

THE MINUTES OF THE REGULAR MEETING OF MAY 26, 2022.

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, May 26, 2022, in Council Chambers, Sussex County Administrative Office Building, 2 The Circle, Georgetown, Delaware. Members of the public were also able to attend this meeting by teleconference. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 5:10 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Ms. Kim Hoey-Stevenson, Mr. Keller Hopkins, and Ms. Holly Wingate. Mr. Bruce Mears was absent. Also, in attendance were Mr. Vincent Robertson – Assistant County Attorney, Mr. Jamie Whitehouse – Planning & Zoning Director, Mr. Michael Lowrey– Planner II, and Ms. Ann Lepore – Recording Secretary.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to amend the Agenda to move items from Other Business (Americana Bayside – Bayside Hotel Phase 1B and 2021-26 Harpers Glen (F.K.A. Workman Subdivision) to after the Old Business portion of the meeting. Motion carried 3 - 0.

Motion by Ms. Stevenson, seconded by Ms. Wingate to approve the Minutes of the April 28, 2022, Planning and Zoning Commission meeting as circulated Motion carried 3 – 0

OTHER BUSINESS

(S-21-35) Millsboro Fire Company Substation

Final Site Plan

This is a Final Site Plan for the adaptive reuse of the existing structures on the site as a fire company substation for the Millsboro Fire Company. The Sussex County Council approved this use through Conditional Use (CU 2314) at their meeting of Tuesday, November 30, 2021, and the change was adopted through Ordinance No. 2816. The property is located on the northeast corner of Lewis Road (S.C.R. 409) and Millsboro Highway (Route 30). The Applicant's Final Site Plan complies with the Sussex County Zoning Code and all Conditions of Approval. Zoning District: AR-1 (Agricultural Residential District). Tax Parcel: 133-20.00-17.16. Staff are in receipt of all agency approvals; therefore, this plan can be considered for final approval.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to approve the Final Site Plan. Motion carried 3-0.

(S-21-07) Brasure's Pest Control

Preliminary Site Plan

This is a Preliminary Site Plan for the construction of two (2) 9,150 square foot storage buildings, parking, and other site improvements. Two standard-size loading spaces are included as well as a stormwater management pond to the rear of the property. The buildings are proposed to support vehicle storage and other light warehousing uses for the pest control business. The property is located on the southwest side of Zion Church Road (Route 20). The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning District: CR-1 (Commercial Residential District). Tax Parcel: 533-11.00-6.00. Staff are awaiting agency approvals. If the Commission desire to act favorably on this plan, final approvals are requested to be made by staff upon the receipt of all agency approvals.

Motion by Ms. Stevenson seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan, with final approval by staff upon the receipt of all agency approvals. Motion carried 3-0.

(S-22-14) Long Neck Sherwin Williams

Preliminary Site Plan

This is a Preliminary Site Plan for Rojan Lane 21, LLC for the proposed addition of a one-story 4,000 square foot retail store, associated parking, and other site improvements. The property is located on the west side of John J. Williams Highway (Route 24)). The Preliminary Site Plan complies with the Sussex County Zoning Code. Zoning: C-1 (General Commercial Zoning District). Tax Parcel: 234-23.00-180.00. Staff are awaiting agency approvals. If the Commission desire to act favorably on this plan, final approvals are requested to be made by staff upon the receipt of all agency approvals.

Motion by Ms. Stevenson seconded by Ms. Wingate and carried unanimously to approve the Preliminary Site Plan, with final approval by staff upon the receipt of all agency approvals. Motion carried 3-0.

2004-17 The Villages at Red Mill Pond South

Revised Amenities Plan

This is a Revised Amenities Plan for the construction of a 1,600 square foot clubhouse, 2,040 square foot pickleball court, 1,500 square foot pool, as well as parking and related improvements to be located within the existing subdivision of The Villages at Red Mill Pond South. The property is located on the north side of Deerwood Lane. The Final Subdivision Plan for The Villages at Red Mill Pond South was approved by the Planning and Zoning Commission at their meeting of Thursday, August 15th, 2007. The Applicant has submitted a letter of support from current homeowners within the development, which contains signatures from 30 of the 48 current homeowners (all other lots are currently developer-owned and controlled). The Amenities Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval. Tax Parcel: 334-5.00-170.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, this plan can be considered for preliminary approval with final by staff.

Motion by Ms. Stevenson seconded by Ms. Wingate and carried unanimously to approve the Revised Amenities Plan as preliminary, with final approval by staff upon receipt of all agency approvals. Motion carried 3-0.

(S-22-03) Steiner Road Industrial Park

Requested Determination of Permitted Use

Pursuant to the staff's review of the Preliminary Site Plan for the site, the Applicant has requested the Planning & Zoning Commission review the type and nature of the proposed uses at the site in terms of (§115-110); Permitted Uses and "potentially hazardous uses" as described in (§115-110(C)). The Preliminary Site Plan proposes for industrial uses to include the following as described in the plan; a "Concrete Central Mixing and Proportioning Plant" and a "Building Materials Recycling and Sorting Facility." Prior to any determination by the Director (§115-111), the Applicant has requested for Commission to consider if the proposed uses may be categorized under "similar industrial uses" as listed in (§115-110(C)). The parcels are located on the east side of Steiner Road (S.C.R. 320) approximately 1,060 feet south of Lewes Georgetown Highway (Route 9). Zoning District: HI-1 (Heavy Industrial District). Tax Parcels: 135-16.00-23.05, 135-16.00-23.06

Mr. Whitehouse stated the request is different than typical requests before the Commission; that the technical question before the Commission is if the use, as described by the Applicant in their submittal, is similar to the permitted uses within the HI-1 (Heavy Industrial) Zoning District; that any use permitted within the LI-1 (Limited Industrial) Zoning District and LI-2 (Light Industrial) Zoning District are also

permitted, as this is stated within the HI-1 (Heavy Industrial) Zoning District permitted uses; that staff have had previous discussions with the Applicant regarding if a use is not specifically listed as being permitted, there are lists of uses within the HI-1 (Heavy Industrial) Zoning District, where the Commission may determine that the proposed use is similar to a listed permitted use and would therefore be permitted; that staff had concerns whether the proposed use would potentially be considered as potentially hazardous uses section of the HI-1 (Heavy Industrial) Zoning District; that prior to making a determination, the Applicant had specifically requested the proposed use be brought to the Commission; that the Applicant believes the use is similar to other permitted uses within the HI-1 Zoning District; that the Applicant has provided description of the enate characteristics of the use; that the Applicant has provided details and description of materials proposed to be received at the site; that the Applicant is not proposed to receive any hazardous materials; that the materials proposed to be received are wood, concrete, cardboard, metals, drywall, green waste, plastics, brick, block, asphalt and dirt and the Applicant has provided details as to how the materials would be received at the site, how processes take place and the machinery that is involved in the process.

Chairman Wheatley questioned what use the Applicant is alleging their use is similar to and he does not believe the Applicant fully addressed the question.

Mr. Robertson stated if the Commission should determine the permitted use is not similar to the permitted uses of the HI-1 Zoning District, the Applicant would be required to present before the Sussex County Board of Adjustment for determination; that within the County Code for HI-1 (Heavy Industrial) Zoning, it mentioned uses involving the manufacturing, compounding, processing, packaging or treatment; that the Code continues to state the use of adhesives other than glue, brick, fire brick, and clay products, concrete products, central mixing, and proportioning plants, glass and glass products, paper and paperboard from paper mâché, sawmills, stone products with no crushing or grinding, structural iron and steel fabrication, wallboard and plaster, building insulation and composition flooring; that the Code states anything that involves the manufacturing, compounding, processing, packaging or treatment of the products mentioned, including anything material the Commission determines as similar industrial uses, which are not too likely to be any more offensive in noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences than the other permitted uses; that if the proposed use is outside of the guardrails stated, it must go to the Board of Adjustment; that the H-1 Zoning section of the Code references concrete products or central mixing and proportioning plants, however the Code then references stone products, without the crushing or grinding of the stone and materials that are considered hazardous, which are required to go before the Board of Adjustment, are minerals and earths, which include sand and gravel extracting, grinding, crushing and processing.

Motion by Ms. Stevenson seconded by Ms. Wingate and carried that the use is not similar to permitted use as defined in Sussex County Code 115-110(C). Motion carried 3-0.

Mr. Hopkins joined the meeting at 5:20 p.m.

Lands of Anton Balakin

Minor Subdivision off a 50-ft easement

This is a Minor Subdivision Plan for the subdivision and lot line adjustment of existing lots into one (1) lot and residual lands off a proposed 50-foot ingress/egress easement. Existing Lot 2 contains 5.91 acres +/-, Lot 3 contains 4.74 acres +/-, Lot 4 contains 5.33 acres +/-, and Proposed Lot 1 consists of 6.84 acres +/- . The property is located on the northwest side of Beaver Dam Road (Route 23). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 234-6.00-6.01. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, this plan can be considered for preliminary approval with final by staff.

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

Lands of Howe & Bell

Minor Subdivision off a 50-ft easement

This is a Minor Subdivision Plan for the subdivision of a 13.68 acre +/- parcel of land into three (3) lots and residual lands off a proposed 50-foot ingress/egress easement. Proposed Lot 1 consists of 0.85 acres +/-, Proposed Lot 2 consists of 0.75 acres +/-, Proposed Lot 3 consists of 2.28 acres +/-, and the residual lands consist of 7.97 acres +/- . The property is located on the southeast side of Hudson Road (S.C.R. 258). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcels: 235-22.00-21.00 & 21.02. Zoning: AR-1 (Agricultural Residential District). If the Commission desire to act favorably on this plan, final approvals are requested to be made by staff upon the receipt of all agency approvals.

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

Lands of Dennis J. & Pauline M. Mignogno

Minor Subdivision off a 24-ft easement

This is a Minor Subdivision Plan for the subdivision of a 4.191 acre +/- parcel of land into one (1) lot and residual lands off a proposed 24-foot ingress/egress easement. Proposed Lot 1 consists of 0.753 acres +/- and the residual lands consist of 3.438 acres +/- . The property is located on the north side of Johnson Road (S.C.R. 207). The Minor Subdivision Plan complies with the Sussex County Zoning and Subdivision Codes. Tax Parcel: 330-15.13-12.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals; therefore, this plan can be considered for preliminary approval with final by staff.

Mr. Whitehouse stated that there is a shed that would not meet setbacks if this subdivision were approved and should be moved into compliance with County setbacks or a variance before the Board of Adjustment should be sought.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the Minor Subdivision off a 24-ft. easement, with the condition that the shed be brought into compliance, as preliminary, with final approval by staff. Motion carried 4-0.

OLD BUSINESS

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45, 115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRIP) PROGRAM.

The Commission discussed the Ordinance, which had been deferred since April 28, 2022; that the Commission meeting of May 12, 2022, the record was left open for the receipt of additional information requested to be provided from the Planning & Zoning staff in relation to the distribution data to applicable properties within Sussex County.

Mr. Whitehouse advised the Commission that there were no additional comments from members of the public. He submitted the requested GIS Spatial Analysis report into the public record.

The Commission discussed the proposed Ordinance in relation to the SCRP Program.

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

2021-30 Independence (Phase 13) – A cluster subdivision to divide 19.278 acres +/- across three (3) separate parcels into 37 single-family lots to be located on a certain parcel of land lying and being in Indian River Hundred, Sussex County. The property is lying on the north side of Harmons Hill Road (S.C.R. 302), approximately 0.48-miles southeast of the intersection of Zoar Road (S.C.R. 48), Hollyville Road (S.C.R. 290), and Harmons Hill Road and is accessed within from Abigail Adams Drive within the Independence Subdivision. Tax Parcels: 234-16.00-7.01, 7.07 & 7.08. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed the Application which had been deferred since May 12, 2022.

Ms. Stevenson moved that the Commission grant preliminary approval for 2021-30 Independence (Phase 13) for a Cluster Subdivision based upon the record made during the Public Hearing and for the following reasons:

1. The Applicant is seeking approval of a 36-lot clustered subdivision within the AR-1 Zone. It is adjacent to the existing Independence development, and it will share amenities and roadways with that development.
2. The proposed subdivision will have no more than 36 lots on 19.278 acres. This results in a density of approximately 1.8 lots per acre on this land, which is less than the maximum density permitted in the AR-1 zone. The overall density of Independence only increases from 1.37 lots per acre to 1.39 lots per acre as a result of this expansion.
3. This subdivision has 5.791 acres, or 30% of the site, as open space.
4. This expansion of the Independence development will not have an adverse impact on the neighboring properties or area roadways. It is also consistent with other residential development in this area.
5. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has favorably addressed the requirements of Section 99-9C of the Code.
6. I am satisfied that this project is a superior design to a standard subdivision, as required by the cluster ordinance. For example, it provides for the preservation of at least 30% of the site as open space; there is enhanced buffering between lots in this subdivision and the existing lots next to it, and nearly all lots have direct access to open space.
7. The project will be served by central water and sewer.
8. The development complies with the Sussex County Comprehensive Plan as a low-density, single-family dwelling subdivision.
9. This preliminary approval is subject to the following:
 - A. There shall be no more than 36 lots within the subdivision. This subdivision shall be integrated into the Independence subdivision.
 - B. The lot owners shall be members of the Independence HOA responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas.
 - C. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex

- Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- D. During construction, all vehicles, and equipment associated with the construction of the development shall only utilize a construction entrance from Harmons Hill Road. Signage in English and Spanish shall be placed at the boundaries of this site prohibiting construction equipment and vehicles from utilizing the existing Independence roadways, and clearly identifying the construction entrance on Harmons Hill Road. No site work or construction activities shall occur on the site until DelDOT issues its approval for this construction entrance.
 - E. Once developed, the vehicular entrance to this site shall be via the existing internal roadways of Independence.
 - F. A forested or landscaped buffer of at least 20 feet in depth shall be installed along the entire perimeter of the project. This buffer shall be expanded to 30 feet in the areas shown at this dimension on the preliminary site plat presented to the Commission during the public hearing. This buffer area may include existing vegetation.
 - G. As proffered by the Applicant, sidewalks shall be installed on at least one side of the streets in the site.
 - H. The subdivision shall be served by a central sewer system.
 - I. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
 - J. Street design shall meet or exceed Sussex County standards.
 - K. Road naming and addressing shall be subject to the review and approval of Sussex County.
 - L. Construction activities and deliveries of dirt, fill or construction materials shall only occur between 7:00 a.m. through 6:00 p.m., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturday. No Sunday hours are permitted. A 24-inch by 36-inch "NOTICE" sign confirming these hours in English and Spanish shall be prominently displayed at the site entrance during construction.
 - M. All debris, dirt, concrete, asphalt, construction trash, or other materials related to work or construction occurring on this site shall only be stored on this site. None of it shall be transported to, or stored within, the adjacent Independence development.
 - N. The Final Site Plan shall include a landscape plan for the development showing the proposed tree and shrub landscape design, including the buffer areas.
 - O. The Final Site Plan shall contain a grading plan for the site. No building permit shall be issued for individual lots until an individual lot grading plan has been supplied to approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.
 - P. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
 - Q. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to grant preliminary approval of 2021-30 Independence (Phase 13) for the reasons and conditions stated in the motion. Motion carried 4-0.

Ms. Wingate stated she was absent for the public hearing but has listened to the tape and is prepared to vote.

The vote by roll call: Ms. Stevenson – yea, Mr. Hopkins – yea, Ms. Wingate – yea, Chairman Wheatley – yea.

2021-33 Workman's Crossing (Phase II) – A standard subdivision to divide 7.66 acres +/- into 3 single-family lots to be located on a certain parcel of land lying and being in Little Creek Hundred, Sussex County. The property is lying on the northeast side of Brittingham Road (S.C.R. 455), approximately 0.16 miles north of the intersection of Brittingham Road (S.C.R. 455) and Pepperbox Road (S.C.R. 66). Tax Parcel: 532-15.00-11.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed the Application which had been deferred since May 12, 2022.

Mr. Robertson read Ms. Wingate's motion.

Ms. Wingate moved that the Commission grant preliminary approval of 2021-33 Workman's Crossing (Phase II), based upon the record and for the following reasons:

1. The proposed subdivision generally meets the purpose of the Subdivision Ordinance in that it protects the orderly growth of the County. In addition, the items listed in Section 99-9C of the Subdivision Code have been favorably addressed.
2. The land is zoned AR-1 which permits low-density single-family residential development. The proposed subdivision density of 3 lots on 7.66 acres of land is significantly less than the allowable density.
3. The proposed subdivision will be consistent with the area and will not adversely affect nearby uses or property values.
4. The proposed subdivision will not adversely impact schools, public buildings, and community facilities.
5. The proposed subdivision will not adversely affect traffic on area roadways.
6. Although the Applicant has sought waivers from the buffer and topography requirements, these waivers are denied based upon the location of this subdivision and to protect the existing lots that surround it.
7. This preliminary approval is subject to the following conditions:
 - A. There shall be no more than 3 lots within the subdivision.
 - B. The stormwater management system shall meet or exceed the requirements of the State and County.
 - C. All entrances shall comply with all of DelDOT's requirements.
 - D. There shall be a 20-foot-wide landscaped buffer around the perimeter of the subdivision. This buffer and the landscaping within it shall be shown on the Final Site Plan. This buffer area can be located within the individual lots, but the restrictive covenants and Final Site Plan for the subdivision must state that it must be maintained by the lot owners in perpetuity.
 - E. The Final Site Plan shall be subject to the review and approval of Sussex County.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to grant preliminary approval of 2021-33 Workman's Crossing (Phase II) for the reasons and conditions stated in the motion. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Hopkins – yea, Ms. Wingate – yea, Chairman Wheatley – yea

C/U 2298 Freeman Solar, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT, A GR GENERAL RESIDENTIAL DISTRICT, AND A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A 75 MEGAWATT SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 350.96 ACRES, MORE OR LESS. The property is lying on the east and west side of Calhoun Road (S.C.R. 621) and South Shawnee Road (Route 36), approximately 1,267 feet south of Shawnee Road (Route 36). 911 Address: N/A. Tax Parcels: 130-3.00-246.00-247.00 & 247.02, 130-6.00-75.00, 76.00, 92.00, 94.00, 95.00, 96.00 & 97.00.

The Commission discussed the Application which had been deferred since May 12, 2022.

Mr. Robertson read Mr. Hopkins's motion.

Mr. Hopkins moved that the Commission recommend approval of C/U 2298 Freeman Solar, LLC for a solar farm in the AR-1, GR, and MR Districts 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. The Property is currently GR, MR, and AR-1. The surrounding properties in Sussex County contain these same three zoning classifications as well as HI (Heavy Industrial District). The adjacent properties within the municipal limits of the City of Milford are within the City's C-3 (Highway Commercial District) and R-3 (Garden Apartment and Townhouse District). The adjacent properties are used for agricultural purposes, residential purposes, utilities (substation), refuse/recycling (DWSA Milford Transfer Station and Fitzgerald's Salvage & Recycling), and other agricultural commercial uses (Milford Grain Company). These zonings and uses are consistent with the proposed solar farm.
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.
4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties.
5. The proposed solar generation facility will not result in any noticeable increase in traffic on adjacent and neighboring roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels. As a result, DelDOT has determined that the traffic impact of this use will be "diminutive".
6. No significant noise, dust, or odor will be generated by the facility.
7. There will be a buffer to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
9. This recommendation is subject to the following conditions:
 - A. No storage facilities shall be constructed on the site.

- B. 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.
- C. One unlighted sign, not to exceed 32 square feet in size, shall be permitted.
- D. 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 in the Final Site Plan.
- E. Any transformers or similar equipment other than the proposed substation adjacent to Delaware Power’s substation shall be centrally located on the site away from any nearby residential uses.
- F. All of the grounds, including the area outside of the fence, shall be maintained so that they do not become overgrown.
- G. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices.
- H. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- I. The site’s boundaries that are immediately adjacent to residential uses will have a buffer planted and maintained in such a manner as to screen the view of the solar farm from the residential properties while allowing the solar arrays to function properly. This buffer and the landscaping within it shall be shown on the Final Site Plan.
- J. There are wetlands located on the property which have been delineated. The solar field shall stay a minimum of twenty-five feet (25’) from the delineated wetlands.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2298 Freeman Solar, LLC for the reasons and conditions stated in the motion. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Hopkins – yea, Ms. Wingate – yea, Chairman Wheatley – yea.

C/U 2363 Laurel Wesleyan Church – c/o Reverend M. Scott Conn

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.03 ACRES, MORE OR LESS. The property is lying on the west side of Seaford Road (Rt. 13A), approximately 0.53-mile northwest of Discount Land Road (S.C.R. 468). 911 Address: 30186 Seaford Road, Laurel. Tax Parcel: 232-12.10-3.00

The Commission discussed the Application which had been deferred since May 12, 2022.

Mr. Robertson read Ms. Wingate’s motion.

Ms. Wingate moved that the Commission recommend approval of C/U 2363 Laurel Wesleyan Church c/o Reverend M. Scott Conn to allow an on-premises electronic message center sign based on the record made during the public hearing and for the following reasons:

1. This is an application for a Conditional Use to install an on-premises electronic message display sign. This type of application is permitted under Section 115-161.1 A. (3) of the Zoning Code.
2. The sign will be used to display information about the Laurel Wesleyan Church and its activities. The Church occupies the site where the sign is located.
3. This sign will replace a prior static-display sign on the site.
4. The sign will be required to comply with all of the sign regulations in the Zoning Code, including brightness and motion.
5. The sign will not adversely affect neighboring properties or area roadways and traffic.
6. No parties appeared in opposition to this Application.
7. This recommendation is subject to the following conditions:
 - A. The Electronic Message Display area shall not exceed 32 feet per side.
 - B. A final site plan showing the location of the sign on the site shall be submitted to the Sussex County Planning & Zoning Commission for approval.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to recommend approval of C/U 2363 Laurel Wesleyan Church – c/o Reverend M. Scott Conn for the reasons and conditions stated in the motion. Motion carried 4-0.

The vote by roll call: Ms. Stevenson – yea, Mr. Hopkins – yea, Ms. Wingate – yea, Chairman Wheatley – Yea.

OTHER BUSINESS CONTD.

Americana Bayside – Bayside Hotel Phase 1B

Preliminary Site Plan

This is a Preliminary Site Plan for the Bayside Hotel, Phase 1B for a proposed sixty (60) room hotel totaling 39,517 square feet, bar, and restaurant, inground pool, Zen Garden, spa, lounge, outdoor seating, parking, and associated site improvements to be located on Lakeview Drive and with access off the south side of Signature Boulevard within the existing Americana Bayside Residential Planned Community (RPC). The Residential Planned Community was established by the Sussex County Council at their meeting of Tuesday, February 6, 2001, through Change of Zone 1393, and the change was adopted through Ordinance No. 1433. The change of zone was for a change in zoning from an Agricultural Residential (AR-1) District to a Medium Density Residential, Residential Planned Community (MR-RPC). The Preliminary Site Plan complies with the Sussex County Zoning and Subdivision Codes and all Conditions of Approval for the RPC. Zoning District: MR-RPC (Medium Density Residential, Residential Planned Community.) Tax Parcel: 533-19.00-865.01. Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried to approve the Preliminary Site Plan as preliminary. Motion carried 3-0. Ms. Wingate abstained.

2021-26 Harpers Glen (F.K.A. Workman Subdivision)

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 for Harpers Glen (2021-26) (F.K.A. Workman Subdivision) as approved by the Planning and Zoning Commission at their meeting of Thursday, April 14, 2022. Specifically, the request is to remove in its entirety, Condition “F” of the Conditions of Approval which states, *“The entrance shall be relocated to the area of land identified as Outparcel “B” on the proposed Preliminary Site Plan. Subject to that relocation, the development shall comply with all DelDOT entrance and roadway improvement requirements.”* This AR-1 cluster subdivision proposes thirty-three (33) single-family lots on 29.39 acres +/- and is located on the north side of Milton Ellendale Highway (Route 16), approximately 0.17 mile east of the intersection of Gravel Hill Road (Route 30) and Isaacs Road (Route 30). Tax Parcels: 235-14.00-61.00 & 61.06. Zoning: AR-1 (Agricultural Residential District).

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried to approve the Request to Amend the Conditions of Approval for Condition “F” shall state *“The development shall comply with all DelDOT entrance and roadway improvement requirements”*. Motion carried 3-0. Chairman Wheatley abstained.

PUBLIC HEARINGS

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

Chairman Wheatley recused himself from the next Application and left Council Chambers

C/U 2352 CB Lewes, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT TO AMEND THE CONDITIONS OF APPROVAL OF C/U 1845 (ORDINANCE NO. 2106) TO INCREASE THE NUMBER OF PERMITTED MULTIFAMILY UNITS FROM 168 TO 198 FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.08 ACRES, MORE OR LESS. The property is lying on the northeast side of Plantations Road (Rt. 1D), 850 feet northwest of Robinsonville Road (S.C.R. 271). 911 Address: N/A. Tax Parcel: 334-6.00-504.02.

Mr. Whitehouse advised the Commission that submitted into the record were the Site Plan, Staff Analysis, a letter from the Sussex County Engineering Department Utility Planning Division, the DelDOT Service Level Evaluation Response, four mail returns, and five letters of opposition, with one letter being a duplicate.

The Commission found that Mr. David Hutt, Esq. with Morris James spoke on behalf of the Application; that also present were Mr. Joseph Calabro with CB Lewes, LLC, and Mr. Alan Hill, Professional Engineer with Hillcrest Associates, Inc.; that the closing of the record for the SCRPP Program was very germane to the present Application; that members of the public and the Commission have both raised concerns regarding providing additional opportunities of helping the affordable housing issues within Sussex County; that there is more which needs to be done regarding the affordable housing issues in Sussex County; that the proposed Application presents an opportunity for Sussex County to offer more within the SCRPP Program; that the Coastal Tide project originally presented and approved as The Arbors of Cottagedale; that the original approval was for 168 residential rental units; that of the 168 rental units, 26 units were designated to be part of the SCRPP Program; that the Application was previously approved through C/U 1845, which was adopted by County Council on February 23, 2010; that as part of the

process with the rental program, and Applicant is required to enter into an agreement with Sussex County and various other departments within the County; that there is an agreement and a set a restrictive covenants which the Code refers to, which get recorded with the Recorder of Deeds, providing a permanent record of the agreement; that should the Application be approved, an amendment to the original document on record, which would update the document to add the additional proposed units; that the Application property is located on the block of land between Plantations Rd., also known as Rt. 1D and Rt. 1; that the entrance to existing apartments is located off Plantations Rd. via Mackenzie Way; that all of buildings as part of the original approval are constructed; that six apartment buildings currently exist; that the existing amenities are located right off Mackenzie Way; that two of the buildings on the site are not yet occupied; that one building is still required to be energized; that the other building is awaiting a Certificate of Occupancy; that prior to the 1960s the site was once called Jackson Pit, which was a borrow pit from which materials were excavated; that once the use of the borrow pit ceased, the area became a dump for household municipal waste; that this use occurred until the early 1980s; that in the early 1990s, DNREC issued a permit allowing certain types of debris to be placed at the site; that the debris included stumps, lumber and trees; that once that use ceased, sand and gravel were brought in and the site was leveled; that the site was not monitored very carefully which led to a lot of illegal dumping at the site; that from 1986 until 2014 there was a series of environmental studies performed on the property; that in 2015 the results of the studies were released; that there was a brownfield investigation performed; that the investigation resulted in an action plan, which was approved by DNREC to remediate the site; that there are thousands of documents referencing the remediation and the brownfield investigation; that they were required to excavate all of the debris, properly dispose of the waste and debris and fill the site clean fill; that final report from the engineers indicated 32,736 tons of debris were removed from Jackson Pit during the process; that the expense of the debris removal and proper disposal was nearly six million dollars; that the site did receive a certificate of completion issued by DNREC, which is a recorded document within the Recorder of Deeds as of 2019; that the property is zoned MR (Medium-Density Residential) Zoning District; that on the County's 2045 Future Land Use Map, the property is shown within the Coastal Area; that the Coastal Area is part of the County's seven Growth Areas; that all properties between Plantations Rd. and Rt. 1 are located within the Coastal Area or zoned for commercial; that the 2020 State Strategies Map the entire area between Plantation Rd. and Rt. 1 is located within Investment Level 1; that Investment Level 1 areas are areas where the State promotes well designed, efficient new growth and new development; that these are active areas where the state anticipates growth and spends money on infrastructure; that the property is not located within a flood plain, as it is designated Flood Zone X; that this is referenced on the FEMA Map as being outside of the 500 Year Flood Plain; that there are no wetlands located on the property; that all necessary utilities are available to the site; that sewer services are provided and currently utilized on site through the Sussex County Unified Sanitary Sewer System; that water services are currently provided by Tidewater Utilities, Inc.; that there are six existing apartment buildings; that each apartment building holds 30 units; that there is a smaller building, located near the front of the property, which contains 18 units; that those apartment buildings total 168 existing units; that on the proposed Preliminary Site Plan, is the proposed seventh apartment building; that the proposed seventh building has the same footprint as the other five existing buildings containing 30 units; that proposed is a three-story apartment building, consisting of 30 units; that six of the 30 units will be utilized for the SCRP Program; that as proposed, 20% of the new units would be part of the SCRP Program; that the Code currently requires 12.5% of units to be part of the SCRP Program; that the proposed Application is offering an additional 7.5% of units; that overall the total percentage of the number of units would be subject to the SCRP Program would be 16% based upon the existing 26 units previously scheduled to be within the program, along with the addition of the six proposed; that one concern proposed within a letter submitted into the record was the density for the project and the area; that the density would change with the addition of the proposed building addition;

that currently the density of the site is 9.29 units to the acre; that with addition of the proposed building, with 30 units, the density would increase to 10.95 units to the acre; that the densities within the area vary; that toward Rt. 1, the Savannah West Apartments, which contains 48 units on a four acre site, have a density nearing 12 units to the acre; that Somerset Green has density of eight units to the acre; that within the Rolling Meadows Community, which are single-family homes, generally located on half-acre lots; that there is a mixture of housing styles and densities within the area; that multi-family living is common for the area and consistent to other communities within the area; that the multi-family uses are Plantations, Savannah West, Eagle Point Community, Sunset Glen, Somerset Green and the existing buildings of Coastal Tide; that another concern was regarding traffic; that DelDOT did provide a Service Level Evaluation Response which indicated the traffic generated by the additional 30 units would be negligible, which means less than 50 vehicle trips in any hour; that the property is located with the Henlopen Transportation Improvement District (Henlopen TID); that due to being within the TID, there will be a required to be paid into the TID for each of the 30 units; that there were concerns submitted by the Rolling Meadows Community; that there is a current landscape buffer between the community and the proposed site; that if the buffer requires to be supplemented, it can be accomplished; that another submitted concern, was in regards to the timing of the project; that the comments stated the process has taken years; that the comments are true, as before the construction of the infrastructure, the site was first required to be remediated as it was designated a brownfield site; that it was hoped that by removing the 32,736 tons of debris from the site, it would be considered a benefit to the overall community; that the Commission has seen many revisions to the original site plan, which referenced the name and parking changes; that located on the proposed site plan there are additional parking spaces, which exceed the parking requirements found within the County Code; that a concern submitted by the Eagle Point Community was regarding an existing stormwater management pond; that the stormwater management pond has been difficult to manage; that within the last few weeks, Sussex Conservation District approved the plan of action to address the stormwater management pond issues and concerns; that the Applicant has ordered the materials necessary; that when the items are delivered, they will be installed, addressing the issues of the stormwater management pond; that the new proposed apartment building will have its own stormwater management pond, being separate from the existing stormwater management concerns; that another concern was regarding fencing; that the original approval required fencing; that the reasoning for the fencing not currently being installed is due to the required stormwater management maintenance for remedy the current issues; that if the Applicant were to place the fencing, the contractor would not be able to access the stormwater management pond; that as soon as the stormwater management remedial work is completed, receiving approval Sussex Conservation District, the fencing will then be installed and completed, which was required for the original Conditional Use; that at that time, there will be fencing placed around the dumpsters located in various locations around the site; that there was a meeting held the day before the public hearing, with members from Eagles Point and the management company for Coastal Tide Apartments, where a number of the issues were explained and discussed; that the two relevant chapters within the Comprehensive Plan is Chapter 4 on land use and Chapter 8 on housing; that within Section 8.2.1.3 it states Sussex County should explore ways for private developers to provide multi-family and affordable housing opportunities; that the project, as proposed, provides that exact opportunity to Sussex County; that the proposed project infill, where there is existing infrastructure; that the Applicant can simply add a building onto the site, which would provide multi-family housing, with six units being subject to the SCRP Program; that the six units will provide affordable housing in an area of Sussex County which needs it; that within Chapter 4 of the Comprehensive Plan, it stated when medium and higher density, four to 12 units per acre, can be appropriate in certain locations; that Chapter 4 states, medium and higher densities can be supported where there is central water and sewer, where located near sufficient commercial uses and employment centers, where it keeps with the character of the area, where it is located along a main road and/or near

a major intersection, where there is adequate level of service, or where other considerations existing which are relevant to the requested project and density; that the proposed project would offer affordable housing opportunities in an area in Sussex County which desperately needs it; that the area is served by Sussex County central sewer; that central water is provided by Tidewater Utilities, that it is located near a significant amount of commercial uses and employment centers being near Rt. 1; that the project does keep in character with the area, as there are a number of multi-family units nearby; that the property is situated along a major roadway, Plantations Rd. which DelDOT classifies as a major collector roadway; that Plantations Rd. is in close proximity to Rt. 1 and in close proximity to the DART station near the Lowes; that the proposed use is consistent with the Comprehensive Plan; that the project is consistent with the multi-family unit section within the MR (Medium-Density Residential) section of County Code; that he did request to show photos of the existing apartment units; that there are garages located along the perimeter, which are available separately to unit owners for rent; that within the SCRP it requires all units subject to the SCRP be fully integrated into community in location and appearance; that within the SCRP the price points are set for the units; that he provided a chart listing the SCRP unit pricing within Coastal Tide, as well as the market rate pricing, which proves the SCRP program works; that for a one bedroom with one bathroom unit, the price for a SCRP unit would be \$660.00; that the same unit at market rate would cost \$1,565.00; that Sussex County is able to ensure these numbers through an Annual Compliance Report provided and reviewed by Sussex County; that this review, allows review of all applications, the units and how the rent is being administered; that this review would also hold true for the proposed six SCRP units for the project; that he requested to submit a proposed Findings of Fact and proposed Conditions of Approval; that the only condition proposed to be changed is Condition A, which references the number of rental units and all of the other conditions for the existing Conditional Use would apply to the proposed project.

Mr. Hopkins questioned how applicants get placed on a list for the SCRP units and questioned if 100% of the applicants get funneled through the Sussex County Department of Housing or not.

Mr. Robertson stated there are representatives of the Sussex County Department of Housing who also handle the lists of tenant applications.

Mr. Joseph Calabro stated he is not involved in the day-to-day property management aspect of the project and Ms. Linda Smith with Your Place Property Management, LLC works hand-in-hand with Ms. Brandy Nauman on the property management process; that he has been involved to some degree.

Mr. Hutt stated years ago, Ms. Brandy Nauman did make a presentation before the County Council regarding how the project of Coastal Tide was being performed.

Ms. Brandy Nauman, accompanied by Ms. Tyesia Dupont-Palmer, stated Your Place Property Management and Coastal Tide Apartments will receive direct referrals from members of the public; that she and her staff also receive calls at their office of Sussex County Department of Housing; that their department directs those calls directly to Coastal Tide Apartments; where the caller would specifically ask to be placed on the waiting list for the Sussex County Rental Program; that the property manager keeps to waiting lists; that one list is for the market rate units and another list for the affordable rental units; that as units become available the property manager assesses each applicant for their eligibility; that in order to generate the initial waiting list, they conducted a lottery, which was a learning process for all involved; that they offered this to provide the most fair way of establishing a waiting list; that there was a four to six week period where members of the public could call or apply online via webform to request to become part of the lottery; that at the end of that period they randomly generated numbers

to every applicant; that this information was forwarded to the property management company, who has been working their way down those lists ever since; that at this point the lottery list has been exhausted; that the property management company has now began an open waiting list; that any member of the public who calls will be placed on a waiting list; applicants are taken in order as they call, but also based on family size and units size required and the funnel all requesting applicants directly to the property manager who handles all eligibility criteria.

Ms. Tyesia Dupont-Palmer submitted a document that referenced the bedroom sizes on the waiting list, which consist of one-, two- and three-bedroom units; that they had their first compliance review on February 7th and 8th of 2022; that they review 14 current tenant files; that the files were found to be in compliance; that there was one rejected application which was denied due to unsatisfactory criminal and credit back ground checks; that during the time of the review, for the 14 files, there were two households at 30% Area Median Income (AMI), eight files at 50% AMI, and four files at 80% AMI; that rent costs, at the time of the review, were \$590.00 for the one-bedroom, \$705.00 for the two-bedroom, and \$815.00 for the three-bedroom; that the costs have since increased based on the Sussex County Income Limits; that due to active construction, there were only 14 SCRP units available at the time of review and they currently have 18 SCRP units within Coastal Tide.

Mr. Hopkins questioned how Sussex County confirms accountability and he questioned how Sussex County confirms the list Sussex County has currently working with is still on file, which will not be changed in the future, and he questioned how the SCRP lottery was performed.

Ms. Tyesia Dupont-Palmer stated that currently, the Sussex County Department of Housing has a running list; that when she started with the Department, Ms. Brandy Nauman had a list of all applicants for the lottery; that she used the lottery list when performing her compliance review, to ensure the people who had applied for the lottery were the actual tenants who moved into units on the property.

Ms. Brandy Nauman stated the lottery was the initial way to establish a wait list; that there were advertisements and flyers facilitated throughout the area through Ms. Linda Smith and her team at Your Place Property Management, LLC; that the flyers were facilitated to various employment centers in the area, Beebe and Cape Henlopen School District; that an advertisement was placed on social media and press releases; that they received a great response; that they initially received 100 applicant responses for the lottery; that they have facilitated through the lottery list; that they are currently accepting applications; that the property manager sends monthly reports to Ms. Dupont-Palmer, which she reviews and compares to the months prior to ensure everything complies; that this also creates an easier process during the annual compliance review; that the lottery process began in December 2020; that the lottery stayed open for a period of six weeks; that the lottery began prior to the completion of the first unit; that of the 100 applicants, 18 tenants were provided a SCRP unit; that they have documentation for the other 82 applicants; that the property manager would schedule appointments, the applicants had already found alternative housing, applicants did not qualify based on background, income, criminal history and other various criteria; that the lottery did not initially assess those criteria; that initially anyone was allowed to apply; that they then were required to filter through the applications for those who would be eligible and there is about 35 applicants currently on the waiting list for the SCRP Program.

Mr. Hopkins stated he was surprised that so few people applied for the lottery.

Ms. Tyesia Dupont-Palmer stated she receives calls daily for housing; that she refers the calls to Coastal Tide; that she provides the phone number and address, advises callers to pick up an application and to

speak with the property manager; that she keeps a running list of callers; that a lady called last week for housing; that she advised the property manager, who confirm the lady did come in to apply; that Coastal Tide is the only project part of the SCRP Program; that 10 applicants have been denied since the process began and the denials have been due to unsatisfactory criminal background or for over or below income.

Mr. Robertson stated, as also mentioned by Mr. Hutt, that all the requirements being discussed are requirements listed within Chapter 72, to be placed in an agreement which is required to be recorded with the Recorder of Deeds; that this was a requirement of the Conditional Use approval, which spells out in more detail what needs to be done in relation to Sussex County Code and the document recorded with Recorder of Deeds.

Mr. Hopkins questioned what the estimated turnover is for the SCRP units.

Ms. Brandy Nauman stated she does not believe they have data on turnover rates yet; that every tenant signs a year lease; that if they remain income-qualified and remain in good standing with the property manager, they remain within the SCRP Program and unit.

Ms. Wingate questioned if the two buildings currently existing were committed to SCRP-eligible residents.

Ms. Stevenson questioned why the Applicant did not originally request the greater number of units as they had the space to do so, and she stated an opposition letter submitted mentioned the concern of an Indian burial ground located on the site.

Mr. Joseph Calabro stated the units are identified as to the type of SCRP units within the buildings; that he is not aware if there are currently signed leases for those units; that it has been a moving target with all of the supply chain issues the past year; that they would have liked to have the other buildings completed months ago; that they have been waiting on water meters and electric gear; that the timelines continue to be pushed out; that he does believe at the time they can begin signing leases the units will be filled in short order by all parties; that other than some short turnover, they have 100% occupancy of the buildings currently completed; that they were not the original developer of the existing project; that they stepped into the project around 2014-2015, when they acquired the property from another developer and he does believe there was a previous developer before that, who took the project through the original Conditional Use approval.

Mr. Hutt stated he believed, based on the meeting minutes provided, when the original application went through there was some concern there was a graveyard on-site, requiring protection; that he understood it to be the graveyard was located on another property, across the subject site's boundary line and there was a condition place stating a setback from the graveyard.

Mr. Robertson stated he agreed with Mr. Hutt's comments, that he remembered the graveyard to be located on the adjacent property as well; that from personal knowledge, a sign referencing the graveyard is located at the entrance of Eagle Point; that the graveyard is not located anywhere near the Application site, and he questioned if there was any concern to a graveyard being in the location the apartment building is proposed.

Mr. Hutt stated there is no graveyard located in the area the apartment building is proposed on the site.

Ms. Stevenson stated she does not have an issue with extra units; that she believes the site is a location where density should be located; that she had concerns that the Commission will set a precedent, which could have a negative impact later, where a developer has 300 acres, only developing 100 units, then returning at a later time requesting more units with the fact they have already developed the area and she questioned if there was a method to delaying the start of the project if approved until the existing stormwater management plan is in place and questioned if the Applicant agreed to place additional vegetation.

Mr. Robertson stated the Commission often hears about the density of surrounding projects; that every Application is on its own merit; that this will not set a precedent for an Applicant to sandbag their initial application and return again for another request and he believes Sussex Conservation District will require the stormwater management plan to be approved, design accordingly, that there is adequate stormwater management for the proposed project and these things will happen as a matter of course.

Mr. Hutt stated the Applicant has worked closely with Sussex Conservation District; that the stormwater management plan has already been approved by Sussex Conservation District; that it is just a matter of implementing the stormwater management plan at this time and that the new location would have its own storm management review which Mr. Robertson previously referenced, and the Applicant would comply with placing additional vegetation in areas where it is needed.

Mr. Robertson questioned how quickly the other buildings, which have not yet received certificates of occupancy, are predicted to be occupied quickly.

Mr. Joseph Calabro stated he 100% believed the units will fill quickly; that the demand is still robust; that they have currently been pushing people back due to the supply chain issues, which causes some people to be unable to wait, but he feels the demand is still very high.

Ms. Stevenson questioned who owned the large open parcel to the south of the Application property and she stated she is certain the parcel would be developed at some point, and she wishes to avoid more entrances onto Plantations Rd.

Mr. Whitehouse provided the property owner information on the Sussex County Map which referenced Billie Lynn Thompson Trustee as the owner of the property.

Mr. Hutt stated there have been preliminary discussions with DelDOT regarding the property in question; that the discussions have included a four-legged intersection; that as part of the plan, Robinsonville Rd. will be realigned, meeting at a 90-degree angle to Plantations Rd.; that these plans are part of Phase 1 of the DelDOT improvements; that if the other property were to become developed, DelDOT is proposing a four-legged intersection with Plantations Rd., Robinsonville Rd.; that the entrance into the potential future development and the future development would have access from the intersection, not from Mackenzie Way and he does not know if proposed is a traffic light or a four-way stop sign.

Ms. Stevenson stated she would like to see access to Coastal Tide from the future intersection, rather than Mackenzie Way, to help eliminate multiple access points onto Plantations Rd., as she felt it was a safety issue and questioned Mr. Calabro if he would be open to discussing the possibility if/when the property becomes developed.

Mr. Calabro stated he would be agreeable to having discussions regarding access by the four-way intersection, rather than Mackenzie Way with the development of the parcel in the future.

The Commission found that Mr. Sheldon Finkerstein spoke in opposition to the Application; that he is the Vice President of the Board of Directors for the HOA of Rolling Meadows; that he stated a letter from Mr. Steven Hyle, the President of the HOA Board of Directors, from May 15, 2022, to Mr. Jamie Whitehouse was submitted into the record; that the letter was included within the provided packet; that he had listened carefully to the comments and questions of the Commission and staff; that along the property's southern border, which is Rolling Meadows northern border, there are parking spots; that he had counted about 30 parking spots or more; that all of the parking areas face outward, onto Rolling Meadows; that, as the plan shows, all of the cars parked in the parking areas will have light shining directly onto Rolling Meadows; that within Mr. Hyles letter of May 15, 2022, he discusses the years of excessive construction, creating noise, the blowing of dust and debris, unpleasant odors, bright lights, and concussive vibrations; that he himself had experienced also; that these issues have made things very difficult within Rolling Meadows for the past few years; that if the plan should be approved, he requested very sincerely and vigorously, to request a specific condition stating, prior to construction, there be hedges placed along the entire border of Rolling Meadows, being their southern border and Rolling Meadows northern border; that the hedges are to be maintained thereafter; that providing the hedges will cut down on the noise, dust and lights, in the short-term and in the long-term; that he had priced the hedges out; that Rolling Meadows would recommend Leyland Cypress trees, as they are fast growing, they establish a privacy screen, and should be planted about eight to 10-ft. apart; that if the Applicant were to provide the hedge, the cost for the entire border would cost approximately \$10,000.00 all in, with planting; that if the Commission were to compare that cost to the gross revenue from the rent charged, should the project be approved; that he pulled numbers off the Applicant's website, applying very simple math; that the came up with approximately \$632,000 in additional gross rent in the first year; that the price may be slightly below given some of the units will be for the SCRP Program; that if one were to assume a modest rent increase, taken over the next 10 years, the additional proposed building will provide the developers another \$3.5 million dollars approximately in gross rent; that he understands the reason why the developer would want the Application approved; that when you compare that gross rent to the approximate \$10,000 for the hedges, he considers that a "no brainer"; that the request must be placed as a specific condition; that Rolling Meadows does not have a forested preserve between the backyards of the homeowners and the development; that there is one homeowner in Rolling Meadows, who does have a nice row of hedged currently; that the rest of the homeowners do not; that there is little foliage, but not at the level to be an adequate block to the noise and light; that if the Applicant were to plant the trees eight to 10-ft. apart, creating mature trees at the height of 30-ft. to 40-ft. the Coastal Tide tenant will not have to see the residents of Rolling Meadows and vice versa; that this will allow everyone to be as happy as they can by under the circumstances; that they do understand why the Commission would want to approve the Application; that if some of the homeowners have to endure additional time of noise and disruption, the buffer will help the negative impact to some degree; that there are 171 homeowners in Rolling Meadows and with this concern they stand united.

Ms. Stevenson stated the County Code does require a vegetative buffer to be placed between properties.

Mr. Whitehouse stated when using the Sussex County Subdivision design standard, there is a mixture of evergreen and deciduous species, which would include native species; that Rolling Meadows is requesting a very specific evergreen species, at a very specific spacing which is different than the standard Sussex County Subdivision requirements.

Mr. Finklestein requested the Commission ensure the buffer is robust enough to block the dust and the noise.

Mr. Calabro stated without knowing the variety of the specific shrub or tree, it is difficult for him to provide comment; that they would be open to a forested buffer and/or privacy fencing; that he does understand Mr. Finklestein's concern, and that he cannot currently comment on the specific variety being requested.

The Commission found that Mr. Steve Hutcherson spoke in opposition to the Application; that he is the Secretary for the HOA of Eagles Point development; that they did have a meeting the day prior to the public hearing with the developer and rental agency; that they did address some of the concerns of Eagles Point; that Eagles Point had previously come to the Commission three years ago with concerns to the fencing and privacy; that at that time it was stated the developer would provide a fence and fencing around the dumpsters; that Eagles Point was told within 90 days fencing would be provided; that at the public hearing three years ago, it was stated there would be a buffer placed; that he currently has lights from the Coastal Tide development shining into his windows every night; that Mr. Finklestein made very good points regarding the buffer; that if the Applicant provides the buffer, they should extend the buffer down and around the border to Eagles Point, as they still have not received their fence, which was promised two years ago; that the excuse provided to Eagles Point, is the developer is waiting on Sussex Conservation District; that if this is true, within the next 90 days, the fence should be provided; that he does feel whatever is done to the border of Rolling Meadows should also be done at border of Eagles Point; that the developer originally proposed to Eagles Point, a fence with landscaping and from his family room he watch a forest of trees be taken down by the developer.

The Commission found that Mr. Glenden Jackson spoke in opposition to the Application; that he has lived on Mackenzie Way for the past 30 years; that he is concerned about the additional traffic the project will create; that the traffic is exacerbated in the summer months; that it is his understanding that DelDOT is to begin construction on his section of roadway this year; that he has been told this construction will consist of two lanes, in each direction with a center turn lane; that with the additional units, even with one vehicle per unit, it will create a lot of additional traffic; that he is concerned he may not be able to leave his driveway if the Application is approved; that he also, questioned why the additional building was not requested with the original application; that Mackenzie Way is a narrow road, with sidewalks located on both sides; that the speed limit is 25 mph; that there is an issue with people speeding; that no one travels 25-mph on Mackenzie Way; that the typical speed travels is about 40-mph; that the vehicles speeding also include construction and delivery vehicles as well; that he would like to see speed bumps placed on Mackenzie Way to slow down speeders; that he is concerned for the school children; that he does not understand why the school bus stop is not within the development, preferably located at the clubhouse; that there is a concrete pad at the clubhouse location where children could stand to wait for the bus; that school children are currently being picked up at the entrance of the development, being at Plantations Rd. and Mackenzie Way; that in the mornings, cars are parked on both sides of the road, at times parked on the sidewalks, waiting for their children to get on the bus; that this location also requires the children to walk from the bus stop back to their homes within the development; that Israel United Methodist Church is located next door; that he is a member and on the board for the church; that since the original project has been constructed, they have had to place no trespassing signs on the property; that people are not respecting the property; that they often have loitering in their graveyard and he does oppose the Application as there are issues still needing to be resolved.

Ms. Stevenson stated the School District determines the location of bus stops.

The Commission found there was one caller by teleconference who spoke in opposition to the Application with concerns of noise, additional traffic, and additional speeding traffic through Eagles Point.

Upon there being no further questions, Vice-Chair Stevenson closed the public hearing.

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

In relation to the Application C/U 2352 CB Lewes, LLC. Motion by Ms. Stevenson to defer action for further consideration, seconded by Ms. Wingate, and carried unanimously. Motion carried 4-0.

Recess 7:28 p.m. – 7:34 p.m.

Chairman Wheatley stated the next two public hearings for C/Z 1946 and C/U 2293 for Ronald & Candice Gray will be consolidated into one presentation.

C/Z 1946 Ronald & Candice Gray

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.564 ACRES, MORE OR LESS. The property is lying on the west side of Roxana Road (Rt. 17), approximately 0.69-miles northeast of the intersection of Roxanna Road and Daisey Road (S.C.R. 370) 911 Address: N/A. Tax Parcel: 134-15.00-20.12.

Mr. Whitehouse stated that submitted into the record was the Conceptual Site Plan, the PLUS comments received, the Applicant's response to the PLUS comments, the DelDOT Service Level Evaluation Response, and a letter from Sussex County Engineering Department Utility Planning Division, and zero comments.

C/U 2293 Ronald & Candice Gray

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR 703 STORAGE UNITS AND OUTDOOR STORAGE FOR BOATS AND RV'S TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.424 ACRES, MORE OR LESS. The property is lying on the west side of Roxana Road (Rt. 17), approximately 0.68-miles northeast of the intersection of Roxanna Road and Daisey Road (S.C.R. 370). 911 Address: N/A. Tax Parcel: 134-15.00-20.06.

Mr. Whitehouse stated that submitted into the record were the Conceptual Site Plan, the PLUS comments received, the Applicant's response to the PLUS comments, the DelDOT Service Level Evaluation Response, and a letter from Sussex County Engineering Department Utility Planning Division, and zero comments.

The Commission found that Ms. Shannon Carmean Burton, Esq. spoke on behalf of both Applications, C/Z 1946 and C/U 2293 for Ronald & Candice Gray; that she is an attorney with Sergovic Carmean Weidman McCartney & Owens, P.A.; that also present were Mr. Tim Metzner with Davis, Bowen & Friedel, Mr. Ron Gray, the Applicant and Mr. Edward Launay, with Environmental Resources, Inc., that there are two applications being presented to the Commission; that the first request to amend the

Comprehensive Zoning Map of Sussex County from AR-1 (Agricultural Residential) Zoning District to B-2 (Business Community) Zoning District; that the other Application is for a Conditional Use of land within an AR-1 (Agricultural Residential) Zoning District for purposes of constructing 703 storage units, with outdoor storage for boats, boat trailers and RVS; that they have submitted exhibit booklets for review; that the exhibit booklet for the Conditional Use does contain proposed Findings of Fact and Conditions of Approval; that both properties are located on Roxanna Rd., approximately .45-mile south of the intersection of Peppers Corner Rd., Powell Farm Rd. and Roxanna Rd.; that the property being proposed for a Change of Zone contains approximately 1.56-acres; that the property for the Conditional Use request consists of approximately 8.424-acres of land; that both properties are both zoned AR-1 (Agricultural Residential); that the property requested for Change of Zone has been a vacant lot since purchased by the Applicant in 2018; that the 8.424-acre property, requested for Conditional Use, has historically been used for farming purposes; that the Applicants have submitted both requests for the same purpose being to make better economic use of the properties, as well as to provide needed services and employment opportunities; that the Conditional Use will allow the Applicants to meet the storage needs; that the surrounding area is rapidly growing; that many people moving to the area are downsizing, but do not want to get rid of their possessions; that this proposes a need for additional storage space in the area; that the 8.242-acre property is being proposed for storage purposes; that the Applicants intend to develop the 1.56-acre property for office use; that they do have Conceptual Site Plan to present to show the intention for the future use of the property and the Applicant does not have intentions to develop the property until central sewer is available.

The Commission found that Mr. Tim Metzger spoke on behalf of the Application; that for the 8.242-acre site, requested for Conditional Use, they are proposing 94,800 sq. ft. of enclosed storage space; that this square footage would be comprised of 14 buildings; that the 14 buildings would contain a total of 703 storage units; that the Conditional Use site is surrounded by roadways; that Rt. 17 (Roxanna Rd.) is located to the east of the property; that along the southern side of the property is a driveway utilized for ingress and egress access for the residential homes to the west; that on the southside of Horse Play Way is commercial and residential uses; that located to the north is another residential property; that on the west side of the property there is a tax ditch which borders the property; that along the north side there is an agricultural ditch which borders the property, along with existing vegetation and screening from the adjacent property to the north; that as proposed within the Conditional Use plan for the storage units, no vegetation is being proposed to be removed; that the screening located to the north will remain; that stormwater is proposed to be located to the south, along the property line and will tie into the tax ditch located to the left; that the property entrance and exit is located off Rt. 17; that in Tab K of the Exhibit Booklet, is the DelDOT Service Level Evaluation Response for C/U 2293 and C/Z 1946; that the DelDOT response stated the projects will generate less than 50 vehicle trips in any hour, being less than 500 vehicle trips per day; that DelDOT stated a Traffic Impact Study (TIS) to be negligible; that due to this a TIS is not required by DelDOT; that the Conditional Use site is classified as AB and AD soils per the Natural Resources Conservation District (NRCS) Soils Map; that AB is the better, well-draining soils; that AD soils can be well-draining or poorly-draining soils; that during the engineering process of the site, they will be required to provide positive drainage and stormwater management for the site; that this would bring the site into compliance with the A soils; that when they presented the project a few years ago to the Commission, the site was classified within Investment Level 4 according to the State Strategies Map; that the State has since revised the site to Investment Level 2 and Level 3; that Level 2 and Level 3 do support future growth; that within the PLUS comments no objection was given to the proposed use and development of the property; that within Tab C of the Exhibit Booklet, it references the water services territories; that to the north of site, approximately 4,250-ft. away, is the nearest connection for central water; that the Conditional Use property does not require central sewer and water

service; that they are proposing a layout that will not require sprinklers; that the layout will meet the Fire Code; that within Tab D of the Exhibit Booklet, references the sewer service which is to the north, approximately 4,250-ft. away; that area is continuing to grow, being the location of the Beebe Medical Facility and future apartment complexes; that they do understand they are requesting a Change of Zone and not site plan approval; that the Applicant has been before the Commission previously, with the same layout for a different site and the site plan submitted is simply to provide the intention of the site.

The Commission found that Mr. Ronald Gray spoke on behalf of his Application; that he has owned the properties since 2018; that he had previously been before the Commission to request rezoning of a 10-acre parcel with the same proposed use of storage units; that he is now proposing the same use again, but on two properties, one being of one and a half acre property and one 8.5-acre property; that within the previous public hearings there were no concerns raised at the public hearing before Planning and Zoning Commission; that there were several complaints raised at the County Council public hearing; that due to the several complaints, he decided to pull the request for complete rezoning; that a Conditional Use approval would assure anyone concerned that the specific portion of the property would only be used for the proposed use of storage; that there has been an increased demand for storage units throughout the area, being from Fenwick Island to Millsboro in the last two years; that there was previously a need for storage, but starting in the middle of 2020, the storage industry blew up in the area; that he currently has two facilities; that he currently gets about three calls a day for storage rentals; that typically a person has a storage unit until they decide to move out; that many people do not plan ahead, calling with the expectation of obtaining a rental unit the same day; that those people get placed on a waiting list; that when he is able to offer a space two months later, the people have already gone elsewhere; that he had spoken with Ms. Deborah Botchie, who is the Town Manager for Town of Millville; that there is an enormous amount of units present already; that Millville by the Sea has about 2,800 units approved within the Town of Millville; that currently they have built 541 of 931 approved; that there are an additional 391 units coming on board; that in addition to this, there are 508 units currently going through the planning process with the Town of Millville; that the Town of Millville recently approved a project called Hudson's Reserve, which is 124 residential units; that his proposed project Peppers Corner, Powell Farm Rd. and Daisey Rd.; that there is a parcel in the middle of Millville by the Sea called, Egret Shores, which is 135 units; that there is an 216 unit apartment complex planned near the hospital; that Bishop's Landing has over 850 homes; that the area is growing quickly, creating the great need for storage space; that he does not wish to create more traffic, but to serve the residents who live in the area; that there has been a lot of discussion of the visibility of the storage area from neighboring properties; that the Parler Family expressed opposition to the proposed project; that the photos submitted into the exhibit booklet were taken from the north of the property, on April 1, 2022; that the Parler Family's property is not very visible to the north; that there is 30-ft. to 40-ft. of vegetation which he intends to leave in place; that there is an agricultural ditch in that location; that he referenced a photo of a 10,000 sq. ft. retail building, which was intended for office space; that the building is currently occupied by Edward Jones and a physical therapy office; that one proposed building would be approximately three quarters of the 10,000 sq. ft. building; that the other proposed building would be approximately half the size; that the buildings would be spread across the whole area of storage; that due to this, the storage area would not be visible from Rt. 17 once the project is completed; that to the north of the property there are trees which create a buffer; that all lighting on the project will be facing downward, not spilling over onto adjacent parcels; that lighting was a concern mentioned in some correspondence in opposition; that the facility will be gated, only accessible with individual codes assigned to customers who have storage units at the facility; that they currently allow access at his other storage unit properties beginning at 6:00 am until 10:00 pm; that exceptions are allowed on a case by case basis; that the hours of operation has worked well at his other facility locations; that his adjacent

neighbors are very close at his property near The Refuge, however, he has not had any issues or complaints; that there is no noise created after 10:00 pm; that he intends to place cameras around the site and buildings to ensure the security of the area and inside the facility; that there would be fencing around the perimeter of the site; that he believes his proposed use of storage buildings would fit in well with other residential and storage buildings; that it is tough to get into places on Rt. 26 due to the amount of traffic; that his proposed site will be easier to access; that he is proposing a Change of Zone from AR-1 (Agricultural Residential) to B-2 (Business Community); that he intends to only place the buildings on the property after central water and sewer become available to the site; that he did wish to gain prior approval to allow time for planning of stormwater management, infrastructure and other utilities; that the two proposed buildings would house businesses in a more rural setting; that the types of businesses who would be interested in his use would be families, doctor offices, especially to support the nearby Beebe Medical facility; financial services companies, dental office, eye doctor, physical therapy office, hair salons and other similar businesses; that the businesses would be operated during the day, with limited noise associated with the operations; that the parking lots would be lighted from dusk until dawn with professionally designed lighting; that the lighting will be designed to ensure no lighting is carried over to adjacent properties; that the proposed use is compatible with the surrounding area, as there is a commercial countertop business to the west of the property; that there is a manufacturing business located on the adjacent property; that there is a farmhouse to the west; that they propose to place a vegetative buffer from screening; that he has been in the storage business since 2008; that his property on Rt. 54 is currently filled; that he currently has eight buildings under construction in Millsboro and he feels storage units is a more benign use for the property; that he would request some flexibility be given for clients who would wish to access their units earlier; that the plan is to build the buildings in phases; that they would build building toward the front; that depending on the demand he would begin building toward the back; that there would be very little RV and boat storage and in the past they have set aside an area to storage 30 to 50 boats, leaving the area stabilized for placement of a future building.

The Commission found that Mr. Edward Launay spoke on behalf of the Application; that he did evaluate the property; that the site in total is about 10 acres; that located to the back west of the site, there is the Beaver Dam tax ditch; that the ditch is deeply dug; that it does have a Tax Ditch Right-of-Way (ROW); that he worked with Mr. Gray and the DNREC Drainage Program; that together they did have the ROW reduced to 50-ft from the Top of Bank (TOB); that the tax ditch is a perennial stream; that the tax ditch is the only wetland or waters on the entire site; that the whole site is uplands; that the recently approved Buffer Ordinance will require a 50-ft. buffer; that the required 50-ft. buffer will be contained in the 50-ft. ROW; that there is a drainage ditch to the north of the site; that the drainage ditch is not a tax ditch; that the drainage ditch will be maintained; that the ditch provides drainage of the land into the tax ditch; that there are no threatened or endangered species associated with the property; that the site is predominantly agricultural land; that when this proposed use was originally heard, there were comments and concerns made related to hydric soils on site; that a guidance document for hydric soils is the USDA Soil Survey; that based on that document, three soil types were found on site; that Hammonton soil, which is an upland soil; that unless the area is drained, there is a Berryland and Hurlock soils on the site; that most of the site is shown in those two soil types; that based on borings that he performed on the site, he found much of the site to be within the Hammonton series soil; that the hydric soils were removed, being mostly located nearest to the tax ditch; that hydric soils do have limitations due to high ground water; that the site is located within an agricultural setting, that the tax ditch, and the ditch located to the north are draining the soils; that as shown on an aerial photograph, there is extensive ditching throughout the area; that the soils on site have been effectively drained; that concerns regarding limiting factors, or excessively high water tables in terms of the proposed development, do not apply due to the agricultural setting; that if one would look at the Soil Survey for the entire area, up to Roxanna and Rt. 17, the

majority of the land are made up of the Berryland and Hurlock soils; that the ditches have been draining the soils in the area; that with proper engineering the site is suitably developable; that examples of such development on similar sites are the hospital and the Catholic church to the south of the site, and the commercial property to the opposite of the road to the site; that he feels the proposed use is suitable for the site; that the site has positive drainage and there is no impact to trees or other natural habitats.

Ms. Carmean Burton, Esq stated in regards to the rezoning application; the Applicant requests to rezone the site from AR-1 to B-2; that the purpose of the B-2 District is to provide for office, retail shopping and personal services uses, to help serve the needs of a relatively small area which is located primarily nearby rural, low to medium density neighborhoods; that the proposed office uses are permissible in the B-2 Zoning District; that both parcels are located within the Coastal Area; that the Coastal Area is Growth Area according to the Comprehensive Plan; that Table 4.5-2 within the Comprehensive Plan specifically lists the B-2 District as an applicable zoning district within the Coastal Area; that in addition to residential uses, permitted uses within the Coastal Area include retail and office use, which is the proposed use for the parcel requested for rezoning; that shopping centers and office parks are to be located near arterial roadways, such as Roxanna Rd.; that the Comprehensive Plan further states appropriate mixed-use development is also permitted; that careful mixtures of homes, light commercial, office and institutional use can be appropriate to provide for convenient services, allowing people to work close to home; that the rezoning of the property will result in light commercial and residential uses within the Growth Area; that the rezoning will provide conveniently located office and storage space to accommodate the needs, generated by the Millville by the Sea community, Beebe Hospital facility and other uses located along Roxanna Rd.; that rezoning of the property and the Conditional Use are appropriate and compatible with the goals and directions of the Comprehensive Plan; that the proposed use is a permitted use under the Zoning Code; that the property is Zoned AR-1; that Conditional Uses permitted with the AR-1 district are agricultural related industries, residential, business, commercial, or industrial uses when the purposes of the Chapter are more fully met by issuing a Conditional Use permit; that the proposed rezoning and proposed Conditional Use request will not have a negative impact on neighboring properties or the community; that although surrounding properties are zoned AR-1, there are other Conditional Uses which have been approved within a one mile radius of the site; that the neighboring property received a Conditional Use for a cabinet shop and storage uses; that the rezoning and Conditional Use is compatible with Hockers, the car wash, Bob's Marine Service, The Fireplace Store, Fishy Business, Millville by the Sea, Christopher Companies, Garth Enterprises, Beebe Healthcare South Coastal Emergency Department and churches along Roxanna Rd.; that the adjacent property, identified as Tax Map 134-15.00-20.07, owned by Mr. & Mrs. Parler, is used for agricultural and residential purposes, the boundary between the properties contains mature trees, which will serve as a natural buffer; that the Applicant is committed to maintaining the mature trees with the property boundaries to minimize any potential impact from the proposed uses; that any lighting will be directed to the interior of the property with downward illumination to ensure the lighting does not spill onto adjacent properties or roadways; that there will not be any storage of welding, flammable, explosive or other hazardous materials; there will be no waste commuted to or within any building on the property; that the perimeter of the storage facility will be fenced and gated; that the proposed hours will be from 6:00 am until 10:00 pm with earlier access allowed on a case to case basis as determined by the operator of the storage facility; that the proposed use and rezoning will have no significant impact on traffic; that DelDOT did not require a traffic impact study; that the properties are located within Investment Levels 2 and 3 and the Office of State Planning has no objection to the development of the property.

Ms. Wingate stated that the Change of Zone request does make sense to her; that she agrees the zoning change would keep some traffic off Rt. 26 and she did question if there would be any maintenance or oil changing to the RVs and boats stored on site.

Mr. Gray stated there would not be any maintenance or oil changing on the site; that he has not allowed this on his other properties in the past and that there are limited electrical outlets that discourage any type of maintenance to be performed onsite.

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

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

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

In relation to the Application C/Z 1946 Ronald & Candice Gray. Motion by Ms. Wingate to defer action for further consideration, seconded by Mr. Hopkins, and carried unanimously. Motion carried 4-0.

In relation to the Application C/U 2293 Ronald & Candice Gray. Motion by Ms. Wingate to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

C/U 2294 Horsey Family, LLC

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION OF C/U 1741 (ORDINANCE 2021) FOR THE EXPANSION OF A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 62.204 ACRES, MORE OR LESS. The property is lying on the east side of Asbury Road (S.C.R. 446), approximately 0.35 mile south of County Seat Highway (Rt. 9). 911 Address: N/A. Tax Parcel: 231-21.00-21.00.

Mr. Whitehouse stated that submitted into the record were the Conceptual Site Plan, the Applicant's exhibit booklet, the DelDOT Service Level Evaluation Response, a copy of Ordinance 2021 dated December 16, 2008, a staff analysis, and zero comments.

The Commission found that David Hutt, Esq. was present on behalf of the of the Application, that also present are Bobby Horsey representing the Horsey Family, LLC, and Clifford Mumford, Professional Engineer with Davis, Bowen and Friedel; that this Application deals with a 62 acre tract of land off of Route 9 on Asbury Road; that this is located in an Agricultural and Woodland area of Sussex County with single-family homes dispersed throughout; that the property is zoned AR-1; that the 2020 State Strategies Map designate this as a Level IV area; that the Ordinance referenced by Mr. Whitehouse was the Approval in 2008 of CU 1741 for a 199.5 acre borrow pit that is currently under operation; that the entrance is located on Hardscrabble Road; that Vulcan is mining at this site and have asked the owner to extend to the north; that DelDOT responded that the traffic impact is diminutive; that no new entrance is being proposed and the expansion area would use the existing entrance; that a Borrow Pit has special requirements per Sussex County Code; the first being that no materials are brought to the site for processing or mixing; the second is that excavation be controlled to offer reasonable protection to surrounding properties with respect to odor and dust; that the Applicant will be submitting a proposed set of Findings of Fact which address those requirements; that the proposed hours of operation are Monday through Friday from 6:00 am – 6:00 pm and Saturday from 6:00 am – 2:00 pm with no Sunday

hours; that the third special requirement is that the location of the excavation is done in a way that is in respect to the water table with appropriate slopes; the dredge is set at 97 ft. and side slopes of 4:1 which will be shown on the site plan; that there are wetlands on the property which will be formally delineated on the final site plan and shall have a 100 ft. buffer; that the fourth special requirement is that the borrow pit be surrounded by a landscaped unexcavated buffer strip of open space a minimum of 100 ft from any street lines and a minimum of 50 ft from all property lines; that the Applicant proposes to double those requirements; that the fifth special requirement is that the borrow pit be at least 200 ft from any dwelling on property of other ownership; that this application exceeds those requirements; that the sixth requirement is that the site plan be submitted with various requirements for existing conditions, excavation area; reclamation area; approvals from other agencies and typical site plan considerations which is essentially the Planning and Zoning Commission's typical site plan process; the ultimate reclamation plan is for it to be a wildlife pond for fish and pond when it is no longer being used as a borrow pit; that the general Conditional Use requirements are that the use would promote the general convenience, orderly growth and prosperity of the County; that the aggregates removed from the borrow pit will be used by the residents of Sussex County as records show that most aggregates are used within a 30 – 50 mile radius from where they were extracted from the earth; and that the current slide on the screen shows the number of minerals, metals and fuels consumed by American's in their lifetime.

Chairman Wheatley asked if there will be an increase in traffic based on the expansion.

Mr. Horsey stated there won't be more trucks on the road; that this expansion will extend the longevity of the borrow pit; and that the hours of operation stated by Mr. Hutt only refer to trucking hours as the dredging hours continue until midnight.

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

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

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

In relation to the Application C/U 2294 Horsey Family, LLC. Motion by Mr. Hopkins to defer action for further consideration, seconded by Ms. Stevenson, and carried unanimously. Motion carried 4-0.

Meeting adjourned at 8:41 p.m.

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