

THE MINUTES OF THE REGULAR MEETING OF MAY 25, 2023.

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, May 25, 2023, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware. Members of the public were also able to attend this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 3:00 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, Ms. Holly Wingate, and Mr. Bruce Mears. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mx. Jesse Lindenberg, and Ms. Ann Lepore – Recording Secretary.

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

Motion by Ms. Stevenson, seconded by Ms. Wingate to approve the Minutes of the April 27, 2023, Planning and Zoning Commission meeting as circulated. Motion carried 5-0.

ADDITIONAL BUSINESS

Mr. Glenn Marshall, Special Operations Coordinator for Sussex County EMS, presented to the Commission a presentation on the current Emergency Response Times in Sussex County.

OTHER BUSINESS

2020-19 Monarch Glen (F.K.A. Twin Lakes)

Final Subdivision & Landscape Plan

This is a Final Subdivision and Landscape Plan for the establishment of a proposed cluster subdivision to divide 135.54 acres +/- into two-hundred and forty-six (246) single-family lots, private roads, open space and proposed amenities to include a tot-lot, inground pool, community clubhouse, walking trail, and the required 30-ft forested buffer to consist primarily of existing vegetation. At their meeting of Thursday, July 22, 2021, the Planning and Zoning Commission approved the Preliminary Subdivision Plan for the Subdivision subject to nineteen (19) conditions. The properties are located on the northeast and southwest sides of Fisher Road (S.C.R. 262), approximately 456 feet south of Lewes-Georgetown Highway (Route 9). The development also features improvements including a shared use path across the project's frontage and a walking trail connection to DelDOT's Lewes to Georgetown Rails-to-Trail path. The Final Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcels: 235-30.00-141.00, 143.00 & 144.00 & 334-10.00-59.00. Zoning: AR-1 (Agricultural Residential District) and GR (General Residential District). Staff are in receipt of all agency approvals.

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

S-23-25 Chapel Branch Apartments

Preliminary Site Plan

This is a Preliminary Site Plan under the Sussex County Rental Program (S.C.R.P.) for a proposed 84-unit multi-family apartment complex to consist of four (4) apartment buildings, a clubhouse, an additional amenity building, a playground, picnic and garden areas, and other site improvements located

on 7.01 acres +/- . The property is located on the northwest corner of the intersection of John J. Williams Highway (Route 24) and Doorman Road (S.C.R. 288A). The Applicant has submitted a waiver request for the loading space requirement. It should be further noted that the property is located within the Henlopen Transportation Improvement District (TID). The Preliminary Site Plan otherwise complies with the Sussex County Zoning Code and the requirements of the Sussex County Rental Program. Tax Parcel: 234-11.00-59.05. Zoning: AR-1 (Agricultural Residential Zoning District). Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan as a preliminary. Motion carried 5-0.

2019-04 Serenity at Pinewater Farms (F.K.A. Sloan Family Property)

Request to Amend Conditions of Approval

The Planning and Zoning Department has received a request to amend the Conditions of Approval of the Preliminary Subdivision Plan approval for the Sloan Family Property (2019-04) as approved by the Planning and Zoning Commission at their meeting on Thursday, May 9th, 2019. Specifically, the Applicant is requesting an amendment to Condition “B” of the original Conditions of Approval which states, *“The developer shall establish a unified homeowner’s association with the existing Pinewater Farms subdivision responsible for the maintenance of the streets, roads, buffers, stormwater management facilities, and other common areas.”* The Applicant has submitted a written request which explains that the Pinewater Farms Subdivision, which surrounds the subject property, does not contain a homeowner’s association but instead, the responsible entity currently exists as a civic association. The Applicant has requested to amend Condition “B” to state, *“The developer shall establish an independent Homeowners Association responsible for the maintenance of the buffers, common areas, and stormwater management facilities within the 11-lot independent subdivision. The developer shall coordinate with the Pinewater Civic Association on a means of providing the owners of the 11 lots with access to the amenities owned by the Pinewater Civic Association for the benefit of the Pinewater Farms Community.”* Lastly, the Applicant has also submitted in tandem with this request, a requested change to delete Notes #11 and #13 on the Final Subdivision Plan which relate to the maintenance of wooded buffers and open spaces by the Pinewater Civic Association and state that the proposed Lots are to be an extension of the Pinewater Farms Subdivision. This previously approved AR-1 standard subdivision contains eleven (11) single-family lots on 7.92 acres +/- and is located on the northeast side of Pinewater Drive, approximately 663-ft northwest of Multiflora Drive. Tax Parcels: 234-17.12-5.00, 5.01 & 5.02. Zoning: AR-1 (Agricultural Residential District).

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to approve the request to amend Condition “B” of the Conditions of Approval as written and to delete Notes #11 and #13 on the Final Subdivision Plan. Motion carried 5-0.

Lands of Joseph M. Jones

Minor Subdivision off a 30-ft Easement

This is a Minor Subdivision Plan for the creation of four (4) lots plus the residual lands, with all lots to be accessed off a proposed 30-ft ingress/egress access easement. Proposed Lot 1 will be 0.9721 acres +/-, proposed Lot 2 will be 0.9729 acres +/-, proposed Lot 3 will be 1.0645 acres +/-, proposed Lot 4 will be 0.9902 acres +/-, and the residual land will be 1.3871 acres +/- . The property is located on the south side of Prime Hook Road (S.C.R. 38) in Milton. The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. A shared use maintenance agreement will be established for maintenance of the shared drive. Tax Parcel: 230-22.00-39.06. Zoning: Agricultural Residential (AR-1). 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. Stevenson, seconded by Mr. Mears and carried unanimously to approve the Minor Subdivision off a 30-ft. easement as a preliminary, with final approval to be by the staff subject to receipt of all agency approvals, and to deny the waiver request from the topographic grading requirements. Motion carried 5-0.

Lands of Tomas Kotlar

Minor Subdivision off an Existing 20-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 3.00-acre parcel into two (2) buildable lots including the residual lands. Proposed Lot 1 will consist of 1.3715-acres +/- and the residual lands will contain 1.6338-acres +/- . The residual lands shall have access from the west side of Cabbage Pond Road (S.C.R. 214), while proposed Lot 1 shall have access from an existing 20-ft ingress/egress access easement over a private road known as Lillies Way located on the west side of Cabbage Pond Road. The Applicant has submitted a waiver requesting that a Grading Plan not be required for final approval. The Minor Subdivision complies with the Sussex County Zoning and Subdivision Codes. A shared use maintenance agreement will be established for maintenance of the shared drive. Tax Parcel: 230-13.00-161.00. 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.

Motion by Mr. Mears, seconded by Mr. Hopkins and carried unanimously to approve the Minor Subdivision off an existing 20-ft. easement as a preliminary, with final approval to be by the staff subject to the receipt of all agency approvals and to grant approval of the waiver to the Bulk Grading Plan. Motion carried 5-0.

Lands of Dennis & Cathy Long

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 14.14-acre parcel into one (2) buildable lots including the residual lands. Proposed Lot 1 will consist of 1.35-acres +/- and the residual lands will contain 13.39-acres +/- . All lots shall have combined access from a 50-ft wide ingress/egress access easement located on the northwest side of German Road (S.C.R. 524). The Minor Subdivision complies with the Sussex County Zoning and Subdivision Codes. A shared use maintenance agreement will be established for maintenance of the shared drive. Tax Parcel: 231-13.00-133.00. Zoning: AR-1 (Agricultural Residential District). Staff are in 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 final. Motion carried 5-0.

Lands of Melanie & William White

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 3.006-acre parcel into one (2) buildable lots including the residual lands. Proposed Lot A1 will consist of 1.503-acres +/- and the residual lands (A.K.A. Lot A2) will contain 1.503-acres +/- . All lots shall have combined access from a 50-ft wide ingress/egress access easement, known as Wisteria Lane, located on the northwest side of Robinsonville Road (S.C.R. 277). The Minor Subdivision complies with the Sussex County Zoning and Subdivision Codes. A shared use maintenance agreement will be established for maintenance of the shared drive. Tax Parcel: 234-11.00-46.01. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Wingate and carried unanimously to approve the Minor Subdivision off a 50-ft. easement as a preliminary and final. Motion carried 5-0.

Lands of Stephen Zakrociemski

Minor Subdivision off a 50-ft Easement

This is a Minor Subdivision Plan for the subdivision of a 7.86-acre parcel into three (3) buildable lots including the residual lands. Proposed Lot 1 will consist of 1.75-acres +/-, Proposed Lot 2 will consist of 3.10-acres +/-, and the residual lands (A.K.A. Lot 3) will contain 3.01-acres +/- . All lots shall have combined access from a 50-ft wide ingress/egress access easement located on the east side of Layton Davis Road (S.C.R. 312A), approximately 0.24-miles north of River Road (S.C.R. 312). Staff would like to note that the residual lands contain approximately 0.84-acres of Tidal Wetlands. The Minor Subdivision complies with the Sussex County Zoning and Subdivision Codes. A shared use maintenance agreement will be established for maintenance of the shared drive. Tax Parcel: 234-34.00-74.00. Zoning: GR (General Residential District). Staff are awaiting agency approvals. Should the Commission desire to act favorably on this propose, staff are requesting final approvals to be made subject to staff upon the receipt of all agency approvals.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Minor Subdivision off a 50-ft. easement as a preliminary, with final approval to be by the staff subject to the receipt of all agency approvals, and submission of the Wetland Delineation and Shared Use Agreement. Motion carried 5-0.

OLD BUSINESS

C/U 2353 Sussex CSG 2, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A 14.64 ACRE PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 28.09 ACRES, MORE OR LESS. The properties are lying on the south side of Gum Tree Road (S.C.R. 405), the west side of DuPont Boulevard (Rt. 113), and the north side of Blueberry Lane (S.C.R. 402). Address: N/A. Tax Map Parcels: 433-6.00-18.00, 20.00 & 26.00.

The Commission discussed the Application which had been deferred since May 11, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2353 Sussex CSG2, LLC for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 28.09 acres of a larger 54-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.

4. With the conditions imposed in this recommendation including landscaped buffers, the proposed use will not have any adverse impact on the neighborhood.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
7. Based on the record there is no significant noise, glare, dust, or odor that will be generated by the facility.
8. There will be a buffer of planted vegetation along the southern, southeastern, and southwestern sides of this site to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. There was no opposition to this Application.
11. This recommendation is subject to the following conditions:
 - A. The use shall be for ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use.
 - C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - E. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
 - G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - I. There shall be a 25-foot-wide buffer of planted vegetation along the southern, southeastern, and southwestern sides of the solar area. These buffer areas shall be clearly shown on the Final Site Plan. These buffers shall screen solar arrays while allowing the solar arrays to function properly. The Final Site Plan shall include a Landscape Plan showing the proposed tree and shrub landscape design in this buffer area. Areas where the 25-foot required buffer depth cannot be achieved shall be clearly shown on the Landscape Plan.
 - J. The Final Site Plan shall identify a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
 - K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried to recommend approval of C/U 2353 Sussex CSG 2, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr.

Hopkins abstained.

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

C/U 2354 Sussex CSG 1, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 23.58 ACRES, MORE OR LESS. The property is lying on the south side of Old Racetrack Road (S.C.R. 502), approximately 0.75 mile east of Delmar Road (Route 54). Address: N/A. Tax Map Parcel: 532-20.00-14.00.

The Commission discussed the Application which had been deferred since May 11, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2354 Sussex CSG1, LLC for a solar farm in the AR-1 District based on the record made during the public hearing and for the following reasons:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on approximately 23.58 acres of a larger 52-acre tract.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. This solar farm will create the ability for residential, business, and municipal subscribers to lower their power costs.
4. With the conditions imposed in this recommendation including landscaped buffers, the proposed use will not have any adverse impact on the neighborhood.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
6. Based upon the record, it is evident that no significant noise, glare, dust, or odor will be generated by the facility.
7. The Applicant has included a Decommissioning Plan in the record for when their solar farm is no longer in use.
8. The existing tree line along the northern, eastern, and southern perimeter of the solar array shall be maintained subject to limited trimming to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
10. This recommendation is subject to the following conditions:
 - A. The use shall be for ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - B. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar farm as well as the remaining acreage that is not part of this Conditional Use.

- C. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- D. One unlit sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
- E. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
- F. The location of all transformers or similar equipment or structures shall be shown on the Final Site Plan.
- G. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
- H. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
- I. The existing tree line along the northern, eastern, and southern perimeter of the solar array area shall remain to serve as a buffer with the exception of reasonable trimming to allow the solar arrays to function properly.
- J. The Final Site Plan shall include a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.
- K. 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 to recommend approval of C/U 2354 Sussex CSG 1, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Hopkins abstained.

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

C/U 2372 Augusto Morales Morales

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS. The property is lying on the west side of Cedar Corners Road (S.C.R. 638), approximately 0.8 mile south of Redden Road (Rt. 40). 911 Address: 17490 Cedar Corners Road, Bridgeville. Tax Map Parcel: 430-17.00-62.00.

The Commission discussed the Application which had been deferred since May 11, 2023.

Mr. Mears moved that the Commission recommend approval of C/U 2372 Augusto Morales Morales for a landscaping business based on the record made during the public hearing and for the following reasons:

- 1. The property is located on a 5-acre parcel, among other large parcels of land. Only a small portion of the site will be used for the business. It is an appropriate location for this limited type of use.
- 2. The site is located within a Low-Density Area according to the Sussex County Comprehensive Plan. This low-impact type of use is appropriate within this Area.

3. The property is zoned AR-1 Agricultural Residential. The use of the property as a landscaping business is consistent with the underlying agricultural zoning of the property.
4. The use will not adversely affect area roadways or neighboring properties.
5. A landscaping company provides a service to a wide variety of Sussex County residents and businesses, and it has a public or semi-public character that will benefit the residents and businesses of Sussex County.
6. The applicant stated that if any grass clippings, wood, dirt, or other materials are brought back to the site, they are composted or recycled back into agricultural use.
7. There was no opposition to this application.
8. This recommendation is subject to the following conditions:
 - A. This use shall be limited to a landscaping business.
 - B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.
 - C. As stated by the Applicant, there shall not be any retail sales occurring from the site.
 - D. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - E. The hours of operation shall be limited to 7:00 am through 8:00 pm, Monday through Friday, and from 7:00 am until 3:00 pm on Saturdays. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage cleanup, and similar events.
 - F. The areas set aside for composting or recycling of materials brought back to the site shall be shown on the Final Site Plan with the type of containment used to keep them in place.
 - G. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.
 - H. Since this Conditional Use will only occupy a small portion of the property, the Final Site Plan shall show the area where this Conditional Use will be located.
 - I. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.
 - J. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.
 - K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Mears, seconded by Ms. Wingate and carried to recommend approval of C/U 2372 Augusto Morales Morales for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Hopkins abstained.

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

C/U 2391 M.R.O. Auto Repair, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRES, MORE OR LESS. The property is lying on the northeast side of Cedar Lane (S.C.R. 318), approximately 950 ft. southeast of Wood Branch Road (S.C.R. 321). 911 Address: 22491 Cedar Lane, Georgetown. Tax Map Parcel: 135-20.00-142.00.

The Commission discussed the Application which had been deferred since May 11, 2023.

Ms. Wingate moved that the Commission recommend approval of C/U 2391 M.R.O. Auto Repair, LLC, for a small auto repair business based upon the record made at the public hearing and for the following reasons:

1. The proposed automobile repair facility is small, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. It is also small enough that it will not negatively impact traffic or nearby roadways.
2. The site is located in a Developing Area according to the Sussex County Comprehensive Plan. This type of use is appropriate in this Area according to the Comprehensive Plan.
3. There is a home on the site and the repairs will occur inside of a separate building on the site. The Applicants intend to keep the residential appearance of the property.
4. The use as an automotive repair facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.
5. No parties appeared in opposition to this application, and a neighbor testified in support of this application.
6. This recommendation for approval is subject to the following conditions and stipulations:
 - A. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
 - B. Any security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
 - C. The area of this use shall be screened from the view of neighbors and roadways with fencing. The location and type of fencing shall be shown on the Final Site Plan.
 - D. All repairs shall be performed indoors. No automobile parts shall be stored outside, and no more than 3 cars awaiting service shall be parked outside at any one time.
 - E. No junked, unregistered, or permanently inoperable vehicles or trailers shall be stored on the site.
 - F. There shall not be any parking in the front yard setback.
 - G. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.
 - H. No cars shall be sold on the property.
 - I. All oils and other fluids shall be properly stored indoors in appropriate containers. The Applicant shall also comply with all state and federal requirements for the disposal of these fluids.
 - J. The site shall be subject to all DeIDOT entrance and roadway requirements.
 - K. The hours of operation shall be 8:00 am through 8:00 pm, Monday through Friday, and 9:00 am until 5:00 pm on Saturdays. There shall not be any Sunday hours.
 - L. Any violation of these conditions may be grounds for termination of this Conditional Use.
 - M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Mr. Mears and carried to recommend approval of C/U 2391 M.R.O. Auto Repair, LLC for the reasons and the conditions stated in the motion. Motion carried 4-0. Mr. Hopkins abstained.

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

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

2022-17 Ironhook Harbor

A standard subdivision to divide 100.54 acres +/- into one hundred and sixty-five (165) single-family lots to be located on certain parcels of land lying and being in Georgetown Hundred, Sussex County. The properties are located on the south side of Wilson Road (S.C.R. 244) and on the southwest corner of the intersection of Wilson Road (S.C.R. 244) and Sand Hill Road (S.C.R. 319). 911 Address: 21104, 21114, 22102 & 22126 Wilson Road, Georgetown. Tax Map Parcels: 135-10.00-18.00 & 34.00. Zoning District: GR (General Residential).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Preliminary Subdivision Plan, the DelDOT Service Level Evaluation Response, the Applicant's Area Wide Study Fee Letter, the Applicant's Exhibits, the Applicant's Chapter 99-9C written response, a copy of the PLUS response from the State Planning Office, a letter received from Artesian Resources, Inc., Technical Advisory Committee (TAC) letters, including responses from the Department of Agriculture, Sussex County Engineering Department, the Division of Public Health and the Division of Watershed Stewardship. Mr. Whitehouse advised the Commission that no public comments were received for the Application.

The Commission found that Mr. David Hutt, Esq. with Morris James, LLP spoke on behalf of the Applicant, GrayWay Developers, LLC; that also present were Mr. Web Gray, Principal of GrayWay Developers, LLC, Mr. Chris Pfeifer, Professional Engineer with George, Miles & Buhr, LLC (GMB), and Ms. Katya Kolinski, Senior Landscape Designer with GMB. Mr. Hutt stated the property is located on the southwest quadrant of Wilson Rd., with Sand Hill Rd. being located to the right side; that across Wilson Rd. from the property, is the location of Sussex Academy School, formally known as the Jefferson School; that to the south of the site there is the residential community of Sand Hill Acres, which is a manufactured home park with 10,000 sq. ft. lots; that there is approximately 28 lots as a potential expansion area, as there are no current homes situated there; that the site is surrounded by typical rural Sussex County, comprised of $\frac{3}{4}$ acre lots, some larger lots, some agricultural and forest areas; that the subdivisions of County Seat Gardens, the Vines at Sand Hill and Reddenwood are within the nearby area; that the site is comprised of two tax map parcels consisting of 105 acres +/-; that the Application request is for 100.5 acres, the Applicant proposes two out parcels be created along Wilson Rd., where the existing owner will have residential area for themselves; that the net result, after deducting the two, two acre lots, results in a total subdivision area of 100.54 acres; that the site is located within the GR (General Residential) Zoning District; that the request is for a GR standard residential subdivision with public water and sewer available to the site; that currently the property is largely unimproved, consisting approximately of 31.86 acres of wood area; that the majority of the balance of the property is used for agricultural purposes; that there are a couple of improvements on the site, being residences and associated outbuildings; that these improvements will be demolished or moved, and then incorporated into the two out parcels along Wilson Rd.; that wetlands are located on the western side and southeast corner of the site; that the wetlands have been studied and delineated by Mr. James McCulley with Watershed Eco, LLC; that the layout and design of the property, took into account all of things previously mentioned, including the school entrance and location of wetlands, in an effort to synthesize them with the Site Plan: that the proposed entranceway is located off Wilson Rd.; that the entrance way is intended to line up with the entrance to the Sussex Academy Elementary School campus to form a four-way intersection, which is DelDOT's preference; that the project is designed so that no homes back up to the adjacent roadways of Wilson Rd. or Sand Hill Rd., being set back a substantial distance from those roadways; that the Application proposes 165 lots be laid out across the subdivision; that there would be sidewalks located on one side of each street throughout the community; that the

sidewalks would connect with the appropriate crosswalks to the centrally located amenity; that the amenity area will include a pool, bath house, dog park, and playground; that the proposed configuration of the site allows for the preservation of 24 acres (76%) of the existing 31.86 acres of woods on the site; that all proposed lots will meet the 10,000 sq. ft. minimum and all other bulk area requirements found within the Zoning Code for the GR Zone; that the property is located within the Developing Area according to the Future Land Use Map; that reflected on the Future Land Use Map is a block of land that is considered Developing Area, which is bordered on the north by Wilson Rd., on the east by Sand Hill Road, the south by Rudd Rd. and to the west by Savannah Rd.; that the proposed subdivision area is located largely within the Investment Level 3 area according to the State Strategies Map; that the site's wetland areas are located within the Investment Level 4 areas; that the project was reviewed by the Office of State Planning Coordination, who noted in comments, its preference for development to occur in Level 1 and Level 2 Investment areas; that he suggested the proposed site may be an area where the State Strategies Map did not align with what the County had set forth for several reasons; that the first reason being, the County has designated the area as a Developing Area, being one of the seven growth areas; that secondly, there is public water available to the site; that thirdly, there is public sewer available to the site; that fourthly, there is already a project immediately to the south with very similar sized lots to the proposed subdivision; that fifthly, with respect to transportation, the site is situated along a minor collector road, being Wilson Rd.; that these mentioned factors differentiate the site's Level 3 and Level 4 areas from many other Level 3 and Level 4 areas throughout the State; that there are two key design features, being the majority of the project is located within the Investment Level 3 area, rather than Level 4; that secondly, the plan proposes 165 lots to be located on 100 acres; that this equals to 1.65 units per acre, on GR zoned land, with available public water and sewer services; that the proposed density is exceptionally low, and is consistent with the land planning guides, whether it be the Office of State Planning Coordination, the State Strategies Map, the Sussex County Comprehensive Plan or Sussex County Zoning Map; that there is a 30-ft. buffer required from the wetlands; that the proposed homes are located at a significantly greater distance than that 30-ft. separation distance from the wetlands; that there is a 50-ft. required buffer from the Savannah Ditch, which runs along the southeast boundary of the site; that additionally, there is a slightly different building envelope proposed for lots adjacent to an agricultural area; that when located adjacent to agricultural use, all structures are required to be located 50-ft. from the property line; that a 20-ft. landscape buffer is proposed along the perimeter of the property where it is adjacent to the roadways of Wilson Rd. or Sand Hill Rd.; that for all other parts of the perimeter boundary, there is a 30-ft landscape buffer proposed; that much of the 30-ft. landscape buffer is already in existence; that the developer will not be removing mature vegetation that currently exists on the site, but will simply supplement the buffer in any locations where the buffer is not sufficient per the Sussex County Code; that within the project book there were materials and letters from Artesian showing their readiness and willingness to provide both wastewater treatment and public water to the site; that the electric provider for the area is Delaware Electric Cooperative; that the property is not located within a Wellhead Protection Area; that a portion of the property is located within an Excellent Groundwater Recharge Area; that in the Water Protection Act, listed within Chapter 89 of the Sussex County Code; that the Chapter states if the impervious area exceeds 35%, then there are special requirements placed on the project; that the project's proposed impervious area equals 19% and therefore does not have any additional requirements under the Water Protection Act; that there are no historical sites or endangered species on the site, as stated within the report prepared by Mr. McCulley; that the majority of the property is located within Flood Zone X, according to the FEMA maps; that Flood Zone X indicates the site is located outside of the 500 year floodplain; that there is a small area located within Flood Zone A with an undetermined based flood elevation; that as the project moves forward, the base flood elevation will be determined through the engineering process for Final Site Plan and Construction Plans; that a Property Owners Association will be created for the perpetual maintenance of all the common areas and amenities; that the site project is located within the Cape Henlopen School District; that the Applicant will consult with the school district regarding the location of a bus stop for the site to

safely on board and off board children to and from school; that a Service Level Evaluation Request was filed with DeIDOT; that DeIDOT provided their Service Level Response, a response through the PLUS process, as well as provided an Area Wide Study Fee Memorandum; that earlier in the day, there was an initial meeting with DeIDOT regarding the project; that as set forth within DeIDOT's response, the traffic impact for the proposed community is stated to have minor impact; that for planning purposes, minor impacts, anticipate there will be greater than 50 vehicle trips, but less than 200 vehicle trips in any peak hour, and greater than 500 vehicle trips, but less than 2,000 vehicle trips per day; that the project qualifies to pay an Area Wide Study Fee in lieu of undertaking a traffic impact study; that presently, the developer's obligation would be to pay the Area Wide Study Fee and to improve both Wilson Rd. and Sand Hill Rd. for the projected boundary of the property to the appropriate road standards; that Wilson Rd. would be improved to a minor collector standard road; that Sand Hill Rd. would be improved to its current classification for a local road; that there is a proposed entrance at the stubbed street located along Sand Hill Rd. for emergency responders; that before the onset of the meeting, the Project Engineer stated that in the coordination meeting with DeIDOT, the primary comment about the plan was they did not like the proposed emergency access point; that the Applicant is more than willing to provide the location, as proposed, for first responder access, however, the access is subject to the review and approval by DeIDOT through the entrance and permitting process; that all of the elements of Chapter 99-9C have been met, as proven within the submitted written project materials, which provide details beyond what he had stated; that the project is a low-density project, despite being located within a Growth Area, where public water and sewer are available; that the plan preserves more than ¾ of the existing forested area on the site and the plan meets the purposes and intent of both the Comprehensive Plan, the Zoning Code, especially Chapter 99 being the Subdivision Code.

Ms. Wingate questioned the proposed buffer area on the life side, starting with Lot 14 through Lot 23; that she appreciated the proposed homes being set back from Wilson Rd. and Sand Hill Rd.; that she felt the emergency access area was a good idea, as supported by the earlier testimony and she hoped DeIDOT would reconsider the access area.

Mr. Hutt stated on the left side the proposed buffer is 30 ft. between the subject site and the adjacent property; that along Wilson Rd. the buffer would be a 20 ft. landscape buffer; that between the neighboring property and the Applicant's property, it would be a 30 ft. buffer; that Mr. Marshall had indicated they looked at the direction of access; that the proposed emergency access would provide completely different roadway access in the event of an emergency and the Applicant will continue to press for the emergency access approval.

The Commission found that there was no one present in the room or 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.

In relation to 2022-17 Ironhook Harbor. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Mears and carried unanimously. Motion carried 5-0.

2022-23 Showfield

A request to amend the Conditions of Approval for subdivision reference 2014-2 Showfield, to include gated access at Monroe Avenue Ext. to be located on a certain parcel of land lying and being in Lewes & Rehoboth Hundred, Sussex County. The property is located within the 166 Lot Showfield Subdivision, on Monroe Avenue Ext., approximately 187.3 feet from the intersection of Battlemixer

Drive and Monroe Avenue Ext. 911 Address: N/A. Tax Map Parcel: 335-8.00-51.00. Zoning District: AR-1 (Agricultural Residential).

Mr. Whitehouse advised the Commission that submitted into the record were the Applicant's Exhibit Booklet, which included a visualization from the Applicant, a letter from the Sussex County Engineering Department Utility Planning Division, a letter from the Delaware State Fire Marshal Office, and a letter received from the Showfield Homeowner Association. Mr. Whitehouse stated 13 comments were received for the Application and two of the 13 comments appeared to contain multiple exhibits and attachments.

The Commission found that Mr. Rick Babiarz, President of the Showfield Homeowners Association, spoke on behalf of his application. Mr. Babiarz stated he had been in Showfield for approximately four and a half years, watching Showfield grow from infancy to near completion; that he requested to submit a petition signed by 151 property owners, of the total 166 Showfield property owners, in support of the Application.; that the undersigned residents of Showfield strongly desire the residential character of the streets within their community be maintained, and not become a secondary road for traffic traveling from Gills Neck Rd. and Freeman Hwy.; that they firmly believe the proposed gate will accomplish that result and will greatly assist in maintaining a safe environment for children, pedestrians and bicyclist within Showfield; that therefore, they wished to express their full support for the permission to install a vehicle gate; that he did review the submitted opposition and wished to speak upon a few points; that Showfield streets are not public streets; that Showfield's streets are private; that they maintain their own streets, paying for snow plowing and all road repairs; that their streets are not designed for transit traffic; that the streets do offer a connection from Gills Neck Rd. and Freeman Hwy, however, the main thoroughfare within Showfield is two one-way narrow roads with a landscape buffer in between; that they do have the full support of the State Fire Marshal and the Lewes Fire Department; that the Lewes Fire Chief did present one stipulation being that a Yelp feature be placed on the gate, allowing the gate to be opened by emergency vehicles; that the Fire Chief had stated the Fire Department prefer not to go through residential areas during emergencies, as they prefer to use secondary roads; that the Fire Department would prefer to use Savannah Rd., Freeman Hwy, Kings Hwy. and Gills Neck Rd. to approach the Showfield community; that they have noticed frequent violation of their traffic rules, being speed limits and stop signs; that the Delaware State Police have advised some of their members, that communities with one entrance are much safer than communities with two entrances; that for this reason, they would request a gate, requiring any person who wish to damage their community be limited to one escape; that Showfield is located within a rather congested area, being adjacent to the City of Lewes; that currently, there are 14,150 homes located along Gills Neck Rd., with four additional communities planned, one being Whites Pond Preserve within the City of Lewes; that three subdivisions have been approved since Showfield was approved, being Admirals Chase, Olde Town and Governors; that there are other communities in the area, which have been located along Gills Neck Rd, before the existence of potential cut throughs to Freeman Hwy; that a new restaurant and retail area at Monroe is proposed along Freeman Hwy, as a part of Olde Town; that he presented an aerial presentation reflecting the location and pathway of the frequent cut through taken; that the area is congested with traffic from Cape Henlopen High School, beach and ferry traffic; that they are concerned about the growing safety risks resulting from speeding, the ignoring of stop signs, and the non-compliance of their community's traffic rules; that they have taken steps to reduce the safety risks by reaching out to traffic experts to provide input on potential solutions; that they are proposing a gate solution, to continue the safe environment the community has; that the proposed gate does not disrupt the travel time for any local residents for surrounding communities; that the proposed gate will ensure emergency access, and prevents the overuse of their residential streets; that they request permission to install a gate located at the back end of their community; that as site work began for Showfield, a construction road was built; that the construction road has always been full of potholes, puddles, screws and nails; that the construction road

has been a popular passageway for many vehicles; that a new sidewalk and devil trip were placed; that in efforts to avoid potholes, traffic often drives onto the sidewalk to get around them; that the cut through is not a faster route, despite the way it is perceived on a map; that the road is currently closed due to the site work of Olde Town Whites Pond; that he presented to the Commission common trip numbers he prepared from MapQuest; that in no case is it faster to take Showfield's roads, unless the person is violating their traffic rules; that the City of Lewes required a traffic signal study for the intersection of Monroe and Freeman Hwy, which resulted in the requirement of a traffic light; that two popular bicycle trails, the Lewes Georgetown Trail and the Breakwater Trail, will be located at the intersection; that the trails are located on the opposite sides of Freeman Hwy.; that parking is provided for cyclists at the library parking lot; that bike rentals and repairs are offered on the other side of Freeman Hwy.; that the City of Lewes recently approved a new restaurant and retail complex on a property along Freeman Hwy, on White Pond and will create additional traffic; that the main conclusion of the study was that the improvements will increase traffic from Freeman Hwy., as well as from Gills Neck Rd through Showfield and Olde Town White's Pond; that this will create a larger mess, as drivers currently do not stop for bicyclist and foot passengers; that the majority of the traffic is comprised of vacationers who are not from the area; that the vacationers will use navigation systems; that undoubtedly, the navigation systems will direct them to Monroe Ave. through Showfield to Gills Neck Rd.; that Show Jumper Lane is a narrow, one-way street, separated with a landscaped median; that the road is not designed to be a high traffic road, or a through road; that the cut through route will require traffic to pass by 41 households, a school bus stop and four intersections; that there are 63 school-age children within their community; that the bus stop is located in the middle of the cut through route; that Seniors represent about a third of the community; that the community is very active with cycling, jogging, and walking; that the community consulted with Dr. Earl Lee, Chairman of the Environmental and Civil Engineering Department at the University of Delaware; that Dr. Lee is also the Director of Delaware Center for Transportation and the Coordinator of the Delaware T2 Center; that the T2 Center is an organization made up of State Transportation Divisions, Universities and Federal Highway Administration to coordinate traffic information; that the community also consulted with DelDOT as well; that Mr. Mattheu Carter was another member in the T2 Center who was very familiar with Sussex County, who's advice was for the community to conduct a traffic study to better understand vehicular patterns in the community; that it was suggested the community use traffic calming measures to slow down traffic; that they should conform to the Delaware Manual Uniform Traffic Control devices, which is a manual that states the size of signs, their distance and direction on how they should be replaced; that the community was warned not to overuse the devices; that the overuse of these devices often lead to driver frustration, resulting in unsafe driving; that the community performed their traffic study in June through August of 2022, which covered weekdays, weekends, mornings, afternoons, and evening periods; that they measured stop sign compliance by direct observation and vehicular speeds with a handheld radar device; that the study resulted that 64% of vehicles traveling through the community exceeded the posted speed limit; that 63% of vehicles did not obey the posted stop signs; that 10% to 15% of vehicles were cut through traffic; that currently they cannot replicate the study, as Monroe Ave. is closed for Olde Town White's Pond site work; that in private communities, it is not required to have 24 to 30 inch stop signs; that in an effort to calm traffic, they placed larger stop signs, as well as stop lines, crosswalks, signage near the bus stop and children at play areas; that these efforts have had a positive impact; that they continue to work on current issues, but they also wish to focus on the future, when traffic will be diverted their way, as Olde Town White's Pond opens, making Showfield a cut through route; that they had a lot of cut through traffic when the road was not paved; that once the road becomes fully paved, he anticipates the traffic will become much worse; that they propose the solution to install a motor vehicle gate on Monroe Ave., located at the Sussex County and the City of Lewes boundary line; that the gate would be fully accessible to pedestrians, cyclists and emergency vehicles with the Yelp feature; that he had submitted a petition containing 151 signatures out of the total 166 lot owners, in support of the gate installation; that currently they do not have a design for the gate; that the sidewalk would interconnect

completely with Olde Town White's Pond; that he presented to the Commission visual illustrations of the gate concept; that the installation of the gates will reduce traffic on residential streets in Showfield and Olde Town, reducing the risk of injury to children, Seniors, pedestrians and cyclists; that at Monroe Ave. and Freeman Hwy. it will cut down the traffic coming into or out of the intersection of Olde Town White's Pond towards Showfield; that they have received written approval from the Delaware Fire Marshal and the City of Lewes Fire Chief; that if emergency responders utilize the gate, the gate will remain open for the duration of the emergency; that the final advantage is the gate will direct traffic onto public roads, that are constructed to carry heavier traffic loads; that as Ms. Stevenson pointed out, there are future plans for the installation of five traffic circles and four traffic lanes; that these improvements are reflected as TBD on the DelDOT site; that traffic projects are often delayed due to various reasons; that at times it takes years for traffic projects to begin; that in the meantime, Showfield residents are living every day with residential streets that cannot be re-engineered; that the installation of a gate only reduces safety risks from overuse of the residential roads; that the community felt the proposed gate was consistent with the Sussex County goals, by maintaining pedestrian safety; that the gate will not increase trip times for local traffic, it will not impede emergency vehicle access, and it will preserve the residential streets as safe, low volume roads; that the gate will allow the residential streets to remain pedestrian and cyclist friendly and will not require the community to be split by a throughway and for the reasons stated, the community requested the Commission granted them permission to install the proposed gate.

Mr. Robertson questioned if any written comment had been submitted from the State Police supporting the comments made, if a letter had been submitted from the Lewes Fire Company for the record, and if the performed traffic study suggested that 85% to 90% of Showfield's residents were speeding and/or not stopping at posted stop signs.

Mr. Babiarcz stated both the Lewes Fire Company and the State Fire Marshal's comments were included at the end of his presentation, as well as within the exhibit booklet, and that the traffic study statistics were on the people they observed last summer, when Monroe Ave. was open, and the community has a problem with traffic violation by their residents as well.

Ms. Stevenson stated when Showfield was initially built, the plans stated there would be interconnection to Monroe Ave., and she questioned if Mr. Babiarcz was aware of this fact and she questioned if the HOA had policies in place to handle traffic violators.

Mr. Babiarcz stated he was aware of the interconnection to Monroe Ave.; that the road was not designed to be a through road, as it goes through four intersections, by 41 households, with several stop signs along the way with left and right turns; that these things cause people to slow down, but add to the safety risks of the residents; that the HOA does contact identified companies of traffic violators; that this method works temporarily; that they are working hard to place additional speed calming measure, such as speed humps, and as addressed previously, speed humps are not great for emergency access, however, they feel speed humps may be one of their only options for traffic and speed control.

Ms. Stevenson stated the roads within developments in Sussex County are private roads, however, the roads are dedicated to public use.

Mr. Hopkins stated he felt the 10% to 15% of cut-through traffic was a huge number; that he agreed the streets are extremely narrow; that interconnectivity is important for emergencies, and that he felt the gate was a reasonable and logical request.

Ms. Wingate stated if the worst offenders seem to be the current residents, the community should work on that first; that stopping access at Monroe Ave. will not stop traffic, as traffic will come in from the

other entrance; that within a presented photo of the bus stop, there was a stop sign; that there should not be an issue with someone driving up to a bus, with flashing lights, and a current stop sign; that she did not want to see anyone get hurt, however, she felt the Commission needed to be real with the request, based on the provided statistics; that the current residents need to slow down; that she read a submitted comment from Ms. Cornwell with the City of Lewes, which stated the City of Lewes requires an open connection on Monroe Ave. to the Showfield development; that heavy construction vehicles should be restricted from using Monroe Ave. to access the site as well and the condition was recorded on the record plan for the subdivision.

Mr. Hopkins stated he understood the statement to be a condition for other development.

Mr. Robertson stated open connection on Monroe Ave. was a Condition of Approval for the other development, which is under the jurisdiction of the City of Lewes, however, he thought it is safe to assume that the condition was placed there because the current Final Site Plan, approved by Sussex County, reflects it as being an open point of connection, and the City of Lewes would not have required an open connection from Monroe Ave. within the Lewes subdivision to a Sussex County subdivision if it did not currently exist.

Chairman Wheatley stated he felt the City of Lewes was pointing out the existing condition; that it is clearly not their jurisdiction, but it is their opinion that they would like it to remain the same and they are allowed to put that opinion on record.

Mr. Mears stated he has always supported interconnectivity, as he understood the importance of it; that simultaneously, he also believes interconnectivity is creating a spider web of shortcuts through eastern Sussex County and because of this he supported the application's request.

Mr. Robertson stated in the present PowerPoint it was stated that the residential streets offer no advantage in emergencies; that the statement was rather broad; that he did not see written comment on Lewes Fire Company letterhead provided; that there is a letter, prepared by Showfield, signed by the Lewes Fire Company and the Showfield Homeowners Association, however, that letter does not reference the statement and he questioned what basis the statement was made upon.

Mr. Babiarz stated the statement was based on the comments made when they met with the Lewes Fire Chief; that he had stated if it is a secondary road, the cars can pull off into the shoulder when the sirens go off; that on Show Jumper Lane there is nowhere for cars to pull off, especially if someone has parked there; that it would not be as safe for the fire company to take the narrow streets, cutting through and across Freeman Hwy and the fire department can reach higher speeds along the larger roads.

Mr. Hopkins stated that Showfield is not trying to keep the fire company from coming through the community and that Showfield had made it available for them to do so by hitting their siren or button to allow access to get through the gate.

Chairman Wheatley questioned, if the gate were approved, would each resident have a device to activate the gate for ingress and egress of the site, he questioned, once the residents are inside the community, what would prevent them from speeding to their homes and if any consideration had been given to the installation of traffic cameras.

Mr. Babiarz stated Showfield will fully comply with what the fire company may ask them for, and the installation of traffic cameras is something the community is discussing currently.

Mr. Robertson stated he did not believe a traffic camera could be included as a Condition of Approval, as he questioned what the County would do with the camera; that a traffic camera is not something Sussex County would have jurisdiction of; that currently, there is a recorded Final Site Plan, which reflects the road as being a through road; that because of the recorded Final Site Plan, the requested was required to come before the Planning & Zoning Commission; that GIS mapping is pulled from the plans recorded with the Recorder of Deeds Department; that first responders use the GIS mapping for 911 calls; that people have purchased a property in the subdivision, and regardless if they knew it or not, they are on legal notice of the fact that is an open road based on what the recorded Final Site Plan states, that previously there have been situation where gates were installed without amending the Final Site Plan, which resulted in litigation, and in that litigation, the Court of Chancery stated that because the gates did not match the Final Site Plan, the installed gates had to be removed.

Chairman Wheatley requested a show of hands for those who endorse the comments provided by Mr. Babiarz.

The Commission found there were five people in the room who wished to speak in support of the Application and no one present in opposition.

Mr. Scott Fenton spoke in support of the Application. Mr. Fenton stated he has been a resident of Showfield for five years; that he was part of the traffic study group and a member for the Showfield board; that the 10% to 15% cut through traffic was actually a low number when considered to the problem they had prior; that when renovations began on Monroe Ave., the roads flooded and had many potholes; that many people who drove into the community, also drove out because they could not get out on Monroe Ave. when attempted; that when they performed the traffic study, they did have a member located at the front and back of the community; that they noticed, most vehicles that were successful in cutting through were trucks and SUV's from people who lived within other communities; that they have not proceeded with installing any traffic calming devices as of yet, because they have to come up with the correct answer; that currently there is less traffic because the road is closed; that it is their understanding that the majority of the traffic they are trying to avoid are not typically people from the area; that they are mostly worried about the ferry traffic will begin to cut through when the road backs up; that the ferry traffic will cut through Showfield, then past Hawkeye, ending up in the middle of town; that 151 residents are in support of the gate; that there are 18 undeveloped lots; that some of the undeveloped lot owners and out-of-state lot owners could not be reached; that he believed the consensus of the 166 lots, more than likely, would have been 100% if they were able to reach everyone; that the provided signatures reflect one signature per lot; that the road was previously gravel; that all of the shrubbery was overgrown; that even then, they did have a lot of traffic, however it did lessen when the road became uninhabitable for vehicles with low clearance; that any vehicle traffic that may stop, will queue going onto Rt. 9; that the situation of traffic back up in a private community will not only happen to Showfield, but will also create the same problem in Olde Town; that Showfield has not yet spoken with Olde Town; that if the gate were approved, there is a good possibility that the access code could be shared with the Olde Town community; that all emergency vehicles will have access with the Yelp; that the previous presenter stated he would be favor of a gate much more than speed bumps; that he did state he would prefer a straight gate, which would allow emergency responders to crash through in the event the electronics would fail; that in this event Showfield would be responsible to fix the gate; that they would have no problem providing a straight gate; that they are 100% safety oriented; that in previous conversations with the Lewes Fire Department, it was stated they were nervous about having their large fire trucks going down narrow streets; that the fire department would always use Gills Neck Rd., around from Savannah Rd. or come from Kings Hwy. to the other side and the only reason they would come the other direction is if an event had occurred at the main street of Battlemixer Dr.

Mr. Billy Coffey spoke in support of the Application. Mr. Coffey stated he is a resident of Showfield, along Show Jumper Lane; that he was the original board member, along with the two principals; that four years ago, the board members, the principals, and himself attended a meeting, where there was no objection expressed to the proposed plan; that he agreed with all of the mentioned safety concerns; that people move to Lewes because it is a great community; that even with the presence of a cut through, he questioned where would people park; that there is no place to park in Lewes; that residents walk and bike; that he would say 99% of Showfield's residents to the same; that there is no advantage for Showfield to be a cut-through development; that he was the original member who met with the fire department and the Fire Marshal; that he had to work to get the speed signs placed and the speeding issues will be resolved one way or another, whether it be by speed bumps, calming measures or rumble strips.

Mr. John Ezell spoke in support of the Application. Mr. Ezell stated he is a resident of Showfield; that the City of Lewes has plans for commercial development of a restaurant and retail area; that the additional traffic the commercial development will create is an important factor when considering cut-through traffic; that drivers will want to come and go from the restaurant; that perhaps drivers will want to drive after consuming a few adult beverages; that drivers will cut through Showfield's residential streets; that they believe a gate will be a significant mitigating factor of this concern; that if traffic backs up at the light to get onto Freeman Hwy, the community of White's Pond will also be impacted and a gate will cut down on that cut through traffic as well.

Mr. John Ramming spoke in support of the Application. Mr. Ramming stated he resides along Show Jumper Lane in Showfield; that the journey to presenting before the Commission was not a lighthearted one; that they had searched out every expert they could to help solve the issue; that earlier in the day, he had met with the State Police, who were receptive and helpful, but limited; that the State Police only have so many troopers, and Rt. 1 demands their attention; that in 2022, there were six accidents in the immediate area; that five of the six collision were along Gills Neck Rd.; that there were two more collision within 2023; that there are many collisions the State Police never get to; that the Showfield community has done everything that they could anticipate the Commission would expect from them; that now, the community is requesting the Commission's help; that in April 2021, along Gills Neck Rd., he was involved in a head on collision, which occurred a half mile from the Showfield development; that 90 physical therapy sessions, 41 neck and back injections and nine epidural spinal injections later, he is still continuing on and he requested the Commission grant favorable approval of their request.

Mr. John Morgan spoke in favor of the Application. Mr. Morgan stated he is a resident of Showfield; that he believed the original plan, submitted by the developer, was to have the community of Olde Town use the facilities that are on Show Jumper Lane; that the plan for common facilities did not happen and when the original plan was approved, there may have been an interest in emergency vehicles, as the communities were proposed to share the same facilities, however, that is no longer the plan.

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

Mr. Robertson requested clarification of the Yelp feature.

Mr. Babiarz stated the Yelp feature, as he understood it, is a standard feature that operates upon the sound frequency of the siren; that emergency responders and police also have radio devices on the emergency vehicles that trigger the gate to open as well.

Mr. Mears advised the Commission that the record may need to be held open to allow the Applicant to provide letters from the State Fire Marshal and the Lewes Fire Department.

Mr. Robertson stated there is a letter in the record which states the Lewes Fire Company is in support contingent upon the installation of the Yelp system; that the fire department will have their own assigned number to access the gate with a keypad; that in the event the fire department enters the community, the gates will remain open until the emergency is concluded; that all of the requirements will be met with the gate operating systems and maintained by the HOA; that it would be a letter agreement between Showfield's HOA and the Lewes Fire Company and he still questioned the statement regarding the use of residential streets.

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 2022-23 Showfield. Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

Recess

5:47 pm – 6:15 pm

Chairman Wheatley approved the request to combine the public hearings for C/Z 1979 J.G. Townsend Jr. & Co. and C/U 2359 J.G. Townsend Jr. & Co. as the property was the subject of both applications.

C/Z 1979 J.G. Townsend Jr. & Co.

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Map Parcel: 335-12.00-3.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, a copy of the Applicant's Conceptual Site Plan, the Applicant's exhibits, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the Environmental Assessment and the Public Facility Evaluation Report. Mr. Whitehouse stated two written comments had been received for the Application.

C/U 2359 J.G. Townsend Jr. & Co.

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR (MEDIUM RESIDENTIAL DISTRICT) FOR MULTI-FAMILY (102 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.56 ACRES, MORE OR LESS. The property is lying on the east side of Kings Highway (Rt.9) and the south side of Gills Neck Road (S.C.R. 267), at the intersection of Kings Highway (Rt. 9) and Gills Neck Road (S.C.R. 267). 911 Address: 16673 Kings Highway, Lewes. Tax Map Parcel: 335-12.00-3.00 (p/o).

Mr. Whitehouse advised the Commission that submitted into the record were the DelDOT Service Level Evaluation Response, a copy of the Applicant's Conceptual Site Plan, the Applicant's exhibits, Staff

Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the Environmental Assessment and Public Facility Evaluation Report, and a copy of the Applicant's Wellhead Protection Area responses. Mr. Whitehouse stated nine written responses had been received for the Application.

The Commission found that Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the property owner, J.G. Townsend Jr. & Co., and the Applicant, Jack Lingo Asset Management; that also present were Mr. Nick Hammonds and Mr. Ryan Mitchell with Jack Lingo Asset Management, Mr. Ring Lardner, Professional Engineer with Davis, Bowen & Friedel, Inc. (DBF), Mr. Cliff Mumford, and Mr. Steve Cahill, Professional Geologist with Verdantas, who prepared the submitted Environmental Assessment Report. Mr. Hutt stated that not only are the Application's compliant with the Code, consistent with the Comprehensive Plan, consistent with the nature and character of the area, but they also fit neatly into, what he referred to as the "Master Plan"; that he understood Sussex County currently does not have a Master Plan District; that the property fits neatly into the mold of what can happen when there is a singular property owner for a property over decades; that good land use planning place the most intense uses and the highest densities along major highway; that this was the planning perspective used when designing the Applications; that the most intense uses are located along Kings Hwy.; that nearest to Wolfe Pointe, Wolfe Runne and Hawkseye, are the locations of larger lots and less dense areas; that having a singular property owner allows a long-term master plan vision for better land use planning, as well as, the property owner is able to coordinate other things, such as storm management; that there are shared stormwater management ponds between Senators and Governors; that proposed stormwater management ponds will be shared between Governors and the subject project; that similarly, this provides an opportunity for interconnectivity between all of the various subdivisions and plans as they come along; that Mr. Lardner will speak on the Master Plan, how the site will be accessed and how access will be afforded to Governors through the project; that the intersection of Kings Hwy. and Gills Neck Rd. is well known, as it is a route into Lewes, to the Cape May Lewes Ferry, and an entrance to Cape Henlopen High School; that Crooked Hammock, the future commercial Village Center, the Cape Henlopen Medical Center, the Mitchell's Corner commercial project, the Mitchell's Corner residential project; Lane Builders and Big Oyster are located within the nearby area of the site; that additionally, the Cape Henlopen High School, Governors, Senators, Hawkseye, The Moorings, Breakwater, Admirals Chase and the bike trail are in the nearby area of the site; that the total acreages is a little over 65 acres; that in the State Planning Coordination's PLUS response to the Application, it was stated that according to the 2020 State Strategies Map, the property is located within Investment Level 1; that Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing and/or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy; that the site is where the State expects and encourages growth to occur; that according to the 2045 Future Land Use Map within the Comprehensive Plan, the site is located within the Coastal Area, being one of the County's seven growth areas; that currently the site is located within the AR-1 (Agricultural Residential) Zoning District; that the current Change of Zone application seeks to change the zone from AR-1 to MR (Medium-Density Residential); that located between the subject site and Kings Hwy is and Area of B-1 (Neighborhood Business), being the location for the Village Center commercial area; that there was a Conditional Use approval granted for the Cape Henlopen Medical Center to operate at the intersection of Gills Neck Rd. and Kings Hwy.; that on the other side of that area is an area zoned for C-2 (Medium Commercial), anticipated to be another similar medical center with professional offices; that there are many areas for residential being the location of the Mitchell's Corner residential project, The Moorings, Breakwater and Admirals Chase; that there are other nearby areas zoned for C-1 (General Commercial) and C-3 (Heavy Commercial); that the subject Applications request to change the zone of 25.5 acres of the total 65 acres from AR-1 (Agricultural Residential) to MR (Medium-Density Residential); that this request would leave approximately 27.8 +/- acres of AR-1 zoned property to be located on the opposite side of Stockley Blvd.; that the balance of

the site, being 11.6 acres, is already zoned B-1 (Neighborhood Business), and he requested Mr. Ring Lardner to review the Application's compliance with the Code, the technical features and site plan design.

The Commission found Mr. Ring Lardner, Professional Engineer with Davis, Bowne & Friedel, Inc. spoke on behalf of the Applications. Mr. Lardner stated in 1992 the area was mostly farm fields, with corn crops and pivots; that as of last year, the area had grown into various developments previously described by Mr. Hutt; that the site consists of 65.5 acres total; that the proposed cottages would be located on 25.56 acres of the total acres; that the site is located along Gills Neck Rd, located to the north.; that the Village Center Commercial use is located to the east; that Stockley Blvd. is located to the south, as part of the whole village center and its interconnection into Governors, which has already been planned, stubbed and installed; that Governors is located to the west of the site; that further to the east is Kings Hwy., which is classified as a principal arterial road per DelDOT's Functional Classification Map; that furthermore, Kings Hwy. is defined as a major arterial roadway as per No. 7 of the definition found in Chapter 115, Section 4 of the County Code; that Gills Neck Rd. is classified as a local road per DelDOT; that the proposed cottages will continue the development of Gills Neck Rd. or the corridor as first contemplated decades ago, with the construction of larger communities being Wolfe Pointe, Wolfe Runne, Hawkseye, Showfield, as well as smaller, more dense housing options such as, Breakwater, Senators, Governors and the proposed Village Cottages; that this will ultimately lead to the Village Center, which will provide shopping options to the corridor in the form of a 75,000 sq. ft. neighborhood center; that other developments along Gills Neck Rd. include Admirals Chase, The Moorings and the Mitchell's Corner residential project; that the project was further defined as Governors was designed as there is a lot of shared infrastructure with Governors; that all of this was planned together to develop vehicular and pedestrian interconnectivity; that Architect Union Studio drew up the initial layout to highlight the unique design approved used for the site and submitted as Exhibit 20; that the Village Center cottages is a neighborhood of 102 compact cottage scale homes, organized around the principles of New Urbanism, which is a philosophy seeking to encourage community interaction, human scale, and walkability in our neighborhoods; that the homes have been carefully cited to help create a series of intimate pedestrian focused neighborhoods, linked by walkways and characterized by common greens and car-free planted courtyards; that each of the neighborhoods within the plan is comprised of 10 to 16 homes, organized around unique and varied courts and park-like edges; that in this way, the overall population of 102 cottages is experienced more as a collection of smaller pocket neighborhoods, where neighbors know one another, and a sense of community is fostered; that parking is accessed from discrete rear lanes, which are carefully corralled, so it does not impinge on the human scale of the plan; that there cars are allowed, they are tucked discreetly to the rear, between units, and shielded from common area spaces; that this allows for vehicle accommodation, but the neighborhood experience is primarily a place to walk; that walkways link up and lead from one pocket neighborhood to another, linking all of the neighborhoods to the community building and to the retail village beyond; that sidewalks will connect everything together; that the homes will range from one to three bedrooms; that the homes will range from 1,000 sq. ft. to 1,500 sq. ft.; that homes will have a small side or rear yard patio, as well as a front porch looking out to a common green or pedestrian right of way; that the individual units are arranged to nest with one another; that the floor plans are being arranged so that living spaces on one unit are never adjacent or visible to the living spaces of another unit; that simple roof forms and tight one slated building envelopes will allow the future possibility of efficient deployment of solar panels and very low net energy usage; that aesthetically, the neighborhood design drew inspiration from coastal styles prevalent in the Mid-Atlantic states, with simple, traditional forms, clad and clapboard, with shingle and painted trim; that although the project is technically considered a multi-family project, they felt that parking should be based on single-family requirements, being two spaces per unit, in lieu of the multi-family requirement, which allows two spaces per unit and a reduction in parking after the first 50 units; that additionally, the cottages will not have more than three bedrooms and therefore extra parking would

not apply for the four-bedroom and larger units; that based on the project calculations, 204 parking spaces are required; that the plan provides 240 parking spaces; the proposed density, based on project area is 3.99 units per acre; that the project proposes a total impervious area, including buildings, streets and sidewalks is 9.67 acres (38%) of the project area; that a minimum of 2,000 sq. ft. clubhouse, with a minimum 1,000 sq. ft. water surface area pool is planned for the middle of the project area; that Street A, Street C and Stockley Blvd. will be designed to Sussex County standards; that parking lanes A, B, C, D, E & G are designed to be narrow at 20-ft wide, to provide off street parking for each block and not under the jurisdiction of Sussex County; that stormwater management will be provided via the existing ponds constructed by the developer of Governors, and being one of the first shared infrastructures; that when Governors was designed, the ponds were designed to account for the full build out of the total 65 acres; that it was approved by Sussex Conservation District; that they assigned curved numbers of commercial uses and townhouses, to allow for planning of any potential uses; that all storm management has been pre-approved, with the only remaining requirement is to validate the drainage areas for planning approval; that no additional stormwater management will be required for the cottages; that a Shared Maintenance Agreement was submitted as Exhibit 9 in the booklet; that the agreement is written such that currently Governors is responsible for 100% of the pond maintenance until the first building permit is issued within the Village Center commercial area or the Village Cottages, at which time, J.G. Townsend will be responsible for 72% of all maintenance costs of the shared ponds; that they are requesting a waiver from providing a forested buffer between Governors and the Village Cottages; that they requested a similar waiver for Governors, which was approved, because the property line bisects the ponds and lands; that there is sufficient separation between the projects as previously mentioned; that Governors and the Village Cottages are separated by two large stormwater ponds; that the closest cottage is 70 ft. to the property line and 130 ft. to the nearest townhouse unit; that Governors landscaping will be provided between the two properties of the green space to help separate, but not screen, them; that the pump station is proposed to be shared with Governors; that the sewer pump station was also designed for the full build out of the site; that the project area does not contain flood plains or wetlands; that a site investigation was performed by Mr. Edward Launay, with Environmental Resources Inc. and a division of DBF, Inc., noted in Exhibit 11; that the exhibit demonstrates that the project is located within uplands and does not include federally listed, threatened or endangered species, or critical habitats, including the habitat for the monarch butterfly; that a large portion of the project area, being approximately 18.9 acres, is located within the Wellhead Protection Area, with approximately 81% impervious coverage, therefore the project must comply with Chapter 89 of the Sussex County Code; that the Wellhead Protection Area is the well field for the City of Lewes Board of Public Works; that the parcel was previously studied as part of the Village Center commercial rezoning in 2017; that the adjacent Mitchell's Corner also completed an Environmental Assessment Report for their impact on the Wellhead area; that studies found both projects exceeded their requirements for compliance with the County Code; that Verdantas was hired to provide an Environmental Assessment Report; that Mr. Steve Cahill, Geologist was the author of all three reports; that as part of the application process, they met with Mr. Hans Medlarz, Sussex County Engineer, to discuss the project's compliance; that the only requirement for the project is compliance with the Water Climatic Budget, which they have met; that the full report and budget can be found in Exhibits 7 & 8; that his office met with the City of Lewes Board of Public Works; that currently, Lewes Board of Public Works had not shared any objections to the proposed applications; that the project is located within the Sussex County Unified Sewer District; that the project will be served by a gravity sewer system to the Governors pump station; that the property will be served by Delaware Electric Cooperative for electric, Chesapeake Utilities for natural gas, and Tidewater Utilities for water; that all utility companies have provided a Willing and Able Letter, located within Exhibits 13 through 16; that a DelDOT Service Level Evaluation Response and Public Facility Report was submitted, which state the impact of the project is minor and may generate between 50 and 200 peak hour trips or 502,000 daily trips; that the project was part of their larger Traffic Impact Study (TIS), being first contemplated in 2007, which generated a letter agreement in 2009, for all the projects

being Showfield, Governors, Senators and The Village Center; that the project was also included as a committed development in the Mitchell's Corner Traffic Impact Study; that the project is part of an ongoing Village Center Operational Analysis, which is part of the commercial; that DelDOT is designing Kings Hwy. to be dualized from Dartmouth Rd. intersection to the city limits; that the configuration of that road include signals or roundabouts, and any other unknown decisions by DelDOT; that the proposed cottages will tie into the interim improvements that will be completed by the Mitchell's Corner project; that the interim improvements include, dualizing Kings Hwy. from the northern portion of the Cape Henlopen High School down to Clay Rd., and modifying Gills Neck Rd. to include dual left-turn lanes onto Gills Neck Rd.; that Village Cottages will also tie into the Clay Rd., Kings Hwy., and Stockley Blvd. improvements and that signal modification, including auxiliary lanes in all four directions; that all of the improvements are designed with the project's traffic accounted for in the design; that the Applicant met with select individuals of the Lewes Byways Committee, as they are committed to working with them on the shared use path, landscaping and fencing; that they are currently awaiting decisions for DelDOT regarding the frontage along Kings Hwy.; that the project was reviewed by PLUS on December 15, 2021; that a copy of the PLUS comments and the Applicant responses were submitted as Exhibit 12; that the comments were general in nature stating that they would comply with all regulatory requirements; that his office prepared the Environmental Assessment and Public Facility Evaluation Report in accordance with the Chapter 115, Section 194.3 of the County Code; that the new responses were submitted in Exhibit 10; that the project has analyzed all aspects of the respective items and all mitigation measures are consistent with the Comprehensive Plan; that the project is integrated into the existing terrain and surrounding landscape; that the site does not contain wetlands or floodplains; that proposed buffers are provided to screen objectionable features; that the plan prevents pollution of surface and groundwater; that the plan provides for safety of vehicular and pedestrian improvements; that the plan mitigates the effect on area roadways and public transportation and the project is compatible with other area land uses.

Mr. Hutt stated he had already discussed the plans compliance and the reasoning for the Application's requests; that the MR District is to provide for medium-density residential development in areas which are expected to become generally urban in character, where sanitary sewer and public water supply may or may not be available at the time of construction; that when looking at the aerial imagery, the site has certainly become a more urban or semi-urban character; that public water and sewer area available to the site; that multi-family dwellings are permitted as a Conditional Use in the MR (Medium-Density) Residential Zoning District, which is the reasoning for the Conditional Use Application; that Conditional Uses are uses that are generally of a public or semi-public character, being essential and desirable for the general convenience and welfare, but because of the nature of the use and the importance of the relationship to the Comprehensive Plan and possible impact on neighboring properties, it requires the exercise of planning judgement on location and site plan review; that housing has routinely been found to be of public or semi-public character, certainly being essential and desirable for the County; that within the Comprehensive Plan it states that in the Coastal Area, medium and higher densities are appropriate where there is central water and sewer, where there is a significant number of commercial uses and employment centers, where the project is in keeping with the character of the area, and where it is situated along a main road, or being located at or near a major intersection; that every criteria item has been met by the proposed Application; that Table 4.5-2 indicates the zoning districts appropriated and which Future Land Use Map categories; that MR (Medium-Density Residential) is an appropriate zoning district in the Coastal Area, as reflected on Table 4.5-2; that there are a number of townhomes, duplexes and other multi-family uses that currently exist in the area; that there are assisted living facilities, which is a multi-family type use, existing in the area; that immediately adjacent to the site is the townhome section of Governors; that there was correspondence submitted expressing concerns regarding the proposed density of the project, and the ability for the project to fit between the Village Center Commercial Area and the townhome portion of Governor's community; that he had began his

presentation with an aerial map outlining several surrounding communities and commercial uses in the area; that Dutchman's Harvest, located within the City of Lewes, has a density of 17.7 unit per acre; that Harbor Town Square has a density of 11.9 units per acre; that Woods Edge is 11 units per acre; that Savannah East Apartments at 11 units per acre; that Jefferson Apartments is 9.8 units per acre; that The Moorings, formally known as Cadbury, has a density of 6.4 units per acre; that the Mitchell Corner project, being located directly across Gills Neck Rd. from the site, has a density of 6.2 units per acre; that Henlopen Gardens is 5.5 units per acre; that Governors is 3.6 units per acre; that Beach Plum Dunes is 3.2 units per acre; that Bay Breeze Estates is 3 units to the acre; that the proposed plan is consistent with the Zoning Map and the MR Zoning classifications, as well as the zoning within the municipal limits of the City of Lewes; that there are a number of multifamily uses, all with densities great than the proposed project; that there are existing MR zoned areas within the immediate area, being located directly across the street, down Gills Neck Rd., back to Admirals Chase, along Kings Hwy and Beach Plum Dunes; that the site's immediate neighbor to the northeast is Governors, which is zoned AR-1, with a density of 3.6 units per acre; that due to the concern expressed regarding the composition density difference of the project in relation to Governors, he requested DBF, Inc. to overlay 25 acres on the immediately adjacent Governors site; that when that was done, the 25 acres included 139 units, which created a density of 5.4 units to the acre, being more dense than the proposed Villages Cottages; that the Villages Cottages are just under 4 units per acre; that additionally he requested DBF, Inc. to perform the same analysis and overlay on the single-family home section of Governors, resulting in a density of 3.6 units per acre; that this goes back to good land use planning, where more intense and dense uses are located closer to Kings Hwy, decreasing further along Gills Neck Rd.; that the design of the community was purposeful; that good land use principles and shared infrastructure were the themes that guided the project into fruition; that Governors is currently paying for the shared stormwater management; that as proposed, as soon as a building permit is pulled for either the commercial area or the cottages, the numbers shift dramatically; that at that time, 70% will be maintained by the subject 65 acre property, and the Governors share of the maintenance decreases significantly; that there were concerns raised regarding interconnectivity from the Village Center Commercial Area to the Village Center Cottages, and then to the Governors community; that Mr. Lardner had indicated, the interconnectivity had been the master plan from the outset of development; that the Delaware Uniform Common Interest Ownership Act require sellers to provide seller disclosures; that the sellers disclosure did provide notice that Stockley Blvd would be an entrance for the future development of the 65 acre parcel; that various comments of concern were raised regarding traffic; that Mr. Lardner previously indicated the traffic impact had been studied numerous times; that the projects have always been consideration in the studies performed; that no one can control DelDOT, or the pace at which DelDOT completes the improvements along Kings Hwy.; that the Village Center, regardless of what portion is developed first, will be required to be make the improvements previously mentioned by Mr. Lardner, particularly at Clay Rd. and Stockley Blvd., creating a four-way intersection; that additionally, significant improvements will be coming to Kings Hwy in the near future, as the Mitchell's Corner project comes into fruition; that there are interim improvements which have been discussed and reviewed; that they are currently in the process of being approved by DelDOT for those interim improvements; that it is important to remember that, all of the projects, beginning with Wolfe Pointe, Wolfe Runne, Hawkseye, Senators, Governors and the Village Center Commercial Site, all arose from the same fields that existed between Kings Hwy, Gills Neck Rd. and the canal; that these fields have been under the same ownership, and carefully developed throughout time; that essentially, the proposed application is an infill project between the residential area of Governors and the Village Center Commercial Site; that he trusted with the various professional reports and the presentation made, the Commission would agree that the Application is consistent with the County's Code, the Comprehensive Plan, and the character of the area; that he presented to the Commission renderings of the envisioned courtyard areas for the proposed community; that there is nothing wrong with townhomes and duplexes, however, the developer put time, effort and thought into providing the proposed style of units, which is different than anything else currently existing along Gills

Neck Rd. or frankly, almost anywhere within Sussex County; that he hoped the Commission would agree that having an alternate way to have units available, through a courtyard type plan, is good for the streetscape and land use plan for Sussex County; that the Applicant requests the Commission recommend approval of the change of zone request from AR-1 to MR (Medium-Density Residential), as well as the Conditional Use request for 102 multifamily units for the site; that he requested to submit proposed Findings and Conditions for each Application; that in proposed Condition F, for C/U 2356, relates to the parking areas; that with favorable recommendation, the Commission typically imposes a condition requiring streets to meet or exceed the County's street design requirements; that the proposed parking areas are not considered streets, therefore, are not required to comply with Sussex County standards; that Condition J states the required minimum square footage of water surface for the pool and clubhouse areas; that Condition L is related to the Chapter 89 requirements; that in the project book materials, there is an email exchange between Mr. Medlarz and Mr. Lardner, regarding certain requirements of the site plan; that the requirements will apply whether it is the Village Center Commercial Area or the Village Center Cottages; that one of the requirements is that the Engineering Department will review the construction plans, and will review the Water Climatic Budget; that there is a note of prohibition relating to rooftop air conditioning system components that would require intermittent unit blowdown and proposed Condition N states that Saturday construction hours would only be permitted from October 1st through April 30th, which aligns with the timing DelDOT allows construction to be performed in those areas.

Ms. Stevenson stated her only concern related to compliance with the Byways and despite not being within the Commission's purview, she suggested consideration be given to noise reduction as the buildings are located close together.

Ms. Wingate requested confirmation of the required parking total is 204 spaces and the provided parking total for the project is 240 spaces and questioned if the access to the parking area will allow for fire trucks and emergency vehicles.

Mr. Lardner stated Ms. Wingate was correct; that the plan provides for 240 spaces in excess of the required 204 spaces; that Street C is a 24 ft. wide car path, with parking on either side; that the parking lanes are 20 ft. wide, which allows the ability for fire trucks to pass through the parking lane.

Mr. Mears stated he had no questions but stated that he did love to coastal cottage courtyard theme, as it is something different.

The Commission found three people in the room and two people by teleconference commented on the Applications.

Mr. Ken Rehfuss spoke in support but proposed questions about the Application. Mr. Rehfuss stated he thought the cottage concept is great, as there are existing townhouses and duplexes located across the street; that he still had confusion relating to the service lane that backs up to the commercial area; that he assumed it is a pathway to provide for interconnectivity; that he questioned the proposed type of screening; that he is a developer in Washington; that many times, there is a different type of screening required when dealing with commercial uses versus residential; that he felt everything looked appealing and he stated he was a big advocate of the project.

Mr. Lardner stated the road was a service road to provide service to the commercial area; that the parking lanes will tie into the service road to finish connectivity, and avoid a dead end; that they are still working on the screening for both projects; that the screening of both projects are being designed together so that one project's screening does not adversely impact the other; that there will be screening to protect the

views from commercial with the residential; that all of the screening details will be forthcoming as the design of the commercial area comes forward; that should Commission and County Council grant approval, all of the screening would be integrated and designed together, to allow the projects to be harmonious with each other.

Mr. Robertson questioned the location of the B-1 area and mentioned that it would all be reviewed during the site plan review process.

Mr. Michael Wolfe spoke in support of the Applications. Mr. Wolfe stated he is a member of the Condominium Association Board for Governors; that the Executive Board of the Governors Condominium Association had submitted a letter around May 15th, which he requested to read to the Commission; that the letter stated, *“this proposed community lies adjacent to the Governors community, and will share boundaries, common areas, ponds, and streets. While we are not opposed to the new development, we have several concerns regarding the proposed plan. Our primary concern is the proposed street interconnectivity planned with the Governors’ private streets. As proposed, the street interconnectivity will lead to additional traffic within Governors since it almost certainly will be used as a cut-through from Gills Neck Rd. for non-residents. We propose limiting the interconnectivity to emergency traffic, bikes, and pedestrians through the use of gates or other means. Second, Governors has entered into a pond-sharing agreement with J.G. Townsend, that covers the cost of the maintenance electricity to run the pond’s fountains. The agreement will need to be reviewed in light of the plan for the proposed development. Next, the proposed plans for the Village Center Residential Community outlined the property line on the boundary with Governors. When the Governors Executive Board transitioned from the developer, plans for the new community had not yet been published. We request that a new survey be completed to confirm that the true boundary lines between the two communities. Fourth, we would like to better understand the developer’s plan to buffer the trees to the common space that separates Governors from the Village Center. Other than the ponds in the open space, the design plan shows little in the way of trees between the two communities. Governors wish to remain its own standalone community and not appear to be part of the new Village Center. We request that the common area bordering our communities have ample trees and shrubbery to mitigate noise and help differentiate the two communities. Fifth, since the developer of the proposed community and Governors are the same, it appears there is an attempt to share common space with the new development. We request the developer install similar fencing and/or signage at the new development entrance that matches the Gills Neck Rd. entrance. This would help differentiate the two communities and indicate to people trying to pass through, so they know they have entered a new community. We’d also like to raise concern over the density of the new complex on such a small piece of property and the lack of open space within the community. This area is already lacking parks and open space for recreation. Next, we have concerns that the complex is associated with or tied into a new retail center on Kings Hwy. border. We feel plans should be completed and approved before a new residential section is approved. Lastly, improvements are required on Kings Hwy. to accommodate the increased traffic from other developments currently being built. We request the impact of those projects is addressed before additional traffic is added to the existing problem.”*; that he personally had concerns relating to interconnectivity; that he listened to the discussion and the statements made that notice was provided within the documents; that he had reviewed all the documents; that he believes it is a true statement, though it was a very short little blurb; that interconnectivity is subjective; that interconnectivity can mean all types of vehicles are permitted through, or it could also mean interconnectivity is limited to what is practical and safe; that he felt it more appropriate for the interconnectivity to be minimized to only allow emergency vehicles, pedestrian traffic, and bicycles; that this will limit Amazon trucks from flying through, which is unsafe for children on their bikes and scooters and he felt the interconnectivity posed a safety concern.

Mr. Edward Rush spoke with questions regarding the Applications. Mr. Rush stated he also is a member of the Executive Board of the Governors Condominium Association; that he is a retired Fire Chief, who had been in the fire service for over 40 years; that he understood there was a performed traffic study, as part of the Environmental Assessment; that where he previously came from, they had a system of rating roads, and he questioned if there is a similar system in place in Sussex County; that he questioned the road rating for Gills Neck Rd. before and after development; that he had concerns regarding the accessibility of fire apparatus to the parking areas, as the access to the parking is a unique layout; that he felt 20 ft. from the end of one parking space to another is extremely tight for fire apparatus movement; that he is a member of the Lewes Fire Company, and he does not look forward to driving a fire truck in the community as it is proposed; that he questioned the estimated price range or targeted market for the cottages; that he is the Delaware Advocate for the National Fallen Firefighters Foundation – Everyone Goes Home Program; that they push hard for the placement of residential sprinkler; that in the past week, a home in Lewes was destroyed by fire; that had the house been located within Governors, at least three to four houses would have burned due to their close proximity to each other and he requested the Commission impose a condition requiring residential sprinklers be placed in the units.

Mr. Robertson stated there is a rating system for the roads, and it is contained in the traffic data, and it is more complex than just the rating of the roads, as every specific movement on an intersection is also rated.

Chairman Wheatley stated the entrance is 24 ft. and it is 20 ft. in the parking area; that the price range and targeted market for the projects were beyond the scope of the Commission; that sprinkler system requirements exceed the Commission's authority, as it is more of a Building Code requirement; that the Commission cannot require something that is not dictated in the County Code and the Applications will be present before County Council, who do have the authority to impose the condition.

Mr. Lardner stated he did not have the traffic study in front of him, but he recalled the existing condition of Gills Neck Rd. and Kings Hwy. is a Level of Service F, per the latest Traffic Operational Analysis (TOA) he had seen; that beyond Level F it does not degrade anymore; that the classification of F relates to a time delay to get through an intersection; that with the dualization and improvements, it does improve the rating to a Level of Service D, with interim improvements and the rating will stay as a Level D when DelDOT improvements on Kings Hwy is completed.

Mr. Paul Capriolo spoke by teleconference in opposition to the Application. Mr. Capriolo expressed his concerns regarding overcrowding, the proposed density, traffic congestion, infrastructure, interconnectivity, the erosion of the charm, character and scenic views of the area, the environment and wildlife habitats, the impact on the local ecosystem, preservation of open space and impacts on the water.

Ms. Stevenson stated that donations can be made to Sussex County Land Trust, as they purchase land to preserve it.

Mr. Greg Rutler spoke by teleconference in opposition to the Application. Mr. Rutler stated he agreed with all the points and concerns expressed by Mr. Capriolo, and additionally, he had concerns regarding stormwater management and stormwater treatment.

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

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

In relation to C/Z 1979 J.G. Townsend Jr. & Co. Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate and carried unanimously. Motion carried 5-0.

In relation to C/U 2359 J.G. Townsend Jr. & Co. Motion by Ms. Stevenson to defer action for further consideration, seconded by Mr. Hopkins and carried unanimously. Motion carried 5-0.

C/Z 1981 Luke Neiswander

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.296 ACRES, MORE OR LESS. The property is lying on the southwest side of Sam Lucas Road (S.C.R. 256), approximately 0.55 mile north of Harbeson Road (Rt. 5). 911 Address: 16394 Sam Lucas Road, Milton. Tax Map Parcel: 235-21.00-5.00.

Mr. Whitehouse advised the Commission that submitted into the record were the copy of the Staff Analysis, the DelDOT Service Level Evaluation Response, the Applicant's exhibits, and the property survey. Mr. Whitehouse advised the Commission that staff received zero comments for the Application.

The Commission found that Mr. Luke Neiswander spoke on behalf of his Application. Mr. Neiswander stated he purchased the property in 2019 with the intention of putting a single-wide mobile home on it; that when he purchased the property it was overgrown with brush and briars; that he spent many weekends clearing the property; that there is was an abandoned U-Haul trailer, which he cut up and hauled to the dump; that while clearing the lot, a neighbor had introduced herself, stating she used to live on the property and that a single-wide mobile home used to be placed on the property; that after he had the lot cleared, he hired Beacon Engineering to prepare a site plan; that Beacon Engineering prepared the site plan and submitted the plan to the State; that the State reviewed the site plan and approved it; that once the site plan was approved, he then hired a contractor to install the septic system; that the mound system is large, leaving room for a driveway and the rear of the lot for a dwelling; that currently he has a well and septic system installed; that he was preparing to purchase the mobile home, a questioned was raised regarding the wind zone; that at the point is when he found that the current zoning did not allow for his proposed single-wide mobile home; that this is the reasoning for his Change of Zone request to GR (General Residential); that he had spoken with his neighbors regarding his proposal; that they did not seem to have any opposition to his request and he had prepared a letter which he submitted into the record with his application.

Chairman Wheatley questioned if there was any record of a single-wide being on the site.

Mr. Neiswander stated he had previously met with Mr. Chase Phillips – Planner II regarding his application; that Chase performed a review and had found records from the 1980s.

Chairman Wheatley stated he found it odd a single-wide mobile home was present in the 1980s after the adoption of the County Code in the 1970s.

Mr. Whitehouse stated if a single-wide mobile home existed on the property with a building permit, since the 1970s, and an application for a building permit was submitted to replace the existing mobile home with a newer single-wide mobile home, it would have been permitted and he did believe there was another element to the history, however, a Change of Zone would remedy the issue either way.

Chairman Wheatley stated he does not care for spot zoning; however, the request is a residential class, in a residential class area and it is not the same as a commercial zoning request in a residential area.

Mr. Robertson stated the property is small in size and with being located within GR, there is not much else to do with the property.

The Commission found there was no one present in the room or 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.

Chairman Wheatley stated he did not have any problem with approving the Change of Zone request, and requested the Commission recommend approval.

Mr. Robertson provided a motion for the record as requested by the Commission.

Ms. Wingate moved that the Commission recommend approval of C/Z 1981 Luke Neiswander to change the zone from AR-1 (Agricultural Residential) to GR (General Residential) District for the following reasons:

1. There was provided testimony on record that the site had previously been allowed to have a single-wide manufactured home on the property.
2. The Change of Zone to the GR Zoning District will allow what was previously there to be replaced with a new single-wide manufactured home.
3. Given the small size of the property, the Change of Zone to GR will not allow for any expansive uses on the property.
4. The Change of Zone to GR will not adversely affect neighboring properties or area roadways.
5. No properties appeared in opposition to the Application.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/Z 1981 Luke Neiswander for the reasons stated in the motion. Motion carried 5-0.

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

ADDITIONAL BUSINESS

The Commission discussed telephonic participation in future Planning & Zoning Commission meetings.

At the conclusion of the discussion, the Commission recommended that the telephonic participation option be discontinued from the Planning & Zoning Commission meetings as of July 1, 2023.

Mr. Whitehouse advised the Commission that staff are working on acquiring new, updated devices for the Commission.

Mr. Whitehouse advised that Mx. Jesse Lindenberg – Planner I had taken another position and will be leaving the Sussex County Planning & Zoning Department.

Meeting adjourned at 8:00 p.m.

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