

THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 23, 2023.

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, February 23, 2023, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware. Members of the public were also able to attend this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, 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, Ms. Christin Scott – Planner I and Ms. Ashley Paugh – Recording Secretary.

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

Motion by Ms. Wingate, seconded by Mr. Mears to approve the Minutes of the February 9th, 2023, Planning and Zoning Commission meeting as circulated. Motion carried 4 – 0.

PUBLIC COMMENT

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

OTHER BUSINESS

2021-12 Miralon (F.K.A. Cool Spring)

Final Subdivision Plan

This is a Final Subdivision Plan for the establishment of a cluster subdivision to consist of one hundred nineteen (119) single family lots, amenities, private roads, and open space. At their meeting of Thursday, January 27th, 2022, the Planning and Zoning Commission approved the Preliminary Subdivision Plan for the development. The property is located on the east side of Cool Spring Road (S.C.R. 290). An amendment to Conditions “B”, “E”, and “J” was approved by the Commission at their meeting of Thursday, June 23rd, 2022. Per Condition “E”, a forest assessment has been submitted as recommend by D.N.R.E.C. The Final Subdivision Plan complies with the provisions of the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 234-5.00-37.00. Zoning: AR-1 (Agricultural Residential District.) Staff are in receipt of all agency approvals.

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

Bay Forest Club Phase 6 Residential Planned Community (RPC) (C/Z 1921)

Revised Master Plan

This is a Revised Master Plan for the Bay Forest Club Residential Planned Community (RPC). Bay Forest Club was established through a series of approved Change of Zone Applications, including C/Z #1526, C/Z #1741, C/Z #1792, and C/Z #1921 and consists of 6 Phases. The latest Phase of the development (Phase 6, also known as the Sprogell Infill Parcel,) was approved by the Planning and Zoning Commission at their meeting of Thursday, January 26th, 2023. The proposal was for the

construction of twenty-three (23) units to consist of fifteen (15) single-family detached condominiums and eight (8) townhomes. The Master Plan for the development has been updated to reflect the approval of this new Phase to include these additional 23 units. The updated Master Plan complies with the 936-unit total as established under Condition #1 of the latest Change of Zone Application, C/Z 1921, which was adopted through Ordinance No. 2771. It should further be noted that this proposal exhausts all allowable units for the RPC and that any new Phases or further units would have to be part of a new Change of Zone Application made to the Commission. Tax Parcel: 134-8.00-17.01. Zoning: Medium Density Residential, Residential Planned Community (MR-RPC). Staff are in receipt of all agency approvals.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to approve the Revised Master Plan as a final. Motion carried 3-0. Ms. Wingate abstained.

S-18-94 Tranquility at Breakwater

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the construction of a three-story, 75,000 square foot nursing facility, associated parking, stormwater management, a workshop and other site improvements. This use is supported through a Special Use Exception to operate a convalescent home, nursing home, and/or home for the aged through BOA Case No. 12225 that was approved by the Board of Adjustment at their meeting of Monday, December 10th, 2018. A subsequent time extension of this Application was approved by the Board of Adjustment at their meeting of Monday, June 6th, 2022, for a period of one year. A previous Preliminary Site Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, November 19th, 2020. Since this last approval, a redesign in the building and parking have been proposed. The site will be accessed off a proposed 50-ft access easement. The recorded agreement as well as a supplemental Exhibit showing the details of the proposed construction have been included in the Commission's packet this evening. The property is located on the north side of Tranquility Way in Lewes. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 335-8.00-25.01. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

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

S-18-96 Orchard Plaza

Revised Preliminary Site Plan

This is a Revised Preliminary Site Plan for the construction of a three-story, 55,000 square foot professional and medical offices building, associated parking, stormwater management and other site improvements. A previously approved Preliminary Site Plan was approved by the Planning and Zoning Commission at their meeting of Thursday, February 14th, 2019. Changes from this previous Plan include a relocation of the building, a redesign of parking, and a relocation of the entrance which has been redesigned to DelDOT's standards. This entrance will also serve the Tranquility at Breakwater to the rear of the property. The property is located on the east side of Old Orchard Road (S.C.R. 269A) in Lewes. The Revised Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 335-8.00-29.00. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals and the submission of a separate Landscape Plan.

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

S-22-32 Red Mill Pointe Office

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of a two-story 7,000 square foot office building and associated office storage space, with parking and landscaping along Route 1. The parcel is 0.672 acres +/- and is located on the northeast side of Coastal Highway (Route 1), within the Combined Highway Corridor Overlay Zoning District (CHCOZ). This Application was originally discussed during the January 12th, 2023, Planning and Zoning Commission meeting. The Applicant requested parking within the front yard setback and a reduction in the number of parking spaces required. After discussing the Application, the Commission requested more information regarding the parking configuration, possible sewer connections and impacts of the future DelDOT Minos Conway project to the subject site. The Applicant has provided documentation that addresses these concerns. The Applicant has also discussed the parking calculations with Staff, who have agreed that the storage space should not be included in the calculations. Tax Parcel: 334-1.00-5.00. Zoning: CR-1 (Commercial Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

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

S-23-02 Laurel Hardy's Self-Storage

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of nineteen (19) 2,500 square foot storage units, one (1) 2,500 square foot storage and office unit and other site improvements. The parcel contains 4.55 acres +/- and is located on the east side of Boyce Road (S.C.R. 482). Tax Parcel: 132-12.00-114.04. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Hopkins, 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 the receipt of all agency approvals. Motion carried 4-0.

S-23-03 Milton Community Food Pantry, Inc

Preliminary Site Plan

This is a Preliminary Site Plan for a proposed 1,639 square foot storage building and use of an existing 1,105 square foot home for office space for the Milton Community Food Pantry. This use is supported by Conditional Use No. 2310, which was approved by the Sussex County Council at their meeting of Tuesday, August 30, 2022, through Ordinance No. 2882. The parcel is 0.966 acres +/- and is located on the west side of Union Street Ext. (Rt. 5). The applicant is requesting a waiver for the bulk grading plan requirement. The Preliminary Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Tax Parcel: 235-7.00-18.00. Zoning: GR (General Residential Zoning District). Staff are in receipt of all agency approvals, which include the DelDOT Entrance Approval Letter.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan as a preliminary and final and to approve the waiver request of the Bulk Grading Plan requirement. Motion carried 4-0.

S-23-07 Lands of Rockswitch Properties, LLC

Preliminary Site Plan

This is a Preliminary Site Plan for the adaptive reuse of an existing 1,210 square foot residential structure as a real estate office, the construction of a parking area comprised of seven (7) spaces and proposed ancillary improvements to include vehicle ingress/egress. The parcel is 1.3802 acres +/- and is located on the northeast side Coastal Highway (Route 1) approximately 450 feet south of Deep Branch Road (S.C.R. 234). The Preliminary Site Plan complies with the Sussex County Zoning Code. Tax Parcel: 235-8.00-62.00. Zoning: AR-1 (Agricultural-Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals. The property is located within the Combined Highway Corridor Overlay Zoning District (CHCOZ), and therefore is subject to separate requirements which include a 40-ft. setback, a 20-ft. landscape buffer and interconnectivity provisions of which an easement will be established to the adjacent lands for future interconnectivity purposes as required by Code.

Motion by Mr. Mears, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan as preliminary, with final approval to be by the staff upon receipt of all agency approvals and the inclusion of the Combined Highway Corridor requirements. Motion carried 4-0.

Lands of Thomas F. Dennis

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the creation of one (1) lot to consist of 0.3379 acres +/-, with the residual lands to consist of 1.8613 acres +/- . Both the proposed plot and residual lands will take access off a 50-foot ingress/egress access easement. In conjunction with this Plan, the Applicant has included a Lot Line Adjustment Plan relating to the adjacent Tax Map Parcel 234-29.00-262.03. The property is located on the south side of Legion Road (S.C.R. 298) at the intersection with Norman McCray Road in Millsboro. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-29.00-262.02. Zoning: GR (General Residential District). Staff are awaiting the State Fire Marshal approval. Should the Commission desire to act favorably on this proposal, staff are requesting that any topography improvements be show on the Site Plan and that final approvals to be made subject to staff upon the receipt of all agency approvals. Additionally, due to the proposed lot being less than one acre in size, staff are requesting that any improvements related to the topography be shown on the Site Plan. Staff wished to clarify that the only outstanding State agency approval is from the Office of the State Fire Marshal.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to approve the Minor Subdivision off a 50-ft easement as a preliminary, with final approval to be by the staff upon receipt of the State Fire Marshal Office's approval and the submission of a topography survey. Motion carried 4-0.

Lands of Antonia Torales Gonzalez

Minor Subdivision off a 20-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 2.182-acre parcel into one (1) lot and residual lands. Proposed Lot 1 consists of 1.090-acres +/- and the residual land consists of 1.092-acres +/- . The property is located on the north side of Shiloh Church Road (Rt. 74). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 133-14.00-23.00.

Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals; if the Commission desires to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 20-ft easement as a preliminary, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

Lands of Nasir Mahmood

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 4.27-acre parcel into four (4) lots and residual lands. Proposed Lot 1 consists of 0.769-acres +/-, proposed Lot 2 consists of 0.752-acres +/-, proposed Lot 3 consists of 0.751-acres +/-, proposed Lot 4 consists of 0.778-acres +/-, and the residual land consists of 0.811-acres +/- . The property is located on the west side of County Seat Highway (Rt. 9). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 132-13.00-6.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals; if the Commission desires to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Mr. Mears and carried unanimously to approve the Minor Subdivision off a 50-ft easement as a preliminary, with final approval to be by the staff upon receipt of all agency approvals. Motion carried 4-0.

Lands of Lloyd M. & Joan L. Tyndall

Minor Subdivision off a 100-ft Easement

This is a Minor Subdivision Plan for the creation of three (3) lots including the residual lands. Both Proposed Lots A & B will contain 2.3467-acres +/- and the residual land will contain 4.3033-acres +/- . All lots will have access through a 100-foot ingress/egress access easement located on the west side of Shingle Point Road (S.C.R. 249). The Minor Subdivision Plan complies with the Sussex County Zoning Code and Subdivision Code. Tax Parcel: 235-20.00-39.03. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this proposal, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

Ms. Wingate stated she believed there to be a waiver request from the Bulk Grading requirement.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to approve the Minor Subdivision off a 100-ft easement as a preliminary, with final approval to be by the staff upon receipt of all agency approvals and approved the waiver request from the Bulk Grading Plan requirement. Motion carried 4-0.

OLD BUSINESS

ORD. 22-07

AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 135-15.00-98.00 & 98.01. The properties are located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection

of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway. 911 Address: 22242 Lewes Georgetown Highway, Georgetown. Tax Parcels: 135-15.00-98.00 & 98.01.

The Commission discussed the Application which had been deferred since January 26th, 2023.

Ms. Wingate moved that the Commission recommend approval of Ordinance No. 22-07 to amend the Future Land Use Map in the current Sussex County Comprehensive Plan for Parcels 135-15.00-98.00 and 98.01, based on the record made during the public hearing and for the following reasons:

1. The parcel is currently designated as the Commercial Area according to the Future Land Use Map. This application seeks to convert the property to the “Developing Area” designation.
2. The Developing Area and Commercial Area are both “Growth Areas” according to the Comprehensive Plan, so this revision does not result in a substantial change to the Future Land Use Map.
3. The parcel has frontage on Route 9, which is an appropriate location for the Developing Area designation.
4. Although the site was originally given the Commercial Area designation in the Comprehensive Plan due to its proximity to the railroad, the County Industrial Park, Route 9, and Sports at the Beach, there has not been any movement to develop it commercially. The Developing Area designation is equally appropriate since it will permit the property to be residentially developed at a location that is in close proximity to the Town of Georgetown and the employment opportunities and commercial uses.
5. This revision to the Future Land Use Map will not adversely affect neighboring properties, area roadways, or future land-use planning in the area.
6. There is central sewer and water available to the property.
7. No parties appeared in opposition to this Map Amendment.
8. This revision of the Future Land Use Map is appropriate given the particular circumstances involved at this location. When several factors like these exist, the consideration and approval of an amendment to the Future Land Use Map is appropriate.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of ORD. 22-07 in relation to Tax Parcels 135-15.00-98.00 & 98.01 for the reasons stated in the motion. Motion carried 4-0.

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

C/U 2369 Leeward Chase DE, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 50.80 ACRES, MORE OR LESS. The properties are located on the south side of Lewes Georgetown Highway (Route 9), approximately 0.4-miles east of the intersection of Sand Hill Road (S.C.R. 319) and Lewes Georgetown Highway. 911 Address: 22242 Lewes Georgetown Highway, Georgetown. Tax Parcels: 135-15.00-98.00 & 98.01.

The Commission discussed the Application which had been deferred since January 26th, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2369 Leeward Chase DE, LLC for a Conditional Use to allow 106 multifamily dwellings, based upon the record made during the public hearing and for the following reasons:

1. The property is zoned AR-1 Agricultural Residential. The property is in the vicinity of the Town of Georgetown, other residential developments, schools, commercial uses, and a large sports complex. This is an appropriate location for this Conditional Use.
2. The Applicant seeks approval of duplex-style multi-family structures. The Comprehensive Plan states that this type of development is appropriate in areas near main roadways, near commercial areas and employment centers, and with central water and sewer. All of the considerations are satisfied here. This use is also consistent with the Town of Georgetown's 2021 Comprehensive Plan.
3. The proposed development will have no more than 106 homes on 50.80 acres. The Applicant will be required to contribute bonus density funds for each unit above the base density of two units per acre.
4. The County Engineering Department has indicated that adequate wastewater capacity is available for this site. Central water will also be provided.
5. DelDOT has determined that the project will have a minor impact upon area roadways.
6. The Applicant is providing a buffer of at least thirty feet from all non-tidal wetlands and the development will include approximately 35.98 acres of open space, which represents approximately 70% of the site.
7. The project will not adversely affect the neighborhood or surrounding community. There are existing land uses in the immediate area with similar or more intensive characteristics.
8. The Commission has recommended that the Future Land Use Map for this property be changed from Commercial Area designation to a Developing Area designation. Development such as this Multifamily Conditional Use is appropriate in the Developing Area according to the Plan.
9. The Applicant has favorably addressed the items set forth in Section 99-9C of the Subdivision Code.
10. With the conditions and stipulations placed upon it, this residential Conditional Use is appropriate for this location.
11. This recommendation is subject to the following conditions:
 - A. There shall be no more than 106 dwelling units within this project. The Applicant shall be required to pay the bonus density fee for each unit that exceeds two (2) units per acre as required by Section 115-25 of the Sussex County Zoning Code.
 - B. The Applicant shall comply with the requirements of Section 115-22 "Conditional Uses" regarding a multifamily conditional use in the AR-1 Zoning District.
 - C. A 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.
 - D. All entrances, intersections, roadways, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.
 - E. The development shall be served by Sussex County sewer and comply with all requirements of the County Engineering Department.
 - F. The development shall be served by central water.

- G. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.
- H. Interior street design shall comply with or exceed Sussex County standards. Sidewalks shall be installed on both sides of the interior streets. All streetlighting shall be directed downward so that it does not shine on neighboring properties or roadways.
- I. All recreational amenities shall be shown on the Final Site Plan. They shall be open for use prior to the issuance of the 30th duplex building permit or the 60th unit.
- J. A 20-foot-wide vegetated or forested buffer shall be established along the perimeter of the site. This buffer shall utilize existing forest or similar vegetation where it is currently present in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior edge 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.
- K. As proffered by the Applicant, there shall be a minimum setback from nontidal wetlands of at least 30 feet. 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 unless indicated on the Final Site Plan. All silt fencing shall be located along the interior limit of this 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 except as noted on the Final Site Plan.
- L. If requested by the local school district, a school bus stop shall be provided by the entrance to the development. The location of the bus stop area shall be shown on the Final Site Plan.
- M. Road naming and addressing shall be subject to the review and approval of the Sussex County Geographic Information Office.
- N. 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.
- O. 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.
- P. Given the proximity to the nearby airport, the Applicant shall comply with all applicable requirements of the Federal Aviation Administration regarding the development, construction, and use of the project.
- Q. The Final Site Plan shall include a grading plan that shall be submitted to County Staff for review and approval.
- R. Construction, site work, grading, and deliveries of construction materials shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m. 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.
- S. The Final Site Plan shall be subject to the review & approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2369 Leeward Chase DE, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

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

C/U 2376 Jose Hernandez

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SWIMMING POOL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.56 ACRES, MORE OR LESS. The property is lying on the north side of Hollyville Road (S.C.R. 48), approximately 0.28 mile southwest of Harbeson Road (Rt. 5). 911 Address: 23086 Hollyville Road, Harbeson. Tax Parcel: 234.10.00-70.03.

The Commission discussed the Application which had been deferred since February 9th, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2376 Jose Hernandez for a swimming pool business based upon the record made during the public hearing and for the following reasons:

1. The Applicant seeks approval of Conditional Use to operate a swimming pool business located on the property where he resides.
2. The site is located in the Coastal Area according to the Sussex County Comprehensive Plan. The Coastal Area allows small businesses such as this one.
3. There are other commercial and light industrial type uses in the vicinity of the land that is the subject of this application. This small business use will be consistent with those other types of businesses and uses in the area.
4. The use will not have an adverse impact on neighboring properties or area roadways.
5. The use has a semi-public character by providing support for commercial and residential pools throughout this area of Sussex County from a convenient location.
6. No parties appeared in opposition to this application.
7. This recommendation is subject to the following conditions:
 - a. The use shall be limited to a swimming pool business. No other business shall be conducted from the site.
 - b. As stated by the Applicant, no sales shall occur from the site.
 - c. The hours of operation shall be from 7:00 am until 5:00 pm, seven days per week.
 - d. All trucks, equipment, and materials associated with the use shall be located at the rear and side of the property. The locations for these items shall be shown on the Final Site Plan and clearly marked on the site itself.
 - e. All dumpsters shall be screened from the view of neighboring properties and roadways.
 - f. All lighting shall be directed downward so that it does not shine on neighboring properties or roadways.
 - g. One lighted sign shall be permitted. It shall not be larger than 32 square feet on each side.
 - h. All chemicals associated with the use shall be properly stored and disposed of in accordance with all State and Federal requirements.

- i. The Applicant shall comply with all applicable DNREC, DelDOT, and Sussex Conservation District requirements associated with the use.
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried unanimously to recommend approval of C/U 2376 Jose Hernandez for the reasons and conditions stated in the motion. Motion carried 4-0.

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

C/U 2340 Inland Bays Preservation Company, LLC:

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WASTEWATER RECLAMATION TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26.05 ACRES, MORE OR LESS. The property is lying on the northeast side of Banks Road (S.C.R. 298), approximately 400 feet northwest of Green Road (S.C.R. 298A). 911 Address: N/A Tax Parcel: 234-17.00-170.00 (P/O).

The Commission discussed the Application which had been deferred since February 9th, 2023.

In relation to C/U 2340 Inland Bays Preservation Company, LLC. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

C/U 2349 Lessard Builders

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (10 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.84 ACRE, MORE OR LESS. The property is lying on the northwest side and the southeast side of Oak Orchard Road (Rt. 5), approximately 300 feet east of River Road (S.C.R. 312). 911 Address: 32768 Oak Orchard Road, Millsboro. Tax Parcel: 234-35.09-6.00.

The Commission discussed the Application which had been deferred since February 9th, 2023.

In relation to C/U 2349 Lessard Builders. Motion by Mr. Mears to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Recess

3:40 pm – 3:45 pm

PUBLIC HEARINGS

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

Mr. Robertson recused himself from the next Application. Mr. Robertson left Council Chambers.

C/Z 2003 KAR FARMING COMPANY, LLC

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY

INDUSTRIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 167 ACRES, MORE OR LESS. The properties are lying on the west side of Sussex Highway (Route 13) and the north side of E. Newton Road (S.C.R. 584). 911 Address: N/A. Tax Map Parcel: 530-16.00-11.00 & 12.00.

Mr. Whitehouse advised the Commission that submitted into the record were both property's legal descriptions, the Applicant's Exhibit Booklet, the DelDOT Service Level Evaluation Response, the Staff Analysis, and a letter from Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that 16 letters were received in support of the Application, which included letters from the Delaware Department of Agriculture, Delaware Farm Bureau, Georgetown Chamber of Commerce, and Delmarva Central Railroad Company; that the Application had received no opposition and three mail returns.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Application and the Applicant, KAR Farming Company, LLC; that KAR Farms is a subsidiary of Mountaire Farms; that also present were the President of Mountaire, Mr. Phillip Plylar, the Director of Line Operations, Mr. David Bledsoe, the Senior Director of Line Operations, Mr. Gerald White, Jr., the Vice President of Operation Services, Mr. Scott Thompson, the Community Relations Manager, Mr. Zach Evans, the Regional Feed Mill Manager, Mr. JR LaPearl, the Director of Communications, Ms. Catherine Bassett, the Director of Environmental Services, Ms. Tanya Rogers-Vickers, and the Director of Grain Facilities, Mr. Samuel Parker; that the property is located immediately west of Rt. 113, being immediately north of E Newton Rd., which is also known as Rt. 404; that the Application seeks to change the zoning of two parcels which consist of 167 acres from AR-1 (Agricultural Residential) to HI-1 (Heavy Industrial); that should the Application be acted favorably upon, the proposed use will create 87 full-time employment positions in the very important agribusiness industry for Sussex County; that agribusiness is one of the dominant forces for Sussex County's economy; that the subject Application will support agribusiness on a number of levels; that it will provide a location for farmers to sell grains and crops; that the Application will provide poultry growers with a source of feed for poultry farms and houses; that due to the proposed location within Sussex County, the location of the properties in relation to transportation and the properties location to similar uses within the area, the proposed use seems to make sense; that Rt. 13 forms the eastern boundary of the property; that E Newton Rd. (Rt. 404) forms the southern boundary of the property; that the property's western boundary had two neighbors, the Delmarva Central Railroad, and the DelDOT's Bridgeville Maintenance Yard; that the northern boundary contains a wooded area, which contains Polk Branch and the Grubby Neck Branch; that the branches feed into the Nanticoke Branch which ultimately feeds into the Nanticoke River; that there are significant transportation features available to the site; that Rt. 13 and Rt. 404 are major highways within Sussex County, being classified as other arterials by DelDOT; that the Sussex County Zoning Code defines both roads as major arterials; that to the west of the property is another source of transportation feature, being the railroad; that these are part of the reasons the properties were chosen for the potential location of a feed mill; that the site is located within Investment Level 2 along E Newton Road, moving in an Investment Level 3 area according to the State Strategies Map; that Level 2 areas are areas where the State anticipates growth in the near term future; that within the State Strategies it states that State investments and policies should support and encourage a wide range of uses within the Level 2 areas; that the State Strategies go on to state Level 2 areas are considered "priority areas" for job creation and retention; that the proposed location will allow for job creation and retention for the area; that according to Sussex County's 2045 Future Land Use Map the property is located within the Industrial Area; that properties to the west and some to the south are also located within and Industrial Area; that other surrounding properties are located within the Developing Area, which is another Sussex County growth area; that a nearby property was also the subject property for a Conditional Use in 2020; that on the east

side of Rt. 13 there are more properties located within the Developing Area; that the Zoning Map reflects the Future Land Use Map with a mixture of industrial and commercial zoning designation near the site along E Newton Rd and Rt. 13; that in 2020, a Change of Zone application, being C/Z 1919 on behalf of Newton Farms was filed; that the application requested to change the zoning classification of 23.7 acres, from C-1 (General Commercial) to LI-2 (Light Industrial – 2); that C/Z 1919 was approved by County Council; that the first eight acres of the rezoning request, is currently under construction, and will be the home of Miller Metal; that there are several Conditional Uses surrounding the area, which also reflect the commercial and industrial nature of the uses for the area; that the immediate Conditional Uses to the west belongs to the DelDOT maintenance yard; that the immediate property to the north contains two Conditional Uses, being for warehouses and contractor flex space for Artic Air; that south of the site, along Emma Jane Lane, there are multiple Conditional Uses which serve Sharp Energy's natural gas compressor stations; that the Woodbridge High School is located northwest of the site; that Insight Homes, A.C. Shultes of Delaware, Inc. are located east of the site; that south of the property are multiple industrial uses, belonging to O.A. Newton, Lindenmere Store, Miller Metal, News Print Shop, Old Dominion Freight Line, a solar array and the Eastern Shore Natural Gas compressor station; that along the western side, on the other side of the railroad track, is Perdue's Feed Mill Granary, that the site meets the bulk area requirements with a minimum requirement of two acres and a minimum depth and width of 200-ft. in either direction; that water and sewer would be provided by onsite systems; that the majority of the property is not located within a flood plain; that a small portion of the property, along Polk Branch and Grubby Neck Branch, is located within Flood Zone A; that the site area located within Flood Zone A will have no impact or interference on the proposed use or development; that if any wetlands are present, they would be within the wooded areas along the branches; that any environmental features within the wooded area would not be impacted by the proposed development; that a Service Level Evaluation Request was filed with DelDOT; that DelDOT's responses stated the traffic impact would be considered minor; that the definition of a minor impact states more than 50 vehicle trips are anticipated within a peak hour, with more than 500 vehicle trips per day, but less than 200 vehicle trips in any peak hour and less than 2,000 vehicle trips per day; that DelDOT also noted the proposed use would not require a Traffic Impact Study (TIS); that the project would be able to avail itself of paying the Area Wide Study fee; that the Zoning Code described the HI (Heavy Industrial) zoning to provide for a variety of industrial operations, to preserve the land within the district for industrial use, excluding new residential or commercial development, except for certain specified uses deemed appropriate uses in addition to industrial operations; that there is no residential development within the nearby areas of the site; that the surrounding uses are commercial and industrial; that the proposed use of the site is for a feed mill, which would produce 30,000 tons of feed per week; that feed mills do not require outdoor activities or storage of items; that the only industrial zoning district that specifically describes the permitted use for feed mills is the HI-1 (Heavy Industrial) Zoning District; that within the HI-1 Zoning District, feed mills are described as a potentially hazardous use; that due to this, the proposed use will require approval from County Council for the Change of Zone request, and will then be required to attend a public hearing before the Board of Adjustment for a potential hazardous use determination; that the operations of a feed mill include five basic steps; that first, ingredients, such as corn, are delivered by rail or trucks; that second, the ingredients are blended into a recipe; that third, the recipe is made into various-sized pellets; that fourth, the pellet feed is sorted and stored in feed bins; that lastly, the feed is then loaded onto trucks and delivered to local farmers; that a common question is why the need for 167 acres to be rezoned to HI-1; that Mr. Hutt presented the Commission with a preliminary print of the site, reflecting the location of the feed mill plant and the area where the railroad loop would be located; that the railroad loop is part of the reasons why the proposed amount of acreage is necessary for the facility; that Mountaire has a similar feed mill site within Scotland County, North Carolina, which was awarded 2022 Integrator Facility of the Year; that the proposed feed mill is similar to the Perdue Feed Mill located across from the site on E Newton Road; that the proposed application complies with any number of chapters, goals, strategies and objectives stated in

the Comprehensive Plan; that Chapter 4, for Future Land Use, reflects the Industrial Zoning District as an applicable zoning district for the site; that the Comprehensive Plan stated industrial lands are lands devoted to larger industrial uses, including heavy industry, light industry warehouse and flex space, and large, more intensive, stand-alone uses should also be directed to these areas; that within Chapter 4.4 states the future land use of Sussex County should be handled to promote farming, preserving agricultural land values and agrobusiness; that the proposed project achieves this in two ways; that the proposed use will create a place for local farmers to sell their grains, as well as create a source for growers to obtain feed for their bird; that within Goal 9.3 within the Comprehensive Plan states preservation and encouragement should be given to the expansion of the agricultural industry; that Strategy 9.3.1.2 is to promote and expand land use, zoning and conservation policies and incentives that keep agriculture economically viable in Sussex County; that Strategy 9.3.1.3 states the accomplishment of the goal will come from ensuring zoning regulations accommodate the agrobusiness, forestry and similar uses in appropriate locations including businesses that promote new uses for agricultural products; that they believe the requested zoning is appropriate to achieve the economic development goal; that Goal 13.5 within the Mobility Chapter of the Comprehensive Plan states the goal is to facilitate freight movement throughout Sussex County; that Strategy 13.5.1.3 states exploration should be given to incentives for businesses to switch from truck to rail freight, which can reduce freight costs and road traffic congestion; that another strategy suggests to work with railroad partners, to aid in their strategic planning efforts, helping to identify potential rail customers; that one of the submitted letters of support was provided by the railroad company immediately to the west of the site; that a number of support letters were submitted for the Application, being from State Senators, State representatives, the Department of Agriculture, the Department of Education, the Farm Bureau, the Delmarva Chicken Association and many agricultural business partners, which support the Application's importance and the investment the project will bring to Sussex County and the support letter provided by the Delmarva Central Railroad Company summarized the Application best by stating, *"The Delmarva Central Railroad Company heartedly backs this generational investment in the sustainable future of Bridgeville, Sussex County, the State of Delaware, and the entire Delmarva Peninsula."*

The Commission found that Mr. Zach Evans, Mountaire Farms Community Relations Manager, spoke on behalf of the Application; that the proposed project is important not only for Mountaire Farms, but also for agriculture within the Sussex County community; that currently, Mountaire is celebrating the 100th Anniversary of the chicken industry on Delmarva, which was started in Sussex County; that in 1923, Ms. Cecile Long Steele from Ocean View, Delaware began the industry; that this woman would typically order 50 chicks; that she received 500 chicks in error; that by the end of the year, Ms. Steele sold all 500 birds at 62 cents per pound in 1923, which equates to almost \$11.00 of buying power today; that prior to 1923, chicken was not considered a table-meat; that chicken was not accessible to an affordable protein; that at the time, people maintained chickens primarily for eggs; that Ms. Steele revolutionized the way chicken was seen as an agricultural product; that by 1928 there were over 500 farmers who had adopted the business model within the Delmarva region; that the Delmarva region had support to feed the birds, with access and proximity to markets; that Mountaire was founded in 1914 by Mr. Guy Cameron of Little Rock, Arkansas, who owned and started a family-owned feed company; that in 1968, current Chairman, Mr. Ronnie Cameron joined Mountaire; that Mr. Ronnie Cameron is the third generation of the Cameron family to own and operate Mountaire Farms; that Mountaire's current CEO, Mr. Kevin Garland is the fourth generation of the Cameron family to own and operate Mountaire Farms; that the fifth generation of the Cameron family recently married and moved to Sussex County; that Mountaire Farms is a family owned and operated business; that in 1977 Mountaire purchased their first poultry plant on Delmarva, in Selbyville, Delaware; that they have been expanding slowly and strategically since that time, acquiring the assets necessary to support the farmer who raise the birds; that in 1996, Mountaire expanded into North Carolina; that in 2000, Mountaire purchased the complex located in Millsboro; that in 2019, Mountaire built their fourth plant in

Siler City, North Carolina; that they invested in granaries, hatcheries and feed mill resources to support their farmers; that currently Mountaire is a billion dollar plus business, with over 10,000 employees; that Mountaire currently does business in five states; that Mountaire is nationally ranked as the fourth largest chicken company within the United States; that Mountaire support 5,000 jobs across Delmarva, which creates 35,000 indirect jobs; that based on an Economic Impact Study performed by Beacon with Salisbury University, for every direct agricultural job supports up to seven jobs indirectly in the communities where they do business; that their farmers and agrobusiness rely on many third-party vendors, contractors and input providers to sell their products; that Mountaire has 581 growers on Delmarva; that Mountaire has more growers than any other integrator on Delmarva; that Mountaire believes in high performance for a higher purpose; that Mountaire strives to do well as a company, so the company can do well by its employees and communities; that Mountaire Cares has participated in programs such as Thanksgiving for Thousands; that Mountaire Cares delivers free chicken to 45 food pantries on Delmarva monthly, support thousands of local charities and events annually, participate in quarterly service projects such as Habitat for Humanity, Boys and Girls Clubs, local schools and public libraries; that Mountaire Cares also participates in volunteer projects on Earth Day, Arbor Day and Christmas; that on Thanksgiving, Christmas and Easter, the Selbyville plant will package over 20,000 food boxes which are distributed throughout Sussex County; that each food box can feed a family of four; that Mountaire has built playground for schools, which allows their employees the opportunity to give back to their community; that during the Covid-19 pandemic, Mountaire donated over 350 tons of chicken to local healthcare workers, first responders and families that experience food insecurity; that over 2022 fiscal year, Mountaire Cares supported over 500 organizations, donated 1,142,060 pounds of chicken, which equates to 2,855,150 servings of chicken, hosted over 25 events, provided 976 volunteer opportunities and provided 3,904 volunteer hours; that the proposed project is great for agriculture and the community at large.

Mr. Hopkins stated he has observed Mountaire for 35 years; that in his opinion there is no better company that cares more for their employees, their customers, and the environment, that the motto, Mountaire Cares, is fitting for Mountaire; that he believed Mountaire's accomplishments are due to Mr. Cameron's way of conducting business; that he supports anything the Commission can do to help the Application receive approval and the property is the perfect location for the proposed use.

The Commission found there were five people present who spoke in support of the Application.

The Commission found that Mr. Richard Wilkins spoke in support of the Application; that he is the Executive Director of the Mid Atlantic Soybean Association; that he is a farmer in Greenwood; that the Mid Atlantic Soybean Association represents approximately 9,000 soybean farmers in the Mid Atlantic states, with approximately 1.4 million acres of soybeans; that Mid Atlantic Soybean Association is in full support of the rezoning request; that agricultural crop production within the Mid Atlantic states is dominated by soybeans, corn and other feed grains; that the Delmarva poultry companies are the primary purchasers of agricultural crop productions; that in 2021, Delmarva poultry companies purchased 1.3 billion dollars of soybeans, grains and other feed ingredients; that there are nearly 1,400 farm families contracted to raise poultry on Delmarva; that nearly 18,000 employees work directly for the Delmarva poultry operations; that the wholesale value of Delmarva Poultry Production was 4.2 billion dollars in 2021; that there is a number of small businesses and workers, who provide inputs and support services to the grain farmers, poultry farmers and the poultry companies; that a University of Delaware Economic Analysis confirmed that every dollar of direct revenue, received by a Delaware farmer, creates an additional eight dollars, or more, of economic activity in our local community; that agriculture is the largest economic driver to Sussex County and the State of Delaware; that agriculture is the least expensive type of economic activity for government entities to provide services to; that our County and State have been blessed for centuries, by the inspiration of work ethic and dedication to community, which is exhibited by the agrarian lifestyle and traditional

values of its farmers; that they contend it should be very desirable to ensure agriculture remain a viable pursuit for Sussex County; that the greater the ability of Sussex County's agricultural land, to provide for our families, educate our children, support our community institutions, provide for our retirements and senior care, without expecting or requiring support from the government, make our social fabric stronger; that due to this, it becomes less enticing to allow our agricultural land to be converted for other uses, which do require greater services to be provided by government entities; that the subject rezoning request will allow for Mountaire Farms to make a significant investment in the future of agriculture and poultry production in Sussex County, as well as surrounding counties; that the proposed feed mill project will include advanced, state of the art technology, for feed manufacturing; that the project would ensure help to our county and region, by maintaining a competitive place within the domestic and world market of broiler production; that the project would relieve the pressure currently being placed upon older feed manufacturing facilities, who may be nearing the end of their useful life; that the project would provide for a substantial number of jobs during development and construction, as well as, provide for full-time skilled positions once the mill were to begin operations; that the request for the zoning change, follows Sussex County's long term Comprehensive Plan, for future agricultural growth and tracks the future land use for the proposed parcels; that the intended project would be compatible with surrounding land use; that the Mid Atlantic Soybean Association become very excited when they see an agricultural company, such as Mountaire Farms, willing to make investments, such as the proposed project, into long-term infrastructure; that the long-term infrastructure will ensure that they, and future generations of farmers, continue to grow the industry; that the zoning change would provide additional significance as they celebrate the 100th Anniversary of the broiler industry, which was born in Sussex County, by Ms. Cecile Steele; that Sussex County has the distinction of not only being the birthplace of meat, bird and chicken production, as Sussex County continues to maintain its prominence as the No. 1 broiler producing county within the United States; that the request makes good sense and they ask Sussex County, as well as all other required authorities, to approve the Change of Zone request, which will pave the way for a continued prosperous agriculture industry, and related businesses, for at least another 100 years.

The Commission found that Ms. Karen Breeding spoke in support of the Application; that she is an Agricultural Science teacher for Woodbridge High School; that the Woodbridge Agricultural Science Program looks forward to working with Mountaire in the Department of Education's Work Based Learning Program; that the program is similar to what is known as an internship or co-op; that the program pushes for all seniors, by their senior year, to go out of school for work-based learning; that the site is located nearby Woodbridge High School, which is very convenient for Woodbridge students who may have transportation difficulties; that Woodbridge High School would have the ability to transport students to the site and back; that the proposed project would allow students to meet industry mentors, who can help guide students in their careers within the agricultural industry; that the Woodbridge program additionally look forward to partnering with Mountaire Care projects; that they have been working with Mountaire to provide farm to table dinners; that the students need guidance, which helps the students move into and stay in the agricultural industry; that many of her current students are not coming from farms; that only 20% of her students within her Animal Science Pathway Program were raised on a farm; that she felt any time an industry location can be located within the nearby community, allowing for better guidance and growth in the area, the better; that in doing this, it allows the students to grow as people, and also allows the students to give back to the community; that giving back to the community is an important factor that can be provided for today's youth; that there is no better investment than the students she teaches; that she believed Mountaire serves as a good role model for students and she looks forward to the recommended approval of the Application.

The Commission found that Ms. Holly Porter, Executive Director of the Delmarva Chicken Association, spoke in support of the Application; that the infrastructure being proposed with the rezoning request is important as it allows us to look at where the industry will be 100 years from now; that it will help to ensure the area is still raising wholesome, healthy protein on Delmarva; that the proposed infrastructure is exactly what is needed; that often times, when she discusses the chicken community, she refers to the three-legged stool; that the three-legged stool is comprised of the chicken companies and growers, the grain farmers and the necessary infrastructure; that there are 1,300 chicken growers on Delmarva; that the proposed feed mill will help the industry be successful, specifically on the grain-side of the business; that in 2022, the industry spent 1.6 billion dollars for feed ingredients on Delmarva; that the total included 89 million bushels of corn, 39 million bushels of soybeans and over 420,000 bushels of wheat; that much of these totals came from farmers on Delmarva, as well as corn which was railed in from the railroads; that the wholesale value topped five billion dollars for the value of chicken on Delmarva; that the chicken community is very important for the economy of Delmarva; that Sussex County is still No. 1 in the broiler industry for the country; that the most concentration of the broiler farms are located within Sussex County and they would appreciate a recommended approval for the rezoning Application.

The Commission found that Mr. David Wilson, Senator of District 18, spoke in support of the Application; that he agreed with many of the statements previously made; that the Mountaire industry and programs contribute greatly to the community; that when looking at the Mountaire previous programs, as well as the benefits the proposed facility will provide to local farmers, the agribusiness and jobs, the decision to approve is a no-brainer; that Sussex County does not have a beef or swine industry; that Sussex County has the golden calf in front of them, with the poultry industry; that he requested the Commission give favorable consideration to the Application, allowing the proposed project to move forward and to further promote the chicken industry for Sussex County.

The Commission found that Mr. Robert Rider, with O.A. Newton & Son Company, spoke in support of the Application; that he represented the fourth-generation property owner for the land, the Newton Family; that the Newton family business began in 1916; that his grandfather, Mr. Warren Newton returned from the University of Delaware, at which time he decided to breed chickens and develop feed for chickens; that this process developed into a life poultry operation; that when they were first approached with the opportunity, it was shrouded in secrecy; that they did not completely understand the proposal; that initially, the Newtown family declined the offer; that he quickly learned that no was not a viable answer; that after peeling back the layers for the proposal; that once they realized the proposal was for the poultry industry through feed milling, they agreed the proposal represented the Newton family values; that the proposal represents their family business beginnings on Delmarva and he, on behalf of the Newton Family, is in support of the Application.

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

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

Chairman Wheatley advised the Commission that the Application request is for a Change of Zone to HI-1 (Heavy Industrial) Zoning District; that should the Application be approved, anything permitted within HI-1 could be placed by-right on the site.

Chairman Wheatley requested Mr. William Pfaff, Sussex County Director of Economic Development, to speak on the general situation regarding HI-1 (Heavy Industrial) Zoning within Sussex County; that Chairman Wheatley questioned Mr. Pfaff, to confirm if there are other locations, consisting of 167 acres,

within Sussex County, where Mountaire could place their proposed feed mill; that Chairman Wheatley questioned how much HI-1 Zoning currently exists within Sussex County;

Mr. William Pfaff stated there was no other area, consisting of 167 acres, within Sussex County, which could accommodate the proposed Mountaire feed mill project and he answered there is currently very little HI-1 Zoning within Sussex County.

Mr. Wheatley advised the Commission that he did not have great concern that what is being proposed, would not be developed on the property; that he did want to put on record how little HI-1 Zoning currently exists in Sussex County; that the Commission should still be sensitive to the fact that the request is for a Change of Zone, however, take into consideration the little to no applicable locations for the proposed use.

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

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

Chairman Wheatley advised the Commission that he requested Mr. Pfaff to speak to the rarity of the property; that there is little H-1 (Heavy Industrial) zoning within Sussex County; that it would be extremely difficult to find a similarly sized parcel within a similar area anywhere else in Sussex County and that the Commission should consider this information when making a motion.

In relation to C/Z 2003 KAR Farming Company, LLC. Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

Mr. Robertson returned to Council Chambers.

C/U 2371 Georgetown Business Plaza, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BUSINESS PARK TO INCLUDE WAREHOUSES AND OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 22.29 ACRES, MORE OR LESS. The property is lying on the southwest side of Prettyman road (S.C.R. 254) approximately 0.52-miles northwest of Lewes Georgetown Highway (Rt. 9). 911 Address: N/A. Tax Map Parcel: 235-30.00-6.00.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, the Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, a copy of the PLUS response, an email received from DelDOT, the DelDOT Service Level Evaluation Response, a copy of the Traffic Impact Study (TIS) letter for Prettyman Road Subdivision. Mr. Whitehouse advised the Commission that one letter of opposition was received, and the opposition letter was included within the Commission's paperless packet.

Mr. Robertson stated there had been confusion circulating around, relating to the actual area requested for Conditional Use.

Mr. Whitehouse advised the Commission that the Application initially began along with a subdivision application; that the two land use applications were traveling parallel with each other, as they were related to the same property; that the subdivision request was for the rear portion of the property; that reflected in Exhibit E, the proposed subdivision has been removed from the revised drawings; that the subdivision application was withdrawn and Exhibit E reflects the current request currently before the Commission.

The Commission found that Ms. Mackenzie Peet, Esq. with Baird Mandalas Brockstedt Federico & Cardea, spoke on behalf of the Application; that also present on behalf of the Applicant were Mr. G. Michael Glick, Vice President of Lighthouse Construction, and Mr. Jamie Sechler, Professional Engineer with Davis, Bowen & Friedel, Inc.; that the Applicant submitted a Conditional Use application to pursue a Conditional Use of land within the AR-1 (Agricultural Residential) Zoning District, for a business park to include warehouses and office buildings to be located on a very uniquely shaped property; that the property consists of a 22.285-acre parcel, located on the southwest side of Prettyman Road and the northwest side of Rt. 9; that the site is located to the recently approved Toback Development for contractor flex space, as well as Executive Lawns, LLC; that Executive Lawns, LLC property was recently rezoned from AR-1 to C-2; that the site is also located next to Mr. John Lingo's forested parcel and Wynford Preserve; that Wynford Preserve was recently approved for 100 single-family homes; that the proposed use is a business park intended to be developed in two phases; that Phase 1 will consist of two medical and professional office buildings, with a total area of 39,520 sq. ft., to be located on a 2.8-acre portion of the site, along Rt. 9; that to the rear of the property, seven flex buildings are proposed as Phase 2; that the flex spaces would consist of office and warehouse spaces, being located on 8.269 acre portion of the property; that the subdivision application was withdrawn, leaving the remainder of the property as residual land; that parking calculations for each phase are reflected on the cover page of the revised plan; that 161 parking spaces are provided for Phase 1, which include six handicap parking spaces; that 67 parking spaces, with 14 handicap spaces are provided for Phase 2; that the parking is proposed behind the proposed buildings; that central parking is proposed within the flex space portion of the property; that the flex spaces is proposed to be for office and warehouse space; that the Code defines an office as *"a room, or group of rooms used for conducting the affairs of a business, profession, service industry or government and generally furnished with desks, tables, files and communications equipment"*; that the Code also defines a warehouse as *"a building use primarily for storage of goods and materials"*; that the use of each flex building may consist of just office or warehouse space, as defined in the Code, or a mix of each, depending on the demand of the end user; that provided parking will be driven by the ultimate use of the site; that the site does have additional room for parking if needed; that the entire concept is driven by the fact that existing professional and medical office space in the Rehoboth and Lewes area, are looking for the opportunity to expand; that expansion will allow for businesses to see more clients or patients, by relocating administrative staff to places similar to the proposed use; that this need is what is driving the Application request; that the property will be accessed from Rt. 9; that an updated Exhibit A was submitted to the Commission; that previously submitted exhibits reflected access from Prettyman Rd., which was incorrect; that currently, for the development of the proposed portion of the site, there is no intention to utilize the Prettyman Rd. access, primarily for the reasons is that portion of the property is not the subject of the current Conditional Use request; that to gain access from the Conditional Use area to Prettyman Rd., existing vegetation would be required to be cleared; that the Prettyman Rd. access is more of a private driveway; that there are easements recorded that benefit the property owners who live along Old Wood Dr.; that the Developer desires to ensure service oriented traffic does not travel through the residential area; that the access may serve as an emergency access for future development of the parcel; that currently access from Prettyman Rd. is not intended, planned or desired for the reasons previously stated; that the Applicant submitted an Exhibit Booklet, which was prepared by DBF, Inc.; that the Exhibit Booklet included, a project overview, a data column, the Conditional Use application, the original Site Plan, the amended Site Plan and the Landscape Plan; that the Landscape Plan reflects the proposed buffers and the existing vegetation that is to remain; that residential and commercial uses surround the property; that the property is located within Investment Level 4; that the property is designated as a Low Density area; that the property is located within the AR-1 Zoning District; that the Exhibit Booklet does include aerial maps which reflect the information; that property and deed information was also included, confirming that the record owner of the property is the Applicant, Georgetown Business Plaza, LLC; that DelDOT's response to the Service Level Evaluation Request and

Memorandum of Understanding were also included within the Exhibits; that within the Memorandum of Understanding, for land development coordination with Sussex County, DelDOT found that the proposed use will have a minor impact on local area roadways; that the Developer will be required to pay an Area Wide Study Fee in lieu of performing a Traffic Impact Study (TIS), make necessary roadway and frontage improvements, as well as enter into a Traffic Signal Agreement for the intersection of Rt. 9 and Prettyman Rd.; that PLUS comments and responses are also included; that the PLUS comments and responses, specifically address the initial application request; that some of the comments relate to the proposed vegetation removal and environmental concerns, which are not necessarily applicable to the current Conditional Use request, now that the subdivision request has been withdrawn; that the property is proposed as a Low Density area on the Future Land Use Map; that as of 2018, all lands designated as Low Density are also located within AR-1 (Agricultural Residential); that §4.4.3 on the Plan details the permitted uses envisioned within the Low Density area; that the Comprehensive Plan describes the permitted uses to be agricultural activities and homes; that business development should be largely confined to businesses addressing the needs of the agricultural activity and home uses; that industrial and agribusiness uses that support or depend on agricultural should be permitted; that the focus of retail and office uses in Low Density areas should be providing convenience, goods and services, to nearby residents; that commercial uses within the residential areas should be limited in their location, size and hours of operation; that the Applicant has proposed some limitations within the proposed Conditions of Approval; that the proposed Conditional Use is compatible with the surrounding land uses, being a mix of residential, business and commercial uses, along developing Rt. 9; that the Comprehensive Plan states that the area is possible to develop, and is developing as a business corridor, with a mix of residential and commercial uses; that the property is located between commercially zoned properties, located to the west, at the intersection of Rt. 5 and Rt. 9; that there are commercial zoned properties located to the east of the site, at the intersection of Rt. 30 and Rt. 9; that properties located at the various intersections are zoned as C-1 (General Commercial), CR-1 (Commercial Residential), MR (Medium-Density Residential) and HI-1 (High Industrial); that surrounding properties have Future Land Use designations within the Low Density, Existing Development, Commercial and Industrial areas; that nearby commercial and industrial uses include Royal Farms, Besche Furniture, McGee Plumbing, AP Croll & Sons, Inc., Peninsula Paving, the Route 9 Industrial Center and the Gravel Hill DelDOT Maintenance yard; that a contractor flex space was recently approved for Toback Builders on the property adjacent; that there was a recent approval for a rezoning request, from AR-1 (Agricultural Residential) to C-2 (Medium Commercial) for Executive Lawns; that Bayhealth Medical facility is also located near the site; that the Future Land Use Map suggests that Rt. 9 will continue to develop commercially, with some parcels developing industrially; that the subject area has developed residentially, and continues to develop commercially with services that support residential growth; that the proposed project is consistent with the guidelines for projects within the Low Density area; that the Low Density purpose is to provide convenient areas for businesses addressing the needs of homes and property owners in the rapidly growing area of Sussex County; that the proposed use is a commercial use, permitted as a Conditional Use, when the purposes of the Zoning Chapter are more fully met by the issuance of a Conditional Use permit; that the Code states Conditional Uses are to provide for uses which cannot be well adjusted to their environment in particular locations, with full protection to surrounding properties by ridged application of the district regulations; that these uses are generally of public or semi-public character, being essential and desirable for the general convenience and welfare; that due to the nature of the use, the importance of the relationship with the Comprehensive Plan and possible impact on neighboring properties and the County, require exercise of planning judgement on location and site plan; that the use is of semi-public character, as it will provide needed services to present and future Sussex County residents; that the proposed use is compatible with surrounding uses, as there are a number of approved Conditional Uses located nearby the site; that the Memorandum prepared by the staff reference C/U 1882 for professional office spaces within the CR-1 District; that C/U 2210 for a microbrewery located in a C-1 District, C/U 2290 for contractor flex space located adjacent to the site;

that there are numerous properties located nearby which have been rezoned for commercial use; that C/Z 1831 was rezoned from AR-1 to B-1 (Neighborhood Business), being the location of the Two Farms property; that the Two Farms property is intended to be a retail center; that C/Z 1902 was rezoned from CR-1 to HI-1; that C/Z 1944 was amended from AR-1 to C-2 for Executive Lawns; that there are no wetlands located on the site; that the site is not located within an Excellent Groundwater Recharge area; that the project is not located within a Wellhead Protection area; that Artesian Water Company and Artesian Wastewater Management have indicated they are willing and able to serve the site with public water, fire protection and public sewer; that Delaware Electric Coop will provide electricity; that that proposed use is not anticipated to adversely impact neighboring properties; that the use is consistent with surrounding uses; that significant vegetated buffers are proposed between the commercial use and the adjacent residential properties; that the proposed Conditions of Approval were submitted as Exhibit F; that the proposed conditions, are general conditions relating to utilities, stormwater management, and site plan requirements; that the proposed conditions do state the use will be limited to a business park to include warehouse and office buildings; that the proposed use will occur within the proposed structures; that there shall be no outside storage, including boat materials, RVs or equipment within the site; that there shall be no vehicle repair or fueling operations performed on the site; that there shall be no manufacturing work performed on the site; that all performed work shall occur indoors; that the hours of operation shall be between 7:00 am to 8:00 pm, Monday through Friday, with additional hours by emergency only; that emergency hours are intended for the potential medical office needs and there shall be adequate parking provided for all tenants and employees as required by the Code.

Ms. Wingate questioned the acreage of the property proposed for the Conditional Use, if retail sales or restaurant uses are proposed, and stated she appreciated the provided landscape buffer, as it was a concern for many adjacent properties.

Ms. Peet stated the portion proposed for medical and professional office buildings consisted of 2.89 acres; that the portion proposed for flex spaces consisted of 8.269 acres; that 11.159 acres total for the proposed Conditional Use; that the change materialized within the month prior to the scheduled public hearing; that they chose to keep the original plan in the record, to allow for explanation and for the benefit of the Commission and the public; that the Conditional Use is not proposed for the total property acreage of 22.29 acres and that no retail sales or restaurant uses are proposed.

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

The Commission found there was one person present who had questions regarding the Application.

Mr. Joseph Warren presented with questions regarding the Application; that he lives off Prettyman Rd.; that he originally had a concern about the subdivision plans and the location of the proposed cul-de-sac, as it would be located adjacent to his driveway; that he understood the subdivision request had been withdrawn; that he questioned when the subdivision proposal would be proposed in the future; that he questioned if the Applicant has control of Old Wood Drive and he questioned who is responsible for maintenance and snow removal of Old Wood Drive.

Chairman Wheatley stated if the Applicant were to resubmit a Subdivision Application, it would be processed as a different application, requiring a separate public hearing, where provided public notice would be required; that the subdivision Application would be considered separately, regardless of if the Conditional Use application is approved or denied; that the Commission cannot speak to whom is responsible for the maintenance of Old Wood Drive and encouraged Mr. Warren to speak with Ms. Peet following the public hearing.

Mr. Robertson stated the Commission could not speak to the ownership or control of Old Wood Drive, as the question would require a Title Search and he did recall Old Wood Drive being a subject of concern on a previous Conditional Use for a landscape business.

Ms. Peet stated a Title Search was performed for Old Wood Drive; that Old Wood Drive is considered part of the Applicant's property; that all of the properties located along Old Wood Drive do have private easements recorded in the record for the residential property owners' benefit and the Applicant cannot prohibit the use of Old Wood Drive to the adjacent property owners.

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

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

Ms. Wingate stated that she was initially confused as to whether residential use was included in the Application, but the presentation answered all of her questions.

Chairman Wheatley stated that the proposed use for flex space may generate different parking requirements between the buildings; that it may be beneficial for the Commission to give thought to the types of uses, and whether the uses could be defined in required conditions, should the Commission act favorably upon the Application.

In relation to C/U 2371 Georgetown Business Plaza, LLC. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

C/U 2366 IMPACT Life, Inc.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 17.26 ACRES, MORE OR LESS. The property is lying on the north side of Boyce Road (S.C.R. 547), approximately 0.15 mile east of Neals School Road (S.C.R. 553). 911 Address: 4973 Boyce Road, Seaford. Tax Map Parcel: 531-9.00-7.03.

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Property Survey, the DelDOT Service Level Evaluation Response, a legal description of the property, the Staff Analysis, and a letter from Sussex County Engineering Department Utility Planning Division. Mr. Whitehouse advised the Commission that one letter of support from the Delaware Housing Authority and one letter of opposition were received on behalf of the Application.

The Commission found that Ms. Domenica Personte spoke on behalf of the Application; that she is the Founder and CEO of IMPACT Life, Inc.; that she is an individual in long-term recovery; that she has served, in some capacity, within Delaware for 25 years; that she was born and raised in Delaware; that IMPACT Life, Inc. was started during the COVID-19 pandemic, offering help to those who were sick

and suffering, and unable to access treatment; that during the pandemic, the hospitals were over run by COVID positive patients, there were individuals overdosing and/or needing treatment, but were unable to obtain a hospital bed; that her program would triage individuals in parking lots, to help get them care; that when CARES Act became available, they began the program with two staff members; that the program has grown, currently to 26 staff members; that she began working in the field as a peer since 1998; that the proposed property is a farm consisting of 17 acres; that they started with 10 beds; that they applied for the HUD (Housing and Urban Development) grant; that they added a handicap accessible bedroom; that they performed renovations, which provided for additional room; that the program serves woman and their children; that the Conditional Use request is to add three beds; that this will allow the program to help three additional women; that they do have a Compliance Director who has been working in residential treatment for 20 years; that together, with the Compliance Director, it was determined they could safely offer three additional beds, which led to the Conditional Use request; that the program currently offers services to adolescents and adults statewide; that they have a harm reduction program, which offers outreach within the community; that they provide all types of outreach; that they recently provided 101 meals for the community; that they have also provided safe-sex kits, healthcare navigation and workforce development for members of the community; that they provide outreach within the schools; that six months ago they began an outreach program within multiple schools in New Castle; that they are currently working their way into Kent and Sussex County schools; that they operate houses in partnership with AtTack Addiction Foundation; that their program currently operates 52 beds; that the program offers beds in Seaford; that they recently acquired the program, Square One; that they run a Mommy & Me house, as well as a house for men; that they operate a house in Milford, in partnership with AtTack Addiction Foundation; that they provided houses in New Castle County; that the Conditional Use would add three additional beds for a total of 13 beds; that they have a property they are operating in partnership with AtTack Addiction, located in Harbeson; that they are currently in partnership with another organization, to acquire their 86 beds; that she has a background in running much larger facilities of 140 to 180 beds; that she is fully confident she can manage the proposed 13 beds; that she was invited to speak at Whitehouse in 2016, relating to residential treatment program, evidence-based practices and how to run them safely and effectively; that everything they implemented in 2016, has become a whitepaper, being everything implemented within the programs they operate; that she is a licensed clinician; that the program is licensed through the Division of Substance Abuse and Mental Health; that their program is also governed by a the organization NARR (National Reliance of Recovery Residences); that NARR requires certain perimeters which the program must follow in order to remain credentialed with the NARR organization; that their program is familiar with and in full compliance of the NARR standards; that they are in compliance with the State of Delaware to operate a licensed residential facility; that she entered into treatment at the age of 14, within the State of Delaware; that upon getting sober, she enrolled within a 4-H program; that she feels participating in the 4-H program greatly contributed to her sobriety; that she had a child at the age of 18; that she participated in a program called Bayard House in Wilmington; that the Bayard House program teaches moms, who may not be ready for motherhood, how to perform the duties of a mother; that she is a domestic abuse survivor; that the program offered her the most lifechanging experience, by providing life skills she needed; that the Application proposes to make the 17 acre farm a safe environment, allowing the program to teach mothers the life skills needed; that through compassion, connection and kinship, the program will allow mothers to build their self-esteem; that the programs purpose is that mothers will not feel the need to use substances; that the program hopes to decrease the rates of relapse, which will decrease the rates of overdoses; that in 2023, the rates of overdoses have increased significantly; that Sussex County specifically has been impacted the most; that the programs goal is to create a long term program, which is intended to be a nine to 12 month program; that woman would have a place to stay, where their children can join them; that having children is a huge barrier which hinders people from attending treatment; that the program will teach mothers how to do thing differently, allowing them the tools to stay sober; that the program is staffed 24 hours per day, seven days per week; that there is never

a time staff is not located on site; that security systems have been installed; that the house is alarmed; that they have internal and external cameras; that the closest staff member resides seven minutes from the property; that other staff members live within 10 to 15 minutes from the site in the event additional staff would be required; that their program is based off other programs which are evidenced to be successful; that the program will add 15 full-time employment positions for residents of Sussex County; that they have a leadership team comprised of 26 staff members who oversee the program statewide; that individuals are coming into the program sober and the proposed use is neither a detox facility or a rehabilitation facility.

Chairman Wheatley questioned if the property was currently operating under an existing permit or approval, or if a violation was issued.

Mr. Whitehouse advised the Commission that the Code does permit housing up to 10 people with disabilities, with State approval, who share a single kitchen facility; that once 10 individuals are exceeded, regardless of whether being State-operated or not, it requires a Conditional Use; that there has been no violation; that the Applicant came to the Planning & Zoning Department with the Conditional Use request.

Mr. Hopkins questioned if the proposed use is for 13 adults, if the goal is to help the women obtain employment; that he questioned how the detox process work in relation to the program; that he questioned if the residents would participate in the economics of the housing, where the room is rented and provides accountability; that he questioned if the goal is to assist the women for nine to 12 months, have the residents move on and bring in new residents; that he questioned how the program will allow children to be with their mothers; that he questioned how potential relapse is handled in the program; that he questioned how often drug tests are performed; that he questioned the current number of homes and residents Ms. Personte is overseeing and he questioned the success rate of the program and if the program has any history of adjacent neighbors experiencing problems.

Ms. Wingate questioned if the NARRS organization had any jurisdiction over the facility, if the NARRS organization would perform random compliance checks on the facility, if the facility would have a curfew; that she read for the record, *"Delaware has the highest rate of opioid death per capita in the Country, and Sussex County is the worst of the three counties."*, and she expressed her appreciation for the service the program and its staff are providing.

Ms. Personte stated the proposed use is not yet in operation; that there is no current residence on the property, as they are waiting to receive approval from the State Fire Marshal for the sprinkler system; that they currently have staff hired for the proposed locations; that they currently have no residents; that the Conditional Use request is to increase the beds offered by three, for a total of 13 beds offered; that the program proposed to initially operate with 13 women; that they will provide services to the adolescents through case management services with the community or with Division of Family Services; that once they are comfortable in the future, they plan to return to request permission for additional individuals to accommodate the children of the mothers; that the woman will come into the program; that the program allows the women 60 days to focus on treatment, sobriety, overcoming trauma and to find employment; that the program has a Workforce Development Program; that their goal is to create a sustainable program at the proposed location; that individuals come into the program sober, and must remain sober; that detox periods depend on the substance the individual is detoxing from; that the detox period is typically anywhere from five days for 14 days; that their program has no medical components; that their residents will arrive to them from a higher level of care; that the process typically starts with detox and then moves for residential, typically lasting for 21 days; that once residents enter their program, they are provided 60 days to move in, get stable, before the program will require the residents

to obtain employment; that they recently received a Federal grant to operate an animal assisted therapeutic program at the farm, as well as an agricultural assisted therapeutic program; that they have partnered with University of Delaware to help create a sustainable farm model; that this will allow the program to teach the women all the duties and skills required to run a fully operational farm, as well as the animal assisted therapy; that the goal of the program, is to provide the women all the tools necessary to stay sober, while learning workforce development; that where the property is located, the employment piece will be extremely difficult for the residents due to lack of transportation; that the program will provide as much assistance in house as possible; that the program will help find the women employment once they are prepared to move out; that the program does not charge any fees; that the program has obtained a Federal grant; that the residents will not rent to stay on the farm; that currently, they only proposed to operate with 13 women, with no children; that there is a pond located on the property; that before kids would be permitted to stay there, the program would need to provide safety measures from the pond; that the women will have their children for visitation only; that the majority of mothers who come into the programs are involved with DFS (Division of Family Services) or a family member has custody of the children; that their goal is reunification, allowing for rebuilding of the family unit; that the mother will either reunite with her children after graduating the program or they will work with them; that typically, a mother obtaining custody of her children is contingent on the mother completing their program; that eventually, in the future, the program does desire to provide housing for children; that currently, the program is not prepared for the housing of children; that currently within the program, a few things can take place with the occurrence of relapse; that if there is any suspicion of abuse, the resident is tested; that if the resident is found positive, a referral to treatment is offered; that the program works with the individual until they can be placed in a in-patient treatment program; that residents are then required to follow the recommendations of the treatment program in order to return to the IMPACT Life, Inc. program; that the program performs random drug testing once a week; that drug testing is provided more frequently when warranted; that she currently oversees seven different locations, with 52 total residents; that the current homes, are considered lower level housing; that there is a house in New Castle County that has minimal turnover; that their program sits at about 95% occupancy at any given time; that the women's houses have a bit more turnover than the men's housing; that typically the average stay in the program is six to nine months; that they do have some residents who have been in their programs for 18 months; that each house has its own culture, which makes a difference in the turnaround rate; that success rates are difficult to obtain; that she can provide data on individuals who stayed in touch with the program; that they do have individuals who complete the program, leave the program and are never heard from again; that they reach out a few months after the individual leaves the program; that the touch points are not consistent as there is no requirement for individuals to touch base with the program; that drug testing is provided at random, to every resident, every week; that the drug testing is performed and tracked by staff; that over the past 18 months, in partnership with AtTack Addiction, the police have been required twice; that on both occasions, it involved two residents getting into a verbal altercation, where a resident felt threatened and called 911; that both of these occasions occurred in Wilmington; that the program has never experienced an issue involving a resident and adjacent neighbor; that the residents at a home in Wilmington mow the neighbor's lawn; that the neighbors at a different location cook for their residents; that the program does not tolerate nonsense; that the program is very structured; that residents must attend meetings five days per week; that residents must have a sponsor; that residents must be enrolled in a support group; that the residents must meet with a case manager; that not everyone is ready for the structure the program provides; that those individuals are not for the program; that if individuals tend to not meet the program requirements, they are referred to a different program; that Division of Substance Abuse and Mental Health will have jurisdiction over the facility, allowing for the ability to perform random compliance checks once licensed; that these inspections are typically performed annually, but can be performed at any time unannounced; that once they are licensed, Division of Substance Abuse and Mental Health will perform and inspection within the first 90 days, with annual inspections annually following the first inspection;

that with NARR, the program is placed through a process and are provided credentials, which allow for NARR to arrive unannounced to perform spot checks as well; that there is no set time for NARR spot checks; that the facility is proposing a curfew of 8:00 pm and the program's goal is that residents stay in the house and stay on the property.

The Commission found that there were four people present who wished to speak in favor of the Application.

The Commission found that Ms. Lauren Steward spoke in support of the Application; that she is the controller of IMPACT Life, Inc. and AtTack Addiction Foundation; that she does understand the concern of adjacent neighbors; that these areas, comprised of neighbors who care about their communities, are communities the program desires their residents to be a part of; that IMPACT Life, Inc. and AtTack Addition are different from a lot of other programs because the programs are structured; that their residents love the programs because the programs are structured, but still allow residents the ability to have a say; that the programs teach residents to be self-sustainable; that the programs help individuals place their lives back together; that Ms. Personte created the program to bridge the gaps, as there are many factors that play into the individual's situation; that she worked in healthcare for a long time; that her sister was a heroin addict; that her sister is now a nurse manager for women of high risk pregnancies; that she is thankful for second chances and programs like IMPACT Life, Inc. and AtTack Addition; that people will want these types of organizations accessible for their loved ones; that they are attempting to help addicts become productive citizens; that the residents are coming into the programs voluntarily to put their lives back together; that if at any point, a resident decides they are not ready to be in the program, staff help the individual access the level of care they require; that they do not force residents to stay; that the program currently has waitlists; that there are not enough houses to get the people in; that if you were to speak to a loved one of an addict, they will tell you, there are not enough services; that their goal is to help individuals, help control the increasing addiction numbers, and prevent deaths; that the amount of people dying from overdose in Sussex County is heartbreaking and she appreciated the opportunity to potentially offer more of the services that are desperately needed in Sussex County.

The Commission found that Ms. Leslie Palladino spoke in support of the Application; that she is the Director of Outreach for IMPACT Life, Inc.; that she is a staff member for the program; that she is in long-term recovery; that she became sober 11 years ago; that without programs, like the programs they offer, she would not be here today; that the programs she went through were not nearly as dedicated as the programs they have created; she requested the Commission take great consideration with the Conditional Use request; that she did understand the amount of push back from the community; that they are attempting to address the concerns with a different approach; that the statistics are read about addiction but does not always have a face and she doubted there was a person present who had not been impacted in some way by addiction.

The Commission found that Mr. Bradley Owens spoke in support of the Application; that he is the Executive Director of IMPACT Life, Inc.; that he was born and raised in Lewes, Delaware; that he attended Cape Henlopen High School; that he tragically lost his sister to alcohol in 2009; that the subject of drugs and alcohol is important to him; that he inspires to educate himself, and work in a professional setting which allows him the ability to have a positive impact of these issues; that he has worked in corrections and behavioral health; that he previously attended law school, obtaining a law degree; that he had been offered many other jobs in law, which would provide him more money; that he chose public and social service; that he takes his reputation extremely seriously; that he has only been a part of IMPACT Life, Inc. for nine weeks; that he made the decision to join IMPACT Life, Inc. because of their team and the services and work they provide; that IMPACT Life, Inc. and AtTack Addition Foundation

are both support by the Delaware Housing Authority, Lieutenant Governor, and the Behavioral Health Commission; that these programs are supported tremendously by organizations which run the State; that he believed in the programs enough to leave his previous job to join the team for the reputation they have and the work they do; that he trusts the organization; that the organization's goal is to address a need and he had faith the organization will address the need better than any other organization.

The Commission found that Mr. Steven Frotum spoke in support of the Application; that he felt there was one piece of recovery he wished to speak to, which is the subject of children; that he has been sober 37 years; that he has five children and ten grandchildren; that there was a time he did not have his five children; that the only way, he was able to get his children back to a place they trusted him was to go through the process of recovery; that he did that process; that the process was sustainable; that he had to place the pieces back, allowing his family to come back together; that by doing this, he now has ten grandchildren; that addiction seems to be running rapid through the Country and the world; that he would like to focus on the positives; the he and every other person who goes through the process of recovery is a miracle; that this is the beauty of recovery; that everyone in the industry will say the exact same thing; that in recovery it is about living, not about dying and living is the focus.

Chairman Wheatley advised the Commission and the public that the focus of the Application is very narrow; that although the Commission greatly appreciated the testimonies given, the issue before them today is related to the land use of the property.

The Commission found that one person was present in the room who wished to speak in opposition to the Application.

The Commission found that Mr. Dale Short spoke in opposition to the Application; that he resides along Boyce Rd., adjacent to the property; that he was hoping to obtain information from the presentation, but he was left with a lot of questions; that he questioned the number of individuals who will be living in the house, that he is not in favor of the request, as he believed there were too many unanswered questions to the Application; that he understood the Application request; that he believed the request made sense and being an adjacent land owner, who has seen the previous uses of the farm, he would like to see the farm stay as it currently is.

Chairman Wheatley stated the Conditional Use request is for 13 beds; that should the Applicant want to increase the number, they will be required to submit a new application request.

The Commission found there were three people present by teleconference who wished to speak on the Application.

The Commission found that Ms. Kelsey Mumford spoke by teleconference in opposition to the Application, with concerns relating to safety, potential relapse, the number of individuals proposed, the potential for noise, increase in pedestrian and vehicle traffic, the amount of time required for State Police to respond to calls, the lack of Police employed for the area, potential decrease in property values; she stated that no one has been taking care of the goats currently existing on the site and she stated the storyline has changed multiple times which has led to a lot of confusion.

The Commission found that Mr. Derek Calloway spoke by teleconference in opposition to the Application; that he stated if the organization cared about the community, they would have provided the opportunity to meet and address the concerns the community had; that he had concerns relating to the density of the site, if children are allowed to stay, the potential the site could become a rehabilitation center in the future, the security measures being placed; that he questioned if insurance had been

obtained in the circumstance residents may cause damage to the community and he expressed concerns of additional building potentially being placed on the property.

The Commission found that Ms. April Calloway spoke by teleconference in opposition to the Application; that she agrees with all concerns previously mentioned; that Ms. Personte had previously relayed to the community different information relating to the proposed use; that she had concerns relating to decreasing property values; that the community felt they had been lied to and now the community has no trust in the organization.

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 2366 IMPACT Life, Inc. Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 4-0.

C/U 2367 AtTack Addiction Foundation

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GROUP HOME FOR MORE THAN 10 PEOPLE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.86 ACRES, MORE OR LESS. The property is lying on the east side of Hurdle Ditch Road (S.C.R. 290), approximately 0.28 mile north of Hollyville Road (Rt. 48). 911 Address: 22703 Hurdle Ditch Road, Harbeson. Tax Map Parcel: 234-10.00-69.01.

Chairman Wheatley stated due to the Application being similar to the application before it, he would allow the comments and testimony that were given for C/U 2366 IMPACT Life, Inc. to be incorporated into the record on behalf of C/U 2367 AtTack Addiction Foundation.

Mr. Robertson advised the Commission and the public that the Commission's focus relates to the land use aspect of the Application, deciding if the proposed use is appropriate for the proposed parcel of land.

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, the legal description, the Staff Analysis, a letter received from the Sussex County Engineering Department Utility Planning Division, and a letter received from Delaware State Housing Authority. Mr. Whitehouse advised the Commission that one letter of support was received for the Application.

The Commission found that Mr. Don Keister spoke on behalf of the Application; that he represents the Applicant, AtTack Addiction Foundation; that currently, there are zero residents on the property; that the program is permitted for 10 residents; that the Conditional Use request is to increase that number to 16 residents; that square footage calculations, they would be permitted to house up to 16 residents; that AtTack Addition is a 501(c)(3); that he and his wife began the organization in October 2013, following the death of their 24 year old son, Tyler; that the board is currently comprised of five parents who have lost children; that the remainder of the board is comprised of individuals who have been impacted by Substance Use Disorder (SUD); that aside from one part-time financial staff member, the board consists of all volunteers; that there are no paid employees; that through the years the organization has consulted and taken an active roll in supporting 34 separate bills and State legislature; that nine of the 34 bills were initiated by AtTack Addition Foundation, and passed within the same year; that they currently own three recovery residences; that two residences are for all males and one residence is all females; that

these residences are operated by IMPACT Life, Inc.; that two of the board members have been appointed by Attorney General Jennings to the Opioid Settlement Distribution Commission; that the organizations have received numerous awards which include the Governor's Outstanding Volunteer Award; that the goal is to stabilize and help those in recovery and their families; that the Conditional Use request is to increase the number of residents for their fourth recovery residence, located in Harbeson; that the dwelling on the site was built in 2010 by Mr. Evans Norwood, who was also the owner of the property; that the organization obtained the property through a grant procedure, which was conducted by the Delaware State Housing Authority, by a project they call the Recovery Housing Project (RHP); that the deed states the organization must maintain the house as a recovery residence for 20 years; that the Application was submitted on November 30th, 2021; that settlement was conducted on May 20th, 2022; that since the time of settlement, they have been working on the installation of fire sprinkler system, by Wayman Fire Protection, Inc.; that an alarm system will be installed by Security Instrument; that these processes have been drawn out by the requirements of the State Fire Marshal; that currently the residence is furnished and ready for occupancy; that the interior of the home is just under 6,000 sq. ft.; that the property is comprised of just under two acres; that the property is zoned AR-1 (Agricultural Residential); that the future residents have the potential to make a real difference in Sussex County; that the interior of the dwelling has been adapted to provide offices, bedrooms for the housing managers, large meeting spaces, exercise area and room for individual counseling sessions; that the residence is handicap accessible; that the large lot would provide several opportunities for gardening, exercise and other agricultural activities; that the space provided is more than adequate to house 16 residents; that the proposed use is a vital need in Sussex County; that this need has been recognized in the past three quarters of 2022, as reported by the Delaware Drug Monitoring Initiative, there are 85 drug related deaths; that the final results for 2022 have not yet been reported; that in the third quarter alone, 968 drug arrests were made in Sussex County; that currently there are 10 State supported recovery residences located in Sussex County, comprised of four homes for men, four homes for women and children, and two homes for women; that all of the homes are considered NARR Level 2 or Level 3 residences; that the new residence, located in Harbeson, will be considered a NARR Level 4 residence; that the residence will also be considered a 3.1 residence according to Audience American Society of Addiction Medicine (ASAM); that the proposed property, along with the proposed property for IMPACT Life, Inc, will be the first 3.1 ASAM residence located in Sussex County; that both properties are subject to a host of State guidelines, which can be found with the 6001 Substance Abuse Facility Licensing Standards; that these regulations help promote the health and wellbeing of customers/clients receiving services in substance abuse treatment centers located within the State; that the department is authorized by the Delaware Code, Title 16, Chapter 22 for the Substance Abuse Treatment Act; that no organization or entity should operate a substance abuse treatment facility within the State of Delaware, unless the organization has been licensed by the department; that there are 19 standards within the required guidelines, which AtTack Addiction and IMPACT Life must adhere to in order to remain licensed; that Ms. Dominica Personte with IMPACT Life, Inc. will be operating the residence for AtTack Addition; that Ms. Personte has been a fixture within the recovery community for many years; that Ms. Personte is highly respected throughout the State; that Ms. Personte was recently the CEO of a property owned by Recovery Centers of America; that part of the licensing requirements, is to maintain staff, 24 hour, seven days per week, 365 days per year staff, to monitor the facility; that staff will include one part-time physician, being a licensed Practitioner, to be onsite during the day, and on-call around the clock when not onsite; that additional staff will include several house managers, with someone awake to provide supervision around the clock; that there will be several persons available to establish provision, support and a safe environment for the residents; that the need for this assistance in Sussex County is evident; that by supporting additional residents at the Harbeson location will benefit the citizens of Sussex County, especially those individuals who will be able to receive help; that both organizations have demonstrated their ability to provide meaningful opportunities to persons with Substance Use Disorder, in a safe, healthy and supportive environment; that the Harbeson residence will be inspected, licensed and under

the direct supervision from the State; that increasing the density of the proposed property, will allow six additional residents within Sussex County to receive suitable treatment and support; that the dwelling is capable of accommodating the requested number of residents, while providing adequate space, programs and safety; that the organization provides meaningful programs for their residents; that the residents are not criminals, they are not bad people; that the residents are sick people, who are taking steps to become well, and take back their life; that he requested the Commission grant approval, allowing the program to assist 16 Sussex County residents rather than 10 residents.

Mr. Robertson requested Mr. Keister speak to the proposed property, the surrounding neighborhood, any potential impacts the proposed use may have on surrounding properties, and if the dwelling will maintain its current residential appearance.

Ms. Wingate questioned if a curfew will be in place for the residents and she questioned if the proposed residence would fall under the same regulations and jurisdictions for unannounced spot-check inspections by authorities to ensure compliance.

Mr. Mears questioned if there were any measures taken to provide sound control for the property.

Mr. Hopkins questioned if staff remain at the property 24 hours per day, seven days a week.

Mr. Keister stated adjacent neighbors submitted concerns as part of Not In My Backyard (NIMBY); that the organization has conducted two formal meetings with the neighbors and with Ruth Briggs King; that the organization conducted a few informal meetings with neighbors as well; that they were provided a list from the neighbors of things they would like the organization to provide; that the organization has responded to two items on the list; that they have provided privacy fencing and covered windows provided at the two edges of the house; that he feels this property will have no negative impact to adjacent properties; that their other locations have not generated any negative impacts; that their other locations have had no negative impact of adjacent property values; that many of the neighbors to the other locations, find it helpful to visit and interact with the residents; that they currently do not have any residences holding more than ten residents; that consider the positive impact the organization makes, and the services needed in the community, the organization feels it is important they provide as many opportunities as they can; that the organization has attempted to incorporate with the concerns of the neighbors; that he does not feel the organization can address the concerns, until the adjacent neighbors see how well the residence will be run; that there will be little to no interaction between the residents and the adjacent properties; that all residents will be supervised, managed and taken care of; that the residence will remain its existing appears as a single-family dwelling; that there are guidelines established, by the rules and regulations the residents receive; that he believed the current curfew is 10:00 pm; that in all their other residences, the residents stay to the rear of the house; that there is no lounging around the front of the house; that the proposed residence is designated a 3.1 house by ASAM; that ASAM place very strict rules, which the organization and residence must abide by; that there will be 16 residents, however, all 16 residents will not be located in the backyard at the same time; that the property has cameras established at three corners of the house; that they have installed interior cameras; that they will be monitoring the cameras; that staff members will be located at the residence at all times, being 24 hours per day, seven days per week; that a counselor will be located onsite 16 hours; that the counselor will be on call around the clock when not onsite and there will be supervision provided 24 hours per day.

The Commission found that five people were present in the room who wished to speak in support of the Application.

The Commission found Ms. Lauren Steward spoke in support of the Application; that she performs gardening projects with residents; that residents enjoy the work and the pride it brings; that she had met a lot of adjacent neighbors, of the existing houses while performing gardening projects; that the adjacent neighbors love the residents; that their residents are not mean, violent people; that they are simply people who found themselves in a bad way; that the residents are people who are trying to put their lives back together again; that she feels there are still existing stigmas; that AtTack Addiction has performed a lot of work in the attempt to address stigmas; that there is still work to do in that regard; that they are good neighbors and she hopes adjacent neighbors will allow them the chance to prove it.

The Commission found that Mr. Ron Romine spoke in support of the Application; that he is board member of AtTack Addiction; that he ran an existing men's AtTack Addiction house, in New Castle, for five years; that when they first open the house, the adjacent neighbors expressed the same concerns that were currently being expressed; that there were a lot of fear-based concerns; that within his five years, he had the New Castle County Police to the property on two occasions; that on both occasions, a member had relapsed; that through the New Castle County Police and the Hero Help program, he was able to assist in getting the resident help; that relating to crime, there was crime within their neighborhood; that one of the residents had their bicycle stolen; that there is always crime somewhere; that the crime was not being generated from his residents; that his residence was located on a cul-de-sac; that when he moved in, the two adjacent properties valued at \$110,000; that in 2018, one of the homes sold for just under \$300,000; that in 2021, the other adjacent property sold for \$349,000; that on trash pick-up days, his residents would deliver the trash cans to adjacent neighbors houses; that the residents helped shovel snow on sidewalks for the adjacent neighbors; that the adjacent neighbors loved the residents; that one would not know the home was a recovery house; that the house is very family oriented; that having the support of someone going through the same thing as you, is the benefit of a recovery house; that everyone is there for the same reason, to get better and the more beds they can provide, the more people they can assist in getting well.

The Commission found that Mr. Nick Gregory spoke in support of the Application; that he is the Housing Supervisor for IMPACT Life, Inc. and AtTack Addiction; that he is also a person in long-term recovery; that he went through a long-term program, similar to the programs being started in Sussex County; that the men will be programming all day; that the men will not be running in and out of the house; that they will not be leaving to go to the store; that they will not have visitors; that there will already be ten men on the site; that by adding six additional men, it will allow six additional lives to be impacted and saved in Delaware; that the organization takes pride in what they do; that they run their programs really well; that they have a great reputation in the community and there do what they do to help their fellow human beings.

The Commission found that Ms. Charla Sharp spoke in support of the Application; that she is an employee of IMPACT Life, Inc.; that she part of a healthcare employment, which was the cause of the opioid epidemic; that while she was in the role of medical employment her mindset was much different; that an individual would walk through the door and she would know exactly what the individual was coming in for; that by chance, she fell into the recovery community; that she has learned a lot about recovery and the people in recovery; that she used to be someone with no experience in recovery and had a lot of judgement; that with the education and understanding she now has, it has completely changed her mentality and compassion for others; that she can understand why adjacent neighbors would not understand the need and the importance of six additional beds; that allowance of six more beds will allow them to help six more people and their program will allow their residents to become productive citizens within their communities, who will raise their children who will become other productive citizens.

The Commission found that Mr. Brad Owens spoke in support of the Application; that the back yard of the site is huge; that with staff being present at the site, around the clock, there will be an increase in traffic and parking on the site; that the existing driveway is extremely long; that that four cars can park at the interior of the driveway, with several other vehicles parking along the driveway; that there will be no need to park anywhere else on or around the site; that the residents do not have vehicles; that even if all 16 men were outside at the same time, there is ample amount of space and property to accommodate the residents; that there is no intention to have frequent outdoor parties; that there is ample amount of space and privacy in the rear yard; that there will be constant supervision to make sure the property is maintained and control; that they will make sure the driveway is maintained and all parking is located within the driveway area and they will have the security cameras with constant surveillance.

The Commission found that six people spoke in opposition to the Application.

The Commission found that Ms. Norma Kline spoke in opposition to the Application; that she resides directly adjacent to the site; that she has lived there for two years; that she is an Iraq Veteran; that she is a survivor of military sexual trauma; that she has accepted the fact the recovery house will be located there regardless of the Commission's approval; that her goal is to stop the approval of more than ten men being permitted to reside at the property; that her safety concerns have increased; that her post traumatic stress (PTSD) has increased; that as a sexual assault survivor, darkness scares her; that she is not trying to insinuate the men will be dangerous people; that she hopes the Commission can understand her fear, when there is the presence of ten or more people residing beside her, potentially being heard during the night; that currently the community is very quiet; that she would request the home be left as is, with the approval of ten men residents; that she moved to her property from Rehoboth for the quietness; that the area she lives allowed her to heal some of her PTSD and her sexual trauma; that the fencing placed only comes half way up the side yard; that she does not feel safe with the presence of the men being there; that she understands that her fear is based on her own personal history; that her fear is not a judgement against the residents; that as a veteran, loud noises trigger her; that she fears the residents may get fireworks for the Fourth of July; that she questioned if the program and residents will take into consideration her history of an Iraq veteran who served two tours and she would like to see a change to the residents curfew.

Chairman Wheatley stated the Conditional Use process does allow the Commission to place specific conditions on an application; that ten residents are currently permitted; that because the Application has come before the Commission, it does allow the opportunity for the Commission to enforce conditions and limitations of the proposed use.

The Commission found Mr. Tim Willard, Esq., with Fuqua, Willard & Schab, P.A, spoke on behalf of Mr. Daniel Bezerra, Mr. Carol Thomas, and Mr. Joseph Gordon, who were in opposition to Application; that the opposition was in a weird place; that if the Application does not get approved, the organization can carry on, as is, with no conditions; that if the Application is approved, conditions and restrictions are able to be placed on the Application; that he requested the Commission recommend approval for one additional resident, while placing conditions on the Application; that he understands the request for six additional residents, as it allows help to six additional people; that when this use is being placed in a residential neighborhood, he felt the organization should first get their foot in the door; that the organization met the group residential facility approval, which is required to obtain a license; that currently they are permitted to have ten residents, being individuals with disabilities, in a home with one shared kitchen; that his clients are concerned about transparency and accountability; that he informed his clients the organization has many licensing requirements, but by placing conditions, it allowed adjacent residents to have some teeth in restrictions as well; that the Conditional Use section of the Code states the Preliminary Site Plan must comply with Article 28, which states an application shall

accompany the application for conditional use with such information required for the determination of the nature of the proposed use and the impact on the neighborhood and surrounding properties; that all applications for zoning permits, shall be accompanied by a drawing or plat, including such other information which may be necessary to provide for the enforcement of these regulations; that the drawing shall contain suitable notations indicating the proposed use of the land and buildings; that with this Application, the submitted site plan is a basic survey of the property; that in previous applications he has been involved in, they are remised if the site plan or survey does not include some detail pertaining to the proposed use; that the Applicant's have discussed parking, yet there is no notes relating to parking on the submitted plan; that with the current approval for ten residents could generate a lot of parking; that the submitted plan did not reflect any proposed fencing; that in their proposed conditions, they have requested more fencing, as well as additional conditions relating to the site plan; that the Comprehensive Plan designates the property to be within the Low Density area; that all surrounding properties to the north, south, east and west are also located within the Low Density area; that the Staff Memorandum and Sussex County Mapping System confirms the property is not located within a Flood Zone; that the property is not located within a Transportation Improvement District; that Low Density areas call for single-family housing; that the property is located with AR-1 (Agricultural Residential); that all properties adjacent to the north, west and east are all zoned AR-1; that the surrounding area is important when considering proposed uses; that the Commission should not allow more residents, due to the density guidance provided by the Code; that

The Commission found that Mr. Joseph Gordon spoke in opposition to the Application; that he resides approximately 100 yards from the property; that since was made aware of the half-way house, he has learned many new things, such as NIMBY (Not In My Back Yard) and NARR (National Alliance Recovery Residences); that he had also learned that his current neighbors are good people, with good hearts; that they too, have lost loved ones, and have had to live lives where their friends and family's lives were destroyed because of the opioid epidemic; that no one denies that individual need help; that there is a right way and wrong way of doing everything; that they need reassurances that the needs and wellbeing of the community are being addressed, as well as the needs and wellbeing of the participants in the program; that the community has worked hard together, to create a quiet, peaceful neighborhood; that each of them have moved to the area, because they value the peace and quiet the area brings; that the community's primary concern is that the peace and quiet that they worked hard to create will be disrupted or compromised by the presence of the program; that NARR Standard 3.0 Living Space states the living space is conducive to building community of the participants; that there must be verification of a meeting place that is large enough to accommodate all residents; that there must be verification that the kitchen and dining areas are large enough to accommodate all residents while sharing meals together; that the standard building industry recommends a 24 inch minimum width for each individual at a table; that they have been in the proposed residence; that he does not understand how the NARR Standard is met; that nearly a half a year, AtTack Addiction proceeded to establish the assisted living facility with absolutely no contact with the neighborhood; that it was only by word-of-mouth the community became aware of the proposed use; that meetings were not scheduled by AtTack Addition, but rather by Ruth Briggs King, per the community's request; that per the briefing of St. Leonard's Society of Canada, it was stated to be successfully integrated into a community, a half-way house needs a public that understands the purpose and neighbors who are comfortable with its procedures; that from the community's perspective, AtTack Addition did not do their due diligence in preparing their neighborhood for their assisted living facility as documented by nearly every recovery residence organization; that by eliminating this important step, they have unfortunately created additional resentment and lack of trust towards AtTack Addition, as well as fear against future participants; that the community has received conflicting information from AtTack Addiction, such as the level of the house and the proposed fencing; that they were told participants will be driven everywhere; that online it stated the organization does not provide transportation; that they were told visitors are not permitted;

that in the presentation it was stated family members and sponsors may visit; that they were told no participants with felony charges are permitted within the first two years; that in their next meeting they were told no participants with felony charges within the first year; that felony charges means the individual is a convict, therefore, there would be convicts residing at the site; that they were originally told participants would be arriving between October and November; that currently no participants are residing on the property; that there has been a lot of conflicting information provided by the organization; that it seemed to him that the organization is getting their feet wet in the establishment of the facility; that the quiet, residential neighborhood is comprised of a vulnerable population of elderly, handicap and very young children within feet of the site; that they have valid concerns for their safety, as the average police response time is 30 minutes at best; that NARR Standard 3.0 states responsiveness should be provided to neighbors concerns; that Principal J states the organization should be a good neighbor; that the NARR Code of Ethics states that operators are to maintain an environment that promotes the peace and safety of surrounding neighborhood and the community at large; that they collectively feel that AtTack Addiction has not been a good neighbor and did not take the community's concerns seriously; that the community feels like they were a nuisance to AtTack Addiction; that every organization stated AtTack Addiction must grab the community's buy-in for not only the house, but for the participants who will be living there; that when you try to force 16 people into a house, rather than six or ten, without communicating anything to the community, they are asking for trouble; that he feels by doing this, the organization has not done a good job achieving their goals; that more residents will create more conflict; that he has concerns to the ratio of staff to residents; that he questioned if a four residents to one staff member is a good ratio to have; that NARR Code of Ethics states a safe, homelike environment should be provided, while meeting NARR standards; that in his opinion, 16 residents is too many to allow for a homelike environment; that he felt six participants would be more appropriate for the area; that if he was running the company, he would not have angered everyone in the neighborhood, scare them to death, creating lack of sleep, creating them to purchase guns and security lights and place security cameras; that the organization could have placed only six people, get the facility established, while educating the community; that the organization could have then asked the community if they felt comfortable increasing the number of residents; that it is the community's neighborhood that the organization is, in another person's words, "blowing up"; that given AtTack Addiction is new to providing a Level 3.1 house, the community requests that AtTack Addiction bring up their staffing levels, which will bring up the comfort level of the community prior to increasing their number of participants; that one study, published in the Journal of Substance Abuse Treatment, analyzed factors associated with positive outcomes of sober living houses; that the study found that facilities having a smaller number of residents were associated with higher rates of employment, which could reflect the benefits of low resident to staff ratio, with greater focus and attention afforded to each individual; that similar to class sized in school, the community would much rather see lower numbers, with a higher success rate, than a higher number of participants with a lower success rate; that based on the meetings had with AtTack Addiction, it was much as said, the federal government wants this, and there is not much anyone can do; that the community hopes that this is not the case; that they hope that everyone's concerns will be addressed; that the organization has had an economic impact on the community by making them feel the need to buy security lights and security cameras; that he did not feel he needed to tell the Commission what the proposed use will do to adjacent property values; that according to the Not In My Back Yard article, the impact of a substance abuse treatment centers on property values, specifically to treat opioid addiction will lose as much as 17% in property values; that he questioned if the Commission would want their 26 year old daughter, who's career is just taking off, to move into a house next to 16 recovering drug addicts and that he would not want his daughter in that situation.

Chairman Wheatley questioned what authority was quoted in Mr. Gordon's presentation relating to decreased property values; that only the title of the article was quoted; that sources are required to be stated when providing facts of that nature, and that otherwise the statements are considered an opinion.

The Commission found that Mr. Carl Thomas spoke in opposition to the Application; that the NARR Standards state, *operator, attests and claims made in marketing materials and advertising be honest and substantiated, and does not employ any of the following: false or misleading statements, unfounded claims or exaggerations*; that he visited AtTack Addictions website, where he found many discrepancies; that additionally, he visited Ms. Personte's Facebook page, which advertised that, *the sanctuary at IMPACT Life farm, located in Seaford, will serve 13 pregnant and/or parenting women; that the men's program is located in Harbeson and will serve 13 men*; that he believed the information was misleading; that regardless of the source, the information advertised and is misleading to the public; that the residents will be in their early stages of recovery per AtTack Addition's website; that the nearest area to access DART transportation is 4.2 to 4.4 miles away in either direction; that the area roads are not conducive to walking or bicycle pedestrians; that Zillow, the real estate site, rated the roads a zero out of 100 relating to walking suitability; that Zillow rated a 27 out of 100, relating to biking suitability; that he had concerns to the non-compliance of the property; that he understands everyone needs a second chance; that what had not been discussed, is what happens when a situation turns bad; that he had seen the situation when things turn bad; that he works as a nurse in an Intensive Care Unit; that he is the person who cleans up the mess that is made when people fall out of recovery; that it is heart wrenching to see; that his wife was a Probation & Parole officer for five years; that she had also witnessed the devastation that comes from relapse; that he is happy to hear about the success stories; that what he wanted to hear was the stories of what happens when the individuals fall off the path; that he does not feel his question had been addressed in anyway; that it was testified the organization scheduled two meetings; that in fact, it was a total of four meetings; that the organization staff only attended two meetings out of the four; that the organization is not responsive to the community; that they have not been good neighbors; that he questioned to organization's past history; that a lot of what was provided was personal testimony; that the statements relating to the organization's successes does not compare to what is presented on the organization's website, down to the number of beds in the houses and the number of current houses; that there are discrepancies and inaccuracies everywhere; that the organization spoke about helping the residents find employment; that he visited Indeed.com, an employment site; that in the surrounding communities, Harbeson is the third worst for employment postings; that there are many other places in Sussex County, which would have placed the residents in much closer proximity to employment; that the program is to help low to moderate income individuals; that there are additional challenges, such as transportation, for low to moderate income individuals to find employment and he would like to see conditions placed to allow for local oversight of the property and use.

Mr. Keister stated at the organization's other houses, they have very few individuals who park vehicles or use vehicles at the homes, and they did purchase a seven-passenger van, which will be utilized to provide transportation to a variety of places for the residents.

Ms. Personte stated both facilities have seven-passenger vans; that all their case managers transport residents as well; that all case managers are required to go through a driving record investigation; that the organization confirms they can insure the case manager; that the organization ensures the case managers, allowing them to transport residents individually and as a group; that the organization did not initially offer the transportation by the vans, as the recently purchased the vans within the past month and the case managers have been providing transportation for the residents since the program started.

Ms. Wingate questioned the square footage of the home.

Mr. Keister stated the home is approximately 6,000 square feet.

Mr. Mears questioned how circumstances of relapse and overdose are handled and the protocol relating to altercations between residents.

Mr. Hopkins questioned how many chances a resident is provided related to relapse.

Ms. Personte stated if a resident relapses, the organization directs them to treatment; that staff will remain with the resident until they can get into treatment; that all the facilities have Narcan; that all staff members are trained to administer Narcan, recovery breathing, and recovery positioning; that in the event of an overdose, the policy is that a staff member would provide Narcan, call 911 and the resident would be transported to the hospital via EMS; that the resident would not be permitted to return to the home until the individual completes the treatment plan of care; that the organization has never had an overdose at any of their facilities; that if a resident were to relapse, the individual would be required to leave the home, attending treatment; that the only circumstance a resident may be permitted to stay in the home is with alcohol; that if a resident were to drink alcohol, the resident is provided one additional opportunity before being required to leave the home; that if a resident were to relapse with opioids in any form, the resident will be required to leave the home and placed into treatment; that the policy is not negotiable; that once a resident attends treatment, the organization follows the treatment plan provided by the medical recommendation; that typically the recommendation is 21 to 30 days; that once the resident completes treatment, they are permitted to return to the home; that upon returning, the resident will be provided a higher level of case management; that if a resident were to relapse for a second time, the resident is referred onto a different program; that in the event of an altercation between the residents, they attempt to determine who began the altercation; that in cases where they can clearly determine who began the altercation, the individual who began the fight is required to leave the home; that staff will remain with the individual, helping the individual pack their belongings, and the individual leaves the home that day; that the organization does work with the resident until they have a place to go; that any physical altercation does require the resident to leave the home; that in the event the organization cannot determine who began the altercation, the organization has been required to discharge both residents involved and the facilities do have internal cameras, which allows staff to determine to individual responsible.

The Commission found that Mr. Daniel Bezerra spoke in opposition to the Application; that he resides across the road from the site; that Mr. Keister was cutting grass one day, when Mr. Bezerra decided to approach him with questions; that he had attended meetings with the organization, where a lot of information was provided that differed from information provided in a different meeting; that he expressed his concern of safety with his wife and young daughter alone, across the street from 16 men, while he is at work; that he is aware of addiction as he had experienced the issue in his family; that Mr. Keister had told him, it would not be an issue; that the residents are human beings; that they are not bad people and not violent; that Mr. Bezerra understood these things, but Mr. Keister never addressed the concern Mr. Bezerra had for his family; that he would have appreciated an initial response providing the information that the residents would be monitored by staff; that he was told the cameras were installed in the case the staff need to check on the residents; that it was his understanding that the cameras would not be monitored around the clock, as was implied during the presentation; that all of the community's questions and concerns regarding safety were not addressed by the organization; that the fencing has only been placed half way on the sides of the property; that he was under the impression the property would be fenced in; that his questions made to the organization were never answered; that Ms. Personte arrived an hour late to their first scheduled meeting; that when Ms. Personte did arrive, they were required to start the meeting all over because the answers provided did not match what Ms. Personte stated; that he felt there was a lot of misleading information provided by the organization; that he was expecting to see the house plans during the presentation; that a lot of the community's concerns cannot be addressed as there is only a basic survey submitted for the property; that he questioned how it can be

determined that the organization has a kitchen large enough to accommodate 16 residents at the same time; that one of the NARR standards is to answer questions from the community; that nothing has been provided to the community proving the 16 residents are able to eat in the kitchen at the same time; that there was never an attempt from the organization to reach out to the community; that he was the first member of the community to reach out to the organization and for his safety concerns, he was opposed to increasing the number of residents.

Chairman Wheatley stated the housing requirements are determined by the elected State regulators; that the community would not have any regulation over this requirement; that he was concerned by the consistent testimony of discrepancies with the organization's provided information, and he questioned if the discrepancies were a result of the fact the program was just taking shape.

Mr. Willard stated he felt the organization got off on the wrong foot with a lack of provided information; that he submitted proposed conditions for the Commission's consideration; that he requested the Commission request to see the floor plan of the facility; that he believes the floor plan was of relevance; that he believed the covenants provided by the Housing Authority should be part of the imposed conditions; that he felt if the County included the covenants in the Conditions of Approval, it will allow a better ability to regulate the covenants; that he also requested the NARR Code and the Delaware ASAM Level 3.1 requirements be placed in the conditions; that he additionally requested the Final Site Plan approved by the Commission include, all required agency approvals, which include DelDOT, DNREC, Sussex Conservation District and State Fire Marshal, if necessary; that he stated the property used to have a septic system for three bedrooms; that the standard for a nursing or assisted living home is 100 gallon units per day; that the previously issued permit was for 720 gallons per day and he submitted a petition which was signed by 45 individuals located near the property.

The Commission found there was no one present 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 2367 AtTack Addiction Foundation. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 4-0.

Recess

7:18 pm – 7:22 pm

ADDITIONAL BUSINESS

The Commission briefly discussed feedback on the Document Management System.

Meeting adjourned at 7:37 p.m.

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