

THE MINUTES OF THE REGULAR MEETING OF DECEMBER 14, 2023

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, December 14, 2023, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Holly Wingate, Mr. Bruce Mears, and Mr. Scott Collins. Mr. Brian Butler was absent. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Ms. Lauren DeVore – Planner III, and Ms. Amy Hollis – Recording Secretary.

Mr. Whitehouse advised the Commission that the Application for C/U 2399 St. Vincent House of Transformation, Inc. was withdrawn after public notification had been issued and that the Application would not be heard at that evening's meeting.

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

Motion by Ms. Wingate, seconded by Mr. Collins to approve the Minutes of the November 30, 2023, Planning and Zoning Commission meeting as circulated. Motion carried 4 – 0.

PUBLIC COMMENT

The Commission found that no one was present who wished to provide public comment.

PUBLIC HEARINGS

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

2022-26 Ballenger Subdivision (F.K.A Warrington)

A cluster subdivision to divide 53.54 acres +/- into one hundred and six (106) single-family lots, to be located on certain parcels of land lying and being in Indian River Hundred, Sussex County. The properties are lying on the south side of Hollymount Road (S.C.R. 48), approximately 0.4 mile east of Beaver Dam Road (Rt. 23). 911 Address: 30558 Hollymount Road, Harbeson. Tax Map Parcels: 234-11.00-103.00 & 103.01. Zoning District: AR-1 (Agricultural Residential).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, the Applicant's Preliminary Subdivision Plan, the Applicant's Chapter 99-9C written responses, the Staff Review letter, the State PLUS comments, the Applicant's responses to the State PLUS comments, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, and the Technical Advisory Committee responses, which include a response from the U.S. Department of Agriculture. Mr. Whitehouse stated zero comments were received for the Application.

The Commission found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, Ribera Development, LLC; that also present were Mr. John Stamato on behalf of the Applicant, Mr. Mark Davidson, Principal Land Planner and Mr. Alan Decktor, Senior Engineer, both

with Pennoni Associates, Inc. Mr. Fuqua stated an Exhibit Booklet was submitted for the record, which included a 99-9C Subdivision Report and the Applicant's PLUS responses; that the Application is for an AR-1 (Agricultural Residential) cluster subdivision to contain 106 single-family lots and recreational amenities; that site is located on the south side of Holly Mount Rd., being about 1.1 mile west of Holly Mount Rd. and Rt. 24; that the site contains 53.5 acres; that the area surrounding the site consists of agricultural lands, woodlands, and a number of residential developments; that the surrounding residential developments include Falcon Crest, Independence, Holly Lake Campsite, Spring Breeze, River Oak and Riverwood; that 53 acre parcel is zoned AR-1 (Agricultural Residential) and is located within the Low Density area under the Comprehensive Plan of the Future Land Use Map; that the Comprehensive Plan recognizes that agricultural uses and single-family homes are permitted uses in Low Density area, and a cluster option subdivision is permitted within the Low Density area, providing the density of does not exceed two lots per acre, where public sewer is utilized and significant open space is set aside; that the AR-1 section of the Zoning Ordinance permits cluster development in that zone, subject to the Commission approving the Superior Design requirements of the Zoning Ordinance; that central water will be provided by Artesian Wastewater Company, Inc. for domestic use and fire protection; that Artesian already provide sewer services to the area; that there will be a new pump station constructed, which will be a shared cost of the Applicant and the developers of the River Oak and Riverwood developments; that Artesian is in the application process of obtaining a Certificate of Public Convenience and Necessity (CPCN) from the Delaware Public Service Commission to serve the development; that stormwater management facilities will be designed and constructed in accordance with DNREC's current stormwater regulations; that stormwater management will be reviewed and approved by the Sussex Conservation District; that a Soil Study was performed by Axiom Engineering to assist in the location of the stormwater management ponds; that there was a wetland delineation performed by Pennoni Associates, Inc; that the study determined that there were no tidal or Federally regulated non-tidal wetlands located on the site; that under the FEMA Flood Insurance rate maps, the entire site is located within Zone X unshaded, which is located outside of the 500 Year Floodplain; that DelDOT indicated that in accordance with its Development Coordination Manual, it would accept an Area Wide Study fee in lieu of a Traffic Impact Study (TIS); that in addition, DelDOT will require a dedication of right-of-way along the site's frontage on Holly Mount Rd. to provide a 40 ft/ right of way from the road centerline, a 15 ft. wide permanent easement along the site's road frontage, a contribution as determined by DelDOT to the traffic signal revolving fund, interconnection easements to the two adjacent subdivisions, and improvements to Holly Mount Rd. to meet DelDOT's Functional Classification Standards; that the development proposes 106 single-family lots, which results in a density of 1.97 lots per acre; that the proposed density complies with the permitted density for an AR-1 cluster subdivision; that the lots vary in size from a minimum of 7,514 sq. ft. to a maximum of 16,144 sq. ft.; that the average lot size is 8,555 sq. ft.; that the entrance to the development will be from Holly Mount Rd.; that the entrance will be designed and constructed in compliance with all DelDOT requirements; that the subdivision streets will be private and built to Sussex County Engineering Department's specifications; that there will be sidewalks on both sides of the development, with shielded and non-intrusive street lighting; that there is a recreational area to consist of a clubhouse, pool and deck, and a tot lot; that the recreational area is to be located to the south end of the development; that there is also a walking trail proposed to circle the interior stormwater pond and connect to the interior road; that it is proposed that the recreational features would be constructed and open for use by the residents prior to the issuance of the 53rd Certificate of Occupancy, which equates to 50%; that the perimeter of the development provides a minimum 50 ft. agricultural buffer, where no homes could be located; that a 30 ft. wooded landscape buffer is proposed adjacent to lands in agricultural use, as it is required by the

Superior Design requirements; that there is a 20 ft. wooded landscape buffer adjacent to other lands; that there is a landscape buffer and open space located along the development's frontage on Holly Mount Rd. on either side of the entrance; that a school bus stop location will be coordinated with the local school district; that the site currently contains 29.5 acres of woodlands; that 16.44 acres will be removed with 13.11 acres (44%) of woodlands to be preserved; that open space, as it is defined in the Zoning Ordinance, will total 28.01 acres (52.3%) of the entire site; that more than 30% of the open space consists of contiguous tracts of open space that are adjacent to farmlands or other woodlands; that the community will have a Homeowners Association, made up of all lot owners; that the association will be responsible for enforcing the community restrictions, collecting assessments, and the maintenance of the development's streets, entrance, buffers, landscaping, stormwater facilities, recreational amenities and any other community common areas; that the site is located in the Cape Henlopen School District and within the Indian River Fire Company fire service area; that the proposed 106 lot cluster subdivision is a permitted use in the AR-1 Zoning District; that the proposed development will border the River Oak, 85 lot, cluster subdivision and the Riverwood, 117 lot, cluster subdivision; that the development is in character with other uses in the area, and the subdivision was designed in accordance with the cluster design requirements, which did result in 52% of the site being designated as either active or passive open space, which include over 13 acres of preserved woodlands. Mr. Fuqua requested to submit the proposed Findings & Conditions for the Commission's consideration.

Ms. Wingate stated she appreciated the proposed interconnection and that she would love to see the trees reflected on the rendering remain on the Final Site Plan.

The Commission found that there was one person in support, one person with neutral questions, and two people in opposition to the Application.

Mr. John Novosel spoke in support of the Application. Mr. Novosel stated he felt the local industry is based on tourism and the construction of houses; that housing provides a basis of the continuing appreciation for the homeowners who currently live in the area; that he is originally from Ohio, where the housing industry collapsed; that he did not want to see the same thing happen here, and therefore was in favor of the Application and anything that continues to provide a basis of support for the existing homes that we live in.

Ms. Norene Beam spoke with neutral questions regarding the Application. Ms. Beam questioned if the proposed development would impact her driveway or her well.

Mr. Rick Hockersmith spoke in opposition to the Application. Mr. Hockersmith spoke about his concerns regarding traffic congestion and traffic impacts.

Ms. Jan Kratz spoke in opposition to the Application. Ms. Kratz spoke about her concern regarding traffic, the safety due to the lack of shoulder on the road, and the amount of development being performed in the County.

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

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

In relation to 2022-26 Ballenger Subdivision (F.K.A. Warrington). Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

C/U 2401 OA Sundance Club, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (180 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 48.36 ACRES, MORE OR LESS. The property is lying on the northeast corner of Old Mill Road (Rt. 349), and the southwest corner of Railway Road (S.C.R. 350), at the intersection of Railway Road (S.C.R. 350) and Old Mill Road (Rt. 349). 911 Address: N/A. Tax Map Parcel: 134-12.00-74.01.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Conceptual Site Plan, the Applicant's colored rendering, the Applicant's Exhibit Booklet, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, a copy of the PLUS comments, the Applicant's Environmental Assessment, and a copy of the previous approval for C/U 2206, including the Meeting Minutes of the Planning & Zoning Commission's meeting of March 25, 2021. Mr. Whitehouse stated that five written comments had been received for the Application and they had been included within the Commission's Paperless Packet.

The Commission found that Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant, OA Sundance Club, LLC; that also present were Mr. Preston Schell and Mr. Ben Gordy of Ocean Atlantic Companies, Mr. Mark Davidson, Principal Land Planner and Mr. Alan Decktor, Senior Engineer, both with Pennoni Associates, Inc. Mr. Fuqua stated that an Exhibit Booklet was submitted for the review of the Commission; that the Application proposes 180 multi-family residential units; that the units will be single-family detached condominium units, to be located within an over 55 age-restricted community; that the Application is unique; that the site was already approved as a Conditional Use, and received Final Site Plan approval for a 200 unit multi-family development, as 17 multi-family apartment-type buildings; that the current Application proposes three modifications to the original Conditional Use and Site Plan; that rather than the large multi-family unit buildings, the Applicant is proposing single-family detached condominium units; that both types of units are defined as multi-family dwellings under the Sussex County Zoning Ordinance; that there was a 2.25 acre parcel that was located on the other side of Railway Rd., which has been removed from the current Application request; that the already approved 200 unit Conditional Use is now being proposed to reduce the density to 180 units; that the property is located at the northwest corner of the intersection of Railway Rd. and Old Mill Rd.; that the parcel contains 48.36 acres, which mostly consists of farmland; that there is approximately 3.6 acres of forest; that within the forested area is 1.3 acres of non-tidal wetlands, being located to the northwest corner of the site; that the site had frontage along both Railway Rd. and Old Mill Rd.; that the site is located adjacent to a wooded parcel to the rear of the site; that the remainder of the area surrounding the site is predominantly for single-family residential uses; that in 2010, the property was approved a Conditional Use for 200 multi-family residential units; that approval was subsequently voided for the failure to be substantially under construction within the timeframe allotted; that in March 2021, the Commission held a public hearing on a Conditional Use application, C/U 2206, filed by Lender and Company for a 200 unit, multi-family development, which was similar to the Conditional Use that had been approved in 2010; that neither Ocean Atlantic nor Mr. Schell were involved in the previous Application, nor was Mr. Fuqua; that from his research, it seemed the previous application was controversial; that the previous public hearing lasted over five hours; that there was a

opposition petition signed by 1,000 residents in the area; there was 262 letters of opposition submitted for the previous Application; that there was an organization, Evans Farm Watch, comprised of representatives from over a dozen area communities who spearheaded the opposition; that the previous application was granted a recommendation of approval by the Commission, and County Council granted approval by a three to two vote; that the previously approved application proposed 200 units, in 17 multi-family buildings with 17 garage buildings located on the perimeter of the site; that the current Application request is to modify the previously approved development by replacing the large multi-family buildings with single-family detached condominium units, and reducing the units from 200 to 180; that this change was proposed for several reasons; that first, Ocean Atlantic Companies is an established and experienced local developer; that they build single-family and multi-family residential developments, rental communities and commercial projects; that based on the companies' experience and knowledge in Sussex County, it was determined that the site was not an appropriate location for the development of a large multi-family rental-type project; that the need for rental housing, particularly workforce housing is well established; that such housing does need to be located in an appropriate place; that the current location was deemed not to be appropriate for several reasons; that the site is not located in close proximity to shopping areas or employment centers; that the site is not served by public transportation; that the area roads, particularly Railway Rd., between Old Mill Rd. and Rt. 26, is a narrow, two-laned road; that there are no sidewalks or shoulders; that due to this, it would create unsafe conditions for pedestrians walking or cycling along the road; that additionally, as it was noted by the opposition for the prior Conditional Use, the large multi-family building project does not fit in with the existing character of the area; that the surrounding area is predominantly of single-family residential character; that the previous Conditional Use Site Plan reflected 17 large buildings, with 17 garage buildings located along the outside perimeter of the large buildings; that one resident in opposition referred to the previous Site Plan layout as a circled wagon train design; that everything was centered with an almost military style and feel with compounded units located on the outside surrounding of the site; that the aesthetic appeal was lacking, and was not in character with the existing nature of the area; that the Site Plan for the current Application replaces the 17 big, box-styled, multi-family buildings and garages with 180 single-family attached condominiums; that there are a variety of unit types and styles that can be chosen, with options that the purchaser can choose from; that there will be a variety of different styles and appearances within the development; that the current Site Plan has the appearance of a mini-subdivision comprised of single-family condominium units, rather than the single-family homes located on individual lots; that the modified Site Plan retains the multi-family use, but with a building design that is in better harmony with the area and creates a more appropriate transition from the surrounding area to the use of the site; that everyone can recognize there is a need for rental housing in eastern Sussex County, however, there is also a need for appropriate housing, such as an over 55 community for both new and current older residents; that the existing 2019 Sussex County Comprehensive Plan note that the median age of a Delaware resident is 39 years; that the median age in New Castle County and Kent County it is 37 years; that the median resident age in Sussex County is 47 years; that the median age of residents in eastern, coastal area of Sussex County is much higher; that the census population data from the beach towns and areas such as Longneck and Ocean View, report an average median age of approximately 64 years; that this equals to half of the population in those areas being older than 64 years of age; that now, over 55 communities are designed with the needs of the older residents in mind; that the homes tend to be smaller, with master bedrooms located on the first floor; that accessibility and safety are key design components; that options are available to provide a number of things that would be desirable by older residents, which include handicap accessible bathrooms, and other floor modifications to make the homes more navigable and safer for older residents, many

purchasers, including current older residents seeking to remain living in the area where they have been living, but wanting to downsize from their existing larger homes and yards; that downsizing will provide less utility and other expenses, as all buildings and lawn maintenance will be taken care of by the Owner's Association; that the Applicant has concluded the subject site is much more appropriate for the proposed type of use, and is more compatible with the local uses in the area; that the proposed development will contain 180 single-family detached condominium units, resulting in a density of 3.7 units per acre; that the proposed density is significantly less than the density that would have been permitted by the existing GR (General Residential) Zoning; that the parcel is zoned GR (General Residential); that the current Application proposes 20 units less than what was already approved for the site; that the site is located within the Coastal Area, which is a Growth Area, where a range of housing types, including multi-family uses, are appropriate; that the site is in State Investment Level 2 and 3; that central water will be provided by Tidewater Utilities; that central sewer will be provided by Sussex County; that the Applicant will be responsible for the entrance and road improvements, as required by DelDOT, along the road frontage on both Railway Rd. and Old Mill Rd.; that the road improvements will include a shared use path along both of those roads; that there will be a vegetated or forested buffer of at least 20 ft. in width installed along the perimeter of the development that is adjacent to lands of other ownership; that the buffer will be increased to a minimum of 25 ft. along the western boundary line of the site, to the rear of Unit 13 through Unit 31; that there will be an enhanced buffer to the northeastern corner of the property; that there would be a landscape buffer to the rear of the homes bordering Railway Rd. and Old Mill Rd.; that there are 1.6 acres of non-tidal Federally regulated wetlands located in the northwest corner of the site; that area will remain undisturbed, and in its natural wooded state; that there will be a 50 ft. buffer established from any home and the wetland line; that the site is located with Flood Zone X, being outside of the floodplain, according to the FEMA Insurance Map; that there are 3.6 acres of woodlands that are located to the northwest corner; that along the northern boundary line, approximately .39 acres of woodlands will be removed; that approximately 89% of the existing woodlands will remain as they are; that stormwater management facilities will be designed and constructed in full compliance with DNREC's regulations; that there will be a recreational area located near the entrance of the site that will consist of a clubhouse, a pool and a deck, two pickleball courts, a community garden, and a dog park; that it is proposed that the recreational amenity would be completed prior to the issuance of the 90th Certificate of Occupancy, equating to 50%; that sidewalks will be located on one side of all internal streets with shielded street lighting; that each residential unit will have a two car garage and space for two cars to be located in the driveway; that in addition, there will be 47 parking spaces located at the recreational area; that the spaces will be comprised of 44 regular spaces and three ADA compliant spaces; that there was an emergency access placed in the northeast corner of the site, which he believed was to have lighting along the shared use paths; that DelDOT requested the emergency access be removed, as they did not want the emergency access or the lighted pathway; that due to this both the emergency access and lighting were removed; that the modified Site Plan does present an appropriate transition design that is more harmonious in appearance with the many single-family developments in the area; that he believed the proposed design is much more acceptable and preferred by many of the residents of the area; that there was a letter submitted by the Evans Farm Watch, which was the same organizational group on record for the previous application; that the group did indicate that they found the modified plan to be more acceptable; that in 2021, the Commission stated a number of reasons for recommending approval of the previous application; that those reasons were adopted by the County Council, and the application was approved; that he felt those previous reasons equally applied to the current Application; that the property is zoned GR (General Residential), which provides for medium density residential use with a permitted density of four units per acre; that

the property is in the vicinity of a mixture of residential and commercial zoned properties, including GR properties, as well as MR (Medium-Density Residential) and C-1 (General Commercial) zoned properties; that a multi-family residential project is consistent with those zoning classification options; that the proposed Conditional Use is appropriate for the site because central sewer and water is available; that the proposed use is consistent with the County's Comprehensive Plan because the site is located within the Coastal Area, which is a Growth Area, and is located in an area where medium and higher density is appropriate, and a range of housing types should be permitted in the Coastal Area, including multi-family units; that DeIDOT reviewed the proposed use and determined under its vehicle trip standards, that the traffic impact would be minor; that the developer will be responsible for road improvements required by DeIDOT; that the current Application proposed fewer units than the previous application, and the current Application is for an age restricted community; that the Commission previously stated under the Sussex County Zoning Ordinance, there is no distinction between a condominium multi-family unit and an apartment multi-family unit; that a condominium is not a building, it is a form of ownership; that it is a way to own something; that it is not a construction type; that the definition of a multi-family unit is various things under the Sussex County Zoning Ordinance, including an apartment, a townhouse, and a duplex; that a condominium is not a particular style of building; that a condominium is a legal form of ownership where one does not have a fee ownership; that one would have interest with the others; that traditionally, it has been interpreted under the Sussex County Code that the condominium is multi-family and is treated the same as far as zoning is concerned; that the subject Application proposes single-family, individual home development; that Marlin Chase, located along Cedar Neck Rd., is more or less identical to the proposed use, except the propose homes are slightly wider in size; that the proposed homes are 40 ft. wide; that the homes within Marlin Chase are 36 ft. wide; that he attempted to follow the conditions previously adopted for C/U 2206, as closely as possible; that five of the original conditions have been amended due to the change in use; that he did add one proposed condition, regarding the age restriction to an over 55 community, and that four conditions were deleted as they were no longer applicable.

Ms. Wingate questioned if there was a written response from DeIDOT stating their opposition to the proposed emergency access and questioned if the previous emergency access was paved. Ms. Wingate stated the emergency access the Commission desires is only a cleared pathway for the sole purpose of emergencies.

Chairman Wheatley stated the Commission was not looking for another highway entrance; that the Commission only desired an open area that would support the weight of an emergency vehicle to access the site in the case of an emergency, and the Commission has established some standard language with DeIDOT to accommodate what the Commission has been trying to accomplish all along.

Mr. Schell stated he was under the impression that representatives from DeIDOT were to be present to speak on their opposition to the emergency access, however, he believed no one was present; that he would retrieve a written response from Mr. Sammons with DeIDOT in relation to the emergency access opposition by DeIDOT for the record; that DeIDOT originally did not want to approve the previous 200 unit Site Plan due to the proposed emergency access; that they informed DeIDOT that they intended to change the plan; that they requested DeIDOT remove the requirement of not having emergency access, as part of the 200 unit apartment plan, to allow them to obtain Final Site Plan approval, as a result of that they removed the proposed emergency access; that the stubbed street is still provided and their previous conversations were with Mr. Todd Sammons and Ms. Pam Steinberg.

Mr. Fuqua pointed out the location of the provided stubbed street and stated he believed the stubbed street would be sufficient for the purposes of the Commission.

Mr. Mears stated that the Applicant's product will be significant, and the modified proposal will be more pleasing to the community.

Ms. Wingate stated that she agreed with Mr. Mears' comments and felt the modified plan would be a more aesthetically pleasing design versus the previously approved plan and architecture.

Mr. Collins stated he agreed with Mr. Mears and Ms. Wingate's comments; that he is disappointed to see what was originally proposed not constructed, as it was probably more aligned with workforce housing, he is sure the Applicant will be bringing the Commission workforce housing soon.

Mr. Fuqua stated the Applicant has provided workforce housing in the past and will be providing it in the future.

Mr. Whitehouse questioned the buffer located on the northern side of the site and the reflected rectangles being shown for the buildings; that he questioned if the rectangles represented the footprint of the buildings and if the buildings would be constructed against the proposed buffers, resulting in no rear yards.

Mr. Schell stated no; that the rectangles represent the building and the rear yard which fit within the 40 ft. by 90 ft. area; that people will often request the house to go back 60 ft. to 65 ft., but people will often order courtyards that they offer, or they order a bump out in the master bed; that if one were to take up all the options that they possibly could, including the outdoor component, it could approach 90 ft.; that this is not typically the case and what is shown is the total 40 ft. by 90 ft. area, which is to include the house and the yard.

Mr. Collins questioned if the yards would be maintained by the association.

Mr. Schell stated yes; that this is an example of why the ownership is helpful; that particularly with the older demographic, they will not own their own lot; that the community will maintain the lot; that with the proposed Application, the lot is owned by the eight residents as a collective group, and the HOA will have a Maintenance Agreement to maintain the lot.

Mr. Robertson stated it was his understanding that one reason for over 55 communities in Sussex County is not only because the market supports it, but also because of the impact on the traffic counts, and what would be required by DelDOT for road improvements, and he questioned by more communities are not constructed as over 55 restricted communities.

Mr. Schell stated typically it is due to the fact that 15% to 20% of the market is reduced by making a project Active Adult; that no one markets the fair housing; that every time they have ever provided a 55 and over community, they have never had a single buyer attempt to purchase there, who did not qualify; that in theory, legally one could be a 27 year old married to a 25 year old with four kids and they legally could not prevent them from doing so, until 20% of the total number of homes are sold to people that do

not qualify as Active Adult; that the reason they proposed Active Adult for the subject Application was for the traffic count; that 180 single-family homes, without an Active Adult designation had a traffic county that was slightly higher than the approved plan; that when they made the plan for Active Adult, the traffic count was less; that they did not feel like re-submitting everything with DeIDOT; that DeIDOT stated as long as the new plan proposed a lower traffic count, they would allow them to utilize the approved off-site improvements and approved entrance from the previous 200 unit apartment plan; that there is debate between whether or not the market for people seeking an Active Adult project is higher than the number of under 55 families that may be lost, and when there is a reason, such as traffic county or voluntary school impact fees, to make a community Active Adult, you will see more of them because it does not hurt the market as much; that in eastern Sussex County, most of the buyers are going to be 55+ anyway.

Mr. Fuqua stated the over-55 Community is defined by Federal law.

The Commission found that two people were present in support of the Application, and no one was present in opposition to the Application.

Mr. Martin Lampner, Co-Chair of Evans Farm Watch spoke in support of the Application. Mr. Lampner stated they do not believe there is not a need for workforce housing; that they know they are the people who suffer; that the previous plan did not integrate with the surrounding area; that they are happy to see the modified plan; that they did have concerns regarding traffic; that Mr. Schell reach out to discuss the plan with them; that their organization has had input and ongoing discussions regarding the proposed plan; that the change in the buffer was a request by them; that they fully support the elimination of the emergency access as a paved road; that the owners that they represent from Banks Acres all oppose because the access could potentially end up as a road into their neighborhood; that an access as an unpaved surface would address the concerns of the residents from Banks Acres; that the Evans Farm Watch is very happy with what is currently being proposed; that they support the generation of less traffic; that currently the Evans Farm Watch represents 14 communities along Whites Neck Rd.; that the biggest problems they face now are under certain conditions; that they do not oppose workforce housing, however, three-story buildings with single detached garages cannot be dropped next to existing communities; that he is the President of Whites Creek Manor; that they polled their owners; that in other associations it was board action; that every single owner favored the modified plan because of the decreased traffic count and therefore, their organization strongly supports the current plan.

Mr. Tom Goglia, Co-Chair of Evans Farm Watch spoke in support of the Application. Mr. Goglia stated he and his neighbors endorse and support the current plan and he agreed with the statements previously provided by Mr. Lampner.

Mr. Joe Conaway spoke with neutral comments regarding workforce housing, none of which were directly related to the subject Application; that Mr. Schell volunteered to head the efforts of the Sussex Economic Development Action Committee, in which he would be appointed on the day after the subject public hearing; that they are going after the economic development and Mr. Schell will become their Chairman as they move forward in an effort to help the situation.

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

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

In relation to C/U 2401 OA Sundance Club, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

OTHER BUSINESS

(2021-32) Riverwood

Final Subdivision Plan & Landscape Plan

This is a Final Subdivision Plan and Landscape Plan for the Riverwood Subdivision, a cluster subdivision consisting of one-hundred-seventeen (117) single-family lots, private roads, stormwater management facilities, amenities, and other site improvements. The Preliminary Subdivision Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, October 27th, 2022, subject to nineteen (19) Conditions. The property is located on the northwest side of Phillips Branch Road (S.C.R. 302). The Final Subdivision Plan and Landscape Plan comply with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcels: 234-17.00-3.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Mr. Robertson stated that this Application was part of a boundary dispute that does not involve Sussex County; that there are adjacent neighbors who are in litigation through Chancery Court, with the Applicant over who owns what; that for the record, the current Final Site Plan only approves the phases that are not encumbered by the civil dispute; that there is a note, which appears on the Final Site Plan, which states that it does not grant Final Site Plan approval for the area in question; that if the outcome of the civil litigation results in being adverse to the developer, the developer will redesign the Site Plan to take the litigation results into account.

Ms. DeVore stated the parcel in question was intentionally not included in the Other Business Memorandum for that reason.

Motion by Ms. Wingate, seconded by Mr. Mears to approve the Final Subdivision Plan and Landscape Plan. Motion carried 4-0.

S-18-85 Rehoboth Senior Living (F.K.A Spring Arbor Rehoboth)

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the construction of a proposed 3-story 155,058 +/- square foot 144-unit assisted living facility, parking, and other site improvements. A Special Use Exception (BOA Case No. 12066) was granted by the Board of Adjustment for a “convalescent home, nursing home, and/or homes for the aged” at its meeting of Monday, December 11th, 2017. Final Site Plan approval was previously granted by the Planning and Zoning Commission at their meeting of Thursday, March 24th, 2022. The site was considered to be under “Substantial Construction” on February 2nd, 2021, through a site visit. The property is located on the southwest side of Plantations Road (Route 1D). Staff further note that the property is located within the Henlopen Transportation Improvement District (TID) and shall be subject to payment of any related fees or improvements as required by DelDOT. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 334-12.00-52.01. Staff are

awaiting agency approvals. If the Commission desired to act favorably on this proposal, staff requested that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Revised Preliminary Site Plan as a preliminary with final approval to be given by the staff subject to the receipt of agency approvals. Motion carried 4-0.

S-22-20 Long Neck Community Bank

Final Site Plan

This is a Final Site Plan for the construction of a 3,200 square foot bank, a 4,000 square foot retail building, and a 4,950 square foot retail building. The Preliminary Site Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, January 26, 2023, contingent on further delineation work for the existing cemetery, with Final Site Plan approval to be made by the Commission. A letter explaining the status of and describing related next steps for the relocation of the existing cemetery on the site has been provided by the Applicant. The Final Site Plan complies with the Sussex County Zoning Code. Zoning: C-2 (Medium Commercial District). Tax Parcel: 234-23.00-262.00. Staff are in receipt of all agency approvals.

Mr. Robertson stated the Applicant is proposing to relocate human remains and grave sites, and there was a letter on the record, submitted from a funeral home, regarding the concern that more would be required to accomplish this than what was being provided.

Mr. Whitehouse stated there is a permitting process through the State of Delaware by Title 16; that any disinterment is required to be performed through the State of Delaware's process; that is required to be performed by an authorized funeral director, thus the reason from the funeral director on record; that they considered whether or not the permit should be required to be submitted as part of the Site Plan process; that per Title 16, the disinterment permit, which is granted by the State, is only valid for 30 days from the date of issuance, and to require the permit to be submitted as part of the Sussex County Site Plan process would not be a realistic requirement and would not be achievable.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Final Site Plan. Motion carried 4-0.

Lands of James Grant

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision for the creation of four (4) lots to be served by a fifty (50) foot wide ingress/egress access easement. Proposed Lot 1 will consist of 0.66 acres +/-, proposed Lot 2 will consist of 0.66 acres +/-, proposed Lot 3 will consist of 0.64 acres +/-, and proposed Lot 4 will consist of 1.40 acres +/- . A shared-use maintenance agreement will be established for the use of the shared access road. Additionally, staff note that the Parcel is located within the Henlopen Transportation Improvement District (TID). However, as this is the first minor subdivision for this Parcel since the establishment of the TID, it will not be subject to the TID fee in accordance with the provisions of the Henlopen TID Agreement Section 6(C). The property is located on the east side of Beaver Dam Road (Route 23), approximately 0.16 mile north of Castaway Drive and Stockley Road (S.C.R. 280). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-6.00-20.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals to include approval from the Sussex County Engineering Department for the provision of sewer connections to the subject properties.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 50-ft. Easement as a preliminary with final approval to be given by the staff subject to the receipt of all agency approvals, including approval from the Sussex County Engineering Department. Motion carried 4-0.

Lands of Sydney A. Hamilton

Minor Subdivision off a 15-ft Easement and Lot Line Adjustment Plan

This is a Minor Subdivision and Lot Line Adjustment Plan for the creation of two (2) Lots plus residual lands to be served by a fifteen (15) foot wide ingress/egress access easement. Proposed Lot 1 will consist of 1.175 acres +/-, proposed Lot 2 will consist of 2.182 acres +/- and the residual lands will contain 41.833. A shared-use maintenance agreement is to be established for the use of the shared drive. The parcel is located on the south side of Memory Road (S.C.R 613), approximately 0.30 mile east of Shawnee Road (Route 36). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 430-3.00-20.00. Staff are awaiting agency approvals. If the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 15-ft Easement and Lot Line Adjustment Plan as a preliminary, with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 4-0.

Lands of Kahan & Bharatkumar Maniar

Minor Subdivision off of a 30-ft Easement

This is a Minor Subdivision for the creation of two (2) lots plus residual lands with access off a proposed 30-ft wide ingress/egress access easement over an existing private drive known as Meadow Lark Lane. Proposed Lot 1 consists of 2.68 acres +/-, proposed Lot 2 consists of 2.67 acres +/- and the residual lands consist of 2.66 acres +/- . A shared-use maintenance agreement shall be established for the use of the shared access road. The property is located on the west side of Gravel Hill Road (Route 30), approximately 0.36 mile south of Mount Joy Road (S.C.R. 297). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-21.00-26.01. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals to include approval from the Sussex County Engineering Department for the provision of sewer connections to the subject properties. Additionally, staff request that any approval also be subject to the revision of a Parcel No. reflected in the Site Data Column on the Site Plan, to be corrected from the incorrect Parcel No. 26.03 to the correct Parcel No. 26.01.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 30-ft. Easement as a preliminary with final approval to be given by the staff subject to the receipt of all agency approvals, including approval from the Sussex County Engineering Department, and the correction of the Parcel No. Motion carried 4-0.

Lands of Reynolds Pond Estates, LLC

Minor Subdivision off of a 50-ft Easement

This is a Minor Subdivision Plan for the creation of three (3) Lots plus the residual lands with access off a 50-ft ingress/egress access easement. Proposed Lot 3 will contain 1.78 acres +/-, proposed Lot 4 will contain 1.78 acres +/-, proposed Lot 5 will contain 1.78 acres +/-, and the residual lands will contain 9.55 acres +/- . A shared-use maintenance agreement is to be established for the use and maintenance of the shared access road. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. The Parcel is located on the south side of Hummingbird Road (S.C.R. 227), approximately 0.35 mile west of Isaacs Road (Route 30). Tax Parcel: 230-28.00-12.01 Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. If the Commission desire to act favorably on this proposal, staff are requesting that final approval be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Collins, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 50-ft. Easement as a preliminary with final approval to be given by the staff subject to the receipt of all agency approvals. Motion carried 4-0.

Lands of John & Nicole Scott

Minor Subdivision off a 30-ft Easement

This is a Minor Subdivision Plan for the creation of four (4) Lots to be served by a thirty (30) foot wide ingress/egress access easement. Proposed Lot 1 will consist of 0.7501 acres +/-, proposed Lot 2 will consist of 0.7501 acres +/-, proposed Lot 3 will consist of 0.7501 acres +/-, and proposed Lot 4 will consist of 0.7501 acres +/- . A shared-use maintenance agreement is to be established for the use of the shared access road. The Parcel is located on the west side of Scott Land Road (S.C.R. 434), approximately 532-ft. south of Ross Point Road (S.C.R. 448). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Zoning: AR-1 (Agricultural Residential District). Tax Parcel: 232-15.00-54.02. Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 30-ft. easement as a preliminary and a final. Motion carried 4-0.

C/U 1639 (Ord. No. 1864) – Sunrise Condominiums (Originally filed on behalf of Bethany Court, LLC)

Determination as to the Status of Conditional Use Approval

The Planning & Zoning Department has received a request to provide a determination as to the status of Conditional Use No. 1639 which was approved by the County Council at its meeting of July 25, 2006. The Ordinance was for six (six) multi-family dwelling units, to be located in a Medium Density Residential Zoning District at Tax Parcel No. 134-5.00-4.00. The acreage of the parcel is 1.2873 acres more or less. Although the approved multi-family dwellings were not constructed on the parcel, a site plan was approved by the dwellings on September 4, 2007. The applicant has provided a chronology of the improvements constructed at the parcel and is requesting a determination as to whether the Conditional Use approval, approved on July 25, 2006, remains valid. Should a determination be made that the Conditional Use approval is no longer valid, the Applicant will be required to submit a new application for a Conditional Use and pay an additional application fee.

Upon the Commission's request, Mr. James Fuqua, Esq. with Fuqua, Willard & Schab, P.A. spoke on behalf of the Applicant. Mr. Fuqua stated C/U 16369 Sunrise Condominiums was approved in 2006; that Final Site Plan approval was granted on May 16, 2007; that after 2007 there was a number of things, which were listed within the submitted letter, to the site; that in 2009 the Owner requested confirmation from the Planning Commission that the site was considered substantially under construction; that the Planning Commission approved the request on April 22, 2009; that in 2009, §115-174 did not state what it currently states within the Zoning Code; that as of 2009, the Conditional Use was considered substantially underway indefinitely, unless it was found to be abandoned; that to abandon something is to give it up completely, or to leave a place or thing – usually forever; that the current definition of abandonment within the Code did not exist in the Code in 2009; that no substantial work has been performed, however the site has been maintained; that as part of the process there was a Dune Crossing Permit obtained from DNREC, which was originally approved in 2006 and is valid until December 31, 2025; that the Applicant had to intention of abandoning the site or the Applicant would have never kept the obtained permits active; that he understood what the Code currently states; that he questioned if the Code section applies to the previously made approval; that if a new Conditional Use application were submitted, it could take 15 months for the first public hearing, resulting in two years for the entire process, and the new buyer, who is his client, is currently ready to construct the units; that the entrances and the roads have been established.

Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Collins and carried unanimously. Motion carried 4-0.

OLD BUSINESS

C/U 2394 Wayne Development, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL STORAGE FACILITY WITH RV AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14.34 ACRES, MORE OR LESS. The property is lying on the southwest side of Gull Point Road (S.C.R. 313), approximately 591 ft. northeast of Downs Landing Road. 911 Address: N/A. Tax Map Parcel: 234-34.00-4.01.

The Commission discussed the Application which had been deferred since November 30, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2394 Wayne Development, LLC for a commercial storage facility with outside RV and boat storage within the AR-1 District based upon the record made during the public hearing and for the following reasons:

1. The Applicant seeks approval for a storage facility consisting of one self-storage and office building and outdoor RV and boat storage on approximately 14.34 acres.
2. There is a need for the use proposed by the Applicant in this area of Sussex County. There are many nearby residential developments that prohibit the storage or parking of boats and RVs within them. This is an appropriate, convenient location that addresses the need for off-site storage of their boats and RVs.
3. The Applicant has stated that access will be limited. As a result, the use will not have a substantial impact on area roadways.

4. The project, with the conditions and stipulations imposed upon it, will not have an adverse impact on the neighboring properties or community.
5. The use has a public or semi-public character and is desirable for the general convenience and welfare of residents in this area of Sussex County.
6. No parties appeared in opposition to this Application.
7. This recommendation for approval is subject to the following conditions:
 - A. The use shall be limited to self-storage and the storage of boats, boat trailers, and RVs. No other storage of vehicles or equipment shall occur on the site.
 - B. The facility shall only be accessible on a 24-hour basis. The site shall be fenced and gated with electronic access.
 - C. The perimeter of the site shall be fenced with a six-foot-high fence with interwoven screening that screens the property from neighboring and adjacent properties and roadways.
 - D. There shall be a 20-foot-wide landscaping buffer between the outside of the fence and the adjacent residential properties to screen the use from those adjacent homes. The Final Site Plan for this use shall show the location of this buffer and it shall include a landscaping plan for it.
 - E. No sales or maintenance of boats or RVs shall occur on the site.
 - F. All security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - G. The use shall be subject to all DelDOT requirements regarding the entrance and roadway improvements necessary to provide access to the site.
 - H. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats and RVs located on the site.
 - I. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet in size.
 - J. No junked or unregistered boats, boat trailers, or RVs shall be stored on the site.
 - K. The parking and storage areas shall be covered with a stabilized surface. The location and type of this material shall be shown on the Final Site Plan.
 - L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Ms. Wingate stated she was absent during the November 30, 2023, public hearing, however, she listened and reviewed the public hearing online and was prepared to vote on the Application.

Motion by Mr. Mears, seconded by Ms. Wingate to recommend approval of C/U 2394 Wayne Development, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yes, Chairman Wheatley – yea

C/Z 1991 Sycamore Chase Expansion

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR-RPC MEDIUM-DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 73.95 ACRES, MORE OR LESS. The property is lying on the north side of

Daisey Road (S.C.R. 370), approximately 0.6 mile west of Bayard Road (S.C.R. 384). 911 Address: 34665, 34723 & 34771 Daisey Road, Frankford. Tax Map Parcel: 134-18.00-45.00, 51.00 and P/O 53.00, 54.00 & 54.01.

The Commission discussed the Application that had been deferred since November 30, 2023.

Mr. Robertson read Mr. Mears' prepared motion per Mr. Mears' request.

Mr. Mears moved that the Commission recommend approval of C/Z 1991 Sycamore Chase Expansion for a change in zoning from AR-1 to an MR-RPC based upon the record and for the following reasons:

1. The property is currently zoned AR-1, and it is adjacent to the existing AR-1 subdivision known as Sycamore Chase. The developer is seeking to expand that subdivision but with a variety of housing types including single-family homes and townhomes. The MR-RPC application supports this variety of housing types.
2. The MR-RPC will be integrated into the existing Sycamore Chase development and there will be two interconnecting roadways between the MR-RPC and the existing subdivision.
3. The proposed development will have no more than 176 dwellings consisting of 176 single-family lots and townhomes on 74.12 acres. The net density is 2.37 units per acre which is close to the allowable density in AR-1 and significantly less than the maximum density permitted under the MR zoning.
4. The MR-RPC is consistent with the development trend of the area that includes MR, GR, and C-1 zoning and both single-family homes and townhomes. It is also similar to the densities of nearby communities.
5. Central water and sewer will be provided to the MR-RPC by a publicly regulated utility.
6. The MR-RPC is located near Route 26 and the commercial corridor there. This is an appropriate location for this MR-RPC and the expansion of Sycamore Chase and the variety of housing types that are proposed.
7. With the conditions and stipulations placed upon it, the RPC designation is appropriate since it allows the creation of a superior environment through design ingenuity while protecting existing and future uses. This project will also maintain approximately 36 acres of open space. This represents 48% of the entire site.
8. According to the County's current Comprehensive Plan, the project is in the Coastal Area. Development such as this MR-RPC is appropriate in this area according to the Plan which permits residential development with a mix of housing types.
9. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
10. This recommendation is subject to the following conditions:
 - A. There shall be no more than 176 dwelling units consisting of single-family homes and townhomes.
 - B. A homeowners' or condominium association shall be formed to provide for the perpetual maintenance, repair, and replacement of buffers, stormwater management facilities, streets, amenities, and other common areas. Alternatively, this project shall be annexed into the existing Sycamore Chase community and homeowners' association to provide for this maintenance and repair.
 - C. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.
 - D. The RPC shall be served by central water and sewer provided by a publicly regulated utility.
 - E. Stormwater management and erosion and sedimentation control facilities shall be

- constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.
- F. Interior street design shall meet or exceed Sussex County's Street design requirements. There shall also be sidewalks on at least one side of the streets within the RPC. The streets and sidewalks shall be interconnected with the streets in Sycamore Chase to provide for vehicular and pedestrian movement between them.
 - G. The development shall be served by its own on-site amenities including a clubhouse and swimming pool. All amenities shall be completed in compliance with Sections 99-21 and 115-194.5 of the Sussex County Code.
 - H. A 30-foot wide vegetated or forested buffer shall be established along the entire perimeter of the site except for the common boundary with the existing Sycamore Chase subdivision or where wetlands or the tax ditch exist. This buffer shall increase to 50 feet in areas where the development borders any land in agricultural use. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located at least 10 feet from the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area. Signage identifying this perimeter buffer as a "non-disturbance area" shall be installed along the buffer at 300-foot intervals.
 - I. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop area shall be shown on the Final Site Plan.
 - J. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - K. The Final Site Plan shall include a landscape plan confirming all landscaping to be provided, the preservation of all buffer areas, and the forested areas that will be preserved. The landscape plan shall also identify all "Limits of Disturbance" within the site.
 - L. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Friday between 8:00 am and 5:00 pm and on Saturdays between 8:00 am and 2:00 pm. A 24-inch by 36-inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
 - M. During site work and initial home construction, all dumpsters, roll-off containers, or similar containers for trash and construction debris shall be covered to eliminate trash and construction materials from blowing across this property or onto neighboring and adjacent properties.
 - N. The Applicant shall obtain all the necessary amendments to the tax ditches and their rights of way necessary for this project prior to Final Site Plan approval.
 - O. The Final Site Plan and the recorded governing documents for this development shall include the Agricultural Use Preservation Notice.
 - P. The Final Site Plan shall include a Grading Plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
 - Q. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
 - R. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1991 Sycamore Chase Expansion for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yea, Chairman Wheatley – yea

C/Z 1997 Waste Management of Delaware, Inc.

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.219 ACRES, MORE OR LESS. The property is lying on the west side of Old Stage Road (S.C.R. 461), at the intersection of Old Stage Road (S.C.R. 461) and Trussum Pond Road (S.C.R. 462). 911 Address: N/A. Tax Map Parcel: 332-2.00-79.01.

The Commission discussed the Application which had been deferred since November 30, 2023.

Mr. Mears moved that the Commission recommend approval of C/Z 1997 Waste Management of Delaware, Inc. for a change in zone from AR-1 to C-3 “Heavy Commercial” based upon the record made during the public hearing and for the following reasons:

1. C-3 (Heavy Commercial) Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices, and vehicle service stations.
2. This property is located along Trussum Pond Road a short distance from Route 13, one of the most heavily traveled roads in Sussex County. This is an appropriate location for C-3 Zoning.
3. The parcel is in an area where there are many business and commercial zonings and uses. All of the land on the north side of Trussum Pond Road from Route 13 to Old Stage Road except for this property is Zoned C-1. All the land on the south side of Trussum Pond Road is also Zoned C-1. This property should be rezoned to C-3 for consistency with the surrounding area.
4. The property is intended as an expansion of the Applicant’s uses that currently exist on its adjacent C-1 property just to the west of this site.
5. This property is located in the Developing Area according to the current Sussex County Land Use Plan. This proposed commercial zoning is appropriate in this Area according to the Plan.
6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
7. No parties appeared in opposition to this rezoning application.
8. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to recommend approval of C/Z 1997 Waste Management of Delaware, Inc. for the reasons and the conditions stated in the motion. Motion carried 4-0.

Vote by roll call: Mr. Mears – yea, Ms. Wingate – yea, Mr. Collins – yea, Chairman Wheatley – yea

Meeting adjourned at 5:09 p.m.

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