been completed and is currently without windows.

Mr. Hopkins questioned how many lots the project consisted of.

Ms. DeVore stated the project consisted of 400 lots in total.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to approve the revision of Condition M so that the Condition now states "*amenities shall commence within six months from the Planning & Zoning Commission meeting of May 13, 2021, and shall be complete within 24 months of the Planning & Zoning Commission date of May 13, 2021.*" Motion carried 3-0. Ms. Wingate abstained.

The Commission took a six-minute recess from 4:54 pm until 5:00 pm.

## PUBLIC HEARINGS

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

Chairman Wheatley granted the request to combine the public hearings for Applications, C/Z 1969 Ron Sutton and C/U 2339 Ron Sutton, per the Applicant's request, as the Applications were related.

### **C/Z 1969 Ron Sutton**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS.**

The property is lying on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). 911 Address: 34667 Central Avenue, Frankford. Tax Parcels: 134-19.00-24.00.

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

Whitehouse advised the Commission that one letter in support and one letter in opposition were received for the Application.

**C/U 2339 Ron Sutton**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS.** The property is lying on the southeast side of Central Avenue (Rt. 84), approximately 0.17-mile northeast of the intersection of Peppers Corner Road (S.C.R. 365) and Central Avenue (Rt. 84). 911 Address: 34667 Central Avenue, Frankford. Tax Parcels: 134-19.00-24.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, Conceptual Site Plan, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, and the PLUS comments. Mr. Whitehouse advised the Commission that one letter in opposition was received for the Application.

The Commission found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Applicant and Developer, Gulfstream Development, LLC; that also present was Mr. Ron Sutton, P.E. with Civil Engineering Associates, LLC, and Mr. Alan Ruble, the Developer's Project Manager; that the project is known as the Wilson Property; that the Applicant proposes to rezone the property from AR-1 (Agricultural Residential) to MR (Medium-Density Residential), in addition to a Conditional Use request for 60 townhome lots; that the property currently consists of a single-family dwelling, gazebo, barn and gravel driveway; that the property consists of 14.45-acres, located on the southeast side of Central Avenue; that the property is near the intersection of Peppers Corner Rd. and Central Avenue; that the property is located in the vicinity of a number of residential developments, which include, single-family and multi-family townhome developments; that they consider the duplex option a positive option, being different from single-family homes; that they feel the townhome option may be a more affordable option; that the Applicant did submit an Exhibit Booklet for each Application, which included the Applicant's land use applications, a list of property owners within 200-ft. of the site, as well as property and deed information, confirming the property is presently owned by Ms. Peggy Toomey and Mr. Ronald Wilson, that the exhibit confirms the developer is the equitable owner of the property, under contract to purchase, subject to granted land use approvals; that the Exhibit Booklets also included a copy of State Strategies for Policies and Spending Map and Sussex County Future Land Use Map; that these maps confirm the property to be located within Investment Level 3 and the Coastal Area; that additionally, aerial maps, a record plan for the adjacent Sycamore Chase community, relevant sections of the Zoning Code, Application Preliminary Plan, staff review and PLUS review, the Coastal Area and Environmental Assessment and Public Facility Evaluation Report, were included within the Exhibit Booklets; that the Coastal Area is a designated Growth Area; that Growth Areas generally includes areas on the southeastern side of Sussex County; that this area was previously referred to as Environmentally Sensitive Development Area; that the proposed townhome development is permitted within the Coastal Area; that the project is consistent with the Comprehensive Plan; that the plan complies with all Coastal Area requirements of §115-194.3; that the project is located within Investment Level 3, where growth is anticipated by local, County and State future plans; that §115-194.3 requires that the Applicant submit an Environmental Assessment, Public Facility Report and sketch plan for the proposed project, as it proposes over 50 dwelling units; that Civil Engineering Associates, LLC prepared the required assessment and report; that the assessment does meet all of the Code requirements, addressing each requirement point by point; that the property is

currently zoned AR-1 (Agricultural Residential); that properties immediately adjacent to the subject property are also zoned AR-1; that the property located across the street from the property is zoned C-1 (General Commercial); that nearby properties are zoned AR-1 (Agricultural Residential), MR (Medium-Density Residential) and C-1 (General Commercial); that the MR Zoning provides for medium-density residential development, in areas that are, or are expected to become, generally urban in character, where sanitary sewer and public water supply may or may not be available at the time of construction, where churches, recreational facilities and accessory uses may be necessary and compatible with residential surroundings; that the proposed rezoning is compatible with surrounding residential land uses, inclusive of multi-family dwellings; that Table 2 for Height, Area and Bulk Code requirements, confirms that multi-family units, located within MR Zoning are subject to similar height, area and bulk requirements of the nearby commercially zoned property; that the proposed rezoning from AR-1 to MR is consistent with the Comprehensive Plan and Future Land Use Map; that the Coastal Area is a region which is most desirable new housing, as it permits a range of housing types, including townhome units as proposed; that medium and higher density, between four to 12 units per acre, is appropriate and supported within the Coastal Area, where there is central sewer, access and proximity to nearby commercial uses and employment centers, where the use is compatible with the character of the area, where located along a main road, or located at or near a major intersection and where there is an adequate level of service; that central water will be provided by Artesian; that central sewer is anticipated to be provided by Sussex County; that there is access and proximity to nearby commercial uses and employment centers; that the use is compatible with the character of the area in the immediate vicinity, with other medium density residential developments; that Table 4.5-2 for Zoning Districts Applicable to Future Land Use Categories confirms that a Medium-Density Residential Districts is an applicable zoning district within the Coastal Area; that for the reasons stated the proposed re-zoning from AR-1 to MR is compatible with surrounding land uses, compliant with the Zoning Code, and consistent with the Comprehensive Plan and Future Land Use Map; that the Applicant seeks a Conditional Use for the development of 60 townhome units, subject to the approval of the Change of Zone request from AR-1 to MR; that the proposal is specifically for 30 duplexes and individual townhome unit lots; that the amenities will include a pool and bath house; that the proposed use is consistent with the Comprehensive Plan; that nearby properties, in all directions, are also located within the Coastal Area; that medium and higher density is appropriate within the Coastal Areas; that the memorandum prepared by the Planning & Zoning staff confirmed that a Conditional Use was approved nearby which allowed for 135 townhome units; that the nearby areas are consistent with the land use the developer is trying to accomplish; that §115-188 for Townhomes and Muti-Family Dwellings, provide that each multi-family dwelling unit must comply with the minimum lot area per dwelling unit specification and the table of district regulations reflected in Article 20; that the dwelling units of a multi-family dwelling unit may be separated in ownership, if separate utilities are provided; that dwelling units on individual lots of a townhome, may be held in separate ownership, subject that all separate lots, for all dwelling units within the building, are created at the same time, compliance with the Subdivision Ordinance and require separate utility systems be provided; that the proposed development has taken into consideration and complies with all items listed within Chapter 99-9C of the Code; that the subject property currently consists of active agriculture fields, with an existing residential dwelling and outbuildings located to the northcentral portion of the property; that former chicken houses exist across Central Avenue; that the Sycamore Chase subdivision is located to the south; that the Woodlands subdivision is located to the east; that the project is in the vicinity of other residential developments, which include The Estuary, Forest Landing and Plantation Park; that the property is surrounded by an existing landscape buffer along the project's border, which will be maintained; that the required 20-ft. landscape buffer will also

be provided; that there will be a minimal use of wetlands; that wetlands were delineated, which discovered .08-acre of wetlands exist on the site; that no disturbance is proposed to the wetland area; that there are no known existing natural or historical features on the site; that the project will comply with the Code's open space requirements; that the proposed open space is well above the 10% open space requirement; that 36.3%, or 5.2-acres, of open space is proposed for the project; that the existing dwelling and associated driveway will be removed; that tree and soil removal will be kept at a minimum to what is necessary to construct the development; that efforts will be made to preserve the existing vegetation; that if preservation of vegetation is not possible where significant vegetation exists, vegetative planting is proposed in compliance with the Code requirements; that water will be provided by Artesian; that sanitary sewer will be provided by Sussex County; that surface and groundwater pollution will be prevented by an onsite stormwater management system; that the proposed layout of internal roads consist of 12-ft. wide travel lanes, which will be designed in accordance with Sussex County and DelDOT standards; that it is anticipated that property values within the surrounding areas will remain the same or increase in value; that the proposed subdivision will not adversely impact adjacent properties; that no negative impacts are anticipated to the school district, public buildings or the community; that the project is anticipated to generate 413 vehicle trips daily; that based upon the 2021 DelDOT Traffic Count, Central Avenue currently carries an average of 2,900 annual and daily vehicles; that therefore it is not anticipated the project will cause any major adverse traffic impacts; that the proposed use is compatible with other surrounding land uses; that the project is not anticipated to have any impact on any area waterways and subject to the Change of Zone and Conditional Use request approvals, the proposed project will comply with all MR District, Coastal Area, and Subdivision Code requirements.

Ms. Wingate questioned if there was any proposal for emergency access to the property and she suggested placing a landscape buffer along Central Avenue.

Mr. Ron Sutton stated emergency access at the dead-end road, along Central Avenue was not intended for the project, however, they could provide emergency access in that area if the Commission required it.

The Commission found there was no one present in the room or by teleconference who wished to speak in support or opposition to C/Z 1969 and C/U 2339 Ron Sutton.

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

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

In relation to C/Z 1969 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

In relation to C/U 2339 Ron Sutton. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

#### **C/U 2328 Sunrise Solar**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 5.8-MEGAWATT GROUND-MOUNTED SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.90 ACRES, MORE OR LESS.** The property is lying on the north side of Fleatown Road (S.C.R. 224) and on the west side of Clendaniel Pond Road (S.C.R. 38), approximately 0.50 mile east of Greentop Road

(S.C.R. 225). 911 Address: N/A. Tax Parcel: 230-13.00-121.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, Site Plan, Staff Analysis, a letter from Sussex County Engineering Department Utility Planning Division, and a letter from the Department of Fish & Wildlife. Mr. Whitehouse advised the Commission that one mail return and no comments were received for the Application.

The Commission found that Mr. Richard Stoltzfus, CEO of Sunrise Solar, spoke on behalf of his Application; that also present were Mr. Tony Stefon with Standard Solar, Mr. Julian Pellegrini, P.E. with PELSA Company, Inc., as well as Mr. Bob Smith and Mrs. Doris Smith who are the owners of the property; that Standard Solar is the investor of the project; that the proposed use is for a community solar project; that community solar in Delaware is fairly new; that the proposed solar project will service approximately 865 homes; that a portion of the project will be for low-income and there are three different tiers the solar project will cover.

The Commission found that Mr. Julian Pellegrini spoke on behalf of the Application; that he is the Project Engineer for the Application; that the property is approximately 57-acres; that the property is located on the northside of Flea Town Rd., just west of Cedar Creek Estates; that the site is slightly past Clendaniel Pond Rd.; that the proposal is for a 5.8-megawatt, ground mounted, community solar field; that the project would be capable of powering approximately 850 homes; that there will be a gravel entrance off of Clendaniel Pond Rd.; that the entrance has already been approved by DelDOT; that there is a small area of trees located in the center of the site, where the solar field is proposed; that the trees are required to be removed for the proposed use; that they propose to add a landscape buffer to the southern and eastern boarder of the site; that wildflowers and/or agrovoltaic farming are proposed to be planted under the solar panels; that agrovoltaic farming is likely to include sheep on the site and the sheep will keep the grass levels down on the site.

Mr. Mears questioned the life expectancy of the solar panels and the plan for the removal of the equipment.

Mr. Tony Stefon stated the life expectancy for the project is 30 years to 35 years; that typically, inverters are most likely to require replacement, as they have a 15-year life expectancy; that Standard Solar provides the financing, as well as some of the engineering and permitting for the project; that the solar panels degrade slightly, at .6% annually; that the solar panels do not typically need replacing, unless there is an economic benefit from retrofitting equipment and an economic decision would be in the circumstance more advance technology became available.

Ms. Wingate questioned if the project would generate noise and fencing was proposed around the entire project.

Mr. Stoltzfus stated the noise generated by the project would be minimal; that the only equipment that would make noise would be the inverters; that the generated noise would be a very low hum; that the noise would not be able to be heard from individual houses; that they are required to have a fence; that they currently have a facility located at the packing plant for Fifers Orchard in Woodside, Delaware; that the facility has had a lot of success with sheep at that property and there is a local business in Sussex County, who will provide the agrovoltaic service and the management of the sheep.

Chairman Wheatley stated the agrovoltaic farming with sheep was an interesting idea and that the use of a pasture would be permitted in the AR-1 (Agricultural Residential) Zoning District.



The Commission found that Mr. Robert Smith spoke in support of the Application; that he is the current owner of the property; that he is in a trust with his daughters; that he has had many propositions to purchase his land for housing development and chicken houses; that they do not wish to have a housing development or chicken houses located behind them; that they are in favor of the proposed use for solar panels; that it will provide income for himself, his children, his grandchildren, and great-grandchildren and at the end of 35 years, his family will still own the property.

The Commission found that Mr. Derek Jones spoke with some concerns about the project; that he had concerns regarding any harmful impacts from glaring; that he questioned if the project would create any additional heat toward his home; that he is not in opposition to the Application; that he does feel the Application is a good idea; that he questioned if a landscape buffer could be placed along the north side of the project; that he did have concerns to noise generated by the project and the location of the regulators.

Mr. Stefon stated they are required to file with the FAA (Federal Aviation Administration) who will perform a desktop analysis for the site, and he will need to discuss Mr. Jones' concerns with the engineers to see if any testing can be performed in regard to the concerns.

Mr. Stoltzfus stated solar farms are frequently constructed around airports; that glaring is not typically an issue; that there are trees, approximately 60-ft. in height, currently located on Mr. Jones's property, along the north side of the site; that they would be willing to address the issue if Mr. Jones would like additional landscaping to be placed along the north side of the property; that they are open to discussion regarding the issue; that the solar panels put off very little heat; that the sheep will typically spend the majority of their day underneath the solar panels, even on a 100-degree day; that if there was an issue with excessive heat, there would be no presence of vegetation under the panels and that the solar panels track from east to west.

The Commission found that Mr. John Poulson spoke with questions regarding the Application; that he believes the topography of the site a high point near the center of the property; that the property slopes to the low point, with his property being the lowest point adjacent to the site; that all of the current property is farmland; that the property is currently impervious soil; that all of the water runoff would penetrate the soil and be absorbed; that he has had three to four occasions where the low area became flooded; that he questioned if the water runoff from the solar panels would become concentrated, creating more of a runoff; that he questioned if there was a grading plan proposed; that he had concern regarding electromagnetic frequencies; that electromagnetic frequencies can cause headaches, difficulty sleeping and nausea; that he did have concern to noise from the project; that he had concern to the landscape buffer; that he questioned the impact the use would have on adjacent property values; that he questioned if a study had been performed in regards to property values adjacent to solar farms; that he questioned if the only maintenance will be performed by the sheep; that he questioned the stability of the developer and he questioned if there were any benefits to adjacent property owners.

Chairman Wheatley stated the Applicant will be required to submit a site plan for approval, which will require a grading plan.

The Commission found that Mr. Terry Jester spoke with questions regarding the Application; that he stated there is a large difference if the topography where the solar panels are proposed to be placed; that there has been flooding in the past with large amounts of rain; that he questioned if any improvements are proposed for the topography of the site and how it would impact his property; that he expressed

concern to the noise generated from the project and there is a right-of-way, located on his property, adjacent to the site.

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

Chairman Wheatley questioned if there was any community outreach or community meeting to discuss the proposed use with nearby properties.

Mr. Stoltzfus stated no community meeting was held related 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 2328 Sunrise Solar. Motion by Mr. Hopkins to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 3-0.

**C/U 2329 Thomas Drgon Trustee**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT RESTORATION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.20 ACRES, MORE OR LESS.** The property is lying on the southwest side of Dirickson Creek Road (S.C.R. 364B), approximately 0.23 mile southeast of the intersection of Millers Neck Road (S.C.R. 364A) and Dirickson Creek Road (S.C.R. 364B). 911 Address: 37230 Dirickson Creek Road, Frankford. Tax Parcel: 134-21.00-14.07.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Staff Analysis, Exhibit Book, the DelDOT Service Level Evaluation Response, the Applicant's proposed Findings, and Conditions, and a letter from Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that two mail returns and 24 letters of opposition had been received and that all comments received after the publication of the paperless packet had been physically circulated to the Commission.

The Commission found that Mr. Tim Willard, Esq., with Fuqua, Willard & Schab, P.A., spoke on behalf of the Application; that also present were Mr. Thomas Drgon, owner of the property and Mr. Edward Launay, with Environmental Resources, Inc.; that the request is for a Conditional Use; that a Conditional Use does allow for a use which is not permitted by right, to be performed subject to compliance to the Conditions set by the Commission; that the property consists of 6.46 acres, located on Dirickson Rd.; that there are tidal and non-tidal wetlands located on the property; that historically the front of the property was farmed; that the land did lie dormant for some time; that the Army Corp of Engineers did review the property, per the Applicant's request when purchasing; that the Army Corp of Engineers did determine that a portion of the wetlands had been filled by the previous owner; that the Applicant did receive a permit to remove soil from the filled wetlands; that the Applicant used the removed soil to fill other areas on the property; that the Applicant originally purchased the property with a pre-existing issue and took the measures necessary to correct the issue, after obtaining permission from the U.S. Army Corp of Engineers; that the Applicant improved the property; that the Applicant has lived within Sussex County for 25 years, where he has performed work on boats; that the Applicant currently rents a property along the canal in Rehoboth; that the Applicant also works for Indian River Marina; that the Applicant does not perform work to boat engines; that the Applicant does restore boats; that the boat work does include fiberglass, restoration, wiring and detailing; that the Applicant desires to perform his boat work,

for his private customers at the subject property; that an accessory building is currently being constructed on the site; that the Applicant intends to construct a dwelling on the property as well; that the accessory building is 48' x 100' pole building; that the accessory building is where the boat work and restoration would be performed; that the property is unique as it is adjacent to Dirickson Creek; that the dwelling would be located closer to the water on pilings; that the pole building will be climate controlled with insulation; that the property is located within the Coastal Area according to the Future Lands Use Map; that the Coastal Area allows for light commercial uses when located to convenient nearby demand; that the Comprehensive Plan encourages tourism, recognizing recreation as a key industry to eastern Sussex County; that the Applicant's request is a modest business, which compliments all the boating activity in the area; that there is a high demand for boating in the area; that the Coastal Area is considered a Growth Area; that in the previous recommended approval for C/U 2237, the Commission found that the Comprehensive Plan stated that *the eastern portion of Sussex County is characterized by popular oceanside, seasonal, and vacation towns, that Sussex County is draw for seasonal visitors and tourism, which has become an indispensable part of local economy*; that the Future Land Plan encourages tourism; that in 2015, tourism spent 1.8 billion dollars; that the tourism sector employees 19,000 individuals; that the Future Land Use Plan also encourages recreation; that Sussex County is famous for beaches, boating launches and access to the ocean and Island Bays; that the C/U 2237 Samuel Warrington, III was a similar Conditional Use request and was previously approved; that the zoning is AR-1 (Agricultural Residential) in the immediate nearby areas; that there is MR (Medium-Density Residential) Zoning located across Dirickson Creek; that GR (General Residential) is located to the north side of Millers Rd.; that north of Dirickson Creek is the Estuary community, which is a large subdivision; that there are a lot of residents in the area, which support the demand for the boat repair and restoration in the area; that the property is surrounded by residential homes; that the Commission previously recommended approval for C/U 2100 permitting the use of a flower shop in the nearby area; that the Applicant does perform some fiberglass work; that the Applicant does not mold boats; that there is some grinding and solvents involved in the work; that the pole building will be able to house five to ten boats; that the boats will be trailered to the property; that the boats are intended to be 25-ft or less; that the pole building will be insulated with foam; that if sanding or grinding of fiber glass is required, the Applicant has a five horse powered cyclone dust collector; that the Applicant has been performing his work for years using the dust collector; that the Applicant denies having any side effects or health issues from his work; that the Applicant will not house any solvents over five gallons; that all chemicals are stored in a secured area within the pole building; that there were letters of opposition submitted with concern to traffic; that all boats being brought to the property will be by appointment only; that the hours of operation will be limited to 8:00 am to 5:00 pm; that the Applicant proposes the condition that no more than 10 boats may be stored on the property; that the majority of the boats would be stored in the pole building; that there was some opposition submitted regarding the Applicant's rented property in Rehoboth; that the landlord is McGinnis, who is a contractor/mechanic who has been at the location for a long time; that the Applicant rents portions of the property; that there is equipment which has been stored there for many years, which is not owned by the Applicant, as he only rents the property; that the Applicant does not have total control of what is located on his rented property; that this is a reason for the Applicant's Conditional Use request; that he did submit amended proposed Conditions of Approval, which include the use shall be limited to the restoration repair of boats within a 100' x 48' accessory building and in the designated boat parking areas within the designated business hours as provided on the site plan; that all work shall be performed with accepted environmental practices; that a raised berm shall be constructed and planted with evergreens along the frontage of the property; that no more than 10 boats, on trailers, shall be parked outside of the accessory building or the designated parking areas;

that all business hours shall be by appointment; that hours of operations would be 8:00 am to 6:00 pm, seven days per week; that one lighted and permitted sign shall be located at the entrance of the property and located on the site plan; that one fenced dumpster shall be located on the site plan; that all security lighting shall be shielded and downward screened; that no hazardous material will be stored outside of the secured accessory building; that all necessary agency approvals and permitting shall be obtained; that the Final Site Plan shall be submitted for the review and approval by the Planning & Zoning Commission; that there is a bed & breakfast located across the street from the property; that the Applicant does understand and respect the concerns of his neighbors and the Applicant desires to be a good neighbor while providing his service to the area.

The Commission found that Mr. Edward Launay, with Environmental Resources, Inc. spoke on behalf of the Application; that he is an Environmental Consultant and Wetland Scientist; that he previously obtained the necessary permits from the U.S. Army Corp of Engineers for the property; that as part of the consultation for the Army Corp of Engineers permit, he did contact U.S Fish & Wildlife and DNREC; that there were no concerns regarding rare, endangered or threated species on the site; that in his work dealing with marinas, he is familiar with environmental concerns; that a marina is considered anything over four boats; that marinas are required to comply with DNREC operations and maintenance plans; that in circumstances where boat sanding or grinding is performed outdoors, a tarp is required to be placed underneath of the boat the work is being performed on; that once the work is completed, the material is swept up from the tarp, or the tarp is folded up, brought indoors to be cleaned; that the tarp placement is the current standard for best management practices for outdoor work to boats; that the tarp practice is performed in many boatyards throughout the County; that there is not a large concern regarding runoff as the majority of the matter is contained on the tarp; that the subject site is fairly impervious; that the pole barn is a long distance from the waters of Dirickson Creek; that there is a good amount of integrating woods and wetlands; that he does not feel there is a great deal of runoff from the subject property and does not have any particular environmental concerns.

The Commission found that Mr. Thomas Drgon spoke on behalf of his Application; that he is the owner of the property, and he agreed that the statements made by Mr. Willard were true to the best of his knowledge.

Mr. Mears questioned if there were any hazards related to fiberglass resin, hardener, fiberglass cleaning chemicals, such as acetone, if there is any recommended common practice when using those types of chemicals, where most of the work is performed, if the Applicant will have an air filtration system, hours of operations, the total numbers of boats on the property at a time and the number of employees.

Ms. Wingate stated photos were submitted of flooding on the property; that she questioned when the fill work was performed on the property; that she questioned if there had been flooding on the property since the grade changes had been made, if the Applicant had a service scheduled to remove chemical waste from the property, if DeIDOT had any requirements for the project and she had concerns regarding the size of the roadway and with the road being a dead-end.

Mr. Hopkins questioned the location of the Cyclone exhaust, the frequency that Mr. Drgon may use a tarp outside for work, if adjacent properties would be able to view the boats stored on the site, and if a sign is proposed.

Mr. Launay stated the common practice is that the chemicals be stored within an secure, locked, indoor area; that the Applicant does not propose to have a large amount of material onsite; that the majority of the work will be performed inside the building; that he understood the Applicant had invested over

\$10,000 for the specialized equipment to clean and control the dust while working; that if the Applicant were to perform work outside, the best management practice is to place a tarp underneath of the boat; that this is the required practice the Applicant currently performs when working for the State marina; that when the Applicant purchased the property, the previous owner had placed fill on the property; that the property was farmed previously, and would not be considered wetlands at that time; that farming became abandoned for a significant amount of time; that the Army Corp of Engineers then began to consider the property differently; that the field area, as you move further away from the road, can pond from time to time; that the property does not have ditches to convey the water properly; that this is not an issue in the area of the pole barn; that the previous owner had filled the rear of the property without a permit; that Mr. Drgon then purchased the property; that the Army Corp inspected the property; that an agreement was made regarding the wetland boundary; that the fill placed within the designated wetland area was removed; that the Army Corp of Engineers did provide a letter stating the designated wetland boundary and stating any violation found on the property had been resolved; that Mr. Launay then applied and obtained on the Applicant's behalf, a permit from the Army Corp of Engineers to fill 1/10 acre of the property; that the filled area is the location where the driveway will access the house; that the house will be placed on pilings and some fill placed to construct the driveway around the pole building.

Mr. Drgon stated most of his work is performed within the pole building, that he does have the Cyclone air purifier vacuum system; that the system has a large filter; that generally his work hours are from 8:00 am until 5:00 pm; that the work proposed on Saturdays and Sundays would be for clients delivering or picking up their boats; that he proposed eight to ten boats be located on the property at one time; that he will not have any employees; that the fill work was performed upon obtaining the permit in February 2022; that any used liquid products are catalyzed into a solid; that this allows him to discard the material into the trash; that these materials can be compared to a fiberglass bathtub in a residential home; that he has a large entrance to the property; that he did have the State place the maximum sized pipe allowed; that the Cyclone exhaust is located inside; that the Cyclone filters the air, recycling the air back into the building; that the Cyclone is a vacuum system located in close proximity to grinding work; that he intends to perform mostly wet-sanding and buffing work; that he does perform grinding and sanding work for Indian River Marina; that the boat parking area is reflected in yellow on the submitted conceptual site plan; that the pole barn is 48' x 100' and one unlit sign is proposed for the property.

Mr. Willard stated DelDOT did provide a letter stating no Traffic Impact Study (TIS) was required, as less than 50 vehicle trips were proposed; that the property entrance is designed to enter one way and exit from another; that the Final Site Plan is required to be reviewed by DelDOT prior to approval and the adjacent property, located to the south, is approximately 500-ft. away from the property at its closest point and the dwelling to the north is located in closer proximity.

The Commission found that Ms. Theresa Stevens spoke in opposition to the Application; that she also spoke on behalf of Ms. Dawn McGee; that her property is located within 200 yards of the proposed business; that the proposed Conditional Use will create substantial adverse impact on all adjacent and neighboring properties; that the proposed use is far outside of any permitted use, special use, accessory use or Conditional Use as described within the §115-28 of the Code; that she requested the Commission recommend denial of the Application as it will had an adverse impact on the physical, economic and social environment of her property, as well as other surrounding properties; that Dirickson Creek Rd. is a quiet, secluded, dead-end street; that all of the development on Dirickson Creek Rd. is mostly single-family residential with small children and pets; that there is one small, short-term rental Air B&B across the street; that the majority of the nearby homes, have some acreage associated with the home; that she

and her neighbors often walk Dirickson Creek Rd. as it is dead-end street with little traffic; that the only traffic on the road are the traveling neighbors; that the proposed business use would negatively impact and alter the quiet essential character of the neighborhood; that the proposed use will create significant traffic and loud noise; that the proposed use will be detrimental to the public welfare; that boat restoration businesses are known to use huge amounts of highly toxic chemicals, creating odors and high levels of dust that contain known hazardous particulates; that some of the chemicals associated with the proposed use are gasoline, antifreeze, cleaners, paints, organic peroxides, acid ketone peroxide, cobalt compounds and acetone; that although the Applicant will not be performing work to engines, the boats being delivered will have gasoline; that a 19-ft boat has a 50 gallon tank for gas; that she questioned how many gallons of gasoline will be stored within the 10 boats proposed to be onsite; that it was mentioned the dust from the fiberglass sanding will be catalyzed; that catalyst is performed by a hazardous resin; that the chemicals are toxic, with some being carcinoids; that exposure to the chemicals can cause damage to the skin, lungs, nervous system and more; that workers in similar businesses wear full body suits, respirators and goggles while working; that when she is out in her yard, she will not be wearing the protective equipment; that she will be inhaling the chemicals on a regular basis; that she does have personal knowledge of the property; that a previous owner of the property lived in Florida; that she cut the property, every other week, from March until October, for almost three years; that the property is constantly under water; that the water runoff runs into Dirickson Creek and the tax ditch along all of the residential properties; that a boat restoration business will devastate nearby property values; that nearby residents do not have industrial infiltration systems; that it is unacceptable for boat restoration dust to settle on and in nearby homes; that in §115 of the Code, light commercial is referred to as a marina or horse-riding facilities; that a boat restoration business was not included as a light commercial use; that the Air B&B located across the street, is closer to a residential use than any other commercial use; that the residents of Dirickson Creek argued against the Air B&B holding parties on a regular basis due to concerns of noise and traffic; that the previous request for an event venue was denied; that the current proposed use is greater than the use which was previously denied; that the boat restoration proposal is not desirable for the general convenience and welfare of the public and does not rise to the level of requiring allowance by the Commission or County Council.

Chairman Wheatley recused himself from the meeting and left Council Chambers.

Ms. Wingate was appointed Madam Chair for the remainder of the meeting.

The Commission found that Mr. Walt Mitchell spoke in opposition to the Application; that the subject property currently has an approximately 5,000 sf steel building within 100-ft. of their back deck; that he does not consider the building to be a pole building; that the steel building has cement footers and iron girders; that he considered the building a commercial warehouse; that Dirickson Creek Rd. is a short road and a dead-end street, with 25 single-family homes and one bed & breakfast located along the street; that the residents are made up of families with small children and retired couples; that they own a business within the local area; that the proposed property is the worst possible area for the placement of an industrial fiberglass repair business; that they are concerned about the noise from grinding and repair and the odor from the chemicals; that the placement of the dumpster will be located across from their living room; that the garage doors will also be facing their living room; that they are concerned about the decrease in their property value; that he does believe the proposed use would negatively impact the property values for everyone along Dirickson Creek Rd.; that he does not feel a boat restoration business will promote tourism for the area and the proposed use is no comparison to the use of a flower shop.

The Commission found that Mrs. Jenifer Adams-Mitchell spoke in opposition to the Application; that the Applicant's property is 6.4 acres; that the Applicant's 4,000 sf commercial garage is located less than 100 ft from her house; that the commercial dumpster will be located even closer to her home; that at 5:00 am, the trash truck will rumble up the driveway, beeping as it backs up, lifting and banging while dumping the trash and then compacted, less than 100 ft. from her home; that a fiberglass repair business hardly qualifies as a light commercial use; that she is concerned with potential noise, dust and exposure to toxic chemicals; that fiberglass dust is flammable; that all residents along Dirickson Creek Rd. are on well water; that the Applicant's property is extremely prone to flood; that the property drains to Little Assawoman Bay; that any business using toxic chemicals should not be allowed on land that drain into the Inland Bays; that there are existing commercial areas, zoned for the proposed use and those areas are where the Applicant's business belongs.

The Commission found that Mr. Garth Troescher spoke in opposition to the Application; that he and his wife previously applied and were denied a Conditional Use for the use of an event venue; that at the time of their public hearing, all the neighbors along Dirickson Creek Rd. attended in opposition to a wedding venue; that he learned later to respect what his neighbors wanted; that he owns a construction business; that his office and business are located at another location; that the proposed business does not belong within a residential neighborhood; that he feels the proposed use is a much more intense use and should not be permitted if his lesser use could not be permitted; that he believes two culvert pipes have been placed, not one as stated by the Applicant; that there are two entrances to the property; that he also agrees with the concerns previously stated; that he questioned if the Commission had reviewed the building permit for the garage currently being constructed on the property; that he questioned the need for a sign if the proposed use is for private clients only and a sign would only increase the traffic and issues.

The Commission took a two-minute recess from 6:44 pm until 6:46 pm.

The Commission found that Mr. Pat Welch spoke in opposition to the Application; that he can clearly hear the noise created by the current construction of the steel building; that sounds echo and carry across the water; that they will be able to hear the noise generated by the proposed work; that he owns a construction company that performs carbon fiber work; that the chemical smell does carry; that his employees do wear suits and respirators; that he also has containment units for the dust created from grinding; that there is nothing to prevent the smells traveling to other properties; that he chose his property for the quiet and peaceful nature of the area; that he previously spoke in opposition to Mr. Troescher's application for a wedding venue; that he questioned if the steel building was permitted; that the description of a pole barn is constructed of wood with metal coverings; that the current building does not meet the pole barn description and the proposed use is not appropriate for the area.

The Commission found that Mr. Joe Smith spoke in opposition to the Application; that he frequently walks the road with his dog and his two grandsons; that the resident's safety should not be put at risk; that the area is residential; that there is no room for the proposed use; that he agrees with all the other concerns previously mentioned and the property frequently floods.

The Commission found that Ms. Dawn McGee spoke in opposition to the Application; that her property is located east of the site; that she recently went to France; that before leaving, she was under the assumption, there would a pole barn with an apartment placed on the property; that when she arrived home, she saw the construction of an industrial warehouse; that the building is 100-ft. in length adjacent to her property; that she is 300-ft from the building; that her neighbors are approximately 100-ft. from the building; that the building is inappropriate being placed in the middle of a neighborhood; that she

questioned how a warehouse was built before the house; that the property floods about 10 times per year; that at times the flooding is so severe, it adjoins all six of their properties under water and all the runoff from the proposed use will go into the bay; that the creek floods constantly and she was upset that a warehouse could be built without input from the neighbors.

The Commission found that Ms. Maria Lopez spoke in opposition to the Application; that there is no way the proposed business can be located so close to the water; that she owns six acres; that the rear portion of her property is wetlands, which prohibits her from developing the area; that her property is located adjacent to the Assawoman Preserve; that three of her children take the bus to school; that the bus stop is located at the end of Dirickson Creek Rd.; that the children walk to and from the bus stop; that the Applicant stated more pick up and deliveries will be on the weekends; that the children are off from school on the weekends, often walking or riding along the road; that the area is for residential, not for commercial use; that the chemicals will runoff into the water and will spread through the air and she requested the Conditional Use be denied.

The Commission found that Mr. Robert Luca and Ms. Kimberly Flynn spoke via teleconference agreeing to the mentioned concerns, as well as concerns regarding consistency with the character of the area, environmental impacts, and the inconvenience and mess created by tractor trailers currently using their yards to turn around on the street.

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 2329 Thomas Drgon Trustee. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

#### **C/U 2331 Sweet Meadows Riding Academy**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A HORSE-RIDING ACADEMY WITH OVERNIGHT ACCOMMODATIONS AND ASSOCIATED AGRICULTURAL ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS.** The property is lying on Sweet Meadow Lane on the north side of Deer Run Road (S.C.R. 388), approximately 0.5 mile southwest of Zion Church Road (Rt. 20). 911 Address: 37033 Sweet Meadow Lane, Selbyville. Tax Parcel: 533-11.00-27.04.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, the Applicant's Conceptual Site Plan, Applicant Exhibits, Staff Analysis, and the DelDOT Service Level Evaluation Response. Mr. Whitehouse advised the Commission that one letter in opposition was received.

The Commission found that Mr. Mark Davidson, with Pennoni Associates, Inc. spoke on behalf of the Application; that also present was Ms. Shelly Lynn Wright-Estellam; that the proposed Application is for a Conditional Use within the AR-1 (Agricultural Residential) Zoning District, on five acres of land; that the property is located on the north side of Deer Run Rd. (S.C.R. 388); that the property is located directly across the road from Bearhole Rd. (S.C.R. 390); that the property is owned by Ms. Wright, her husband and three children; that they currently live on the property; that under Tab 2 of the Exhibit Booklet are four letters and 200 signatures submitted in support of the Application; that Ms. Wright founded Sweet Meadow Riding Academy in 2003; that Sweet Riding Academy has been operating under



an existing Special Use Exception under Case No. 8287-2003, which was approved by the Board of Adjustment on August 18, 2003; that the use was approved for a riding academy, for the purpose of boarding horses and teaching equestrian skills; that the property consists of the existing dwelling and an office; that he had submitted an existing Conditions Plan and a Site Plan; that the office does have an individual address; that there are existing barns, sheds, run-ins, lean-tos, parking and pastures; that the facility is currently gated with a key-code entrance; that customers are granted a key-code to access the site; that the subject area is located down the lane, past the existing dwelling; that the Applicant does have security cameras on the site; that the Applicant has two horses, one miniature house, an alpaca, two goats, a Hyland bull, six chickens and one peacock; that the Applicant does proposed to expand the horse riding academy by offering overnight accommodations and associated agricultural activities; that the overnight accommodations would consist of 10 individual-style guest accommodations, for temporary occupancy, for person engaged only for the specific use of the riding academy; that the Applicant proposes four cabins, two yurts, three A-style framed tents; that there is an existing barn on the property; that the Applicant proposes to offer a barn-style sleeping quarters; this will allow guests to sleep closer to the animals; that the Applicant proposes the different style accommodations for the different style, wants and experiences of her guests; that the proposed use will allow guests to ride horses and taking care of the animals; that the largest part of the Applicant's business plan is education and teach the different styles of care for the animals; that the Applicant does propose a bathhouse; that all proposed structures will be permitted and reviewed by Sussex County Building Code; that some of the cabins will provide built-in bathroom facilities; that the agricultural activities will be centered around the horsemanship for the visiting guest, by offering education and an unforgettable farm-like experience; that proposed activities will include, classes on horses and other farm animals, daily chore schedules, dude ranch living and style riding, cowboy camp, English riding, equine-based demonstration, animal yoga, and horse whispering; that the properties are bordered on the north and east by an existing residential dwelling and a previously used chicken house; that the property owners for the chicken house have provided a letter in support of the Application; that the property is bordered in the south by a residential dwelling, who have also provided a letter in support; that an agricultural field borders the property to the west; that the Applicant has planted a vegetated buffer, starting from behind the residence, down the easternly property line and the northern property line; that the Applicant has placed a six foot high privacy fence adjacent to her neighbor to the south; that at this time, the Applicant is not proposing a buffer on the western property line; that there currently is an existing swale along the property line; that the property is adjacent to an agricultural field; that the Applicant feels the relationship between the two agricultural uses is beneficial when performing education classes; that Applicant has proposed a condition stating, if the farm field should be developed, she will plant a buffer along that property line; that the surrounding area to the property is a mixture of AR-1 (Agricultural Residential) and a large portion of GR (General Residential) land; that the Conditional Use is not out of character for the neighborhood as there are several other Conditional Use properties within the vicinity of the site; that the Conditional Use request is agricultural based in nature; that the Conditional Use request will be subject to the provisions of Sussex County Code; that the purpose of a Conditional Use is to provide for certain uses which cannot otherwise be well adjusted by environment and particular location with full protection offered to surrounding properties by the ridged application and district regulations; that the horse riding academy, with the overnight accommodations and associated agricultural activity uses is of a public and semi-public character and is essential and desirable to the general convenience and welfare of the community; that the site is within a Developing Area according to the 2019 Comprehensive Plan; that the Developing Area is considered one of the seven Growth Areas; that the site is surrounded by areas designated within the Coastal Area; that the site is in close proximity to a Commercial Area; that

the Comprehensive Plan promotes tourism, related services and economic growth within designated Growth Areas, which offer employment opportunities, economic benefits to the area business, consistent with the character of the zoning and development in the area, subject to there being no negative impact on schools and other public facilities; that the Comprehensive Plan states permitted uses within the farm rich use development, with careful a careful mixture of homes, with light commercial is appropriate to provide for desired services; that §9.2.1 of the Comprehensive Plan states that agriculture is an important sector for the overall economy of Sussex County, providing a strong economic foundation; that there is a large potential for agritourism within Sussex County; that Sweet Meadows Riding Academy is designated agritourism with the Delaware Department of Agriculture; that the property is found within Investment Level 3 according to the State Strategies for Policies and Spending Map; that the property has an existing entrance to the site; that the site will have access to Deer Run Rd. by the existing access and existing driveway; that DelDOT confirmed the Conditional Use will not adversely affect the traffic congestion of the roads; that DelDOT stated the traffic impact for the proposed use would be diminutive, as the use would generate less than 50 vehicle trips per day; that DelDOT did not require a traffic impact study; that the opposition letter was submitted by the neighbor across the street; that the opposition letter mentioned concerns to increased traffic; that the Applicant feels, by offering the overnight accommodations, it will reduce traffic; that currently guests may arrive and depart the site; that if guests are able to stay overnight, it will decrease the flow of traffic; that there are no wetlands located on the site; that an Environmental Review was performed as the site is in close proximity to the Coastal Area; that there are no threatened or endangered species located on the site; that the property is located under the Tier I Sussex County Unified Sanitary Sewer District; that the property is currently served by sewer; that water is provided by private commercial wells, which are currently servicing the property; that the property is not located within any Excellent Groundwater Recharge or Wellhead Protection areas; that the property is outside of the 100 Year Flood Plain; that the Roxanna Fire Department, Station No. 90, will provide fire protection services for the site; that the project will be subject to Conditions of Approval; that the use will be limited to the horse riding academy, with overnight accommodations and associated agricultural uses; that there will be a maximum of 10 overnight accommodations for persons engaged only with the specific use of the horse riding academy and associated agricultural uses; that the property has an existing sign, being under 32 sf on each side, which the Applicant would like to keep as is; that the facility has programs scheduled for year round use; that there is a proposed condition for quiet hours, being from 8:00 pm until 7:00 am daily; that any security lighting on the property will have downward illumination; that the Applicant does have security cameras surrounding the property; that all buffers will be maintained by the Applicant; that if and when Parcel 28 were to become developed by residential homes, the Applicant has proffered to place a required vegetated buffer on her portion of the shared boundary line; that the Applicant has received approvals from DelDOT, Sussex Conservation District and the Delaware State Fire Marshal's Office; that the Applicant did provide her vision, goals and overview of the use within the submitted Exhibit Booklet; that the proposed use meets the general purpose of the Zoning Ordinance and is located in an appropriate location.

Mr. Hopkins requested more information regarding the bathhouse.

Ms. Wingate questioned if the yurts will be temporary, being removed during winter months.

Mr. Davidson stated due to the proposal for tents and yurts, there is a need for a bathhouse; that there is a bathhouse proposed to the right of the existing entrance; that the bathhouse will be connected to the public facilities of the Sussex County Unified Sanitary Sewer; that the bathhouse will service the four nearby tents and yurts, but will also service the entire academy as well and the yurts are proposed to be permanent.

The Commission found that no one was present in the room or by teleconference who wished to speak in support or opposition 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/U 2331 Sweet Meadows Riding Academy. Motion by Mr. Mears to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 3-0.

**C/U 2335 Joseph Kraft**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GUNSMITHING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.12 ACRES, MORE OR LESS.** The property is lying on the northeast side of Utica Road (S.C.R. 632), approximately 0.24 mile south of Lighthouse Lane. 911 Address: 12559 Utica Rd, Greenwood. Tax Parcels: 430-6.00-4.03.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the DeIDOT Service Level Evaluation Response, and the Staff Analysis. Mr. Whitehouse advised the Commission that zero comments had been received.

The Commission found that Mr. Joseph Kraft spoke on behalf of his Application; that he is the owner of Send It Precision, LLC; that he was a hobbyist when he was in the Marine Corp; that his interest was in long rang shooting; that he performed in 1,000 yard competitions; that he worked in armories as a firearms instructor; that his hobby was firearms and creating them to shoot better; that due to the political climate, there was an ammunition shortage; that he is now interested in turning his hobby into a small business; that he has an existing small pole barn on the property, that he uses as his shop; that he has been hand loading ammunition since the age of 12; that he wanted to make sure he stayed in compliance and legal in all his activities; that he currently works for the Department of Corrections; that he currently has a Class 1 FFL license, for the sale of firearms, which has already been approved by the County; that he understands that the proposal to provide gunsmithing, manufacturing ammunition and custom load development would require a Conditional Use; that he is more interested in providing custom load development services; that currently he does not have intentions to sell firearms; that he and his family live on the property; that obtaining a Class 1 FFL does create public notice; that in having a Class 1 FFL could attract negative attention, creating safety concerns for his family; that due to this, he is interested in getting away from the Class 1 FFL license; that the Conditional Use would permit him to enter back into the custom tailoring of ammunition, which would be performed within his shop; that the proposed use would not bring any additional attention or traffic to the area; that he only has two days a off of work a week; that all work is performed by appointment only and the proposed use would be a very small business.

Mr. Hopkins questioned the number of employees and if a sign is desired.

Mr. Mears questioned the proposed hours of operation.

Ms. Wingate questioned if the shooting of firearms would be performed on the property.

Mr. Whitehouse advised the Commission that the proposed use is very nearly considered a home occupation and as with other previous gunsmithing applications, the staff thought it better to bring the proposed use through as a Conditional Use.

Mr. Kraft stated he would not have any employees; that all work would be performed by himself; that he does not desire a sign; that all business has been done by word of mouth; that he does not wish to draw any additional attention to his property; that business would be conducted by appointment only; that is only available on Mondays and Tuesdays; that he performs all the shooting of firearms at the ranges he belongs to; that many of the adjacent properties perform shooting of their own firearms; that he and the neighbors have an unwritten rule that most shooting takes place between the hours of 10:00 am until 4:00 pm and there have previously been no issue.

The Commission found that no one was 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 2335 Joseph Kraft. Motion by Mr. Hopkins to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 3-0.

ADDITIONAL BUSINESS

**Meeting adjourned at 7:39 p.m.**

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